



European Union  
European Social Fund  
Operational Programme Employment

# THE COMPARATIVE ANALYSIS OF THE AREAS OF THE CIVIL SERVICE ACT IN THE SELECTED EUROPEAN UNION COUNTRIES



Project Support for the professionalization and quality  
of civil service and state administration;  
CZ.03.4.74/0.0/0.0/15\_019/0006173

Civil Service Section, Ministry of the Interior  
Prague, 2020







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# THE OBJECTIVE OF THE ANALYSIS



## **The Objective and the Purpose of the Analysis**

The purpose of the comparative analysis of the areas of the Civil Service Act in the selected European Union countries is to describe the modifications of the individual areas of civil service in the selected European Union countries with the aim to gain experience and good practice from the implementation of civil service in different civil service systems, the structure and agenda of which is similar to the Czech civil service system.

This analysis summarizes the first and the second phase of the monitoring and processing of civil service information in the selected European Union countries during 2018. The scope of the information collected on each civil service system varies depending on whether the system was only analyzed in the first or even in the second phase, or if only some selected topics were more developed in the second phase.

In the second phase, information on the Danish, Finnish, French, Maltese, Polish, Austrian, Slovak and German civil service systems was processed according to a set of questions or topics. In the first phase of the analysis, information on the Belgian, Italian, Dutch and British systems was processed and these systems were no longer examined in the second phase. The first phase of the analysis of the Estonian, Croatian and Irish system brought some interesting findings, which were therefore analyzed in greater detail in the second phase.

As regards the content of the analysis, it focuses on predefined topics. Compared to the first phase of the analysis, in the second phase a few new topics – the education and the termination of service – were added; on some topics, questions have also been formulated in more detail, particularly in the area of work-life balance. The second part of the document contains an overview of the basic information about the individual civil service systems. More detailed information on the individual institutes, including links to legislation, websites and other sources, is subject of Part 3, where the defined questions on each topic were answered. In some cases, it was not possible to answer all questions given due to the lack of information.

The comparative analysis is based on the resources available through remote access and on the communication with experts from the respective countries, to whom we also thank for their kind cooperation.

## **The topics for the comparative analysis of the Civil Service Act in the selected EU countries**

The comparative analysis of the Civil Service Act in the selected European Union countries deals with the following civil service institutes:

- depoliticization of state administration (including the issue of division into political and service posts),
- Possibilities of compensation of civil servants' duties;
- career advancement options (career order),
- systemization and organization of service authorities,
- selection procedures to fill vacancies in civil service;
- disciplinary proceedings,
- service examination,
- service performance appraisal of civil servants,
- principles of ethics in civil service,
- work-life balance (WLB),
- education,
- termination of service.

# SUMMARY OF THE BASIC INFORMATION ON THE SETTING OF CIVIL SERVICE CONDITIONS IN THE SELECTED EU COUNTRIES



## 2.1 THE KINGDOM OF BELGIUM

*The Belgian civil service system was examined as part of the first phase of the analysis and the annex provides further information in the question and answer structure for each civil service institute.*

The Belgian system is closer to the French tradition, as evidenced by the existence of the tenure. However, due to the size of the country and its population, which is comparable to the Czech Republic, it is easier to modernize the system and to introduce changes. The federal government accounts for about 23% of all public sector civil servants, with a total of 840,000 employees in the public administration.

The statute of state administration, equivalent to the Czech Civil Service Act, of 1937 has undergone very few changes until the beginning of the new century. Since the end of the 20th century, there has been a clear pressure on the reform of the state administration and its subsequent legislative modifications, which corresponds to the amendments of 2004 and 2012.

### Career Order

The system has historically elaborated career rules based on the principle of seniority. Also the remuneration is standardized for the entire state administration following the hierarchy of positions. One of the reform steps was to remove a group of top managers from the career system and to replace the seniority principle with a results-based system. Top managers are subject to different rules in most areas of human resource management. They are therefore differently assessed, rewarded, have differently set benefits and the rules for leaving the state administration. The shift to results-oriented management is an indication of an effort to streamline the functioning of the entire state administration.

### Selection Procedure

The system is strictly centralized in the area of selection procedures and civil service examination. The institution responsible for this area is the *Office for the Selection of Employees for the Federal Administration (SELOR)*, which organizes and conducts the selection procedures. The Office, which is looking for a specific employee, comments on the selection at the last stage. Successful candidates are put on a list from which they should be appointed in the given order. The list is usually valid for two years. After obtaining a specific position and completing the traineeship successfully, the candidate can be appointed in the civil service. If the authorities do not find a suitable candidate on the list, they can directly organize a selection procedure that is not in the service regime but in the standard staff regime. The civil service examination is not removed from the selection procedure but is part of it.

### Performance Appraisal

The evaluation of civil servants in Belgium is a very sophisticated system related to other management tools such as education, remuneration and career advancement.

The evaluation procedure differs for senior management, trainees and other civil servants (both in civil service and employment contracts regime). The evaluated person plays a significant role in this procedure, as a self-evaluation is part of the evaluation. The evaluator must receive the self-evaluation 20 days before the evaluation interview. The form of the self-evaluation is not strictly given, but it should answer predetermined questions.

The first evaluator is the direct superior, the second evaluator is the superior of the direct superior, who is the guarantor of the objectivity of the whole procedure

In the case of senior management, the sole evaluator is the Minister or the State Secretary. They are compulsorily supported by an **external evaluator**. The external company objectifies and structures the evaluation procedure (analyzes the self-evaluation, collects additional information, prepares and structures the evaluation interview for the evaluators). In no case does the external



evaluator represent the Minister or the State Secretary as an evaluator.<sup>1</sup>

The evaluation method and its consequences differ for the top management, trainees (trainees on the waiting list, i.e. trainees-candidates) and other employees (both in the service and in the contract employment).

For example, the performance appraisal of the **top management** is carried out every year. The evaluation cycles are closed by an ongoing evaluation (five evaluations in five years), the last one by the final evaluation in the sixth year of being in the office. The first cycle shall begin on the day of the appointment and end on 31 December after the whole year in the office. The last cycle begins on 1 January of the last year in the office and ends six months before the end of the mandate.<sup>2</sup> The top management has a slightly different assessment scale than other groups of employees. A worse mark may also be given because of a small personal contribution during the performance of a post or for the way of working that adversely affects the management potential of the employee. A manager ends in his office when he / she receives a mark *insufficiently* in the case of the ongoing or final evaluation. Or if the evaluation says: *needs improvement* in the case of the final evaluation. If the manager receives at least the mark *meets expectations* at the final evaluation of the first six-year mandate and at the end of the second mandate a mark *excellent*, he / she can apply for a renewal of the mandate.

For **trainees**, the whole year of traineeship is considered a period of ongoing evaluation. The evaluation procedure is more intensive, with a total of at least seven interviews with the candidate for the status of a civil servant during the traineeship period, four of them are completed with a mark. A huge part of the evaluation procedure is focused on setting goals and a professional development. The minimum duration of the traineeship is one year; in certain cases, it may be extended. A performance appraisal after one year of traineeship is the basis for the admission or non-admission to the civil service. If the trainee receives marks *exceptional* or *meets expectations* in the evaluation procedure, he / she is appointed to the civil service with a tenure. In the case of two worse marks, the candidate for the admission to the service is interviewed by the Appeals Committee, which decides on the extension of the traineeship or a dismissal. After the extension the evaluation is carried out again and according to the result the candidate is either appointed to the service or dismissed.

For other employees, the standard one-year evaluation period may be shortened or extended, subject to the exhaustively defined conditions. An employee cannot be advanced within career order if he / she has received two worst marks in the final evaluation. If the worst mark is received, the evaluation period will be shortened to six months. If an employee receives the worst mark twice within a period of three years, he is dismissed for being unable to perform the post.

With the exception of trainees on a waiting list (trainees-candidates) and senior management employees, the rule is that the mark *meets expectations* guarantees remuneration as stipulated in the legislation for the given post. The mark *exceptional* speeds up the pay rise procedure, while the two worst marks slow down the pay rise procedure.<sup>3</sup>

**The performance appraisal procedure** is generally elaborated in detail and defined in legislation. The learning process of the learning organization is emphasized in the evaluation procedure. The main goal is not to punish, but to learn from mistakes and to improve the performance.<sup>4</sup>

The performance appraisal procedure is defined by at least four interviews:

- **Job interview** – job description, the profile of the employee's skills and abilities is the basis for the evaluation procedure. This interview is conducted to achieve consensus on the job description and the prerequisites for the job to be performed. If the consensus is not reached, the HR department will organize mediation in order to achieve this. The evaluator and the employee shall sign the agreed job description. If the job description changes significantly or if the employees change a position, it is necessary to repeat this interview.
- **Goal Setting Interview** – achieving a consensus over goals setting that will be pursued throughout the evaluation period. If the consensus is not reached, the HR department will organize mediation in order to achieve this. The evaluator and the employee shall sign the agreed job description.
- **Interview on functioning** – an ideal moment to open discussion about problems and find solutions, including dissatisfaction with the evaluator's support. Again, the result of the discussion is signed by both parties.
- **Evaluation interview** – the final stage of the evaluation procedure, the evaluation of the fulfilment of the objectives. The evaluation will be based on four criteria – the achievement of goals, the development of working abilities and skills, the contribution to meeting team goals, client orientation. If they are also evaluators, there are more criteria – the quality of performed evaluations and the adherence to deadlines and legislation.

Pro For the top management, the subject of the evaluation is the fulfilment of the objectives stipulated in the contract and in the plan of the service authority delegated to the manager, the way which the goals are achieved, the manager's personal contribution to the process of achieving the goals, in the organizational unit for which the manager is responsible.

The Ministry of Strategy and Support has integrated the Human Resources and the Organization Directorate, which is, among other things, the governing body for personnel issues across the federal administration. Thus, the evaluation of the employees

1 [https://fedweb.belgium.be/fr/evaluation/evaluation\\_mandataires/acteurs](https://fedweb.belgium.be/fr/evaluation/evaluation_mandataires/acteurs)

2 [https://fedweb.belgium.be/fr/evaluation/evaluation\\_mandataires/cycle](https://fedweb.belgium.be/fr/evaluation/evaluation_mandataires/cycle)

3 [https://fedweb.belgium.be/fr/evaluation/cycle\\_evaluation\\_membres\\_personnel/consequences](https://fedweb.belgium.be/fr/evaluation/cycle_evaluation_membres_personnel/consequences)

4 [https://fedweb.belgium.be/fr/evaluation/evaluation\\_mandataires/acteurs](https://fedweb.belgium.be/fr/evaluation/evaluation_mandataires/acteurs)

also falls within its competence. The Human Resources and the Organization Directorate organizes training for evaluators at various levels, publishes manuals and provides support in the evaluation procedure.

There is an evaluation support program for all components of the federal civil service. The application, called Cresendo, provides support in the evaluation procedure (online documents, competency profile, descriptions of the evaluated functions, etc.). To use the program is optional.

There are several evaluation manuals on the federal civil service website divided by the type of position to be evaluated.

### **Education**

The employees are motivated to their further education not only by evaluation, but also by a direct bonus of up to EUR 3,000 for completing an accredited course.

## 2.2 THE KINGDOM OF DENMARK

*The Danish civil service system was examined in the first and in the second phase of the analysis, and further information on the individual civil service institutes is provided in the annex in the questions and answers.*

The Danish state sector is an integral part of the public labour market. A number of features and rules for Denmark's labour market also apply to the state sector.

The state sector consists of approximately 185,000 employees, with a total of about 775,000 employees in the Danish public sector, which corresponds to about two-thirds of the Danish labour market. The public administration itself, thus, employs 26.8% of the labour force in the market, the central government employs approximately 33,000 people.

Denmark is currently facing the unsustainability of public expenditure. As early as 2020, the costs of the public administration, while maintaining its current development, would go beyond the possibilities of the economy. The on-going reforms and restructuring are focused both on the reduction of public employees and on the reduction of operating costs. One of the instruments of restructuring is, for example, merging departments into larger organizational units. Digitization is also one of the tools to increase the efficiency of the public sector.

### Danish Labour Market

The basic mechanism of the Danish labour market is based on collective agreements. The fundamental starting point is that if the parties are able to agree, the government interferes with the working conditions of the employees to the minimum extent. Employer unions and the associations of employees play a very important role in this context. For the Danish labour market, collective agreements resulting from negotiations among employers' and employees' representatives are therefore crucial for the public and private sectors. These contracts were in the 1990s concluded in the public sector for three years. Since 2011 for only two years.

### The Organizational Structure

The public sector consists of:

- The state sector – responsible for tasks of national importance, including central administration, defense, police and education (education programs for youth and university education programs);
- Regions – are responsible for the tasks at regional level, including public health;
- Municipalities – are responsible for the tasks at the local level, including the environment, employment, primary and secondary education, childcare and elderly people.

**The Agency for the Modernization of Public Administration**, which is a part of the Ministry of Finance, is the main employer in the state sector.

The Agency is responsible for defining staff policy, coordinating and overseeing the implementation of HR strategy, providing guidance, support and advice in legislation, spreading public sector values, managing retirement and retirement pensions. It also negotiates and concludes collective agreements and other contracts with employee organizations in the state sector and participates in legislative preparatory work within its entire sphere of competence. It also focuses on activities aiming at the recruitment and development of senior managers and programs for managers and managerial talents. Last but not least, it is also responsible for budget management, grants and the accounting in the field of public servant pensions.

In the rest of the public sector, the interests of the state as an employer are secured by the Danish local government authority and the Danish regions, which are municipal and regional interest organizations.

Human resources management is, in comparison to OECD countries, decentralized in the state sector.

### The Status of Civil Servants

The civil servants', service, their entry into the civil service and the organizational matters of service relationships are governed by the Danish Constitution, the Act on Civil Servants, the Civil Servants' Pensions Act and general agreements, collective agreements and general labour market laws, except for the law on holiday and salaries of public employees. Salaries and other service and working conditions are approved by the Ministry of Finance and the central organization. These laws define the duties of civil servants, disciplinary proceedings, redundancies and pensions. Government sector employees are divided into three main areas, namely:

- Research and education,
- Defense, police and legal system,
- Domestic and economic affairs.

The personnel structure consists primarily of academics, civil servants, police officers, defense staff, skilled labour force and teachers. The size and the organizational structure of each ministry differs. Most ministries have one or two government agencies.

### The Systemisation of Service Posts

Within the entire public sector of Denmark, there are four types of systemised posts. They are civil servants under the Civil Service

Act regime, persons employed under collective agreements who are subject to general labour law, other employees employed under unilaterally determined regulations, and in a small number of cases, employment based on individual contracts.

In the process of systemisation, the so called *job monitoring* is used, where, besides budget constraints, the monitoring of the number of posts at managerial level also plays a role. Prior to the establishment of a senior position, its establishment must be approved by the Ministry of Finance. This mechanism should prevent the unnecessary increase of senior posts.

### **Selection Procedure to Fill Vacancies in the Civil Service**

The selection of public employees is delegated to individual ministries, their departments or working teams that are also involved in the selection. The selection procedure system is a combination of a career and position-oriented system. All positions are also published and made available to external applicants. There are, however, quotas for applicants from “non-western” countries which is 4%, and there is also a regulation for disadvantaged groups of applicants who take certain advantages in the selection process. The probationary period is two years after being appointed to the civil service.

### **The Appointment of Civil Servants**

The rules for the appointment of civil servants are included in the Civil Service Act in Denmark. The Constitution provides for the citizenship of Denmark as a necessary condition for the appointment of a person to a civil servant.

The appointment to the civil service is limited to special positions. These conditions are specified in the Circular of 11 December 2000, which regulates the employment in the state sector and the state church. According to the Circular, some groups of managers, judges, some police officers, prison service employees and some employees of the Ministry of Defense may be appointed to the civil service. Other employees are subject to the collective agreement. Appointment of civil servants takes the form of:

- Employment for an indefinite period,
- Employment in the probationary period with the aim of subsequent permanent employment,
- Fixed-term employment.

The appointment of a person to the civil service is based on a public notice unless the person concerned is appointed after a previous employment relationship. The announcement must include the area in the public administration where the appointment is declared with the designation of the particular post and the level of salary in the announced position.

### **The Fixed-term Appointment to the Civil Service**

The fixed-term appointment to the civil service shall apply to persons who:

- Are already employed as civil servants,
- Occupy positions in which employment may be included in the pension service under the Act on Pension Insurance of Civil Servants or
- Have resigned from functions with the right to an existing or deferred annuity.

The fixed-term appointment to the service of persons other than those mentioned above may take place under the same conditions which apply to public employees, but the provisions concerning the appointment by the queen and the provisions of the State Pension Act shall not apply. The relevant minister shall decide on the posts he / she appoints for a fixed-time.

The appointment for fixed-term shall be for a term of between three and six years. A fixed-term contract may be further extended by three years after the first appointment for a fixed term. Reappointment may with respect to the re-established post not be repeated more than twice, provided that there are significant reasons for this reappointment.

### **The Appointment of Persons Without Danish Nationality**

Persons without Danish nationality may be employed in the public sector under similar conditions as Danes, i.e. under a collective agreement or individual conditions for a particular post can be agreed. The only exception is the post of a civil servant where only persons of Danish nationality may be appointed as civil servants.

### **Remuneration System**

Denmark uses Performance-Related Pay (PRP). Therefore, the performance appraisal fundamentally affects the remuneration through one-time bonuses or permanent supplementary allowances. There is no limit to the ratio between the basic salary and the performance-related bonuses.

In accordance with the Danish collective bargaining model, framework agreements on salaries and working conditions are negotiated between the Ministry of Finance (the Agency for the Modernization of Public Administration) and the Danish Central Federation of Civil Service Organizations (CFU). The negotiations take place every second or third year. The duration of the agreement is always agreed.

In the Danish public sector, a salary adjustment scheme applies, according to which salaries in the state sector are adapted to the current salary level in the private sector, both upwards and downwards. The main determinant of the salary is the content of the work, it is further influenced by the performance, seniority and experience. The importance of the seniority has currently been decreasing. For newcomers, the salary in the previous position is also taken into account. The salaries of central government

employees are fixed. For employees in senior management posts, the salary is determined centrally, and subsequent bonuses can then be negotiated. The possibility of being entitled to the bonuses depends on the position and also on whether the person concerned is subject to the old or to the new payroll system.

Since 2011, approximately four out of five civil servants are subject to the new salary system. 10% of the salary is decided by direct superiors, and 90% are allocated centrally, that is, on the basis of negotiations between the Ministry of Finance and the employers' organizations. In the new salary system, the decision-making about the amount of the decentralized component, moved to a local level. The basic salary rate, which is approved centrally, is determined and the supplementary allowances components of the salary are determined locally. The increase of the basic rate does not take place automatically on the basis of seniority, i.e. the length of service. Functions, qualifications and lump-sum supplementary allowances are decided by a particular superior. It is also possible to award a performance-related supplementary allowance. In Denmark, there is also the possibility to negotiate the salary directly with the superior. This option was introduced in 2005. It concerns about 12% of the state sector and in the future this option should be introduced at local level.

The old salary system is generally managed rather centrally, with a limited capacity for local institutions to influence it. In the old salary system, employees are remunerated according to the salary system of civil servants that is by pay grades or by centrally-based pay steps. In the pay grades, employees move up automatically on the grounds of seniority, the length of service. The salary system of civil servants consists of 56 pay grades, these grades form a framework for 43 pay levels, each of which is made up of one or more sub-levels. Shifting from the lowest positions is the slowest, as there is the biggest number of steps which the employee has to go through. The higher in the hierarchy the employee is, the faster it is to move up. If a grade is composed of several pay steps, the shift to higher levels usually takes two years, depending on the agreed interval. In addition, there are permanent supplementary allowances, for example for overtime or the obligation to be available to the institution.

### Remuneration

In the Danish state sector, overtime pay is usually provided, accounting for almost 50% of the salary in almost all areas. The employer can usually decide whether it has a form of a payment or a time off.

Employees who work in a flexible regime, which means, they can decide on their working time and performance of the individual tasks, or who work in the so-called telework / work from home regime, are not entitled to payment for overtime work. However, after a specific assessment, the employer may also provide these employees with overtime pay in the form of leave or financial remuneration if the scope of the work was significant and can be documented. Most employees are also entitled to special weekend supplementary allowances, or so called „unsocial” working hours pay for working between 5:00 and 6:00 in the morning.

### Career System

Danes have something between a career- and a position-related system. In general, there are no restrictions on career advancement between the individual posts, but in fact the minimum requirements for education may be stipulated. Qualification is the main criterion for career advancement; in the case of managerial posts, it is above all the working experience and performance appraisal results.

### Service Performance Appraisal of Public Employees

Performance appraisal of public employees in Denmark is strongly connected with decision-making in the field of human resources management in the public sector. Human resources management objectives are a part of the performance appraisal process. State employees are subject to the performance appraisal once a year. The performance appraisal is conducted in the form of an interview and is compulsory for almost all state employees, with the assessor being the direct superior of a civil servant. Performance appraisal of state employees assesses criteria such as realized activities, meeting the deadlines, output quality, improvement of competencies, and interpersonal relationships. The outcome of the service evaluation has a strong impact on the career development, career advancement, remuneration and eventual renewal of the contract for civil servants employed for a fixed term.

### Service Examination and Education

There is no service examination, as the human resources management in state administration in Denmark is decentralized. The education in the Danish state sector is focused on career development and is delegated to individual ministries. On average, public employees are trained five to seven days a year.

### Working Conditions

#### Working Hours and Rest Periods

Questions concerning the regulation of working hours for employees are stipulated in the collective agreement and other agreements concluded among the employees and their superiors. The weekly working time is 37 hours full-time. At the same time, it is possible to agree with an employer on a part-time job, which is less than 37 hours of work per week, but it is also possible to increase the working time. Both variants of weekly working time schema are associated with wage adjustment, a pay rise or a wage-cut.

Employees are also given the opportunity to arrange their working hours and plan their individual work assignments. Employees and employers may have agreements on a so-called flexible regime which enables the employees to move a part of their working

time to the specific time they choose.

Under the Work Environment Act, an employee is entitled to at least 24 hours of rest a week. Most employees have weekly working arrangements consisting of five working days and two days off. The Working Environment Act also regulates rest periods after work. Under this law, an employee is entitled to have at least 11 hours of rest in each 24-hour section. However, the rest periods can be reduced by collective agreement.

Most state sector employees are entitled to a half an hour break for lunch, which is counted as a part of the working time. However, employees must be available to the employer during this period and must not leave the workplace.

### Holiday

All employees in Denmark have the statutory right to five weeks of holiday in a calendar year. If the employee was employed in the previous calendar year, this is a paid holiday.

Employees in the public sector are paid the usual amount of pay during leave and a special holiday allowance calculated as 1.5% of taxable income from the previous calendar year. To the vast majority of employees in the public sector also apply collectively agreed rules according to which they receive 0.42 days of special leave per month. This means that an employee who was employed during the previous calendar year is entitled to another week of paid holiday.

The employer decides on the statutory leave, which means, the employer determines the time period during which the employee takes the leave, while the employee decides when to take the special leave mentioned above. On the grounds of an agreement between the employer and the employee, all leave may be transferred to the following year or paid in cash.

There is also a special type of leave, an employee may request a period of unpaid leave, for example when changing a job. How long and for what purpose the employees may take a leave depends on the individual institutions. Among other things, the possibility of being employed again after the leave plays a role.

### The Rights and Duties of Civil Servants

A civil servant must comply with rules arising from his / her position, both in service, as well as outside the service, to be worth the respect and trust associated with the post occupied.

Civil servants, regardless of their position, have no right to strike, and are entitled to receive their salary for up to three years after their dismissal due to the abolition of their post.

A civil servant may at the same time have another job, if it is in accordance with the conscientious fulfilment of his duties as a civil servant and in accordance with the preservation of the respect and confidence resulting from his position.

### The Code of Conduct

The Agency for the Modernization of Public Administration has issued **the Code of Conduct in the Public Sector**, which aims to acquaint both public authorities and employees with a number of basic conditions and rules in the public sector. The Code of Conduct is based on fundamental principles and principles of public administration, including openness, democracy and the application of the principles of law and integrity.

The Code deals with topics such as:

- Competence to issue instructions,
- Freedom of speech,
- The obligation to maintain confidentiality,
- Impartiality,
- Receiving gifts,
- The possibility of pursuing another job.

The Code takes the form of general instructions that enable the rules to be adapted to meet the needs of specific sectors and locations.

In case of the violation of the ethical rules stipulated in the Code of Conduct for the Public Sector which applies to that post, either in the course of work or in free time, the authority entitled to appoint a civil servant has various options how to approach such a breach of the duties of a civil servant. In most cases, it is a sanction.

### Criminal Liability

In case of a breach or neglect of the statutory duties imposed on civil servants, the civil servants are subject to disciplinary sanctions under the provisions of the Law on Civil Servants. Such sanctions include an alert, a reprimand, a fine that may be granted up to a half of the monthly salary, transfer to another job, degradation or a removal.

### The Termination of Service

There is no tenure in the system, but civil servants have a stronger protection against dismissal or the abolition of the service post. The rules are partly governed by the law and partly by collective agreements and other agreements. To the employees employed on the basis of an individual agreement, the provisions of the contract apply together with labour law provisions.

In general, the agenda for the termination of service or employment is delegated to ministries.

Any dismissal by an employer must be duly substantiated by either institution-related circumstances, such as insufficient funds or restructuring, or the behaviour of the employee, such as lack of competence, too many absences due to illness or cooperative problems.

Civil servants appointed by the queen may be removed from their post only by the queen. Other civil servants who are not appointed to the service by the queen may be removed by the minister to whose ministry they belong or by a person who has been granted this authority. However, only the minister may notify a civil servant of his compulsory retirement.

In connection with the removal a civil servant is entitled to demand the termination of his appointment by filing a notice, with a three-month notice period. A civil servant who has been released due to changes caused by the organization to which he has been in employment or who has been dismissed as a result of a change in the performance of an administrative body is entitled to receive his salary for another three years.

For civil servants, the notice period is, in cases where the dismissal is made by the employer, three months. For the vast majority of employees employed under a collective agreement, the rule is that this period may be gradually extended from one month to six months, provided that the employee has been employed for at least nine years.

For employees paid hourly, the period of notice is three days to three months, provided that the employee has been employed for at least five years. However, this does not apply to cases where the employees cannot be temporarily employed due to the lack of work. A longer notice period, in some cases up to 12 months, may be agreed for some managers.

In the case of termination given by the employer during the probationary period, the notice period is usually two weeks. In the case of notice given by the employee, the notice period shall be:

- For civil servants three months,
- For the majority of employees employed under the collective agreement one month,
- For the employees paid hourly from three days to one month, provided that the employee has been employed for at least five years.

In cases of shorter probationary periods there are also shorter notice periods, which usually range from zero to 14 days.

### Work-life Balance Tools

Denmark is proud to create conditions enabling employees to achieve a balance between work and family life. The Danish model is based on flexible working conditions, maternity leave, and the establishment of childcare facilities.

Creating conditions for achieving a reasonable balance between the performance of the work and the taking care of family and family life includes so-called telework. **Telework** stands for work from home, with the aim that employees are less dependent on being physically present in the workplace. The aim is to enable the use of distance work as a tool to increase flexibility in work planning and to support family life. In the case of telework, a special place for distance work is created for the employee outside the main workplace of the institution to which the employee is assigned and where the tasks performed as distance work are of recurring character.

### Maternity or Paternity Leave

For the area of maternity or paternity leave, a collective agreement was concluded in the state sector, which supplements the statutory rules on, for example, the entitlement to a leave and the allowances and the entitlement to a pension. Under this agreement, the mother has the right to take maternity leave six weeks before giving birth. After the birth of the child, the mother is entitled to 14 weeks of paid maternity leave. Father is entitled to 14 days of paid paternity leave. Both mother and father are entitled to six weeks of paid parental leave and also to another six weeks of paid leave, which can be shared between both parents (if they both work in the state sector); otherwise only one of the parents working in the state sector is entitled to take 12 weeks of leave.

The system of maternity or paternity leave is very flexible. For example, the father of a child can start the parental leave at the same time when the mother starts her 14 weeks of maternity leave, or both of the parents can postpone taking a part of their leave. The only limitation is that it must be taken before the child reaches the age of seven. In addition, parents are allowed, on the grounds of an agreement with the employer, work on a part-time basis during the leave, which means that the leave will be extended accordingly.

### Other Programs for Families with Small Children

Under the collective agreement on maternity and paternity in the state sector, both father and mother are entitled to two days of paid childcare per calendar year, up to the calendar year in which the child reaches the age of seven. At the same time, no special conditions are laid down as to the purpose for which this leave may be taken. The days of paid child care for a calendar year which were not taken will lapse at the end of the calendar year.

In addition, employees in the public sector are usually entitled to a paid leave for the first and second day of the child's illness. Employees in the state sector are also entitled to a five-day leave for one child under the age of 14 in one calendar year due to hospitalization in the hospital.

## 2.3 THE REPUBLIC OF ESTONIA

*The Estonian system of civil service was examined in the first phase of the analysis and in the second phase of the analysis more detailed information on The Top Civil Excellence Centre for Senior Civil Servants was collected. The annex provides in the structure of the questions and answers further information on the individual civil service institutes within the scope of the first phase of the analysis.*

In 1991, Estonia has chosen a decentralized, open model of civil service, without the tenure. By openness is meant the possibility to enter any civil service post from the outside the service. Each ministry or agency is responsible for selecting, evaluating and developing its staff. The main motive for this choice was to build an efficient and flexible state administration, where the way the management works corresponds to the needs of the individual authorities. Although human resources management is decentralized, some ministries have a coordinating role. The Ministry of Finance and its Department of Public Administration and Public Service is responsible for coordinating the personnel policy of the state administration, remuneration policy and for supporting the development of the state administration in general. The Ministry of Justice is responsible for the legislation on the state administration and the Ministry of the Interior for the development of regional and local government.

In the Estonian system, employees work under the service law regime and the labour law regime. The dividing line runs between professional and support positions. Service positions are divided into three main levels:

- Top Civil Service (the State Secretary, the Deputy State Secretary, Section Directors, Departmental Directors, Managers, the Heads of Department, Advisors),
- Medium level civil service (analyst, expert, consultant, specialist),
- Lower civil service (assistant positions, civil servants, specialists).

The decentralized system is reaching its limits, which is evident in the reform efforts since 2004, which entail the need to coordinate and to set the basic features of the state administration management from the center, i.e. the same for the entire state administration. These include, for example, strategic planning reforms, result-based management, evaluation system setting, remuneration and thus budgeting.

A specific example of strengthening coordination is the HR policy for a group of top managers. Their recruitment, career advancement and evaluation are handled centrally by **The Top Civil Service Excellence Center**.

### The Top Civil Service Excellence Center

The legislative framework of The Center of Excellence consists of the Civil Service Act and the legal standards derived from it governing the recruitment, selection, evaluation and development of top management in the state administration. The Center of Excellence is a small department at the Office of the Government, employing 5 civil servants in total – the head of the department, 3 professional positions (officer) and one assistant.

The Center of Excellence organizes the recruitment and selection of top managers, organizes and coordinates the work of the selection board, and organizes the evaluation of top managers. In addition, the Center of Excellence has an **advisory role** for the top managers on career development and it organizes relevant activities. Last but not least, it archives information on candidates for top management positions in public administration. The Center cooperates with the authorities responsible for this agenda in other countries and is active within the EU and international platforms.<sup>5</sup>

The Center of Excellence is assisted in these tasks by the **Committee on Competitiveness and the Evaluation of Senior Civil Servants** at the Office of the Government. The Center of Excellence cooperates with the authorities responsible for this agenda in other countries and is active within the EU and international platforms.<sup>6</sup>

### Centrally Defined Top Management Competence Framework.

There is a framework of six key competencies / skills defined for the recruitment, selection, evaluation and development of the top managers of the Estonian Civil Service:

- *Future vision* – the manager is able to formulate a vision for the future that contains current trends, knowledge of state administration and specific policies and can convince his/her subordinates to actively contribute to the fulfilment of the vision.
- *Vision realization* – the manager is able to realize his vision, divide roles and responsibilities within the team and to monitor the progressive fulfilment of the goals and the implementation of the individual steps.
- *Encouraging innovation* – the top manager should be able to see across the boundaries of a given office, encourage employees to take risks and lead them to develop and to implement valuable innovations.
- *Value creation* – a value creator proposes policies and services based on the needs of their users.
- *Support* – an effective top manager creates a working environment where employees are satisfied. He ensures their motivation, WLB trends and employee development.
- *Self-managed manager* – The executive manager himself should recognize the need for his / her own professional growth so that his / her potential is maximized to the benefit of the state administration.

<sup>5</sup> <https://riigikantselei.ee/en/top-civil-service-excellence-centre>

<sup>6</sup> <http://www.avalikteenistus.ee/index.php?id=10909>



At the same time, the competence framework reflects global trends to which the public sector is exposed. These include globalization, national competitiveness (successful states compete for the investment, resources and talents), new technologies, increasing citizens' emancipation as target groups for public policies, new working patterns, habits, demographic change and increasing uncertainty (change management).<sup>7</sup>

Top management of the state administration is represented by 96 positions in the whole state administration; in total there are 23,487 employees in the state administration according to the data from 2015 (in 2009, 23,307 civil servants were employed in the central government<sup>8</sup>). Specifically, the top management includes the following positions: secretaries and their deputies at ministries, directors at the Office of the Government, senior directors of public offices and inspectorates, senior director of the crisis center, state archivist and the commander of the armed forces.<sup>9</sup>

Specific distribution of the 96 defined positions (from 2017).

- 1 Chief State Secretary,
- 11 State Secretaries at Ministries,
- 1 Commander-in-Chief of the Armed Forces,
- 54 Deputy State Secretaries at Ministries
- 29 Senior Directors (and other offices besides ministries).

Interesting statistics of the top civil service for 2017:

- 2% vacant positions;
- the average age of civil servants in these positions is 45.2 years;
- gender composition 81% men and 19% women;
- 10.4% of the employees come from the private sector.

### Service Performance Appraisal

The Center carries out the service performance appraisal of top managers at least every two years. The E-Competence Center is used for the 360° Centre assessment. In addition to the evaluators themselves, their evaluations also involve their immediate superiors, subordinates, colleagues and co-workers from the same field and co-workers from external entities. The purpose of assessing skills is to systematically and reliably get feedback on the strengths and needs of top management development. Based on the evaluation results, the Center can assist top managers in their professional development on the way to achieving the strategic goals of their institutions and the government as a whole. The results of the 360° evaluation process represent the starting point for the annual performance interview, for the assessment of development needs, and help the staff of the Center to select appropriate and necessary development activities.

### Selection Procedure

All civil servants (with the exception of the military and secret services) are selected in open competitions. Candidates for top management positions must have managerial experience, professional qualifications depending on the position, proficiency in foreign languages and the skills defined in the competence framework. Open competitions are conducted by the Top Civil Service Selection Committee. The Center assists the selection committee, conducts interviews, tests. Mostly it is a three-stage process, document analysis, interviews of various types, psychological tests.

The Top Civil Service Selection Committee is chaired by the State Secretary and appointed by the Government. The procedure for the selection procedure and the selection committee for the selection of other staff shall be appointed by the head of the service authority.

### Ethics in Civil Service

Anti-Corruption Strategy *The Honourable State* of 2004, approved by the Government, includes strengthening ethical and anti-corruption measures: establishing The Council for the Ethics of Civil Servants, including training modules on ethical issues in core education programs, developing new educational activities and guides for the individual service authorities.<sup>10</sup>

The Code of Ethics does not represent a legally binding standard. The Council for the Ethics of Civil Servants recommends that the authorities include the basic principles of the Code of Ethics in the internal rules of the service authority.

If the ethical dilemma is not resolved internally within the organization, it may contact the Council for the Ethics of Civil Servants. The Council for the Ethics of Civil Servants provides support in the implementation of the Code of Ethics, advises both authorities and civil servants on ethical issues, participates in the analysis of the implementation of the Code of Ethics and defines the needs for its completion. Ethics education is centralized and is under the responsibility of the Department of Public Administration and Public Service at the Ministry of Finance.

Civil servants must declare their assets as stipulated in the Anti-Corruption Act of 2002.

<sup>7</sup> <https://riigikantselei.ee/en/supporting-government/top-executives-civil-service/competency-framework>

<sup>8</sup> <http://www.avalikteenistus.ee/index.php?id=10897>

<sup>9</sup> <https://riigikantselei.ee/en/top-executives-civil-service>

<sup>10</sup> <http://www.avalikteenistus.ee/index.php?id=10903>

## 2.4 THE REPUBLIC OF FINLAND

*The Finnish civil service system was examined only in the second phase of the analysis and the annex provides additional information in the question and answer structure. The information sources for the analysis were very limited and therefore it was not possible to obtain relevant answers to a number of questions.*

The Finnish civil service system has been continuously modernized. Since the 1980s, there has been a depoliticization, a change in the organizational structure towards an agency system and, subsequently, partially to business companies, a change in the evaluation and remuneration system, a change in the attitude to the top management, work-life balance tools and other measures. Modernization efforts are a continuous process. Overall, the Finnish government employs 22.8% of the labour force in the market, of which central government employs 85,072 people (2011 data); data from 2018 refer to 73,000 employees of the central state administration (including police, army, teachers)<sup>11</sup>. Between 2009 and 2010 there were changes that led to a reduction in the number of employees in the public sector. Some of the employees were dismissed, some were transferred to other positions, to other institutions. Some agencies have been transformed into companies owned partly by the state, partly by the management, for example, since the 1970s, the HAUS educational institute first transformed into an agency and then into a limited liability company.

The reform efforts also aimed at **reducing the operating costs of the state sector**. Finland is facing an increasing budgetary burden and an aging population. Structural and functional reforms aim to increase the competitiveness of human resources, leadership, management skills, and use of IT, motivation and job satisfaction. An example of a reduction in operating costs is the intensive modernization of the facilities of service authorities since 2014. The modernized buildings are expected to reach an indicator of 18 m<sup>2</sup> per civil servant, and in newly built buildings 15 m<sup>2</sup>. Working time and working place flexibility tools are used to achieve the target indicator. A minimum of 30% of the difference between the number of employees and the number of physical jobs in favour of employees (overbooking) should be achieved; at least 50% of work desks should be unaddressed, so they are not allocated to one particular civil servant.

The public service system, which is strongly **position-based**, is therefore the counterpart of the career system. There is no tenure, the employment conditions are very similar to those in the private sector, but dismissing a civil servant is more difficult. There are civil servants in the civil service system and civil servants in the contract system.

### The Organization of Central Authorities – Agency System

A unique tool for Finland (and Sweden) is the system of implementation agencies, the so-called **agency system**. It is a tool that separates policy making – the strategic level and the policy implementation. The ministries are responsible for the strategic, coordinating role and policy-making and the agencies are responsible for their implementation.

The organizational structure of the ministries is flatter, in general it can be said that, there is one management level less. The Finnish **department** roughly corresponds to the size of the Czech section and represents the smallest organizational unit.

Ministry of Finance – **The Office of the Government as an Employer** acts as a state employer and an institution responsible for setting the personnel policy of the state administration. **The Personnel and Governance Policy Department** acts as a state employer, acting as the Office of the Government as Employer. The Office is therefore part of the Ministry of Finance. In the area of human resources management, the Office prepares legal regulation, provides guidance and support, coordinates and supervises compliance with the set strategy / policy of human resources management in the state administration, provides advice on legislation, defines and controls the wage framework, manages retirement, controls rules.

In general, human resource management is strongly decentralized to the level of line ministries and agencies. The ministries / agencies are responsible for most of the HR decisions, and the departments are involved in distributing bonuses and career development of the individual employees. According to analyzes the decentralization is the main reason for the different levels of remuneration and employment conditions in the individual institutions.

The coordinating element is **the Special Advisory Committee on State Employer and Personnel Policy**, which consists of top managers of the ministries and authorities. The Committee decides on the strategic line of personnel policy and tasks the Office of the Central Government as Employer.

### Top Management

Top managers are treated differently. Similarly, to Estonia, Finland felt the need to unify the top management. The top managers' skills profile is now defined centrally. The entire selection procedure is partially centralized, with increased attention being paid to the managing their performance and potential conflicts of interest. In 2008, the Government issued a **regulation the Government Resolution on Central Government Management Policy**. Subsequently, in accordance with the Regulation, the Office issued in 2011 **common Selection Criteria** for the selection of the top management in state administration. This document was produced in cooperation with other ministries. Common selection criteria include the following senior management positions: State Secretaries in Ministries (politically appointed, changing with a new Minister), Permanent State Secretaries (civil servants) at ministries, Deputy State Secretaries, Chief Executive, Top Management Agencies and other central offices.

In the context of government reform and restructuring, the new approach to senior management is seen as a necessary step:

<sup>11</sup> New Way of Working in Public Administration, Finland, 2018, Ministry of Finance, Marjaana Laine.

„It is not possible to reform the whole system unless there has been a change at the level of management and leadership.“ (*Government Resolution on Central Government Management Policy, 2008.*) The aim is to lay down basic rules for the selection, development and motivation of competent managers for the whole state administration. The Regulation defines a number of interesting paradoxes which government executives may come across and must deal with them as part of their role:

- Being neutral between different interest streams, at the same time orienting in the political environment and being able to communicate with politicians;
- To defend the interests of his/her office while contributing to the common goals of the whole state administration;
- Implement decisions from the top-down, but at the same time adopt a “customer” approach;
- Act as a line manager of his/her office while actively building networks across the service authority and government service authorities;
- Ensure continuity of the activities while being able to manage changes;
- Take responsibility for his/her office while being aware of the limited room for manoeuvre;
- Being a manager and an expert.

### Depoliticization

The depoliticization was more of a topic in Finland in the 1980s. In the 1960s, with the rise in the employment in the state sector, the politicization when filling vacancies in civil service posts increased. The division of positions in the state administration became part of the coalition government and each of the political parties involved negotiated its share in the employment in the state sector. However, the need to comply with the qualification criteria remained also for the political nominations. Political parties therefore organized training, preparing their candidates for the entry into the civil service. In the 1980s, a wave of criticism rose and this practice was eliminated in the central government. Although both government and ministers can influence the appointment and dismissal of section directors to some extent, it is customary for only political advisors and state secretaries to change after the election with a change of the minister. Institution management remains independent of the political cycle. This is confirmed by the OECD study of 2017, which lists 17 countries, including Finland, where the state apparatus is very stable in terms of personnel.<sup>12</sup>

### Compensation and Career Order

There are two kinds of civil servants in the Finnish system. **Civil servants** who are subject to the Civil Service Act. The second group of civil servants operates under the **labour law regime**. There is no tenure in the system, but civil servants have stronger protection against dismissal or termination. Due to the ongoing restructuring of the state sector and the reduction in the number of posts, additional compensation is included in the compensation system, which is related to the abolition of redundancy posts and the transfer to other jobs. The Finns do not have a career system. The classification of positions is left to the individual ministries and agencies.

### Remuneration System

The Ministry of Finance (The Office of the Government as an Employer) prepares budget costs for human resources in the state sector. Budgetary framework is set centrally, while ministries have a certain degree of freedom in their use. The basic salary is negotiated in the framework of collective bargaining at central level and is revised in one or two years. Remuneration and bonus systems are left to the discretion of the ministries and agencies. The level of the departments or working groups is crucial to the distribution of bonuses. Bonuses are reviewed every year. Seniority does not affect the amount of remuneration. The remuneration method is strongly performance-oriented.

The current performance-related pay system (PRP) has emerged from the reform efforts during the last 20 years, during which the government has sought to transform government towards performance and management by goals. Modernization efforts and pressure to increase the efficiency of the state sector brought the need to fundamentally change the remuneration method and the implementation tools. The new remuneration system was set up as a management tool for the management of the individual organisational units. The new system is intended to contribute to good results, equal approach, flexibility, be motivational and closer to the labour market conditions.

The new remuneration system consists of three components:

- A component dependent on the demands of the given position – **base**,
- A component of the individual performance (on average 25 to 50% of the base or 15% of the total income, paid together with the base, a part of that is fully linked to the service performance appraisal),
- Result-based remuneration (the results of the organization, department, team or the individual are paid once or twice a year).

There is a strong motivating factor behind the philosophy of the system. The first component reflects the demands of the position and motivates them to acquire professional knowledge, skills and apply for challenging positions. The second component reflects individual performance and competence for the position, it motivates for the professional development, achievement of good results and quality. The third component reflects the results of the organization, the team, less often the individual results and

<sup>12</sup> OECD (2017) Government at a Glance 2017, OECD Publishing, Paris [http://dx.doi.org/10.1787/gov\\_glance-2017-en](http://dx.doi.org/10.1787/gov_glance-2017-en)

motivates to cooperate, engage, responsibility for the result and the values of the organization.

At present, all organizational units of the state are already using a new remuneration system. In fact, the first two components are revised together. The third component is still not used by all organizations. The new system therefore does not take into account the seniority of civil servants.

Examples of assessment criteria that affect the individual performance component of the salary (example of the Ministry of Finance):

- Efficiency, productivity,
- Mastering the profession,
- Collaboration and communication across the hierarchy,
- Leadership and leadership skills and achievements in this field.

The performance appraisal significantly affects the total salary of a civil servant. The individual performance component represents 25 to 50% of the basic salary determined according to the demands of the occupied post.

An example of a rating scale that affects the individual performance component of a salary (Ministry of Finance example): 5.00 – exceptionally high performance; 4.00 – excellent performance; 3.00 – good performance; 2.00 – satisfactory performance; 1.00 – performance that needs improvement. In fact, the marking is done up to two decimal places. For example, with a rating value of 4.63, a civil servant achieves the highest individual performance remuneration.

Similarly, to the previous system, the current wage policy is the subject of collective bargaining. Only the third component – the result-based remuneration is an additional bonus and is not a part of collective agreements.

The implementation of the system was more demanding and slower than expected. In particular, it is due to the preparation of an objective and demonstrable performance appraisal and measurement system and lengthy and intensive collective bargaining. The implementation of the system envisaged additional resources, which in the end amounted to an average 7% increase in remuneration costs. This increase was spread over three to five years. The individual organizations remained relatively flexible in the management of the budgetary resources allocated to it by the budgetary framework. This is in line with the conclusions of OECD studies on the relatively large pay differences between administration authorities.

## Personnel Selection System

The personnel selection system is the opposite of the career system. Civil servants are selected on the grounds of open selection procedures for internal and external candidates. Information on all open selection procedures is available on the Internet. The current trend is to strengthen the selection of external resources in the case of managers and, conversely, to strengthen internal resources in filling support and administrative positions. Women are motivated to apply for management positions. The selection of staff is left to the individual ministries and agencies.

The selection of top management was centralized on the grounds of a government decree of 2008. In 2011, uniform selection criteria were issued by the Office of the Government as an Employer (Criteria for Senior Management Posts Management in the State Administration.)

## An Institute Similar to Service Examination

There is no institute similar to the service examination in Finland. The system assumes that the open way of selecting candidates will ensure transparency of the selection of the candidates, and the updating of the competencies will be ensured by the result contracts, which are continuously evaluated and signed for a definite period of time.

## Service Performance Appraisal System

The assessment is mandatory for almost all civil servants. It takes the form of an evaluation interview with a direct superior, sometimes 360° feedback is used. The assessment significantly affects the total salary of a civil servant. The individual performance component represents 25 to 50% of the basic salary, determined according to the demands of the post, see above. According to an OECD<sup>13</sup> study, service performance appraisal only has a major impact on remuneration, much less on career development and contract renewal.

## The Principles of Ethics in the Civil Service

Ethics in public space is a very sophisticated area in Finland. A strong culture of ethics in the public sector is reflected when the international comparison of corruption and ethics is carried out, Finland always occupies the first positions. In Finland, the third large-scale opinion poll on ethics in public administration was carried out in 2015; the surveys were conducted in 1999, 2007, 2015. The survey dealt with the perception of values, the tools used, the overall set of ethical rules and the comparison of the results of the previous surveys. This way, ethical rules are monitored at the level of the entire state administration.

The Institute of Ethics is not taken out of the context of human resource management, but is an integral and coherent part of it. The value system is taken into account when selecting new employees. **The structured selection interview includes a set of government values and a set of department or agency values.** Furthermore, the issue is embodied in **the education system.**

13 OECD, Human Resources Management Country Profiles Finland, 2012; <https://www.oecd.org/gov/pem/OECD%20HRM%20Profile%20-%20Finland.pdf>

In Finland they apply two approaches to the ethics training, the first for all civil servants, such as Ethics Days, or for a specific target group, such as public procurement. The second approach is to incorporate the ethics training modules into another broader educational activity. For example, managerial coaching and an initial training module for newcomers automatically include an ethics module. These two approaches are not mutually exclusive and are combined in practice. However, surveys show the need to integrate professional ethics into managerial education even more systematically.

In addition to educational activities, there are also manuals and methodological manuals, the most comprehensive of which is the **Values in the Daily Job**, a manual for executives and ordinary civil servants. According to the 2015 survey, the manual is beneficial and a new edition is being prepared. In addition to a separate manual on professional ethics, respondents point out to the need to promote ethical awareness through other standards and educational materials, to provide examples of ethical risk situations, because ethics issues are not alone in a vacuum but are always linked to a specific work situation. Specific implementation tools are listed in the chapter on ethics.

Ethical values are part of regular evaluation. Evaluation interviews include a part in which the employee and his / her superior evaluate each other's work from an ethical perspective. Directors are always evaluated from the ethics point of view. An example of managerial behaviour is an example for subordinates, and compliance with ethical principles is an important part of the overall evaluation of the manager.

A civil servant may be **penalized** for non-compliance with ethical rules. The slightest sanction is an *interview with the employee*. If the breach of ethical rules has not been remedied through communication between the direct superior and the employee, the superior may issue an informal verbal or *written warning*. The warning should clearly describe the unwanted behaviour or omission and indicate how the situation should change after the warning. A *written warning* should be given if a civil servant acts in excess of his rights or fails to fulfil his obligations. This is a more serious sanction than informal warnings; this is the only sanction listed in the Civil Service Act. The written warning shall include the possibility for the public servant to change his or her behaviour. If the undesirable behaviour continues, it is recommended to give a written warning prior to the termination of employment. An employee may appeal against the dismissal. The appeal must be filed within two weeks of the date on which the employee was informed of the reasons for the termination.

At the institutional level, **the implementation of ethical values and the observance of the value system are monitored**. The annual assessment report of the department or agency should include a part of the compliance with ethical rules, which reinforces the monitoring during the year. Quality barometers and other quality measurements also serve as monitoring tools for the adherence to the value system. The Office of the Central Government as an Employer also monitors the compliance with ethical rules at the level of managers or at the level of all employees by means of a staff policy barometer.

The task of the Office is to set up an ethics strategy, methodological guidance and a preparation of the methodological materials, distribution of the manual Ethical Values in Everyday Work and the results of projects focused on the value system in the state administration. The codes of ethics of the individual administrative authorities remain the responsibility of the ministries or agencies.

## Work-life Balance

Part of the reform effort in the new millennium is the topic of job satisfaction and work-life balance. Currently, the License to Work Smarter program is being implemented, involving civil servants in the form of co-decision where, when and with whom they want to work, which is tantamount to implementing work-life balance tools, i.e. working with ICT, which the employee chooses or flexible working hours. Relatively little used is the institute of reduced working time; out of a total of 85,072 jobs in the central government, only 5,605 were part-time in 2011. Occupational wellbeing surveys show a slight increase in satisfaction, with an average score of 3.3 in 2010, 3.40 in 2012 and 3.45 in 2015.

## The Institute of Termination of Employment

The institute of termination of employment has been very topical in recent years in connection with the reduction of employment in the public sector. The termination of employment due to restructuring is left to the individual ministries and agencies. The termination of employment for other reasons is the responsibility of the smallest organizational unit – a department or a working group. A redundant civil servant is entitled to a **compensation for redundancy**, the amount of which depends on the length of service. Employees who have worked in the public sector for at least 12 years can receive the highest compensation, in this case the notice period is six months and the employee is provided a compensation, a salary, for six months. The lowest compensation will be paid to employees who have worked in the state administration for at least two years, amounting to four monthly salaries and with one-month notice.

The amendment to the Service Act of January 2017 introduces the so-called **waiting period**, i.e. the period during which an employee is not allowed to start a new job and receives his / her original salary. The waiting period specified in the employment contract may be a maximum of 6 months. These are cases where a civil servant has important or secret information and there is a risk of passing it on to a third party. In case of a breach of the terms of the contract, a former civil servant may be fined up to twice the amount he should have received during the waiting period. The government is trying to make it easier for redundant civil servants to find new jobs in or outside the government agencies because of redundancy. The 2012 Government Regulation on **Change Management and Change in Social Security in the State Administration** of 2012 allows civil servants, for example, to take up to three years of training leave to fill another job or to support their own business preparation. The Regulation also addresses the modalities of the transfer of civil servants between the individual authorities.

## 2.5 THE FRENCH REPUBLIC

*The French civil service system was examined in the first and in the second phase of the analysis, and further information on the individual civil service institutes is provided in the annex in the questions and answers.*

The French state administration system has been built since the Great French Revolution, which means for more than 200 years. The perception of the state administration and the civil service is a good illustration of the words of the former President Francois Holland „... no state without the civil servants, no state without France ...“ This statement clearly demonstrates the importance that the French government attaches to them and is the guarantee of democracy and stability. Public administration (including educational system) employs 2.5 million civil servants. There is a tenure in the system, and civil servants have extensive guarantees and benefits.

A settled, stable system with historical independence from the political representation has its weaknesses in the form of pressure on public finances, inefficiency and the cumbersome implementation of changes. A total of 40% of the state budget represent wage costs and pension liabilities of both active and former civil servants. However, the French system does not avoid the reform efforts aiming primarily at increasing efficiency and reducing the demands on public finances.

At present, the reform of the state administration aims at enhancing the autonomy of the individual authorities, increasing decision-making at individual service authorities and thereby increasing their effectiveness. An example is the budgetary reform, which gives the various authorities more powers to handle the state budget.

### Budgetary Reform

A major change that has an impact on all levels of state administration was the adoption of law on the establishing of performance-oriented budget in 2001. The newly approved law LOLF 2001 (Loi Organique Relative aux Lois de Finances) allows for more transparent and flexible approval of salaries for state administration by the Parliament. This is a system that is closer to performance-oriented management, the budget is connected with the individual policies – the tasks that the ministries have in their portfolio. Each ministry submits to Parliament, as part of the budget approval, the so-called annual performance project for the given task / policy it provides. A part of the project is also the wage costs of a given policy, a proposal for systemisation for the next year. The new way of establishing the budget leaves more space for managerial flexibility, and the minister in the new system of budgeting, or systemisation, has greater power to allocate wages within the service authority.

### The Top Management of Public Administration

The Political and civil service interface is defined by an explicit list of positions in the Presidential Decree of 1985. There are 700 positions in the central and regional government, including ambassadors, prefects, rectors, senior directors (central and regional governments) and state secretaries. Each minister has a cabinet; cabinet members can also be appointed on a political basis. In 2017 President Emmanuel Macron limited the number of the employees of cabinet ministers to 10 and the employees of the cabinet secretaries to 5.

From the human resources management point of view, this is a centralized system, coordinated by the **Directorate-General for Public Administration** (*Direction Générale de l'Administration et de la Fonction Publique – DGAFP*) Most steps are implemented through binding standards. The government ordinance or the presidential decree is in most cases elaborated in the implementation manuals, handbooks, methodological instruction by the Directorate-General. These are detailed methodological guides that do not take the form of binding legislation and correspond to the coordination role of DGAFP. For the individual authorities, it serves as the basic support for their transformation into an internal rule or implementation decree.

### The Rights and Duties of Civil Servants

**The political activity** of all civil servants is limited to a minimum. All civil servants in active service have a right to their political opinion, but they are limited in the way they can present it (*dévoir de réserve*). The degree of limitation depends on the type of position held. State employees may be members of political parties and movements. The performance of the function in a political party is limited only by the aforementioned exception concerning the way political opinions are presented. In general, state employees may be members of local (regional) councils and may use the new system of „the personal account of activities“ from 2017, in which a civil servant accumulates hours of civic activity and engagement. The Election Act defines the **incompatibility of specific functions** in the state administration with some elected functions.

The French system does not restrict **the right to strike**. The possibility of striking in the French context is a very sensitive topic, it is used quite often and its limitations would result in an appropriate response.

The duties of civil servants are **compensated** by many tools in the form of leave of absence, holidays, pensions and health insurance. Many of the tools aim to coordinate work and parental responsibilities. The range of compensation partially differs for the employees outside the service, even though there is currently an effort to make the terms of employment in and outside the service comparable so that the principle of equality is not violated. A new comprehensive tool that intervenes at the same time in the institutes of depoliticisation, compensation, education is a personal account of activities, which includes **a personal education account**. In these accounts a civil servant accumulates hours, which can then be used for civic, political or educational activities. The cumulative hours are transferable between positions and authorities when changing jobs. In the field of compensation, the individual state authorities have a relative degree of autonomy and can extend the compensation over the central framework of legislation and collective agreements to the specificities of the given authority.

## Career system

From all public administration tools, it is important to highlight the career system, which is based on the principle of seniority and has been elaborated, centralized and developed for centuries. It has become a stable, but a little inflexible system. Work positions are organized into corps or service fields and further **categorized into grades / categories A, B and C** (not every field of service includes all 3 categories) and then they are organized into levels (the number of levels differs, mostly there are between 10 and 20 of them). Each service field (for example, an engineer of public buildings) has its so-called statute in the form of a government regulation that regulates the number of categories relevant to the field, the number of levels in each category, and other selection, career, remuneration conditions and other state institutes for the given field of service.

A shift to a higher level is defined as an advancement to a directly superior level within the same category / grade (A, B, C). The higher-level shift has no impact on the tasks performed. The higher-level shift involves an increase in the basic salary (the index) on the grounds of which the basic wage is calculated. A seniority and professional results are a precondition for the advancement. When reaching the higher level shift limit for a set period, the advancement is the right of a public employee. The status of the service field determines the length of service at that level. Based on the results of the service performance appraisal, the maximum time period for the advancement may be shortened. Bad results of service performance appraisal may, however, lead to the prolongation of the time. A faster achieved advancement on the principle of seniority bonuses is expected in excluded localities.

In general, the time period for the shift between the levels varies between 1 and 4 years. For example, the service of the „general government officer“ has 11 levels and the time between them is set for one year and a half to three years.

As the system evolves, the importance of the **performance appraisal** for the career advancement increases. This may shorten or prolong the length of the time period for the advancement. Top-rated civil servants can achieve the advancement after a minimum of time or somewhere between the minimum and maximum of time set. Currently, the annual performance appraisal may affect the length by months.

The shift from one category to the next one within one service field will allow for higher and better paid positions. At the same time, it is usually connected with bigger responsibility, changing of the content of work (for example, adding responsibilities of a senior civil servant).

**Career advancement between the categories / grades** may be based on seniority, on a proposal from the service authority, but mostly it depends on other requirements – selection procedure, internal recruitment, passing a service examination (especially for technical positions), achieved education, diploma, experience from a certain position, performance of a certain type of work, performance appraisal results. Certain top positions can be filled only by applicants who had some specific positions in government.

## Competitions for Vacant Posts in the Civil Service

Another traditionally established instrument is the system of filling the vacant civil service posts is a **competition**, which is **partially a selection procedure and partially a civil service examination** for entering the service. The French system is very complex.

Public service selection procedures consist of a competition (*concour*), the successful completion of which does not automatically result in appointing to a civil service post. Successful completion of the competition guarantees a place on the waiting list or is followed by another stage of the selection procedure for a specific post. In most cases, the competition is followed by compulsory education. Successful applicants for senior management posts must undertake compulsory education at some of the state administration schools (*école administrative*) in order to gain the necessary experience and knowledge to perform their future position. The specific form of the competition / selection procedure for service posts is determined by each ministry. Competitions and selection procedures vary according to the type of service position and grade.

As a part of **the modernization of the state administration, it was enabled to employ without a competition**, without obtaining the status and the guarantee of a civil servant. For example, only about a half of the senior civil servants is chosen by a competition and then undergoes the compulsory education at ENA, about 40% of them are recruited by an internal selection procedure and 10% by an external selection procedure from the private sector. Positions without the status of a civil servant reduce public finance expenses, but at the same time they are often in contradiction with the principle of equal treatment. At present, there is a trend to bring the conditions of employees under the labour law regime closer to the civil servants.

The selection procedure is therefore significantly **different for civil service and non-civil service posts**. In the case of competition, the requirements for a selection / probation panel are given by a decree, the appointment of specific members of the panels is governed by a decree; in the case of a non-civil service selection, the rules are far less strict, the selection or preselection may be carried out by a direct superior or partially by a human resources department.

The competition is a prerequisite for the appointment to the civil service and represents an equivalent to the institute of the service examination. New applicants for a position in the public administration have to go through the **external form of the competition**, civil servants who want to move to a higher category or significantly change the content of the work, have to go through the **internal form of competition**. Passing the competition is free of charge for all applicants who meet the requirements for taking the exam (for example, education, working experience in the given field and category of service).

The particular **form of the competition is determined by each ministry**. The exam consists of one or more written tests and

one or more oral examinations. Some of the competitions have only one round and all applicants have the same exam, others consist of more rounds. The competitions and subsequent selection procedures vary according to the type of civil service post and grade. Each ministry organizes competitions for its specific service fields. The competitions for general service fields are organized centrally / interministerially; the designated ministry / institution is responsible for organizing the competition for a particular service field, such as top executives (centrally at ENA and IRA). For special and technical fields of service, the central organization is unusual. Each type of competition for a given service field is modified and updated annually by the order of the ministry, which is responsible for the competition.

The composition of **the examination panel** and the requirements for its members are always determined by the ministerial decree, and the minister or the head of the service authority then appoints specific members to a particular examination panel in the form of a decree. With a few exceptions, the members of the examination panel are civil servants. The training of the members of the panel is not obligatory but recommended. The DGAFP has issued a manual for the members and the chairmen of the examination panel.

### Disciplinary Proceeding

In the French civil service system there is a disciplinary liability of civil servants. Generally, we talk about disciplinary misconduct whenever the behaviour of a civil servant **threatens the good functioning of the state administration or undermines public confidence in the state administration**. This may be a professional failure or a non-performance act, which is incompatible with the ethical rules of the state administration. On the other hand, it is not a matter of disciplinary misconduct in the case of insufficient professional capacity, inadequacy at the time of disciplinary offense or misdemeanour. Any offense committed by a civil servant during the performance of his civil service or during the performance of his duties shall be subject to a disciplinary sanction. The disciplinary action in no way affects criminal liability if it is relevant. **The authorities issue a list of committed criminal and disciplinary offenses and penalties imposed last year**. It is an anonymous material that serves educational and methodical purposes. Specific disciplinary infractions and the subsequent sanctions make it possible to use specific situations as an example of „bad“ practice.

Sanctions are divided into 4 groups:

- First group – warning, reprimand. The reprimand is automatically deleted from the employee's personal file after 3 years, unless another violation occurs.
- Second group – the impact on the career advancement, level degradation, temporary removal from the post without pay (15 days maximum), transfer. The influencing of the career advancement may be a parallel sanction to some of the second and third group sanctions
- Third group – degradation, temporary removal (3 months to 2 years) without wage claim
- Fourth group – early retirement, removal

The sanctions of the first group are deleted automatically from the personal file of a civil servant after a specified time. The state employee may request the deletion of the 2nd and 3rd group sanctions after 10 years.

The authority responsible for the disciplinary offense is a **disciplinary committee**, its composition varies according to the level of position at which the offense is investigated. The members of the committee may not be lower-level employees or employees who are suspected of unfair prejudice. Only the members who participated in the whole hearing of the case can vote. If not at least three-quarters of the members can vote, the committee is not able to vote. The sanctioned employee has several appeals under the conditions provided by the legislation, he can appeal to the disciplinary committee that imposed the sanction to **the Supreme Council for Civil Service or file an administrative suit**.

### Service Performance Appraisal

The institute of service performance appraisal has been developing in France for more than 20 years, and today **all public employees are subject to the evaluation process**. Currently, it takes the form of a mandatory regular annual evaluation interview with an immediate superior if no other evaluation system is set up in the service authority. In order to set up an evaluation system, the authorities have an evaluation manual issued by the DGAFP. Ministerial decrees regulate the organization of service performance appraisal and the content of the evaluation report at a given ministry / service authority.

Certain groups of civil servants are remunerated according to the new remuneration system, which reflects a regular evaluation. **The variable annual bonus** is granted depending on the result of the service performance appraisal and can reach up to 25% of the reward. At this time, the new regime is not mandatory and only some of the public employees became a part of it. The impact of the evaluation is the same for all civil servants – **the boosting or slowing down of the career advancement**. The results of the performance appraisal may speed up or slow down the career advancement between the levels.

The evaluation criteria are set down in the Government Order of 2010 and include:

- Work results related to the tasks to be performed and the conditions in the service authority
- Tasks / goals negotiated with the employee for the next period, prospects for the improvement of results, the development of the conditions in the service authority and the functioning of the public service
- The way of performing public service (the compliance with ethical rules)



- Acquired work experience
- The evaluation of management tasks, if relevant
- Educational needs – related to the given tasks, competencies to be achieved, and career
- The concept of career development in terms of career and mobility

As the evaluation criteria show, the educational needs, career development needs and ethical rules are an integral part of the evaluation. The job evaluation has gradually become a comprehensive tool for managing human resources.

One of the reform changes since 2010 has been a shift away from scoring, from a numerical rating scale. The reform materials emphasize the importance of the transition from scoring to evaluating, as numerical rating scales weaken the qualitative dimension of the evaluation.

**The process of passing on the evaluation results** includes several steps. The evaluator signs the evaluation report and acquaints the evaluated person with the evaluation report. The next senior in the hierarchy may or may not comment on the report. The evaluated person confirms the acquaintance with the evaluation by signing. The evaluation is put in the personal file of the employee. A civil servant may request a review from his or her direct superior. The appeal must be filed within 15 days of the receiving the evaluation report. The direct superior is obliged to reply within 15 days. If the employee is not satisfied, he / she may also appeal to the administrative board of the service authority

DGAFF offers support for the evaluators in the form of manuals. In general, the training of evaluators is not compulsory, some administrative authorities recommend training more intensively than others. The form of education is chosen by the evaluator from the offer of educational activities on the given topic.

## Ethics

Ethical principles were already included in the Civil Service Act of 1983, but the issue of ethics in state administration was legislatively grounded by **the Act on Deontology in the Civil Service** in 2016. Over time, ethics got into many aspects of human resources management in the state administration. At the selection stage, civil service candidates are tested in ethics, specifically knowledge of the rights and duties of a civil servant. Additionally, the modules on ethics are a part of the initial education and follow-up education. Ethical issues are also the subject of a service performance appraisal, both from the viewpoint of the evaluator and the evaluated person. The education in ethics is the more intense the more managerial powers the civil servant holds; the leaders should act as examples of good practice.

**The Commission for Ethics** (*Commission for Déontologie*) monitors the compliance with ethical rules, conflicts of interests of civil servants in parallel business or private retirement. The Commission may issue an opinion or recommendation, unless it is respected, it may proceed to the imposition of a disciplinary sanction. For example, the Commission may declare a function in business as incompatible, demand a remedy, reduce the pension to a retired civil servant. The ranking of sanctions is identical to disciplinary sanctions, and in some cases criminal proceedings may be started if it is a criminal offense. No disciplinary sanctions may be imposed after 3 years from the time when the State learned about the issue and could investigate and sanction it.

In addition to the Deontological commission, the position of a referee for ethics (*référént déontologue*) was established. The Deontologist / Ethics referee provides support for compliance with the duties of a civil servant and ethical rules. Every civil servant is entitled to request consultations in this area. Civil servants in managing positions may request methodological guidance. The referee also deals with the cases of unethical or corrupt behaviour in public administration.

Administrative authorities are encouraged to draw up their code of conduct to suit the specificities of the service authority so that it is applicable to its employees. In 2016, a web-based tool for all state employees was launched to connect the daily workload of a civil servant with the legal framework of the service. It contains model situations of unethical behaviour that are relevant for the given position. Individual ethical principles are illustrated by specific examples.

## Work-life Balance Tools

The work-life balance (also „WLB“) is very topical in France, and in 2012 the Minister for Reform, Decentralization and Civil Service has adopted a social program, among its three top priorities was work and family life balance. The work-life balance institute is not explicitly defined or anchored in legislation. The most complex concept of the WLB is embedded in the **Collective Agreement of 2013** „The Agreement on Equality between Men and Women in the Professional Life in Public Administration“ (*Protocole d'affaires de l'équité professionnelle entre les femmes et les hommes dans la fonction publique*).

In this area, the DGAFF provides very intensive support. The individual tools are developed into methodological materials so that they can be easily implemented by the administrative authorities.

In 2016, **the government issued regulations on working conditions from home for public administration through information and communication technologies** (*télétravail*). The aim is to achieve the balance between work and personal life and at the same time to increase the efficiency of work. The Directorate-General for Public Administration (DGAFF), in cooperation with employers and trade unions, has developed a **methodological manual "Guide to Implementation of Work from Home with the Help of ICT in Public Administration"** (*Guide télétravail Guide d'accompagnement de la mise en œuvre du télétravail dans la fonction publique*), which should help to implement this tool in state institutions. Ministerial decrees on the implementation should follow. In the case of work from home with the help of ICT in the state administration, the government regulation leaves

the definition of the method of performing the service in the competence of each employer, so the methodical material is not binding.

Special attention is paid to the issue of **part-time work and flexible working hours**. Part-time employment in 2012 accounted for 10% of the employees (229,444 jobs out of a total of 2,190,326 employees), 15% in 2016. Part-time employment represents most often between 50% and 95% of the total occupation. The basic terms and conditions of part-time employment are laid down in the Law 16 of 1984. A civil servant is entitled to part-time work in case of birth or adoption of a child, care for the nearest family members or on the grounds of the approval of the superior. The service authority will allow flexible working hours if this does not interfere with the proper functioning of the authority. The condition for allowing flexible working hours is to set down a system for controlling the working time. The DGAFP in this area again provides support through methodological guidance on how to implement the tool.

For part-time work, the DGAFP issued a manual **Part-time work – A Handbook for Part-time Civil Servants and Civil Servants**. This is a 25-page manual that addresses the issue of part-time work for civil servants and employees without the status of a civil servant, including the impact on pay, retirement, holiday and education. Another methodological material on the issue of part-time work is the manual **Family Leave and Part Time: Impacts on Remuneration and Old-Age Retirement**. (*Congès familiaux et temps partiel dans la fonction publique: incidences sur la rémunération et la retraite*).

An inspirational document from the DGAFP is also an analysis of the **Part Time Work Voluntarily and Commanded in the Civil Service and the Private Sector** (*Temps partiel subi et choisi dans la fonction publique et le secteur privé*). The analysis shows that the state administration uses part time employment for approximately 15% of the employees. The reason for voluntary part-time work was in more than 50% of the cases a childcare, in 21% of the cases the desire for more leave and in 12% of the cases the education or other employment. 80% of the working time is set at 40% of part-time work, 20% of part-time work for 50% of working hours. Part-time work is used by 26% of female and only 6% of male civil servants.

The French system also offers various types of **paid and unpaid leave** for the care of a family member (children, partner and parents) of several days to months.

An interesting situation is in the field of work and family life balance concept **for managers**. The conditions and the reality of WLB for top management are different. In the leading positions, part-time work is theoretically possible, but in fact it is not usual, on the contrary, they work overtime. Work from home is also not possible, as one of their main tasks is to ensure the coordination of working groups, subordinates. To compensate for these difficult moments, they have more days off, but in fact they often do not use them for the same reasons. The DGAFP seeks to provide leaders with centralized support to address work-life balance issues.

## Education

Under the patronage of the Directorate-General for Public Administration (DGAFP), there are 6 large educational institutions in France that provide education for the preparation and performance of the civil service. Strasbourg is the home of **the State School of Public Administration – École Nationale d'Administration (ENA)**, which prepares not only candidates for senior management positions in the French state administration but also candidates for civil service positions in European institutions. The cities of Bastia, Lille, Lyon, Metz and Nantes are the seats of the **Regional Institutes of Public Administration (IRA)**. In addition to these schools, **other educational organizations specialized in the professional training of public administration civil servants** were set up under the patronage of ministries or other authorities. These schools and institutes are sometimes referred to as administrative schools.

Administrative schools have two basic tasks: to provide **initial training for newly appointed civil servants** (after the successful competition), at this stage, newcomers have the status of trainees and receive wages. The second task is a **lifelong vocational training for civil servants**.

The education system preparing for the performance of civil service, set up and managed by the DGAFP, offers several options how to prepare for the competition for a public service post. If a student has not chosen a program, which includes preparation for the competition in the civil service at the college, he / she may enrol in the preparatory module after completing the studies.

The preparation for the competition for **category A positions** is provided by **the Institutes of Preparation for General Civil Service** (*Instituts de préparation à l'administration générale*), which are a part of universities and the Centres of Preparation for General Civil Service (*Centres de préparation à l'administration générale*), which are a part of the Institutes of Political Studies, some other universities also offer these preparatory courses. The preparation for the competitions for B and C posts is provided by designated public educational institutions and some town councils.

Since 2005, there is a **program for applicants from poor social background**, the so called **Preparatory Integrated Module**, which aims to provide sufficient compensation and pedagogical support to socially disadvantaged applicants (accommodation, computer, financial compensation during the preparatory course). These measures focus mainly on socially excluded locations. The Preparatory Integrated Modules are offered by different ministries, depending on the specific posts for which the competition is made. For example, the Preparatory Integrated Module for the Competition and Study at ENA is organized by the Office of the Prime Minister and takes 9 months. In 2018 they offered 24 posts. IRA is obliged to offer this Integrated Module since 2009 with a capacity of 25 posts a year and the duration of 7 months. An applicant may be a student or unemployed, have completed university education, be a citizen of the EU or EEP Member State, and to have income below the given limit.

**The Institute for Management and Economic Development in Public Administration** (*Institut de la gestion publique et développement économique*), which operates at the Ministry of Finance, is responsible for the preparation of the competition for civil servants outside the service.

Another option is a correspondence training course that exists for all categories of civil servants. If candidates do not want to use the correspondence course, they may request training materials, test exams, and test committee reports from the previous years.

In January 2017, the French civil service introduced a comprehensive **personal activity account**, the main part of which is a **personal education account**. This instrument applies to civil servants, as well as to employees outside the service. The aim of the personal account is to motivate civil servants to their own professional development. The personal education account has an electronic form and includes, in addition to an individual time fund for education, where a civil servant can accumulate hours over several years, also the offer of educational activities that are relevant to that post, the impact that the educational activity has on a career or the remuneration of an employee. The personal education account is a tool for professional development and lifelong learning. Cumulative hours on education are transferable when changing jobs, even between private and public sectors. The „owner“ of the personal education account does not use cumulative hours for operational training related to the immediate job performance, but for developing the education, retraining, as a preparation for changing a job.

## 2.6 THE REPUBLIC OF CROATIA

*The Croatian civil service system was examined in the first phase of the analysis, and in the second phase of the analysis, more detailed information on the service examination and the status and the role of educational institutions in the civil service system, service performance appraisal and the institute of a mediator were analyzed. The annex provides further information on the structure of questions and answers to the individual civil service institutes within the scope of the first phase of the analysis.*

The Croatian state administration has been built since the establishment of the independent Republic of Croatia. The adoption of the Civil Service Act in 2005 was probably largely motivated by the accession of Croatia to the European Union. According to available analyzes, the Croatian Civil Service has undergone many unsystematic reforms, reorganisations and changes reflecting political influence.

### The Organization and the Staff

In Croatia, **three types of public sector employees** are classified in legal theory and practice: civil servants (soldiers, police, firefighters, customs officers, government and the so-called tenure servants), public officials (employees in the field of education, healthcare and the so-called officials) and officials / civil servants in local autonomies. In the Civil Servants Act, the so-called public service is defined primarily by the group of persons performing it. These are persons who have sufficient (high, medium or lower) qualifications and perform activities in bodies set up by the state, whose activities are activities falling within the competence of these bodies established by the constitution, law, decree or defined by the rules of procedure. Other employees achieving lower education are employees who carry out activities related to the operation of the state body itself, e.g. driver, cook, administration. The basic conditions to be met by a candidate for the admission to the civil service include lawful age, only Croatian citizenship and professional qualifications. The classification of the breaches of the duties of a civil servant is also interesting; they are divided into mild violations, such as frequent early leaving from work or long breaks at work, and more serious violations of duties.

Under the Civil Servants Act, the coordinator is the Ministry of Justice, which deals with all centralized issues related to the civil service. Due to the increasing need for training of civil servants, the role of the civil service coordinating body is strengthened.

Most civil servants are employed full time for an indefinite period. At the same time, there is a trend of increasing the number of fixed-term contracts or project-based cooperation, especially in the case of young people.

### Civil Service Committee

In order to appeal against decisions taken under the Civil Servants Act, the **Civil Service Committee** (*Odbor za državnu službu*) was established by law. In 2017, the Committee dealt with 1,255 complaints, of which most (440 complaints) were dealt with at first instance by the Ministry of Finance, the least number by the Ministry of Justice (6 complaints). The Civil Service Committee is an independent body established centrally for all civil servants. Its headquarters are in Zagreb. The appointment of the members is the responsibility of the Government of the Republic of Croatia, consisting of the President and at least 10 members. Members are appointed for 5 years, with the possibility of re-election, and may be removed by the government before their mandate ends. All members of the Civil Service Committee must be qualified lawyers, respectively. Masters of Law and have the status of a civil servant. Members shall not engage in any other employment during the term of office, but shall be able to return to their original position after the term of office expires. Other specific conditions for the functioning of the Civil Service Committee are dealt with by a government regulation (Art. 66 of the Civil Servants Act).

An interesting institute in the civil service seemed to be a position of a mediator elected from the employees for three years in order to resolve controversial issues in the evaluation process, but this institute was currently abolished.

### Service Examination

The service examination is completely separate from the selection procedure. If the candidate passes the probationary period and proves himself / herself to be competent at the performance of his / her duties, he / she must pass a service examination within six months. The service examination consists of a general and a special part, the content of which is regulated primarily by a sub-legal regulation (government regulation). **The general part** of the service examination is held orally. **A special part** of the service examination consists of a written part and an oral part. A special part of the service examination is not required to be performed by a civil servant who has been awarded a Doctoral degree and a civil servant who has completed a Master's degree in a field related to the field and activities entrusted by law to the state authority in which the civil servant is serving. The law considers the judicial examination to be equivalent to the service examination.

The service examination (*državni ispit*) is primarily regulated by the Civil Servants Act in Articles 56 to 60 and further by the Government Decree stipulating the course and the procedure of the service examination, a part of which is also the Service Examination Program. The authority responsible for the preparation for the service examination is the State School of Public Administration, which prepares seminars and workshops in which civil servants participate.

All professional and administrative matters relating to the organization and the conduct of service examinations, including the keeping of records of the passed examinations, are carried out by the Ministry of Justice in the department of vocational education and training of civil servants.

A civil servant shall submit **an application for the service examination** to the head of the state body in which the civil servant

is assigned to perform the service, who shall then forward it without delay to the central state administration body responsible for the civil service. The application for the service examination must be submitted no later than two months before the expiry of the six-month period for the service examination. Upon receipt of the application, the central government authority decides whether the civil servant meets the conditions for the admission to the service examination and issues a decision approving the admission to the service examination.

The service examination is carried out in front of **the State Examination Board**, which is established at the central state administration body responsible for the civil service, i.e. the Ministry of Justice, and at its headquarter. Most often the service exam takes place on Saturday. The examination board usually consists of: the chairperson and three other members of the examination board in the case of verification of knowledge from the general part of the service examination. In the case of verification of knowledge from a special part of the examinations of the examination board, it consists of other members of the examination board. The final result of the service examination shall be decided by the examination board immediately after the service examination, by a majority of its members.

**The examination board members examining the general part** of the service examination shall be appointed by the head of the public administration body responsible for civil service matters and the examination board members examining the special part of the service examination shall be appointed by the head of the central administrative body or other state authority responsible for the administrative area. The members of the board of examiners are appointed from civil servants who have attained higher education, have passed a service examination, have at least seven years' experience in state bodies, are professionally competent in the field for which they were selected and have not been punished in the past. In exceptional cases, university lecturers may also be appointed to become members of the examination board that deal with the examinations on campus.

The chairperson of the examination board is appointed from among important experts working in the state administration and must also work in the state administration for at least ten years. The Examination Board shall have **a secretary**, who shall be appointed from among civil servants who have at least completed secondary education, have passed a service examination, have been trained for at least three years and have proven leadership skills. The chairperson and members of the examination board shall be entitled to a remuneration, the amount of which shall be fixed by the head of the central civil service competent in the matters of civil service.

The general part of the service examination is identical for all civil servants, irrespective of their classification and education.

**The written part of the special part of the service examination** consists of a written assignment which is related to the field and corresponds to the activities performed by the examined civil servant. The written assignment shall be determined by the examination board immediately before the commencement of a special part of the service examination on the proposal of a member of the examination board dealing with the issue. The written assignment usually includes, in addition to the theoretical part, also the practical part, in which the civil servant has the task of solving a specific problem, which is determined according to the activities and acts performed by the civil servant himself. The written assignment and the oral part of the special part of the service examination are usually held on the day designated for the general part of the service examination. When writing a written assignment, a public servant has the right to use the necessary technical and professional assistance, but must not use a mobile phone. In case of failure to comply with this requirement, the service examination of the civil servant shall be terminated and deemed not to have been performed.

Failure (or repeated failure) to pass a service examination results in the termination of service; the service of a civil servant shall expire at the end of the last day of the period for passing the service examination. In case of a temporary incapacity for work of a public servant, maternity or parental leave or other justifiable reason, the period for taking a service examination may be extended to the duration of the temporary incapacity for work or other legitimate reasons.

### Service Performance Appraisal of Civil Servants

The service performance appraisal of civil servants is obligatory. The Civil Servants Act stipulates that all civil servants shall be assessed for service for the past calendar year by 28 February at the latest. Civil servants serving for less than six months in the previous calendar year shall not be subject to service performance appraisal. The purpose of the service performance appraisal is to encourage civil servants to perform their duties effectively and efficiently, to respect the obligations of a civil servant and to comply with the code of ethics of civil servants. By acting as reflected in the outcome of the service performance appraisal, civil servants also have a significant influence on remuneration and career advancement. The direct superior of the public servant is obliged to monitor the performance of the service, the performance of the duties of a civil servant and the personal behaviour of the public servant throughout the calendar year. At the same time as the annual service performance appraisal proposal, a **Report on the efficiency of service performance, complying with the civil (service) duties and personal behaviour of a civil servant for a calendar year** is submitted.

There are three stages of the service performance appraisal itself:

1. Planning a service performance appraisal is an annual process involving an interview with a civil servant, with the aim of identifying service tasks and setting other work objectives for the coming calendar year.
2. Inspection of the performance of service and its efficiency, during which the direct superior of the public servant continuously monitors the results and the course of service performance and the efficiency of the civil servant during the whole calendar year (or the evaluated period) and at the same time he/she provides support and advice to the civil servant.

3. Evaluation of service performance and effectiveness by the end of the evaluation period in the form of an interview with a civil servant, in which the civil servant is acquainted with a proposal for a service performance appraisal, which not only contains conclusions on his performance, but also defines new tasks and objectives for the calendar year. At the same time, the need for professional training of civil servants is also taken into account.

The proposal of the service performance appraisal is processed by the direct superior of the civil servant and according to the hierarchical sequence, resp. according to the organizational structure of the service authority, it will send it to all senior civil servants who are superior to the civil servant concerned by the service performance appraisal, and the proposal is then submitted to the person authorized to issue the service performance appraisal decision. The proposal for a service performance appraisal must be justified. Senior civil servants shall comment on the proposal for service performance appraisal and, if they disagree with the proposal, they shall state their reasons and propose a grade of the service performance appraisal for the civil servant by 31 January. The decision on service performance appraisal shall be issued by the head of the service authority or a public servant authorized to issue the decision on service performance appraisal, taking into account the proposal of the direct superior of the civil servant as well as the observations of the other superior civil servants by 28 February at the latest. The civil servant whose superior is the head of the service authority shall be immediately evaluated by the head of the service authority.

A public servant shall have the right to comment on the application for the annual service performance appraisal within three days of the date on which the application was submitted to him. A public servant has the right to require that the service performance appraisal also takes into account other activities which he / she performed during the calendar year, provided that he / she provides adequate evidence of these activities. The direct superior takes into account activities when they have a significant influence on the outcome of the service performance appraisal because they are related to the place of service of the civil servant and to the administrative area within the competence of the service department. If a civil servant has performed extraordinary tasks in another organizational unit of the service authority, the manager of the organizational unit in which the civil servant performed these tasks shall submit a performance report directly to the direct superior of the civil servant who proposes an annual performance appraisal.

**The criteria for the evaluation** of civil servants are laid down in Article 13 et seq. Government Decree on Procedures and Criteria for the Evaluation of Civil Servants. Generally, it is stipulated that the performance of a civil servant is evaluated using general and specific criteria for the service performance appraisal.

The evaluation of the performance of an employee should influence the setting of an individual and also collective training plan for a given group of civil servants who have been assessed at the same level. A civil servant who has been assessed as satisfactory should participate in further vocational training. The assessment should influence career development. If the assessment results are unsatisfactory, he or she should participate in further vocational training or be transferred to a service where the same or less complexity of the activities performed is required, but the training requirement at that other service must correspond to the education / training already completed. If the performance of an employee is assessed as unsatisfactory twice in a row, he / she should be dismissed from service on the date of the issue of the service performance appraisal report. A civil servant who has been assessed as unsatisfactory shall terminate the service *ex lege* on the day on which the decision on the service performance appraisal became enforceable.

The higher-level collective agreement implies the right of the civil servant **to increase annual leave on the grounds of the results of the service performance appraisal**, as follows: a public servant who has been assessed as successful has the right to increase annual leave by one day; the right to increase annual leave by two days and a civil servant who has been assessed as exceptional has the right to increase annual leave by three days.

## 2.7 THE REPUBLIC OF IRELAND

*The Irish civil service system was examined in the first phase of the analysis, and in the second phase of the analysis more detailed information was obtained on the topics of selection procedures and disciplinary proceedings and the performance appraisal system. The appendix provides further information in the structure of questions and answers to individual civil service institutes within the scope of the first phase of the analysis.*

The Irish civil service system is close to the British tradition. The individual service authorities have a relatively high degree of autonomy in the field of human resources management. For example, they set their own set of benefits, wage policy, even if there are wage rates, the level of remuneration varies significantly in the individual service authorities. On the other hand, the process of selecting civil servants is completely centralized.

### Selection Procedure

**The Public Appointments Service (PAS)** is an institution where there is a centralized selection of employees for the public sector, including health care, education and security forces. In addition to the PAS, there is a government-appointed **Commission for Public Service Appointments (CPSA)**. The role of the Commission is to regulate the process of selecting employees for public administration, it is responsible for the publication of manuals, according to which the selection to the individual offices must take place.

The most frequently used elements of the selection procedure organized by PAS include: filling in an online questionnaire, shortlisting, language tests (oral and / or written), interview, presentation, testing of analytical thinking, testing of specific requirements for the position. Part of the selection procedure is a test part – verbal argumentation, mathematical / logical, work situation simulation, presentation skills and an interview. According to current experience, the best means of estimating the suitability of a candidate and his future work performance are tests of assumptions. However, selection procedure models combine several techniques and methods. It is usually a multi-stage process based on the assessment of skills and respecting the competitiveness.

PAS does not have to interview all candidates. If the number of candidates who have met the formal conditions is too large, the number of candidates who will complete the next selection phase may be reduced. The pre-selection is made by the PAS expert panel, which proceeds on the grounds of documented documents and information. The documents are assessed on the grounds of predetermined criteria, which depend on the nature and needs of the occupied position.

### Top Management

Selection procedures for senior management positions (up to the level of the Deputy Secretary) are organized by **the Top Level Appointments Commission (TLAC)**. PAS provides support in the organization of selection procedure for the top management segment.

The members of the commission are external top managers from the private sector, educational institutions (seven members) and internal members, currently senior state secretaries from various ministries (six members). The information on the composition of the TLAC varies, with another source mentioning an independent chairman, four members from the private sector and four state secretaries. In open competitions for top management positions, the PAS participates in the selection procedure with the support of TLAC. Part of the government's strategy for selecting top management is to open the selection procedures as much as possible and thus increase the number of candidates as much as possible.

In the case of selecting top management, the first step is the selection called shortlisting, i.e. narrowing the selection of candidates. This step is organized by the Public Appointment Service and is carried out by a selection board convened by the Public Appointment Service with the participation of a TLAC representative. The next round of interviews, in which the number of candidates is again narrowed, is conducted by a panel of TLAC members. The panel usually consists of two external and two internal members, the panel is chaired by the TLAC chairman.

For the selection of the highest positions, the panel of the Top Level Appointments Commission will recommend a suitable candidate to the Minister or the Government. If the post of Chief Secretary of State is filled, the TLAC selection panel will recommend up to three names.

### Result-based Management System and Service Performance Appraisal

The state administration as a whole has been using a comprehensive **Performance Management Development System (PMDS)** since 2000, which includes a sophisticated system of service performance appraisal. Job evaluation is not a stand-alone management tool, but an interrelated and inseparable part of the performance management system. The evaluation affects remuneration, career and professional development towards the individual and towards the top of the human resource planning system, resources in general. The whole system, including service performance appraisal, is in the process of reform or adjustment. In 2010, it underwent an in-depth evaluation, which resulted in proposals for its modification. A proof of the ongoing process of setting up the system is the change in marking in 2016, when the Irish left the five-point rating scale and switched to two-level marking – satisfactory and unsatisfactory. In 2017, the average results of employee evaluations were: 99.75% satisfactory and 0.25% unsatisfactory. The original five-mark system all too easily created an automatic right to financial reward and career advancement and led to great pressure to increase budget expenditures. The new system should allow greater

emphasis on the development aspects of performance management, redirect attention from grading to the content of evaluation interviews, simplify the whole system of result management (PMDS), redirect the view from past results to development and future results, address underperformance where it occurred.

Service performance appraisal is mandatory for all civil servants and is carried out in the form of regular evaluation interviews. One mid-year review and an end-of-year review interview, which also includes self-evaluation, are required. The ongoing interview should take place sometime between June and August, and should be part of the communication between the employee and the manager and an opportunity to reflect on the goals set at the beginning of the year.

Education and development is an important part of evaluation and of the PMDS as a whole and is increasingly emphasized. As part of the evaluation process, the employee and his / her immediate superior should identify educational and development activities that will contribute to the result in the given position and enable career development. The system appreciates the importance of support and education of the evaluators and the evaluated. There are detailed guides for both evaluators and evaluators – the End-of-Year Assessment Guide for Managers, the Year-End Interview Guide for Employees. For example, the manager will find support in the manual on how to proceed if the employee's performance is unsatisfactory. If the work performance is satisfactory, the evaluation interview includes professional development opportunities and educational needs. Satisfactory evaluation is a condition for possible career advancement. In case that an employee is graded unsatisfactorily, the line manager follows the **Policy of Underperformance**, which is part of the entire PMDS system. This is followed by another Performance Review Meeting, if decided, the manager and the employee will develop a Performance Improvement Plan, which is a development plan of its kind.

### Disciplinary Proceedings

Disciplinary liability is embedded in the Civil Service Act. If the service authority finds that a civil servant has committed an error, negligence, unsatisfactory conduct or insufficient performance in relation to his duties, it may impose disciplinary measures.

There are 3 levels of sanctions in the Irish system. The first level is a verbal warning. These are less serious offenses that are quickly eliminated and do not recur. The second level, the written warning, should be used for a serious breach of duty, or repeated breach of duty, or where a verbal warning has not led to a remedy. The third level, the final written warning, is used if the disciplinary offense is of a very serious nature or if the previous warning did not lead to remedial action. This level may be combined with other specific sanctions described specifically in the chapter on disciplinary proceedings. A civil servant has the right to appeal against a second-level sanction and further, i.e. against a written warning. There is no possibility of appeal against the oral warning. The appellate instance varies according to the type of sanction imposed. Until the sanction of a withdrawal of supplementary allowances, the case is dealt with by an internal or external appeal civil servant. After the withdrawal of supplementary allowances, it is dealt with by the Appeals Commission in Matters of Disciplinary Proceedings.

### Mobility

A big topic is mobility within the state administration. There is a central register across the administration, where employees can apply for other positions, no matter if they are looking for a different service authority address or a different position across the service authorities. Only within the same service authority the transfer is governed by internal rules and no new competition is held.



Scheme: the most common form of the selection procedure organized by PAS

Announcement	<ul style="list-style-type: none"> <li>• Announcement of the selection procedure, advertising</li> </ul>
Phase of sending CV and required documents	<ul style="list-style-type: none"> <li>• Applicants will send the required documents via the web interface within the given deadline</li> </ul>
1. round of selection procedure	<ul style="list-style-type: none"> <li>• Tests and questionnaires filled-in on-line</li> </ul>
2. round of selection procedure	<ul style="list-style-type: none"> <li>• Based on the results of the 1st round, the group of the most suitable candidates is invited to the 2nd round</li> <li>• The subject of the 2nd round is passing the tests from the 1st round under the guidance of a PAS employee</li> </ul>
3. round of selection procedure	<ul style="list-style-type: none"> <li>• Based on the results of the 2nd round, the group of the most suitable candidates is invited to the 3rd round- an interview. Based on the interview, the order of candidates is compiled.</li> </ul>
4. round of selection procedure	<ul style="list-style-type: none"> <li>• If the most suitable candidate is considered, for a given position, his qualifications, references, etc. are checked.</li> </ul>
Selection of the most suitable applicant	<ul style="list-style-type: none"> <li>• If the most suitable applicant rejects the offer, the position is offered to the next one in the list.</li> </ul>

## 2.8 THE ITALIAN REPUBLIC

*The Italian civil service system was examined only in the first phase of the analysis and the annex provides further information in the structure of the questions and answers to the individual civil service institutes.*

According to expert analyzes, the Italian civil service is a very specific environment, influenced by the historical and political tradition of the country. The foundations of the current civil service in Italy date back to the 1930s, and the Italian civil service underwent several debatable attempts at reform, modernization and professionalization in the 1990s.

### Types of Employees

A large proportion of civil servants are employed and only a small proportion are civil servants who are subject to civil service regulations. Civil servants in the employment relationship are then divided into those who perform basic service, and further into the so-called senior civil servants who perform management functions. **Senior civil servants** are divided into two levels according to the level of management in which they participate. The systemisation of the civil service and the information about it is not publicly available, and there is also not more detailed information about the salary system. Civil servants are largely subject to private law, and employee relations are also governed by collective agreements with trade unions.

It should be mentioned that the Italian civil service is vaguely separated from the political power. There are extensive ministerial cabinets that not only perform political tasks for the ministry, but also interfere with the performance of the civil service. The employment relationship of civil servants does not contribute to the apoliticism of the civil service either, and their real independence is thus debatable.

### The Selection of Employees

The entry into the civil service is set differently for basic civil servants and senior civil servants. For ordinary civil servants, there is usually a so-called public tender, which takes place as follows. The selection procedure for the vacant position is announced on the bulletin board of the Office, while all the requirements for the position to be filled are announced in it. At the same time, it is determined whether, for example, written examination tests will take place, etc. After submitting the applications, these are evaluated according to the set criteria, tests or interviews are evaluated and the candidate is accepted. The requirement for higher education and a certain internship is firmly established for senior civil servants, which, however, does not necessarily have to be in the state administration.

### Corruption and Ethics

When considering the historical tradition, Italy has long struggled with the problem of corruption and absenteeism, as confirmed by expert analyzes. Given this fact, it seeks to establish a functioning mechanism for disciplinary liability of civil servants. In the fight against corruption risks, the possibility of the rotation of civil servants in the individual service authorities should also help, which should prevent the employee from taking root in the service authority. In recent years, a special legal regulation has been issued regulating the behaviour of civil servants and their disciplinary liability. At the same time, there are special disciplinary offices in Italy as well as a National Anti-Corruption Office.

The National School of Administration is active in the field of education.

## 2.9 THE REPUBLIC OF MALTA

*The Maltese civil service system was examined in the first and in the second phase of the analysis, and further information on the individual civil service institutes is provided in the annex in the questions and answers.*

The basic public service structure of Malta is similar to that of the United Kingdom, and is characterized by the Anglo-Saxon legal tradition. Public service legislation is represented by only a small number of statutory regulations, supplemented by orders, methodological guidelines and so-called manuals. These subordinate regulations are usually issued by various public authorities which are empowered to issue them either by the Constitution or the Public Administration Act. In particular, manuals provide an explanation of the legal provisions and are also a guideline to solving potential problems in different areas of the civil service. These is not classic subordinate legislation that is issued, for example, in the Czech Republic. As the above mentioned implies the civil service also operates on steady practice, which is typical of the Anglo-Saxon legal system. When dealing with the Maltese public service system, its relatively small number of employees must be taken into consideration.

### Legislation

The civil service law is regulated by **the Constitution of Malta**, which defines the basic principles of the civil service, as well as the constitutional foundations of some government bodies such as the Civil Service Commission. The basic law is **the Public Administration Act**. Other important regulations are, in particular, the Public Service Commission Disciplinary Regulations and the Public Service Commission Appointments Regulations, both issued by the Public Service Commission as a constitutional body. Among the most important regulations of so-called **manuals**, which are usually issued by the Permanent Chief Secretary as the head of the Maltese public service, are, in particular, the Public Service Management Code, the Manual on Resource Policies and Procedures or work-life balance regulation: Manual on Work-life Balance Measures.

### The Organization of Civil Service

The state administration in Malta is performed by ministries and other administrative authorities. The organization of individual ministries is based on the Public Administration Act, which describes the basic structure of the ministries. Ministries and administrations are generally divided into sections, departments and offices, and the secretariat of the minister is explicitly referred to as a special unit. **The State Service is managed by the Permanent Chief Secretary and his office.** The Chief Secretary is the head of the civil service and is responsible for the overall organization and the concept of the civil service. In addition to the Permanent Chief Secretary, the Public Service Commission is also a constitutional body and is empowered, in particular, to issue regulations regulating the functioning of certain areas of the civil service and it also fulfils a supervisory function.

The information on the systemisation in Malta (HR planning) is not available to the public, so a more detailed description of its specialities is not possible. The systemisation is, however, according to the available sources, connected with the state budget and is based, among other things, on the budget rules act. The total budget appropriations and the number of posts occupied are approved. The Ministry of Finance is responsible for the preparation of the systemisation. The proposals of the various ministries and authorities go through a commentary process coordinated by the Ministry of Finance. After the approval or the possible modifications, the final systemisation is submitted to the Office of the Government, the Human Resource Management Department. The Department falls under the Permanent Secretary of the Cabinet. This department approves the system. **The Systemisation is prepared by ministries for a period of three years, with ongoing revisions.** The revisions take place within one year. Changes in systemisation, consisting in the establishing of new posts within the already allocated funds, are the responsibility of the permanent secretaries of the individual ministries and are not subject to further authorization by the Ministry of Finance. However, if there are to be changes beyond the approved budget appropriations, the draft amendments must be consulted and approved by the Ministry of Finance.

### Remuneration

Systemised posts are divided into **twenty pay scales**. The Public Administration Act in its appendix states which specific posts correspond to the appropriate salary scale. The salary of a civil servant is then connected with a relatively complex system of various supplementary allowances. This system of supplementary allowances is then regulated by a special **manual**: Manual on the Procedure and Computing of Salaries issued by the Permanent Chief Secretary. Remuneration modification is also partly contained in collective agreements that include, for example, salary scales with pay increase depending on the length of service. At the same time, it is also not excluded that the collective agreement regulates, for example, the conditions for obtaining performance bonuses.

### Selection Procedure

The entry of a civil servant into the civil service is in Malta regulated by the Public Administration Act and also by a special regulation of the Public Service Commission. Civil servants are recruited to the civil service on the grounds of open selection procedures, with the publishing and registration being digitized. Within the selection procedure, **selection panels** are allowed to carry out a **pre-selection** from which a shorter list of candidates will be issued. The selection panel is responsible for the selection. The criteria for the narrow selection are not predetermined in advance but should respect the specific situation and requirements for the occupied post. The main qualification requirement is the level of education achieved. In addition, the candidate must meet the special requirements which may be laid down for the post **by the order of the Permanent Chief Secretary**. Within the

selection procedure, written tests may be carried out, focusing on general prerequisites for service performance or on expert knowledge. An **interview** is always a part of the selection procedure. Although there is an emphasis on the openness of the selection procedures, public employees have a better status, as the system enables **internal selection procedures**.

What is also important is the fact that, in the case of top management posts in the civil service, service contracts are concluded with the selected applicants, which are usually concluded for three years. These performance contracts may be prolonged under certain conditions. According to the available materials, the contractual top-management placement system should contribute to greater mobility of public employees.

## Education

There is not a service examination in the Maltese civil service, as it is in other countries. State employees, however, undergo **initial vocational education and training**, and undergo **internal vocational training** for the purpose of professionalising the service. This training takes place at the level of the trade unions and the authorities and also at the central level. At the level of the authorities, the objective is to familiarize the civil servants with the functioning of the service authority and the factual issues concerning its classification. The education at the level of the authority is to be supplemented by so-called **central education**, its aim is to familiarize employees with the issues of service, beyond his / her employment.

In-service training is complemented by **mentoring and coaching** by the superiors and by older and more experienced civil servants. A newly recruited civil servant is always assigned to a senior civil servant who oversees his / her incorporation. In the case of initial education, the employee is obliged to familiarize himself / herself in cooperation with the older colleague with the relevant legal regulations he / she will need when performing the service in his / her post. He is also required to familiarize himself / herself with the organizational structure of the service authority and to get acquainted with the procedural issues in the given authority. A civil servant must also be included in the initial training program at the earliest possible opportunity, where he / she is preparing to perform the service in a wider perspective.

The Maltese education system is also partly institutionalized. The main bodies involved in the organization and the implementation of education are, besides the service authorities, the Public Administration Institute and the Center for Development, Research and Teaching at the Office of the Prime Minister. The Public Administration Institute provides for the training of public employees through various educational programs related to their professional development, as well as personality and communication. The public service ensures that a civil servant is not only a professional in his field but it also develops his social skills in a team of other employees and develops his personality potential. The Public Administration Institute focuses on the area of so-called external education, i.e. the education that is carried out outside the service authorities. **The Center for Development, Research and Teaching at the Office of the Prime Minister** is a central governmental organization responsible for civil service education and the management of educational activities in the civil service, its role is mainly in the coordination of so-called internal education, i.e. education within the service authorities.

## Work-life Balance

The Maltese public service offers a relatively comprehensive system of WLB measures. The WLB system is conceived as a set of policies aimed at achieving balance between the duties of a civil servant and his / her private life. These policies are implemented through the specific balance measures listed in a special WLB manual, listing the measures, conditions for their use, and enclosing document samples that are used.

The balance measures are divided into three basic categories. The first category is paid leave for family reasons approved by the director of the authority, the second category includes unpaid leave for family reasons approved by the director of the authority and the third residual category consists of other WLB measures. The first category includes, for example, marriage or registered partnership leave, service leave for a pregnant employee for the preparation for the childbirth, maternity leave or service leave for adoption. The second category includes, for example, time off to accompany a spouse or a registered partner who is sent to a foreign study or educational course, a parental leave that can be used by parents, guardians and foster carers or a career break. In the third residual category, there is a balance measure related to the modification of the working hours and the performance of the service from another place.

## Performance Appraisals

The service performance in terms of quality is subject to performance appraisals of the individual public employees. The Maltese civil service went through a major modernization in the field of service evaluation in 2016, which above all meant that the system was **fully digitized** and that the evaluation is currently carried out electronically in full. The service evaluation is carried out on an ongoing basis, divided into **three phases** throughout the calendar year. The dates of the three appraisals are stipulated at the beginning of the year, at the mid-year and at the end of the year, from which the duties of individual staff involved in the performance appraisal are derived.

The main **evaluator is a direct superior** who carries out basic performance appraisal. Subsequently, the service evaluation is also **"confirmed"**, by the confirming evaluator being the superior of the main evaluator. Also the evaluated persons participate in the evaluation. They de facto carry out **self-coaching**, which is very similar to that of the main evaluator. Both, the evaluator and the evaluated person are obliged to meet the given evaluation deadlines.

The performance appraisal focuses on **three basic areas**. It evaluates the personal competencies of the state employee,

**the fulfilment of the work duties** (work plan) and **the fulfilment or the achievement of special tasks** and it also summarizes **the career development of the evaluated public employee up to now**. The career development is mainly assessed in a form of the verbal commentary of the evaluator. The rating scale for other areas has, according to the information available, a form of a range of points. The point rating of each area is averaged according to the pre-given formula to get the overall score. The “confirming” evaluator has the right to intervene in the performance appraisal of the main evaluator. In such a case, he carries out the service performance appraisal on his own and he may also change the rating of the evaluated civil servant.

### Ethics and Service Discipline

The area of ethics and the observance of service discipline is regulated in the Public Administration Act and further in the special regulation of the Public Service Commission. One of the annexes to the Public Administration Act is the Code of Conduct, which is followed by the **Commission regulation** mentioned before.

The Maltese civil service strictly respects service discipline and general ethics in the performance of the service. The regulations and follow-up methodologies specifically regulate how a civil servant should act in the performance of the service, how to be politically active, how to dress, how to conduct correspondence and negotiations, etc. Checking of the compliance with ethical rules is within the competence of the superiors of the individual state employees who are also responsible for the proper control. In addition, general supervision of the compliance with ethical rules is also within the competence of the Public Service Commission. The importance of the observance of the ethical rules is also evidenced by the fact that inconsistent control by the superiors can be considered as a disciplinary offence of the superior.

The ethical failure of a civil servant may be regarded as a disciplinary offense, and in such a case, disciplinary proceedings are subsequently initiated with a civil servant. Malta has a widely differentiated catalogue of various disciplinary measures that can be imposed on a public employee depending on the severity of the disciplinary offense. In the case of minor offenses, a disciplinary measure of written admonition may be imposed, further disciplinary measures for minor offenses are: suspension without pay for up to five days, suspension without pay for up to ten days, with the notice of the possibility of dismissal and a limitation period of two years, and finally a dismissal. For serious offenses, a disciplinary measure of suspension without pay for a period of up to ten days may be imposed, or the deduction of all bonuses ranging from one to three years, suspension without pay for up to 15 days with notice of the possibility of dismissal and a limitation period of four years and finally a dismissal.

## 2.10 NETHERLANDS

*The Dutch civil service system was examined only in the first phase of the analysis and the annex provides further information on the individual civil service institutes in the structure of the questions and answers.*

The Dutch civil service system is based on several theses. Civil service legislation is fragmented. The current Civil Service Act dates back to 1929, but only a few provisions are currently in force. The position of civil servants is thus regulated by a number of other laws and by-laws, and it is true that each sector of public administration has its own legal regulation. For the sector of central government offices, which consists of offices corresponding to the Czech service authorities, the most important is the General Central Government Civil Servants Regulation, which is formed on the grounds of extensive consultations with trade unions. Other sectors are, for example, the army, police, justice, health, education or local government. The Ministry of the Interior issued in 2020 material on **The Legal Status of Civil Servants (LEG)**.<sup>1</sup>

### Civil Servants

The Civil Service Act contains only a vague definition of a civil servant. According to a well-established interpretation, employees of public administration institutions are considered to be civil servants. The ambiguity of this definition is illustrated by the example of the Rotterdam Zoo, whose employees became temporary civil servants at a time when the majority owner of the zoo was the city of Rotterdam. Special attention is paid to the highest-ranking civil servants, whose recruitment and training are managed by a special department of **the Administrative Service (ABD)**. Civil servants are offered many benefits, including participation in a pension fund for civil servants, compensation for the use of public transport on the way from and to work, or shortening of working hours for older employees.

### Standardization

Relationships and processes are governed by the Administrative Procedure Code and disputes are resolved by administrative courts. In recent years, the tendency of so-called standardization has prevailed. It consists in unifying civil service and employment. In practice, this means that many institutions that in the past distinguished civil servants are being abolished, for example, they can now go on strike, and public sector wages should be based on private sector wages.

### The Systemization and the Organization

The solution of the systemization and the organization of service authorities is decentralized. Between 2008 and 2011, the Agreement on Career Support Policy, the Labour Market, Unemployment Benefits, Re-employment and Redundancy was effective, introducing, among other things, a system for comparing posts across service authorities, registering vacancies, etc. The Negotiating Committee in the Central Administrative Authorities was entrusted with the management of the system. The system also made it possible to enter the CVs of the individual employees into the database.

A major reform took place in the 1990s, focusing on senior civil servants. **A General Administrative Service (ABD)** has been set up to manage the employment of senior civil servants. There are approximately 700 civil servants in this category. Within ABD, there has been an even narrower specialization in the form of the establishment of **the Top Management Group (TMG)** category, which consists of approximately 70 top civil servants (including, for example, the Secretary General, the Director General and several others). Different rules apply to ABD posts. These civil servants, for example, are required to rotate every 5 to 7 years, i.e. to move to another management position. The selection procedure is also stricter.

### Selection Procedures

Selection procedures for filling posts are decentralized. Each service authority has its own rules, but there is always a competition. Exceptions are senior civil servants, where the competition is organized by a special unit of the administrative service (ABD). The offer of vacancies in this category is obligatorily published and people outside the civil service can also apply for the competition. The aim is to select the best professionals. The selection procedure itself is complicated, with the consent of many sites. First, an independent committee will select the most suitable of all the candidates, which will then be assessed by a selection committee. It selects the most suitable candidate and submits the selection to the minister, who must, however, proceed in agreement with the minister responsible for the civil service (currently the Minister of the Interior). The final appointment will be made by the government.

### The Evaluation and Career Advancement

Career advancement (career rules) depends on the performance. Specific rules are set for each sector separately. In the case of performance highly above-average, it is possible to award a salary tariff from a higher salary grade after reaching the highest level.

The performance appraisal of civil servants is carried out once a year. After three years, a civil servant is entitled to the services of a career counsellor. In case that a civil servant performs service in the same position for a period of five years, the interview among other things focuses on the possibilities of the employee's career development.

<sup>1</sup> The Legal Status of Civil Servants (2010). Ministry of the Interior and Kingdom Relations. Available from: <https://www.government.nl/binaries/government/documents/leaflets/2011/07/20/the-legal-status-of-civil-servants-2010/thelegalstatusofcivilservants2010.pdf>

## Ethics

Regulations governing the legal status of civil servants include rules on ethical conduct. Each service authority is obliged to set up **an integrity advisor**, to whom civil servants can turn in cases of inappropriate behaviour of other employees, such as sexual harassment, aggression, violence, etc. In the case of whistleblowing, a civil servant may turn to one of his superiors. If he considers that his initiative may not be properly dealt with in this way, he may turn to the independent Committee on Integrity in Public Administration, which acts as an advisory body.

## 2.11 THE REPUBLIC OF POLAND

*The Polish civil service system was examined in the first and in the second phase of the analysis, and further information on the individual civil service institutes is provided in the annex in the questions and answers.*

The development of the modern civil service system in Poland has to be seen in the context of the change of the political regime after 1989. The Civil Service Employees Act from 1982, the scope of which was extended to all civil servants, no longer corresponded to the new conditions, and consequently, special laws regulating the position of certain groups of public employees, mainly civil servants in municipalities (1990), civil servants (1996) and the servants of foreign service (2001) were introduced.

Although the Civil Service Act ("the CSA") was adopted in 1996, the debates over some of the provisions, in particular, the status of senior civil servants and the central body of civil service (the General Directorate for Civil Service), resulted in the amendments of the law, often of a fundamental nature. A completely new Civil Service Act was adopted in 1998, the next one in 2006 and 2008. The current Civil Service Act from 2008<sup>1</sup>, in particular, introduced open selection procedure for senior civil servants and created the post of **the Director General of the Civil Service** as the central civil service body which is subordinated to the Prime Minister. The Director General's activity is provided by the Civil Service Section, which **is organized under the Office of the Prime Minister**. As a result of the **amendment to the law at the end of 2015**,<sup>2</sup> the selection procedure for senior civil servants who are newly appointed and removed by the competent minister (or the State Secretary or the head of the service authority) was abolished. The changes also affected the requirements for the Director General, who no longer has to have previous civil service working experience, and who may not be a member of a political party for the duration of his term as a Director General, whereas the previous regulation also banned membership for five years before taking the office.

### Public Employees

The personnel scope of the CSA is determined by an exhaustive list. In particular, the **civil servants of the Office of the Prime Minister, Ministries, Central Administrations, Offices of the Voivodeship and the Territorial Authorities, which are subordinated to the Leaders or Ministers**, fall within the scope of the CSA. **Specific authorities**, such as the Office for the Regulation of Forestry Reproductive Material, are not systematically included. Based on the data from 2016, the CSA covers 130 types of service authorities (1 882 individual authorities), in which civil service is performed by less than 119 000 civil servants (*Civil Service Corps*).

Public employees do not actually form a single homogeneous whole, but consist of **three groups** that differ in employment. More than 92% of public employees are **Civil Service Employees** whose employment relationship is based on private law and is governed by the Labour Code<sup>3</sup>, except for the cases which are regulated by the CSA differently (e.g. recruitment, rights and obligations, disciplinary liability etc.). Approximately 7% of public employees are **civil servants** whose employment is based on the public law regulation, which is regulated mainly by the CSA. The last group is called the **Senior Positions in the Civil Service**. This group includes, in particular, state secretaries, the directors of the departments of ministries, and civil servants at the appropriate level in other service authorities.

### The Organization of Civil Service

To ensure the proper functioning of the civil service, **new functions and institutions are established**, such as **the Director General of the Civil Service, the State Secretary and the Public Service Council**.

**The Constitution of the Republic of Poland** is the basic guideline for the organization of the civil service. Under Article 153 (2) of the Constitution, the Prime Minister is the head of civil service, which results in **the subordination of the Director General of the State Service to the Prime Minister** and, consequently, **the inclusion of the Civil Service Section under the Office of the Prime Minister**.

**The Director General** is not a civil servant under the CSA, he is a central civil service body, whose status is defined by the CSA. The performance of the function of the Director General is not limited in time, the employment relationship starts with the appointment to the post and ends with the removal from the post, both performed by the Prime Minister. The Director General does not have to be a civil servant. He must be a Polish citizen with a Master's degree, who has not been convicted of committing an intentional crime, speaks one of the other official languages of the European Union, does not have a ruined reputation and is not a member of a political party at the time of appointment. In the framework of the civil service, the Director-General has to carry out mainly coordination-organizational tasks, such as ensuring the compliance with the principles of the civil service, leading the process of human resources management, collecting and analyzing information on the civil service or organizing central education in the civil service.

In service authorities, the **State Secretaries** (or the heads of service authorities) fulfil the tasks arising from the CSA. The State Secretary is one of the senior civil servants, he is subordinated to the minister (or the head of the service authority) who also appoints and removes him. There are two important aspects of the civil authority management in the position of the State Secretary. On the one hand, the State Secretary is **responsible for the human resources sector**, in particular conducting the

1 Ustawa z dnia 21 listopada 2008 r. o służbie cywilnej (Dz.U. 2017 poz. 1889), Act of 21 November 2008 on Civil Service.

2 Ustawa z dnia 30 grudnia 2015 r. o zmianie ustawy o służbie cywilnej oraz niektórych innych ustaw (Dz.U. 2016 poz. 34).

3 Ustawa z dnia 26 czerwca 1974 r. Kodeks pracy (Dz.U. 2018 poz. 108).



process of human resources management, representing his employer in civil service matters and organizing recruitment to the civil service. Secondly, the State Secretary **takes care of the proper functioning of the service**, in particular by monitoring the performance of the tasks by the individual organizational units, managing the assets of the service authority, awarding public contracts, or supervising audits and inspections in the service authority.

The Civil Service Act establishes **the Public Service Council**, which is an advisory body in the civil service matters. The council consists of 7-9 members appointed by the Prime Minister for a **four-year term**. Members of the Council may become persons meeting the requirements for the admission to the civil service. The Council particularly deals with the suggestions of the Prime Minister, the Director General or a member of the Council concerning various areas across the civil service, from human resources management to the public service ethics. The Council also accepts complaints from civil servants and may ask the Director General's point of view on the complaint.

### The Depoliticisation of the Public Administration

In order to ensure the professional and impartial performance of public administration in a democratic society, it is necessary for the political power not to interfere with the service relations of civil servants.

One of the prerequisites to ensure this is to provide the civil servants with greater certainty about the stability of their employment. From the organizational point of view these prerequisites are fulfilled by setting up the position of the Director General at central level and State Secretaries at the level of individual service authorities. In particular, the State Secretaries are responsible for the non-political nature of civil service by their competencies in the field of employment relations. In this connection, the provisions of the CSA acting in the opposite direction may not be forgotten. In particular, it is the competence of the ministers and the heads of service authorities to appoint and to remove the State Secretary, whereas the appointment does not need to be preceded by a selection procedure or another process with a competitive feature that would enable a transparent selection of the most appropriate applicant. According to the current legislation, the State Secretary decides the same way about the senior positions in the civil service.

Apart from the organizational level, there are other measures to promote the impartial performance of the civil service in accordance with the principles of ethics that civil servants are obliged to respect. These measures impose on public servants certain restrictions. In particular, civil servants are not allowed to present their own political views publicly (civil servants and senior civil servants must not be members of political parties), they may not take part in strikes or other protest actions that would interfere with the proper functioning of the service or may not engage in any gainful activity without the State Secretary's consent.

### The Possibilities of Compensation for Civil Servants' Duties

Specific tools are included in the CSA and the Labour Code. In this regard it is necessary to mention that **the Labour Code does not allow civil servants to conclude collective agreements**.

One of the basic forms of compensation is **remuneration**. Some financial compensation (for example, a supplementary allowance for years worked or the so-called "13th salary") belongs to all public employees, others are given to civil servants (service supplementary allowance) or to senior service servants (functional reimbursements). State employees can also be awarded remuneration for performing an extraordinary task or for achieving significant success in the service.

There are also **work-life balance** tools available for the public employees. The civil service in this respect does not exceed the provisions provided by the Labour Code. State employees can have flexible working hours, part-time work or to use teleworking. The State Secretary decides on the form of the service

Regarding holidays and various kinds of leaves, the CSA does not exceed the Labour Code provisions and other labour law regulations. **An exception is the additional leave** for civil servants who are, after **five consecutive years, entitled to five additional days of leave and one more day** after each subsequent year.

In conclusion, the Corporate Social Fund (CSF) can be mentioned, which provides the civil servants with contributions to cultural, sport and social activities. The rules for drawing funds from the Fund and defining the area which the funds can be drawn for are regulated by the State Secretary by an internal regulation after being discussed with the trade union organization.

### The Systemisation and the Organization of Service Authorities

The Polish civil service can be described as decentralized, which means that the systemisation as the process of authorizing the number of posts and remuneration funds, is **not applied at the government level**. The basic document in this respect is the law on the state budget, which determines the amount of funds for individual service authorities. The Director General is involved in preparing the part of the state budget for funding the remuneration and training of civil servants and also prepares information on this matter for the government.

**The State Secretary decides on the number of posts and the amount of remuneration in the service authority.** Changes may also occur during the year, the only limit is the amount of funds from the state budget. An increase in these funds is possible in the case the service authority is carrying out a new agenda for which new staff is needed.

The information on the service post is given in the so-called **service post description**, a document specifying, in particular, the requirements for the occupation of the place and the activities to be performed. A description of the service post shall be

prepared by the head of the organizational unit in which the post is included and approved by the State Secretary.

The organizational matters of the service authority are under the responsibility of the relevant minister (the head of the service authority), that issues the status of the service authority, and the State Secretary, that issues the organizational rules of the service authority. The general rules for determining the organizational structure of the Ministry are included in the law on government, which specifies which units may be established.

### Career Opportunities

The Polish civil service is based on a positional employment model, according to which the staff are recruited for a specific position, and the career opportunities are thus limited. An exception to this may be the possibility of a civil servants' career progress within the service grades. It is possible to move to a higher level on the grounds of a positive performance appraisal, the freezing of the career progress or the degrading to the lower level is possible in connection with the disciplinary proceedings.

### Filling a Vacant Service Post

A wide range of options is available when filling a vacant post. Civil service employees and civil servants may be assigned to the post on the grounds of so-called **internal recruitment** which means there is no need of a selection process. Internal recruitment can also be applied across departments, but it is always necessary for a civil servant to meet the requirements for that position. Due to the absence of fixed pay grades and the fields of service, internal recruitment is a simple and effective tool in human resources management, but there is no guarantee of transparency and merit-based procedure. For the so-called external recruitment, which is also open for non-civil servants, the provisions of the CSA on the selection procedure apply.

In this connection, it is necessary to mention, that the appointment to a position without a selection procedure is not applied only within internal recruitment. In case of civil servants, the State Secretary or the Director General may, with respect to the existing rules, transfer a civil servant to another post within the service authority, to another service authority and to another place of service without civil servant's approval. If a civil servant is transferred to another authority, the civil servant may appeal to the Prime Minister.

In order to find the most competent applicant, **the selection procedure** is also open to non-civil servants. The transparency is ensured in particular by **publishing the result on the public service web site and by issuing a protocol on the selection procedure.**

The selection procedure has one round and the same rules apply to the recruitment of civil service employees, civil servants and senior civil servants. The selection procedure is not mandatory when filling the senior civil servants positions to which the candidates are appointed, however, in order to select the most competent person, the selection procedure may be carried out also in these cases. There are no selection procedures for **the State School of Public Administration of the Polish Republic** of Lech Kaczynski (SSPA) graduates, who are appointed to their first civil service post by the Director General.

The selection procedure is conducted by a selection panel which selects a maximum of five successful applicants and the State Secretary chooses the winner. An exception to this rule is the situation where **less than 6% of disabled people** are employed in the civil service. If a disabled person is among the five most successful applicants, **the State Secretary is obliged to choose** this person.

The selection procedure technique is not determined; it is up to the selection panel to choose the appropriate tools. The Director General has prepared guideline, in particular recommending an interview to be conducted.

### Disciplinary Proceedings

In connection with the performance of the civil service, an institute of disciplinary liability applies to **all three groups of public employees.** Disciplinary liability applies in particular to the breach of the duties of a civil servant.

Disciplinary power is exercised by a disciplinary committee in the service authority, its members are appointed by the State Secretary. In the service authorities, a disciplinary committee of the first grade is set up and a higher level disciplinary committee is also in the Prime Minister's Office. It deals with appeals against the decision of the disciplinary committee at first instance and it is also the first instance in the case of disciplinary infraction by the State Secretary. In addition, the position of the Disciplinary Spokesperson is established in each service authority.

In the case of a minor breach of duty, the State Secretary may give the civil servant an admonition. In other cases, the State Secretary gives a motion to the Disciplinary Spokesperson, who initiates the so-called explanatory proceedings to investigate the complaint. If the civil servant's fault is not proved, the Disciplinary Spokesperson in cooperation with the State Secretary decides to discontinue the disciplinary proceedings. In the case the fault is proved, he will refer the matter to the disciplinary committee and suggest a specific disciplinary measure. The disciplinary committee then initiates disciplinary proceedings.

The disciplinary measure ranges from the reprimand until the termination of service in particularly serious cases of breach of the duty of a civil servant. Against a second-instance decision of a higher level disciplinary committee, a complaint may be lodged with a labour court competent to resolve disputes in the field of labour law.

### The Knowledge and Skills Verification of a Civil Servant

The Institute of Civil Service Examination, as it is embedded in the Czech civil service, is not used in Poland. However, there are other institutes that verify the knowledge and skills of a civil servant to perform a service at a given service post. It is the **first**

**evaluation**, which is a specific type of service evaluation, and a **qualification procedure**.

Upon the first appointment to the civil service, a **fixed-term employment relationship of 12 months** is agreed with the civil servant. At this time, a civil servant holds a **preparatory service** and has to pass through the first evaluation. The purpose of the preparatory service is to become familiar with the functioning of the service authority and to prepare for the proper performance of his duties. Preparatory service is completed with a test.

**The first evaluation** follows after the preparatory service period. It may take place not sooner than eight months after the appointment to the service and not later than one month before the expiry of the fixed-term employment. The first evaluation is carried out by the immediate superior in cooperation with the head of the organizational unit to which the civil servant belongs. In particular, performance, progress achieved, relationships with colleagues and the timeliness of tasks are assessed. In addition, the test result from the preparatory service and the evaluation report drawn up by the evaluated employee are taken into account. In case of a negative evaluation, the service is terminated.

**The qualification procedure** serves to select persons to be appointed to the civil service posts. An existing civil servant who has three years of working experience, a completed Master's degree, and speaks at least one foreign language can enrol in the qualification procedure. The qualification procedure is held once a year and organized by the SSPA. By passing a test that verifies the knowledge and skills of a civil servant, a civil servant does not automatically become a civil servant, as the number of appointments in each year is set by the government. If the number of successful candidates exceeds the appointment limit, those who scored the most points are appointed. In case of a failure in the qualification procedure, nothing changes in the existing employment relationship.

### The Service Performance Appraisal of Civil Servants

Performance appraisals are carried out **once every 24 months** and civil service employees employed for **an indefinite period and civil servants** are subject to the performance appraisal. Senior civil servants and civil service employees employed for a definite period of time are not subject to the performance appraisal with respect to the limited time spent in the service. The performance appraisal is also carried out if a civil servant has been assigned to another post in which significant distinct activities are performed and more than six months have elapsed since the last assessment. Service performance appraisal may be at different time, in particular if the position of superior has changed or at the request of a civil servant. Further, the performance appraisal is carried out after six months in the case a civil servant received a negative evaluation in the last performance appraisal.

The subject of the service evaluation is to assess the performance of the service with regard to the description of the post which contains the list of activities carried out in the given post. The service evaluation is carried out by the immediate superior.

The service evaluation is made by the awarding of points for each criterion according to which a civil servant is assessed. More than four points are needed to get a positive score, with a range of between one and nine points.

As regards the impact on the employment of a public employee, this is particularly noticeable for civil servants. If two successive negative results are obtained, the termination of service occurs on the basis of a decision of the State Secretary with the observance of the notice period. On the other hand, the positive result of the performance appraisal may lead to a higher service grade, based on a reasoned proposal from the evaluator. If a civil servant achieves the highest or the second highest score twice in succession (gaining more than six points), career advancement occurs automatically. None of these options apply to civil service employees whose performance appraisal serves as the basis for the personnel policy decisions of the State Secretary, for example in remuneration issues.

### Ethics

The basic duties of civil servants, mainly the observance of constitutional or human rights, are embedded in the CSA. Further details are specified in the Decree of the Prime Minister No. 70/2011, which in its first part defines the principles of civil service, namely the principles of legality, transparency and professionalism, and in the second part it describes the fields of ethics. Here are the principles of dignified behaviour, public service, loyalty to the service authority, political neutrality, impartiality and proper service performance formulated.

These principles are very vague, and it is not possible to precisely define the extent of the infringement that would be harmful, which suggests that they are rather declaratory. In addition, the Civil Service Act does not include a procedure for assessing the violation of these principles nor does it stipulate the sanctions for the breach of these principles.

Tasks in this area concern various public employees, including the senior civil servants, the State Secretary, the Director General, as well as the Public Service Council. The tasks consist mainly in monitoring, analyzing and issuing recommendations. The specific tools to ensure compliance with the principles of the individual service authority depend on the State Secretaries. The Office of the Prime Minister established the **Board of Ethics Advisers**, its task is, in particular, to provide advice to civil servants. The credibility of the Board is ensured by its composition; its individual members are elected by the civil servants themselves.

### Work-life Balance

The way work is carried out has changed in recent years, which is to a large extent connected with new technologies enabling long-distance communication and higher flexibility of work, especially in cases where the physical presence of an employee at the workplace is not necessary at all times.

The provisions of the CSA do not contain specific rules concerning the work-life balance. In this area the provisions of the Labour Code and the labour law regulations are followed. For example, government employees are allowed to work from a different place (teleworking), have flexible working hours or work part time.

### Education

There are a few varieties of education distinguished: **central, general, the professional development program within the framework of an individual educational program and specialized education.** This concept of education fulfils various functions. Central training provides a coordinated approach to education where the Director General, in cooperation with the SSPA, identifies the priority areas of the training for that year. The general training is organized by the State Secretary for civil servants in the service authority. The individual education program is prepared by an immediate superior for the civil servants and approved by the State Secretary, taking into account the results of the service performance appraisal which contain conclusions for the further training needs of the civil servant. The last variety of education is specialized training, which is thematically related to the competence of the service authority.

In addition to the State Secretaries and the Director General, the State School for Public Administration (SSPA), as an independent institution established in 1990 to provide training for civil servants, is involved in education. For public employees, the central training is organized there in cooperation with the Director General. The school also offers courses related to public administration. SSPA also cooperates with the Director General in organizing the qualification process. The uniqueness of SSPA lies mainly in the fact that it organizes a post-graduate program, the graduation of which entitles to the appointment to a civil servant post without the necessity to go through the qualification procedure and preparatory service. Students who are under 32 years of age with a completed Master's degree may enrol in SSPA. The program lasts from 18 to 24 months.

### The Termination of Civil Service

The termination of civil service must be seen separately for each group of public employees.

In accordance with the private-law concept of the employment relationship of civil service employees, the provisions of the Labour Code shall apply to the termination of the employment. Only in the cases defined in the CSA, the specific provisions of the CSA (e.g. the disciplinary measure of termination of employment) apply.

In case of civil servants, it is a public law concept of employment and the termination of employment thus occurs especially in the cases specified by the Civil Service Act. In some exceptional circumstances, the provisions of the Labour Code shall also apply to a civil servant, e.g. in case of the termination of service due to the death of a civil servant.

The termination in case of senior civil servant occurs on the grounds of the removal from the position as stipulated in the Labour Code. A civil servant who is appointed to the position of a senior civil servant shall be granted unpaid leave for the duration of his term of office. After the removal from the position, he shall be assigned to a suitable post with regard to his professionalism and skills by the Secretary of State in question.

## 2.12 THE REPUBLIC OF AUSTRIA

*The Austrian civil service system was examined in the first and in the second phase of the analysis, and further information on the individual civil service institutes is provided in the annex in the questions and answers.*

The Austrian civil service is conceptually similar to the Czech civil service. However, Austria has more extensive legal regulations in the form of legal provisions of different legal force. In Austria, **public employees are not only civil servants of public administration, but also teachers, soldiers, legal professionals, and post office employees**. Austria is also one of the countries where a formal tenure is established and there is also a **retirement benefit scheme** established.

The legal framework of the Austrian civil service is made up of a wide range of legal provisions of a different legal force. The basic statutory regulation is **The Act on Civil Servants and Civil Service Law** (*Beamten Dienstrechtsgesetz, BDG*), **The Act on Wages** (*Gehaltsgeesetz, GehG*), **The Pensions Act** (the *Pensionsgesetz PG*) and **The Act on Health and Accident Insurance of Civil Servants** (*Beamten-Kranken- und Unfallversicherungsgesetz, B-KUVG*). These laws are then complemented by a number of **implementing regulations, issued at federal government level but also at the level of the individual ministries**.

The federal state administration in Austria is performed through bodies governed by public law which are entrusted with the power of public authority. Since Austria is a federal state, the state administration is divided into **an immediate state administration, which is carried out through ministries and their subordinate offices, and on the intermediary state administration, which is carried out by the municipal administrative authorities**. According to the federal constitutional law, the federal president, federal ministers, state secretaries and members of municipal governments are the supreme executive bodies. For the purpose of **the performance of state administration at the national level, i.e. the federal level, the ministries are established as central authorities and service authorities which are subordinate to them**, typically revenue authorities or police inspectorates. However, there are no central administrative authorities in Austria, as in the Czech Republic. The individual ministries and their subordinate service authorities form a joint department. The resorts serve to ensure the performance of the state administration, which is the responsibility of the individual ministers. This is a very significant difference in comparison with Czech legislation.

Besides the mentioned state administration bodies, there are the so-called **special supreme bodies**, which are state administration control bodies such as the Federal Court of Auditors. They are completely outside the departmental organization of the state administration and they are guaranteed special independence, as a rule, by law. Ministries, as central authorities, are responsible for strategic planning, management and coordination of state administration in the given sector, for policy formation and coordination and other tasks assigned. Subordinate government authorities then provide further public administration performance.

### Progress System

The civil service is organized according to the so-called **progress system** (*Vorrückungssystem*). This system is formed by **service grades**. The service grades are seven in total, each with an informal service ranking, and they are ranked in descending order. Each service grade corresponds to a number of **function groups**. Not every resort then uses all the service grades. Service grades divide service posts into groups according to their demandingness on the grounds of the criteria of "proficiency and knowledge", "logical thinking" and "the degree of responsibility". Appendix B to the BDG specifies the posts assigned to each service grade. The posts not listed here are assigned to these grades on the grounds of similarity. The function groups are numbered. There are also cases when a given service post is not included in any numbered function group, then it belongs to the so-called basic function group. The two lowest grades are not divided into function groups, since such detailed division is not needed anymore, as the work performed is taken into account.

The progress system of the service grades also corresponds to **the structuring of the remuneration system**, which according to The Act on Pay consists of the pay grades and pay groups. In principle, the pay grades correspond to the service grades and pay groups to the function groups. It is important to mention that, according to the assignment to a function group, the so-called **function supplementary allowance** also changes. The allowance increases depending on the function group and represents some motivation for the civil servants to try to pursue a career advancement which is connected with higher salary entitlement. In addition to the information mentioned above, there is a division of salary scales into salary steps. The shift in salary grades is only based on seniority.

### The Systemisation and the Organizational Structure

The organizational structure of the individual departments, even in terms of service, is based on the Ministerial Act (*Bundesministerienengesetz, BMG*). This Act, in addition to the factual definition of the competency of the individual ministries and, as a whole, of the department, governs the basic organizational rules governing the ministries. For example, it defines which departments can be set up in the ministry to regulate the relations of their mutual subordination and superiority, while the decisive authority in organizing the ministry is given to the minister, since the ministry is conceived as an apparatus in the subordination to the minister, because the authority of the executive power is not the ministry, but the minister himself as a person.

The systemisation of the Austrian civil service is related to **The State Budget Act**, with the responsibility for its preparation being carried out by the individual service authorities, and the entire systemisation is coordinated by the newly established **Federal Ministry of State Administration and Sport**, which was established only at the turn of 2017 and 2018, and the tasks entrusted

to it were excluded from **the Office of the Chancellor**. The systemisation is referred to as a staffing plan. **The staffing plan** stipulates the maximum manpower for the given year through the designation of the systemised posts and indicates the number of full-time jobs in relation to the allocated funds. In the staffing plan itself, however, the given funds are not specified, as they are defined directly by the state budget law. The staffing plan therefore works with the term *Personalcontrolling Punkt (PCP)*, which is the value of the resources used on one systemised post, expressed in points.

The staffing plan itself is annexed to the State Budget Act for the given year. It sets the maximum permissible personnel capacity of the entire public service in both quantitative and qualitative terms. It applies to service posts as well as service employment. For each department, the staffing plan indicates in the note how many of the total number of the posts shown in the lists corresponds to civil servants' posts. The basis of the staffing plan are table reports, divided by a department and following the text part of the state budget law. A separate summary table is provided for each department. The table is divided according to the service grades for public employees (seven in total organized in decreasing order according to the importance) and the pay grades for employees in terms of employment (five in total according to importance) and function groups for the civil servants (the number is dependent on the given service grade) and remuneration groups for the employees in employment.

### Selection Procedure

The appointment to the civil service is regulated by the Act on Civil Servants as well as a **special law on selection procedures**. This Act regulates the appointment to the civil service in general, but also certain posts which belong to certain service grades and function groups. Austria has also set up a **special electronic labour exchange for those interested in entering the civil service**. The applicant must meet the basic prerequisites laid down by the law, the oral part of the selection procedure takes place at the commission of evaluation and there are also computer tests a part of the general assumptions; the demo version is available online.

The law also distinguishes **several forms of selection procedure** that can be applied when selecting a new employee. This is a selection procedure with a test which is considered as the basic type of the selection procedure, it is always held unless there are reasons for another type of selection. Furthermore, there is a selection procedure with the interview, which is carried out when the given post requires specific knowledge and skills, such as special technical proficiency, or in cases where the labour market does not offer a sufficient number of potential labour force and the demand of employers exceeds the offer. Other forms are a short-cut selection procedure and a selection procedure with testing in the service.

For the sake of completeness, it is necessary to add that the service authorities are required to publish a vacancy within the department and also on the website of the chancellery established for that purpose. The purpose is to find a suitable candidate among the existing civil servants before the post is offered in a selection procedure. Only in the case there cannot be any suitable candidate found among the existing civil servants, the selection procedure is held.

### Tenure Appointment

A new civil servant is appointed to a so-called **temporary service employment relationship**, which is easier to be denounced and in which there is a probationary period at the beginning.

Upon fulfilment of the prerequisites for the tenure appointment, the civil servant is appointed with tenure. It cannot be done earlier than after six years of the temporary employment. A prerequisite for the tenure appointment is always a completion of the basic education program set for the given service grade.

The specific rules of the **basic education**, its length and forms are determined by the highest administrative authorities individually, by regulations. The basic education program is completed by passing the service exam. The **service examination** is not set centrally, but each highest administrative authority issues its examination rules for the organization of the examination. Basic education in a given service grade shall provide the civil servant with the basic professional, social and methodological knowledge necessary for the proper performance of the service. The basic education is provided by the highest civil service authorities, while the participation in basic education is considered a service. The civil servant is always included in the basic education by the service authority and the time for the completion of the basic education within the temporary service employment is determined with regard to the needs of the service authority and also with respect to the personal needs of the civil servant

### The Rights and Duties of Civil Servants

A civil servant with tenure appointment is, in comparison to ordinary employees, granted various privileges. In particular, civil servants are entitled to a **retirement benefit**, a system similar to that in Germany. In the Austrian retirement scheme and the social security system, civil servants are compulsorily insured and the state pays compulsory contributions for these insured persons. This is, in fact, a moving of funds within the state budget, but civil servants in principle have the same status as regular employees. In addition, this system does not make it more difficult if the civil servant terminates his service and enters the private sector.

However, civil servants are also privileged as **the various kinds of leave** concerns, which is mostly a paid leave. Civil servants are also offered **a wide range of childcare instruments or instruments for taking care of close relatives** if their current state of affairs requires them. The civil servant is thus entitled to draw different types of leave in case of illness of persons close to him, here are mainly children, but he is entitled to take a leave also for the care of older family members. It is important to note that couples of the same sex are treated equally in relation to children, so, for example, entitlement to a leave in order to take care of a sick child can also be applied to a registered partner of the civil servant.

This information above is closely related to the issue of holiday. It is graded according to the age and seniority and ranges from 200 to 240 hours per year. Special rules for a leave apply to civil servants who are serving abroad and their family does not live permanently in the place of service.

Also in the area of **remuneration**, civil servants have a better position than ordinary employees in the private sector. In addition to the basic salary determined by the pay tariff and pay grade, there is a number of **special pay components** in the remuneration system and the entitlement derives from different aspects of the service. One of the most important is the function supplementary allowance, which increases depending on the length of service and a career advancement of the civil servant. The incentive role fulfils the **performance allowance** that can be granted to excellent civil servants and a one-time performance bonus. Civil servants are also rewarded by so-called jubilee bonuses, which are paid according to length of service.

Equally important is the fact that a civil servant is entitled to a full salary pay even during his incapacity for work.

### Ethics and Disciplinary Proceedings

The privileges of the status of a civil servant are, on the other hand, also connected with more restrictive duties which the civil servant must observe, and there are also bigger demands on civil servants in the field of ethics imposed. The personality and moral prerequisites for the performance of civil service are emphasized when selecting new employees, as personality assumptions of an applicant can, for example, be a subject of an interview with the applicant, or the candidates are required to undergo the appropriate written tests that verify their personality assumptions. Civil servants are obliged to comply with the basic ethical principles laid down in the law, and they are also trained in ethics during the period of temporary employment prior to their tenure appointment.

Violations of the duties of a civil servant and violations of ethical rules may be penalized as **a breach of service duty under disciplinary rules**. The issue of disciplinary liability, sanctions and disciplinary proceedings is included in the Act on Civil Servants in Austria. Disciplinary offense may be any breach of the duties of a civil servant under the Act on Civil Servants. Disciplinary proceedings are regulated relatively large way; the concept is based on criminal proceedings.

Pursuant to the Act on Civil Servants, for a **disciplinary offense** a reprimand may be imposed, a fine of half the monthly salary, a fine of one monthly salary up to five monthly salaries, or a civil servant may be removed from the service. The above mentioned sanctions may be imposed by means of a disciplinary measure or a disciplinary finding. The disciplinary bodies are the service authority and the disciplinary board. The BDG does not specify who exercises disciplinary powers in the service authority. The service authority is competent to suspend the civil servant in advance or to issue a disciplinary measure within the limits of the competence of the service authority. For the imposition of a disciplinary measure disciplinary proceedings are conducted, to which the provisions of the Administrative Procedure Code shall apply, unless otherwise stated. The disciplinary board is entitled to issue disciplinary findings and to decide and to suspend a civil servant within the department in which he operates. To issue a disciplinary finding, proceedings before the disciplinary board are conducted. The regulation is contained directly in the BDG. There are departmental disciplinary boards, and the supreme disciplinary board established at the Office of the Chancellery as an appeal disciplinary board.

### Education

In Austria, as well as in the Czech Republic, there is a number of the fields of study in various schools that focus mainly on the area of public administration and where the students can obtain the education needed for the later performance of the civil service. Within the framework of the state administration itself, the individual departments ensure the education by their own educational institutions, possibly through **the Federal Administrative Academy**. This educational institution, set up by the Office of the Federal Chancellor, provides mainly management training and soft skills training, as well as vocational training. This institution is responsible not only for the training of civil servants before the service examination in the so-called basic education, but also for the subsequent education of the civil servants with a tenure. Education is primarily organized in the form of seminars that are divided either according to the professional orientation or according to the service grade of the civil servants.

The Federal Academy also provides so-called demand education, education based on the requirements of the service authorities. Organizationally, the Federal Administrative Academy falls under the Office of the Chancellor and is not an independent educational institution. The Act stipulates that if the relevant department does not have at its disposal a suitable educational institution providing the basic education, the Federal Academy of Administration ensures the basic education for this department. The trainers are university teachers, civil servants and other experts.

## 2.13 THE SLOVAK REPUBLIC

*The Slovak civil service system was examined in the first and in the second phase of the analysis, and further information on the individual civil service institutes is provided in the annex in the questions and answers.*

On 7 October 2015, the Government of the Slovak Republic approved by its Resolution No. 548/2015 the Strategy of Human Resources Management in the Civil Service in 2015 – 2020 (hereinafter the “Strategy”). The strategy identified key areas for improving public service, such as an institutional provision of civil service, coordination and planning of civil service, recruitment of civil servants, assessment and remuneration of civil servants, education, civil service management (including leadership support), mobility, career growth, liability of civil servants, collection and analysis of information as a basis for process management, including a common IT solution as a tool for human resource management. Within these areas, strategic objectives have been developed with specific measures to achieve them.

By adopting the new Act No. 55/2017 Coll. on the Civil Service and on Amendments and Supplements to Certain Acts, the strategic objective of “unifying the rules on civil service in service authorities and setting minimum standards for public service” was fulfilled and the shortcomings and problems of Act No. 400/2009 Coll. on Civil Service and on Amendments to Certain Acts, as amended. The Civil Service Act came into effect on 1 June 2017. Its adoption also contributes to the fulfilment of the civil service vision in 2020 “to create a system of professional public service that will serve citizens in a high quality and trust” formulated in the above strategy.

### The Principles of Civil Service and Legal Regulation

The new Act No. 55/2017 Coll. on Civil Service and on Amendments and Supplements to Certain Acts (hereinafter referred to as the “Civil Service Act”) is based on the principles of the civil service defined in the introductory nine articles of the Act. These are principles of political neutrality, legality, transparency, effective management of civil servants, impartiality, professionalism, transparent and equal pay, stability and equal treatment.

A civil servant performing civil service and is in employment with the state. A civil servant is a natural person who performs civil service in a service authority in a given service sector. The Civil Service Act applies not only to civil servants, but also to court officials, prosecutors' lawyers and prosecutor's assistants, unless otherwise provided by a special law. On the contrary, the force of the Civil Service Act is excluded for certain groups of civil servants whose employment is governed by special laws, such as members of the Slovak Information Service, the National Security Authority, even though these institutions are among the service authorities listed in the Civil Service Act.

A citizen of the Slovak Republic, a citizen of another Member State of the European Union, a citizen of a state that is a party to the Agreement on the European Economic Area and a citizen of Switzerland has the right to apply for the appointment to the civil service under the conditions laid down by the Civil Service Act and the service regulations. If the justified interests of the Slovak Republic require a citizen of the Slovak Republic to perform the civil service, only this citizen may apply for the admission to the civil service. This situation usually relates to selected service sectors, such as justice, defense, industrial property, home, protection of classified information, and certain service authorities, such as the Supreme Prosecutor’s Office, the Ministry of Foreign Affairs, the Attorney General, the Office of the Government, and other posts of particular importance that require authorization to familiarize with classified information.

### The Civil Service Council

The civil service is managed by a collective body, which is **the Civil Service Council** (hereinafter referred to as “the Council”), which was established under Art. 12 of the Civil Service Act.

The Council has five members, who were elected by a resolution of the National Council of the Slovak Republic No. 875 of 12 October 2017 for a term of office of seven years, which began on 1 January 2018. Members of the Council are elected and removed by the National Council by an absolute majority of the votes of the members present. A member of the Council may be a citizen of the Slovak Republic who is legally competent, has a secondary education degree, has acquired appropriate professional knowledge and experience in the field of civil service and is upstanding. The National Council of the Slovak Republic has nominated one member for Social Affairs, for the Public Defender of Rights, the Chairman of the Supreme Audit Office of the Slovak Republic, the advisory body of the Government of the Slovak Republic in the area of non-governmental organizations and development of civil society and the Confederation of Trade Unions of the Slovak Republic. One of the members of the Council is its president, elected by the National Council from the members of the Council.

The Council is an independent coordinating and monitoring body for the protection of civil service principles. The Council is a part of the budget chapter of the Office of the Government, which ensures the organizational, technical, personnel and financial conditions of its activities. The members of the Council are pursuant to Art. 7 (6) of the Civil Service Act in the service as civil servants in a public office.

### Civil Service Organization

The uniform procedure for the application of the Civil Service Act is in accordance with Art. 21 letter a) of the Civil Service Act ensured by **the Office of the Government** of the Slovak Republic

**The Civil Service Department** provides methodological support to the Civil Service Act at the Office of the Government.



Coordination, monitoring, control and analytical activities related to the civil service, service posts, selection procedures, evaluation and remuneration of public employees and other activities related to the civil service are provided by **the Civil Service Monitoring and Control Department**.

In 2018, the Office of the Government is preparing a project called **Streamlining of the System of Central Coordination of Planning and Human Resources Managing in the Civil Service**, funded by the operational program Effective Public Administration. Based on this project, the financial support of the Civil Service Monitoring and Control Department is planned.

The Office of the Government has been organizing lectures on the Civil Service Act since the entry of the Civil Service Act into force, as well as informal meetings at the level of the Secretaries-General of the service authorities and at the level of directors of special authorities for the purpose of exchanging experience at inter-ministerial level.

Service relations within the service authority are managed by **the Secretary-General**.

### Systemisation

The Civil Service Act regulates the systemisation of service posts, which, in comparison with the previous legal regulation of systemisation according to Act No. 312/2001 Coll. on Civil Service and on Amendment to Certain Acts, as amended, is considerably simpler and more flexible taking into account the needs of the service authority with regard to effective human resource management. The basic legal framework for the systemisation of service posts is given by Art. 23 of the Civil Service Act and Decree No. 302/2017 Coll.

Pursuant to Article 23 (1) of the Civil Service Act, the administrator of the budget chapter determines the number of posts in the service authorities within the limit of the number of staff authorized for the financial year in question. The administrator of the systemisation of the service authority is the administrator of the budget chapter of the service authority.

The systemisation regulation regulates the individual principles of systemisation, the method of management and the data contained in the systemisation of service posts, the principles of the systemisation of a post suitable for graduates, the minimum number of service posts in organizational units of ministries and other state administration bodies. It also concerns reporting on changes in systemisation.

The systemisation check is in accordance with Art. 21 letter d) of the Civil Service Act, within the competence of the Office of the Government and is focused on compliance with the principles of systemisation management, or whether the service authority in charge of the systemisation follows the annual determination of the number of service posts by the administrator, according to the organizational structure of the service authority and in terms of compliance with the minimum number of service posts in organizational units. The systemisation check is also focused on fulfilling the obligation of the administrator to notify the Office of the Government of changes in the systemisation pursuant to Art. 23 (4) and (5) of the Civil Service Act. The systemisation can be changed during the year if there is no change in the salary budget of the service authority. If such a change occurs, the Ministry of Finance must first approve the systemisation.

### Selection Procedure

The Civil Service Act established a uniform procedure for filling posts for all service authorities with the exceptions set out in Art. 47 of the Civil Service Act. Uniform standards have also been established for all service authorities, in particular in the field of verifying knowledge (including language skills), skills and personal qualities of those interested in the civil service. The new Civil Service Act introduced new innovative methods, resp. forms of verification, when filling posts, for example:

- Verification of the candidates' skills and personality through tests
- Compulsory completion of the assessment center method as a compulsory form of verification in the external selection procedure for the post of directors-general
- A personal interview conducted by a method of controlled personal interview.

The Civil Service Act also introduced a **mass selection procedure** to fill graduate posts. The service authority may also announce that this selection procedure is to fill a larger number of posts. It consists of two parts, the first being announced by the Office of the Government and the second part by the service authority, which aims to fill a specific post and addresses only the graduates who were successful in the first part of the selection procedure.

With effect from 1 June 2017, a register of selection procedures has been put into operation, in which the service authorities are obliged to provide data to the extent stipulated by Decree No. 128/2017 Coll. graduates and the registry of redundant employees. The introduction of this register has ensured a uniform administration of the entire selection procedure and increased its transparency. In this system, it is possible to monitor the number of applicants and to find out the results of the selection procedure.

The Office of the Government operates a central information system on the Central Public Administration Portal, which also includes this register of selection procedures. In the Selection procedures module, service authorities are obliged to publish all announced selection procedures for the filling of service posts with the exceptions listed in Art. 47 of the Civil Service Act. By 31 December 2017, 3,650 selection procedures were announced in the register.

The central state administration bodies provide training for the members of the selection committee in the area of conducting a personal interview mainly through an organizational unit of the Office of the Government- the Education and Evaluation Center, which provides this education free of charge.

### Types of Selection Procedures

The Civil Service Act stipulated the obligation to announce an **internal selection procedure** to fill a post **first**, where only a civil servant or a redundant civil servant could apply, and only in case of the failure of this type of selection procedure the service authorities have the possibility to announce **an external selection procedure**. The exception is the filling of senior civil servants.

The selection procedure proceeds the following three basic ways:

- Restricted internal for civil servants or redundant employees from their own service authority;
- Broader internal for civil servants or redundant employees from all service authorities
- External for civil servants and citizens, including a mass selection procedure.

The verification of knowledge, skills or personal assumptions can be done through a written test, interview, case study, assessment center method. The selection committee decides on the order of the candidates and the winners of the selection procedure. The service authority shall announce the results of the selection procedure within ten days of its completion by means of a selection procedure register. Within 10 days of the end of the selection procedure, the service authority shall also notify the successful applicant.

The Civil Service Act introduced a compulsory selection procedure as a condition for the admission to a **temporary civil service** to represent a civil servant in cases listed exhaustively in Art. 36 (3) letter a) and Art. 36 (4) letter a) of the Civil Service Act and **to fill a post of an expert temporarily required for the performance of the public service tasks**. Without a selection procedure a citizen can be admitted to a temporary civil service to represent a civil servant who is temporarily unable to work and who performs an extraordinary service or an alternative service, or is released to perform voluntary military training, an expert, a constitutional official, a civil servant pursuant to Art. 7 (8) of the Civil Service Act and a citizen who has completed a scholarship program to strengthen analytical capacities in public administration.

Successful completion of a selection procedure is also a condition for the admission to a temporary civil service for the representation of a senior civil servant for the reasons stated in Art. 36 (3) letter a) and Art. 36 (4) letter a) of the Civil Service Act and when filling the vacancy of a senior civil servant by an expert temporarily necessary for the performance of the civil service tasks.

Under Article 60 (1) of the Civil Service Act, a civil servant may be **permanently transferred by appointment to the senior post** on the grounds of a selection procedure, unless otherwise specified by a special regulation. A senior employee can be permanently transferred by appointment to another senior post without a selection procedure as regards the performance of a civil service in the same field of service and in the same function or in a function in a lower salary grade.

### Types of Civil Service

**Permanent civil service**, represents an indefinite civil service. As a rule, it also includes the so-called **adaptation period**, which lasts five months from the date of the establishment of the service. In the course of the adaptation process, the service authority will provide the civil servant with adaptation education.

Civil service without the adaptation education is performed by:

- A senior civil servant
- A civil servant who has been engaged in permanent civil service activities under a special regulation (e.g. the Civil Service Act on Police Forces, the Slovak Information Service, the Civil Service Act on Custom Officers), and his service post has been turned into a civil service post of a public employee and which he was subsequently accepted for on his request and after fulfilling the relevant conditions.

A civil servant who was admitted to the civil service and who practiced it continuously for at least one year in the same service authority and in the same field of service may, on written request, have the adaptation period abolished if no more than one year elapsed since his civil service employment.

**Temporary civil service** is a fixed-term civil service. It is performed without an adaptation period. It is possible to admit to a temporary service a citizen who is applying for the civil service:

- Without a selection procedure or without recruitment to substitute for a civil servant who is
  - recognized as temporarily incapable of work
  - on maternity or parental leave, or leave immediately following maternity leave,
  - performs an extraordinary or alternative service
  - is taking a leave,
  - out of service
  - temporarily send to a civil service abroad
  - temporarily transferred
  - for whom there has been a change in service for specified reasons (e.g. by election or appointment to a function, or by delegation to the office of the ambassador);

- Without a selection procedure or without recruitment, to a vacant post until the post is occupied by a civil servant in a permanent civil service;
- On the grounds of a selection procedure or a recruitment to a vacancy of an expert who is temporarily required to perform the public service tasks.

### Service Performance Appraisal

A civil servant is always evaluated until 31 January for the previous calendar year. A civil servant is assessed by his or her direct superior or service performance appraisal committee. The service evaluation criteria and methodology are governed by Art. 122 and 123 of the Civil Service Act. The details of the service performance appraisal, including its administrative background, are regulated by Decree No. 136/2017 Coll., stipulating the details of the service performance appraisal. The evaluation is based on the principle of impartiality, objectivity and fairness. The principle of impartiality, embedded in Art. 5 of the Civil Service Act, also applies to the performance of service performance appraisal as a public service. The principles of objectivity and fairness are reflected in the ability of the evaluated civil servant to comment on the outcome of the service performance appraisal and to object to it in writing.

Compulsory service performance appraisal assesses professional knowledge, efficiency, skills and competence, as well as the attitude to a personal development and education. The evaluation takes the form of an interview, in which the evaluated civil servant is also acquainted with its results. The evaluation school distinguishes five levels: excellent, very good, standard, satisfactory and unsatisfactory (less than 25 points). There is no need of a written justification to grant the score.

In case of a missing performance appraisal, the Secretary-General establishes an evaluation committee to carry out the evaluation. As a rule, the members of the committee are senior civil servants or civil servants who are familiar with the civil service duties of the assessed civil servant.

The Civil Service Act introduced the possibility to grant, to increase the personal supplementary allowance of the civil servant on the grounds of the results of the service performance appraisal for the calendar year. A civil servant who achieved excellent results or very good results in a service performance appraisal is entitled to a one-off remuneration under Art. 142 (2) of the Civil Service Act.

### Remuneration

The civil servant is entitled to a salary under the conditions stipulated by the law, which consists of a functional salary (it consists of a so-called tariff salary, which is supplemented by various supplementary allowances, compensations or additional payments), salary for public service overtime, salary for inactive part of on-call duty in the place of public service performance, night service supplementary allowance, civil service on Saturday and Sunday, civil service supplementary allowance, reward.

Pursuant to Art. 170 of the Civil Service Act, the Collective Agreement of a Higher Level allows for more favourable conditions for the performance of the civil service by increasing salary scale. The Greater Level Collective Agreement for Civil Service 2019-2020 provides for a 10% increase in salary scale from 1 January 2019 and an additional 10% from 1 January 2020.

### The Termination of Service

An employment may be terminated by the termination of service, notice, immediate termination or by termination during the probationary period.

A civil servant may terminate his civil service by an agreement or a notice of termination, with a two-month notice period. At the same time, it is possible to terminate the service by terminating during the probationary period, both by the civil servant and by the service authority. The service authority may give notice to the civil servant for the loss of the required health condition, his / her post is to be abolished, or was abolished or terminated as a part of the organizational change.

In case that a civil servant has been dismissed as a result of the abolition of a post, the service authority must not re-establish the post and fill it with someone else for the two months following the termination of the service. A civil servant may request a service authority to review a notice of termination based on the abolition or termination of a service post. Both a civil servant and a service authority can appeal to the court due to the invalidity of the legal act within two months of the termination of service by notice, termination and probationary termination. This service lasts until the final court decision.

The service may also be terminated by law. It ceases to exist by the death of a civil servant or a final decision to declare a civil servant dead.

### Education

The Slovak Civil Service Act does not know the institute of service examination, nor anything similar.

Pursuant to Art. 161 of the Civil Service Act, the service authority applies the following principles of education: systematism, flexibility, economy and efficiency. Other principles, unless explicitly stated in the Civil Service Act, arise both from the principles of the civil service and from the context of the statutory provisions of the Civil Service Act.

The Office of the Government of the Slovak Republic, as the coordinator of the Civil Service Act, establishes **the Center for Education and Evaluation** (hereinafter referred to as the "Center"), which provides training for all public employees, particularly in areas arising from the new Civil Service Act. The role of the Center is to support professional civil service, in particular to increase the number of senior civil servants with higher competencies, which guarantee high-quality and professional performance of the

civil service. Its aim is to provide all civil servants with the same standard of education in the areas concerned and also to make it easier for the service authorities to carry out training activities for their employees. The Center is fully funded by the project **Evaluation, Testing and Methodology Center for Human Resources** lasting 45 months and training activities which are provided free of charge.

The Civil Service Act introduced a system of **continuous education**<sup>1</sup> and the possibility to enhance the qualification of civil servants if it is in line with the needs of the civil service. Continuous education is carried out through **adaptation and competence** education. The concept of competency education has replaced the previously used concepts of preliminary and specific education. The education system is thus structured into continuous education, adaptation education, competency education and qualification enhancement. The adaptation education is the adaptation process of a new civil servant based on the principle of mentoring, where the mentor already has a clearly defined remuneration for this activity.

Service authorities are obliged to allocate funds from the budget to ensure the continuous training of civil servants in the relevant calendar year to cover at least 0.5% of direct costs, calculated from the total of the total salaries awarded to civil servants until 31 December of the two calendar years; the sum of the standard wages allocated to servants sent abroad is not included in the calculated amount.

The systemic approach to the training of civil servants is a cycle of process steps, consisting of analyzing and identifying educational needs, planning and designing, implementing training actions and, last but not least, evaluation of the education. The systemic approach to the education is regulated by Articles 161 to 165 of the Civil Service Act and Decree No. 126/2017 Coll. specifying the details of the education of public employees. Through the system of continuous education and the qualification enhancement of state employees, the principle of lifelong education of state employees is purposefully promoted.

The strategic goal is to create conditions for the emergence and leadership development in the civil service. Specific conditions are to be set up in the **Leadership Implementation Concept**, planned for 2020. For the time being, informal networks of leaders are being created through meetings at the level of Secretaries-General, directors of special authorities, but also within working groups and inter-ministerial cooperation.

### Work-life Balance Conditions

The principle of the so-called work-life balance in the Civil Service Act refers primarily to amendments to the Labour Code. In the Act, the Slovak system has provided for breastfeeding breaks for nursing mothers, shortening of service hours and the possibility of taking unpaid leave for six months after working for ten years in the civil service.

The Labour Code, for example, allows for work from home or telework, as well as specific conditions for their performance.

In the collective agreement, it is possible to agree on more favourable terms, such as leave above the scope stipulated by law or shortening the weekly service hours, which is modified in the High Level Collective Agreements in the Civil Service for 2018 and 2019-2020. The holiday is extended by one week and the service period is reduced to 37.5 hours per week; in multi-shift operation, the reduction is even higher.

### Disciplinary Proceedings

The Civil Service Act does not regulate the disciplinary proceedings, but the system of **disciplinary liability**, under which a civil servant is responsible for a breach of service discipline. A breach means a non-performance of a statutory obligation or a restriction that relates to the performance of a service, if the non-performance or breach occurred during the performance of the service. The law defines two levels of violation, namely **minor violations** of service discipline and **serious violations** of service discipline. In particular, the degree of the seriousness of a breach of service discipline is assessed in the light of the nature of the breach or failure to perform duties, in particular the manner and intensity of the act or omission, the fault rate, etc.

The breach of civil servant's service discipline is assessed by the **Secretary-General on his own initiative** or **on the request of the employee's superior**. For the purpose of examining the proposal or initiative, the Secretary-General shall set up an **advisory committee** in the service authority composed of at least three members. The number of members must be odd. The members of the advisory committee, including its chairman, shall be appointed by the Secretary-General from the staff of the service authority in which the committee is established. One of the members of the advisory committee must have the same field of civil service as a civil servant who violated the service discipline, and one member must normally have a secondary degree in law. An employee representative appointed by the relevant trade union body is also a member of the advisory committee.

In the case of repeated minor breaches of service discipline, the service authority may give notice to the civil servant. If a civil servant commits a serious breach of service discipline, the service authority will give him a notice of termination under Art. 117 (7) of the Civil Service Act or the employment of the civil servant immediately ends.

### Ethics

The originally mentioned principle of ethics in Art. 1 (2) letter f) Act No. 400/2009 Coll. was reflected in **the principle of professionalism** in Section 6 of Act No. 55/2017 Coll., whereas this principle is closely related to transparent employment, remuneration and fair treatment.

<sup>1</sup> Act No. 400/2009 Coll. on Civil Service and on Amendments and Supplements to Certain Acts, as amended, was referred to as deepening qualifications; the concept of continuous education is based on the terminology used in Act No. 568/2009 Coll. on lifelong learning.

Art. 6 of the Civil Service Act states that a civil servant acts professionally, conscientiously, in accordance with the Code of Ethics of a civil servant, and the service authority provides him with the adequate training to achieve a level of professional competence that enables him to perform civil service well. Under Art. 49 of the Civil Service Act, a civil servant also promises to comply with The Code of Ethics of a Civil Servant when taking over a service contract.

The supervision of the compliance with the Civil Servant's Code of Ethics is to be performed by the Civil Service Council, which is also to draw up its proposal and submit it to the Office of the Government. The Code of Ethics has not been adopted yet.

### **Public Service Information System**

The central civil service information system was established by the Civil Service Act and is to consist of a register of selection procedures, a register of successful graduates, a register of redundant civil servants, a registry of posts and a register of civil servants. The Civil Service Act provided for the gradual establishment of individual registers. With effect from 1 June 2017, a register of selection procedures, a registry of successful graduates and a register of redundant civil servants were established. The establishment of the service register is planned for January 1, 2019 and the register of state employees since January 1, 2020. The Office of the Government is the administrator of the central civil service information system and operates it at the Central Public Administration Portal through its contributory organization- National Agency for Network and Electronic Services.

## 2.14 THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

*The British civil service system was analyzed only in the first phase of the analysis and the annex provides further information on the individual civil service institutes in a form of questions and answers.*

Until the adoption of the Constitutional Reform and Governance Act (**CRGA**) in 2010, the civil service was not addressed by any law, only by government regulations and non-binding manuals or recommendations. The government could theoretically intervene in the state administration from day to day as needed, but due to the tradition of customary law, this did not happen often in reality. In keeping with the British legal culture, the law is brief to minimalist. For individual areas, the Office of the Government, which is responsible for public administration reform, publishes rules, manuals, handbooks, which are usually not binding, but are used by the authorities, which is an essential feature of the British administrative culture explaining the minimalist scope of the binding legislation.

It is an anchored, stable system, but, for example, in comparison with the French system, it is not as centralized and formalized. The authorities use the coordinating role of the Minister for State Administration, even though there is no written legal obligation to do so.

### The Civil Service Commission

The law established the position of **the Civil Service Commission** as a guarantor of the independence of the civil service from the government. The Commission was established as early as 1855, but found support in the law only in 2010. It is a coordinating and appealing body in the areas provided by law. The main task of the Commission is to set up the recruitment process for civil servants, to monitor its independence and to be an appellate instance in cases of non-compliance with the Code of Public Administration. In the field of admission procedures, the Commission has a proactive role, setting rules, carrying out inspections, audits. In the area of compliance with the Code of Public Administration, the role is rather reactive, it responds to the submitted complaints, including appeals and complaints about the course of the admission procedure. The Minister for the Civil Service may delegate further tasks to the Commission.

### System and the Organizational Structure

In the UK legislation there can be found relatively little information about the relationship between politicians and civil servants, which is again due to the custom of customary law. The constitution does not enshrine the separation of ministers and their bureaucracy. In general, the executive power is exercised through a bureaucracy under the leadership of the ministers who are accountable to the Parliament. The state administration therefore does not have a separate subjectivity or responsibility from the government.

Given the ongoing public administration reform in the UK, the role of **the Minister for State Administration**, who is at the top of the management hierarchy, is important. But even the roles, powers and duties of the Minister for State Administration are not enshrined or described in the legislation.

The Permanent Secretary or the Head of Civil Service is established in each ministry. This is the highest civil service, apolitical position, which is filled in accordance with the CRGA and other standards of civil servants. The secretary manages the day-to-day running of the ministry. At the top of the state apparatus stands **the Secretary of the Entire State Administration**, which is the highest civil service position in the entire state administration. Filling the post of secretaries is carried out in cooperation between the civil service level (Commission, selection committee) and the political level (ministers, the Prime Minister). The selection of secretaries must take place in accordance with the CRGA, **the Recruitment Principles** and for an indefinite period, i.e. independently of the electoral political cycle.

The CRGA introduces **the status of special advisers** who are not in the service and are appointed politically. Special advisers are not subject to many provisions of the law, they do not have to perform their work impartially and objectively, as is the case with other civil servants. They are appointed by the Prime Minister, but in reality the departmental secretaries of the individual ministries have a free hand in employing special advisers. The CRGA prohibits special advisers from deciding on the use of public resources and directing civil servants. Each year, the Minister for State Administration must submit a *Report on Special Advisers* to the Parliament.

Civil servants have the opportunity to appeal to **the Civil Service Appeal Board (CSAB)**. It is an independent three-member body, with one trade union representative and one management representative. The Board will hear complaints in areas such as restrictions on political activity, dismissal, early retirement, non-recognition of pension rights, non-payment of redundancy payments. (CSMC, point 12.1)

There is no centrally controlled systemization in the British system. Ministries and state administration authorities have the power to determine the number of positions, the number of management levels in the organizational structure and the number and the classification of positions.

In the case of top management, in addition to the position of the Secretary of the service authority, which is determined centrally, the service authority has the power to choose the organizational structure and to determine the salary grades at its discretion. It only has to respect the remuneration framework set by the Office of the Government.

In the case of other positions, the authorities must adhere to the strategy of the government for the development of the civil

service and the remuneration in the public sector and adhere to budgetary limits when setting the organizational structure and the remuneration policy.

### Selection Procedure

The selection procedure is conducted in accordance with **the Recruitment Principles** issued by the Commission. (Constitutional Reform and Governance Act 2010, Art. 10). The Commission monitors the selection procedure through regular audits. The Commission therefore has a proactive role in the area of selection procedures. The secretary of the ministry (the highest-ranking civil servant in the ministry) is responsible for the compliance of the selection procedures with the Recruitment Principles. The Recruitment Principles of 2015 contain an annex focusing on the exceptions to the standard procedure, such as cases of fixed-term employment, special interest of the Ministry, employment of disadvantaged persons, specified transfers from other service authorities.

A large degree of autonomy in human resource management is formally left to the individual authorities. On the other hand, the Office of the Government responsible for the state administration reform publishes optional manuals and handbooks down to the last detail. In the case of a selection procedure, it is, for example, Civil Service Resourcing – Recruiter Guidance.

The interview does not have to be part of the selection procedure at all. If the interview is part of a selection procedure, then it must be conducted with all applicants as stipulated in the terms of the selection procedure. **(RP)**

By law, a member of the Commission may be present in the selection procedure. The selection committee consists of two or more members. The selection committee is chaired by a civil servant, in the case of the most important positions by one of the commissioners of the Commission for the State Administration.

The minister may request that the chairman of the selection committee consult him on the setting of the selection criteria and conditions. The final version of the selection criteria and the form of the selection procedure must be submitted to him by the chairman of the selection committee for approval. The minister may request a meeting with a shortlist of candidates to discuss their priorities and views on holding the position. The personal meetings may give rise to a retrospective request to the selection committee as to what should be tested during the selection procedure. One member of the Civil Service Commission must be present at the meeting of the minister with the candidates. The minister may not be a member of the selection committee and may not add or exclude any candidate.

The selection procedure differs according to the position to be filled. In the case of filling the position of the Permanent Secretary or the Head of Civil Service in each Department, which is the highest civil service, apolitical position in the ministry, the selection committee must be chaired by the High Commissioner, who is responsible for adequately informing and involving the minister and the Prime Minister of the selection procedure. The selection committee will select candidates who meet the basic criteria and are able to perform the position of the secretary well according to the selection committee. The list of pre-selected candidates is submitted to the Prime Minister. The Prime Minister, after consulting it with the High Commissioner and the Secretary of State Administration, will select the candidates. If the Prime Minister wishes to meet the candidates in person, he must meet all the candidates and in the presence of the High Commissioner.

The Commissioners of the Civil Service Commission must be members of selection committees from the level of section directors. In common practice, commissioners chair selection committees even at the level of selection of union directors, if it is not internal. The departments of the service authorities must inform the Commission of the forthcoming selection procedure and the Commission will inform whether and in what form it will participate in the selection committee. The Commission may decide whether the Commissioner will chair any public selection procedure. The Commissioner is then responsible for setting the admission criteria and the conditions of the selection procedure, as well as for informing the minister if relevant for the position.

All applicants (except for the internal minimum procedure) may lodge a complaint with the Commission, which must comply with the rules and procedures of the appeal procedure laid down by the Commission. First, complaints are resolved with the personnel department of the service authority, which was responsible for the organization of the selection procedure. If the complaint is not found to be legitimate, it shall be forwarded to the Commission within 12 months of the end of the selection procedure.

## 2.15 THE FEDERAL REPUBLIC OF GERMANY

*The German civil service system was examined in the first and in the second phase of the analysis, and further information on the individual civil service institutes is provided in the annex in the questions and answers.*

The system of the German civil service is organisationally and functionally different from the Czech civil service. It is a system that includes not only the civil servants of administrative authorities, but also members of the armed forces, judges or prosecutors, as well as teachers. It is also a very important fact that the civil service needs to be distinguished at **federal and provincial level**. The federal civil service includes civil servants and other public employees serving in central government bodies, usually in federal ministries or other agencies that are established at federal level. The federal civil service is then governed independently by the federal civil service and the only connecting link is the federal law on the status of a civil servant. (Beamtenstatusgesetz, **BeamtStG**).

### Legislation

The German civil service is not codified and is governed by a large number of laws of different legal force. The basic statutory provisions are **the Federal Act on Civil Servants** (*Bundesbeamtengesetz*, **BBG**), the Federal Disciplinary Act (*Bundesdisziplinargesetz*, **BDG**), the Federal Remuneration Act (*Bundesbesoldungsgesetz*, **BBesG**), the Act on the Support of Civil Servants (*Beamtenversorgungsgesetz*, **BeamtVG**). One of the most important subordinate legislations is the regulation of the Federal Government on career of civil servants (*Bundeslaufbahnverordnung*, **BLV**) or the regulation of the Federal Government on various types of leave (*Erholungsurlaubsverordnung*, **EurlV**, or *Sonderurlaubsverordnung*, **SurlV**). The whole system is complex and a long-term experience with its application is evident, since the German civil service has been forming into its present form since the 19th century. The fundamental difference when compared to the Czech conception of the civil service, which affects the system of the civil service as such, is the fact that the German civil service is based on the existence of a tenure for civil servants and the service rent system, which is connected with that.

### Public Service Organization

From the organizational point of view, federal civil service is performed through public law entities, which are entrusted by law with the power to exercise public authority. The state administration is carried out by the **supreme federal authorities**, such as the federal ministries or other authorities so explicitly designated. These are national service authorities that perform state administration and the oversight of subordinate service authorities.

The second stage are the **federal high authorities**, which do not have their own legal identity and are directly subordinated to some of the federal supreme service authority, usually to the ministry. At the same time, no other authorities are subordinated to them and their competence is national.

The third level are the **federal middle authorities**, which are also directly subordinated to the supreme federal authorities, but their competence is not national and the so-called **federal lower authorities** are also subordinated to them, which represent the last and the lowest level of state administration.

The civil service organization then copies this structure in many respects, but the authorities are in the civil service terminology referred to as service authorities. For the purpose of the analysis, the highest level of federal state administration, i.e. the highest federal authorities, referred to as the supreme service authorities (*Oberste Dienstbehörde*), is essential. Their existence arises from the German Constitution and possibly other laws, for their organization **the Rules of Procedure of the Federal Government and the Joint Rules of Procedure of the Federal Ministries** are decisive. The issue of systemisation and staffing is related to the organization of state administration and service authorities.

### Systemisation and Staffing Plan

The systemisation of the German civil service is **strictly bound to the state budgetary rules**. This is related to the fact that the fundamental part of the legislation is not included in the laws concerning the civil service, as they deal with its performance more than its organization, but in laws regulating the economy of the state. The annual systemisation in the form of a so-called **staffing plan** is a part of the State Budget Act.

**The Federal Ministry of Finance** has a factual responsibility for the preparation of the State Budget Act, which is ultimately responsible for the proper preparation of the staffing plan. Within the individual budget chapters, the respective department is always responsible for the staffing plan. As a part of the State Budget Act, the staffing plan is approved for one year and, when considering the way the budget is prepared, there is only a minimal risk of budgetary provisional arrangement, whereas it is subject to a specific legislative procedure. The way the staffing plan is approved gives only very limited possibilities for operational changes in systemisation within a calendar year.

The staffing plan captures the staffing status of the respective service authorities for the current year and for the following year, for which the budget is approved. Furthermore, it reflects a year- to-year change, both positive and negative. In the next part there is an overview of vacancies together with information on why the vacancy is not filled in the given year. The staffing plan captures **the status of both civil servants and employees** who have the so-called **tariff contract** with the State (this is an employment relationship). The numbers of individual employees are given by salary grade, ranked from the highest to the lowest. In connection with the staffing plan and the systemisation, the division of staff within **the service ranking and remuneration system** is also worth mentioning. The service ranking system is structured in a relatively complex scheme, linked to career orders.



The scheme consists of four basic career groups that create an abstract framework for dividing civil servants by a comparable degree of education. It is a career group of simple service, middle service, higher service and high service. Within these career groups, there are basic service fields, which represent a general factual definition of an activity of a civil servant, such as a general administrative service or a technical service. In addition, career groups are divided into so-called **offices**, with the office being seen as a set of activities carried out in a given post. The number of these offices is different in each career group (usually five) and the offices are divided from the lowest "entry office" to the highest "supreme office".

Each civil servant is assigned to a particular **basic field of service**, to a particular **career group** and to a particular **office**, and then, depending on the length of service, deepening education and vacancies, proceeds from the entry office to the supreme office. This process is called career advancement (*Beförderung*).

However, under certain circumstances, the civil servant is also given the possibility of **promotion** (*Aufstieg*), i.e. the transition from a lower career group to a higher one. The last possible change is a change in the field of service (*Laufbahnwechsel*), which entails, among other things, having the necessary expertise to perform the service in a given field (for example, technical service cannot be performed with legal education).

## Remuneration

In addition to this service ranking system, there is a remuneration system. It consists of several **salary groups**, depending on the civil servants involved. Civil servants are similarly to Czech public employees assigned to **salary groups A and B**. Both these salary groups are further **divided into salary grades by adding numbers to the salary group indication**. In practice, this means that simple service posts are indicated as A2 to A6, middle service posts are indicated as A6-A9, higher service posts A10-A12, and high service posts are A13-A16 and further there are B1-B11, these are usually for senior civil servants. To salary group A salary grades are assigned, at which the civil servant proceeds depending on seniority. For salary group B the seniority does not play a role and the tariffs are fixed. Thus, each office in the service ranking system corresponds to a given salary grade, and the procedure in the office thus implies a procedure in grading and thus has a direct impact on the civil servant's remuneration.

## The Tenure Appointment Procedure

Entering the civil service and achieving the tenure appointment is a relatively complicated procedure. The Act on Civil Servants stipulates only the basic prerequisites for entering the civil service, but does not, similarly to the Czech legislation, stipulate a detailed regulation of selection procedures. However, the following can be said. Those interested in entering the civil service must meet the general requirements for the entry into the civil service, i.e. age, legal capacity, citizenship, etc., they must complete the selection procedure, the entrance tests and any initial interviews and only then can be included in the list of applicants. The length of the waiting period varies, it can be several years, depending on which career group he is to serve. During the waiting period (which is comparable to the judicial candidates in the Czech Republic), the candidate is obliged to train, he / she takes interim exams and can be dismissed at any time. After the waiting period, final examinations are taken and a probationary civil service starts. After its completion, the civil servant then achieves the tenure. The service examination is not conceived as a single examination, but it is essentially the whole process of initial training, which is completed by final examinations. These are different depending on the field of service, career group, etc. The standards are stipulated by the department, not centralized. Educational plans, training plans and the examination rules are prepared and organized by the department. There is also a system of recognition of various professional examinations.

## Special Rights

There is a number of benefits granted to civil servants with tenure, which ordinary employees in the private sector do not have. What is absolutely essential is the fact that the civil servant with tenure, after reaching the retirement age, which currently ranges between 65 and 67 years and is the same for both sexes, is entitled to a service rent. **The service rent system** is advantageous not only because the service rent is generally higher than a retirement rent which the civil servant would receive as a private-sector employee, but civil servants are also not obliged to pay a part of their salary as a contribution to the pension scheme. Furthermore, civil servants are also favoured in the area of sickness benefits. Civil servants are not given a normal sickness benefit in case of incapacity for work, but are entitled to a full salary for the duration of the incapacity. In case of a long-term incapacity, the civil servant may be retired on the grounds of incapacity.

Civil servants are also favoured by the fact that they are covered by the **Special Leave Regulations** (*Sonderurlaubsverordnung, SURIV*), which is the legal framework for a wide range of individual forms of leave. This includes, for example, time off for the purpose of exercising an active right to vote, time off for duty to the courts, prosecution and other public authorities, time off for a training in a foreign language. This leave is granted for a period of up to three months for the purpose of staying and learning a language in the country where this language is an official language. In addition, there is a leave for the purpose of attending top sports events or a leave for personal matters. Another advantage that can be mentioned is, for example, that the service seniority is connected with the entitlement to more leave and a large number of special salary components are included in the German regulation. The most common special components of salary include a family supplementary allowance, a ministerial supplementary allowance in the top-ranking posts, and more. The German civil service also develops various mobile work concepts, including teleworking and home-office, as well as a variety of working hour's arrangement modifications. There is a particularity in this area that the entitlement to a modification of working hours is granted to certain groups of persons, such as parents, persons caring for children or, on the contrary, persons aged 60 or over 60.

## Service Performance Appraisal

In particular, the performance of the civil servant's duties is checked and evaluated by means of a service performance appraisal. The framework legal regulation on the service performance appraisal, regarding its regularity, content and personal competence, is defined in the Act on Civil Servants, but the law also empowers the individual **supreme authorities** to issue the relevant **regulations for service performance appraisal in more detail** within their jurisdiction.

The service performance appraisal is carried out at regular intervals of a maximum of three years, with the Federal Ministry of the Interior setting the evaluation period for two years, for example. All civil servants, who are usually assessed within the so-called **reference groups** depending on whether they carry out similar activities, are subject to service performance appraisal. It is conducted on the grounds of evaluation criteria, which may vary for each reference group. At the same time, the service performance appraisal includes a section where recommendations for the further development of the civil servant are formulated.

A civil servant is also involved in the service performance appraisal procedure, as he is in the initial phase invited to the initiation interview and further he is given the opportunity to comment, orally or in writing, on the service performance appraisal. In such a case, the evaluator or evaluators are then obliged to respond to the statement. If the civil servant is not satisfied with the results of the service performance appraisal, he is given the opportunity to appeal against the performance appraisal or to lodge an administrative complaint, where appropriate, even though the administrative courts have ruled that the service performance appraisal itself is not an administrative act.

The results of the service performance appraisal are communicated not only to the evaluated civil servants, but the law obliges the service authorities to **publish** the results in an anonymised form in a suitable way so that everyone can get acquainted with them. For example, the Federal Ministry of the Interior presents them in a tabular form, where the results are ordered according to the grades.

Service performance appraisal plays in the German system, among other things, a motivating role. Indeed, excellent service performance appraisal results can contribute to a faster career advancement, as the law explicitly states that civil servants with excellent performance should be encouraged. However, the service performance appraisal also has an impact on the civil servant's salary, as the so-called **performance bonus** can be awarded to the civil servant, depending on the performance appraisal results. This is a non-claim component of the salary, the regulation of which is contained in a separate regulation.

## Disciplinary Proceedings

Furthermore, the compliance with duties and ethics and discipline is enforced through a broadly regulated disciplinary system. The German legislation on disciplinary proceedings is based on the Federal Disciplinary Procedure Act. The Disciplinary Code lays down sanctions for violating the disciplinary liability of civil servants and, in addition to these substantive provisions, includes the disciplinary procedure. Procedurally, the Disciplinary Code is very similar to the procedural rules governing criminal proceedings, and disciplinary action can be compared to criminal proceedings in certain respects, for example, in the field of evidence. The Disciplinary Code regulates the various types of management procedure depending on the severity of the offense. Some cases are directly excluded from disciplinary proceedings within the service authority and are subject to special disciplinary review before a court.

## Education

Germany also has institutionalized the subsequent training of civil servants. There is a **Federal Academy of Public Administration** the task of which is to provide programs for the subsequent training of state employees at national level. In fact, this organization operates in several locations throughout Germany. The activity is implemented through various educational programs and training. At the same time, it should contribute to the development of professionalization of the state administration and to the improvement of its performance. This educational institution is organized under the Federal Ministry of the Interior.

The supreme authorities are also given the opportunity **to establish specialized educational institutions** within their competence, which will ensure the fulfilment of the requirement to deepen the education of civil servants and their personal development. An example of such an educational institution is the Federal Finance Academy, which is a part of the Federal Ministry of Finance. To a certain extent, **the German University of Administration** in Speyer also provides for the education enhancement. However, in addition to training of civil servants, it also focuses on their preparation and undergraduate education.



# QUESTIONS AND ANSWERS BY COUNTRY



In the second phase of the analysis, the individual civil service institutes were examined according to the questions below, the scope of the questions was extended to the topics of Education and the Termination of Employment. In comparison to the first phase of the analysis some other topics were specified, especially as regards Work-life Balance chapter.

## 1 The Depoliticisation of State Administration (including the issue of the division into political and service positions)

- What institutes ensure the apolitical nature of state administration and civil servants?
- Are the rights of civil servants to be a member of a political party and political movement restricted, or is only the performance of a function in a political party or political movement restricted? Does this restriction apply to all civil servants, or only to superiors or specific superiors?
- Can civil servants become members of local councils?
- Where and how is the boundary set between posts filled on the grounds of political agreements and posts filled on the grounds of selection procedures in ministries and other administrative authorities?
- What are the mechanisms to prevent the “removal” of a civil servant from the post through the purposeful abolition of such a post?
- Is political power allowed to decide on employment matters of civil servants?
- Are there organizational units established in the ministries, which include employees providing activities for a member of the government related to political power (similar to the cabinets of ministries in the Czech Republic)?

## 2 The Possibilities of Compensation for the Obligations of Civil Servant

- Is the performance of the civil service associated with any special pay entitlements (special supplementary allowance or something similar)? Under what conditions and assumptions?
- Is the termination of employment associated with special pecuniary claims (redundancy pay, severance pay, end-of-service allowance, service rent and pension

contribution)? Under what conditions and assumptions?

- Are there any fixed salary tariffs for the performance of civil service?
- How are variable components of salary (personal supplementary allowance, remuneration, etc.) granted to civil servants?
- Are civil servants favoured under a social security or a health care system?
- What are the differences between civil servants and ordinary employees in the provision of salary and sick pay in case of the temporary inability of a civil servant to perform the service?
- Is the scope of the prescribed working hours of civil servants different from the prescribed working hours of employees?
- What tools are used to achieve a balance between personal and family life and the performance of civil service? (this question can be answered by reference to the answers contained in the chapter Work-life Balance)
- What benefits are granted to civil servants? Do these benefits differ depending on whether it is an ordinary employee or a manager?
- Are there any tools to satisfy cultural, sporting and recreational needs of civil servants?
- Is a civil servant entitled to a recovery stay to strengthen his/her physical and mental health? Under what conditions and assumptions?
- Are survivors of a civil servant (wife, husband, dependent children) entitled to “severance pay” if the civil servant's employment ends with a death unrelated to the performance of the service?
- Does the service authority provide insurance for civil servants in case that a civil servant causes damage to the service authority? Is the service authority insured if it causes damage to third parties? In such a case, is the right to a compensation (regress) required from a civil servant?
- How many days of leave per year are civil servants entitled to? Is the scope of the entitlement to a leave for a civil servant different from that of an employee?
- What types of paid leave can civil servants take (study

- leave, indisposition leave, leave for personal affairs, etc.)?
- Are civil servants favoured in any way in the area of public transport? In the field of company catering? Are more favourable conditions for the provision of tariffs for mobile and telephone operators agreed for civil servants?
- How is the further education of civil servants supported (beyond the performance of the service)?
- Is a civil servant entitled to a compensation in cash for the use of his or her clothing?
- What options do civil servants (especially superiors) have in exercising their right to strike? Is the right to strike completely excluded or only limited for ordinary civil servants or superiors?

### 3 Career opportunities (career rules)

- What determines the career advancement of a civil servant (e.g. education, duration of employment, period of administrative activities, experience in managing employees, quality of service tasks – performance appraisal, age of civil servant, etc.)? How often (at what time intervals) is it possible to achieve career advancement?
- Is there a standardized career order for the entire state administration?
- Does a current civil servant who is interested in filling a position in a higher grade or in a higher level of management have to go through a selection procedure for filling this position?
- Is it possible to transfer a civil servant from his current post to another post in the same grade in another service authority or at the same level of management if he so requests without a selection procedure being held?
- Is there a probationary period set for a civil servant in case of his transfer to another service authority? What is the legal regulation for such a repeated trial period?
- Is the career advancement connected with any other benefits beyond the pay entitlements?
- Is there a guarantee in the legislation that a civil servant will not be transferred to a post in a lower grade without his / her consent?
- Who is responsible for drafting the systemization proposal?
- Who approves the systemization and the organizational structure of the administrative authorities?
- What is the scope of systemization and organizational structure (which parameters are approved by the systemization approver)?
- Is the systemization and the organizational structure approved for a certain period or indefinitely?
- What are the conditions for changes in systemization and organizational structure (under what conditions is a change in systemization and organizational structure permissible and who approves it, or comments on the change before approval)?
- What are the qualification requirements for the individual positions (who determines them, to what extent, on the basis of what criteria)?
- Are there several types of systemized positions in the state administration (in the Czech Republic, positions in the regime of the Civil Service Act and positions in the regime of the Labour Code)?
- What are the criteria for defining systemized positions according to their type and who decides on this matter?
- If there are several types of systemized positions, do the rules for their systemization apply without distinction?
- How is the activity performed at a specific job position defined (legal list of service activities, fields of service, catalogue of administrative activities)? How, according to what criteria are the activities performed in the service positions divided? To what extent is the list of activities at service positions detailed, resp. how general or specific is the scope of individual fields of service or administrative activities and how extensive is the list of these fields of service or administrative activities in view of it?
- Is there a possibility in a given legal system to include two or more civil servants in one systemized service position, whose total hours will be equal to one classic full-time position in a given service position? If so, what is the practical solution to this issue in the given state?

### 4 Systemization and the Organization of Service Authorities

- Is the issue of systemization in state administration (determination of binding numbers of positions in state administration authorities, distribution of these positions according to the scale of remuneration, determination of the volume of funds for salaries) regulated in the legal system?
- Is the question of the organizational structure of state administration services regulated in the legal system (definition of place, types of organizational units, minimum number of positions in these units, relations of superiority and subordination, etc.)?
- Is the procedural issue of systemisation and organizational structure regulated in the legal order (rules for elaboration and submission of proposals for systemization and organizational structure)?

### 5 Selection Procedures for Filling Vacancies

- Is the selection procedure conducted as an administrative procedure or is it excluded from the formal process?
- Is it necessary to interview all applicants who have met the formal conditions for the participation in the selection procedure (they have provided all the necessary documents)? Or is it possible to select only some of the applicants to be interviewed? If so, who and according to what criteria makes this selection?
- Who interviews the candidates and who can be present? Who can ask the candidate questions during the interview? Only the selection committee or even the superior?
- Who evaluates the applicants in the selection procedure (whether they succeeded in the selection procedure or not)? A multi-member selection committee? The superior? Another body?

- Who in the selection procedure selects the most suitable applicant who will eventually be accepted into the civil service? The selection committee? The superior? Another body?
- How can applicants who have been identified as unsuccessful appeal?
- How can applicants who have been identified as successful but have not been selected for civil service appeal?
- Are applications from unsuccessful applicants and unsuccessful applicants who have not been selected for civil service rejected by an administrative decision against which they can appeal? Or are they only informed of the result of the selection procedure?
- Can unsuccessful applicants and successful applicants who have not been selected for civil service appeal against the outcome of the selection procedure in court?

## 6 Disciplinary Proceedings

- Is there disciplinary liability for civil servants? If not, how is the breach of the obligations of civil servants in the performance of civil service handled?
- If there is a disciplinary liability of civil servants, how is the factual nature of the disciplinary offense defined?
- If there is a disciplinary liability of civil servants, what disciplinary measures (sanctions, penalties) can be imposed on a civil servant (reprimand, salary reduction, etc.)?
- Who decides that a civil servant has committed a disciplinary offense (disciplinary commission, the superior, other authority)?
- What are the possibilities of a civil servant to appeal in case of his disciplinary liability (appeal, action before an administrative court, other)?

## 7 Service Examination or an Institute Similar to the Service Examination

In the questions below, the term "service examination" can be replaced by the equivalent institute of verification of the professionalism of civil servants used in the country (e.g. final examination, completion of basic education, first assessment, etc.).

- Who organizes the service examination?
  - Is this department subordinate to another department (Office of the Government, Ministry) or is it independent?
- Is the service examination system managed centrally for all service authorities?
- Does the obligation to take a service examination apply to all civil servants?
- Till when is a civil servant obliged to take a service examination?
- Whether and how are the requirements for the examinee regulated within the service examination – the scope and the content of the knowledge and skills to be verified, the form of the exam [written, oral, model situation], etc.? Are the requirements for the professionalism of the members of the examination commissions regulated in the provision

of the service examination?

- Who appoints the members of the examination commission?
- Whether only civil servants or also other entities (or only entities other than civil servants) can examine?
- Whether and how are the requirements for their education regulated (generally achieved level of education [secondary school, college, university, M.A., Bachelor etc.] as well as possible professional education and examinations)?
- Whether and how are the requirements for the length of practice regulated?
- Does he / she have to continuously / demonstrably maintain / renew / deepen his / her qualification through some unified (or even accredited) education, repeatedly pass some exams, etc.?
- Is there a charge for taking a service examination?
- Name other relevant aspects related to the service examination.
- Is the civil service education system somehow formally linked to the service examination (before and as a preparation)?
- In case that, similarly to the Czech Republic, there is a system of several fields of civil service for which it is necessary to pass separate exams, how is the following approached:
  - Education in case of a change or extension of the civil service (preparation for the next service examination),
  - Training when changing to another service authority?

## 8 Service Performance Appraisal of Civil Servants

- It is obligatory?
- Who is subject to service performance appraisal? To what extent is he/she involved?
- Who is the evaluator?
- How often is the appraisal carried out? Is it tied to a specific date or event, or is it performed as needed?
- Does the result of the appraisal have any impact on the salary of a civil servant?
- Does the result of the appraisal have any other impact on the employment of a civil servant?
- What regulations govern the appraisal process?
- What is the subject of the appraisal (what is being appraised)? Is the evaluation framework strictly (firmly) defined or can it be adapted to the needs of individual entities?
- What does the rating scale look like? It is evaluated only verbally, or only in points? What results can be achieved in a performance appraisal?
- Is there any future perspective plan a part of the performance appraisal – goal setting, development plan, etc.?
- How is the appraisal carried out? What evaluation methods are used?

- What is the appraisal based on?
- What form does the training of the evaluators take?
- What way does the evaluated person get acquainted with the results of the service performance appraisal?
- Is the achievement of negative performance appraisals sanctioned in any way? How?
- Are there any appeal measures against the results of the appraisal?

## 9 The Principles of Ethics in the Civil Service

- What regulations govern the principles of ethics in the civil service?
- Is it possible to apply any sanctions in case of violation of ethical rules? If so, which ones?
- What tools and methods are used to monitor compliance with ethical rules?
- What implementation tools are used in the field of civil service ethics?
- What is the form of employee training in the field of ethics? Is the training of ordinary employees and managers different?
- Is personality potential in the field of ethics emphasized when recruiting new employees?
- Is compliance with ethical rules continuously assessed?
- To what extent is the supervision of professional ethics in state administration institutionalized? Are there individual employees, organizational units, collegiate bodies or other bodies that provide methodological support in the field of ethical issues, monitor compliance with ethical rules and propose measures in case of a breach?
- What are the consequences of the ethical failure of a civil servant?

## 10 Work-life Balance (WLB)

- Is the term WLB defined by law? If so, how is this term defined?
- Are there any manuals, methodological documents or other supporting documents for the WLB in connection with the legislation?
- What WLB measures does the relevant legal system offer?
- Is it possible to modify working hours (flexible working hours, possibility of part-time work, different schedule of the beginning and the end of working hours, etc.)? What are the conditions for allowing a modification of business hours?
- What are the possibilities and conditions for performing the service from another place (home-office, teleworking, flexitime, etc.)? How are the different ways of performing the service from another place defined?
- What legal leave does the legal system offer (e.g. urgent family leave, adoption leave, sabbatical leave, career break, etc.)? Are these holidays paid or unpaid?
- Does the legal order enable to share a post?
- Is the establishment of school facilities for children of civil

servants regulated by law?

- What are the WB-measures for civil servants on maternity and parental leave (e.g. information sharing, etc.)?
- What legal regulations govern the care of elderly family members (e.g. parental leave, responsibility leave, etc.)?
- Is there a program in the legal system focusing on the physical and mental aspects of civil servant's health (e.g. similar to the "Fit at work" program in the EU, etc.)?

## 11 Education

- Is there institutionalized education within or for the preparation for the performance of the civil service?
- What is the overall regulation and setting of education within the preparation and performance of the civil service itself?
- What legislation governs the training of civil servants?
- Is the training of civil servants centrally managed or is it decentralized?
- Who is responsible for training the civil servants?
  - Is this department subordinate to another department (the Office of the Government, Ministry) or is it independent?
  - What is its scope in the field of education?
- Is the education system different for superiors and ordinary employees?
- What is the connection between education and the career system (completed educational events as a condition for the participation in the selection procedure)?
- What is the connection between the training and the evaluation (whether the training takes place exclusively on the grounds of the evaluation, according to operational needs, according to some overall plan without the evaluation, in combination with several criteria and also how the completed training is taken into account / reflected in the evaluation)?

## 12 The Termination of Employment

- How is the issue of termination of employment regulated? What types of termination of employment are there (e.g. by law, by decision of the competent authority, on request, etc.)?
- Are there any financial benefits associated with the termination of employment (e.g. end-of-service allowance, severance pay, remuneration from collective agreements, monetary compensation, etc.)? Under what conditions and to what extent are these benefits provided?
- Does a non-compete obligation or other similar institution apply after the termination of service? To what extent?
- What other institutes typically accompany the termination of employment?

## 3.1 THE KINGDOM OF BELGIUM

The information on the Belgian system was processed in phase I of the analysis.

### 3.1.1 The Depoliticisation of State Administration

**What institutes ensure the apolitical nature of state administration and civil servants?**

There is a tenure for civil servants once they have obtained the status.

**Are the rights of civil servants to be a member of a political party or a political movement limited, or does the limitation concern only holding of a post in a political party or a political movement? Does this limitation apply to all civil servants or only to senior civil servants?**

Civil servants may be members of political parties provided that their membership does not jeopardize the functioning of the State.<sup>1</sup>

**Can civil servants be members of local (regional) councils?**

Civil servants can run not only in local and regional councils, but in all elections. In addition, they are entitled to a leave for the purpose of conducting the campaign and then of course to a leave for the exercising of the mandate. It is not mandatory to take this time off.<sup>2</sup>

**What are the mechanisms to prevent "a removal" of a civil servant from a service post through the abolition of such a post?**

The tenure – the civil servants remain in civil service, even if their post is abolished.

**Are there organizational units in ministries that include employees performing activities for a member of the government that are related to the political power (similar to a cabinet of a minister in the Czech Republic)?**

Yes, mobility also includes the possibility of transferring a civil servant to posts that support political offices.<sup>3</sup>

### 3.1.2 The Possibilities of Compensation for Civil Servant's Duties

**Is the performance of civil service associated with any special pay (special supplementary allowance or something similar)? Under what conditions and assumptions?**

The conditions are different for the civil service scheme and the contract employment scheme. For example, a retirement bonus after 50 years or certain years of service exists for a contract employment scheme, but it was abolished for the service scheme in 2015.

1 <https://www.fonction-publique.gouv.fr/files/files/IMG/Belgique.pdf>

2 [https://fedweb.belgium.be/fr/conge\\_absences\\_et\\_temps\\_de\\_travail/travailler\\_ailleurs/conge\\_politique](https://fedweb.belgium.be/fr/conge_absences_et_temps_de_travail/travailler_ailleurs/conge_politique)

3 [https://fedweb.belgium.be/fr/conge\\_absences\\_et\\_temps\\_de\\_travail/travailler\\_ailleurs/conge\\_politique](https://fedweb.belgium.be/fr/conge_absences_et_temps_de_travail/travailler_ailleurs/conge_politique)

**Is the termination of service connected with special pecuniary claims (redundancy pay, severance pay, end-of-service allowance, service rent, retirement benefit)? Under what conditions and assumptions?**

In case of dismissal due to the incapacity for work (two consecutive marks *insufficiently* in the regular evaluation), employees in the civil service are entitled to severance pay in the amount of years worked.

Number of years in the civil service	The amount of the severance pay (number of salaries)
0 – 10 years	6
10 – 20 years	8
20 years and more	12

Employees who are subject to the contract employment scheme are not entitled to this amount; the conditions of the termination shall be governed by their employment contract.<sup>4</sup>

As regards top managers, the termination is governed by other rules. **The severance pay** is calculated according to a mark (*insufficiently* or *needs improvement*) and the length of the service in the given position.<sup>5</sup>

Top managers are also entitled to a compensation – the re-inclusion allowance if he / she has achieved marks *excellent* or *meets expectations* in the evaluation procedure, but his / her post was no longer marked as vacant. The compensation is approximately equal to the annual salary, depending on the mark and the number of mandates worked.<sup>6</sup>

**Are there fixed pay tariffs for the performance of civil service?**

Yes. The pay tariffs for the individual steps A to D are the same for both service and contract staff. The pay grades are further subdivided into rankings, for example, A1 to A5; employees in the employment relationship are entitled to categories A1 to A3.<sup>7</sup>

**How are variable salary components (personal supplementary allowance, bonuses, etc.) granted to civil servants?<sup>8</sup>**

**Unconditional claim:**

All groups of employees (civil servants, contract employees, trainees, trainees-candidates, senior management) are entitled to **the bonus at the end of the year** if they have spent the whole calendar year in the position. The bonus has one fixed component and two variable components. The bonus is paid in December. In 2016, the fixed part amounted to approximately EUR 718, while the variable part represented

4 [https://fedweb.belgium.be/fr/remuneration\\_et\\_avantages/allocation/allocation-octroy%C3%A9es-doffice/allocation-de-d%C3%A9part](https://fedweb.belgium.be/fr/remuneration_et_avantages/allocation/allocation-octroy%C3%A9es-doffice/allocation-de-d%C3%A9part)

5 [https://fedweb.belgium.be/fr/remuneration\\_et\\_avantages/allocation/allocation-octroy%C3%A9es-doffice/indemnit%C3%A9-de-d%C3%A9part](https://fedweb.belgium.be/fr/remuneration_et_avantages/allocation/allocation-octroy%C3%A9es-doffice/indemnit%C3%A9-de-d%C3%A9part)

6 [https://fedweb.belgium.be/fr/remuneration\\_et\\_avantages/allocation/allocation-octroy%C3%A9es-doffice/indemnit%C3%A9-de-r%C3%A9int%C3%A9gration](https://fedweb.belgium.be/fr/remuneration_et_avantages/allocation/allocation-octroy%C3%A9es-doffice/indemnit%C3%A9-de-r%C3%A9int%C3%A9gration)

7 [https://fedweb.belgium.be/fr/remuneration\\_et\\_avantages/traitement/echelles\\_de\\_traitement](https://fedweb.belgium.be/fr/remuneration_et_avantages/traitement/echelles_de_traitement)

8 [https://fedweb.belgium.be/fr/remuneration\\_et\\_avantages/allocation](https://fedweb.belgium.be/fr/remuneration_et_avantages/allocation)



2.5% of the annual gross wage and 7% of the monthly gross wage (around a minimum of EUR 165 and a maximum of EUR 331). **The cash reserve for young people under 25 years** – different conditions for top management and different for other employees, reaches approximately 90% of one wage.

**Contributions linked to the social situation:**

Top management is not entitled to these contributions; they are approved if the applicant’s monthly income does not reach a certain amount. The contributions are paid on a yearly basis and paid monthly.

**Housing allowance** – if the employee does not receive a household allowance. **Household allowance** – it also depends on the income of the partner in the common household and the drawing of other social contributions of a similar type outside the civil service system

**Leadership supplementary allowance – top positions:** Only employees in service can receive this supplementary allowance, not top managers (*mandataires*), trainees, trainees-candidates or contract staff. This supplementary allowance is paid in a situation where there is no urgent need to fill a leading position and there is no appropriate candidate, so it cannot be filled quickly enough through a selection procedure or internal procedure. A candidate for a temporary occupation of this position may be appointed to a position one maximum two levels (in case of grade A) higher, must not have any disciplinary punishment (not even cleared – see disciplinary proceedings), must have experience with a management position for at least 30 days. He may temporarily hold this post for a maximum of six months, which may be extended by six months. The supplementary allowance is equal to the difference between the existing wage and the wage in a temporary position.

**Management supplementary allowance:** civil service employees, trainees-candidates, and contract staff can draw this supplementary allowance if they run a team of at least 10 people or a team of at least five people and are entrusted with this power by a direct superior. The supplementary allowance is EUR 1 000 per year.

**Training supplementary allowance:** If an employee is also a trainer without the training activity being part of his / her standard job description, he / she is entitled to a € 180 remuneration per day (minimum six hours).

**Job skills development bonus:** If a civil servant has successfully completed an accredited course, he / she is entitled to this bonus, which, depending on the position, is € 1000 – € 3000.

The performance appraisal results influence the speed of advancement in salary grades.

**Are public employees favoured in social security or health care system?**

Yes, they have an advantage over both the private sector and employees under the labour law regime. They have a higher pension than in the private sphere. If the civil servant is not dismissed due to the breach of duties, he is entitled to a higher pension by years of service.

**What are the differences in wage and sickness benefits between civil servants and employees?**

Civil servants are guaranteed full pay for 63 working days of incapacity. In addition, they have their own sickness benefit,

which they can draw if necessary. Contract staff are entitled to 30 calendar days without pay reduction.<sup>9</sup>

**Does the scope of working hours of civil servants differ from working hours of contract employees?**

They do not differ according to the status of the employee. The basic statutory working time in the public sector is 38 hours per week. (Loi 2000-12-14 / 50, Arts 3 and 8)

**What work-life balance measures are available for public employees?**

Civil servants draw the birth or the adoption bonus and other family allowances. All these bonuses and allowances are awarded and paid by the Federal Agency for Family Policy.<sup>10</sup>

There are workers across the authorities who are responsible for job satisfaction (*bien-etre*). They provide consultation, support and educational activities such as stress management, healthy eating, work and family life are organized centrally.<sup>11</sup>

**What benefits are granted to public employees? Do these benefits differ according to whether they are ordinary employees or employees in senior positions?**

There is a separate FED + agency / department seeking for benefits and discounts for federal government employees.

**How many days of annual leave are public employees entitled to? Does it differ for the civil servants and contract employees?**

The statutory length of the leave is 24 working days and it does not differ according to the type of employment. (Loi 2000-12-14 / 50, Art. 9)

The length of the leave last changed in 2017, the table shows the number of days of the leave in the given age category. *Saved Days* is a newly introduced category for undrawn holiday, which does not need to be taken in the following calendar year.<sup>12</sup>

Age	Basic leave	Additional days of leave	Days of leave in total	Saved days
till 44	26		26	2
45-49	27		27	3
50-54	28		28	4
55-59	28	1	29	5
60	28	2	30	6
61	28	2	30	6
62	28	3	31	7
63	28	4	32	8
from 64	28	5	33	9

9 [https://fedweb.belgium.be/fr/conge\\_absences\\_et\\_temps\\_de\\_travail/maladie\\_et\\_accident/conge\\_maladie](https://fedweb.belgium.be/fr/conge_absences_et_temps_de_travail/maladie_et_accident/conge_maladie)

10 [https://fedweb.belgium.be/fr/remuneration\\_et\\_avantages/allocation/enfants](https://fedweb.belgium.be/fr/remuneration_et_avantages/allocation/enfants)

11 <https://fedweb.belgium.be/fr/publications/programme-2017-reseau-personnel-et-bien-%C3%Aatre>

12 [https://fedweb.belgium.be/fr/conge\\_absences\\_et\\_temps\\_de\\_travail/conge\\_annuel#qui](https://fedweb.belgium.be/fr/conge_absences_et_temps_de_travail/conge_annuel#qui)

**What kind of paid leave can public employees take (study leave, sick leave, leave for personal matters, etc.)?**

**Leave to adopt or accept a new member of the household** – the conditions are different for civil service employees in employment and contract employees. A civil servant receives a full salary and can take a longer period of leave.

**Leave for a trade union activity** – none of the civil servants is denied active participation in the trade union movement, but in the case of top management, ethical rules do not consider active participation in the trade union activities to be compatible with the performance of a top management office.<sup>13</sup>

**Study leave** it is distinguished between education that takes place within the federal administration and education that takes place outside the state administration. The former is considered to be an integral part of the performance of the civil service. For educational activities outside the state administration, the civil servant is released from the service after the consent of the immediate superior. The maximum length of the external training is 120 hours per year, the salary is not reduced. For example, tests and examinations organized by SELOR<sup>14</sup> are considered external educational activities.

**Time off for political activities** – time off for the campaign and for the performance of the representative mandate obtained

**What are the possibilities for public employees (especially senior civil servants) in exercising the right to strike? Is the right to strike wholly excluded or only restricted for ordinary civil servants or senior civil servants?**

The right to strike is not restricted.

**3.1.3 Career Opportunities (Career Order)**

**What determines the career advancement of a civil servant (e.g. education, the duration of service, the duration of the performance of administrative activities, experience with managing of staff, the quality of the performance of service tasks – service performance appraisal, the age of a civil servants, etc.)? How often (at what time intervals) can career advancement be achieved?**

It is a career system, so career advancement is fixed according to the seniority and education achieved.

**Is there a standardized career order for the entire state administration?**

Yes. The Copernik reform of 1999 excluded the top management of the authorities, which is governed by other rules. Top managers had to go through a new selection procedure, to prove their communication, evaluation and management skills. They shall serve for a term of six years, with the possibility of repeating once the results and objectives have been achieved. They are not remunerated on the grounds of seniority, but on the grounds of their duties. The positions are open to members of the civil service and to people outside the service.

There are four levels of service posts based on the education achieved and the type of post– A, B, C, and D.

13 [https://fedweb.belgium.be/fr/conge\\_absences\\_et\\_temps\\_de\\_travail/conge\\_syndical](https://fedweb.belgium.be/fr/conge_absences_et_temps_de_travail/conge_syndical)

14 SELOR is responsible for the central selection procedure and the organization of service test and examinations- see the appropriate questions

**Does an existing public employee, who is interested in filling a post in a higher salary grade or at a higher level of public administration, have to go through a selection procedure to fill this post? <sup>15</sup>**

Depending on the type of a position, it is precisely determined how the shift between the steps of the ranking proceeds. If the post is open to an internal advancement, it is precisely given how the candidate is selected. It is not the same selection procedure as with the external candidates, but certain conditions, seniority, performance appraisal results must be fulfilled and then the candidates are selected.

**Is it possible to transfer a civil servant from his current post to another post in another service authority in the same salary grade or at the same level, if he so requests without a selection procedure being held?**

It is precisely determined from what grade/ level to which grade/ level the transfer can be requested.

**3.1.4 The Systemisation and the Organization of Service Authorities**

**Is the question of systemisation in the state administration (the establishment of binding number of posts in service authorities in public administration, the distribution of these posts according to the scale of remuneration, the determination of the volume of resources for salaries) regulated in the legal system?**

**The staffing plan** (Plan de personnel) is a tool for planning, measuring, monitoring and evaluating staff and labour costs. The plan is a projection of staff numbers and the costs for the next year (T) and the year after (T + 1). From the budgetary point of view, an organizational unit will receive *an envelope* of budget funds to achieve the objectives and tasks assigned to it. The staffing plan counts on planned departures, recruitment and career advancement. It is therefore clear for the management of the business unit whether the financial balance is kept and the funds are sufficient for the planned personnel costs.<sup>16</sup>

**Is the question of the organizational structure of civil service authorities (the definition of the post, types of organizational units, minimum number of posts in these units, relations of superiority and subordination, etc.) regulated in the legal system?**

There are 18 function groups in the state administration. All functions have a definition – a description of the function and the capabilities that are needed to hold it.

Positions are divided into four categories – A, B, C and D.

**Who is responsible for the processing of the systemisation project?**

The Directorate General for the Development and Recruitment at the Ministry of Strategy and Support is responsible for the staffing plan (*Plan de personnel*).

15 [https://fedweb.belgium.be/fr/parcours\\_de\\_carriere/niveau\\_a/carriere\\_administrative/promotion](https://fedweb.belgium.be/fr/parcours_de_carriere/niveau_a/carriere_administrative/promotion)

16 [https://fedweb.belgium.be/fr/a\\_propos\\_de\\_l\\_organisation/developpement\\_et\\_support/strategie/plan\\_de\\_personnel](https://fedweb.belgium.be/fr/a_propos_de_l_organisation/developpement_et_support/strategie/plan_de_personnel)

### 3.1.5 Selection Procedures to Fill Civil Service Posts

The selection of the employees for the federal government is centralized, and the responsible institution is **the Office for the Selection of the Employees of the Federal Administration (SELOR)**.<sup>17</sup> The selection procedure is organized and led by SELOR; In the final stage, the authority seeking a specific employee is commenting on the selection.

Successful candidates are put on a list from which they should be appointed in the given order. The list is usually valid for two years. After obtaining a specific position and successfully completing the traineeship, the candidate can only be recruited. If the authorities do not find a suitable candidate on the list, they can directly organize a selection procedure that is not in the service regime but in the standard staff regime.

**Is it necessary to interview all applicants who comply with the formal conditions of participation (they sent all the necessary documents)? Or is it possible to select only some applicants with whom the interview shall be conducted? If so, who, and according to what criteria chooses them?**

The procedure consists of several phases, the initial phase is called screening and consists of various testing methods. Depending on the type of position, this may be on-line testing or oral examinations and interviews before the committee. The composition of the screening phase is always accurately described in the description of the post to be filled.

**Who carries out the interview with the applicants and who can be present at the interview? Who can ask questions? Is it only the selection committee or can it also be the superior?**

SELOR, a selection committee consisting of more members.

**Who evaluates the applicants (decides, if they were successful or not)? The selection committee consisting of more members, the superior, another body?**

SELOR, a selection committee consisting of more members.

**Who selects the most suitable applicant who shall eventually be employed in the civil service? Selection committee, the superior, another authority?**

The selection is made by SELOR, the given authority has the "last word" right about the selected candidate. The employee is appointed to the service only after completing the traineeship (usually one year) and on the grounds of the first performance appraisal, see the service performance appraisal part.

**How can unsuccessful applicants appeal?**

Appeal, possibly lodging a complaint.

**How can applicants who were successful but were not selected for the post appeal?**

They remain on the list, which is valid for two years. They can therefore obtain a specific job within two years.

**Can unsuccessful applicants and successful applicants who have not been appointed to the civil service appeal to the court?**

Yes.

<sup>17</sup> <http://www.selor.be/fr/>

### 3.1.6 Disciplinary Proceedings

**Is there disciplinary liability of public employees? If not, how is the breach of the duties of civil servants approached?**

Yes, there is.

**If there is a disciplinary liability of civil servants, how are the facts of the disciplinary infraction defined?**

In general, a civil servant is obliged to respect all legislation and applicable rules. Failure to perform tasks is also considered a breach of duties.

Examples of violations of civil servants' obligations:

- Failure to comply with legal guidelines
- An unexcused absence
- Accumulation of leave or benefits without approval
- Lack of accountability and impartiality in the performance of civil service
- Failure to respect colleagues
- Persistence of conflict of interest
- Disclosure of state secret.

**If there is a disciplinary liability of public employees, what disciplinary measures (sanctions, penalties) can be imposed on public employees (reprimand, salary reduction, etc.)?**

The legislation lists five types of disciplinary measures without specifying the offenses for which they are to be imposed:

**The call to put things right** – this is the least serious measure, rather of a moral nature, which should rather draw attention to it.

**Wage reduction** – wage reduction is already a serious disciplinary measure. The wage may be reduced for at least one month, up to a maximum of 36 months, not exceeding 20% of the wage.

**Transfer to another post** – for 18 months. During this period, the civil servant may not request another transfer.

**Dismissal from civil service** – the civil servant is dismissed but remains entitled to the civil servant's retirement pension for the time worked in the public service.

**Removal** – in addition to the termination of employment, the employee loses the right to a favourable civil servant's pension, his pension is calculated as in the private sector.

The disciplinary measures imposed (except for the two most serious ones) are deleted from the employee's personal file over time. The call is deleted nine months after being imposed, the salary reduction is deleted 12 months after the salary reduction period is over, the transfer is deleted 18 months after returning to the original position.

**Who decides that a civil servant has committed a disciplinary infraction (a disciplinary panel, the superior, other body)?**

The Disciplinary Committee appointed by the Minister or the Chairman of the Steering Committee of the Ministry from the Management of the Ministry.

**The disciplinary measure** must be **confirmed** on the grounds of a proposal by the Disciplinary Committee:

- by the Chairman of the Steering Committee of the

Ministry or his / her appointed representative in the case of positions at level B, C, and D;

- by the King in case of a dismissal or a removal of an A-level civil servant;
- by the Minister in case of other disciplinary measures for level A positions.

**What are the public employee’s possibilities of defending in the matters regarding his disciplinary liability (appeals, legal proceedings at the administrative court, others)?**

The employee has 20 days to appeal to the Disciplinary Chamber of Appeal, which operates under the Ministry of Strategy and Support. The Chamber addresses the appeals of all levels.

**3.1.7 Service Examination**

The selection of the employees for the federal government is centralized and the responsible institution is the SELOR **The Office for the Selection of the Employees of the Federal Administration**. The selection procedure is organized and managed by SELOR, the authority looking for a particular employee is commenting on the selection at the last stage. The service examination is not separated from the selection procedure, but is part of it.

**How are the requirements for the examinee – the scope and the content of the verified knowledge and skills of the examinee and the form of the exam – [Written, Oral Model Situation] defined?**

Depending on the type of positions, the selection procedure and the service examination differ, the form is written and oral – motivational interviews, case studies, situation simulations, psychological tests.

**How are the qualification requirements for the members of the examination committee defined?**

The composition of the examination committees depends on the skills to be tested. For example, language prerequisites are examined by members who have been hired as language experts. The member of the examination committee is not employed, but is selected on the grounds of external cooperation. SELOR has a database of collaborators who may be appointed to each committee. In order to obtain the status of the member of the committee, the applicant must fulfil given conditions, such as education, type of diploma, experience and to go through testing – selection procedure.

**Is the system of education in the civil service somehow formally linked to the service examination (before and after the examination)?**

For a career advancement between certain stages it is necessary to complete some accredited educational activities.

**If there is a system of several fields of public service for which it is necessary to take separate examinations, how is the following approached: education in case of change or extension of the fields of public service (preparation for another service examination), education in case of a transfer to another service authority?**

SELOR is again in charge of this, if it is necessary it ensures some additional testing in case of internal mobility (between central government authorities) and external mobility, i.e. by transfer between the judiciary, federal government or self-government.

**What is the connection between the education and the career system (completed educational events as a condition of participation in the selection procedure)?**

For a career advancement between certain stages it is necessary to complete some accredited educational activities.

**What is the connection between the training and the service performance appraisal (whether the training is based solely on service performance appraisal, depends on operational needs, on an overall plan without service performance appraisal playing a role, is a combination of more criteria and also how is the training taken into account / evaluated in service performance appraisal, how much important is its role?)**

One of the four main evaluation criteria is the development of work skills and competences, so the connection is direct and strong. It plays an important role in the performance appraisal. The motivation for education is also financial. After the completion of the accredited training, a civil servant is entitled to a one-off cash bonus.

**3.1.8 Service Performance Appraisal**

**Is it obligatory?**

Yes.

**Who is subject to the service performance appraisal? To what extent is he/she involved?**

Everybody.

The procedure differs for the top management, trainees and other civil servants (both in civil service and employment contracts).

The evaluatee plays a significant role because self-evaluation is part of the evaluation. The evaluator must receive a self-evaluation 20 days before the evaluation interview. Self-evaluation is not strictly given; it should answer the following questions:

- Have the objectives stipulated in the contract and in the plan of the service authority been achieved?
- To what extent have they been achieved?
- What was the personal benefit?
- What investment has been made in developing skills?

**Who is the evaluator?**

The first evaluator is the direct superior, the second evaluator is the superior of the direct superior, who is the guarantor of the objectivity of the whole process.

**Top management:** The first evaluator is the direct superior, the second evaluator is the superior of the direct superior, who is the guarantor of the objectivity of the whole process.

In the case of senior management, the sole evaluator is the Minister or the State Secretary. They are compulsorily

supported by an external evaluator. The external company objectifies and structures the evaluation procedure (analyzes the self-evaluation, collects additional information, prepares and structures the evaluation interview for the evaluators). In no case does the external evaluator represent the Minister or the State Secretary as an evaluator.<sup>18</sup>

**How often is the service performance appraisal carried out? Is it related to a specific date or event, or is it done as needed?**

**Top Management:** Every year. The evaluation cycles are closed by the continuous evaluation (5 evaluations), the last cycle by final evaluation (6th year in the office). The first cycle shall begin on the on the day of the appointment to the post and end on 31 December after the whole year in the office. The last cycle begins on 1 January of the last year in the office and ends six months before the end of the mandate.<sup>19</sup>

**Trainees – candidates:** The whole year of the traineeship is considered a period of continuous evaluation. The evaluator – the direct superior conducts several evaluation interviews with the candidate for the status of a civil servant. The evaluation reports must be placed in the personal file of the evaluated person. The minimum duration of the traineeship is one year; in certain cases, it may be extended.

**Other staff** (in service and contract mode): Calendar year. Exceptions when it may be shortened or extended are exhaustively defined.

**Does the result of the service performance appraisal have any impact on the salary of a civil servant?**

With the exception of trainees – candidates and the senior management, the rule is that the mark *meets expectations*, guarantees the remuneration as stipulated in the legislation for the position. The mark *outstanding* speeds up the pay rise process, while the last two marks slow down the pay rise process.<sup>20</sup>

**Does the result of the service performance appraisal have any other impact on the civil servant's employment?**

**Top Management:** A manager ends in his/her office if he / she receives the mark *insufficiently* in case of ongoing or final evaluation. Or the mark *needs improvement* in the final evaluation. If the top manager receives in the final evaluation of the first six-year mandate at least the mark *meets expectations* and at the end of the second mandate the mark *outstanding*, he/she may apply for a further renewal of the mandate.

**Trainees – candidates:** In the case of trainees, one year of the traineeship is the basis for the admission or non-admission to the civil service. If the trainee receives marks *outstanding* or *meets the expectations* in the performance appraisal, he / she is appointed to the service with a tenure.

**Other Employees:** According to the career order, an employee cannot make an advancement if he / she has received the worst mark in the final performance appraisal. If the worst

mark is received, the evaluation period will be reduced to six months. If an employee receives the worst mark twice within a period of three years, he is dismissed because he is unable to perform the job.

**What regulations govern the service performance appraisal?**

Legislation is different for different types of positions. Different regulations govern the top management in the performance appraisal.

There are laws, royal decrees and ministerial decrees that deal with the evaluation procedure.<sup>21</sup>

**What is the subject of the service performance appraisal (what is evaluated)? Is the evaluation framework strictly defined or can it be adapted to the needs of the different subjects?**

The evaluation procedure is generally elaborated in detail and defined in legislation. The learning process of *the learning organization* is emphasized in the evaluation procedure. The primary goal is not to punish, but to learn from mistakes and to improve performance.<sup>22</sup>

The evaluation procedure is defined by at least four interviews:

**Job interview** – job description, profile of the employee's abilities and skills is the basis for the evaluation procedure. This interview is intended to achieve consensus on the job description and the prerequisites for the job to be performed. If the consensus is not reached, the HR department will organize mediation in order to achieve this. The evaluator and the employee shall sign the agreed job description. If the job description changes significantly or if the employee changes his/her post, this interview needs to be repeated.

**Goal Setting Interview** – Achieving a consensus over setting goals that will be pursued throughout the evaluation period. If the consensus is not reached, the HR department will organize mediation in order to achieve this. The evaluator and the employee shall sign the agreed job description.

**Interview on functioning** – an ideal moment to open a discussion about problems and to find solutions, including dissatisfaction with the evaluator's support. Again, the result is signed by both parties.

**Evaluation interview** – the final stage of the evaluation procedure, evaluation of the fulfilment of the objectives. The evaluation will be based on four criteria – the achievement

21 Arrête royal du 24 septembre 2013 relatif a l'évaluation dans la fonction publique federale

Arrêté royal du 2 septembre 2008 désignant les membres du comité de recours en matière d'évaluation des titulaires de fonction de management et d'encadrement créé auprès de la ministre de la Fonction publique

Arrêté ministériel du 18 décembre 2014 désignant les greffiers-rapporteurs auprès du comité de recours en matière d'évaluation des titulaires de fonction de management et d'encadrement créé auprès du ministre de la fonction publique.

Arrêté royal du 7 novembre 2013 désignant les membres du Comité de recours en matière d'évaluation des titulaires de fonction de management et d'encadrement dans certains organismes d'intérêt public

Arrêté ministériel du 10 décembre 2013 portant approbation du règlement d'ordre intérieur du Comité de recours en matière d'évaluation des titulaires de fonction de management et d'encadrement dans certains organismes d'intérêt public

22 [https://fedweb.belgium.be/fr/evaluation/evaluation\\_mandataires/acteurs](https://fedweb.belgium.be/fr/evaluation/evaluation_mandataires/acteurs)

18 [https://fedweb.belgium.be/fr/evaluation/evaluation\\_mandataires/acteurs](https://fedweb.belgium.be/fr/evaluation/evaluation_mandataires/acteurs)

19 [https://fedweb.belgium.be/fr/evaluation/evaluation\\_mandataires/cycle](https://fedweb.belgium.be/fr/evaluation/evaluation_mandataires/cycle)

20 [https://fedweb.belgium.be/fr/evaluation/cycle\\_evaluation\\_membres\\_personnel/consequence](https://fedweb.belgium.be/fr/evaluation/cycle_evaluation_membres_personnel/consequence)

of goals, the development of working abilities and skills, a contribution to meeting the team goals, client orientation. If they are also evaluators, there are more criteria – the quality of the evaluations carried out and meeting the deadlines and following the legislation.

**Top management:** The subject of the evaluation is the fulfilment of the objectives stipulated in the contract and in the plan of the service authority which the manager has been entrusted with, the way in which the objectives are achieved, the manager's personal contribution to the process of achieving the goals, for which the manager is responsible.

**What form does the rating scale take? It is evaluated only verbally, or by giving points? What results can be achieved in the service performance appraisal?**

The final moment of the evaluation is the mark. The one-word closing mark has the following form:

Top management

- *Outstanding* – most objectives have been achieved, some indicators even exceeded
- *Meets expectations* – most of the goals have been achieved
- *Needs improvement* – the resulting situation corresponds only to the fulfilment of some objectives
- *Insufficiently* – the set goals have not been met

However, a worse mark may also be given because of a small personal contribution in the performance of the post held or if the way of working negatively affects the management potential of the employee.

**Trainees and other staff** have a slightly different assessment scale.

- Exceptionally
- Meets expectations
- Needs improvement
- Insufficiently

**Is there any future perspective plan part of the service performance appraisal - goal setting, development plan, etc.?**

Yes. In the case of **trainees** in particular, a large part of the evaluation procedure is devoted to goal setting and work development. The evaluation procedure is more intensive; in total, the direct superior must conduct at least seven interviews during the traineeship, four of which are completed with a mark.

In case of **other employees**, working on achieving the objectives is also part of the evaluation, their specification, or a change.

In case of **managers**, the objectives are already the subject of an employment contract; the service performance appraisal focuses on the achieving the objectives or their specification.

**What way the service performance appraisal carried out? What evaluation methods are used?**

**Top Management:**

- *Self-assessment* – see the question regarding the employee's contribution to the service performance appraisal

- *Self-assessment analysis* – the evaluator assesses the relevance and the truthfulness of the data, he/she may require some additional information, confirmation by superiors, witness testimony. If these are the top positions, the self-assessment is analyzed by an external consultant, he/she may organize an interview with the evaluatee to comment, explain his / her self-assessment. The external evaluator summarizes this phase in a report which will be given to the evaluator (the Minister or the State Secretary). An evaluation interview is structured on the grounds of this report. The evaluator will also receive a copy of the report in order to prepare for the evaluation interview.

- *Evaluation interview*

- *Evaluation report* – includes a mark. The ministerial decree determines the exact form of the evaluation report.<sup>23</sup>

**What is the basis for the performance appraisal?**

Job description, goal setting and previous evaluations.

**What way are the evaluators trained?**

The Ministry of Strategy and Support has integrated the Human Resources and the Organization Directorate, which is, among other things, the governing body for personnel issues across the federal administration. Thus, the evaluation of employees also falls within its competence. The Human Resources and the Organization Directorate organizes the training of the evaluators at various levels, publishes manuals and provides support in the evaluation procedure.

There is an evaluation support program for all federal government departments. The application, called Cresendo, provides support for the evaluation procedure (on-line documents, competence profile, job descriptions, etc.). The use of the program is optional.<sup>24</sup>

On the federal government website, there are several manuals on how to evaluate, they are divided by ranking.

**What way does the evaluated person get acquainted with the results of the service performance appraisal?**

The evaluatee signs the evaluation report.

**Is the negative result of service performance appraisal sanctioned some way? How?**

**Top Management:** A manager ends in his/her post if he / she receives the mark *insufficiently* in case of the ongoing or the final evaluation. Or if he/she receives the mark *needs improvement* in case of the final evaluation.

**Trainees** – candidates: In case of two worse grades, the trainee is heard by the Appeal Board, who decides to extend the traineeship or to release the trainee. After the extension the evaluation is carried out again and according to the result the candidate is either appointed to service or released.

**Other Employees:** An employee cannot under the career order advance under if he / she has received the worst grade in the

23 [https://fedweb.belgium.be/fr/evaluation/evaluation\\_mandataires/procedure/rapport\\_evaluation\\_et\\_mention](https://fedweb.belgium.be/fr/evaluation/evaluation_mandataires/procedure/rapport_evaluation_et_mention)

24 [https://fedweb.belgium.be/fr/evaluation/cycle\\_evaluation\\_membres\\_personnel/stagiaires/support-en-mati%C3%A8re-des-%C3%A9valuations](https://fedweb.belgium.be/fr/evaluation/cycle_evaluation_membres_personnel/stagiaires/support-en-mati%C3%A8re-des-%C3%A9valuations)

final evaluation. If the worst grade is received, the evaluation period will be reduced to six months. If the employee receives the worst grade twice within a period of three years, he is dismissed because he is unable to perform the job.

**Are there any appeal measures against the results of the service performance appraisal?**

If the mid-term evaluation ends with the mark *insufficiently* or if the final evaluation is worse than *outstanding*, the employees have the opportunity to appeal. Depending on the type of the post, the appellate body, **the Board of Appeal** for lower management and other positions, and the Ministerial Committee for the top management positions are in charge of these issues. The Government Council appoints three members of the Government to the Ministerial Committee. The Board of Appeal shall be composed of several members from more than one level of the service authority.

The appeal must be filed within 15 working days of the conclusion of the service performance appraisal. The Appellate Body has one month to handle the appeal. The second evaluator together with the first evaluator will decide on the final grade.

**3.1.9 The Principles of Ethics in Civil Service**

**What regulations govern the principles of ethics in the civil service?**

These are laws, decrees and manuals:

- Arrêté royal 20/09/2009 (ministers-publications-conflit d'intérêt)<sup>25</sup>
- Manuel relatif à la gestion des conflits d'intérêts dans la fonction publique administrative fédérale belge <sup>26</sup>
- Cadre déontologique – Août 2007<sup>27</sup>
- Loi du 15/09/2013 (dénonciation d'une atteinte à l'intégrité)<sup>28</sup>
- Circulation of 5 May 2014: Marchés publics Conflits d'intérêts – Mécanisme du tourniquet (“revolving doors”)<sup>29</sup>
- Communication tourniquet <sup>30</sup>

**Is it possible to impose sanctions in case of violation of ethical rules? If so, what kind of sanctions?**

**The Office of Ethics and Deontology of the State Administration** (The Bureau d’Ethique et de Déontologie administratives (BEDA)) must not impose any sanctions, impose sentences or mediate disagreements in government. It shall have an advisory function if so requested.

**What means and methods are used to check compliance with the ethical rules?**

25 [http://www.budgetfederal.be/FR/Documents/AR\\_20\\_09\\_09.pdf](http://www.budgetfederal.be/FR/Documents/AR_20_09_09.pdf)

26 [http://www.budgetfederal.be/FR/Documents/manuel\\_gestion\\_conflits.pdf](http://www.budgetfederal.be/FR/Documents/manuel_gestion_conflits.pdf)

27 <http://www.budgetfederal.be/FR/Documents/cadreDeont.pdf>

28 [http://www.budgetfederal.be/NL/Documents/Wet\\_15092013\\_deont.pdf](http://www.budgetfederal.be/NL/Documents/Wet_15092013_deont.pdf)

29 <http://www.budgetfederal.be/FR/Documents/06%202014%20circulaire%205%20mai%202014%20-%20March%C3%A9s%20publics%20conflits%20d%27int%C3%A9r%C3%AAts%20m%C3%A9canisme%20du%20tourniquet.pdf>

30 [http://www.budgetfederal.be/FR/Documents/06%202014%20com\\_tourniquet\\_draaideurconstructie\\_v\\_04\\_01\\_fin.pdf](http://www.budgetfederal.be/FR/Documents/06%202014%20com_tourniquet_draaideurconstructie_v_04_01_fin.pdf)

The evaluation of the knowledge of ethical rules within the whole state administration and the subsequent reporting on the results of the evaluation.

**What implementation tools are used in the field of civil service ethics?**

The Code of Ethics – basic, brief document (40 articles) for all employees of the state administration. It takes the form of a multi-page manual. It was developed by BEDA. <sup>31</sup>

**How does the education of the employees in the field of ethics proceed? Is the education of ordinary employees and senior employees different?**

The direct superior is responsible for making the employee acquainted with the Code of Ethics and for ensuring the training in this area. The direct superior can ask the BEDA office for support or educational activity in this area.

The education is organized and coordinated by BEDA.

**Is there a body or persons responsible for providing support on ethical issues?**

The Office of Ethics and Deontology of the State Administration (BEDA) established in 2006.

**Is the compliance with ethical rules continuously checked?**

Yes, one of BEDA's tasks is to evaluate the knowledge of ethical rules within the state administration.<sup>32</sup>

**3.1.10 Work-life Balance (WLB)**

Civil servants can draw the birth or the adoption bonus and other family allowances. All these bonuses and allowances are granted and paid by **The Federal Agency for Family Policy**.<sup>33</sup>

Young employees, fresh graduates are entitled to a cash bonus until the beginning of their careers.

31 <http://www.budgetfederal.be/FR/Documents/cadreDeont.pdf>

32 <http://www.budgetfederal.be/FR/Pages/deontMission.aspx>

33 [https://fedweb.belgium.be/fr/remuneration\\_et\\_avantages/allocation/enfants](https://fedweb.belgium.be/fr/remuneration_et_avantages/allocation/enfants)

## 3.2 THE KINGDOM OF DENMARK

*Information sources on the Danish system were limited in some areas and it was not possible to answer all the questions. Therefore, only a selection of questions for which at least partial information could be found is given below.*

### 3.2.1 The Depoliticisation of the Public Administration

The State Secretaries are appointed and removed by the Prime Minister. The deputies of the State Secretaries and the directors of the sections are appointed and removed by the ministers. It is not common to change the persons in the managing posts, not even the consultants, after the elections.

#### **What institutes ensure the depoliticisation of state administration and civil servants?**

The depoliticisation of the state administration is ensured by the Constitution and legal regulations, e.g. the Public Administration Act and the Act on Civil Servants, administrative tradition, by the Ombudsman and the courts.

#### **Are the rights of civil servants to be a member of a political party or a political movement limited, or does the limitation concern only holding of a post in a political party or political movement? Does this limitation apply to all civil servants or only to senior civil servants?**

There are no limitations.

#### **Can civil servants become members of local (regional) councils?**

Yes.

#### **Where and how is the boundary between posts held on the basis of political agreements and posts held on the basis of selection procedures in ministries and other state offices defined?**

Posts are normally held on the grounds of selection procedures, not "political agreements."

#### **What are the mechanisms preventing the "removal" of a civil servant from a post by means of a formal abolition of such a post?**

There is no tenure in the system, but civil servants have a stronger protection against a dismissal / the abolition of the service post. If a civil servant is dismissed for redundancy, he is entitled to three years of salary.

#### **Can politicians influence and interfere with the employment issues of civil servants?**

Within the limits set by legal regulations the minister in question may issue directions concerning employment issues.

#### **Are there organizational units in ministries that include employees performing activities for a member of the government that are related to political power (similar to a cabinet of a minister in the Czech Republic)?**

There are no formalised cabinets, but ministers have secretariats and may employ special advisers. Special advisers

are not recruited on the grounds of the ordinary selection procedures.

### 3.2.2 The Opportunities for Compensation of Civil Servants' Duties

#### **Is the performance of civil service associated with any special pay (special supplementary allowance or something similar)? Under what conditions and assumptions?**

The possibility of receiving a special pay depends on the occupied post and also on whether a civil servant is subject to the old or the new remuneration system. Types of supplementary allowances in the new system: performance-related allowances (awarded on the basis of predetermined goals), one-off bonuses (bonuses), qualification bonuses, function-related bonuses (remuneration for employees responsible for special functions within their post).

In the old remuneration system, there are permanent supplementary allowances, such as overtime allowances or bonuses for the obligation to be available to the institution; the amount of allowances varies according to salaries in the private sector, price levels and tax burden in the area.

#### **Is the termination of service connected with special pecuniary claims (redundancy pay, severance pay, end-of-service allowance, service rent, retirement benefit)? Under what conditions and assumptions?**

Civil servants who were in the civil service for at least 10 years and were released for reasons other than the age or illness and who were not released due to their own fault are entitled to a pension calculated from the supplementary pension insurance on the date of their release. The most frequent reason may be the abolition of the post where the salary will be paid for three years and these three years are also counted to their civil service period.

#### **Are there fixed pay tariffs for civil service performance? How are variable salary components (personal supplementary allowance, bonuses, etc.) granted to civil servants?**

There are bonuses associated with the function, qualifications, and one-off bonuses decided by a particular superior. It is also possible to award a supplementary allowance depending on the work results. Functions-related bonuses are rewarded to employees responsible for special functions within their post that are dependent on the fulfillment of certain tasks. They are usually temporary but can also be a permanent component of the salary.

#### **Are public employees privileged in social security or health care system?**

They are entitled to a partial reimbursement of the old-age pension and the partial reimbursement of social security.

#### **What are the differences in wage and sickness benefits between civil servants and civil service employees?**

A civil servant is entitled to the usual wage at the time of illness, while other employees are entitled to either normal salary or benefits under the Sickness Insurance Act.



**Do working the hours of civil servants differ from the working hours of civil service employees?**

Working and service hours are not stipulated by law, but by the collective agreement, and are 37 hours a week.

**What work-life balance tools are available to public employees?**

Thanks to a framework agreement between the Ministry of Finance and CFU, home-office (teleworking) is possible. In addition, both a father and a mother are entitled to two days of paid childcare per year until the child reaches the age of seven. Parents are also entitled to a five-day leave per calendar year per child under the age of 14 due to hospitalization.

After the birth of a child, the mother is entitled to 14 weeks of paid maternity leave. The father is entitled to 14 days of paid paternity leave. In addition, the mother and the father are entitled to six weeks of paid parental leave and also another six weeks of paid leave, which can be divided between the two parents.

A civil servant may, upon request, obtain a time-limited unpaid leave. How long and for what purpose depends on the individual institutions.

**What benefits are granted to public employees? Do these benefits differ according to whether they are ordinary employees or employees in senior positions? Are there any tools to satisfy the cultural, sporting and recreational demands of civil servants?**

A civil servant is entitled to a cash benefit after 25, 40 and 50 years of work.

**Is the state employee entitled to a healing stay to strengthen his physical and mental health? Under what conditions and assumptions?**

To civil servants the general sickness insurance rules apply.

**Is the survivor of a public employee (a wife, a husband, a dependent child) entitled to "a severance pay" if the civil servant's employment relationship ends with death unrelated to the performance of the service?**

The husband and wife of the deceased public employee are entitled to a pension. In case of the death of a civil servant, the spouse receives a pension of 71% of the deceased's pension. This claim may also be claimed by registered partners, but not by a partner. Children of a civil servant who died are entitled to retirement until they reach 21 years.

**Does the service authority provide civil servants insurance in case a civil servant causes damage to a service authority? Is the service authority insured for the cases, when the service authority causes damage to the third parties? Is the reimbursement (recourse) required from the civil servant in such a case?**

Damage caused by public employees will generally be covered by the public authority (employer). The expenses are not insured. The right of "recourse" (*regres*) may also be exercised, but it is not applied frequently.

**How many days of annual leave are public employees**

**entitled to? Does it differ for the civil service employees and for the civil servants?**

All employees in Denmark have the statutory right to five weeks of leave.

**What kind of paid leave can public employees take (study leave, sick leave, leave for personal matters, etc.)?**

State employees may take, for example, study leave, sick leave, maternity leave, parental leave, adoption leave.

**Are public employees somehow privileged in public transport? In the field of catering? Are there favourable conditions for the provision of tariffs for mobile and telephone operators for public employees?**

No.

**How is further education of civil servants (beyond the scope of service) supported?**

Further vocational training of civil servants is supported in cases where such training is considered necessary for the performance of the service post.

**Is a public employee entitled to cash reimbursement for his clothing?**

In general, no. Some civil servants use uniforms provided by the service authority.

**What are the possibilities for public employees (especially senior civil servants) in exercising the right to strike? Is the right to strike wholly excluded or only restricted for ordinary civil servants or senior civil servants?**

Civil servants, regardless of their position, have no right to strike.

**3.2.3 Career Opportunities (Career Order)**

**What determines the career advancement of a civil servant (e.g. education, the length of service, the performance of administrative activities, experience with managing of staff, quality of service tasks – service performance appraisal, the age of a civil servants, etc.)? How often (at what intervals) can career advancement be achieved?**

The Danish system is something between a career and position-related system. In general, there are no restrictions on career advancement between the levels, but in fact there can be minimum education requirements stipulated. The qualification is the main criterion for career advancement; in the case of managerial positions, it is primarily the experience and results of regular performance appraisals.

**Is there a standardized career order for the entire state administration?**

The careers system falls within the competencies of the respective ministers, and there is no standardized career system that is the same for all ministries. Recruitment of civil servants in all ministries is based on public notices.

**Does an existing public employee, who is interested in filling a post in a higher pay grade or at a higher level of public administration, have to go through a selection procedure to fill this post?**

Yes.

**Is it possible to transfer a civil servant from his current post to another post in another service authority in the same pay grade or at the same level, if he so requests without a selection procedure being held?**

An employee may be transferred to another post at the same level, in the same grade or at the same level of management if that post falls within the service of a civil servant. In other cases, a selection procedure will be held.

**Is there a probation period for a public employee in case of his transfer to another service authority? What is the legal regulation for such a repeated trial period?**

The probationary period is applied in case of the first employment of a person as a civil servant and in some cases in connection with the transfer of a civil servant to another service authority, provided that the field of service differs from the field of service in the original service authority.

**Is a career advancement connected with any other benefits beyond the pay entitlements?**

In some cases, the career advancement is then connected with better conditions of the pension system.

**Is there a legal provision saying that a public employee may not be transferred to a lower grade post without his consent?**

A civil servant will not normally be transferred to a post in the lower grade without his consent. Exceptions may occur in cases where such transfer is a response to an incorrect behaviour or violation of the discipline of a civil servant.

### 3.2.4 The Systemisation and Organization of Service Authorities

Denmark uses performance-related pay (PRP). Therefore, the performance appraisal fundamentally affects the remuneration in the form of one-time bonuses or permanent supplementary allowances. There is no limit to the ratio between the basic salary and the resulting bonuses.

The basic salary will arise from collective bargaining and is reviewed every two or three years. Bonuses are stipulated every year on the grounds of the performance appraisal. The basic salary is indexed according to wage development in the private sector. The main determinant of salary is the content of the work, its influence on performance, seniority and experience. The influence of seniority has lost its importance. In the case of newcomers, the salary in the previous post is also taken into account.

**Is the question of systemisation in the state administration (the establishment of binding number of posts in service authorities in public administration, the distribution of these posts according to the scale of remuneration, the determination of the volume of resources for salaries) regulated in the legal system?**

The number of posts and their distribution are regulated by legislation (state budget). Salaries are governed by collective agreements between the Minister of Finance or the central organizations as an employer and the relevant trade unions.

**Is the question of the organizational structure of civil service authorities (the definition of the post, types of organizational units, minimum number of posts in these units, relations of superiority and subordination, etc.) regulated in the legal system?**

This issue is partially regulated by legislation (state budget), partially by the decision of the relevant minister.

**Is the procedural issue of systemisation and organizational structure (rules for processing and submitting proposals for systemisation and organizational structure) regulated in the legal system?**

This issue is partially regulated by legislation (state budget), partially by the decision of the relevant minister.

**Who is responsible for the processing of the systemisation project?**

The minister in question, the Minister of Finance, the Minister for Public Sector Innovation.

**Who approves the systemisation and the organizational structure of a service authority?**

The relevant minister.

**What is the scope of systemisation and the organizational structure (which parameters are approved by the system approver)?**

This data is not available in Denmark.

**Is the systemisation and the organizational structure approved for a certain period or indefinitely?**

Usually, the systemization and the organizational structure are approved without setting a time period.

**What are the conditions allowing for changes to systemisation and the organizational structure (under what conditions is a change in systemisation and organizational structure acceptable and who approves it, or who comments on the change before its approval)?**

The conditions for changes in the systemization and the organizational structure depend on relevant legal regulations and decisions. Trade union representatives usually have the opportunity to comment on the proposed system and the organizational changes in the joint consultation committees ("*samarbejdsudvalg*").

**What are the qualification requirements for the individual posts (who defines them, to what extent, what criteria is it based on)?**

Detailed qualification requirements are defined by legislation or the relevant minister, if necessary. As a general rule, however, the detailed qualification requirements for the individual service posts are not defined.

**Are there more types of systemised posts in the state administration (in the Czech Republic, service posts governed by the Civil Service Act and the posts under the Labour Code)?**

There are four types of systemised posts: civil servants under the Civil Service Act regime, persons employed under collective

agreements, who are subject to general labour law regulations and other employees employed under unilaterally determined rules (statutes, rules), and in a small number of cases, the employment is based on individual contracts.

**What are the criteria for defining systemised posts by their type and who decides on this matter?**

The appointment as a civil servant is restricted to special posts. These conditions are specified in the Circular of 11 December 2000, which defines the employment in the state sector and the state church. According to the Circular, a group of managers, judges, some police officers, prisoner employees and the ministry of defense employees may be employed as civil servants. Other employees are subject to the collective agreement.

**If there are more types of systemised posts, are the rules for their systemization identical?**

Not relevant.

**How is the activity performed in a particular service post defined (statutory list of activities, service sectors, register of administrative activities)? What way and according to what criteria are the activities performed in a particular post divided? How much detailed is the list of activities to be performed, how general or specific is the scope of each service or administrative activity, and how extensive is the list of these service or administrative activities?**

In general, these activities are not described in detail.

**Does the legal system enable to employ two or more civil servants in one systematized post (job sharing), where the work load of all civil servants together corresponds to one work load. What is the practical solution of this issue in the given country?**

Sharing of posts, in the form of part-time employment of two or more civil servants, is possible.

**3.2.5 Selection Procedure to Fill a Vacant Service Post**

The selection of public employees is delegated to individual ministries; departments / teams also participate in the selection.

The choice is a combination of a career and position-oriented system. All posts are published and made available to external applicants. There are quotas for applicants from "non-western" countries (4%), disadvantaged groups are favoured in the selection procedure.

**Is the selection procedure conducted as an administrative procedure or is it excluded from the formal process?**

The selection procedure is conducted as an administrative procedure, but some of the rules of the Public Administration Act do not apply.

**Is it necessary to interview all applicants who comply with the formal conditions of participation (they sent all the necessary documents)? Or is it possible to select only some applicants with whom the interview shall be conducted? If so, who, and according to what criteria chooses them?**

It is not necessary to interview all applicants. Only some applicants are selected for the interview. The choice is made by the prospective superior after assessing the applicant's qualifications (education, work experience, etc.) on the grounds of the applications and the attached documents.

**Who carries out the interview with the applicants and who can be present at the interview? Who can ask questions? Is it only the selection panel or can it also be the superior?**

Interviews are often conducted by the prospective superior of the applicants and by the staff of the HR department. A union representative, such as an employee representative /a trade union trustee, may be present, but they usually may not ask questions during the interview.

**Who evaluates the applicants (decides, if they were successful or not)? The selection panel consisting of more members, the superior, another authority?**

This decision is usually made by future direct superiors.

**Who selects the most suitable applicant who shall eventually be employed in the civil service? Selection panel, the superior, another authority?**

This decision is usually made by future direct superiors.

**How can unsuccessful applicants defend?**

Applicants who were identified as unsuccessful may file a complaint with the competent body of the employer, appeal to the Ombudsman, the court or, where appropriate, the Equal Treatment Council.

**How can applicants who have been successful but have not been appointed to the public service defend against such decision?**

These applicants may lodge a complaint with the competent body of the employer, appeal to the Ombudsman, the court or, where appropriate, the Equal Treatment Council.

**Are the applications of unsuccessful applicants and successful applicants who, however, have not been appointed to the civil service, rejected by an administrative decision against which they could appeal? Or are they only informed about the result of the selection procedure?**

Applications of unsuccessful applicants and successful applicants who were not selected for the civil service are rejected by an administrative decision.

**Can unsuccessful applicants and successful applicants who have not been appointed to the civil service appeal to the court?**

Yes.

**3.2.6 Disciplinary Proceedings**

**Is there disciplinary liability of public employees? If not, how is the breach of the duties of civil servants approached?**

Yes.

**If there is a disciplinary liability of civil servants, how are the facts of the disciplinary infraction defined?**

If the civil servant neglects the duties arising from his position.

**If there is a disciplinary liability of public employees, what disciplinary measures (sanctions, penalties) can be imposed on public employees (reprimand, salary reduction, etc.)?**

A warning or a reprimand, a fine of half the monthly salary, transfer to another job, degradation, release.

**Who decides that a civil servant has committed a disciplinary infraction (a disciplinary panel, the superior, other body)?**

Such decisions are usually made by the superior under the conditions and procedures laid down in the Public Administration Act and in the Civil Service Act.

**What are the public employee's possibilities of defending in the matters regarding his disciplinary liability (appeals, legal proceedings at the administrative court, others)?**

A civil servant may appeal to the Ombudsman or to ordinary courts.

### 3.2.7 Service Examinations

It does not exist due to the decentralization of human resources management in the state administration.

### 3.2.8 Service Performance Appraisals

Service performance appraisals in Denmark are strongly connected with the decision-making in human resources management. Human resources management objectives are part of the performance appraisal process. The number of information on the service performance appraisal is limited.

**It is mandatory?**

Performance appraisals are mandatory for almost all state employees.

**Who is subject to the performance appraisal? To what extent does he participate?**

Civil servants.

**Who is the evaluator?**

The direct superior.

**How often is the performance appraisal carried out? Is it a fixed term event, or is it done as needed?**

Once a year.

**Does the result of the service performance appraisal have any impact on the salary of the public employee?**

The performance appraisal results have a strong impact on the career development, career advancement, remuneration and the renewal of the contract.

**Does the result of the service performance appraisal have any other impact on the employment of a public employee?**

Yes, see the previous answer.

**What is the subject of the performance appraisal (what is evaluated)? Is the evaluation framework strictly defined or can it be adapted to the needs of the individual subjects?**

**What form does the rating scale have? Is the evaluation carried out only verbally or also by giving points?**

There are various criteria assessed in the performance appraisal - activities carried out, deadlines, output quality, competence enhancement and interpersonal relationships.

**What way is a performance appraisal made? What evaluation methods are used?**

It is made as an annual interview with a direct superior.

*Other questions cannot be answered due to the lack of information.*

## 3.2.9 The Principles of Ethics in Civil Service

**What are the rules governing the principles of ethics in civil service?**

At the national level, the Code of Conduct for the Public Sector <sup>1</sup>, issued by the Agency for the Modernization of Public Administration, and codes of ethics, which are the responsibility of the individual ministries, are elaborated.

**Can any sanctions be imposed in case of violation of ethical rules? If so, what kind of sanctions?**

When an employee fails to comply with the Code of Conduct for a given post during the performance of the service, or in his free time and, subsequently, he commits a breach of duty, the appointing body has the opportunity to respond to such an infringement. However, the appointing authority wishing to impose a sanction on the employee must comply with the rules of the Public Administration Act.

**What means and methods are used to check the compliance with ethical rules?**

There are no methods to monitor the compliance with ethical rules by public employees on an ongoing basis. The violations of ethical rules may be sanctioned in accordance with the public law, the labour law or the criminal law, depending on the nature of their violation.

**What implementation tools are used in the area of public service ethics?**

**The Agency for the Modernization of Public Administration** is currently working on an e-learning program on a code of conduct in the public sector. In February 2017, the Agency released an e-learning on seven key responsibilities – Code VII. E-learning activities include publications and are available to all public employees. In summer 2018, the Agency is planning to organize courses for a wider audience in the public sector, where the main idea is to promote the Code of Conduct.

**What way does the training of the employees in the field of ethics proceed? Does the training of ordinary employees and senior civil servants differ?**

The Agency educates the heads of the divisions (senior civil servants) on how to apply the rules of ethics in day-to-day

<sup>1</sup> <http://webcache.googleusercontent.com/search?q=cache:qv3jPvutl8kJ:www.track.unodc.org/LegalLibrary/LegalResources/Denmark/Laws/Denmark%2520Code%2520of%2520Conduct%2520in%2520the%2520Public%2520Sector%25202008.pdf+&cd=1&hl=cs&ct=clnk&gl=cz>

work. The aim of the courses is primarily to support the idea of an open and honest relationship between the management and the employees which should contribute to the openness of public administration.

*Other questions cannot be answered due to the lack of information.*

### **3.2.10 Work-life Balance (WLB) in Civil Service**

Part-time employment is relatively widespread, accounting for approximately one third of all employment contracts. There is a huge number of women in the public administration, however, their number in the top management positions is low.

*Other questions cannot be answered due to the lack of information.*

### **3.2.11 Education**

Education and career development are delegated to the individual ministries. On average, civil servants train 5-7 days a year.

*Other questions cannot be answered due to the lack of information.*

### **3.2.12 The Termination of Service**

The agenda for the termination of employment is delegated to ministries.

*Other questions cannot be answered due to the lack of information.*

### 3.3 THE REPUBLIC OF ESTONIA

*Information sources on the Estonian system were limited in some areas and it was not possible to answer all the questions. Therefore, only a selection of the questions for which at least partial information has been collected is given below. In the second phase of the analysis in particular, the findings of the Center of Excellence were elaborated in more detail. Otherwise, the information is included in the scope of the questions from the first phase of the analysis.*

#### 3.3.1 Depoliticisation of State Administration

**Where and how is the boundary between posts occupied by political agreements and posts occupied by competitions in ministries and other administrative bodies?**

**The Civil Servants Act (CSA)** explicitly states that the functions of advisors to the President, Vice President, Prime Minister and Ministers should be in the nature of a fixed-term employment contract, not a service post. (CSA, Art. 7)

The Civil Servants Act names the positions that can be filled without recruitment, i.e. by political appointment – the State Secretary, secretaries in ministries, the Director of the President's Office, advisor to the President of the Republic. (CSA, Art. 16)

#### 3.3.2 The Possibilities of Compensation of Civil Servant's Duties

**Are there fixed salary tariffs for public service?**

The civil servant's salary consists of the base salary, the variable pay component and overtime, night work, public holidays and temporary representation supplementary allowances. The basic part is fixed and depends on the type of position and the related prerequisites, experience and skills. The base part cannot be reduced unilaterally. The variable part is a kind of performance bonus and can reach up to 20% of the basic wage.

The State Secretary is entitled to 90% of the Minister's wages. (CSA, Art. 61)

**Are civil servants favoured in the field of social security or health care?**

Public servants in the service relationship have an advantage in the area of pension insurance.

**Does the scope of the working time of civil servants differ from the working time of contractual employees?**

Service posts 40 hours a week. Contractual posts according to the employment contract. (CSA, Art. 35)

**What work-life balance tools are used in the civil service?**

**A spouse's benefit** if he / she accompanies a civil servant to a long-term office abroad and does not work. The benefit is paid at twice the minimum monthly wage. (CSA, Art. 46)

**Flexible forms of work** both locally and temporally, offering part-time work, flexibility in the possibility to work outside the service authority.

The minimum **holiday period** is 35 days a year.

**Wage retention** in case of family or personal problems. For a reasonably long period, a civil servant is entitled to receive a salary even if, for personal or family reasons, he is unable to perform his duties. (CSA, Art. 64)

**Does the survivor of a civil servant (wife, spouse, dependent children) receive a death benefit if the civil servant's employment ends with a death not related to the performance of the service?**

Only in connection with the performance of the service. The death benefit corresponds to ten years of the basic salary. (CSA, Art. 49)

**How many days of annual leave are civil servants entitled to? Does the extent of the entitlement to a leave differ for a civil servant and for an employed person?**

At least 35 days a year.

**What types of paid leave may civil servants take (study leave, individual leave, leave for personal affairs, etc.)?**

One working day before the New Year, National Day of Estonia, Victory Day and Christmas Eve, working hours are shortened by three hours. (CSA, Art. 42)

Study leave – three months every five years.

**What possibilities do civil servants (especially top civil servants) have in exercising the right to strike? Is the right to strike totally excluded or only limited for ordinary civil servants or superiors?**

Civil servants, regardless the position hold, have no right to strike.

#### 3.3.3 Career Opportunities (Career Regulations)

It is not a career system; the posts are filled by an external or internal competition. All levels are open, so it is possible to apply for any position from outside if the selection procedure is announced as external.

**Is it possible to transfer a civil servant from an existing post to another post in another service authority in the same salary grade or at the same stage of management if he/she so requests, without a selection procedure being held?**

If the transfer is of a temporary nature, no selection procedure may be required. (CSA, Art. 16)

**Is there a trial period for a civil servant in case of his / her transfer to another service authority? What is the regulation of such a repeated trial period?**

In accordance with Article 33 on temporary transfers of the staff there is no trial period for transfers. (CSA, Art. 24)

**Is there a provision in the legislation that a civil servant will not be transferred to a lower grade post without his consent?**

If a civil servant is transferred, the terms of the employment should not differ significantly from the previous one. (CSA, Art. 98)

### 3.3.4 The Systemization and the Organization of Service Authorities

**What are the qualification prerequisites for the individual post (who determines them, to what extent, what criteria are they based on)?**

Qualifications are part of the job description. The law obliges all authorities to have a description of each job. The authority appointing the staff to the post or a person authorized by the service authority must provide a description of the post. There may be no descriptions of politically occupied posts. A change in job description requires the consent of the employee holding it if the change involves a fundamental change in the office, the organization of work, number of tasks, or salary reduction. (CSA, Art. 52)

**Are there more types of systemized jobs in the state administration (in the Czech Republic there are service posts under the Civil Service Act and jobs under the Labour Code)?**

The posts are divided into service (covered by the Civil Service Act) and employment posts (generally applicable labour legislation). The employment posts are of a technical or administrative support type.

### 3.3.5 Selection Procedures to Fill Vacancies

Human resources management, including selection procedures, is not centralized. The Civil Service Act requires the Government to approve, in the form of a Government Order, the method and rules for the selection of employees for the state administration. (CSA, Art. 10)

Exceptions are **top management**, whose selection and development is centralized. **The Top Civil Service Excellence Center** is the department responsible for the selection and the development of the top management of state administration. **The Top Civil Service Selection Committee** assists the Center in these tasks. In addition to the selection, the Center also organizes the development and the evaluation of the top management. The Center cooperates with the authorities responsible for this agenda in other countries and is active within the EU and international platforms.<sup>1</sup>

The Center is a small department at the Office of the Government, employing 5 civil servants – the head of department, 3 vocational positions (an officer) and one assistant.

The legislative framework of the activities represents the Service Act and the legal norms derived from it regulating the recruitment, selection, evaluation and development of top management in state administration.

The top management is represented by 96 positions in the entire state administration (23,487 employees in total in 2015) – secretaries and their deputies in ministries, directors at the Office of the Government, directors of sections of public authorities and inspectorates, senior director of the crisis center, state archivist and the commander of the armed forces.<sup>2</sup>

1 <https://riigikantselei.ee/en/top-civil-service-excellence-centre>

2 <https://riigikantselei.ee/en/top-executives-civil-service>

**Who conducts the interview and who can be present? Who can ask the candidates questions during the interview? Only the selection committee or even the superior?**

The Top Civil Service Selection Committee is chaired by the State Secretary and appointed by the Government. The procedure for the selection procedure and the selection committee for the selection of the other staff shall be decided by the head of the given service authority. (CSA, Art. 18)

**Selection Procedure of Top Executives in the State Administration:**

All civil servants (with the exception of the military and secret services) are selected in open selection procedures. The candidates for the top management positions must have managerial experience, professional qualifications depending on the position, proficiency in foreign languages and the skills defined in the competence framework. Open selection procedures are conducted by the Top Civil Service Selection Committee. The Center of State Administration Excellence assists the selection committee, conducts interviews, tests. Mostly it is a three-stage process that involves document analysis, interviews of various types, psychological tests.

**How can applicants who have been identified as successful but not selected for the appointment to the civil service appeal?**

Several of the best candidates are ranked by success. If the best candidates refuse to accept the post, the next candidate in a row is offered the post. If the admitted candidate does not pass the trial period, the next candidate may be addressed. (CSA, Art. 18)

**Are applications of the unsuccessful applicants and successful applicants who have not been selected for the civil service rejected by an administrative decision against which they could appeal? Or are they only notified of the result of the selection procedure?**

They shall be notified in writing within 14 days. (CSA, Art. 20)

### 3.3.6 Disciplinary Proceedings

**Is there a disciplinary liability of civil servants?**

Yes, there is.

**If there is a disciplinary liability of civil servants, how are the facts of a disciplinary offense defined?**

Serious breach of duties. (CSA, Art. 69)

**If there is disciplinary liability of civil servants, what disciplinary measures (sanctions, penalties) can be imposed on civil servants (reprimand, salary reduction, etc.)?**

- Reprimand;
- Reduction of the basic wage by a maximum of 30% for six months;
- Release from service. (CSA, Art. 70)

**Who decides that a civil servant has committed a disciplinary offense (disciplinary committee, superior, other authority)?**

Disciplinary proceedings shall be initiated by the service

authority which appointed the civil servant. The director of the service authority shall appoint a person to conduct disciplinary proceedings. The person responsible for conducting the disciplinary proceedings collects the evidence, hears the person against whom the disciplinary proceedings are conducted, hears the witnesses and draws up a summary of the findings and a proposal for a disciplinary sanction. The person who imposes a disciplinary sanction does not need to be the same as the person responsible for conducting the disciplinary proceedings. (CSA, Art. 72-73)

**What are the possibilities of appeal of a civil servant in the matter of his disciplinary liability (appeal, suit to the administrative court, other)?**

The Civil Service Act does not address any issue of possible appeal. Since the disciplinary measure is imposed in the form of an administrative procedure, there is a possibility of appeal, as in the case of any other administrative decision. (CSA, Art. 76)

**3.3.7 Service Examination**

Due to the decentralization of human resources management in public administration, there is no uniform type of service examination.

**3.3.8 Service Performance Appraisal of Civil Servants**

Article 30 of the Civil Service Act focuses on the development and the evaluation of civil servants.

**It is obligatory?**

Yes.

**Who is subject to the service performance appraisal? To what extent is he/she involved?**

All civil servants. The performance appraisal of the State Secretaries, the Director of the Office of the Government, the Directors of Inspectorates and other state administration authorities should be organized by the Office of the Government.

The performance appraisal should include feedback for the superior of the evaluatee.

**Service Performance Appraisal of Top Executives in State Administration:**

The Center carries out a service performance appraisal of top managers at least every two years. The E-Competence Center is used for the 360 Centre assessment. In addition to the evaluators themselves, their evaluations also involve their immediate superiors, subordinates, colleagues and co-workers from the same field and co-workers from external entities. The purpose of assessing skills is to systematically and reliably get feedback on the strengths and needs of the top management development. Based on the evaluation results, the Center can assist top managers in their professional development on the way to achieving their strategic goals and develop the state administration itself. The performance appraisal results are the basis for the annual performance interview, to assess development needs, and help the staff of the Center to select appropriate and necessary development activities.

**Who is the evaluator?**

Direct superior.

**How often is the service performance appraisal carried out? Is it tied to a specific date or event, or is it done as needed?**

Once a year.

**Does the result of the service performance appraisal have any impact on the salary of a civil servant? Does the result of the service performance appraisal have any other impact on the civil servant's service?**

The civil servant may be on the grounds of the performance appraisal promoted. There is a tendency to fill vacancies by an open selection procedure, even internally. Due to the decentralization of human resources management in public administration, there is no uniform form of evaluation and its link to the remuneration and promotion.<sup>3</sup>

**What regulations govern the service performance appraisal procedure?**

The evaluation and development process shall be established by the head of the service authority or by a person appointed by him/her.

**What is the subject of the service performance appraisal (what is evaluated)? Is the evaluation framework strictly defined or can it be adapted to the needs of the individual authorities?**

The results, professional development, educational needs, goals and tasks for the next period, the evaluated person should have a chance to give a feedback on the leadership and management. It is up to the evaluator whether the evaluation interview is one and contains the above-mentioned questions or if the discussion on the next period is conducted separately from the interview for the evaluation of the previous period.

**In what way is the evaluated person acquainted with the results of the service performance appraisal?**

By law there must be a written evaluation report.

**3.3.9 The Principles of Ethics in Civil Service**

Civil servants must declare their assets as stipulated in the Anti-Corruption Act of 2002.

**What regulations govern the principles of ethics in the civil service?**

- The Code of Ethics of 2015
- The Civil Service Act of 2012
- The Anti-Corruption Act of 2012

**Is it possible to impose any sanctions in case of violation of ethical rules? If so, what kind of?**

If the ethical dilemma is not resolved internally within the organization, it may contact **the Council for the Ethics of Civil Servants.**

<sup>3</sup> Peljo, Public Service Yearbook 2010



### What implementation tools are used in the field of civil service ethics?

The Code of Ethics is not a legally binding standard. The Council for the Ethics of Civil Servants recommends that the authorities include the basic principles of the Code of Ethics in the internal rules of the service authority.

Anti-corruption strategy The Honourable State of 2004, approved by the Government, includes strengthening ethical and anti-corruption measures: establishing the Council for the Ethics of Civil Servants, including training modules on ethical issues in core education programs, developing new training activities and manuals for the practical implementation in the individual service authorities.<sup>4</sup>

### How does the ethical education of the employees take place? Is the education of ordinary employees and of top management different?

Ethics education is centralized and is under the responsibility of the Department of Public Administration and Public Service at the Ministry of Finance.

### Is there an authority or persons responsible for providing support on ethical issues?

The Council for the Ethics of Civil Servants provides support in the implementation of the Code of Ethics, advises both authorities and civil servants on ethical issues, participates in the analysis of the implementation of the Code of Ethics and defines the needs for its completion. (CSA, Art. 12)

#### 3.3.10 Work-life Balance (WLB)

Flexible forms of work both locally and temporally, offering part-time work, flexibility in the ability to work outside the service authority.

The minimum **holiday period** is 35 days a year.

**Wage retention** in case of family or personal problems. For a reasonably long period, a civil servant is entitled to receive a salary even if, for personal or family reasons, he is unable to perform his duties. (CSA, Art. 64)

**A spouse's benefit** if he / she accompanies a civil servant to long-term office abroad and does not work. The benefit is paid at twice the minimum monthly wage. (CSA, Art. 46)

<sup>4</sup> <http://www.avalikteenistus.ee/index.php?id=10903>

## 3.4 THE REPUBLIC OF FINLAND

*Information sources about the Finnish system were limited in some areas and it was not possible to answer all the questions. Therefore, only a selection of questions for which at least partial information has been collected is given below.*

### 3.4.1 The Depoliticisation of State Administration

Depoliticisation of the state administration in Finland was rather a topic in the 1980s. This was due to the fact that in the 1960s, with the increase in employment in the state sector, the politicisation of the occupation of civil service positions increased. The division of positions in the state administration became part of the coalition government and each of the political parties involved negotiated its share in the employment in the state sector. However, the need to comply with the qualification criteria was preserved also for the political nominations. Political parties therefore organized training, preparing their candidates for the entry into the civil service. In the 1980s, a wave of criticism rose and this practice was eliminated in the central government. Although both government and ministers may influence the appointment or the dismissal of section directors to some extent, it is customary for only political advisers and state secretaries to change after the election with a change of the minister. Institution management remains independent of the political cycle. This is confirmed by the recent study of the OECD, which names 17 countries, including Finland, where the state apparatus is very stable in terms of personnel. (Government at a Glance 2017)<sup>1</sup>

#### What institutes ensure the apoliticity of state administration and state employees?

The clearly defined positions, which are politically appointed, are the State Secretaries of the Ministries and the political advisers to the ministers.

#### Where and how is the boundary between posts occupied by political agreements and posts occupied by selection procedures in ministries and other administrative bodies defined?

The clearly defined positions, which are politically appointed, are the State Secretaries of the Ministries and the political advisers to the ministers. Both government and ministers can to some extent influence the appointment or the dismissal of section directors, but it is customary that only political advisors and State Secretaries change after elections with a minister change. The management of the institutions remains independent of the political cycle.

### 3.4.2 The Possibilities of Compensation for Civil Servants' Duties

There is no tenure in the system, but civil servants have stronger protection against a dismissal or the abolition of the post.

Due to the ongoing restructuring of the state sector and job

cuts, additional compensation is being incorporated into the system, related to the abolition of redundancy posts and a transfer to other posts.<sup>2</sup>

#### Is the termination of service connected with special pecuniary claims (redundancy pay, severance pay, end-of-service allowance, service rent, retirement benefit)? Under what conditions and assumptions?

A redundant civil servant is entitled to a redundancy compensation, the amount of which depends on the length of service. Employees who have worked in the public sector for at least 12 years can receive the highest compensation, in this case the notice period is six months and they will receive a six-months' salary as a compensation. Employees who have worked in the state administration for at least two years will receive the lowest amount of four months' salary and one month notice.<sup>3</sup>

#### How are variable salary components (personal supplementary allowance, bonuses, etc.) granted to civil servants?<sup>4</sup>

It is made on the grounds of the performance appraisal and the observance of the result contract, if it is signed with the civil servant (mostly in case of managers).

#### Are civil servants favoured in the field of social security or health care system?

Civil servants are entitled to a partial retirement pension.

#### Does the scope of the working time of civil servants differ from the working time of contract employees?

Working hours are 36.9 hours per week for both groups of employees.

#### What work-life balance measures are used in the civil service?

This question is elaborated in detail in the chapter Work-life Balance.

#### How many days of annual leave are public employees entitled to? Does it differ for the civil servants and contract employees?

<sup>2</sup> Government Decree on the Management of [http://vm.fi/documents/10623/307719/Muutosten\\_johtaminen\\_ja\\_muutosturva\\_valtionhallinnossa+EN/36c3989b-777c-449c-9fb2-6f3f13ccb7/Muutosten\\_johtaminen\\_ja\\_muutosturva\\_valtionhallinnossa+EN.pdf](http://vm.fi/documents/10623/307719/Muutosten_johtaminen_ja_muutosturva_valtionhallinnossa+EN/36c3989b-777c-449c-9fb2-6f3f13ccb7/Muutosten_johtaminen_ja_muutosturva_valtionhallinnossa+EN.pdf) Changes and Changes in Social Security in the State Administration, Change Management and Change Security in the Central Government, 15 February 2012

<sup>3</sup> Government Decree on the Management of Changes and Changes in Social Security in the State [http://vm.fi/documents/10623/307719/Muutosten\\_johtaminen\\_ja\\_muutosturva\\_valtionhallinnossa+EN/36c3989b-777c-449c-9fb2-6f3f13ccb7/Muutosten\\_johtaminen\\_ja\\_muutosturva\\_valtionhallinnossa+EN.pdf](http://vm.fi/documents/10623/307719/Muutosten_johtaminen_ja_muutosturva_valtionhallinnossa+EN/36c3989b-777c-449c-9fb2-6f3f13ccb7/Muutosten_johtaminen_ja_muutosturva_valtionhallinnossa+EN.pdf) Administration, <http://vm.fi/documents/10623/307719/Selection+criteria+for+senior+management+posts+in+central+government+041111.pdf/b67bd22e-3924-4659-b87a-4f42a0bb1b62/Selection+criteria+for+senior+management+posts+in+central+government+041111.pdf> pdf Change Management and Change Security in Central Government

<sup>4</sup> A complete version of the selection criteria is available on this website in English.

<http://vm.fi/documents/10623/307719/Selection+criteria+for+senior+management+posts+in+central+government+041111.pdf/b67bd22e-3924-4659-b87a-4f42a0bb1b62/Selection+criteria+for+senior+management+posts+in+central+government+041111.pdf.pdf>

<sup>1</sup> OECD (2017) Government at a Glance 2017, OECD Publishing, Paris [http://dx.doi.org/10.1787/gov\\_glance-2017-en](http://dx.doi.org/10.1787/gov_glance-2017-en)

The average length of leave is 34 days per year and seven days of public holidays.

**Are civil servants somehow favoured in the field of public transport? In the area of catering? Are there more favourable conditions for the provision of tariffs for mobile and telephone operators for civil servants?**

In connection with restructuring and a transfer to another position, to another service authority, a civil servant may receive compensation for moving and a certain number of trips to work (reconnaissance, maximum six trips). In addition, he can apply for tax abatement (maximum € 250 per month) for a second household in the case of a remote new workplace. (*Change Management and Change Security in Central Government, 2012*)

**What possibilities do civil servants (especially superiors) have in exercising the right to strike? Is the right to strike totally excluded or only limited for ordinary civil servants or superiors?**

Civil servants have the right to strike. In the case of groups of employees whose participation in a strike threatens the operation of the state, the situation is solved by negotiations with a specially appointed commission.

**3.4.3 Career Opportunities (Career Order)**

The Finns do not have a career system. The classification of positions is left to the individual ministries and agencies. Career development is the responsibility of the departments / working groups.

**3.4.4 The Systemization and the Organization of Service Authorities**

Ministry of Finance – The Office of the Government as an Employer prepares budget costs for human resources in the state sector. Budgetary frameworks are set centrally, while ministries have a certain degree of freedom in their use. The basic salary is negotiated in the framework of collective bargaining at central level and is revised in one or two years. Remuneration and bonus systems are left to the discretion of the ministries and the agencies. Departments or working groups are also involved in allocating the bonuses. Bonuses are revised every year. Seniority does not affect the amount of remuneration. The remuneration method is strongly performance-oriented (PRP).

The organizational structure of ministries is flatter. Generally speaking, there is one management level less. The departments correspond roughly to Czech sections and represent the smallest organizational unit.

**Does the legal system deal with the issue of systemization in the state administration (determination of the mandatory number of posts in authorities performing state administration, division of these posts according to the remuneration scale, the determination of the amount of funds for salaries)?**

Due to the new remuneration system, only the basic component is linked to the demands of the post and thus the

position classification. See the analysis of the remuneration system in the introduction.

**What are the qualification prerequisites for each post (who determines them, to what extent, what criteria is it based on)?**

The case study of the new remuneration system shows the classification at the Ministry of Finance:

Level	Designation
13	demanding management tasks
12	senior expert
11	expert with extensive expertise
10	independent expert
9	expert
8	specialist
7	complex specialized tasks
6	specialized tasks
5	support tasks

**Are there more types of systemized jobs in the state administration (in the Czech Republic there are service posts under the Civil Service Act and jobs under the Labour Code)?**

There are two types of posts in the Finnish system, under the civil service regime and under the labour law regime.

**3.4.5 Selection Procedures for Filling Vacancies in the Civil Service**

The personnel selection system is the opposite of the career system. Civil servants are selected on the grounds of open selection procedures for internal and external candidates. The information on all open selection procedures is available on the Internet. The current trend is to strengthen the selection of external resources in case of managers and, conversely, to strengthen internal resources when filling support and administrative positions. Women are motivated to apply for management positions. The selection of staff is left to the individual ministries and agencies.

The selection of top management is centralized, more precisely the method of selection was unified on the grounds of a government decree of 2008. In 2011, **uniform selection criteria** were issued by the Office of the Central Government as an Employer (Selection Criteria for Senior Management Posts Management in the State Administration) <sup>5</sup>.

Pursuant to Article 6 and the Civil Service Act, the opening of the selection procedure must be published at least 14 days before it is held. The position of the State Secretary and special advisors of the minister for a definite period of time (CSA, Art. 6 b) is exempted from the publication by law.

**Are applications of unsuccessful applicants and successful applicants who have not been selected for the admission**

<sup>5</sup> Ministry of Finance, Finland, Office of the Government as Employer, 11. 6. 2018, Virpi-Einola Pekkinen

**to the civil service rejected by an administrative decision against which they could appeal? Or are they only notified of the outcome of the selection procedure?**

Under the Civil Service Act (Art. 6d), the Office must inform unsuccessful applicants without undue delay. The notification shall contain information on the occupation of the post, who decided on the selection, on what date and who was appointed to the office or public service.

If the candidate rejects the appointment, another candidate may be appointed without holding a new selection procedure.

**3.4.6 Disciplinary Proceedings**

**Is there a disciplinary liability of civil servants? If not, how is the violation of civil servants' duties in civil service?**

Under Article 24 of the Civil Service Act, a civil servant in the civil service may be given a written warning if he fails to fulfil his obligations. The article in the law is so brief, the example of violation of ethical rules shows that in reality the sanction scale is richer.

**If there is a disciplinary liability of civil servants, how are the facts of a disciplinary offense defined?**

Violation of civil servant duties, see Article 24 of the Civil Service Act.

**What are the appeal measures of a civil servant in the matter of his disciplinary liability (appeal, suit to the administrative court, other)?**

Pursuant to Article 53 of the Civil Service Act, a civil servant may appeal to the Administrative Court.

**3.4.7 Institute Similar to Service Examination**

There is no institute similar to the service examination in Finland. The system assumes that the open way of selecting candidates will ensure transparency of the selection of the candidates, and the updating of the competencies will be ensured by the result contracts, which are continuously evaluated and signed for a definite period of time.

**3.4.8 Service Performance Appraisal of Civil Servants**

Assessment is mandatory for almost all civil servants. It takes the form of an evaluation interview with a direct superior, sometimes 360 ° feedback is used. Evaluation is relatively little linked to the decision making in the area of human resources management. It has a great influence only on remuneration, much less on career development and contract renewal.

**It is obligatory?**

Service performance appraisal is mandatory for almost all civil servants.

**Who is subject to service performance appraisal? To what extent is he/she involved?**

If the 360 ° evaluation method is used, it also includes self-evaluation.

**Who is the evaluator?**

Direct superior.

**Does the result of the service performance appraisal have any impact on the salary of a civil servant?**

The assessment significantly affects the total salary of a civil servant. The individual performance component represents 25-50% of the basic salary determined according to the demands of the post held.

**The following example of the Ministry of Finance shows, how the evaluation scores influences the individual performance component of the salary:**

Average performance appraisal grade	Percentage of basic salary which the employee receives in the form of an individual performance component
2	3
2,5	12
3	21
3,5	30
4	39
4,5	48
4.63	50

**Does the service performance appraisal result have any other impact on the employment of a civil servant?**

According to an OECD study (OECD, HRM Country Profile Finland, 2012), service performance appraisal has a major impact only on the remuneration, much less on career development and contract renewal.

**What is the subject of the service performance appraisal (what is evaluated)? Is the evaluation framework strictly defined or can it be adapted to the needs of the individual authorities?**

Examples of criteria that affect an individual salary performance component (Ministry of Finance example): <sup>6</sup>

- Efficiency, productivity;
- Mastering the profession;
- Collaboration and communication across hierarchies;
- Management and leadership skills and achievements in this area.

**What form does the rating scale take? Is it evaluated only verbally, or only by giving points? What results can be achieved in the service performance appraisal?**

An example of an assessment scale that affects the individual performance component of the salary (example of the Ministry of Finance): <sup>7</sup>

<sup>6</sup> Ministry of Finance, Finland, Office of the Government as Employer, 11. 6. 2018, Virpi-Einola Pekkinen

<sup>7</sup> Ministry of Finance, Finland, Office of the Government as Employer, 11. 6. 2018, Virpi-Einola Pekkinen

- 5.00 – exceptionally high performance
- 4.00 – excellent performance
- 3.00 – good performance
- 2.00 – satisfactory performance
- 1.00 – performance that needs improvement

In reality, the mark-up resolution is up to 2 decimal places. For example, from a rating value of 4.63, a public servant achieves the highest individual performance bonus.

**How is the service performance appraisal carried out? What assessment methods are used?**

An evaluation interview with the superior. Somewhere 360 ° evaluation method is used.

**3.4.9 The Principles of Ethics in Civil Service**

The codes of ethics remain the responsibility of the ministries or agencies. There is a strong ethical culture in the public sector, rules are highly elaborated and Finland always ranks first in the non-corruption rankings.

**What regulations govern the principles of ethics in civil service?**

- State Civil Servants' Act (Section 18)
- State Civil Servants' Decree (Sections 18 and 19)
- Ministry of Finance's Instruction on the Secondary Occupations of Civil Servants (VM / 1591 / 00.00.00 / 2010)
- Values in the Daily Job – Civil Servant's Ethics, a handbook
- Survey
- State of Civil Service Ethics in Finland – Survey of Ethical Values and Principles of Central Government Employees, Ministry of Finance, Helsinki 2017

**Is it possible to impose any sanctions in case of violation of ethical rules? If so, what kind of?**

An interview with the employee

Informal warning – if the violation of ethical rules has not been remedied through communication between the immediate superior and the employee, the superior may issue an informal verbal or written warning. The warning should clearly indicate unwanted behaviour or omission and indicate how the situation should change after the warning.

Written warning – should be given if civil servants acts beyond his/her power or fail to fulfil their obligations. This is a more serious sanction than an informal warning. The written warning shall include the possibility for the public servant to change his or her behaviour. If undesirable behaviour continues, it is recommended the written warning to be given prior to the termination of employment.

Dismissal – an employee may appeal against the dismissal. The appeal must be filed within two weeks of the date on which the employee was informed of the reasons for the dismissal.

**What means and methods are used to check compliance with ethical rules?**

Monitoring the implementation of the values and the adherence to the value system. The annual assessment report of the

department or agency should include a part of the compliance with ethical rules, which reinforces monitoring during the year. Quality barometers and other quality measurements also serve as monitoring tools for the adherence to the value system. (Values in the Daily Job, p. 18)

The Office of the Government as an Employer also monitors compliance with ethical rules at the level of managers or at the level of all employees by means of a **staff policy barometer**. The task of the Office is to distribute **the Values in the Daily Job** manual and the results of projects focused on the value system in the state administration. Furthermore, the Office is tasked to assess the impact of the project on the topic of ethics and the distribution of the manual among management and ordinary civil servants. (Values in the Daily Job, p. 18)

Regular surveys of public opinion, both within the state administration and within the general public, commissioned by the Office of the Government as an Employer. The surveys were carried out in 1999, 2007 and 2015. (Survey, 2017)

**What implementation tools are used in the field of civil service ethics?**

Implementing ethical rules in everyday activity means using them as a management tool. For managers, the following union-level measures are the minimum that must be included in the way they manage and control compliance:

- A clear definition of the values requires a debate on values so that all employees can share and comment on them.
- Values are an integral part of the result-based management system. The values are part of the regular evaluation interviews between the ministry and the subordinate organizations.
- Values and ethics are part of the development of management and employees. The tools are trainings and discussions on ethical practices and rules.
- Working atmosphere surveys provide information on management and employee satisfaction. In the long term, the surveys serve as a monitoring tool.
- Values are part of the regular evaluation. The evaluation interviews contain a section in which the employee and his / her superior evaluate their work from an ethical perspective.
- The directors are evaluated from the ethical point of view. An example of managerial behaviour is an example for subordinates, compliance with ethical principles is the subject of an overall evaluation of the manager.
- The remuneration system also reacts to the value system. The value system is taken into account when setting up the remuneration system of a given department or agency. In practice, such a remuneration system strengthens activities in accordance with the value system.
- The value system is taken into account when selecting new employees. The structured selection interview includes a set of values of the state administration and a set of values of a department or agency itself.
- Solving ethical conflicts. Maximum openness in solving ethical conflicts, support for the management in solving them.

The values of the department or agency and their practical significance together form a code of ethics that strengthens the internal acceptance of values. The implementation tool can be a code of ethics in the form of a map of the values and a list of practices highlighting the visibility of values in practice.

**How does the training of the employees in the field of ethics proceed? Is the education of ordinary employees and superiors different?**

An extensive survey from 2015 shows that ethics issues are discussed through informal coffee meetings, internal organizational unit meetings, training sessions, and special ethics days. (Survey, 2017, p. 24) <sup>8</sup>

The Values in the Daily Job manual is a handbook for superiors and ordinary civil servants. <sup>9</sup> According to the 2015 survey, the manual is beneficial and a new edition is being prepared. In addition to a separate manual on professional ethics, respondents point to the need to promote ethical awareness through other standards and educational materials, to provide examples of ethical risk situations, because ethics issues are not alone in a vacuum but are always linked to a specific work situation. (Survey, 2017, p. 25)

**Training**

Most respondents (58%) of the 2015 survey identified ethics training as essential, and 73% of the respondents who found themselves in ethically contentious situations considered training to be necessary. There are two approaches to the ethics training in Finland, the first for all civil servants, such as Ethics Days, or for a specific target group, such as public procurement. The second approach is to include ethics training modules in another broader educational activity. For example, managerial coaching and an initial training module for newcomers automatically include an ethics module. These two approaches are not mutually exclusive, but are combined in practice. (Survey, 2017, p. 26)

Ethics training modules are part of the training programs for managers, such as managerial workshops, supervision training, the HAUS educational institute has incorporated ethics into its management courses. However, the survey shows the need to integrate professional ethics into managerial education even more systematically. (Survey, 2017, p. 28)

**Is there an authority or persons responsible for providing ethical support?**

The Office of the Government as an Employer

**Is ethical personality potential of applicants taken into consideration when recruiting?**

The value system is considered when selecting new employees. The structured selection interview includes a set of values of the state administration and a set of values of the department or agency itself. (Values in the Daily Job, p. 17)

8 Note: the survey was carried out in 2015, the report and the overall analysis of the survey results were published by the Ministry of Finance in 2017

9 Values in the Daily Job, Ministry of Finance, Personnel Department State Employer's Office, 2005 <http://workspa+ce.unpan.org/sites/internet/documents/UNPAN91843.pdf>

**Is the compliance with ethical rules continuously checked?**

Values are part of the regular evaluation. Evaluation interviews include a section in which the employee and his / her superior evaluate each other's work from an ethical perspective. The directors are evaluated from the ethical point of view. An example of managerial behaviour is an example for the subordinates, compliance with ethical principles is the subject of an overall evaluation of the manager. (Values in the Daily Job, pp. 16-17)

**To what extent is the supervision of professional ethics in the state administration institutionalized?**

At the highest, central level, the Ministry of Finance is in charge of professional ethics, i.e. the Office of the Government as an Employer. For example, surveys are commissioned by the Office as a monitoring tool on professional ethics. Furthermore, the Office monitors compliance with ethical rules at the level of managers or at the level of all employees by means of a staff policy barometer. The task of the Office is to distribute the Values in the Daily Job manual and the results of projects focused on the value system in the state administration. In addition, the Office is tasked to assess the impact of the distribution of the manual between management and ordinary state employees. (Values in the Daily Job, p. 18)

**3.4.10 Work-life Balance (WLB)**

**The License to Work Smarter** program is currently being implemented, which involves the involvement of civil servants in co-decision when, where and with whom they want to work, which is tantamount to implementing WLB tools, i.e. ICT-based work from a place which the employee chooses with flexible working hours. (Virpi Einola – Pekkinen, 2018)

Relatively little used is the institute of reduced working hours. Of the total of 85 072 jobs, only 5 605 part-time jobs were in the central government in 2011.

The ratio of women is 49.6% in the middle and 45.3% in the top management.

Part of the reform effort in the new millennium is the topic of job satisfaction and WLB.

Occupational wellbeing surveys with grades 1 to 5 from lowest satisfaction to highest, in 2010 the grade was 3.3; followed by 3.40 in 2012 and 3.45 in 2015. <sup>10</sup>

**What WLB measures does the legal system offer?**

Wide use of flexible working conditions – time, locally, functionally.

**Is it possible to modify working hours (flexible working hours, part-time, different start and end times, etc.)? What are the conditions for the authorization to modify service hours?**

Flexible working hours are possible in almost all service authorities, if the nature of the post enables it.

Part-time work is possible across government but is not very

10 Personnel statistics, [http://vm.fi/documents/10623/307723/VM\\_Government+personnel\\_2016-03-03.pdf/bd658c07-970e-42a0-b900-4fb076c03e84/VM\\_Government+personnel\\_2016-03-03.pdf.pdf](http://vm.fi/documents/10623/307723/VM_Government+personnel_2016-03-03.pdf/bd658c07-970e-42a0-b900-4fb076c03e84/VM_Government+personnel_2016-03-03.pdf.pdf)

common. It is used by around 5 to 6% of civil servants.<sup>11</sup>

Concentrating the working week into fewer working days makes the employer possible, but the initiative must come from the employee. This tool is used by few civil servants.

**What are the possibilities and conditions for performing the service from another place (home-office, teleworking, flexitime, etc.)? How are the different ways of performing the service from another location defined?**

The Finnish system allows work to be performed from another place, if the character of the position enables it. The estimated use of this tool is 50 to 75% of employees.<sup>12</sup>

Teleworking is not an automatic right of a civil servant, the employer may not allow or cancel teleworking if the employee does not perform his job in a satisfactory manner.

Sharing the physical working place, the desk is becoming more common. Modern office design counts on sharing the desk more and more. At the moment it is about 25% of jobs.<sup>13</sup> The design of the authorities is increasingly trying to meet the different needs of different positions, such as completely quiet places for high concentration.

**Does the legal system enable to share a post?**

The Finnish system promotes functional flexibility, i.e. know-how sharing, flexibility in the ability to hold different positions. The questionnaire does not deal directly with the sharing of the job, but rather with the building of capacity for holding different positions, which is a prerequisite of the substitutability, eventually sharing of the job. Meanwhile, functional flexibility affects 1 to 2% of civil servants and the most common form is a change of position for a fixed term and then a return to the original position.<sup>14</sup>

**3.4.11 Education**

Education remains the responsibility of the individual ministries and agencies. However, all authorities may use the services of **the Finnish Institute of Public Administration (HAUS)**. The Finnish Institute of Public Administration is a major player in the field of public administration education, founded in the 1970s as part of the state administration. Despite the form of the agency the Institute was transformed into a state-owned limited liability company.

The average length of the training for civil servants is 3 to 5 days per year.

**3.4.12 The Termination of Employment**

The termination of employment due to restructuring is left to the individual ministries and agencies. The termination of employment for other reasons is the responsibility of the smallest organizational unit – departments or working groups.

11 New Way of Working in Public Administration, Finland, 2018, Ministry of Finance, Marjaana Laine, str. 4.

12 New Way of Working in Public Administration, Finland, 2018, Ministry of Finance, Marjaana Laine, str. 8.

13 New Way of Working in Public Administration, Finland, 2018, Ministry of Finance, Marjaana Laine, str. 11.

14 New Way of Working in Public Administration, Finland, 2018, Ministry of Finance, Marjaana Laine, str. 15.

**Is there any financial compensation connected with the termination of service (e.g. end-of-service allowance, severance pay, collective agreement remuneration, reimbursement, etc.)? Under what conditions and to what extent is the compensation provided?**

A redundant civil servant is entitled to a compensation for redundancy, the amount of which depends on the length of service. Employees who have spent at least 12 years in the public sector can receive the highest compensation, in this case the notice period is six months and the employee receives a six-month salary as a compensation. Employees who have worked in the state administration for at least two years will receive the lowest amount of four months' salary and one month's notice.<sup>15</sup>

The length of employment determines the length of the notice in case that a civil servant has been dismissed. The period of notice varies between one month after one year in the civil service and six months after more than 15 years in the civil service. (Civil Service Act 1994, Art. 30)

**Does the non-compete clause or any other similar institute apply after the termination of service? To what extent?**

The amendment to the Service Act of January 2017 envisages the so-called **waiting period** during which the employee is not allowed to start a new job and receives his / her original salary. The waiting period specified in the employment contract may be a maximum of six months. These are cases where a civil servant has important or secret information and there is a risk of passing it on to a third party. A breach of the terms of the contract may result in a fine of up to twice the amount he was to receive for the waiting period. (CSA 44a)

**What other institutes typically accompany the termination of service?**

Due to the reform changes in the new millennium and the tendency to reduce the number of civil servants, the government is trying to facilitate civil servants dismissed because of the redundancy finding new jobs in or outside government departments. The 2012 Government Regulation on Change Management and Change in Social Security in the State Administration of 2012 allows civil servants, for example, to take up to three years' training leave to fill another job or to support their own business preparation. The Regulation also addresses the transfer of civil servants between individual authorities.<sup>16</sup>

15 Government Decree on the Management of Changes and Changes in Social Security in the State Administration, Change Management and Change Security in Central Government [http://vm.fi/documents/10623/307719/Muutosten\\_johtaminen\\_ja\\_muutosturva\\_valtionhallinnossa+EN/36c3989b-777c-449c-9fb2-6f3f13ccbbc7/Muutosten\\_johtaminen\\_ja\\_muutosturva\\_valtionhallinnossa+EN.pdf](http://vm.fi/documents/10623/307719/Muutosten_johtaminen_ja_muutosturva_valtionhallinnossa+EN/36c3989b-777c-449c-9fb2-6f3f13ccbbc7/Muutosten_johtaminen_ja_muutosturva_valtionhallinnossa+EN.pdf)

16 Government Order on Change Management and Change Security in the Central Government of 2012

## 3.5 THE FRENCH REPUBLIC

*The information on the French system was processed in first and second analysis phase.*

### 3.5.1 The Depoliticisation of the Public Administration

**Which institutes ensure the depoliticisation of public administration and civil servants?**

By the historically established lifelong status of a civil servant – a definitive. A strong civil service with extensive guarantees for civil servants have been building in France since the Great French Revolution. The French are confronted with the opposite problem of overburdened bureaucracy, to increase its effectiveness is very problematic and politically unpopular and sensitive. "... There is no state without civil servants, no state without France ..." Francois Hollande. The French central government employs 2.5 million employees (including positions in education).

**Are the rights of civil servants to be a member of a political party or a political movement restricted, or does the restriction concern only holding of a post in a political party or a political movement? Does this restriction apply to all civil servants or only to senior civil servants?**

The basic principle is the right of all civil servants to be politically active. All state employees in active duty have the right to their political opinion, but they are limited in the way they can present it (*droit de réserve*). The degree of strictness by which the presenting of personal opinions is limited, depends on the position held <sup>1</sup>. State employees may be members of political parties and movements. The performance of the function in the political party is limited only by the aforementioned exception in the way political opinions are presented.

**Can public employees become members of local (regional) councils?**

In general, public employees may be members of local (regional) councils. The new system of a personal account of activities, on which a civil servant accumulates hours of civic activity and social involvement, can be used if necessary to perform the elected functions. The election law defines the incompatibility of certain specific functions with some elected functions.

**Where and how is the boundary between posts held on the basis of political agreements and posts held on the basis of selection procedures in ministries and other state authorities defined?**

The boundary is defined by an explicit list of posts appointed by the government, the Presidential Decree of 1985 (décret n° 85-779), names approximately 700 such positions, including ambassadors, prefects, rectors, senior directors (central and regional government) and state secretaries.

**What are the mechanisms preventing the "removal" of a civil servant from a post by means of a formal abolition of**

**such a post?**

By the abolition of the post, even though it is purposeful, a civil servant does not lose the status of a civil servant. He must be offered another post at a reasonable distance from home. Only if a civil servant refuses 3 proposed posts, he is at the risks of losing his status.

**Is the political power allowed to decide on the employment issues of civil servants?**

Through the legislative process.

**Are there organizational units in ministries that include employees performing activities for a member of the government that are related to political power (similar to a cabinet of a minister in the Czech Republic)?**

Each minister has a ministry cabinet, President Emmanuel Macron limited the number of the employees of the cabinets to 10 and the number of the employees of state secretary cabinet to 5.

### 3.5.2 The Opportunities for Compensation of Civil Servants' Duties

**Is civil service performance associated with any special pay (special supplementary allowance or something similar)? Under what conditions and assumptions?**

Generally, the reform of the remuneration system has been ongoing and the importance of the result component increases. The new system introduces a bonus called *complimente indemnitaire annuel* (CIA) an **annual supplementary allowance**, which can reach up to 25% of all compensatory benefits and if it is paid depends on the performance appraisal results. Currently, this bonus is a relatively exclusive tool and it is paid to approximately 300,000 employees. (Décret n°-2014-513)

Other supplementary allowances and bonuses are connected with specific employment conditions, overseas territories, excluded areas, overtime and family circumstances.

**Is the termination of service connected with special pecuniary claims (redundancy pay, severance pay, end-of-service allowance, service rent, retirement benefit)? Under what conditions and assumptions?**

Retirement, voluntary dismissal, or dismissal are not connected with any indemnity. Only voluntary retirement in case of restructuring or the abolition of a particular post is subject to redundancy pay under certain conditions.

**Are there fixed pay tariffs for civil service performance?**

According to grades A, B, C and the levels there are fixed salary scales at levels.

**How are variable salary components (personal supplementary allowance, bonuses, etc.) granted to civil servants?**

On the grounds of the regular annual performance appraisal.

**Are public employees privileged in social security or health care system?**

<sup>1</sup> <https://www.service-public.fr/particuliers/vosdroits/F530>



Civil servants have their own pension system, and the length of the civil service increases the amount of pension. After retirement, there are other retirement support tools. For example, helping to keep existing housing or supplementary social assistance for the retired <sup>2</sup>.

**What are the differences in wage and sickness benefits between civil servants and civil service employees?**

For both groups of employees, there is a guard period of one day. In the case of a civil servant, other days of sickness are paid and the sick pay is higher than the sick pay of a civil service employee who does not have a sufficiently long working relationship and his sickness is governed by the general social security system rules.

**Do working hours of civil servants differ from working hours of civil service employees?**

The range of the working hours for civil servants in and outside the service does not differ.

**What work-life balance tools are available for public employees?**

This question is detailed in the subchapter Work-life Balance.

**What benefits are granted to public employees? Do these benefits differ according to whether they are ordinary employees or employees in senior positions?**

Employee benefits are granted to ordinary as well as senior employees.

**Are there any tools to satisfy the cultural, sporting and recreational demands of civil servants?**

"Holiday Check" – a contribution of 10-35% of the price of cultural, travel activities, could be considered a cultural and recreational activities tool <sup>3</sup>.

**Is a public employee entitled to a healing holiday to boost his physical and mental health? Under what conditions and assumptions?**

No, he is not. For this purpose, he can use the "holiday check" mentioned above.

**Is the survivor of a public employee (a wife, a husband, a dependent child) entitled to "a severance pays" if the civil servant's employment relationship ends with death unrelated to the performance of the service?**

All supplementary allowances are connected with the performance of civil service of the deceased. Only in the case of a surviving spouse he/she may be a retired civil servant.

**Does the service authority provide civil servants insurance in case a civil servant causes damage to a service authority? Is the service authority insured for the cases, when the service authority causes damage to the third parties? Is the reimbursement (recourse) required from the civil servant in such a case?**

2 <https://www.fonction-publique.gouv.fr/la-protection-sociale-complementaire-des-retraites>

3 <https://www.fonction-publique.gouv.fr/cheques-vacances>

No, a service authority does not provide such insurance.

**How many days of annual leave are public employees entitled to? Does it differ for the civil service employees and for the civil servants?**

When working for the entire calendar year, the entitlement is five times the number of working days of a week. That is, for full-time work, it is 5 x 5 = 25 days of leave. In some service authorities, employees have additional days of leave over the statutory framework.

If the employee takes a part of the holiday between 1 November and 30 May, he is entitled to additional days in the following form: if he / she takes 5-7 days, he / she is entitled to 1 additional day of holiday if he / she spends 8 or more days, is entitled to 2 additional days. The scope of entitlement is the same for both the service and the employee relationship

**What kind of paid leave can public employees take (study leave, sick leave, leave for personal matters, etc.)?**

Study leave, parental leave, up to 24 working hours of leave for passing exams (after at least one year of training, a civil servant is entitled to 3 days of leave for a preparation or passing exams), leave to verify the acquired work skills, leave for the education associated with the performance of a trade union function. (Loi n° 83-634, Article 21)

Civil servants have a personal education account on which they can accumulate hours guaranteed for education: 24 hours a year up to 120 hours, then 12 hours per year up to a maximum of 150 hours. A similar personal account exists also for civic duties. (Loi n° 83-634, Article 22)

Leave for candidacy and the performance of elected posts: 20 days in the case of candidacy for the members of the Parliament, the Senate, the European Parliament and the presidential candidacy; 10 days for the candidacy at local and regional elections. These days are taken from the total leave or the candidates must work extra hours. In order to perform the function of a local councillor, the civil servant is entitled to paid leave at the meeting of the council and also according to the position held in the municipal council or counsel. (Code Général des Collectivité territoriales, Articles L.2123-1- L.2123-16 and R.2123-1- R.2123-22).

Leave to perform a trade union function. (Décret n° 82-447 of 28/05/82, Circulaire FP n° 1487 du 18/11/82)

**Are public employees somehow privileged in public transport? In the field of catering? Are there favourable conditions for the provision of tariffs for mobile and telephone operators for public employees?**

There are canteens for one or more authorities, the price of the food is subsidized here. Contribution will not be received by the state employee, but directly by the canteen operator, which will subsequently be reflected in the price of the meal. If there is no canteen near the authority, the service authority may order meals from private restaurants <sup>4</sup>.

Civil servants are entitled to a half-price public transport fare.

Some civil servants (executives, often relocating workers) have a business phone.

4 <https://www.fonction-publique.gouv.fr/restauration>

**How is further education of civil servants (beyond the scope of service) supported?**

A civil servant can use his "education account" (see the institute of education).

**Is a public employee entitled to cash reimbursement for his clothing?**

If there is a requirement for a particular clothing, then the state employee will be reimbursed for the purchase. The responsibility of individual authorities is to provide contributions for buying shoes and a few pieces of clothing.

**What are the possibilities for public employees (especially senior civil servants) in exercising the right to strike? Is the right to strike wholly excluded or only restricted for ordinary civil servants or senior civil servants?**

The right to strike is not restricted. (Loi n° 83-634: Article 10) The right to strike is a very sensitive issue in the French context, it is relatively often used and its limitation would result in an appropriate reaction.

**3.5.3 Career Opportunities (Career Order)**

**What determines the career advancement of a civil servant (e.g. education, the length of service, the performance of administrative activities, experience with managing of staff, quality of service tasks – service performance appraisal, the age of a civil servants, etc.)? How often (at what intervals) can career advancement be achieved?**

The seniority career system is set centrally in France and has been developing for centuries. The civil service posts in each service authority are divided into corps / fields of service, these are further divided into grades (*grade/cathégorie*) A, B, C, and each grade consists of levels (*échelon*). The step-by-step advancement is mainly based on seniority. Not every service corps are divided into all A, B, C categories. More often it contains only one or two categories.

**A shift to a higher level**

The advancement within the levels is defined as a shift to a directly superior level within the same category / grade (A, B, C). The higher-level shift has no impact on the tasks performed. The higher level is associated with an increase in the basic salary or index, on the basis of which the basic wage is calculated. A seniority and professional results are a precondition for the advancement. When reaching the limit set for a given period for advancement for a higher level, the advancement is the right of a civil servant. The status (a set of relevant standards) of the service corps determine the length of service at that level. Based on the results of the service performance appraisal, the maximum time allowed for the advancement may be shortened. Bad performance appraisal results may, however, prolong this period. Another reason for shortening the maximum time is to perform service in excluded locations. The shortened advancement procedure on the principle of seniority, or seniority bonuses, is done in less-favoured localities. This applies to police, teachers and other civil servants. (Loi n° 84-16, 57-59, 77-78)

In general, the time period for the shift to a higher level is

between 1 and 4 years and after this period a civil servant has the right to move to the next level. For example, the service of the "general government referee" has 11 levels and the advancement period between them is one year and a half to three years<sup>5</sup>. A faster and slower advancement must be approved by the superior and the Collective Administration Commission (*Commission administrative paritaire, CAP*).

As the system evolves, the importance of the evaluation in the career advancement process increases. The length of the period between specific levels is governed by regulations. After the expiry of the maximal period, the civil servant is automatically entitled to the advancement. However, the duration of the procedure may be shortened depending on the evaluation. Top-rated civil servants can achieve the advancement after a minimum of time or somewhere between the minimum and maximum periods.

Seniority is calculated to full extend for the years of work, internships, sickness, work injuries, only a half of the time is counted for maternity leave period, worker release and other kinds of paid leave according to the specific working conditions of that authority. Special leave and the suspension of the status of a civil servant and the prolonging of the internship due to insufficient work performance are not counted. The trade union leaders are automatically entitled to the advancement within the half of the time.

**Moving between categories / grades**

The process of moving from one category to the next one within one of service corps will allow for higher and better ranked positions. At the same time, it is usually connected with bigger responsibility, changing the content of work (for example, adding responsibilities to a leader). Career advancement between grades may be based on seniority, but is more often subject to additional requirements – selection procedure, competition (an equivalent to a service examination), graduation, education, experience from a certain position, performance of a certain type of work. Certain positions can only be filled by applicants who performed specific posts in the government. (Loi n° 84-16, Article 58)

Career advancement terms are different for different service corps<sup>6</sup>. An employee in the service may be promoted to a higher category due to an internal competition, on the grounds of the proposal of a service authority or after the required professional examination. The advancement within the levels is affected by the seniority, performance appraisal, or education.

**Is there a standardized career order for the entire state administration?**

There is a central, detailed career order for the entire state administration. The civil service posts in each authority are divided into service corps, grades and each grade to levels (*échelon*).

**Does an existing public employee, who is interested in filling a post in a higher pay grade or at a higher level of public administration, have to go through a selection procedure to fill this post?**

5 <https://www.service-public.fr/particuliers/vosdroits/F568>

6 <https://www.service-public.fr/particuliers/vosdroits/F17757>

It depends on the type of promotion and the type of post, see the answer to the first question. For the advancement/promotion within the levels he does not have to, when moving to the higher category, he usually has to. (Loi n° 84-16, Article 58)

**Is it possible to transfer a civil servant from his current post to another post in another service authority in the same pay grade or at the same level, if he so requests without a selection procedure being held?**

It is possible to transfer employees at the same grade without holding a selection procedure. (Loi n° 84-16, Article 22)

The Institute of release (*détachement*) – At his own request, a civil servant is transferred to another authority but still remains an employee of the original authority and remains entitled to the promotion and old-age pension according to the rules of the home service authority. (Loi n° 84-16, Article 44)

**Is there a probation period for a public employee in case of his transfer to another service authority? What is the legal regulation for such a repeated trial period?**

In the case of a mobility policy transfer, no probation period is set for the civil servant.

**Is a career advancement connected with any other benefits beyond the pay entitlements?**

Career advancement is automatically connected with salary increase. In the case of an advancement within a category or even to a higher field/corp of service, the remuneration setting is more complex. The advancement within categories or service fields/corps is often an act of mobility, which includes the extension of competencies, for example, the responsibilities of a senior civil servant.

**Is there a legal provision saying that a public employee may not be transferred to a lower grade post without his consent?**

The system does not enable degradation of a civil servant, the level reached in the hierarchy is guaranteed. The only exception is work failure.

### 3.5.4 The Systemisation and the Organization of Service Authorities

The French state administration has been undergoing a major reform, including budgetary policy. In this context, a new system of budget approval and thus wages for state administration was set up. The newly approved **LOLF** 2001 (*Loi Organique Relais aux Lois de Finances*) allows a more transparent and flexible approval of salary resources for the government by the Parliament. It is a system that is closer to performance management, i.e. the budget is tied to individual policies – the tasks that the ministries have. Each ministry is given a budgetary limit for a given year on wages in the state administration, it is up to the minister to divide these funds into the policies.

Each policy / task (mission) carried out by the state administration has in its new system its **annual performance plan**, which accompanies the state budget to Parliament. The number of systemised posts, i.e. wage costs, is a part of each annual performance plan for a given mission / task. The new system leaves a higher degree of managerial flexibility to the

service authority in dealing with wages in the given period.

**Is the question of systemisation in the state administration (the establishment of binding number of posts in service authorities in public administration, the distribution of these posts according to the scale of remuneration, the determination of the volume of resources for salaries) regulated in the legal system?**

Systematization is a part of LOLF 2001 (*Loi organique relative aux lois de finances*), which is a part of the preparation and approval of the state budget. Each task to be carried out by the state administration has its performance annual plan, which includes personnel costs, see above.

With the reform of the state administration and the new budget legislation LOLF (2001) there is a tendency to soften the rigidity of systemisation in favor of the effective management of the service authority. Top management is given a budget limit on wage costs, and it is up to the ministry to decide whether to join 2 posts of grade C and fills 1 grade A post. In fact, an effective management is very complex because it is very difficult to remove a civil servant. Within the reorganization and mobility, he can reject 3 posts and then the issue of loss of a civil servant status begins to be resolved <sup>7</sup>.

The posts are divided into categories / grades A, B, C. Within the grades, then to several levels. The salary scale is linked to posts division <sup>8</sup>. The ratio of grades / categories was in the central state administration in 2016: category A – 55%, category B – 25%, category C – 20% <sup>9</sup>.

The logic of the setting the wage limit should be the opposite since 2001. The budget, including the wage limit, is set according to the policies and tasks carried out by the authority.

**Is the question of the organizational structure of civil service authorities (the definition of the post, types of organizational units, minimum number of posts in these units, relations of superiority and subordination, etc.) regulated in the legal system?**

The organization of each service authority is governed by government regulations. The Government regulation defines the tasks / missions of the authority and addresses the organizational structure but only to the level of the trade unions; the regulation is not very detailed <sup>10</sup>.

The competency of each minister is given by a special presidential decree <sup>11</sup>.

**Is the procedural issue of systemisation and organizational structure (rules for processing and submitting proposals for systemisation and organizational structure) regulated in the legal system?**

7 <http://infos.emploi-public.fr/dossiers/la-fonction-publique-en-chiffres/les-chiffres-cles-de-la-fonction-publique-en-2017/apm-103998/>

8 <http://infos.emploi-public.fr/dossiers/la-fonction-publique-en-chiffres/les-chiffres-cles-de-la-fonction-publique-en-2017/apm-103998/>

9 <https://www.fonction-publique.gouv.fr/rapport-annuel-2017-faits-et-chiffres-fiches-thematiques-excel/>

10 <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000018565358>

11 <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000034807275&categorieLien=id>

The new LOLF 2001 budget legislation is the basis for systemisation, while, as mentioned above, the new system leaves more flexibility in systemisation and organization issues. The organizational structure of each service authority is addressed by government regulation and internal regulations.

**Who is responsible for the processing of the systemisation project?**

An administrative authority that has a given mission in its portfolio must prepare its **performance annual project**, which includes a wage costs proposal, i.e. systemisation. Performance plans are approved by the government, and then approved by the parliament within the state budget approval procedure.

**Who approves the systemisation and the organizational structure of a service authority?**

The organizational structure is governed by government regulations. Systemisation is approved by the government, respectively, the Parliament, see above.

**What is the scope of systemisation and the organizational structure (which parameters are approved by the system approver)?**

In the case of the Chief Public Finance Directorate, which is a part of the Ministry of Finance, the Government regulation only dealt with the organizational structure up to 2 sections.<sup>12</sup>

**Is the systemisation and the organizational structure approved for a certain period or indefinitely?**

The systemisation is approved for a given year and a budget for 3 years; the organizational structure indefinitely.

**What are the conditions allowing for changes to systemisation and the organizational structure (under what conditions is a change in systemisation and organizational structure acceptable and who approves it, or who comments on the change before its approval)?**

Any organizational change to the service authority must be the subject of a new government regulation.

**What are the qualification requirements for the individual posts (who defines them, to what extent, what criteria is it based on)?**

To enumerate the posts and their content, there is an Interministerial List of Posts in the State Administration (*Répertoire interministériel des métiers de l'État*). It is issued and updated by the DGAFP<sup>13</sup>. It is a non-binding methodical material of the DGAFP, with which the human resources departments of individual authorities can further work.

**Are there more types of systemised posts in the state administration (in the Czech Republic, service posts governed by the Civil Service Act and the posts under the Labour Code)?**

There are 2 types of systemised posts in the French system. There are posts where it is necessary to become a civil servant

and to take a civil service examination and the posts of employment where the employees do not enjoy the privileges of a civil servant. Currently, there is a tendency to bring the status of "non-servants" closer to civil servants. (*Loi Sauvadet de 2012*)

**What are the criteria for defining systemised posts by their type and who decides on this matter?**

Based on the defined mission and tasks, the systemised posts are defined, which are needed to fulfil the tasks. The Interministerial List of Employees in the State Administration (*Répertoire interministériel des métiers de l'État*) which is issued and updated by the DGAFP<sup>14</sup>, serves for the categorization of the posts in the state administration.

**If there are more types of systemised posts, are the rules for their systemization identical?**

The process of systemisation is the same for a service post and a post outside the civil service.

**How is the activity performed in a particular service post defined (statutory list of activities, service sectors, register of administrative activities)? What way and according to what criteria are the activities performed in a particular post divided? How much detailed is the list of activities to be performed, how general or specific is the scope of each service or administrative activity, and how extensive is the list of these service or administrative activities?**

The definition of activity in a particular post is not subject to legislation. It is given by the organizational structure of the service authority and by the direct superior.

**Does the legal system enable to employ two or more civil servants in one systematized post (job sharing), where the work load of all civil servants together corresponds to one work load. What is the practical solution of this issue in the given country?**

According to the DGAFP's experts no.

**3.5.5 The Selection Procedure to fill the Civil Service Posts**

The French system is very complex. The selection procedure consists of a competition, the successful completion of which is not automatically followed by the acquisition of a civil service post. Successful competition completion guarantees a place on the waiting list or is followed by a further stage of the selection procedure or compulsory education. Successful applicants for grade A posts must generally undertake compulsory education at one of the state administration schools (*École Nationale Administrative, ENA, Institut Régional d'Administration, IRA*) in order to gain the necessary experience and knowledge to perform their future post.

The part called competition is partly a civil service examination and partly a selection procedure. The particular form of competition is determined by each ministry. The competition consists of one or more written tests and one or more oral

12 <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000018565358>

13 [https://www.fonction-publique.gouv.fr/files/files/biep/Rime/RIME\\_edition\\_web\\_2017.pdf](https://www.fonction-publique.gouv.fr/files/files/biep/Rime/RIME_edition_web_2017.pdf)

14 [https://www.fonction-publique.gouv.fr/files/files/biep/Rime/RIME\\_edition\\_web\\_2017.pdf](https://www.fonction-publique.gouv.fr/files/files/biep/Rime/RIME_edition_web_2017.pdf)

examinations. Some competitions have one round and all candidates have the same exam, others consist of more rounds<sup>15</sup>. The competitions and the subsequent selection procedures vary according to the type of a civil service post and a grade. The competitions are organized by educational institutions, which vary by level. Other institutions organize competitions for level A post, others for B and C posts.

As a part of the modernization of the state administration, it was enabled to be employed in the state administration even without organizing the competition, which means, without getting the status and the guarantees of a civil servant. (Loi n° 2007-148)

The selection procedure for these posts is therefore different. For example, approximately a half of the senior post employees is chosen by a competition and then undergoes a compulsory education at ENA, about 40% of vacancies are filled in an internal procedure and 10% in an external private sector selection procedure.

**Is the selection procedure carried out as an administrative procedure or is it excluded from the formal process?**

The selection procedure is governed by the following legislation:

The State Employee Status Act of 1984 anchors the competition as the basic principle of recruiting civil servants. (Loi n° 84-16, Article 19-20)

The same law introduces exceptions to the principle of the competition, i.e. the possibility of appointing public employees standing outside the civil service under certain conditions.

Furthermore, the 2012 law (Loi n° 2012-347 du 12 mars 2012) deals with the entry into the civil service and the improvement of the conditions of the state administration employees without the status of a civil servant (*relative à l'accès à l'emploi titulaire et à l'amélioration des conditions d'emploi des agents contractuels dans la fonction publique*)

The organization of competitions for individual service sectors is laid down in the legislation – Décret n° 2012-1293 du 22 novembre 2011, Décret n° 2012-631 du 3 mai 2012.

**Is it necessary to interview all applicants who comply with the formal conditions of participation (they sent all the necessary documents)? Or is it possible to select only some applicants with whom the interview shall be conducted? If so, who, and according to what criteria chooses them?**

It depends on the type of post, the ministry that organizes the selection procedure, whether it is an employment relationship or a service. Sometimes the pre-selection of the candidates is carried out; in other cases, all applicants have to go through the selection procedure.

In the case of competition, all candidates who met the entry conditions must be enabled to take part in the competition.

In the case of a selection procedure outside the civil service, the interview does not need to be conducted with all applicants. A pre-selection based on professional experience and competencies can be made by the direct superior or personnel department.

<sup>15</sup> <https://www.fonction-publique.gouv.fr/files/files/score/concours/demarches.pdf>

**Who carries out the interview with the applicants and who can be present at the interview? Who can ask questions? Is it only the selection panel or can it also be the superior?**

A civil servant competition is organized by hired institutions, the next stage of the selection procedure is resolved by the HR department of the given service authority. However, it is almost 5.5 million posts (in the central state administration, including teachers, civil servants in the health service, military service positions).

In the case of a recruitment procedure in the form of a competition, oral interviews are conducted by a committee in which no direct superior is present. The composition of the committee is determined by a decree of that service authority. All members of the committee may ask the candidates questions.

In the case of the recruitment of a public employee outside the civil service, the interview is conducted by a superior. In some cases, interviews may be conducted by the human resources department.

In the case of senior management posts, the government, before the applicant is appointed, establishes selection panel, their opinion is consultative.

**Who evaluates the applicants (decides, if they were successful or not)? The selection panel consisting of more members, the superior, another authority?**

It depends on the type and character of the post, see above.

**Who selects the most suitable applicant who shall eventually be employed in the civil service? Selection panel, the superior, another authority?**

It depends on the type and character of the post, see above.

**How can unsuccessful applicants defend?**

Unsuccessful candidates may lodge a complaint with the administrative court, in particular for the breach of procedural requirements (e.g. the equality of access).

**How can applicants who have been successful but have not been appointed to the public service defend against such decision?**

As in the case of the previous question, they may lodge a complaint.

**Are applications of unsuccessful applicants and successful applicants who, however, have not been appointed to the civil service, rejected by an administrative decision against which they could appeal? Or are they only informed about the result of the selection procedure?**

As in the case of the previous question, they may lodge a complaint.

**Can unsuccessful applicants and successful applicants who have not been appointed to the civil service appeal to the court?**

As in the case of the previous question, they may lodge a complaint.

### 3.5.6 Disciplinary Proceedings

#### Is there a disciplinary liability of public employees? If not, how is the breach of the duties of civil servants approached?

There is a disciplinary liability in the French system and it is completely separated from the criminal liability. One act can be subject to both disciplinary and criminal liability. (Loi n° 83-634<sup>16</sup>, Loi n° 84-16, Décret n° 84-961) For example: a civil servant may be sentenced to 4 months unconditionally for corruption and to be removed from the service.

The administrative authority publishes a list of committed criminal and disciplinary offenses and imposed sanctions for the last year. It is an anonymous material that serves educational and methodical purposes<sup>17</sup>.

#### If there is a disciplinary liability of civil servants, how are the facts of the disciplinary infraction defined?

Any offense committed by a civil servant during the performance of his civil service or during the performance of his duties shall be subject to a disciplinary sanction. Disciplinary action in no way affects criminal liability if it is relevant. (Loi n° 83-634, Article 29)

Generally, we talk about disciplinary misconduct whenever the behaviour of a civil servant threatens the good functioning of the state administration or undermines public confidence in the state administration. This may be a professional failure or a non-performance act, which does not comply with the ethical rules of the state administration. On the other hand, it is not a matter of disciplinary offense in case of: insufficient professional capacity, irresponsibility at the time of committing the disciplinary offense, amnesties.

#### If there is a disciplinary liability of public employees, what disciplinary measures (sanctions, penalties) can be imposed on public employees (reprimand, salary reduction, etc.)?

Sanctions are divided into 4 groups:

- First group – warning, reprimand. The reprimand is automatically deleted from the employee's personal file after 3 years, unless another violation occurs.
- Second group – Impact on the advancement procedure, degradation, temporary removal from the office without pay (15 days maximum), transfer. Influencing a career may be a parallel sanction to some of the second and third group sanctions. Temporary removal from the function may be partially or completely pardoned.<sup>18</sup>
- Third group – suspension, temporary removal from the function (3 months to 2 years) without pay
- Fourth group – early retirement, removal.<sup>19</sup>

16 <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000504704&fastPos=1&fastReqId=1628186119&categorieLien=cid&oldAction=echTexte>

17 The list is not available on the Internet. For the purposes of this analysis, a list of Directorates-General for the financial year 2017 was provided. Releve annuel des sanctions disciplinaires, direction générale des finances publiques, publication des sanctions disciplinaires et d'une radiation des cadres pour interdiction, d'exercer un emploi public prononcées au cours de l'année 2017

18 It is not entirely clear whether the performance of the function or just a wage claim is pardoned.

19 <https://www.fonction-publique.gouv.fr/la-discipline>

The sanctions of the first group are deleted automatically from the personal file of a civil servant after a specified time. The public employee may request the deletion of the 2nd and 3rd group sanctions after 10 years.<sup>20</sup>

#### Who decides that a civil servant has committed a disciplinary infraction (a disciplinary panel, the superior, other body)?

Disciplinary board/committee (*Conseil de discipline*).<sup>21</sup> The disciplinary committee consists of the members of the **CAP** (Collective Administrative Commission) that represent the grade to which the civil servant concerned belongs and the immediately superior grade, as well as the same number of civil servants in that service authority. During the discussion of one case, the composition of the disciplinary committee must not be changed. Only those members who participated in the whole debate can vote. The members may not be civil servants in lower positions in the hierarchy of the service authority or civil servants who have previously showed antipathy to the civil servant in question. The Committee may study the case and make a decision only if at least  $\frac{3}{4}$  of the members are present.

#### What are the public employee's possibilities of defending in the matters regarding his disciplinary liability (appeals, legal proceedings at the administrative court, others)?

The civil servant must have information on his rights in disciplinary proceedings – he has the right to get acquainted with all documents concerning his case and to defend himself with the help of one or more attorneys.

The civil servant may appeal against the decision of the committee to the committee that imposed the sanction. The sanction can be confirmed, mitigated or cancelled.

Another possibility of appeal is the Supreme Council for Civil Service (**CSFPE**), to which the civil servant concerned may appeal under the conditions laid down in Article 10 of the Government Order No 84-961. The CSFPE shall issue a recommendation in the matter. If the disciplinary committee takes account of the recommendation, it will retroactively replace the original decision.

Another possibility of appeal is an appeal to the administrative court. The complaint shall not interrupt the sanction and must be filed within 2 months after the decision to impose a sanction.<sup>22</sup>

### 3.5.7 An Institute Similar to the Service Examination

The French system is very complex. Public service selection procedure consists of competitions (*concours*); successful completion of the competition is not automatically followed by the appointment to the civil service. Successful competition guarantees a place on the waiting list or is immediately followed by another phase of the selection procedure or compulsory education. Successful applicants for grade A posts must generally undertake compulsory education at one of the schools of the state administration (*école administrative, institut administratif*) in order to gain the necessary

20 <https://www.service-public.fr/particuliers/vosdroits/F510>

21 <https://www.fonction-publique.gouv.fr/la-discipline>

22 <https://www.fonction-publique.gouv.fr/la-discipline>

experience and knowledge to perform their future post. Studying at administrative schools and obtaining a diploma can be considered as another part of the service examination.

The part called competition is a condition for the recruitment and partially a formal examination and partially a selection procedure. The particular form of the competition is determined by each ministry. The exam consists of one or more written tests and one or more oral examinations. Some competitions are one-rounded, and all candidates have the same exam, others are multiple.<sup>23</sup> Competitions and the subsequent selection procedures vary according to the type of a civil service post and grade. The competitions are organized by training bodies, which also vary by the category of position. Other institutions organize competitions for category A posts, others for B and C.

**Who organizes the service examination?**

Each ministry organizes competitions for its service field. At the same time, the competitions for some service sectors/fields are organized centrally / interministerially; some ministries are responsible for the competitions for a particular service field, such as top managers (centrally at ENA and IRA).

**Is the service examination system centrally managed for all service authorities?**

In general, the competition organization is not centralized. But for general posts / service sectors, the competition is organized centrally / uniformly, for example for top managers, the competitions are organized by ENA and IRA. Lower general posts (for example of administrative nature) are organized by a designated ministry for all other ministries.

For special / technical posts, the central competition organization is less common.

**Does the duty to pass the formal examination apply to all civil servants?**

Principally yes (Loi n° 84-16, Article 19), anyone who wants to be included in the civil service regime must pass the competition proceedings. For reasons of greater efficiency, legislation has opened up the possibility of employing without a civil service scheme. Exceptions are set down in the law (Loi n° 84-16, Article 22).

**When is a civil servant obliged to take a service exam?**

The system is opposite. The competition means the entry into the civil service, but a specific post is obtained later. The competition is followed by an immediate initial education (which takes several months to 2 years), while the trainee receives a salary.

**How are the requirements for the examinee – the scope and the content of the verified knowledge and skills of the examinee and the form of the exam – [Written, Oral Model Situation] defined?**

In accordance with Article 19 of Law 16 of 1984 there are 3 types of competition (internal – external – the third competition). Each type of competition for a given service field

<sup>23</sup> <https://www.fonction-publique.gouv.fr/files/files/score/concours/demarches.pdf>

is modified and updated annually by the ministerial order of the ministry, which is responsible for the competition.<sup>24</sup>

**How are the qualification requirements for the members of the examination panel defined?**

The ministerial decree defines the form of the examination panel, the membership profile, the number, the ratio of the represented members. Another ministerial decree then appoints specific members of the commission.

**Who appoints the members of the examination panel?**

The minister (in the case of the ministry), possibly the head of the service authority, who is responsible for organizing the competition.

**Are they only public employees or also other bodies (or are the members of the panel only other bodies than public employees)?**

Mostly they are civil servants.

**How are the requirements for their education (general level of education: secondary school education, university degree defined)? Is there any training or examination needed?**

It depends on the type of competition, the requirements for the members of the committee are set down in the ministerial decree.

**Are there any requirements concerning the length of their working experience?**

It depends on the type of competition, the requirements for the members of the committee are set down in the ministerial decree.

**Do they have to enhance the qualification through some unified (or even accredited) education or some tests, etc.?**

There are optional educational activities for committee members. In practice, it is desirable that members of the Education Committee participate. There is also a methodological guide for the members and the chairmen of the committees.<sup>25</sup>

**Is the taking of service examination charged?**

It is free.

**Is the system of education within the civil service somehow formally linked to the service examination (before the exam – as a preparation – and after the exam)?**

The preparation for the internal competitions is offered by various ministries. Successful completion of the competition is in case of many service fields is followed by education in the range of several months to two years in one of the public administration schools. The initial training module is followed by the lifelong training of civil servants.

<sup>24</sup> The example of a competition organization for a general professional economic post in the Budget Directorate, category A:

<https://www.economie.gouv.fr/recrutement/dg-tresor-attache-economique-concours-interne>

<sup>25</sup> Guide pratique des concours administratifs à l’usage des présidents et membres de jurys, [https://www.fonction-publique.gouv.fr/files/files/publications/coll\\_outils\\_de\\_la\\_GRH/guide-concours-administratifs-jurys-2015.pdf](https://www.fonction-publique.gouv.fr/files/files/publications/coll_outils_de_la_GRH/guide-concours-administratifs-jurys-2015.pdf)

**Please name other relevant aspects of the examination. If there is a similar system as in the Czech Republic, that means, if there are several fields of the civil service for which it is necessary to take the examinations, how is the following approached:**

**– Education in the case of change or extension of the fields of the civil service**

In case the career advancement, the change in the content of the work requires an internal competition, there is a preparatory education at the ministry.

**– Education when being assigned to another service authority?**

There are cases where the change requires a competition and cases where it is not needed. The requirement of an internal competition is not related to the change of service authority but to the job / work content.

### 3.5.8 Service Performance Appraisals

**Is it obligatory?**

The performance appraisal is annual and mandatory. (Loi n° 84-16, Article 55, Décret n° 2010-888)

**Who is subject to the performance appraisal? To what extent does he participate?**

Everybody in the civil service. The evaluation is made in the form of an evaluation interview, unless another evaluation system is set up in the service authority. (Loi n° 84-16: art.55) Within the 360 ° evaluation, self-assessment is used, but the method is only recommended in the manual for assessors issued by the DGAFP.<sup>26</sup>

**Who is the evaluator?**

The immediate superior. (Loi n° 84-16, art. 55)

**How often is the performance appraisal carried out? Is it a fixed term event, or is it done as needed?**

Annually. The law does not specify the timing. (Loi n° 84-16, article 55) The direct superior conducting the evaluation interview determines its timing, the employee must be informed at least 8 days in advance. (Décret n° 2010-888)

**Does the result of the service performance appraisal have any impact on the salary of the public employee?**

Certain groups of public employees are subject to a new remuneration schema (RIFSEEP) that reflects the regular performance appraisal. The variable annual bonus (CIA) is awarded on the grounds of the performance appraisal result.

**Does the result of the service performance appraisal have any other impact on the employment of a public employee?**

The previously used tool accelerating or slowing down a career advancement (by adding or removing the years spent in a given assignment) was abolished in 2016.

Educational needs and career development needs are an

integral part of the evaluation.

Poor performance appraisal results may slow down the career advancement. (Décret n° 2010-888, article 12) Within the evaluation questionnaire, there may be the possibility to accelerate or slow down the transition to a higher salary level by 1-3 months, (the example of the questionnaire of the Ministry of Finance).

**What is the regulation governing the service performance appraisal?**

Loi n° 84-16 du 11 janvier 1984 portant dispositions statutaires relatives à la fonction publique de l'Etat (1). Version consolidée au 17 octobre 2017<sup>27</sup>,

Décret n° 2010-888 du 28 juillet 2010 relatif aux conditions générales de l'appréciation de la valeur professionnelle des fonctionnaires de l'Etat.<sup>28</sup>

**What is the subject of the performance appraisal (what is evaluated)? Is the evaluation framework strictly defined or can it be adapted to the needs of the individual subjects?**

The evaluation criteria are set in the Government Order of 2010:

1. The work results related to the given tasks and the conditions in the service authority.
2. Tasks / objectives agreed with the employee for the next period, prospects for the improvement of the results, the development of conditions in the authority and functioning of the public service.
3. The way of the performance of civil service.
4. The acquired work experience.
5. The evaluation of management tasks, if relevant.
6. Educational needs – in relation to the given tasks, competencies needed and his career.
7. The career development vision in relation to career and mobility (Décret n° 2010-888, Article 3).

Ministerial decrees regulate the organization of the professional evaluation and the content of the evaluation report at the ministry.

**What is the rating scale? Is the performance appraisal carried out only verbally or by giving points? What results can be achieved in the service performance appraisal?**

The materials for the reform emphasized the transition from the scoring to assessment.

The scoring retreated in 2010 to leave a space to the evaluation and a qualitative assessment. The questionnaire contains open questions and questions with a choice of 3 possibilities: NECESSARY – IMPORTANT – PREFERRED.<sup>29</sup> However, for example, the questionnaire of the Ministry of Finance is closed with a mark on a five-rank scale (inadequate – average – good

<sup>27</sup> <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000501099&fastPos=1&fastReqId=338656571&categorieLien=cid&oldAction=rec hTexte>

<sup>28</sup> <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000022593931&dateTexte=20170615>

<sup>29</sup> In case of interest, it is possible to find examples of evaluation reports from some government offices on the Internet in French.

<sup>26</sup> [https://www.fonction-publique.gouv.fr/files/files/publications/coll\\_outils\\_de\\_la\\_GRH/CMC-4.pdf](https://www.fonction-publique.gouv.fr/files/files/publications/coll_outils_de_la_GRH/CMC-4.pdf), str. 17



– very good – excellent) and independently the possibility of shortening or extending the period necessary for the transition to a higher salary level.

**Is there a future perspective plan a part of the performance appraisal? - setting the goals, development plan, etc.?**

Yes, see the questions concerning the evaluation – 6° educational needs – in relation to the given tasks, the competences needed for a career advancement, 7° the concept of career development in relation to career and mobility.

The evaluation also deals with the claim of the civil servant’s career advancement and the prospects for his advancement in the state administration hierarchy. (Décret n° 2010-888, Article 3)

**What way is a performance appraisal made? What evaluation methods are used?**

The performance appraisal is conducted annually in the form of an evaluation interview with the immediate superior. The interview is conducted on the basis of a pre-completed evaluation questionnaire by the superior. Legislation sets the minimum requirements of the evaluation process, the methods and the chosen instruments are the responsibility of the authority. For example, self-evaluation is not an obligatory part, but an administrative authority can include it or it can use a 360 degree evaluation method where auto-evaluation is included. The tools and approaches to evaluation are described in detail in the DGAFP methodology for evaluation.<sup>30</sup>

**What is the basis for the performance appraisal?**

The evaluator has evaluation questionnaires / reports from previous years.

**What way are the evaluators trained?**

The training of the evaluator is not mandatory. Some authorities give the evaluators recommendations, and the evaluator selects the form from the offer of educational activities on this topic.

There are manuals and handbooks to support evaluators issued by the DGAFP.<sup>31</sup>

**What way does the evaluated person get acquainted with the results of the service performance appraisal?**

The evaluator – an immediate superior- issues an evaluation and confirms it with his signature. The superior acquaints the evaluated person with the evaluation and he can complete it. Another superior in the hierarchy may or may not comment on it. The evaluated employee confirms the acquaintance with the evaluation by signing it. The evaluation is put in the personal file of the employee. (Décret n° 2010-888, Article 4)

**Is a negative performance appraisal sanctioned? How?**

There are no sanctions for poor evaluation results. If we do not mean a career slowdown or a non-performance bonus. The

30 A manual for the evaluators issued by the DGAFP. [https://www.fonction-publique.gouv.fr/files/files/publications/coll\\_outils\\_de\\_la\\_GRH/CMC-4.pdf](https://www.fonction-publique.gouv.fr/files/files/publications/coll_outils_de_la_GRH/CMC-4.pdf)

31 A manual for the evaluators issued by the DGAFP.

[https://www.fonction-publique.gouv.fr/files/files/publications/coll\\_outils\\_de\\_la\\_GRH/CMC-4.pdf](https://www.fonction-publique.gouv.fr/files/files/publications/coll_outils_de_la_GRH/CMC-4.pdf).

slowing of career advancement on the basis of performance appraisal must be confirmed by the Joint Administrative Committee of the authority.

**Are there any appeal measures against the results of the service performance appraisal?**

An employee may request a review of the evaluation from his immediate superior. The appeal must be filed within 15 days of receipt of the evaluation report. The direct superior is obliged to reply within 15 days. If the employee is not satisfied, he may also appeal to the Collective Administration Committee (*Commission Administrative Paritaire*). (Décret n° 2010-888, Arts 5-6)

**3.5.9 The Principles of Ethics in Civil Service**

**What are the rules governing the principles of ethics in civil service?**

The 1983 Act governing the status of civil servants (the Civil Service Act). (Loi n° 83-634 of July 13, 1983)

The 2016 Act (Loi n° 2016-483 du 20 avril 2016 relative à la déontologie et aux droits et obligations des fonctionnaires).

**Can any sanctions be imposed in case of violation of ethical rules? If so, what kind of sanctions?**

The sanctions ranking is identical to the disciplinary sanctions (see the Disciplinary Proceedings chapter), there may also criminal proceedings occur in case of a criminal offense.

No disciplinary sanctions may be imposed after 3 years from the time when the state administration learned about the state of affairs and could investigate and sanction it. (Loi n° 2016-483, Article 12)

**What means and methods are used to check the compliance with ethical rules?**

**The Deontological Commission / Commission on Ethics** (*Commission de déontologie*) monitors the observance of ethical rules, the conflict of interests of civil servants in parallel business or the private sphere. The Commission may issue an opinion or recommendation, unless it is respected, it may proceed to the imposition of a disciplinary sanction. For example, the Commission may declare a function in business as incompatible, demand a remedy, reduce the pension to a retired civil servant.<sup>32</sup>

A civil servant who is in a possible conflict of interest must complete the statement of his / her interests / property statement. (Loi n° 2016-483: Article 4)

**Ethical alert** – the law introduces the possibility to report suspicion of an existing conflict of interest or illegal activity in the state administration. A civil servant who reported the suspicion must not be penalized in any way. (Loi n° 2016-483, Article 3)

**What implementation tools are used in the area of public service ethics?**

Civil service candidates are tested in ethics during the selection procedure. In addition, the initial education includes courses

32 <https://www.fonction-publique.gouv.fr/la-commission-de-deontologie>

in ethics. There are also educational activities in the field of ethics in the system of lifelong learning.

Leaders should act as examples of good practice in state administration.

Administrative authorities are encouraged to develop their Code of Conduct corresponding to the specificities of the authority so that it is understandable to its employees.

In 2016, a web-based tool for all public employees was launched to connect the daily workload of a civil servant and the legal framework of the service. It contains model situations that are relevant for the given position. Ethical principles are illustrated by specific situations.<sup>33</sup>

For personal consultation, ethical referees are available to civil servants.

**What way does the training of the employees in the field of ethics proceed? Does the training of ordinary employees and senior civil servants differ?**

A part of the initial education is a module on ethics. In addition, a public employee may participate in specific ethics training activities. A civil servant may apply for a 1 or 2 days' course on ethics to improve his knowledge, to get updates on legal regulations and to try the simulation of relevant situations.

**Is there a body or persons responsible for providing support in the field of ethical issues?**

The deontologist / ethics referee provides support in respecting the duties of a civil servant and ethical behaviour. Every civil servant is entitled to a guidance in this area. (Loi n° 2016-483, Article 11)

**When recruiting new employees, is the personality potential of the applicants in the field of ethics taken into consideration?**

State service candidates are tested in ethics during the selection procedure; namely knowledge of the rights and duties of a civil servant. At this stage, they may not have a perfect knowledge of their future rights and responsibilities, they must be familiar with their existence.

**Is the compliance with ethical rules continuously checked?**

The annual evaluation questionnaires include a section focusing on ethics. The importance of this area is emphasized especially for managers.

**To what extent is the supervision of professional ethics in the state administration institutionalized?**

The deontological referee provides methodological support and ethical consultations to all civil servants who ask for the support. He also has the power to collect suggestions on suspicion of ethical failure. The position of a deontological referee is regulated by a decree.<sup>34</sup> The Deontological Commission then judges and decides on the offense.

**What are the consequences of the ethical failure of a civil servant?**

33 <https://www.fonction-publique.gouv.fr/module-de-sensibilisation-a-la-deontologie-0>

34 <https://www.legifrance.gouv.fr/eli/decret/2017/4/10/RDFF1701246D/jo/texte>

As noted above, in the case of ethical failure, a civil servant is subject to disciplinary sanctions according to the seriousness of the offense.

**3.5.10 Work-life Balance (WLB) in Civil Service**

In 2012, a new Minister for the Reform, Decentralization and Civil Service was appointed, who adopted a new social program, among its three top priorities was work-life balance.<sup>35</sup>

**Is the term WLB defined by a legal regulation? If so, how is this term defined?**

The term WLB is not explicitly defined or anchored in legislation. The most complex issue of the WLB is embodied in the Collective Agreement of 2013 **Agreement on Equality Between Men and Women in Professional Life in Public Administration** (*Protocole d'affaires de l'équité professionnelle entre les femmes et les hommes dans la fonction publique*).<sup>36</sup>

**Are there manuals, methodological documents or other WLB supporting documents following the legal regulation?**

The DGAFP in cooperation with employers and trade unions created a handbook to help implement work from home instruments by using ICT in state institutions (*télétravail*). This guide is called the Guide to Implementation of Work from Home with ICT in Public Administration and was released in May 2016 (*Guide télétravail Guide d'accompagnement de la mise en œuvre du télétravail dans la fonction publique*)<sup>37</sup>. It is a methodological guide on how to implement the tool. Ministerial decrees on the implementation should follow.<sup>38</sup>

For part-time work, the DGAFP issued a manual **Part-time -Handbook on Part-Time of Civil Servants and Civil Service Employees**.<sup>39</sup> This is a 25-page manual that addresses the issue of part-time work for civil servants and employees without the status of a civil servant, including the impact on remuneration, pensions, holidays and education.

Another manual published by the Directorate-General for Public Administration (DGAFP) in 2017 is Family Leave and Part-Time: Impacts on Remuneration and Old-Age Retirement (*Congés familiaux et temps partiel dans la fonction publique: incidences sur la rémunération et la retraite*).<sup>40</sup>

Another document available is the analysis **The Part-Time Work Voluntary and Mandatory in Civil Service and Private Sector, which was also issued by the Directorate-General for**

35 OECD, Human Resource Management Country Profile France, 2012, <https://www.oecd.org/gov/pem/OECD%20HRM%20Profile%20-%20France.pdf>

36 [https://www.fonction-publique.gouv.fr/files/files/publications/politiques\\_emploi\\_public/20130308-Protocole-d-accord-egalite-professionnelle.pdf](https://www.fonction-publique.gouv.fr/files/files/publications/politiques_emploi_public/20130308-Protocole-d-accord-egalite-professionnelle.pdf)

37 The handbook is available in French: [https://www.fonction-publique.gouv.fr/files/files/publications/coll\\_outils\\_de\\_la\\_GRH/guide-teletravail-2016.pdf](https://www.fonction-publique.gouv.fr/files/files/publications/coll_outils_de_la_GRH/guide-teletravail-2016.pdf)

38 The whole handbook is available here: [https://www.fonction-publique.gouv.fr/files/files/publications/hors\\_collections/Guide\\_temps\\_partiel\\_FPE-2.pdf](https://www.fonction-publique.gouv.fr/files/files/publications/hors_collections/Guide_temps_partiel_FPE-2.pdf)

39 The whole handbook is available here: [https://www.fonction-publique.gouv.fr/files/files/publications/hors\\_collections/Guide\\_temps\\_partiel\\_FPE-2.pdf](https://www.fonction-publique.gouv.fr/files/files/publications/hors_collections/Guide_temps_partiel_FPE-2.pdf)

40 The whole handbook is available in French here: [https://www.fonction-publique.gouv.fr/files/files/publications/coll\\_les\\_essentiels/guide-conges-familiaux.pdf](https://www.fonction-publique.gouv.fr/files/files/publications/coll_les_essentiels/guide-conges-familiaux.pdf)

**Public Administration** (DGAFP)<sup>41</sup> in 2016, (*Temps partiel subi et choisi dans la fonction publique et le secteur privé*). The analysis shows that in the state administration approximately 15% of employees use part-time work. The reason for part-time was for more than 50% of the employee's childcare, 21% of part-time employees wanted more leave and 12% chose this variety because of education or other employment. 40% of part-time work is for 80% of working hours, 20% of part-time work is for 50% of working time, 26% of female public employees use part-time work schema, while only 6% of male employees use this WLB.<sup>42</sup>

### What WLB measures does the legal order offer?

"Teleworking / Teletraffic" is governed by Government Decree No 151 of 2016 (Décret n° 2016-151)

The possibility of part-time employment is embedded in Law 16 of 1984, Art. 37-40 bis. (Loi n° 84-16, Arts 37-40), Government Order 815 of 2000 and (Décret n° 2000-815 du 25 août 2000) and 1072 of 2002 (Décret n° 2002-1072 du 7 August 2002).

Flexible working time is embedded in Article 6 of Government Regulation No. 815 of 2000. (Décret du 25 août 2000, art. 6)

The leave of absence is embedded in the Law 634 of 1983 (Loi n° 83-634, Articles 21-22), Law No 16 of 1984 (Loi n° 84-16, Article 34) and the subsequent regulations of the government, decrees and circulars, see specific types of leave of absence.

In addition, care for family members (see below) and help with the placement of children in a crèche and a child care allowance for children between 0-6 years. Other legislative standards are always listed for the WLB tool.

### Is it possible to modify working hours of a civil servant (flexible working hours, part-time employment, different time arrangement of the beginning and the end of the service...)?

In 2012, part-time employment accounted for 10% of the workforce (229 444 employees out of a total of 2 190 326 employees), in 2016 already 15%. Part-time work is mostly between 50% and 95% of the total occupation.<sup>43</sup> The basic terms and conditions of part-time employment are laid down in Law 16 of 1984, Art. 37-40 bis. (Loi n° 84-16, Articles 37-40). A civil servant is entitled to part-time work under certain conditions defined by the law (the birth of child or the adoption of a child, care for the closest family members), or a civil servant may request his superior.

Flexible working hours are embedded in Article 6 of the Government Decree 815 of 2000 (Décret du 25 août 2000, Article 6). It is up to the competent authority to allow flexible working hours if it does not threaten the functioning of that authority. The prerequisite for allowing flexible working hours is to set up a working time control system.<sup>44</sup>

41 The whole analysis is in French available here: [https://www.fonction-publique.gouv.fr/files/files/statistiques/point\\_stat/temps-partiel-2016.pdf](https://www.fonction-publique.gouv.fr/files/files/statistiques/point_stat/temps-partiel-2016.pdf)

42 [https://www.fonction-publique.gouv.fr/files/files/statistiques/point\\_stat/temps-partiel-2016.pdf](https://www.fonction-publique.gouv.fr/files/files/statistiques/point_stat/temps-partiel-2016.pdf)

43 These are data on civil servants posts under the Staff Act, including office positions in overseas territories and territories.

44 <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=LEGITEXT000005629862&dateTexte=20180409>

### What are the possibilities and conditions of the performance of the civil service from a different place (home-office, teleworking, flexitime)? How are the conditions for the performance of civil service from another place defined?

In 2016, the government issued a regulation on working from home for state administration through information and communication technologies (Décret n° 2016-151 du 11 février 2016). The aim is to facilitate the work-life balance and at the same time to increase the efficiency of work. The DGAFP, in cooperation with employers and trade unions, has produced a handbook to help implement work from home with ICT in state institutions. Ministerial decrees on the implementation should follow.<sup>45</sup>

In the case of work from home with the help of ICT in public administration, the regulation 2016-151 says it is in the employer's competence to define the way the service is performed. (Work from Home in Public Administration with ICT Help Implementation Guide, 2016, p. 13)<sup>46</sup>

### What kind of service leave does the law offer (e.g. urgent family leave, adoption leave, sabbatical leave, career break)? Is this service leave paid or unpaid?

Study leave, parental leave, up to 24 working hours for passing examinations (after at least one year training the employee is entitled to 3 days of leave for the preparation or passing tests), leave to verify the acquired working abilities (*congés pour validation des acquis de l'expérience*), skills (*des congés pour bilan de compétence*), education leave associated with the performance of a trade union function (Loi n° 83-634, art. 21).

The leave to adopt a child is legally granted to civil servants and civil service employees. This is a day off that a civil servant can take for the actual adoption of the adopted child into the family. Its length is between 10 and 22 weeks, according to the number of adopted children and the number of dependent children in the family. A civil servant receives a salary and bonuses, a civil service employee only a salary, in accordance with the social security rules. (Family Leave and Part-time Work: The Impact on Remuneration and Retirement Pension, 2017, p. 9)

The total length of leave is included in the old-age pension and in the career advancement. Part-time civil servants are automatically transferred to full-time employment and receive a full salary. The relevant legislation: Law (Loi n° 84-16, Articles 34-35, Circular (Circulaire FP / 4 n° 1864 of 9 August 1995).<sup>47</sup>

Civil servants have a **personal education account** on which they can accumulate the hours guaranteed for education. 24 hours per year up to 120 hours, then 12 hours per year up to a maximum of 150 hours. A similar personal account exists also for civic duty. (Loi n° 83-634, Article 22)

**To welcome a newly born or adopted child** – 3 working days, fully paid, including bonuses and supplementary allowances. Anchored in the following legal standards:

45 Circulaire du 22 décembre 2016 relative à la politique d'égalité professionnelle entre les femmes et les hommes dans la fonction publique

46 The whole handbook available in French here. [https://www.fonction-publique.gouv.fr/files/files/publications/coll\\_outils\\_de\\_la\\_GRH/guide-teletravail-2016.pdf](https://www.fonction-publique.gouv.fr/files/files/publications/coll_outils_de_la_GRH/guide-teletravail-2016.pdf)

47 <https://www.fonction-publique.gouv.fr/conge-dadoption>

- Loi n° 46-1085 du 18 mai 1946;
- instruction ministérielle n° 7 du 23 mars 1950 (chapitre II);
- Loi n° 70-459 du 4 juin 1970 (autorité parentale conjointe);
- Code du travail, articles L. 3142-1 et L. 3142-2.<sup>48</sup>

**Parental leave** (*congé parental*) is approved at the request 2 months before the start of the leave. All types of employment are entitled to parental leave. It can be divided between parents. Its duration depends on the circumstances – 3 years from the birth of a child or the adoption of a child younger than 3 years; 1 year for adopted children aged 3 and under 16. This is unpaid leave. Changes in the legislation in 2012 improved the conditions for taking parental leave, both parents may be on maternity leave at the same time, parental leave is taken as an active part of a career (the first year is fully counted, from the other years only a half is counted), the civil servant does not lose entitlement to a career advancement. The new legislation automatically transfers the parental leave into a maternity leave in case of further pregnancy.

Parental leave is embedded in the following laws and regulations of the government: Loi n° 84-16 du 11 janvier 1984, art. 54; Loi n° 2012-347 du 12 mars 2012; Décret n° 2012-1061 by 18 September 2012; Décret n° 85-986 of 16 September 1985, art. 52 to 57; Décret n° 94-874 of 7 October 1994, art. 21.<sup>49</sup>

**Leave for the care of a sick, injured or handicapped child** – this kind of leave may not exceed 3 years for one child and the same illness or injury. This time is used in the form of a time fund, so it can be taken with breaks as a whole working day. Medical leave based on a medical certificate must not be rejected. The physician determines the length of time according to the severity. The medical certificate must be updated every 6 months. Parents can swap the leave; the other parent takes the remaining leave. During the leave, the civil servant keeps his post. For the purposes of career advancement, promotion and training, this leave is fully counted. During the leave the civil servant does not receive salary. The relevant legislation: Law 16 of 1984 (Loi n° 84-16 du 11 janvier 1984, article 40 bis); the Government Regulation 536 of 2000 (Décret n° 2006-536 du 11 mai 2006).

(Family leave and part-time work: the impact on remuneration and retirement pension, 2017, pp. 13-15).

**Leave for a civil servant's wedding** – 5 working days.<sup>50</sup>

**Leave to meet a partner.** If a partner works at a remote location, a civil servant may request a leave for a maximum of 3 years with the possibility of prolongation. During the leave, the civil servant does not receive his salary. Public employees without the status of a civil servant are not entitled to this type of leave. Relevant legislation: Government Order 986 of 1985 (Décret n° 85-986 du 16 September 1985, article 47-2).

**Very serious illness or death** of a partner, father, mother or a child – 3 working days.<sup>51</sup>

48 Family leave and part-time work, p. 11, [https://www.fonction-publique.gouv.fr/files/files/publications/coll\\_les\\_essentiels/guide-conges-familiaux.pdf](https://www.fonction-publique.gouv.fr/files/files/publications/coll_les_essentiels/guide-conges-familiaux.pdf)

49 <https://www.fonction-publique.gouv.fr/conge-parental>

50 <https://www.fonction-publique.gouv.fr/autorisations-speciales-dabsence-et-facilites-horaires>

51 <https://www.fonction-publique.gouv.fr/autorisations-speciales-dabsence-et-facilites-horaires>

**Care of a sick child** – 6 days a year, possibly 12 days a year, which can be divided between the caring parents. 12 days are for single parents or if one of the parents is unemployed or his work does not enable him to take paid leave for the purpose of caring of a sick child. Paid leave can be prolonged to 15 days, exceptionally to 28 consecutive days. Legal basis in Circular 1475 of 1982 (circulaire FP n° 1475 du 20 juillet 1982).<sup>52</sup>

Another kind of childcare benefit is the reimbursement of a child's stay with a parent on a sick pay when staying in a treatment facility. Up to 35 days a year, child under 5 years of age.<sup>53</sup>

### Does the law enable to share a service post?

French experts have identified the question as irrelevant.

### Does the law regulate the establishment of school facilities for children of civil servants?

The assistance in placing children to school facilities falls within a wider range of social benefits, which are embedded in the Civil Service Act (Article 9 Loi n° 83-634 du 13 juillet 1983).

Specific tools for childcare – professional life balance are: checks for nurseries, kindergartens, caretaking by a certified person or facility (children 0-6 years old);<sup>54</sup> Priority admission to state nurseries (2,700 reserved places for children of civil servants); ministries may approve their own instruments.

Authorities do not set up their school facilities, but there are specific tools for childcare-work balance during the school year and holidays:

- Payment of the kindergarten.<sup>55 56</sup>
- Reserved places in the nurseries. The state pays the reservation fee in the contracted facilities.
- In case of illness of children, the employees can use the services of a certified worker in the household help sector, the social benefit is governed by social security rules.<sup>57</sup>
- Holiday stays for children:
  - A contribution to educational event organized by the school of the child during school holidays – up to 21 days.<sup>58</sup>
  - A contribution to a holiday stay in accredited facilities by the Ministry of Tourism or Education – up to 45 days of stay, without overnight stays.<sup>59</sup>
- Contribution to a holiday stay with overnight stay.<sup>60</sup>
  - A contribution to the language course of the child.<sup>61</sup>

52 <https://www.fonction-publique.gouv.fr/autorisations-speciales-dabsence-et-facilites-horaires>

53 <https://www.fonction-publique.gouv.fr/aide-aux-parents-repos>

54 [http://circulaire.legifrance.gouv.fr/pdf/2014/12/cir\\_39049.pdf](http://circulaire.legifrance.gouv.fr/pdf/2014/12/cir_39049.pdf)

55 <https://www.fonction-publique.gouv.fr/action-sociale-interministerielle>

56 <https://www.fonction-publique.gouv.fr/action-sociale-interministerielle>

57 <https://www.fonction-publique.gouv.fr/intervention-des-travailleuses-familiales>

58 <https://www.fonction-publique.gouv.fr/sejours-mis-oeuvre-dans-cadre-scolaire>

59 <https://www.fonction-publique.gouv.fr/sejours-dans-centres-familiaux-de-vacances-et-gites-de-france>

60 <https://www.fonction-publique.gouv.fr/centres-de-vacances-avec-hebergement>

61 <https://www.fonction-publique.gouv.fr/fonction-publique/action-sociale-17>

**What are the WLB measures for civil servants on maternity and parental leave (e.g. sharing information)?**

The 2012 legislation introduces an interview with a human resources manager before returning from parental leave. (Loi n° 2012-347 du 12 mars 2012; Décret n° 2012-1061 du 18 septembre 2012)<sup>62</sup>

**Are there any legal regulations for civil servants in relation to the care of older family members (e.g. parental leave, responsibility leave)?**

**A civil servant may use a leave for taking care of a family member** (*Congé de solidarité familiale*) in case of a serious or fatal illness of a family member. The maximal length is 3 months with the possibility of extending it for another 3 months. If it is taken gradually, it must be taken in 7-day segments, cumulatively not exceeding 6 months. The leave can also have the form of part-time work (50, 60, 70 or 80%).

The leave ends up by using the maximum duration, by the death of a family member, or at the request of a civil servant. A civil servant does not receive a salary for this period of leave, but he can receive social benefits for accompanying a seriously ill family member (€ 55.15) for the maximum of 21 days. In the case of any part-time, a civil servant may receive a 42-day benefit in the amount of EUR 27.58.<sup>63</sup> Relevant laws and regulations of the government: Loi n° 84-16 du 11 janvier 1984, article 34-9 °; Décret n° 86-83 of 17 January 1986, Article 19 ter (agents non titulaires); Décret n° 94-874 of 7 October 1994, Article 19 bis (*fonctionnaires stagiaires*).

**Is there a program dealing with the physical and mental aspects of a civil service in the legal system (e.g. a similar program to "Fit at work" in the EU)?**

The Labour Code (Articles L. 4121 and L. 4121-2) imposes an obligation on the employer to take care of the mental health of the employees. Measures resulting from the provisions of the Labour Code include the prevention of occupational risks, information and educational campaigns and the flexibility of working conditions. The prevention of psychological and physical risks in the French public administration is further elaborated in successive regulations, collective agreements and circulars.<sup>64</sup> The DGAFP provides methodological support,<sup>65</sup> and each authority has to bring specific tools to life.

**The Situation of Managers and WLB**

The conditions and the reality of WLB for top management are different. In the leading positions, part-time work is theoretically possible, but in fact, it is not usual, on the contrary, they work overtime. Home office work is also not possible, as the coordination of working groups, subordinates, is an integral part of their work. To compensate for these demanding moments, they have more days of vacation, but they are often not used for the same reasons. The DGAFP seeks to provide leaders with

centralized support to address WLB issues.<sup>66</sup>

**3.5.11 Education**

**Is there an institutionalized training within or for the preparation for the performance of the civil service?**

Under the auspices of the Directorate-General for Public Administration (DGAFP), there are 6 large educational institutions in France that provide education for the preparation and performance of the civil service. Strasbourg is home to **The State School of Public Administration** (*École Nationale d'Administration, ENA*), which prepares not only candidates for management positions in the French state administration but also candidates for office positions in European institutions. In the cities of Bastia, Lille, Lyon, Metz and Nantes there are the **Regional Institutes of the Administration** (*Institut régional d'Administration, IRA*). In addition to these schools, other educational organizations specialized in the professional training of civil servants were set up under the auspices of ministries or other authorities.<sup>67</sup> These schools and institutes are sometimes referred to as administrative schools.

Administrative schools have two basic tasks: to provide initial training for newly appointed civil servants (after the successful competition), at this stage, newcomers have the status of trainees and receive wages. The second is lifelong vocational training for civil servants.<sup>68</sup>

**The State School of Public Administration** (*École Nationale d'Administration, ENA*) was established in 1945 with the aim of democratizing the access to state administration and professionalising the training of civil servants. Currently, ENA provides:

- The initial training of senior managers for French public administration and also for foreign students as a part of international cooperation
- Lifelong learning modules for both French and foreign civil servants (short and long-term study programs)
- European and international relations in the field of public administration and governance
- Education in European affairs and the preparation for competitions in the EU institutions.<sup>69</sup>

**The Regional Institutes of Public Administration** (IRA) provide training in 3 major areas:

- In-service training for civil servants of category A, every year about 650 general civil servants (HRD, Finance, Law) are appointed and go through the training
- Contribute to the lifelong education of civil servants in ministries or on an inter-ministerial basis
- International cooperation activities (admission of foreign students, trainers, Phare, Tacis, partner organizations).

The education system for public service performance prepared

62 <https://www.fonction-publique.gouv.fr/conge-parental>

63 <https://www.fonction-publique.gouv.fr/conge-de-solidarite-familiale>, Family leave, part-time work, p.22-23, [https://www.fonction-publique.gouv.fr/files/files/publications/coll\\_les\\_essentiels/guide-conges-familiaux.pdf](https://www.fonction-publique.gouv.fr/files/files/publications/coll_les_essentiels/guide-conges-familiaux.pdf)

64 <https://www.fonction-publique.gouv.fr/cadre-juridique-et-accords>

65 <https://www.fonction-publique.gouv.fr/la-prevention-des-risques-psychosociaux>

66 Top Public Managers in Europe, France

67 The DGAFP manages human resources in the whole public administration (health service, educational system, local government) this information may, thus, be misleading

68 <https://www.fonction-publique.gouv.fr/score/ecoles-de-formation>

69 <https://www.fonction-publique.gouv.fr/score/ecoles-de-formation/ira-et-ena/ena>

and managed by the DGAFP offers several options how to prepare for public service competitions. If a student has not chosen a program at the college, which includes preparation for the competition in the civil service, he / she may enrol in the preparatory module after completing the studies.

The preparation for the competition for category A positions is provided by the Institutes for the Preparation for the General Public Service (*L'Institut de préparation à l'administration générale*), which are a part of universities and the Centres for the Preparation for the General Public Service (*Centres de préparation à l'administration générale*), which are a part of the Institute of Political Studies, some other universities also offer these preparatory courses. The preparation for the competition for category B and C positions is provided by designated public educational institutions and some municipalities / town halls.

Since 2005, there is a program for applicants from poor social conditions, **the Preparatory Integrated Module**, which aims to provide adequate compensation and pedagogical support to socially disadvantaged applicants (accommodation, computer, financial compensation during the preparatory course).

There is also **Preparatory Integrated Module for the competition**. These preparatory modules are offered by the individual ministries, depending on the position and the ministry concerned. For example, there is a preparatory module for the competition and the start of the studies at ENA, which is organized by the Office of the Prime Minister and lasts 9 months. In 2018 there were 24 posts offered. IRAs are required to offer this integrated module with a capacity of 25 people a year and the duration of 7 months since 2009. The applicant may be a student or unemployed, to have completed university education, to be a citizen of an EU or EEP Member State and the income below a predetermined limit.

**The Institute for Management and Economic Development in Public Administration** (*L'Institut de la gestion publique et développement économique*), which operates at the Ministry of Finance, is responsible for the preparation for the competition for public employees outside the service.

Another option is a correspondence preparatory course that exists for all categories of public employees. If the candidates do not want to use the correspondence course, they may request training materials, test exams, and test committee reports from the previous years.<sup>70</sup>

### What is the general regulation and setting of the education within the framework of the preparation for the performance of civil service and the performance of the civil service itself?

For the management of vocational education and training in the state administration, the DGAFP uses the strategic management tool **management scheme**, defined in Article 34 of Government Decree 1470 of 2007, modified by Government Regulation 1804 of 2016. The current strategic document is elaborated into 5 strategic axes which govern vocational education policy at all levels of implementation for 2018-2020:

1. To structure the offer of vocational education to meet the needs of civil servants in the context of the transforming public service.

70 <https://www.fonction-publique.gouv.fr/score/preparations-aux-concours>

2. The use of information technologies as a leverage in the transformation of administrative authorities and educational infrastructure of the state.
3. Supporting managers in implementing public policies and performing managerial tasks.
4. To involve civil servants in developing their own careers by individualising their initial education and promoting professional development.
5. To strengthen the tool for the pilot verification of educational policy with the emphasis on quality and performance.<sup>71</sup>

Since 1 January 2017, the French public service introduced a comprehensive **personal activity account**, the main part of which is a **personal education account**. This instrument applies to civil servants and civil service employees. The aim of the personal account is to motivate civil servants to their own professional development. The personal education account has an electronic form and includes, in addition to an individual time fund for education, where a civil servant can accumulate hours over several years, also the offer of educational activities that are relevant to that position, the impact that the educational activity has on a career or the remuneration of the employee. The personal education account is a tool for professional development, a tool for lifelong learning. Cumulative hours on education are transferable when changing jobs, even between private and public sectors. The "owner" of the personal education account does not use cumulative hours for operational training related to immediate job performance, but for developing his education, retraining, or preparing for the change of a job.<sup>72</sup>

### What legal regulation governs the training of civil servants?

In Law No 634 of 1983 (Loi n° 83-634 du 13 juillet 1983) Article 22 the right of the civil servant to education throughout his professional life is embedded. The lifelong training of civil servants is further elaborated in the Government Decree 1470 of 2007. (Décret n° 2007-1470 du 15 octobre 2007)

The organizational changes of the Directorate-General for Public Administration with regard to the education are the subject of Government Order No 32 of 16 March 2017. (Arrêté n° 32 du 16 mars 2017 relatif à l'organisation de la générale de l'administration et de la fonction publique)

**Personal account** legislation: A circular on the implementation of a personal account in public administration.<sup>73</sup>

The form of the education strategy for public administration is defined in the following legislation: Government Decree 1470 of 2007 (Décret n° 2007-1470 du 15 octobre 2007), further amended by the Decree-Law 1804 of 2016 (Décret n° 2016-1804).

The establishment and functioning of the State School of Public Administration (ENA) is governed by the following standards: the 1945 Presidential Decree (L'Ordonnance du 9. 10. 1945), the Government Decree 167 of 2010 (Décret n° 2010-167 du

71 <https://www.fonction-publique.gouv.fr/formation>

72 <https://www.fonction-publique.gouv.fr/compte-personnel-de-formation-cpf-dans-la-fonction-publique>

73 Circulaire du 10 mai 2017 relative aux modalités de mise en œuvre du compte personnel d'activité dans la fonction publique <https://www.legifrance.gouv.fr/download/pdf/circ?id=42191>

23 février 2010).

The Circular of the Ministry of Finance (DGAFP) No. 2186 of 18 May 2009 on the implementation of integrated preparatory modules for the competition.

**Is the education of civil servants centrally managed or decentralized?**

The education system is centralized in the sense of establishing an educational strategy and common educational institutions for the entire state administration, see above. The DGAFP does not specify what training a specific civil servant should undergo.

**Who is responsible for the training of public employees?**

The Directorate-General for Public Administration (DGAFP).

**Is this department subordinated to another department (Government Office, Ministry) or is it independent?**

Since its establishment after the Second World War, the Directorate-General for Public Administration (DGAFP) has been directly subordinate to the Prime Minister, for the last 10 years it has been seeking its place in the government's organizational chart, it was assigned to various ministries (social affairs, finance and public administration). Since May 2017 it is part of the Ministry of Public Finance. Functionally, the DGAFP is relatively independent on the ministries. Critical voices calling for organizational changes point out at a possible increase of the influence of funds on DGAFP's decision-making.

**What is its competence in the field of education?**

The DGAFP includes the Office of Lifelong Vocational Training, which has the task of developing and implementing a policy of lifelong vocational training for all civil servants. Other competencies and tasks of the office are to support individual authorities in implementing policy, coordinating the main strategic line of education policy with individual ministries, checking the compliance of educational plans of individual authorities with the strategic lines of education, promoting the development of innovative education methods and distance learning tools.<sup>74</sup>

**Does the education system for senior civil servants differ from the education system for ordinary civil servants?**

As a part of the training process, applicants for management posts with the status of a civil servant have to be trained at ENA after a competition, after a diploma from ENA they apply for a specific post. ENA's training programs include skills training for managers. All newly appointed top managers in the state administration should undergo a top management training module during the first six months that includes negotiation, communication, public administration, or change management courses.<sup>75</sup>

In the current career strategy for 2018-20, one of the 5 strategic axes is dedicated to the training of management staff.<sup>76</sup>

<sup>74</sup> Arrêté n° 32 du 16 mars 2017 relatif à l'organisation de la direction générale de l'administration et de la fonction publique, art. 5

<sup>75</sup> OECD, Top Public Managers in Europe, Fact sheet France.

<sup>76</sup> <https://www.fonction-publique.gouv.fr/formation>

**What is the connection between the education and the career system (the education programs as a prerequisite of the participation in the selection procedure)?**

See the previous question.

**What is the connection between the education and the service performance appraisal (is the choice of the education based solely on the performance appraisal results, operational needs, some general plan without performance appraisal results being taken into consideration or are there more criteria combined), and how much important is the education for the performance appraisal itself?**

The subject of the service performance appraisal is according to Government Decree of 2010 also educational needs (educational needs in relation to the given tasks, competencies needed and their career) and the professional development of the civil servant (Décret n° 2010-888, art.

**3.5.12 The Termination of Service**

**How is the issue of the termination of service regulated? What types of termination of service (e.g. by law, by the decision of the competent authority, on request, etc.) are there?**

The types of termination of service:

- A written request from a civil servant – it must be taken by the service authority; the authority has 4 months to express its opinion the employee loses his status irreversibly (Décret n° 85-986).
- Dismissal for the lack of capacity to occupy the place (Loi 84-16, article 70).
- Removal – end of service as a disciplinary sanction for serious misconduct.
- Retirement (Décret n° 2012-847).

**Is the termination of the civil service connected with any financial compensation? (e.g. the end-of-service allowance, severance pay, cash settlement, etc.)? Under what conditions and to what extent is this compensation provided?**

Retirement, voluntary dismissal, or dismissal are not connected with any indemnity. Only voluntary retirement in case of restructuring or abolition of a particular post is under certain conditions, connected with severance pay.

**Does a non-competition clause or any other similar institute apply after the termination of service? To what extent?**

An exception to the way which political opinions may be presented (Dévoir de réserve) apply, for example, to public employees in the availability regime. The Deontological Commission may also declare the business incompatible with a retired civil servant.

**What other institutes are connected with the termination of service?**

*The questions cannot be answered due to the lack of information.*

## 3.6 THE REPUBLIC OF CROATIA

Information sources on the Croatian system were limited in some areas and it was not possible to answer all the questions. Therefore, only a selection of questions for which at least partial information in phase I has been collected is given below. In the second phase of the analysis, selected questions related to the service examination and service performance appraisal were elaborated in more detail.

### 3.6.1 The Depoliticisation of State Administration

**What institutes ensure the apoliticity of the state administration and state employees?**

Apoliticism is declared in the constitution "... every citizen, regardless of his political beliefs, is entitled to participate in the exercise of public affairs and become part of the civil service ..." (Bejaković, 2013)

The statute of a civil servant which can be lost only in case of a serious breach of his / her work duties or illegal activity is specified in the Civil Servants Act.

**Can civil servants be members of local (regional) councils?**

Under the **Civil Servants Act (CSA)**, civil servants can run for both local and national elections. The elections and their political views should not affect the status of civil servants or their career advancement. (CSA, Art. 13)

### 3.6.2 The Possibilities of Compensation of Civil Servants' Duties

**What types of paid leave can civil servants take (study leave, indisposition leave, leave for personal affairs, etc.)?**

After more than four years of civil service, a civil servant is entitled to a maximum of one-year absence for education. The time off must be approved by the head of the relevant service authority. The aim of education should be to improve the expert profile for the performance of the post. An employee is entitled to a remuneration equal to his or her salary at no extra cost. The employee is obliged to stay in the office for twice as long period as the study leave. (CSA, Art. 95)

### 3.6.3 Career Advancement Options (Career Order)

**What is the prerequisite of a civil servant's career advancement (e.g. education, duration of service, duration of administrative activities, experience with managing of employees, the quality of the performance of service tasks – service performance appraisal, the age of civil servant, etc.)? How often (at what time intervals) is it possible to achieve career advancement?**

The evaluation may result in career advancement if the performance of the employee is evaluated as excellent twice in a row. (CSA, Art. 90)

The government should issue a regulation on the career advancement of civil servants. (CSA, Art. 90)

### 3.6.4 The Systemization and the Organization of Service Authorities

**Does the legal system deal with the issue of systemization in the state administration (determination of the mandatory number of posts in the bodies performing state administration, division of these posts according to the remuneration scale, determination of the amount of funds for salaries)?**

Yes. Specified in the Government Order. Uniform standards for the definition and description of the posts should be adopted by the **Civil Service Office**. (CSA, Title 5, Articles 74-75)

**Does the legal system govern the question of the organizational structure of state administration authorities (the definition of the post, types of organizational units, minimum number of posts in these units, relations of superiority and subordination, etc.)?**

Section 4 (Articles 40-52) of the Civil Service Act deals with the definition and filling of service posts.

The posts must be filled in accordance with the internal rules of the organization of the service authority and the accepted recruitment plan for civil servants.

The internal organizational rules must describe the posts in the state service authority, determine the number of employees for the post and the conditions for the admission.

The internal organization rules of the service authority must be submitted for the approval to the Civil Service Office.

The recruitment of civil servants for indefinite duration shall be in accordance with the **recruitment plan for civil servants** (hereinafter also the plan). (CSA, Art. 41)

Art. 43 deals with the preparation and the approval of the plans. The HR department prepares draft plans at the same time and in accordance with the preparation of the draft state budget.

Based on the collected proposals and with the prior approval of the Ministry of Finance, the plan is adopted by the Civil Service Office. The plans should be approved within 30 days of the approval of the state budget. In addition to short-term plans for a given calendar year, medium-term plans for two years and long-term plans for four years may also be adopted.

**Is there a procedural issue of systemization and organizational structure (rules for processing and submitting proposals for the systemization and the organizational structure) in the legal order?**

Yes, the basic parameters of the organizational structures, powers and tasks of the individual institutions are subject to the following legal regulations:

- Civil Servants Act, Official Gazette No. 92/2005;
- Act on State Administration System (OG 150/11);
- Act on the Organizational Structure and Powers of Ministries and Other Central State Authorities (OG 150/11 and 22/12). (Bejakovic, 2013).

The Civil Service Act deals in Article 39 with the basic settings of the personnel department or department within the organizational structure. Organizations with 50 or more



employees must have an internal HR department. Among other things, they prepare plans for hiring new employees.

**Who is responsible for preparing a systemization proposal?**

According to the Civil Servants Act, the Civil Service Office at the level of the entire state administration. At the level of the individual organizations, the proposals are prepared by the HR department.

**Who approves the systemisation and the organizational structure of the administrative authority?**

The plan for the recruitment of civil servants is based on the collected proposals of the individual state authorities and with the prior approval of the Ministry of Finance, the plan is adopted by the Civil Service Office.

**Is the systemisation and the organizational structure approved for a certain period or indefinitely?**

In addition to short-term recruitment plans for a given calendar year, medium-term plans for 2 years and long-term plans for four years may also be adopted.

**Are there more types of systemized jobs in the state administration (in the Czech Republic, service posts under the Civil Service Act and jobs under the Labour Code)?**

Yes. There are positions of civil servants and government employees. Civil servants fall under the Civil Servants Act and government employees fall under the Labour Code. (CSA, Art. 4)

**What are the criteria for defining systemized posts by type and who decides on this matter?**

Managing posts are divided into four categories: an executive of the entire organization and three levels of managerial posts. (Bejakovic, 2013)

**3.6.5 Selection Procedures to Fill Vacancies**

The filling of vacancies must take place through a public selection procedure. Before a job offer is publicly announced, it may be filled by an internal selection procedure or by a transfer of an employee. (CSA, Art. 45)

Specific procedures and methods of recruitment from internal or external sources will be regulated by the Government of the Republic of Croatia. (CSA, Art. 45)

**Who interviews the applicants and who can be present? Who can ask the candidates questions during the interview? Only the selection board or even the superior?**

A representative of the Civil Service Office must be present at the selection board, even at the stage of checking the formal conditions and testing the expertise and qualification. If the position is not filled, a new selection procedure is announced and a new selection board is appointed. (CSA, Art. 51)

**How can applicants who have been indicated as unsuccessful appeal?**

They may appeal to the Civil Service Committee within 15 days of the receipt of the results of the selection procedure. The appointment of a successful candidate must be suspended if one of the unsuccessful candidates files an appeal. (CSA, Art. 52)

In addition, unsuccessful candidates may bring an action before the Administrative Court and, in accordance with the Constitution, before the Constitutional Court if they feel that the principle of equal treatment has been violated. (Bejakovich, 2013)

**Can unsuccessful applicants and successful applicants who have not been selected for the civil service appeal against the result of the selection procedure to the court?**

Unsuccessful applicants, like other civil servants in other matters concerning the service, may file an appeal to the Civil Service Committee. The Committee must settle the appeal within 30 days of the receipt. Managers of the state administration bodies in question may oppose the Committee's decisions by bringing an action before the Administrative Court. (CSA, Art. 67)

In addition, unsuccessful candidates may bring an action before the Administrative Court and, in accordance with the Constitution, before the Constitutional Court if they feel that the principle of equal treatment has been violated. (Bejakovic, 2013)

**3.6.6 Disciplinary Proceedings**

**Is there a disciplinary liability of civil servants? If not, how is the violation of civil servants' duties in civil service approached?**

Yes. Breaches of duties are classified as serious and less serious. Serious must be defined by law, less serious may be contained in government regulations or internal regulations of the organization. (CSA, Art. 97)

**If there is a disciplinary liability of civil servants, how is the merits of a disciplinary offense defined?**

**Minor breaches of duty:** repeated late arrivals or early leave, unjustified or unauthorized leave of the office during working hours, clutter in entrusted documents, files or other entrusted information, unexcused one-day absence, failure to inform the superior within 24 hours of illness or other reason for absence, other reasons specified by the government or organization. (CSA, Art. 98)

**Serious breaches of duty:** inability to fulfil timely and well-defined obligations, illegal work, providing inaccurate information affecting the decision-making process within the organization or having other essential consequences, abuse or overstepping power, refusal to perform the tasks entrusted, illicit use of material entrusted within the performance of duties, disclosure of official secrets related to the performance of public service, performance of activities contrary to the tasks entrusted, without prior approval by the head of the organization, preventing citizens or legal entities from exercising the right to file appeals, petitions and other legal rights, use of false documents to gain service benefits, inappropriate behaviour damaging the reputation of the civil service, unexcused absence of two to four days successive, inappropriate behaviour, which led to the imposition of penalties 3 times for minor violations of obligations, other serious violations defined in another law. (CSA, Art. 99)

**If there is disciplinary liability of civil servants, what**

**disciplinary measures (sanctions, penalties) can be imposed on civil servants (reprimand, salary reduction, etc.)?**

Possible sanctions for minor infringements:

- Verbal reprimand,
- Written reprimand,
- A written reprimand filed to a personal file,
- A fine not exceeding 10% of the monthly salary of a civil servant.

Possible sanctions for serious breaches:

- A fine for a period not exceeding six months in the amount not exceeding 20% of the employee's monthly salary,
- Suspension of career advancement for two to four years,
- No promotion for two to four years;
- Conditional exclusion from civil service (with one-year condition),
- Exclusion from service. (CSA, Art. 110).

The total fines and sanctions taken together may not exceed 30% of the employee's monthly salary.

**Who decides that a civil servant has committed a disciplinary offense (disciplinary committee, superior, other authority)?**

The less serious breach of duties is decided by the manager of the organization, unless otherwise specified by another legislative standard for the organization. (CSA, Art. 100)

In the case of a serious breach of obligations, the Administrative Court and the High Administrative Court decide. (CSA, Art. 100)

**What are the possibilities of appeal of a civil servant in the matter of his disciplinary liability (appeal, suit to the administrative court, other)?**

In the case of a serious breach of duties, a civil servant may appeal to the High Administrative Court. (CSA, Art. 100)

**3.6.7 Service Examination**

If the candidate passes the probationary period, as a satisfactory he / she has to pass a service examination within six months. (CSA, Art. 56)

The examination consists of a general and a special part; (CSA, Art. 57).

**Whether and how are the requirements for the examiner regulated – scope and content verified by knowledge and skills, form of the exam [written, oral model situation], etc.?**

The service examination consists of a general and a special part. The general part of the service examination is held orally. A special part of the service examination consists of a written part and an oral part. A special part of the service examination is not required to be performed by a civil servant who has been awarded a doctoral degree and a civil servant who has completed a master's degree in a field related to the field and activities entrusted by law to the state authority in which the civil servant serves. The law considers the judicial examination to be equivalent to the service examination and thus the person who has previously passed the judicial examination is not obliged to take the service

The service examination is taken before an examination

board, which is set up at the central state administration body responsible for the civil service, i.e. at the Ministry of Justice. Most often the service examination takes place on Saturday.

The general part of the service examination is identical for all civil servants, irrespective of their classification and education. A special part of the service examination is aimed at examining the knowledge of the legal regulations needed to carry out certain tasks within the competence of the public authority in which the civil servant is assigned to serve; the individual legal regulations, the knowledge of which is being verified, are stipulated in the Program of Service Examination (Article 4 of the Government Regulation on the Course and Procedure of the Service Examination.) The Program stipulates the requirements for knowledge of the legislation according to the competence of a particular governmental authority, e.g. a civil servant carrying out activities aimed at defending the state is supposed to prove knowledge of different legislation than a civil servant dealing with passport and identity card issues.

The general part of the service examination examines knowledge of the following areas:

- (a) The constitutional system
- (b) The public administration system
- (c) Public relations
- (d) The system of local and regional government
- (e) Administrative proceedings and administrative disputes
- (f) Civil service skills
- (g) The principles of the European Union.

**The written part** of the special part of the service examination consists of the elaboration of a written assignment which is related to the field and corresponds to the activities performed by the examined civil servant. A written assignment shall be determined by the examination board immediately before the commencement of a special part of the service examination on the proposal of a member of the examination board dealing with the issue. The written assignment usually includes, in addition to the theoretical part, also the practical part, in which the civil servant has the task of solving a specific problem, which is determined according to the activities and acts performed by the civil servant himself. The written assignment and **the oral part** of the special part of the service examination are usually held on the day designated for the general part of the service examination. When elaborating the written assignment, a public servant has the right to use the necessary technical and professional assistance, but must not use a mobile phone. In case of failure to comply with this requirement, the civil servant's service examination shall be terminated and deemed not to have been performed.

There shall be a protocol on the course of the service examination issued, which contains information on the content and method of conducting the service examination and the attendance list of civil servants who took the service examination.

A civil servant is given a mark if he passed the service examination, and if he did not pass the service examination, he is given the evaluation failed. The examination was successfully passed by a civil servant who, on the grounds of the written assignment and an oral examination, succeeded in

all areas by persuading the members of the examination board that the civil servant had demonstrated sufficient knowledge of the subject to be tested. A civil servant who has not been successful in a maximum of two areas has the right to retake the service examination, and only in the areas in which he did not succeed for the first time. A civil servant who has not successfully passed the service examination in three or more areas may also retake the service examination, but already the whole exam, i.e. the general part and the special part.

**The costs of passing** the service examination and its first retaking shall be borne by the state authority which required the civil servant to take the service examination. The costs for repeating the second attempt to take a service examination are already borne by the civil servant himself.

The central public administration body responsible for the civil service shall issue a certificate of service examination to be sent to the civil servant and a copy of the certificate shall also be sent to the state authority which required the civil servant to take the service examination. The certificate shall be signed by the chairman of the examination board and shall be put in the civil servant's personal file.

**Whether they test only civil servants or other entities (or only entities other than civil servants).**

The examination should take place under the auspices of the Civil Service Office. The general part is managed by the Civil Service Office and is appointed by the Director of the Civil Service Office; (CSA, Art. 58)

The service examination is taken before the **State Examination Board** (in the text only as the Examination Board) and at its headquarters. Exceptionally, the examination may be carried out outside the seat of the Examination Board at the request of a public authority, as decided by the head of the central public authority responsible for civil service matters, provided that a large number of civil servants take part in the special part of the service examination. If the service examination is organized outside the seat of the examination board, all costs related to the organization of the service examination shall be borne by the state authority at whose request the place of the service examination has been changed.

**The examining board members** examining the general part of the service examination shall be appointed by the head of the public administration body responsible for civil service matters and the examining board members examining the special part of the service examination shall be appointed by the head of the central administrative body or other state authority responsible for the administrative area. The members of the board of examiners are appointed from among civil servants who have attained higher education, have passed the service examination, have at least seven years' experience in state bodies, are professionally competent in the field for which they were selected for and have not been punished in the past. In exceptional cases, university lecturers may also be appointed as members of the board of examiners who deal with the examinations on campus.

**The chairperson of the Examination Board** is appointed from among important experts working in the state administration and, moreover, has to practice in the state administration for

at least ten years. The Examination Board has a **secretary**, who is appointed from among civil servants who have at least completed secondary education, have passed the service examination, working experience in the given area for at least three years and demonstrate leadership skills. The chairperson and members of the examination board shall be entitled to a remuneration, the amount of which shall be fixed by the head of the central civil service competent in matters of civil service.

The examination board usually consists of the following members: the chairman and three other members of the examination board in the case of verification of knowledge from the general part of the service examination. In the case of verification of knowledge from a special part of the examinations the examination board consists also of other members of the examination board. The final result of the service examination is decided by the examination board immediately after the service examination, by a majority vote of all its members.

**What is the link between the training and a service performance appraisal (whether the training is based solely on service performance appraisal, is made according to operational needs, according to any overall plan without service performance appraisal, in combination with multiple criteria and also how the training is taken into account / reflected in service performance appraisal, i.e. and how much important is its role?)**

The Civil Servants Act implies that education is directly linked to the evaluation results. A more detailed information on this topic can be found in the chapter devoted to the service performance appraisal of civil servants.

**3.6.8 Service Performance Appraisal of Civil Servants**

**It is obligatory?**

Yes. The service performance appraisal of civil servants is obligatory. The CSA stipulates that all civil servants shall be evaluated for the previous calendar year by 28 February at the latest. Civil servants serving for less than six months in the previous calendar year shall not be subject to service performance appraisal. The purpose of the service performance appraisal is to encourage civil servants to perform their duties effectively and efficiently, to respect civil servant's obligations and to comply with the civil servants' code of ethics. By acting as reflected in the outcome of the service performance appraisal, civil servants also may significantly influence their remuneration and career advancement.

**Who is subject to service performance appraisal? To what extent is he/she involved?**

All civil servants in service.

All civil servants, regardless of their status in the organizational structure of the relevant service authority, are subject to service performance appraisal. The Civil Servants Act does not provide any exceptions in this respect.

The stages of the service performance appraisal procedure itself are de facto three:

1. Planning a service performance appraisal is an annual process involving an interview with a civil servant, with the aim of identifying service tasks and setting other work objectives for the coming calendar year.
2. The inspection of the performance of service and its efficiency, during which the immediate superior of the public servant continuously monitors the results and the course of service performance and the efficiency of the civil servant during the whole calendar year (or the evaluated period) and at the same time provides support and advice to the civil servant.
3. The evaluation of service performance and the effectiveness by the end of the evaluation period in the form of an interview with a civil servant, in which the civil servant is acquainted with a proposal for a service performance appraisal, which not only contains conclusions on his performance, but also defines new tasks and objectives for the calendar year. At the same time, the need for professional training of civil servants is also taken into account.

#### Who is the evaluator?

The direct superior. (CSA, Art. 86)

The proposal of the service performance appraisal will be prepared by the direct superior of the civil servant. The proposal for a service performance appraisal must be justified. (CSA, Article 85 (2))

The immediate superior of the public servant is obliged to monitor the performance of the service, the performance of civil servant's duties and the personal behaviour of the public servant throughout the calendar year. At the same time as the annual service performance appraisal proposal, a **report on the efficiency of service performance, perseverance of the civil servant's duties and personal behaviour of a civil servant for a calendar year** is submitted. (Article 4 (3) of the Government Regulation on Procedures and Criteria for the Evaluation of Civil Servants)

Appropriate documentation must also be provided, together with the draft annual evaluation, to demonstrate the facts and certifying circumstances that have a significant impact on the final annual service performance appraisal proposal. As regards remarks on the performance of the civil servant and the procedure of the civil servant or complaints, the superior civil servant must keep appropriate records in an appropriate manner. Comments and criticisms that significantly affect the conclusions of the service performance appraisal shall be included in the report. The draft service performance appraisal is submitted to the civil servant. If the civil servant is dissatisfied with the proposed evaluation, he has the right to object to the superior civil servant who is obliged to accept the objection. (CSA, Art. 85 (3))

A public servant shall have **the right to comment on the application for an annual service performance appraisal** within three days of the date on which the application was submitted to him. A civil servant has the right to require that the service performance appraisal also take into account other activities which he / she performed during the calendar year, provided that he / she provides adequate evidence of such activities. The immediate superior takes into account activities

when they have a significant influence on the outcome of the service performance appraisal because they are related to the place of service of the civil servant and to the administrative area within the competence of the service department. If a civil servant has performed extraordinary tasks in another organizational unit of the service authority, the manager of the organizational unit in which the civil servant performed these tasks shall submit a performance report directly to the immediate superior of the civil servant who proposes an annual performance appraisal.

The direct superior of the civil servant according to the hierarchical sequence, resp. according to the organizational structure sends the proposal of the service performance appraisal to all senior civil servants, who are senior to the civil servant concerned by the service performance appraisal, after which the proposal shall be submitted to a civil servant authorized to issue the service performance appraisal decision. Senior civil servants shall comment on the proposal for service performance appraisal and, if they disagree with the proposal, they shall state their reasons and propose a grade for the civil servant by 31 January. The decision on service performance appraisal shall be taken by the head of the service authority or a public servant authorized to make the decision on service performance appraisal, taking into account the proposal of the immediate superior of the civil servant, as well as the observations of the other superior civil servants. The civil servant whose superior is the head of the service authority shall be immediately evaluated by the head of the service authority.

#### How often is the service performance appraisal carried out? Is it tied to a specific date or event, or is it done as needed?

Every year, the previous calendar year is evaluated. (CSA, Art. 82)

Civil servants are evaluated for the service in the past calendar year by 28 February at the latest. And it can be stated that the service performance appraisal is fixed to a specific date and is not carried out as needed.

#### Does the result of the service performance appraisal have any impact on the salary of a civil servant?

Yes. On a general level, the Civil Servants Act ties in the evaluation and subsequent remuneration and professional development of the employee. (CSA, Art. 83)

The outcome of the service performance appraisal has impact on the final salary of a civil servant, but the Civil Servants Act is vague in this respect, providing only general information that the civil servant's performance influences the remuneration and the professional development of a civil servant (CSA, Art. 83).

Civil servants are entitled to the same remuneration for the same work or work of equal value, irrespective of whether they are civil servants of indefinite duration or of fixed-term employment and thus of probationary civil servants. Salaries and other substantive rights of civil servants are governed by a special law, and a collective agreement may also govern the material and other rights of civil servants. The salary of a civil servant shall be multiplied by the complexity coefficient of the activity carried out at the post where the civil servant is assigned and the salary base shall be increased by 0.5%

for each completed year of service, for example the salary base from 1 November 2017 421.54 kuna and is valid from the salary for the month of November 2017, which is due in December 2017, in 2009 the basis for calculating the salary of 5 108.84 kuna. The coefficients of complexity of the activity carried out are laid down in the regulation on the names of posts and the complexity of public service posts (*Uredba o nazivima radnih mjesta i koeficijentima of the composition of the messenger*), which is a relatively extensive piece of legislation. The remuneration of civil servants is also affected by the content of the Government Order on Special Conditions of Service in the Civil Service (*Uredba o poslovima i posebnim uvjetima rada u državnoj službi*), which provides that some civil servants carrying out activities at special workplaces are entitled to a supplementary allowance to the basic salary 5 to 30%.

**Does the result of the service performance appraisal have any other impact on the service of a civil servant?**

The implication of the civil servant's performance appraisal is explicitly governed by Article 87 of the Civil Servants Act, taking into account the outcome of the civil servant's performance appraisal when stipulating the training needs of the civil servant, career advancement and promotion conditions of the civil servant, conditions for taking unpaid study leave. The result of the service performance appraisal shall also be taken into account when imposing sanctions for the breach of the service duties of a civil servant.

A civil servant who has been evaluated as *satisfactory* should participate in further vocational training or be transferred to a service where the same or less complexity of the activities performed is required, but the requirement for training at that other service post must correspond to the already achieved education of a civil servant.

A civil servant who has been evaluated as *unsatisfactory* shall terminate the service ex lege on the day on which the decision on the service performance appraisal became enforceable.

The issued decision on service performance appraisal is based on the civil servant's personal file and is also entered in the Register of Public Sector Employees (Article 12 (5) of the Government Regulation on Procedures and Criteria for Evaluation of Civil Servants).

The higher-level collective agreement implies the right of a civil servant to an increase in an annual leave on the grounds of the results of the service performance appraisal as follows: a civil servant who has been evaluated as *successful* has the right to an **increase in an annual leave by one day**; a civil servant who has been evaluated as *exemplary* has the right to an increase in an annual leave by two days and a civil servant who has been evaluated as *exceptional* has the right to an increase in an annual leave by three days (Article 19 (5) of the Collective Agreement, *Kolektivni ugovor*).

The evaluation of the performance of an employee should influence the setting of an individual and a collective training plan for a given group of employees.

The evaluation should influence career development. The evaluation should influence a dismissal from civil service.

In case of a breach of work obligations, the results of the

performance appraisal should be taken into account. (CSA, Art. 85)

The evaluation reports are kept in the employee's personal file. (CSA, Art. 89)

The evaluation creates the possibility of career advancement if the performance of the employee is evaluated twice as *excellent*. (CSA, Art. 90)

**What regulations govern the service performance appraisal procedure?**

The institute of service performance appraisal is generally laid down primarily in the Civil Servants Act in Volume 7, Articles 82 to 89. Article 85 of the Act explicitly states that the details of the evaluation procedure and the criteria for the service performance appraisal including the content of the civil servants evaluation form are stipulated by the government. On 6 November 2011, the Government issued a Government Order on Procedures and Criteria for the Evaluation of Civil Servants, which entered into force on 1 January 2012. The Government Order contains a total of 18 provisions that describe in detail the process of the service performance appraisal, the annex to the Government Regulation contains the necessary forms that the evaluators use in the framework of the service performance appraisal. The Civil Service Office will issue standardized evaluation forms and documentation for the evaluation procedure. (CSA, Art. 84)

**What form does the rating scale take? It is evaluated only verbally, or only by giving points? What results can be achieved in the service performance appraisal?**

The Civil Servants Act provides in Article 84 the following evaluation scale.

A civil servant is evaluated as successful if he / she demonstrates the required level of competence, performs civil servant's duties and ensures reliable performance of his / her duties (performance of service) and fulfils his / her civil servant's duties in a timely and consistent manner and the mistakes he makes are negligible (CSA, Article 84 (1)). A civil servant cannot be regarded as **successful, exemplary and exceptional** if several written complaints have been made against him in the course of a calendar year for failure to comply with a civil servant's duties, which has a significant effect on the decision that the civil servant has committed an offense.

A civil servant can be evaluated better, for example as **exemplary** provided that he has a high level of knowledge, performance of his service and compliance with the civil servant's duties is first-rate and, in addition to the criteria to be considered when evaluating a civil servant as successful, performance of the service or demonstrates an extraordinary motivation to perform the service and achieves a better result than is usual in the workplace where he/she is assigned to the service. (CSA, Art. 84 (2) (a))

A civil servant can be evaluated as **exceptional** (CSA, Article 84 (2) (b)) if he, in addition to the criteria mentioned above, performs activities far more extensively than normal, or is innovative and creative and actively involved in improving the administrative area, or is also involved in promoting the agenda which he/she carries out (e.g. by publishing professional

publications or participating in conferences or seminars, or acting as a training instructor in organized training programs in accordance with the Civil Servants Act and thereby contributing to the professional improvement of the areas).

However, a civil servant may also be evaluated worse than successful, for example **satisfactory**, if he or she has a lower level of expertise and knowledge than is necessary for the proper performance of his / her duties, service and the lack of accuracy in service performance is more than evident. It is a civil servant who makes mistakes in the performance of the service and performs tasks without a relevant reason after deadlines or not in accordance with the rules of service. (CSA, Art. 84 (3) (a))

Furthermore, a civil servant may be evaluated as **unsatisfactory** if he does not have the required expertise and competence to achieve the minimum quality standards for reliable and acceptable service performance. His work is characterized by significant errors or his duties are rarely performed in time or in accordance with legal standards. A civil servant does not show any interest in improving the performance of the service despite the fact that his / her superior or branch manager commented on the results of his / her activities and pointed out at his/her omissions and irregularities; at least three months before the expiry of the service evaluation period, the civil servant was notified in writing of the possibility that he would be evaluated as unsatisfactory and nevertheless did not avoid his omissions and inconsistencies in the performance of the service.

Available legal regulations and materials of a non-legislative nature, such as the Analysis of the Ministry of Justice No. 2 of November 2016, do not indicate that a point scale shall be applied in the service performance appraisal but civil servants are evaluated using the verbal evaluation terms below.

- Expertise and ability

Exceptional – Performs tasks far beyond the usual limits of expertise, or is innovative and creative;

Exemplary – Demonstrates a high level of expertise and ability;

Successful – Demonstrates the necessary knowledge and expertise;

Satisfactory – Demonstrates a lower level of expertise and knowledge than is necessary for the proper performance of the assigned tasks;

Unsatisfactory – Does not demonstrate the required expertise to achieve the minimum standards of the quality of work and reliable and acceptable service delivery.

- The Performance of Civil Service

Exceptional – actively participates in the improvement of the administrative area or is further engaged in the administrative area in which he/she performs activities, e.g. participates in the publication of professional texts or publications or actively participates in lectures, professional consultations or seminars or acts as a lecturer in seminars in the organized educational programs;

Exemplary – ensures the performance of first-class service and, in addition to meeting the criteria of successful evaluation, provides useful suggestions for improving the service or shows extraordinary motivation to work;

Successful – ensures the reliable performance of the service and performs the duties of a civil servant in a timely manner and in accordance with the rules of the civil service procedure;

Satisfactory – his activities and compliance with the duties of a civil servant provide the least acceptable standards of quality of service and accuracy in the provision of the service, make mistakes in the performance of the service and civil service procedure, or perform his civil service duties without due cause outside the time limits or contrary to the rules of civil service procedure;

Unsatisfactory – makes significant mistakes in the performance of service or civil service procedure, often performing the civil service duties behind the schedule or in violation of the rules of civil service procedure.

- Results

Exceptional – contributes to personal, professional and administrative development of public administration;

Exemplary – achieves better work results than expected at the workplace to which he/she is assigned;

Successful – mistakes made during the performance of service are negligible;

Satisfactory – his superior has objections and reproaches about his activities and results;

Unsatisfactory – does not show interest in the quality of his work, despite the fact that a senior civil servant or the head of the unit has reproaches about his work and has alerted him at least three months before the appraisal deadline; he was informed in writing of the possibility of obtaining a negative service performance appraisal and then did not try to improve the quality of his performance and continues to perform his activities carelessly.

**The criteria for the service performance** appraisal of civil servants are enshrined in Article 13 et seq. government regulation on procedures and criteria for the evaluation of civil servants. It is generally stipulated that the performance of a civil servant is evaluated using general and special career evaluation criteria.

The general criteria apply to all civil servants, regardless of their classification in the service. The special criteria shall be applied according to the differences in the duties of the civil servant and with regard to his classification. The general evaluation criteria are as follows: efficiency of task performance, accuracy, precision and reliability in the performance of tasks, compliance with deadlines for the performance of tasks and the efficiency of task performance.

Depending on the classification of the civil servant, the results of his activities can also be evaluated according to special criteria, which are degrees of innovation, levels of creativity, written and oral expression, communication skills and the ability to work in a team. The performance of the service of superior civil servants is evaluated on the grounds of the following criteria: the organization and the coordination of work, decision-making to which the civil servant is entitled, motivation of civil servants, conflict resolution and the implementation of strategic goals if the civil servant is responsible for the goals implementing.

Furthermore, personal behaviour and the observance of

the duties of a civil servant are also evaluated. (Article 15 of the Government Decree on Procedures and Criteria for the Evaluation of Civil Servants)

The personal behaviour of all civil servants is evaluated according to the following criteria: attitude to work (in the sense of motivation), attitude towards citizens, relationship with superior civil servants, relationship to other civil servants, adherence to the working hours, observance of the obligation to participate in the educational program, the attitude to education. In addition to the above, personal behaviour of the superior civil servants is also evaluated in terms of the relationship and conduct towards subordinate civil servants.

**Is there any future perspective plan a part of the service performance appraisal – goals setting, development plan, etc.?**

The evaluation of the performance should influence the setting of an individual and collective training plan for a given group of civil servants who have been evaluated at the same level. A civil servant who has been evaluated as satisfactory should undergo a further training. The evaluation should influence the possibility of career advancement. (CSA, Art. 85)

**Is the achievement of negative performance appraisal sanctioned? How?**

If the result of the evaluation is unsatisfactory, the civil servant should undergo a further training or be transferred to a place where the same or less complexity of the activities performed is required, but the requirement of the training at that other place of employment must correspond to the training already completed by the civil servant. If a civil servant receives the unsatisfactory mark twice in a row, he should be dismissed on the date of the issue of the evaluation report. A civil servant who has been evaluated as unsatisfactory shall terminate his service ex lege on the day on which the decision on the appraisal became enforceable.

**Are there any appeal measures against the results of the performance appraisal?**

Yes, there are. The immediate superior civil servant, as an evaluator, is obliged to acquaint the civil servant with the proposal of the service performance appraisal. A civil servant who has comments and objections against the submitted proposal of the service performance appraisal is entitled to raise the objections in the objection which the immediate superior civil servant is obliged to accept, within three days from the day when the draft service performance appraisal was submitted to the civil servant. The objection, together with the draft service performance appraisal, is submitted to all hierarchically superior civil servants for the to be judged.

A civil servant has the right to lodge a complaint (action) against the final decision on the appraisal issued by the head of the service authority, which he/she must duly substantiate with the relevant evidence on which his complaint is based. A Civil Service Committee (Department for Civil Service) was also set up to protect civil servants. A civil servant may lodge a complaint with the Civil Service Committee against a decision on service performance appraisal within 15 days from the date of the delivery of the decision. The Civil Service Committee is

then obliged to decide on the civil servant's complaint within 30 days from the day the complaint was received. The civil servant and the service body are entitled to file an action against the decision of the Civil Service Committee in the matter of settling the complaint with the competent body and thus initiate litigation.

The Civil Service Act introduced the institute of mediation, which was, however, abolished without compensation. The civil servant could use the mediation process against the conclusions of the evaluation. (formerly CSA, Art. 68). The mediator was elected by colleagues; one or more mediators per 50 civil servants should be elected for a maximum of 3 years. (formerly CSA, Art. 69). The mediator, mostly focusing on human resources management, was supposed to perform the meditation above his standard duties and was rewarded for the mediation beyond the normal salary. (formerly CSA, Articles 69-72)

**3.6.9 Principles of Ethics in the Civil Service**

**What regulations govern the principles of ethics in the civil service?**

The Civil Service Act obliges the government to adopt the Code of Ethics for the Civil Service. Codes of ethics for public authorities must be in accordance with the code adopted by the government (CSA, Articles 25 and 145).

The Civil Service Act explicitly prohibits civil servants from doing business in the same area as they perform civil service. Conflicts of interest are addressed at the general level of the CSA in Articles 32 to 37.

**3.6.10 Work-life Balance (WLB)**

In 2012, the Dutch Institute of Public Administration led the project "Strengthening the Capacity of the National School of Public Administration and Support the Development of EU Programs". The project addressed the issues of work-life balance (flexibility at work, family, personal life), a healthy work environment (stress, risks, overwork, intensity of workload, changes in work values among civil servants, defining differences in working conditions in the private and public spheres). The project concluded that the data and information from the Croatian state administration were missing in this area, but there were partial studies, focused not only on public administration, and the collected data showed problems with overtime and insufficient provision of pre-school infrastructure, with women accounting for around 50% of civil servants. (Bejakovic, 2013)

Job sharing concept. The state administration allows you to share one job with another person.

## 3.7 THE REPUBLIC OF IRELAND

*Information sources on the Irish system were limited in some areas and it was not possible to answer all the questions. Therefore, only a selection of issues for which it was possible to gather at least partial information in the first phase of the analysis is given below. Within the second phase of the analysis, information on the selection procedure and the service performance appraisal was further processed in more detail.*

### 3.7.1 Depoliticisation of State Administration

#### Can civil servants be members of local councils?

Ministers may not be representatives at the same time, they lose their representative mandate upon the appointment to the minister. (Cabinet Handbook, Art. 1.16)

No civil servants may run for Parliament or the European Parliament, including supporting technical posts. Civil servants in candidate positions can run for local councils, i.e. lowest level of administrative positions, and staff in technical and support positions. (Civil Service Code of Standards and Behaviour, point 5.2)

#### Where and how is the boundary set between posts filled on the basis of political agreements and posts filled on the basis of selection procedures in ministries and other administrative authorities?

Top management is selected by the Minister on the recommendation of the Selection Committee or board.

### 3.7.2 The Possibilities of Compensation for the Duties of Civil Servants

#### Are there fixed salary tariffs for the performance of civil service?

The wage rates correspond to the categories / grades of positions. Analyses show that, in reality, remuneration varies significantly from one service authority to another.

#### How are variable salary components (personal supplementary allowance, bonuses, etc.) granted to civil servants?

There is no centralized unified approach. It is in the competence of each minister to deal with the package of finances for variable salary components. In some places, the amount is distributed to all employees, the purchase of Christmas gifts, a social event for everyone, in another service authority, the money is used as a remuneration for above-average performance. (O'Riordan 2008, 10)

#### Are civil servants favoured in social security or health care system?

All civil servants are entitled to a retirement pension.

#### What are the differences between civil servants and employees in the provision of salary and sick pay in case of their temporary inability to perform work?

Civil servants are entitled to a sick pay for up to seven days a year without a medical certificate.

If civil servants fall ill during the holidays, they can interrupt the leave and start sick pay after obtaining a medical certificate

The entitlement to a fully reimbursed sickness benefit is up to six months in a calendar year, after which the amount of money is reduced to a half.

#### Is the scope of working hours of civil servants different from working hours of employees?

There is no difference, working hours are 41 hours a week for everyone, including lunch breaks. The entire public sector operates in a flexible working time regime.

#### What work-life balance tools are used in the civil service?

**Nursing leave** – unpaid leave, possible for a maximum of two years. The civil servant does not lose his position; he is considered not to be out of the office.

**Paternity leave** – three days after the birth or adoption of the child (for the other parent in addition to parental leave).

Entitlement to a **prenatal course** during working hours, the father is also entitled to attend a prenatal course twice during working hours.

**A breastfeeding mother** with a child under the age of two is entitled to a 60-minute break a day for breastfeeding.

**Home-office** or another place using ICT. It is entirely up to the service authority to decide on the possibilities to work outside the service authority. It can be a full-time job or a combination of working time spent in and out of the service authority. The only condition is the end of the trial period. At the same time, the management of the service authority has the power to limit the flexibility at any time.

In 2001, funding was allocated for the establishment of 15 new crèches for civil servants to six existing ones.

**Job sharing concept.** The state administration allows you to share one job with another person.

#### What benefits are granted to civil servants? Do these benefits differ depending on whether it is an ordinary employee or a manager?

*No information available.*

#### Are there any tools to ensure the cultural, sporting and recreational needs of civil servants?

Individual service authorities run sports and cultural clubs. It depends on the service authority how it handles the allocated funds.

#### Are the survivors of a civil servant (wife, husband, dependent children) entitled to a severance pay if the civil servant's employment ends with a death unrelated to the performance of the service?

Only if he dies in service.

#### How many days of leave per year are civil servants entitled to? Is the scope of entitlement to a leave for a civil servant different from that of an employee?

The length of leave varies for different types of employee positions and according to individual categories of positions. These are working days outside public holidays. (Appendix 1 to



Circular 27/03 – Annual Leave Allowances)

Top management – chief secretary (33 days), deputy chief secretary (33 days).

Senior / senior management – director (33), deputy director (32 days, 33 after five years in office).

Middle management – senior executive manager, manager (29 days, 30 after five years, 31 after 10 years).

Lower management – executive clerk (23 days, 24 after five years, 25 after 10 years), clerk (23, 24 after five years, 25 after 10 years).

Ordinary civil servant – clerk (22 days, 23 after five years, 24 after 10 years).

Support functions of a technical nature (22 days, 23 after five years and 24 days after 10 years).

**What types of paid leave can civil servants take (study leave, indisposition leave, leave for personal affairs, etc.)?**

Study leave – the length of study leave depends on the type of education, the year that the employee is currently completing (up to 10 days).

- Free time to pass exams,
- Unpaid study leaves.

Force Majeure Leave – leave for unexpected situations, paid leave of three days (for 12 consecutive months), five days (for 36 months). The employee must have an urgent, serious need due to the family situation, illness of a loved one, etc.

Wedding Holidays – Up to five days of paid holidays around the date of the wedding.

Leave in case of death of a loved one – five days partner or a child, three days direct relative and one day relative.

Holidays for the purpose of civic engagement – exercises of civilian reserves, participation in rescue, humanitarian events, country representation at international sporting events.

There is also the right to long-term unpaid leave – up to six months in case of family difficulties, death; up to one year of participation in a humanitarian project; up to 10 years for work in international and EU institutions.

Another possible unpaid break is summer holidays with children under 18 (up to three months), or a break to study for up to five years at a time.

**Are civil servants given any advantage in the area of public transport? In the field of company catering? Are more favourable conditions for the provision of tariffs for mobile and telephone operators agreed for civil servants?**

The service authority may arrange an annual public transport ticket, deduct the cost of it from the gross salary. The employee therefore does not pay taxes or other levies on the amount deducted for the annual ticket.

If there is no adequate public transport, the employee may get reimbursed part of the costs for the journey by his own means of transport.

**3.7.3 Career Opportunities (Career Order)**

The Irish system distinguishes three types of employment positions:

- Administrative levels – general positions, civil servants who can perform service in various ministries.
- Specialized degrees – these are specialists who are likely to remain in their field during their careers.
- Supporting positions – craftsmen, maintenance, etc.

**What determines the career advancement of a civil servant (e.g. education, duration of employment, period of administrative activities, experience in managing employees, quality of service tasks – service performance appraisal, the age of a civil servant, etc.)? How often (at what time intervals) is it possible to achieve career advancement?**

Career advancement distinguishes:

- External procedure – across the entire state administration. Through an open competition for the existing civil servants and candidates outside the state administration; special open competitions for specific groups of candidates, such as the disabled; closed only to the existing civil servants.
- Internal procedure – within one ministry / service authority

Service performance appraisal affects the speed of the advancement. The comprehensive system of **The Management according to the result**, of which the evaluation is a part, is new and its parameters are "fine-tuned". In 2016, the grading system was changed, as the one originally set led to a massive increase in remuneration and automatic career advancements.

**Is there a standardized career order for the entire state administration?**

Yes, 16 different levels from which the wage rates are derived. Wage rates have a range of 30 to 50% difference between the minimum and maximum. There is pressure to reform this system, as it does not have an outcome aspect. The space for rewarding the result / performance is almost zero. (O’Riordan, 2008)

**Administrative positions are divided** into nine levels:

- Top management* – chief secretary, deputy chief secretary,
- Senior / senior management* – director, deputy director,
- Middle management* – senior executive manager, manager,
- Lower management* – executive civil servant, clerk,
- Ordinary civil servant* – officer.

All positions can be filled on the grounds of an open public tender or career advancement, with the exception of the two highest (secretary, deputy secretary).

**Does a current civil servant who is interested in filling a position in a higher grade or in a higher level of management have to go through a selection procedure for filling this position?**

The general trend is in favor of open competitions, even in top management positions.

If it is a secondment of an employee, then he does not have to go through a selection procedure.

**Is it possible to transfer a civil servant from his current post to another post in another post in the same grade or at the same stage of the procedure if he so requests without a competition?**

A big topic is **mobility** within the state administration. There is a central registry across the administration, where employees can apply for other positions geographically, across service authorities. Only within the same service authority the transfer is governed by internal rules. There is no new selection procedure.

### 3.7.4 Systematization and Organization of Service Authorities

**Is the issue of systemisation in state administration regulated in the legal order (the determination of binding numbers of positions in service authorities performing state administration, distribution of these positions according to the scale of remuneration, determination of the volume of funds for salaries)?**

Wage rates are assigned to the individual grades. The analyses show that there are really big differences between individual service authorities.

**Is the question of the organizational structure of state administration service authorities regulated in the legal order (definition of place, types of organizational units, minimum number of positions in these units, relations of superiority and subordination, etc.)?**

The Irish system distinguishes three types of employment positions: administrative specialized and support levels. The organizational structure of administrative /civil servant positions is divided into nine levels / categories, see the Career Order chapter above.

**Is the procedural issue of systemisation and organizational structure regulated in the legal order (rules for the elaboration and submission of proposals for the systemisation and the organizational structure)?**

The Law on Ministers and Secretaries gives the government the power to transfer agendas between ministries and change the names of offices in the form of a government regulation (Ministers and Secretaries (Amendment) Act 1939, section 6). This usually happens after the election or by decision of the prime minister. For this purpose, in 2016 the government approved the Transfer of Functions Guidelines and Best Practice Handbook.

**What are the conditions for changes in the systemisation and the organizational structure (under what conditions is a change in the systemisation and the organizational structure permissible and who approves it, or comments on the change before the approval)?**

At the level of entire service authorities, the government (changes in the agenda, i.e. the organizational structure). (Transfer of Functions Guidelines and Best Practice Handbook).

**What are the qualification requirements in individual places (who determines them, to what extent, on the basis of what criteria)?**

The job description is the responsibility of the given service authority and the Ministry of Public Expenditure and Reform, as the office responsible for the civil servant selection procedure.

### 3.7.5 Selection Procedures for Filling Vacancies

The **Public Appointments Service (PAS)** is an institution where centralized selection of employees for the public sector, including health care, education and security forces, proceeds. In addition to the PAS, there is also the **Commission for Public Service Appointments (CPSA)**. The role of the Commission is to regulate the process of selecting employees for public administration, it is responsible for the publication of manuals, according to which the selection must take place in the individual service authorities. The PAS is under the responsibility of the Commission, acting in accordance with the rules of the Commission.

Part of the selection procedure is a testing part – verbal argumentation, mathematical / logical, work situation simulation, presentation skills and an interview.

The most common elements of the selection procedure organized by PAS (not all of them may always be used): filling in an online questionnaire, shortlisting, language tests (oral and / or written), interview, presentation, testing of analytical thinking, testing of specific requirements of the position.

According to current experience, the best means of estimating the suitability of a candidate and his future work performance are tests of assumptions. However, selection procedure models combine several techniques and methods. It is usually a multi-stage process based on the assessment of skills and respecting the competitiveness.

#### Top Management

Selection procedure for senior management positions (up to the level of Deputy Secretary) are organized by **the Top Level Appointments Commission (TLAC)**, appointed by the government. The members of the commission are external top managers from the private sector, educational institutions (seven members) and internal members, currently senior state secretaries from various ministries (six members). The information on the composition of the TLAC varies, with another source mentioning an independent chairman, four members from the private sector and four secretaries of state. In open competitions for top positions, the PAS participates in the selection procedure with the support of TLAC. Part of the government's strategy for selecting top management is to open selection procedures as much as possible and thus increase the number of candidates as much as possible.

**Is the selection procedure conducted as an administrative procedure or is it excluded from the formal process?**

*This information was not found.*

**Is it necessary to interview all applicants who have met the formal conditions for participation in the competition (they have provided all the necessary documents)? Or is it possible to select only some of the applicants to be interviewed? If so, who and according to what criteria makes this selection?**

PAS does not have to interview all candidates. If the number of candidates who have met the formal conditions is too large, the number of candidates who will complete the next selection phase may be reduced. The pre-selection is made by the PAS expert panel, which proceeds on the grounds of documented

documents and information. The documents are assessed on the grounds of predetermined criteria, which depend on the nature and needs of the occupied position.

In the case of selecting top management, the first step of the selection is so-called shortlisting, i.e. narrowing the selection of candidates. This step is organized by the Public Appointment Service and is carried out by a selection board convened by the Public Appointment Service with the participation of a TLAC representative.

**Who interviews the candidates and who can be present? Who can ask the candidate questions during the interview? Only the selection committee or even the superior?**

The selection and appointment of the selection committee is fully within the competence of the PAS. All competitions must be conducted in accordance with the rules established by the CPSA. The basic rule is an independent chairman of the selection committee, mostly with education and experience in the field of human resources management, an external expert with experience in the field, which includes the occupied position and a client representative (institution looking for a new employee).

Preliminary interviews are conducted by a selection board for the selection of the highest positions. The next round of interviews, in which the number of candidates is again reduced, is conducted by a panel of TLAC members. The panel usually consists of two external and two internal members, the panel is chaired by the TLAC chairman.

**Who evaluates the applicants in the competition (whether they succeeded in the competition or not)? A multi-member selection committee? Introduced? Another body?**

Multi-member selection committee, see previous question.

For the selection of top management positions, the selection committee carries out pre-selection and the final evaluation is carried out by a panel of the Commission for Public Service Top Management Appointments Selection Procedures (TLAC).

**Who in the selection procedure selects the most suitable applicant, who will eventually be appointed to the civil service? Selection committee? The superior? Another body?**

Multi-member selection committee, see previous question.

For the selection of the highest positions, the panel of the Commission for Public Service Top Management Appointments Selection Procedures will recommend a suitable candidate to the Minister or the Government. If the post of Chief Secretary of State is to be filled, the TLAC selection panel will recommend up to three names.

**How can applicants who have been identified as unsuccessful appeal?**

They may require a review of the selection procedure. Formal and informal way.

**How can applicants who have been identified as successful but have not been selected for civil service appeal?**

They may require a review of the selection procedure. Formal and informal way.

In the case of the top management selection procedure, the non-selected candidates may request an explanation from the TLAC chairman.

**Are applications of unsuccessful applicants and unsuccessful applicants who have not been selected for civil service rejected by an administrative decision against which they can appeal? Or are they only informed of the result of the selection procedure?**

See above.

**Can unsuccessful applicants and successful applicants who have not been selected for civil service defend themselves against the outcome of a selection procedure in court?**

*This information was not found.*

**3.7.6 Disciplinary proceedings**

**Is there disciplinary liability for civil servants? If not, how is the breach of the duties of civil servants in the performance of civil service handled?**

Yes, there is. It is regulated in the Civil Service Regulation (Amendment) Act, **CSA**, 2005. (CSA 2005, Art. 10)

**If there is a disciplinary liability of civil servants, how is the merit of the disciplinary offense defined?**

If the service authority finds that a civil servant has committed an error, negligence, unsatisfactory conduct or insufficient performance in relation to his duties, he may impose disciplinary measures.

**If there is a disciplinary liability of civil servants, what disciplinary measures (sanctions, penalties) can be imposed on a civil servant (reprimand, salary reduction, etc.)?**

There are three levels of sanctions in the Irish system:

The first level – **verbal warnings** – for less serious offenses that are quickly eliminated and do not recur.

The second level – **a written warning** – should be used for a serious breach of duty, or repeated breach of duty, or where a verbal warning has not led to a remedy.

The third level – **the final written warning** – if the disciplinary offense is of a very serious nature or if the previous warning did not lead to remedial action. This level may be combined with other specific sanctions:

- Extension of the duration of the issued warning,
- Postponement of pay rise
- Exclusion of the possibility to apply for another position or promotion for a certain period,
- Cancellation of previously approved reliefs, benefits,
- Reassignment to another place, change of job description,
- Withdrawal of supplementary allowances,
- Reassignment to a lower grade, including postponement of the possibility of increasing the salary,
- Reassignment to a lower level of the organizational structure,
- Out of service without entitlement to a remuneration,
- Dismissal from service.

**Who decides that a civil servant has committed a disciplinary offense (disciplinary commission, superior, other body)?**

The service authority which appointed the civil servant. (CSA 2005, Art. 6)

It is not strictly defined who will be responsible for disciplinary proceedings. It can be a direct superior, one of the above-mentioned employees or a manager of the personnel department, depending on the type of offense. In practice, offenses that end in mild sentences are considered to be dealt with by a direct superior, more fundamental offenses are dealt with by a senior manager with the support of the personnel department.

**What are the possibilities of appeal of a civil servant in the matter of his disciplinary liability (appeal, action before an administrative court, other)?**

The employee has the right to appeal against the second level sanction and further, i.e. against the written warning. There is no possibility of appeal against the oral warning. The appellate instance varies according to the type of sanction imposed. Until the sanction of withdrawal of supplementary allowances, the case is dealt with by an internal or external appellate civil servant. After the withdrawal of supplementary allowance, it is dealt with by Appeal Commission in Matters of Disciplinary Proceedings.

**3.7.7 Service Performance Appraisal of Civil Servants**

Service performance appraisal is part of a comprehensive **Performance Management Development System (PMDS)**.

**It is obligatory?**

Service performance appraisal is mandatory.

**Who is subject of the service performance appraisal? To what extent is it involved?**

All civil servant. An integral part of the evaluation is the self-evaluation of the employee.

**Who is the evaluator?**

An employee and a direct superior act in the role of an evaluator.

**How often is a service performance appraisal carried out? Is it tied to a specific date or event, or is it carried out as needed?**

Every year, at the end of the calendar year, as the name of the **End of the Year Review** suggests. In addition, one **mid-year review** is required.

Older documents on the harmonization of human resources management tools and the PMDS stated arbitrariness in setting the annual performance appraisal cycle within a calendar year.

**Does the result of the service performance appraisal have any impact on the salary sphere of a civil servant?**

Yes. The problem of the first evaluation cycles in the system of five marks was too positive results and thus automatic entitlement to financial remuneration. The three best marks

automatically established the right to a financial remuneration. Therefore, from 2016, the evaluation system switched to two-stage marking.

**Does the result of the performance appraisal have any other impact on the employment of a civil servant?**

Satisfactory evaluation is a condition for possible career advancement.

In case that the employee is graded as unsatisfactory, the direct superior – the evaluator follows the principles of **unsatisfactory performance management** (Policy of Underperformance), which are part of the entire PMDS system.

**What regulations govern the performance appraisal procedure?**

Job evaluation is part of a comprehensive result-based management system, PMDS.

**What is the subject of service performance appraisal (what is evaluated)? Is the evaluation framework strictly (firmly) defined or can it be adapted to the needs of individual bodies?**

If the goals were achieved. How the employee's abilities were proved / used? How performance has been improved.

**What does the rating scale look like? Is it evaluated only verbally, or only by giving points? What results can be achieved in service performance appraisal?**

Since 2016, the rating has changed from a five-point scale to a two-point scale – *satisfactory or unsatisfactory*. It is evaluated only verbally; the result is a mark satisfactory or unsatisfactory. The average results in 2017 were 99.75% satisfactory and 0.25% unsatisfactory.

**Is a future perspective plan a part of the service performance appraisal – setting goals, development plan, etc.?**

The development aspect is an important part of the evaluation of the PMDS as a whole and is increasingly emphasized. As part of the evaluation process, the employee and his / her direct superior should identify educational and development activities that will contribute to the result in the given position and enable career development.

If the work performance is satisfactory, the evaluation interview includes professional development opportunities and educational needs.

Otherwise, a **Performance Improvement Plan (PIP)** is set, which is a development plan of its kind.

**How is the service performance appraisal carried out? What evaluation methods are used?**

- Self-evaluation.
- Ongoing evaluation interview – in the middle of the year. The ongoing interview should take place sometime between June and August, and should be part of the communication between the employee and the manager and an opportunity to reflect on the goals set at the beginning of the year.
- Evaluation and development interview.

The so-called *interview cycle* describes topics that should

not be overlooked in the evaluation interview. Yellow circle – health, WLB, green – workplace relations, pink – support, leadership, mentoring, light blue – goals within PMDS, turquoise – personal and professional development, orange – leadership and people management (if relevant), blue – contribution to the results of the institution.



**What is the basis for conducting the performance appraisal?**

It is based on performance appraisal methods, see the previous answer. No further information was found.

**What form does the training of the evaluators take?**

There are manuals for both evaluators and the evaluated – *PMDS Manager's Guide to End-Year Review*, *Jobholder's Guide to the End-Year Review Conversation*.

In case of an unsatisfactory performance of the employee, the managers may seek the support and advice of their direct superior, human resources department.

**In what form does the evaluated person get acquainted with the results of the service performance appraisal?**

The employee signs the results of the evaluation.

**Is the achievement of negative results in service performance appraisal sanctioned? How?**

The process of how the manager should proceed in case of an unsatisfactory result of regular evaluation is precisely described in the manual for managers – evaluators. This is followed by another Performance Review Meeting, if decided, the manager and employee will develop a Performance Improvement Plan.

**Are there means of appeal against the results of the performance appraisal?**

Possibility of appealing to the appeal manager, who may be a manager who was not previously involved in this case.

**3.7.8 The Principles of Ethics in the Civil Service**

**What regulations govern the principles of ethics in the civil service?**

- Ethics in Public Office Act, 1995
- Civil Service Standards and Behaviour, 2004
- Cabinet Handbook, Ethics and Conflict of Interests

**Is it possible to impose any sanctions in case of violation of ethical rules? If so, which ones?**

If the Standards in Public Office Commission finds non-compliance, such as a conflict of interest, it will seek redress.

**What means and methods are used to control compliance with ethical rules?**

Since 2001, there has been a Standards in Public Office Commission, which oversees compliance with legislation on ethics, standards and conflicts of interest in the civil service. It can initiate an investigation; it is possible to appeal to the court against the conclusions of the commission.

**What implementation tools are used in the field of civil service ethics?**

Declaration of property and interests, including wife and children.

**Is there a body or persons responsible for providing support on ethical issues?**

Commission for compliance with ethical standards in the civil service.

**3.7.9 Work-life Balance (WLB)**

**Work from home** or another place using ICT. It is entirely up to the service authority to decide on the possibilities to work outside the service authority. It can be a full-time job or a combination of working time spent in and out of the service authority. The only condition is the end of the trial period. At the same time, the management of the service authority has the power to limit the flexibility at any time.

In 2001, funds were allocated for the establishment of 15 new crèches for civil servants to the six existing ones.

**Job sharing concept.** The state administration allows you to share one job with another person.<sup>1</sup>

<sup>1</sup> <http://hr.per.gov.ie/wp-content/uploads/2011/04/A-Guide-to-the-Civil-Service1.pdf>, page. 71

## 3.8 THE ITALIAN REPUBLIC

*Information on the Italian system was very limited or completely unavailable in some areas and it was not possible to answer all the questions. Therefore, only a selection of questions for which it was possible to gather at least partial information within the first phase of the analysis is given below. And second phase, no more information was added.*

### 3.8.1 Depoliticisation of State Administration

#### What institutes ensure the apolitical nature of state administration and state employees?

Unlike other states, the apolitical nature of civil servants is ensured by the effort to rotate civil servants among individual administrative authorities. This is to ensure a lower level of corruption risk. The principle of rotation is then applied to an even greater extent to senior civil servants. There is no clear separation of state administration from the politics.

The legal regulation is contained in the law legge 6 novembre 2012, n. 190.

#### Where and how is the boundary set between posts filled on the grounds of political agreements and posts filled on the grounds of selection procedures in ministries and other administrative authorities?

The border is not formalized in any way and there are analyzes that even purely civil servant positions are influenced by political power, as there is no clear definition of the independence of the state administration.<sup>1</sup>

#### What are the mechanisms to prevent the "removal" of a civil servant from his post by the purposeful abolition of such a post?

Italy, on the contrary prefers rotation with the explanation that the rotation reduces the risk of corruption for the individual civil servants.

With regard to this concept, there is also no traditional employment relationship, but most civil servants are employed under labour law regulations and not under civil service regulations.

#### Is political power allowed to decide on employment matters of civil servants?

Basically, to a certain extent, yes, through the ministerial cabinets, which also have powers in the field of civil service. The cabinets are staffed flexibly according to political will.<sup>2</sup>

#### Are there organizational units established in the ministries, which include employees providing activities for a member of the government that are related to political power (similar to the cabinets of ministries in the Czech Republic)?

Yes, the cabinets exist and are relatively extensive, providing a wide range of political tasks for ministers, but they also

interfere with the administration itself.<sup>3</sup>

### 3.8.2 Possibilities of Compensation for the Obligations of Civil Servants

#### Are there fixed salary tariffs for the performance of civil service?

There are some wage tariff settings, but wages are subject to collective bargaining, so fixed limits are not set.

#### Are civil servants favoured under a social security or health care system?

In Italy, there is the National Social Security Office for Civil Servants (INPADAP), which covers social security for civil servants and similar categories. This organization also provides their private supplementary insurance.

#### Is the scope of the prescribed working hours of civil servants different from the prescribed working hours of employees?

Probably not different. Working and service working hours are usually 36 hours per week, scheduled from Monday to Friday.

#### What types of paid leave can civil servants take (study leave, indisposition leave, leave for personal affairs, etc.)?

There are entitlements to indisposition leave, which are governed by the provisions of collective agreements.

#### How is the further training of civil servants supported (beyond the performance of the service)?

Education in the field of state administration is provided by the National Administrative Academy.<sup>4</sup>

### 3.8.3 Career Opportunities (Career Rules)

#### Is there a standardized career order for the entire state administration?

Superiors in Italy are divided into two groups. The first group are **senior managers of the 2nd degree** and the next group are **managers of the 1st degree** (directors of unions, and secretaries).

The superiors are then given the opportunity to proceed from the second stage to the first. The condition of the procedure, however, is the proposal of the relevant minister and after five years of service in the state administration.

### 3.8.4 The Systematization and the Organization of Service Authorities

#### Is the question of the organizational structure of state administration authorities regulated in the legal system (the definition of the post, types of organizational units, minimum number of positions in these units, relations of superiority and subordination, etc.)?

The organizational structure is addressed by Special Regulation No. 300/1999, which regulates the structure of ministries. The structure of ministries consists either of sections, divided into

1 <http://unpan1.un.org/intradoc/groups/public/documents/nispacee/unpan004835.pdf>

2 <http://journals.sagepub.com/doi/abs/10.1177/0020852313477972?journalCode=rasb>

3 <http://journals.sagepub.com/doi/abs/10.1177/0020852313477972?journalCode=rasb>

4 <http://sna.gov.it/cosa-offriamo/formazione/formazione-iniziale/>

departments, while the coordinating function is performed by the director of the section, or the ministries are divided only into general sections, managed by secretaries.

**Are there more types of systemized positions in the state administration (in the Czech Republic, positions in the regime of the Civil Service Act and positions in the regime of the Labour Code)?**

The civil service is staffed in such a way that most positions are filled privately and in accordance with labour law. Only some positions of superiors are subject to public regulation to ensure their independence. However, even the positions of superiors are almost half filled for a definite period, which strengthens the contractual system of the functioning of the state administration.

There are also so-called *sectoral collective agreements*, which regulate certain aspects of the employment of civil servants. These collective agreements are concluded with the highest trade unions.<sup>5</sup>

**3.8.5 Selection Procedures for Filling Vacancies**

**Is the selection procedure conducted as an administrative procedure or is it excluded from the formal process?**

The selection procedures are organized as a public tender. The issues of selection procedures for the positions of some superiors are then addressed by special legal regulations.<sup>6</sup>

The public tender takes place on the grounds of the submitted applications. When announcing a public tender, qualification requirements are always specified (education, special expertise, language skills, etc.). The selection is then carried out on the grounds of the collected documents of the applicants.

The tender is published in the *Official Journal*, distinguishing between tenders at central and regional level. The appropriate level is probably chosen according to the administrative authority in which the post is to be filled.

The public tender can also be based on the principle of testing, i.e. that candidates have to pass certain tests and then they are accepted according to the result.<sup>7</sup>

The prerequisites for the admission to the service are typologically identical to the Czech legislation.<sup>8</sup>

For managers, the new legislation stipulates the obligation to have a university degree. Superiors are divided into two groups. The first group are senior managers of the 2nd degree and the second group are managers of the 1st degree (directors of sections, and secretaries). The superiors are accepted into an employment relationship that is set up as a public service, and it is almost always a fixed-term employment relationship.

5 Circolare del Ministero per la funzione pubblica n. 5/2014

6 Rispettivamente disciplinati dal D.P.R. 3 maggio 1957, n. 686, dal D.P.R. 9 maggio 1994, n. 487 e dal d.lgs 30 marzo 2001, n. 165

7 <http://www.informagiovaniroma.it/lavoro-e-impresa/approfondimenti/lavoro-nel-settore-pubblico/lavorare-nel-settore-pubblico>

8 Decreto del presidente della repubblica 9 maggio 1994, n. 487

**3.8.6 Disciplinary Proceedings**

**Is there disciplinary liability for civil servants? If not, how is the breach of civil servants in the performance of their civil service handled?**

There is a disciplinary liability which is enshrined in Regulation 150/09. Disciplinary liability focuses mainly on the issue of low work ethics and absenteeism. The Regulation regulates procedural issues of disciplinary proceedings. (Article 67n of Regulation 150/09)

**If there is a disciplinary liability of civil servants, how are the facts of the disciplinary offense defined?**

The facts of a disciplinary offense do not have a uniform definition and are regulated only by reference to a number of other regulations, including the private ones. (Article 68 of Regulation 150/09)

**If there is a disciplinary liability of civil servants, what disciplinary measures (sanctions, penalties) can be imposed on a civil servant (reprimand, salary reduction and others)?**

Measures:

- Verbal reprimand,
- Written reprimand,
- Suspension of service with the withdrawal of remuneration for up to 10 days,
- Suspension of service with an 11-day salary for a maximum of six months,
- Removal from service with a period of notice,
- Release without prior notice.

**Who decides that a civil servant has committed a disciplinary offense (disciplinary commission, superior, other body)?**

In the case of less serious disciplinary offenses, the superior is in charge, in the case of serious disciplinary offenses, the case is referred to the disciplinary proceedings office. (Regulation 165/2001)

**3.8.7 Service Performance Appraisal of Civil Servants**

The latest regulation is contained in the so-called amending legislative decrees- decreto legislativo 25 maggio 2017, n. 74; Legislative Decree 25 May 2017, No. 75.

**It is obligatory?**

Yes, it is obligatory.

**Does the result of the service performance appraisal have any impact on the salary of a civil servant?**

Yes, the appraisal has a direct impact on the salary conditions of civil servants in the field of personal remuneration and bonuses.<sup>9</sup>

**Does the result of the performance appraisal have any other impact on the employment of a civil servant?**

Yes, it can also lead to a finding of non-compliance and can

9 <http://www.quotidianogiuridico.it/documents/2017/06/12/riforma-della-pa-le-nuove-norme-su-valutazione-merito-e-premi-dei-dipendenti-pubblici>

thus establish disciplinary liability for a civil servant.

**What regulations govern the performance appraisal process?**

The latest regulation is contained in the so-called amending legislative decrees: decreto legislativo 25 maggio 2017, n. 74; Legislative Decree 25 May 2017, No. 75.

Legislative decree means legislation issued by the government. However, this decree is issued only on the grounds of a legal authorization.

**What is the subject of service performance appraisal (what is evaluated)? Is the evaluation framework strictly (firmly) defined or can it be adapted to the needs of the individual bodies?**

It is stipulated that performance should be measured and evaluated with regard to the administration as a whole, the organizational units or the areas of competence of the administrative authority.

**3.8.8 The Principles of Ethics in the Civil Service**

**What regulations govern the principles of ethics in the civil service?**

There is a decree of the President of the Republic, the so-called **Code of Conduct for Civil Servants** of 30 March 2013.<sup>10</sup>

**Is it possible to impose any sanctions in case of violation of ethical rules? If so, which ones?**

Violation of ethical rules under the presidential decree establishes disciplinary liability of a civil servant under civil, criminal and possibly commercial law. And it is possible to punish the violation according to disciplinary regulations. (Article 16/1 of the Presidential Decree of 30 March 2013)

**What means and methods are used to control compliance with ethical rules?**

The supervision is carried out by the direct superior and disciplinary authorities (see above). There is also the National Anti-Corruption Office, probably established under a special legal regulation.

The institutes of disciplinary proceedings pursuant to Regulation No. 165/2001 are used.

**What form does the training of civil servants in the field of ethics take? Is the training of ordinary employees and managers different?**

The Presidential Decree of the Code of Conduct for Civil Servants only stipulates the obligation to train civil servants in the field of ethics, but does not stipulate the methods and forms of its implementation.

<sup>10</sup> <http://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.presidente.repubblica:2013-04-16;62!vig=>



## 3.9 THE REPUBLIC OF MALTA

*The information on the Maltese system was processed in first and second analysis phase.*

### 3.9.1 The Depoliticisation of the Public Administration

#### Which institutes ensure the depoliticisation of public administration and civil servants?

The Public Administration Act imposes on public employees to act independently, under the threat of disciplinary proceedings, which may also result in a dismissal.

Furthermore, **the Public Service Commission** is established under the Public Administration Act. This Commission is a constitutional body and the Constitution in Article 109 also guarantees its independence. From the independence of the Civil Service Commission, which oversees, among other things, the selection of new employees or, for example, has the power to issue disciplinary rules, is then also the independence of the public administration as a whole derived. This Commission is also authorized to issue sub-statutory legislation relating to the performance of the service. The Commission also observes the compliance with ethical rules and issues disciplinary rules.

The Code of Ethics then in Article 30 stipulates that the activity of a civil servant must always be in accordance with the principle of impartiality of public administration. It is also stipulated that a civil servant must not engage in any political activity that could lead to a conflict of interest and could negatively affect his or her main duty, which is to serve the government.

#### Are the rights of civil servants to be a member of a political party or a political movement restricted, or does the restriction concern only holding of a post in a political party or a political movement? Does this restriction apply to all civil servants or only to senior civil servants?

The Public Administration Act does not explicitly state such a restriction, but the specific duties of a civil servant in relation to his possible political activity are set down in the Code of Conduct in Sections 30 to 34. It provides that the activity of a civil servant must always be in accordance with the principle of impartiality of the public administration. It is also stipulated that a civil servant must not engage in any political activity that could lead to a conflict of interest and could negatively affect his or her main duty – to serve the government.

The Code of Conduct in Section 31 explicitly states that the preservation of absolute impartiality is particularly required in cases where a civil servant makes a public statement or comment.

#### Can civil servants become members of local (regional) councils?

There is no explicit prohibition in the regulations. The Code of Conduct to a certain extent counts with the possible political activity of civil servants, so it can be inferred that state employees may be members of local governments.

#### Where and how is the boundary between the posts held on the basis of political agreements and posts held on the

#### basis of selection procedures in ministries and other state authorities defined?

The boundary is essentially based on the interpretation of the Constitution and its Article 110, which states that a civil servant is a public employee, who performs civil service, and to whom the service regulations automatically apply. Then there are explicitly mentioned persons who are not considered to be public employees, such as the minister, political secretaries or spokespersons. Art. 110 also regulates the basic rules for the appointment of civil servants, with further details being stated in the special regulations of the Public Service Commission.

#### What are the mechanisms preventing the "removal" of a civil servant from a post by means of a formal abolition of such a post?

The Public Administration Act does not explicitly mention any defensive mechanisms. Art. 26 of the Public Administration Act stipulates that one of the reasons for a removal from service is the abolition of the post. A civil servant cannot appeal against such an abolition.

#### Is the political power allowed to decide on the employment issues of civil servants?

Under Article 13 (1) of the Public Administration Act, the head of the civil service is a Permanent Chief Secretary, who is responsible, among other things, for all matters concerning employment relationships within the meaning of Article 14 (4) of the Public Administration Act. However, the Public Administration Act explicitly states that the Permanent Chief Secretary receives instructions from the Prime Minister. Thus, the political power cannot directly decide on the employment of civil servants, but there is space for indirect influence.

#### Are there any organizational units established in the ministries that include employees providing activities for a member of the government that are related to political power (similar to cabinet ministries in the Czech Republic)?

Yes, in the ministries, there are also posts that are occupied on the ground of contracts and agreements and are not covered by the service system. So they can be to certain extent considered to be political posts. In ministries, such departments are designated as secretariats. For a limited period of time, however, the posts in the secretariats of the minister may be filled by civil servants in the service.

### 3.9.2 The Opportunities for Compensation of Civil Servants' Duties

#### Is the performance of civil service connected with any special payment entitlements (special supplementary allowances or something similar)? Under what conditions and assumptions?

There is a number of different supplementary allowances. An example is a **qualifying supplementary allowance**, depending on the level of education. Another example is a **supplementary allowance for clothing** that can be taken by a certain group of civil servants. A **special allowance** is also paid to public employees who are in availability régime, which means, that they are at home, but are ready to go to the

service immediately. A **special risk supplementary allowance** also applies to employees who meet the defined conditions, who perform so called hazardous work, for example, who work with chemicals or hazardous waste.

**Is the termination of service connected with special pecuniary claims (redundancy pay, severance pay, end-of-service allowance, service rent and retirement benefit)? Under what conditions and assumptions?**

There is a civil service pension for civil servants in Malta, which is similar to a retirement pension. This is not a classic tenure, as in France or Germany, for example. The calculation of the rent depends on the number of years served, while the maximum benefits can be reached after 30 years of service. A special bonus, which is a part of the service pension, is paid twice a year, in spring and autumn. The methodology for calculating the pensions then regulates the specific methods of pension calculation.

However, the legislation regarding severance pay or end-of-service in case of a premature termination of the service could not be found.

**Are there fixed pay tariffs for civil service performance?**

There are twenty scales of salary. The Public Administration Act stipulates in the appendix which service and which civil servants correspond to which salary scale. The salary scales are set in descending order.

The methodological guidelines regulate how salaries are calculated and the inclusion of various supplementary allowances.

**How are variable salary components (personal supplementary allowance, bonuses, etc.) granted to civil servants?**

The remuneration manual deals with performance bonuses and stipulates that they are calculated as a percentage of the basic salary. However, there are no other conditions for granting the variable components stipulated.

**Are public employees privileged in social security or health care system?**

For state employees, the social insurance scheme is paid by the state in the form of mass payments. Certain length of the insurance is, for example, a condition for the payment of sickness benefits. For more details, see the Social Security Act in Chapter 318.<sup>1</sup>

**What are the differences in wage and sickness benefits between civil servants and civil service employees?**

It is not possible to find information on the sickness scheme for common employees, so only the conditions for public employees can be mentioned. In case of illness, they are entitled to a sick pay after the lapse of four days and for a maximum of 156. The payment of the sickness benefit can be extended up to a maximum of 468 days if a civil servant has undergone a difficult surgery or a very serious illness.

1 [https://socialsecurity.gov.mt/en/Publications/Documents/Manual%20on%20Social%20Security%20Contributions%20Benefits%202017%20\(1\).pdf](https://socialsecurity.gov.mt/en/Publications/Documents/Manual%20on%20Social%20Security%20Contributions%20Benefits%202017%20(1).pdf) p. 13

**Do working hours of civil servants differ from working hours of ordinary employees?**

The basic service working hours are 40 hours a week and they can be divided into five working days consisting of eight working hours. Of course, deviations are possible, both shorter working hours as well as overtime. Civil servants may, however, work in a schema of six working days a week with a flexible working-day arrangement while maintaining a total of 40 hours of service a week.

Ordinary employees also have 40 working hours a week. However, it can be extended to 48 hours in some sectors. The stipulation of more than 40 working hours a week must be explicitly regulated by legislation and cannot be decided by the employer.

**What work-life balance tools are available for public employees?**

This issue is dealt with in a separate section of the WLB.

**What benefits are granted to public employees? Do these benefits differ according to whether they are ordinary civil servants or senior civil servants?**

The only available information on benefits is the Social Security and Benefits Manual issued by the Social Security Section at the Office of the Permanent Chief Secretary.

One of the benefits according to this manual, is, for example, a **compensation for injuries caused during the performance of service**. Another benefit is, for example, **a marriage or a registered partnership contribution**. Civil service pension of public employees is also considered to be one of the benefits, as the manual says.

**Are there any tools to satisfy the cultural, sporting and recreational demands of civil servants?**

More detailed information is not available, but the current collective agreement explicitly requires service authorities to develop and maintain a high degree of physical, mental and social well-being of civil servants. Thus, it is clear that specific tools for cultural, sporting and recreational needs exist, but are not legislatively regulated. This is an issue addressed at the level of individual service authorities.

**Is a public employee entitled to a healing holiday to boost his physical and mental health? Under what conditions and assumptions?**

No such claim is contained in the legal regulation. However, the collective agreement requires the service authorities to develop and maintain a high degree of physical, mental and social well-being of civil servants. Therefore, various forms of compensation may be individually allocated.

**Is the survivor of a public employee (a wife, a husband, a dependent child) entitled to “a severance pay” if the civil servant's employment relationship ends by death unrelated to the performance of the service?**

Survivors of a public employee are not entitled to a special severance pay. However, the Maltese social system generally provides for widows' pensions, which are not exclusively related to the civil service.

**Does the service authority provide civil servants insurance in case a civil servant causes damage to a service authority? Is the service authority insured for the cases, when the service authority causes damage to the third parties? Is the reimbursement (recourse) required from the civil servant in such a case?**

Legislation does not regulate any such obligation. In the past the service authority was obliged to be insured for cases of health damage to the public employee, but this law was abolished in 2015. The damage caused to the service staff by the civil servant is then considered a disciplinary offense.<sup>2</sup>

**How many days of annual leave are public employees entitled to? Does it differ for the civil service employees and for the civil servants?**

There is no fixed number of days or hours of leave for civil servants, but it is calculated on the grounds of a formula based on a five-day working week and eight working hours a day. The calculation is carried out by multiplying the average number of hours worked by the factor 192 and then dividing the whole number by 40, which is the number of working hours per week. The basic entitlement will therefore be around 24 days of leave in the calendar year.

The length of leave and the method of its calculation do not differ from the length and the calculation of the leave to which the employees in the employment relationship are entitled.

**What kind of paid leave can public employees take (study leave, sick leave, leave for personal matters, etc.)?**

Most types of paid leave relate to the area of work-life balance. However, there are also other types of leave connected with salary or salary compensation.

Other types of paid leave:

- Leave for marriage / registered partnership,
- Leave for pregnant female public employees in order to prepare for the childbirth,
- Maternity leave,
- Paternity leave,
- Leave for artificial insemination purposes,
- Leave for adoption,
- Leave in case of death of a close relative,
- Urgent leave (without defining the concept of urgency),
- Special leave due to the necessity of quarantine,
- Leave due to the performance of office in the judicial authorities (adjudicating),
- Leave for the purpose of exercising the function of a representative in local self-government
- Leave for the purpose of exercising the function of a representative in local self-government when concluding partnerships between cities.

**Are public employees somehow privileged in public transport? In the field of catering? Are there favourable conditions for the provision of tariffs for mobile and telephone operators for public employees?**

In Malta, there is a system of travel refunds for business trips, but also for travel to the service authority and back. This is regulated by special conditions, their specification could not, however, be found. For example, public transport is not regulated. No information concerning the catering or mobile operators was found.

**How is further education of civil servants (beyond the scope of service) supported?**

The Employee Development Guide explicitly states that in the area of external education the public administration cooperates with external education organizations that organize courses for civil servants. The participation in the courses is voluntary and civil servants participate as a rule in their free time.

Public employees may also take a leave without pay.

**Is a civil servant entitled to a financial compensation for the use of his or her clothing?**

A certain group of civil servants, especially those who perform services outdoor or under special conditions, for example, members of the coast guard, are entitled to a clothing supplementary allowance.

**What options do civil servants (especially superiors) have in exercising their right to strike? Is the right to strike completely excluded or only limited for ordinary civil servants or superiors?**

The right to strike is not restricted for civil servants, not even superiors. The right to strike is limited, for example, for members of the armed forces and security forces.

**3.9.3 Career Opportunities (Career Order)**

**What determines the career advancement of a civil servant (e.g. education, the length of service, the performance of administrative activities, experience with managing of staff, quality of service tasks – service performance appraisal, the age of a civil servants, etc.)? How often (at what intervals) can career advancement be achieved?**

The specific regulations for the career advancement and the promotion of public employees are governed by collective agreements concluded by the government with trade unions.

The advancement is defined as a shift to a higher salary scale within the same service rank. The advancement exclusively depends on the length of the service and its specific regulation is contained in a collective agreement.

Promotion is defined as a change of a service rank connected with a higher salary scale. The promotion therefore means achieving a higher office through an appointment. The promotion to certain posts may be achieved on the grounds of the length of service, but for some posts it is necessary to go through a selection procedure which is held internally, i.e. only for civil servants. Within this internal selection procedure, the length of the service is also taken into consideration. Promotion specifications are again contained in collective agreements. Also the service performance appraisal has an impact on the promotion, as the performance appraisal

<sup>2</sup> PMSC p.80

includes, among other things, the assessment of the suitability of a public employee for a higher post.<sup>3</sup>

**Is there a standardized career order for the entire state administration?**

The issue of human resources and the recruitment of new civil servants is most extensively covered in the Permanent Chief Secretary's Manual. <sup>4</sup> Part Three of this Manual deals directly with the advancement and promotion in the civil service. It can therefore be concluded that the career order is modified and uniform for the entire state administration.

**Does an existing public employee, who is interested in filling a post in a higher pay grade or at a higher level of public administration, have to go through a selection procedure to fill this post?**

It depends on the individual higher service post. Collective agreements may stipulate that a person may be appointed to a specific higher post only on the grounds of the length of service, but there are also posts that can only be filled through selection procedures. In such a case, an internal selection procedure is first held to select a candidate from the existing civil servants.

**Is it possible to transfer a civil servant from his current post to another post in another service authority in the same pay grade or at the same level, if he so requests without a selection procedure being held?**

In Article 20 (1) of the Public Administration Act, it is expressly stated that a civil servant may be transferred to another post corresponding to his current assignment in any service authority. It can be inferred from this that under certain circumstances it is possible to transfer a civil servant even without the selection procedure. However, regulations governing these procedures are not available.

**Is there a probation period for a public employee in case of his transfer to another service authority? What is the legal regulation for such a repeated trial period?**

The Public Administration Act does not regulate the probation period at all, and the Permanent Chief Secretary's Manual for the recruitment of new civil servants speaks of the probation period for individual civil servants according to their specific employment status. It is not excluded, therefore, that, in case of appointment to another post, the probation period laid down in the manual is repeatedly set down to the civil servant.

**Is a career advancement connected with any other benefits beyond the pay entitlements?**

For example, public employees in senior posts are entitled to a longer unpaid leave for the purpose of raising a child up to the age of eight. More detailed information on this type of leave for all civil servants; see section on WLB issues. Other specific benefits associated with the advancement have not been found.

3 [https://publicservice.gov.mt/en/Documents/Public%20Service%20Management%20Code/PSMC%20Manuals/Manual\\_on\\_Resourcing\\_Policies\\_and\\_Procedures.PDF](https://publicservice.gov.mt/en/Documents/Public%20Service%20Management%20Code/PSMC%20Manuals/Manual_on_Resourcing_Policies_and_Procedures.PDF)

4 Manual on Resourcing Policies and Procedures

**Is there a legal provision saying that a public employee may not be transferred to a lower grade post without his consent?**

The Public Administration Act in Article 26 (2) provides that a civil servant should be guaranteed his service post and the related pay entitlements. This does not apply if a post is abolished in accordance with the Public Administration Act or a civil servant is placed in non-active service status to a so-called **surplus basket** in accordance with Article 28 of the Public Administration Act. However, a civil servant in the non-active status shall be entitled to be assigned to a service post corresponding to his post and a salary grade up to now.

**3.9.4 The Systemisation and Organization of Service Authorities**

**Is the question of systemisation in the state administration (the establishment of binding number of posts in service authorities in public administration, the distribution of these posts according to the scale of remuneration, the determination of the volume of resources for salaries) regulated in the legal system?**

Systematization issues<sup>5</sup> are addressed by the Public Administration Act and the Budget Accountability Act. For example, there is a salary scales schema to which civil servants are assigned. The annex to the Public Administration Act describes the division of the individual civil service posts into the respective salary scales, there are 20 of them, and are ranked in descending order. However, the list is demonstrative.

**Is the question of the organizational structure of civil service authorities (the definition of the post, types of organizational units, minimum number of posts in these units, relations of superiority and subordination, etc.) regulated in the legal system?**

The question of the organizational structure of the ministries is addressed directly in the Public Administration Act. The organizational units, which the ministry consists of, are named here. The Public Administration Act speaks of sections, departments and offices, and also specifically mentions the secretariat of the minister as a special unit.

**Is the procedural issue of systemisation and organizational structure (rules for processing and submitting proposals for systemisation and organizational structure) regulated in the legal system?**

The periodicity of the preparation of the systemisation approval is modified, it is determined who participates in the preparation and who coordinates the system, but a detailed regulation is not given or has not been found.

**Who is responsible for the processing of the systemisation project?**

Systemisation is prepared by the individual ministries for a period of three years, with ongoing revisions within this period. Revisions are carried out within one year. The coordinating role is played by the Ministry of Finance.

5 Called HR planning

**Who approves the systemisation and the organizational structure of a service authority?**

The proposals of the individual ministries and authorities will go through a remark procedure of the Ministry of Finance. Upon its approval or possible modifications, the final systemisation is forwarded to the Human Resources Management Department of the Office of the Government. The Department is subordinated to the Permanent Chief Secretary of the Cabinet. This department approves the systemisation.

**What is the scope of systemisation and the organizational structure (which parameters are approved by the system approver)?**

The total budget appropriations and the number of the service posts are approved.

**Is the systemisation and the organizational structure approved for a certain period or indefinitely?**

Systemisation is approved for a period of three years, with ongoing revisions within this period. For the organizational structure, this periodicity is not given.

**What are the conditions allowing for changes to systemisation and the organizational structure (under what conditions is a change in systemisation and organizational structure acceptable and who approves it, or who comments on the change before its approval)?**

Changes to systemisation, consisting in the establishing of new systemised posts within the allocated funds, are possible. These changes may be made by the permanent secretaries of the individual ministries without further authorization from the Ministry of Finance. However, if there should be changes beyond the approved systemisation, it is necessary that the draft amendments are consulted and approved by the Ministry of Finance.

**What are the qualification requirements for the individual posts (who defines them, to what extent, what criteria is it based on)?**

The qualification requirements for the individual posts are determined in accordance with Article 24 (6) of the Public Administration Act through a regulation issued by the Permanent Chief Secretary. The criteria according to which the Permanent Secretary determines the qualification requirements are not known. However, the qualification criteria include the degree of education, the knowledge of a foreign language if foreign languages are needed in the given post, and finally there is another special prerequisite, if it is necessary <sup>6</sup> for the performance of the service. A special qualification criterion stipulated for a certain post may be for example a special education abroad.

**Are there more types of systemised posts in the state administration (in the Czech Republic, service posts governed by the Civil Service Act and the posts under the Labour Code)?**

Yes, the Maltese state administration also knows the dual system of employment: according to service regulations and according to the principles of the general labour law.

**What are the criteria for defining systemised posts by their type and who decides on this matter?**

The decisive factor for defining the posts by their type is whether the post is a service post or a working post. A service post is a post where a civil servant performs a service, serves the government and ensures the fulfilment of civil matters.

**If there are more types of systemised posts, are the rules for their systemization identical?**

There is no information available on this issue.

**How is the activity performed in a particular service post defined (statutory list of activities, service sectors, register of administrative activities)? What way and according to what criteria are the activities performed in a particular post divided? How much detailed is the list of activities to be performed, how general or specific is the scope of each service or administrative activity, and how extensive is the list of these service or administrative activities?**

The only provision defining the scope of activities of civil servants is included in the Constitution in Article 124 of the Interpretative Provisions. It is stipulated here that the civil service, which is performed by civil servants, is the service for the government in civil matters. This provision of the Constitution is also referred to by the Public Administration Act. The Public Administration Act, in one of its annexes, contains a categorization of some state employees into salary scales, but a detailed specification of the content of their work, from which, the difference between service and work could be derived, is missing.

**Does the legal system enable to employ two or more civil servants in one systematized post (job sharing), where the work load of all civil servants together corresponds to one work load. What is the practical solution of this issue in the given country?**

This information was not found in the available materials.

**3.9.5 Selection procedure to fill a vacant service post**

**Is the selection procedure conducted as an administrative procedure or is it excluded from the formal process?**

The selection procedure is not conducted as an administrative procedure, as the result of the selection procedure is not the issuing of a decision, but only the preparation of a report of the selection panel on the basis of which a new civil servant is selected. The selection procedure, including defense options against the selection procedure, is governed by special regulations issued by the Public Service Commission (Public Service appointment regulations).

**Is it necessary to interview all applicants who comply with the formal conditions of participation (they sent all the necessary documents)? Or is it possible to select only some**

6 [https://publicservice.gov.mt/en/Documents/Public%20Service%20Management%20Code/PSMC%20Manuals/Manual\\_on\\_Resourceing\\_Policies\\_and\\_Procedures.PDF](https://publicservice.gov.mt/en/Documents/Public%20Service%20Management%20Code/PSMC%20Manuals/Manual_on_Resourceing_Policies_and_Procedures.PDF)

**applicants with whom the interview shall be conducted? If so, who, and according to what criteria chooses them?**

It is possible to carry out a pre-selection from which a shorter list of candidates will be issued. The selection panel is responsible for the pre-selection. The criteria for the short listing of the candidates are not predetermined in advance, but should respect the particular situation and requirements for the post. The selection panel may carry out the pre-selection on the grounds of the documents submitted by the applicants. For example, a written test may be used for the short listing of the candidates, but this is not always mandatory. The rules for the pre-selection of the candidates are specified in the regulations issued by the Public Service Commission <sup>7</sup>, in accordance with Article 19 of the regulation.

**Who carries out the interview with the applicants and who can be present at the interview? Who can ask questions? Is it only the selection panel or can it also be the superior?**

The selection panel. It is not possible to find information regarding the presence of the senior civil servants when selecting the candidates.

**Who evaluates the applicants (decides, if they were successful or not)? The selection panel consisting of more members, the superior, another authority?**

The selection panel.

**Who selects the most suitable applicant who shall eventually be employed in the civil service? Selection panel, the superior, another authority?**

The selection panel.

**How can unsuccessful applicants defend?**

The Maltese system knows only the category of the so-called excluded applicant. The excluded applicant is a candidate who was excluded from the selection procedure or short-listed directly by the selection panel. According to Article 23 of the Public Service Commission, such applicant has the right to protest against such decision of the selection panel. There is no special deadline for the processing, but the selection panel may not prepare a final report with the order of the candidates until the protest is processed.

**How can applicants who have been successful but have not been appointed to the public service defend against such decision?**

Candidates who have not been selected are de facto considered unsuccessful and the procedure is the same as in the previous answer. In addition, candidates who have not been selected and believe that their right to career has been violated have the possibility of submitting a petition to the Public Service Commission.

**Are applications of unsuccessful applicants and successful applicants who, however, have not been appointed to the civil service, rejected by an administrative decision against which they could appeal? Or are they only informed about the result of the selection procedure?**

The decisions of the Public Service Commission regarding the appeals against not being appointed to the service are formalized in the regulations regulating the selection procedure. The post cannot be filled until the decision of the Commission is made and the proceedings can be considered as administrative proceedings. The legal regulation is contained in Part VI of the order of the Public Service Commission

**Can unsuccessful applicants and successful applicants who have not been appointed to the civil service appeal to the court?**

This information was not found. The order of The Public Service Commission does not regulate this option, but it cannot be excluded that it is regulated in other regulations.

**3.9.6 Disciplinary Proceedings**

**Is there disciplinary liability of public employees? If not, how is the breach of the duties of civil servants approached?**

Yes, there is disciplinary liability. The basic regulation is contained in the Public Administration Act and the Annex to the Code of Ethics, as well as in the disciplinary regulations of the Public Service Commission <sup>8</sup>.

**If there is a disciplinary liability of civil servants, how are the facts of the disciplinary infraction defined?**

In accordance with Article 4 (1) of the disciplinary regulations of the Public Service Commission a disciplinary offense is defined as an unprofessional or unethical behaviour; disrespectful behaviour towards colleagues, superiors or the public (mobbing, bossing, etc.); neglect or omission of the obligations. It is also a disciplinary offense if a senior civil servants or other civil servants breach their authority, fail to supervise compliance with disciplinary rules of their subordinates, or fail to comply with the law.

**If there is a disciplinary liability of public employees, what disciplinary measures (sanctions, penalties) can be imposed on public employees (reprimand, salary reduction, etc.)?**

The disciplinary regulation of the Public Service Commission and the Methodological Instruction on Disciplinary Proceedings divide disciplinary offenses into **minor offenses** and **serious misconduct**. The disciplinary regulation is by its nature a subordinate legislation the issue of which is authorized by the Commission as a constitutional body directly in Article 124 of the Constitution.

In the case of **minor** offenses, following disciplinary measures can be imposed: a written admonition, suspension without pay for up to five days, suspension without pay for up to ten days, with the notice of the possibility of a dismissal and a limitation period of two years, and finally a dismissal.

In the case of **serious** offenses, as a disciplinary measure, the suspension without pay for up to ten days may be imposed, the removal of any supplementary allowances for a duration of one to three years, a suspension without pay for up to 15 days with the notice of the possibility of a dismissal and the limitation period of four years and finally a dismissal

<sup>7</sup> Public Service Commission Appointment Regulations

<sup>8</sup> Public Service Commission Disciplinary Regulations

**Who decides that a civil servant has committed a disciplinary infraction (a disciplinary panel, the superior, other body)?**

The disciplinary offense is dealt with by the disciplinary panel, which is appointed for a definite period of time by the respective Permanent Secretary in the respective ministry. However, the disciplinary measure is not imposed by the disciplinary panel, it is imposed by the head of the service authority on the grounds of a report drawn up by the disciplinary panel. Disciplinary proceedings are a formal process governed by disciplinary rules, the outcome of which is the issuing of a decision under Article 17 and Article 24 of the disciplinary regulation of the Public Service Commission.

**What are the public employee’s possibilities of defending in the matters regarding his disciplinary liability (appeals, legal proceedings at the administrative court, others)?**

The civil servant is entitled to appeal against the decision of the head of the authority to impose a disciplinary measure. This appeal is lodged with the Public Service Commission. The deadline for appealing against the decision to impose a disciplinary measure is ten days from the date of the delivery of the decision to the public employee.

**3.9.7 Service Examination / The Institute Similar to the Service Examination**

Service examination is not regulated by the regulations; it is not even discussed there. Civil servants and service authorities have a Methodological Guideline governing the different types of education of civil servants. The Methodological Guideline explicitly refers to **the training of new civil servants and subsequently to so-called in-service training**. This training takes place at the level of the authorities and at the central level.

**At the level of the authority**, the objective is to inform the civil servant about the functioning of the service authority and the factual issues concerning his ranking. Education at the level of the authority should then be supplemented by so-called **central education**, its aim is to acquaint the employees with the issues connected with the performance of the service, beyond his / her ranking. A closer look at the process of initial education and training will be described, however, not a service examination itself.

**In-service education** is always organized by the department to which the civil servant is assigned. The initial education has a special, but also very important, socialization character, which is very important. During the training, the public servant should be properly instructed and informed about his duties and responsibilities at his place of employment.

In-service training is then supplemented by **mentoring and coaching** by the superiors and by older and more experienced civil servants. To a newly recruited civil servant a senior civil servant is always assigned who oversees his / her incorporation. In the case of initial education, the employee is obliged to acquaint himself / herself with the older colleague with the relevant legal regulations he / she will need when performing the service. He is also required to familiarize himself with the organizational structure of the service authority and with the procedural issues in the service authority.

A civil servant must also be included in the initial training

program at the earliest possible opportunity, in which he / she is preparing to perform the service in a wider perspective.

**3.9.8 Service Performance Appraisal**

An important introductory information is the fact that the Maltese public service underwent a major modernization in the field of service performance appraisal in 2016, consisting mainly in the fact that the service performance appraisal system was fully digitized and that the service evaluation is currently carried out electronically.<sup>9</sup> There are three basic materials available for performance appraisal. There is a service performance appraisal manual for the appraisee, a service performance appraisal manual for the evaluator, and a service performance appraisal manual for the confirming evaluator.

**Is it obligatory?**

There was no information about any civil servants who are not subject to the performance appraisal found.

**Who is subject to the performance appraisal? To what extent does he participate?**

Public employees are subject to performance appraisal. They in fact participate in the performance appraisal by a self-evaluation, which is very similar to that of the primary evaluator. The evaluators as well as the appraisee are obliged to meet the deadlines for the evaluation. The deadlines are the same for the appraisee, as well as, the evaluator.

**Who is the evaluator?**

The main evaluator is a direct superior who carries out the basic performance appraisal. Subsequently, the service performance appraisal is "confirmed", the confirming evaluator is the superior of the main evaluator.

**How often is the performance appraisal carried out? Is it a fixed term event, or is it done as needed?**

In principle, the service performance appraisal is carried out on an ongoing basis because it is divided into three phases throughout the calendar year and these phases are repeated on a regular basis. The dates of the appraisals are stipulated at the beginning of the year, in middle and at the end of the year, from which the duties of the main and the confirming evaluator and the appraisee are derived. The evaluation itself is carried out in mid-year and end-of-year terms.

**Does the result of the service performance appraisal have any impact on the salary of the public employee?**

The remuneration manual provides that the public employees are given performance bonuses. However, there is no more detailed description of how. However, results of the performance appraisal shall undoubtedly have an impact on the allocation of the performance bonus.

**Does the result of the service performance appraisal have any other impact on the employment of a public employee?**

It was not possible to find any information regarding this issue in the available materials.

<sup>9</sup> A link to the software used: <http://www.dakarsoftware.com/product/performance-appraisals/180584459/>

**What is the regulation governing the service performance appraisal?**

The Public Administration Act does not regulate the service performance appraisal. From the available materials may be inferred that the service performance appraisals are regulated by subordinate legislation, manuals and circulars, issued mainly by the Office of the Prime Minister or the Permanent Chief Secretary.

**What is the subject of the performance appraisal (what is evaluated)? Is the evaluation framework strictly defined or can it be adapted to the needs of the individual subjects?**

The subject of the performance appraisal are three basic areas. It is an assessment of the soft skills of a given public employee, an assessment of the fulfilment of the work obligations (work plan), and the fulfilment or achievement of special tasks. It also summarizes the career development of the evaluated civil servant up to now. Career development is mainly evaluated by the verbal commentary of the evaluator.

**What is the rating scale? Is the performance appraisal carried out only verbally or by giving points? What results can be achieved in the service performance appraisal?**

The rating scale takes the form of a point range for each area evaluated. The score for each area is then averaged according to the pre-given formula and the result is the overall mark of the rating. In addition, verbal evaluations are carried out. The confirming evaluator has the right to intervene in the performance appraisal of the main evaluator. In such a case, he / she carries out the evaluation himself and may also change the grade of the civil servant. What results can be achieved in the performance appraisal was not found in the available manuals.

**Is there a future perspective plan a part of the performance appraisal? - setting the goals, development plan, etc.?**

The manual for the evaluators explicitly states that, in the area of soft skills, suggestions for the further development of a civil servant may be included in the commentaries from the evaluator. Whether a development plan can be set in other areas is not clear from the materials.

**What way is a performance appraisal carried out? What evaluation methods are used?**

Service performance appraisals are carried out electronically. The Maltese civil service has a dedicated electronic interface for the purpose of the service performance appraisal, which is accessible via the Internet. The service performance appraisal is then carried out in this electronic environment in predefined forms where either scores are inserted or where word-markings are written. To some parts of the appraisal pre-defined selection options correspond from which the evaluator must choose.

**What is the basis for the performance appraisal?**

The materials do not provide a list or a more detailed description of the background to be used for the service performance appraisal. However, it can be inferred from the distribution of the assessed areas that the materials for the

assessment of the fulfilment of the work obligations will be used to determine whether the civil servant managed to fulfil or failed to perform the assigned work. At the same time, the evaluated person adds to his / her service performance appraisal during the year the results of his/her work. This part of the performance appraisal may serve as a starting point for the evaluator.

**What way are the evaluators trained?**

There were no specifications found. It can be assumed that the training of evaluators will be incorporated into the common education system, which is described in detail in a separate section.

**What way does the evaluated person get acquainted with the results of the service performance appraisal?**

The evaluated person gets acquainted with the results through the electronic access available to him. Due to the access, the evaluated person can monitor the results of his / her appraisal, which he / she is to a certain extent actively involved in.

**Is a negative performance appraisal sanctioned? How?**

It can be inferred that in the case of a bad service performance appraisal which might imply non-fulfilment of the service duties, disciplinary proceedings with a given civil servant may be initiated for non-performance of the duties. However, there was no more information found, which would, for example, indicate what results can be achieved in the service appraisal. This is more about the interpretation of the system of disciplinary liability in connection with the system of service performance appraisal.

**Are there any appeal measures against the results of the service performance appraisal?**

There were no formalized appeal measures found in the available material. However, a civil servant may also comment on the assessment of the main evaluator within the self-evaluation he is required to carry out, which means he is given an opportunity to influence the confirming evaluator, who may change the appraisal for the benefit of the civil servant.

**3.9.9 The Principles of Ethics in Civil Service**

**What are the rules governing the principles of ethics in civil service?**

The principles of ethics in civil service are anchored in the Code of Ethics, which is an Annex No. 1 to the Public Administration Act. The Code of Ethics also directly refers to disciplinary rules regulating disciplinary liability and disciplinary proceedings.

**Can any sanctions be imposed in case of violation of ethical rules? If so, what kind of sanctions?**

Yes, violation of ethical rules is punished in accordance with disciplinary rules in disciplinary proceedings. The violation of ethical rules is one of the facts of a disciplinary offense. The following disciplinary measures may be imposed for disciplinary offences. In the case of minor offences: suspension without a pay for up to five days, suspension without a pay for up to ten days, with a notice of the possibility of a dismissal



and a limitation period of two years, and finally a dismissal may be imposed. In the case of serious offences, as a disciplinary measure, the suspension without pay for up to ten days, the removal of all supplementary allowances for a duration of one to three years, a suspension without pay for up to 15 days with the notice of the possibility of a dismissal and the limitation period of four years and finally a release may be imposed.

**What means and methods are used to check the compliance with ethical rules?**

Information on the means and methods used to check compliance with ethical rules is not available.

**What implementation tools are used in the area of public service ethics?**

There is a general methodology for public employees, which includes, among other things, an explanation of ethical rules. In addition, there are simplified manuals explaining the importance of the observance of service discipline and ethics available to public employees. These guides are very simple and illustrative.

**What way does the training of the employees in the field of ethics proceed? Does the training of ordinary employees and senior civil servants differ?**

The education in the field of ethics is mentioned as one of the principles on which the training of civil servants in general is based. The Manual on the Development of Civil Servants does not explicitly mention the education in the field of ethics in any other chapters.

In general, the internal and external education is to be distinguished. For the field of ethics, mentoring and coaching<sup>10</sup> seems to be the most appropriate form of education. In addition, the civil servants may participate in various trainings and courses, offered both internally and externally. A specific example is the ethics course offered by the Institute of Public Administration.<sup>11</sup>

**When recruiting new employees, is the personality potential of the applicants in the field of ethics taken into consideration?**

Explicitly, there is no such requirement stipulated in the regulations, however it is not excluded that, for example, questions focusing on the personality of the candidate may be asked during the interviews with the applicants.

**Is the compliance with ethical rules continuously checked?**

Yes, compliance with ethical rules is continually evaluated and controlled. It is not explicitly regulated what way the assessment is carried out, but the compliance with ethical rules is assessed and controlled, which results from the fact that one of the facts of the disciplinary offense of superiors is a failure in supervising the observance of the rules in the performance of the civil service, including the observance of ethical rules.

**To what extent is the supervision of professional ethics**

10 <https://publicservice.gov.mt/en/institute/Documents/Staff%20Development%20Manual/StaffDevelopmentManual2014.pdf>

11 <https://publicservice.gov.mt/en/institute/Pages/EthicalandProfessionalConduct+DiscretionwithSensitiveorConfidentialInformation/Ethics.aspx>

**in the state administration institutionalized? Are there any individual employees, organizational units, collegiate bodies or other bodies providing methodological support on ethical issues, monitoring compliance with ethical rules and proposing measures in case of violation?**

The control of compliance with ethical rules is the senior civil servants' responsibility, who are also in charge of the proper control. In addition, general supervision of the compliance with ethical rules is also responsibility of the Public Service Commission. It was not found out, if there are for example, sectoral staff, focusing only on the issues of ethics and the compliance with ethical rules.

**What are the consequences of the ethical failure of a civil servant?**

The impact of the ethical failure of a civil servant is the obligation to submit to disciplinary proceedings, which will result in a decision to impose a disciplinary measure in case the ethical failure was proved. The most serious impact is the release from the civil service.

**3.9.10 Work-life Balance (WLB) in Civil Service**

**Is there a work-life balance regulation?**

There is no clear definition of the WLB, but it is stated in the Public Service Regulation that: "The WLB measures should serve to harmonize their work responsibilities with personal life and personal needs. WLB measures are a number of policies focusing on the area of the family and other aspects of personal life. "

The basic regulation is contained in Chapter 4 of the Public Service Regulation, which is issued by the Office of the Permanent Secretary at the Office of the Prime Minister. The WLB is then elaborated in a material called Manual on Work-Life Balance Measures. This manual is issued by the Office of the Permanent Secretary at the Prime Minister's office. It is a basic material in the WLB area, which represents and regulates a wide range of measures aiming at harmonizing family and personal life with the performance of civil service. Both regulations are subordinate legislation. In order to clarify the way certain WLB measures are implemented, circulars are published, which are not accessible.

**Are there manuals, methodological documents or other WLB supporting documents following the legal regulation?**

There are the above-mentioned regulations, which are referred to as manuals. The available information indicates that they are similar to service regulations of the Czech law. However, these manuals have a looser structure, and as a rule, they also include a set of sample documents that are used during the implementation of individual WLB measures. There are also manuals that interpret the WLB measures. An example may be a handbook on family-friendly measures.<sup>12</sup>

**What WLB measures does the legal order offer?**

The WLB is conceived as a set of policies aimed at harmonizing

12 <https://www.scribd.com/document/305812348/Improved-Family-Friendly-Measures-1-pdf>

the duties of a civil servant with his / her personal life and the duties in personal life. These policies are implemented through the specific WLB measures listed in a separate WLB manual listing the measures, the conditions for their use and the sample documents used. The WLB Manual distinguishes three basic categories into which the WLB measures are divided:

1. Paid leave for family reasons approved by the director of the service authority;
2. Unpaid leave for family reasons approved by the director of the service authority;
3. Further WLB measures.

**Paid leave for family reasons approved by the director of the service authority includes:**

- Leave for a marriage / registered partnership,
- Leave for pregnant female employees to prepare for a childbirth,
- Maternity leave,
- Parental leave,
- Leave for artificial insemination purposes,
- Leave for adoption,
- Business leave in case of a death of a close relative,
- Urgent business leave.

**Unpaid leave for family reasons approved by the director of the service authority:**

- Business leave for the purpose of accompanying a spouse or a registered partner who is sent to a foreign study or an educational course,
- Parental leave, which can be used by parents, custodian and fosters,
- Career break,
- Business leave for the purpose of caring for a dependent, close person,
- Business leave for a special reason (the term special reason is not defined).

**Other WLB measures:**

- Shortened working hours,
- Teleworking,
- Flexible working time arrangement.

**Is it possible to modify working hours of a civil servant (flexible working hours, part-time employment, different time arrangement of the beginning and the end of the service)? What are the conditions for the modification of the working hours of a civil servant?**

Yes, the modification of working hours belongs to the third category of WLB measures. The modification of the working hours may be in the form of shorter working hours or flexible working time arrangement.

**Shortened working hours:** Public employees with normal working hours up to 40 hours per week may request a reduction in working hours up to 20-35 hours a week. The requirement for reduced service hours may vary during the summer and winter periods. It is stipulated that shorter working hours may be authorized for civil servants, but the condition is at least

one year of civil service. A common reason for granting shorter working hours is caring for a child up to the age of 12 or taking care of a dependent person. The head of the service authority, who decided to allow shorter working hours, may revoke this authorization to ensure the performance of service duties. However, the revocation must be given to the civil servant in writing at least two months in advance.

**Flexible working hour arrangement:** This measure aims to achieve a better harmonizing of the service with a personal and a family life, while responding to the modern needs of the authorities and citizens and to the fact that there is no longer a need for the presence of a civil servant in the office on fixed hours. The flexible arrangement of the working hours is the responsibility of individual ministries. This schema is, according to the available information, widely implemented, mostly depending on the season, especially on climatic conditions in the summer. Participation in the flexible working time arrangement is voluntary and the civil servant does not need to use the flexible arrangement.

**What are the possibilities and conditions of the performance of the civil service from a different place (home-office, teleworking and flexitime)? How are the conditions for the performance of civil service from another place defined?**

The only way to perform a service from another place in Malta is **teleworking**. This is defined as the performance of a home service using the available communication technologies. The purpose of teleworking is, among other things, to keep experienced civil servants in the civil service by allowing them more flexibility in service. A civil servant concludes a service agreement on the performance of civil service from another place for a maximum of 12 months, with the possibility of extending it repeatedly. The teleworking is authorized on the grounds of a request which includes, among other things, a person who will directly supervise the work of a public employee to whom the teleworking schema has been authorized. The handbook states that the head of the authority must consider all the objective facts that speak for and against the permission when authorizing the teleworking. In particular, it is considered whether the teleworking schema will affect the actual performance of the state employee or not. There is also a model agreement to allow teleworking.

**What kind of service leave does the law offer (e.g. urgent family leave, adoption leave, sabbatical leave, career break)? Is this service leave paid or unpaid?**

The category of paid and unpaid leave is listed above.

**Does the law enable to share a service post?**

This information was not found in the available materials.

**Does the law regulate the establishment of school facilities for children of civil servants?**

The only available information is related to the duty of the service authorities to provide breastfeeding mothers with the so-called breastfeeding facilities. It is also clear from the available materials that the state is the founder of preschool facilities in which children can be placed in general, but special pre-school or school facilities exclusively for children of civil

servants are not established.<sup>13</sup> The placement of children in these pre-school facilities is free of charge.

**What are the WLB measures for civil servants on maternity and parental leave (e.g. sharing information)?**

To the area of paid leave belong maternity leave, or leave for pregnant female workers to prepare for the childbirth. An unpaid leave is a special parental leave that can be taken by parents, guardian and foster parents.

Maternity leave can be taken up to a maximum of 18 weeks: six weeks can be taken only after the birth and the remaining eight weeks before or after the delivery. The first part – the first 14 weeks are connected with full salary compensation, and during the remaining four weeks the public employee receives a contribution under the Social Security Act

In addition to paid maternity leave, there is an unpaid parental leave available to both mothers and fathers. Parents with children up to the age of ten can take leave of 12 months in total, which can be distributed differently depending on the needs of the employee. The civil servants must be allowed to take this leave at request. The written request must be submitted no later than three months before the scheduled parental leave.

A special measure concerning nursing mothers is the possibility of taking a break for breastfeeding. Every nursing mother who is already back in the civil service can use one hour every day for the purpose of breastfeeding her baby or preparing milk for her baby. The hour can also be divided into two 30-minute or three twenty-minute breaks. At the request of state employees, the individual authorities should also provide adequate facilities for breastfeeding or preparing of the milk.

There was no further information found concerning the communication with public employees on maternity or parental leave.

**Are there any legal regulations for civil servants in relation to the care of older family members (e.g. parental leave, responsibility leave)?**

A WLB measure focusing on this issue is **a leave to care for a dependent person**, a so-called responsibility leave. This is an unpaid type of service leave. The condition of such leave is that no one else than the public employee can take care of the dependent person. This type of leave may be granted to a civil servant who has been in the civil service for at least one year. Business leave can be allowed for a period of one year, and can be allowed repeatedly. The applicant for leave must submit his application at least one month before the scheduled beginning of the leave and must provide the relevant medical certificates describing the health condition of a close relative. In case the application is rejected, the applicant has right to appeal to the superior authority, which will consider the application definitely.

**Is there a program dealing with the physical and mental aspects of a civil service in the legal system (e.g. a similar program to "Fit at work" in the EU)?**

There were no such programs found in the available materials.

13 <https://education.gov.mt/en/Documents/Childcare-Leaflet-2015-EN.pdf>

**3.9.11 Education**

**Is there an institutionalized training within or for the preparation for the performance of the civil service?**

The institution responsible for the training of civil servants is the Public Administration Institute, which is responsible for the training of all civil servants from the referees to the highest management levels. It is an educational institution accredited under the Education Act there. The Public Administration Institute also cooperates with the University of Malta.<sup>14</sup>

In addition to this institution, there is also **the Center for Development, Research and Teaching at the Office of the Prime Minister**. This center is a central government organization responsible for civil service education and the management of educational activities in the civil service.

**What is the general regulation and setting of the education within the framework of the preparation for the performance of civil service and the performance of the civil service itself?**

The manual for the development of civil servants, which is accessible on the website of public service, shows that education can be divided into two basic categories, which are further internally divided. This is internal education and external education.

**Internal education:** Internal education is an education organized and provided by the authorities themselves or by organizations set up for that purpose. It is further divided into the following categories:

1. Central education;
2. Education organized by individual authorities or their departments;
3. Special *welcome* initial training for new civil servants;
4. Mentoring and coaching as a special kind of education.

**External Education:** This is an education provided by independent organizations and educational institutions, most often with different training courses, short-term or long-term stays abroad, etc. External education breaks into several subgroups:

- Local external education;
- Overseas education abroad.

External training offers an option to draw study grants. The principle is the same as in the Czech Republic and the public servant is obliged to perform the service depending on the amount of the funds of the grant. For example, a grant of € 18,000 represents a six-month commitment, a € 77,000 represents a commitment of two years, a grant of € 217,000 means a five-year commitment. The civil service plans to send its civil servants to various international organizations for further education. Training courses focus not only on the professional expertise of state employees, but also on the development of their communication, technical or managerial skills.

**What legal regulation governs the training of civil servants?**

The basic principles are based on the Public Administration Act. Additionally, education is regulated by subordinate legislation, mostly at the level of service regulations issued by

14 <https://publicservice.gov.mt/en/institute/Pages/Home.aspx>

the Public Administration Commission or by the Permanent Chief Secretary. It is not excluded that the law will also be issued by the departments of different ministries if they are empowered.

**Is the education of civil servants centrally managed or decentralized?**

The education of civil servants is partially decentralized. The basic responsibility lies with the Center for Development, Research and Teaching at the Office of the Prime Minister. This center is responsible for setting up a framework policy for the training of public servants and for the overall management of teaching activities carried out by the individual departments. The individual authorities, however, in the framework of the internal education provide training of public servants with regard to their individual needs and to the needs of the service authority.<sup>15</sup>

**Who is responsible for the training of public employees?**

The responsibility for the education differs according to the type of education. The Center for Development, Research and Education is responsible for the internal system of central education and its organizing. The personnel departments are primarily responsible for the internal education at the level of the authorities, and last but not least, also the superiors of civil servants who, for example, take part in mentoring and coaching which is a part of the education. A state employee himself is responsible for his personal development and education, as he is given a wide range of opportunities for an independent professional development and the development of his skills. In addition, it should be noted that civil servants who go through education and training programs abroad, which needs to be approved by the service authority, are obliged to draw up a report on the course and results of the training program which they are required to submit to the superior.

**Does the education system for senior civil servants differ from the education system for ordinary civil servants?**

There were no systemic differences identified, but it can be assumed that with regard to the need to educate superiors who will require a different range of educational programs, the training of senior civil servants and ordinary civil servants varies. However, the manual for the development of civil servants does not mention an explicit division of education according to the criterion mentioned above.

**What is the connection between the education and the career system (the education programs as a prerequisite of the participation in the selection procedure)?**

Going through training programs within different types of education does not automatically entitle you to a promotion or a career advancement. In fact, the applicable collective agreement states that successful completion of training programs supported by the service authority or subsidized by the service authority does not entitle a civil servant to a promotion. However, the completed education undoubtedly leads to an increase in the professional qualification of a

civil servant and also to his personality growth, which may positively affect his career advancement even without direct connection of the education with the career system.

**What is the connection between the education and the service performance appraisal (is the choice of the education based solely on the performance appraisal results, operational needs, some general plan without performance appraisal results being taken into consideration or are there more criteria combined), and how much important is the education for the performance appraisal itself?**

The Manual for the Development of Civil Servants speaks directly about specific concepts of assessment of the progress and outcomes of the education of civil servants. The evaluation of learning outcomes is, according to the Manual, an integral part of the whole learning process, since it is intended to determine the effectiveness of education and to determine whether the education has served its purpose. The evaluation of education results is based on the Kirkpatrick's model.<sup>16</sup> This model evaluates education in several layers, including: the interactivity of education, the value of the transmitted and acquired information, or the way which the public employee is able to use the acquired knowledge and experience in his everyday practice.

**3.9.12 The Termination of Service**

**How is the issue of the termination of service regulated? What types of termination of service (e.g. by law, by the decision of the competent authority, on request, etc.) are there?**

The issue of the termination of service, i.e. the removal from the service post while maintaining the service employment is governed directly by the Public Administration Act. In principle, there are three possible reasons for the termination of service. The first one is the retirement, the second one is the resignation and the third is a dismissal. This is based on Article 2 (4) of the Public Administration Act.

Article 26 of the Public Administration Act stipulates that the employment of a civil servant is a tenure and a civil servant may be dismissed only for three reasons stipulated by law:

- Due to the imposition of a disciplinary measure in which the dismissal occurs,
- At the end of the period for which a civil servant was appointed to a certain post in which the so-called surplus pool is included under Article 28 of the Public Administration Act,
- In the case of the abolition of a service post, when the so-called surplus pool is included in Article 28 of the Civil Service Act.

The form of termination of service is not expressly stipulated by regulations.

**Is the termination of the civil service connected with any financial compensation? (e.g. the end-of-service allowance, severance pay, cash settlement, etc.)? Under what conditions and to what extent is this compensation provided?**

<sup>15</sup> <https://publicservice.gov.mt/en/institute/Documents/Staff%20Development%20Manual/StaffDevelopmentManual2014.pdf>

<sup>16</sup> Donald L. Kirkpatrick, Evaluating Training Programmes: The Four Levels, Berrett-Koehler Publishers; 2nd edition, 1998

Upon the termination of service by retirement, a civil servant shall be entitled to a service pension.

**Does a non-competition clause or any other similar institute apply after the termination of service? To what extent?**

As the termination of service is not specified in the Public Administration Act, there is no information as to whether a non-competition is possible.

**What other institutes are connected with the termination of service?**

The termination of service is connected with a service pension. The social security system explicitly determines both the retirement age and the severance pay to which civil servants are entitled and which they receive.<sup>17</sup>

Another interesting institute is the possibility of returning a retired civil servant to the service. Similarly, there is the opportunity to return to service for a civil servant who left the service at his request. This institute can be used in cases where there is an urgent need to ensure the fulfilment of service tasks and there is a shortage of staff. For the purpose of applying this institute, a special recruitment committee will be formed if necessary. Subsequently, there is a selection carried out on the basis of requests from former civil servants who are interested in returning to service. However, this is not a classic selection procedure.

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<sup>17</sup> <http://socialsecurity.gov.mt/en/Pensions/Pages/default.aspx>

## 3.10 NETHERLANDS

*The questions on the Dutch system were processed only in the first phase of the analysis.*

### 3.10.1 The Depoliticisation of State Administration

**What institutes ensure the apolitical nature of state administration and state employees?**

**Selection procedures:** The highest civil service positions are filled on the grounds of a strict selection procedure. The selected candidate is approved by five different approval positions, for more see the chapter The Systemization and the Organization of Service Posts.

**Restrictions on Civil Rights:** At present, the so-called standardization is still ongoing, i.e. a process aimed at balancing employment and civil service employment. In this context, restrictions that were originally imposed on civil servants are also being abolished, for example, they can go on strike today.

**Freedom of expression** is restricted, which means that civil servants cannot express their personal opinions in public. There is no uniform interpretation of what this means either. Cases are assessed on a case-by-case basis and in the light of case law. An example is an employee of the Dutch Ministry of Foreign Affairs who stated on her Twitter that ISIS is a product of Israel. This act was considered a breach of the duties of a civil servant. (**Dutch Public Service**<sup>1</sup>, DPS, 42)

**Termination of civil service:** There must be one of the exhaustively defined reasons given for the termination of civil service, it is not possible to proceed arbitrarily. The main reasons are (DPS, 43):

- Redundancy or reorganization of service authorities – a civil servant may be terminated only after a suitable vacancy cannot be found,
- Completely insufficient performance of civil service duties,
- Long-term illness – again in case that there cannot be another suitable position found for a civil,

Other reasons include (The Legal Status of Civil Servants, LEG<sup>2</sup>, 76):

- Reaching a certain age,
- False information in the application to the selection procedure or during a medical examination.

**Where and how is the boundary set between posts filled on the grounds of political agreements and posts filled on the grounds of selection procedures in ministries and other administrative authorities?**

In addition to the ministers, the ministries are also managed by the State Secretary, who manages the areas entrusted to

1 Dutch Public Service (2016). Ministry of the Interior and Kingdom Relations. Available on <https://www.government.nl/documents/reports/2016/01/19/the-dutch-public-service>

2 The Legal Status of Civil Servants (2010). Ministry of the Interior and Kingdom Relations. Available on <https://www.government.nl/binaries/government/documents/leaflets/2011/07/20/the-legal-status-of-civil-servants-2010/thelegalstatusofcivilservants2010.pdf>

them by the minister. The State Secretary is responsible to the Parliament and may even be removed by the Parliament (in which case the Minister does not resign). These are political functions. (DPS, 19)

The civil service functions are the Secretary General, who is responsible for the operation of the Ministry, and his deputy (Deputy Secretary General). The ministry has on average four to five Directors General who manage sub-areas. Directorates General are divided into Directorates (DPS, 21-22).

**What are the mechanisms to prevent the "removal" of a civil servant from his post by the purposeful abolition of such a post?**

It is not possible to specify further conditions on the grounds of which the post could be abolished.

**Is political power allowed to decide on employment matters of civil servants?**

The Minister appoints and dismisses civil servants (DPS, 19). However, it does not act arbitrarily, the position of civil servants is regulated by other regulations.

**Are there organizational units established in the ministries, which include employees providing activities for a member of the government that are related to political power (similar to the cabinets of ministries in the Czech Republic)?**

No, the minister has neither a political adviser nor a cabinet. He only has a political assistant whose powers are limited and whose salary is not very high. He usually deals with the minister's contact with his own political party. (DPS, 63)

### 3.10.2 Possibilities of Compensation for the Obligations of Civil Servants

**Is the performance of the civil service connected with any special salary entitlements (special allowance or something similar)? Under what conditions and assumptions?**

The amount of salaries is given in tabular form, but the tables are the subject of collective bargaining with trade union representatives. However, there is a general consensus that public sector wages should be based on private sector wages (*see standardization*). As a result, the decrease or increase is due to the situation in the private sector. (DPS, 56, 57)

**Is the termination of employment connected with any special pecuniary claims (redundancy pay, severance pay, end-of-service allowance, retirement, pension contribution)? Under what conditions and assumptions?**

Partly. In case of the entitlement to an invalidity pension or the termination of employment as a result of the reorganization of the service authority, when no other suitable position has been found, a civil servant is entitled to a remuneration the amount of which depends on the length of service, provided he has worked in public administration for at least 10 years (LEG, 48).

**Are there a fixed salary scales for the performance of civil service?**

Yes, the level of salary scales is regulated by the *Functiegebouw Rijk* regulation. There are 19 salary grades. (DPS, 22)

The remuneration model is not based on seniority, but on performance. Within the grades, civil servants are promoted on the grounds of service performance appraisal (see Service performance appraisal of Civil Servants), while in the case of excellent performance they can advance several degrees at once and if they have already reached the last step, they can even receive a higher grade salary scale. (LEG, 14)

**How are variable components of salary (personal allowance, remuneration, etc.) granted to civil servants?**

Civil servants may be awarded a one-off or recurring allowance based on excellent performance or excessive dedication. The rules are set by the individual ministries. (LEG, 39)

**Are civil servants favoured under a social security or health care system?**

Civil servants had their own pension fund (ABP), which was privatized a few years ago (standardization) and now it offers similar services as other commercial funds. (DPS, 44, 49 and LEG, 48, 81)

**Is the scope of the prescribed working hours of civil servants different from the prescribed working hours of employees?**

As part of the standardization, the public and private sectors were unified. Both are based on the provisions of the Working Hours Act. Weekly working hours are set at 36 hours. However, the law is flexible and allows for an agreement between the employee and the employer for up to 40 hours per week. It is also possible to agree on different timetables for individual days (see the question *Work-family Life Balance Tools*). (DPS, 44 and LEG 14, 21, 23, 57)

In the case of employees aged 57+, an agreement is possible to reduce working hours by up to 15.8% of the time. (LEG, 23)

**What work-family life balance tools are used to achieve balance between family life and the performance of civil service?**

In the case of a thirty-six-hour week, an agreement on working hours is possible, e.g. 4 times 9 hours; 4 times 8 hours plus 4 hours, etc. (LEG, 21)

A home-office (*teleworking*) is also possible, the rules of which are regulated in the Working Conditions Act. (LEG, 49)

In this connection, for example, the reimbursement of expenses for telephone or internet by the employer is regulated when working from home.

**What benefits are granted to civil servants? Do these benefits differ depending on whether it is an ordinary employee or a manager?**

In this respect, the Dutch legislation is very creative and grants many different benefits to civil servants. Here are a few examples:

- Civil servants aged 57+ can request a reduction in working hours or the assignment of simpler work and employees aged 63+ receive remuneration once a year due to their age. (LEG, 15)
- Civil servants are entitled to a so-called *holiday allowance* and an end-of-year allowance. (LEG, 15-16)

- In addition to bonuses for management, overtime, on-call duty, civil servants are also entitled to bonuses for an unexpected change of shift, work in difficult conditions or for performing the function of an emergency officer, LEG, 41-42. In the case of overtime, a civil servant is entitled to food. (LEG, 47)
- Civil servants can use career scan consultations or they can turn to a *welfare officer* in case of personal or work problems (LEG, 35).

**Are the survivors of a civil servant (wife, husband, dependent children) entitled to a financial compensation if the civil servant's employment ends with a death unrelated to the performance of the service?**

The widow / widower or children or other specified persons are entitled to a one-off payment of three times the average monthly salary. (LEG, 51)

**How many days of leave a year are civil servants entitled to? Is the scope of the entitlement to a leave for a civil servant different from that of an employee?**

The amount of leave is determined in hours- 165.6 hours per year. With age, this number increases. (LEG, 26)

**What types of paid leave can civil servants take (study leave, indisposition leave, leave for personal affairs, etc.)?**

There are a number of reasons for granting paid leave, such as:

- LEG, 24 – closure of the service authority for operational reasons – three days a year,
- LEG, 30 – care of a loved one in case of an acute condition – one day, can be drawn more than once,
- LEG, 31 – care of a sick child or a sick parent,
- LEG, 32 – in cases of participation in trade union meetings in the case of trade union officials, moving, family matters (marriage, death),
- LEG, 34 – study leave.

**Are civil servants favoured in the field of public transport? In the field of company catering? Are there more favourable conditions for the provision of tariffs for mobile and telephone operators agreed for civil servants?**

Yes, if other conditions are met, the civil servant is reimbursed for public transport expenses for travel to and from work. If a bike is used, there is a right to a compensation. (LEG, 43)

**What options do civil servants (especially superiors) have in exercising their right to strike? Is the right to strike completely excluded or only limited for ordinary civil servants or superiors?**

With regard to the European Social Convention, the right to strike now also belongs to civil servants, although this was not the case in the past (*standardization*). (DPS, 44 and 50)

**3.10.3 Career Opportunities (Career Rules)**

**What determines the career advancement of a civil servant (e.g. education, the length of civil service, administrative activities, experience in managing employees, quality of**

**service tasks – service performance appraisal, the age of a civil servant, etc.)? How often (at what time intervals) is it possible to achieve career advancement?**

Career advancement is possible within the salary grade based on the results of the service performance appraisal, which is carried out once a year, see the chapter Service Performance Appraisal of Civil Servants. The length of service is not taken into account. The career rules set this way reflect the merit model of the Dutch state administration.

**Is there a standardized career order for the entire state administration?**

Specific rules are set for each sector separately.

**Does a current civil servant who is interested in filling a position in a higher salary grade or in a higher level of management have to go through a selection procedure for filling this position?**

Yes.

**3.10.4 The Systemization and the Organization of Service Authorities**

**Is the issue of systemization in the state administration (determination of binding numbers of positions in service authorities performing state administration, distribution of these positions according to the scale of remuneration, determination of the volume of funds for salaries) regulated in the legal system?**

The state administration does not have a centrally managed systemization, each ministry manages human resources independently. (DPS, 34)

However, there is a co-operation between service authorities in the field of employment. Between 2008 and 2011, the Agreement on Career Support Policy, the Labour Market, Unemployment Benefits, Re-employment and Redundancy was effective, which, among other things, introduced a system for comparing posts across service authorities, recording vacancies, etc.

The management of the system was entrusted to the Negotiating Committee in the central administrative service authorities. The system also made it possible to enter the CVs of individual employees into the database. (LEG, 63)

**Are there more types of systemized posts in the state administration (in the Czech Republic, positions in the regime of the Civil Service Act and positions in the regime of the Labour Code)?**

In the 1990s, a major reform took place in this area, focusing on senior civil servants. A **General Administrative Service (ABD)** has been set up to manage the employment of senior civil servants. There are approximately 700 civil servants in this category. (DPS, 34)

Within ABD, there has been an even narrower specialization in the form of the establishment of the **Top Management Group (TMG)** category, which consists of approximately 70 top civil servants (including, for example, Secretary General, Director General and several others).

Different rules apply to ABD posts. These civil servants, for example, are required to rotate every 5 to 7 years, i.e. to move to another management position. The selection procedure is also stricter, see the chapter Selection Procedures to Fill Vacancies.

**How is the activity performed at a specific position defined (legal list of service activities, fields of service, catalogue of administrative activities)? How, according to what criteria are the activities performed at certain position divided? To what extent is the list of activities at service positions detailed, resp. how general or specific is the scope of the individual fields of service or administrative activities and how extensive is the list of these fields of service or administrative activities in view of it?**

Service posts are subject to evaluation, on the grounds of which the post is then classified in a salary grade. Civil servants have the opportunity to appeal to the competent authority against the evaluation of the position, which they do not consider to be correct. In case of disagreement with the decision of the competent authority, it is possible to appeal again to the same authority, which is obliged to seek the opinion of the *Advisory Committee for the Assessment of Objections to the Post Evaluation*, and to decide again. You can then appeal to the court. (LEG, 13)

**3.10.5 Selection Procedures for Filling Vacancies**

The manner in which the competition is conducted is determined by each service authority individually. In addition, civil servants are recruited only to work in a specific place and therefore do not become members of the civil service. (DPS, 34)

An exception in this respect is the group of senior ABD civil servants. The offer of vacancies in this category is obligatorily published and people outside the civil service can also apply for the competition. The aim is to select the best professionals. The selection procedure itself is complicated, with the consent of many sites. First, an independent committee will select the most suitable of all the candidates, which will then be assessed by a *selection committee*. It selects the most suitable candidate and submits the selection to the minister, who must, however, proceed in agreement with the minister responsible for the civil service (currently the Minister of the Interior). The final appointment will be made by the government. (DPS, 62)

**How can applicants who have been identified as unsuccessful appeal?**

In general, it can be noted that general principles such as the protection of personal data, the right to the economic proceeding of the service authority, the right to information, the right to access a public office and also the right to lodge a complaint also apply to the selection procedure.

**3.10.6 Disciplinary Proceedings**

**Is there disciplinary liability for civil servants? If not, how is the breach of the obligations of civil servants in the performance of civil service handled?**



Yes. Mediation, i.e. an informal, confidential and quick way of resolving conflicts in the workplace, is also encouraged. (LEG, 36 and 37)

**If there is a disciplinary liability of civil servants, how are the facts of the disciplinary offense defined?**

Violation of regulations or behaviour of a civil servant that is undignified due to his status of a civil servant. (LEG, 36)

**If there is a disciplinary liability of civil servants, what disciplinary measures (sanctions, penalties) can be imposed on a civil servant (reprimand, salary reduction and others)?**

Written reprimand, assignment of additional duties without remuneration, deduction from salary, reduction of salary, temporary disqualification or dismissal. (LEG, 36)

**What are the possibilities of a civil servant to appeal in the matter of his disciplinary liability (appeal, action before an administrative court, other)?**

A civil servant has the right to comment on the case. In case of disagreement with the decision of the commission, he has the right to appeal according to the Administrative Procedure Code. (LEG, 36)

**3.10.7 Service Examination**

When entering the civil service, a civil servant is usually appointed for a definite period with a probationary period of a maximum of two years. The change of employment for an indefinite period depends on whether the performance of the service during the probationary period is evaluated positively (not specified in detail how this evaluation takes place), LEG, 11.

**3.10.8 Service Performance Appraisal of Civil Servants**

**Is it obligatory?**

Yes, performance appraisal is mandatory. (LEG, 35)

In special cases, the so-called assessment can be carried out on the grounds of the request of a civil servant or the direct superior, while the civil servant must be notified of the evaluation and must be given space to comment. (LEG, 35)

**Who is subject to service performance appraisal? To what extent is he/she involved?**

Every civil servant. (LEG, 35)

**Who is the evaluator?**

Designated person, usually direct superior. (LEG, 35)

**How often is the service performance appraisal carried out? Is it tied to a specific date or event, or is it carried out as needed?**

Once a year. (LEG, 35)

**Does the result of the service performance appraisal have any impact on the salary of a civil servant?**

A promotion to a higher grade may be proposed. (LEG, 35)

**Does the result of the performance appraisal have any other**

**impact on the employment of a civil servant?**

Both parties must also agree on future duties and personal development of the civil servant. In the case that a civil servant has been performing service in the same place for a period of five years, there is also an interview with an emphasis on the possibilities of the employee's career development carried out. (LEG, 35)

If a civil servant has been working in the same place for three years, he or she has the opportunity to request expert advice on career development opportunities. The service authority is obliged to pay for the consultation. (LEG, 35)

**How is the service performance appraisal carried out? What evaluation methods are used?**

An interview. (LEG, 35)

**What way does the evaluated person get acquainted with the results of the service performance appraisal?**

Written form. (LEG, 35)

**Are there any appeal measures against the results of the appraisal?**

An appeal may be lodged against the performance appraisal in accordance with the Administrative Procedure Code. (LEG, 35)

**3.10.9 The Principles of Ethics in the Civil Service**

**What regulations govern the principles of ethics in the civil service?**

Regulations governing the legal status of civil servants include rules on ethical conduct. (LEG, 52)

Whistleblowing is regulated by *the Reporting of Suspected Abuses Decree* from 2010 (*Civil Service and Police*) (LEG, 54)

**Is there a body or persons responsible for providing support on ethical issues?**

In the case of whistleblowing, a civil servant may turn to one of his superiors. If he considers that his initiative may not be properly dealt with, he may turn to the independent *Committee on Integrity in Public Administration*, which acts as an advisory body. (LEG, 54-55)

Each service authority must set up an **integrity advisor**, who can be approached by civil servants in cases of inappropriate behaviour by other employees, such as sexual harassment, aggression, violence, etc. (LEG, 56)

## 3.11 THE REPUBLIC OF POLAND

*The information on the Polish system was processed in the first and the second analysis phase.*

### 3.11.1 The Depoliticisation of the Public Administration

#### **Which institutes ensure the depoliticisation of public administration and civil servants?**

The main instruments ensuring the apoliticality of public administration include the establishing of organizational autonomy of the civil service. In the Polish case, this measure is not fully implemented. In the ministries and central administrative authorities, the state secretaries, who are responsible for the personnel policy of the service authority, are appointed and dismissed by the minister, respectively, the head of the service authority. Similarly, the Director General of the Civil Service is appointed and removed by the Prime Minister.

The openness and the transparency of tenders is supposed to serve as an instrument working against the politicization. Although it is the State Secretary's responsibility to stipulate what way the selection procedure is made, the CSA sets the minimum standards in the form of the establishment of a selection committee or the drawing up of a protocol for the selection procedure. The name of the winning candidate from each selection procedure is then published on the public service web site.

The apolitical approach is also ensured by the stability of employment by laying down stricter conditions for the termination of service. However, this measure is not fully implemented, since it applies only to civil servants, who account for approximately 6.5% of all public employees. It is necessary to mention that the State Secretary and the Director General have the power to transfer a civil servant to another civil service authority or to another place of civil service.

Last but not least, there are some restrictions on public employees, including the restrictions of the right to strike, membership of a political party or the possibility of having another job. Civil servants are also governed by the principles of civil service and ethical principles in civil service.

#### **Are the rights of civil servants to be a member of a political party or a political movement restricted, or does the restriction concern only holding of a post in a political party or a political movement? Does this restriction apply to all civil servants or only to senior civil servants?**

Under Article 78 of the CSA, public employees are must not express their political convictions in public. In addition, civil servants and senior civil servants cannot be members of political parties.

#### **Can civil servants become members of local (regional) councils?**

Under Article 78 paragraph 4 of the CSA, public employees cannot act as municipal representatives.

#### **Where and how is the boundary between posts held on the basis of political agreements and posts held on the basis of**

#### **selection procedures in ministries and other state authorities defined?**

There are 3 groups of public employees to distinguish: civil service employees, civil servants and senior civil servants. Senior civil servants are appointed and removed from the service post by a competent person (minister, the State Secretary or the head of the service authority). Ministries include senior civil servants as the State Secretary and the Department Directors (the second highest level of management).

In this context, it is necessary to mention the existence of positions in the civil service which are not included in the scope of the CSA. These include, in particular, the Deputy Ministers, the heads of service authorities, and the Voivods, the leaders who run the state administration in the Voivodships. The manner of appointing and removing the persons in these positions is usually regulated by the legal regulations which are set up by the respective departments (in the case of the Ministers' Deputies it is a law on government <sup>1</sup>).

#### **What are the mechanisms preventing the "removal" of a civil servant from a post by means of a formal abolition of such a post?**

The termination of civil service employment is possible due to the cancellation of the service authority, but not due to its reorganization. In case of the cancellation a service post due to the cancellation or the reorganization of the service authority, due to which it is impossible to transfer the civil servant to another post, the Director General is obliged, in accordance with Article 66 of the CSA, to transfer a civil servant to another service authority in the same or another place of service. In such case, the State Secretary of the relevant service authority is obliged to provide a suitable post for the civil servant with respect to his professional qualifications.

Under Article 67 (1) of the CSA, a civil servant is entitled to appeal against a transfer decision under Article 66 of the CSA. Appeals are handed over to the Prime Minister within 14 days of their delivery. The appeal has no suspensive effect.

In this context, it is necessary to mention the power of the State Secretary to transfer a civil servant, even without his consent, for an indefinite period of time to another post within the service authority, even at another place of service, provided that this is justified by the need of the service authority (Art. 62 CSA). In cases justified by the interest of the civil service, the Director General has the power to even transfer the civil servant to another service authority, even in another location, but for a maximum period of two years (Article 63 of the CSA).

#### **Is the political power allowed to decide on the employment issues of civil servants?**

In most cases, no. The employment matters of civil servants shall be decided in accordance with Article 25 (2) (b) CSA by the State Secretary (the head of the service authority).

However, in some cases defined in the CSA (for example, in case of an appeal against a transfer under Article 63 and an appeal against a transfer under Article 66), the body of appeal is the Prime Minister.

<sup>1</sup> Ustawa z dnia 8. sierpnia 1996, o Radzie Ministrów (Dz.U. 2010 nr 57 poz. 354).

In general, if a civil servant disagrees with the State Secretary's decision, a civil servant may lodge a complaint with a labour court that is competent to resolve disputes in the area of labour law.

**Are there organizational units in ministries that include employees performing activities for a member of the government that are related to political power (similar to a cabinet of a minister in the Czech Republic)?**

Yes, the provision of Article 37 (paragraph 1) of the Law on Government allows the minister to set up a political cabinet.

### 3.11.2 The Opportunities for Compensation of Civil Servants' Duties

**Is civil service performance associated with special pay (special supplementary allowance or something similar)? Under what conditions and assumptions?**

After 5 consecutive years of service, civil servants are entitled under Article 85 (1) of the CSA to a supplementary allowance for years worked which amounts to 5% of the basic monthly salary. Each year the percentage increases by 1%, up to 20% after 20 years of service. Public employees who serve 20 years or more receive a lump-sum allowance according to the following scheme (Article 91 of the CSA):

- 20 years – 75% of monthly earnings,
- 25 years – 100% monthly earnings,
- 30 years – 150% of the monthly earnings,
- 35 years – 200% monthly earnings,
- 40 years – 300% of monthly earnings,
- 45 years – 400% of monthly earnings.

In accordance with the Act on the Additional Annual Remuneration of Public Administration Employees, one-time salary is known as "the 13th salary" amounting to 8.5% of the total salary and allowances paid to the civil servant for the past calendar year is paid to the public employees.

In addition, under Article 85 (2) of the CSA, civil servants are entitled to civil service allowance, which is derived from the service grade to which the civil servant is assigned. A promotion to a higher grade, there are 9 of them, depends on the positive result of service performance appraisal, on the other hand the degradation to a lower service grade is also possible, for example, on the basis of a disciplinary measure.

Senior civil servants are entitled to an allowance for years worked and functional reimbursements that can be in the range of 0.2 – 2.05 times the basic salary according to the current decree of the Prime Minister No. 125/2016<sup>2</sup>.

It should be mentioned that the financial limits for remuneration in the service authorities are determined by the state budget law.

<sup>2</sup> Rozporządzenie Prezesa Rady Ministrów z dnia 29 stycznia 2016 r. w sprawie określenia stanowisk urzędniczych, wymaganych kwalifikacji zawodowych, stopni służbowych urzędników służby cywilnej, mnożników do ustalania wynagrodzenia oraz szczegółowych zasad ustalania i wypłacania innych świadczeń przysługujących członkom korpusu służby cywilnej (Dz.U. z 2016 r. poz. 125).

**Is the termination of service connected with special pecuniary claims (redundancy pay, severance pay, end-of-service allowance, service rent and retirement benefit)? Under what conditions and assumptions?**

Under Article 94 (1) of the CSA, the public employee is entitled to an end-of-service allowance equal to three times the monthly salary on the first retirement or disability pension. If the civil servant worked 20 or more years, the end-of-service allowance is increased to six times the monthly salary.

**Are there fixed pay tariffs for civil service performance?**

The salary of civil servants is calculated as the product of the base salary and the coefficient set for a particular post. The basic salary scale, which is the same for all public employees, is determined annually by the state budget law. The aforementioned order No. 125/2016 of the Prime Minister then specifies the range of coefficients that can be used for a particular post. For example, if a post is marked as "professional", a coefficient between 1.0 and 3.5 may be used depending on the decision of the State Secretary. In addition to the base salary, the civil servant will receive a supplementary allowance for years worked, a civil servant supplementary allowance and functional reimbursement.

According to data for 2016, the lowest average salary was paid to the District Police Headquarters (3,055 zlotys). The highest average salary was received by public employees in embassies (8,559 zlotys) followed by public employees in ministries (7,846 zlotys).

**How are variable salary components (personal supplementary allowance, bonuses, etc.) granted to civil servants?**

The variable salary components are the target remuneration which the State Secretary grants for the performance of extraordinary tasks (Article 88 of the CSA). The financial bonus is awarded for achieving exceptional results (Article 93 CSA). The limit for this bonus is given by the remuneration fund limits, which amounts to 3% of the financial resources for remuneration and may be increased by the State Secretary if he has free funds. The State Secretary decides on awarding the remuneration.

**Are public employees privileged in social security or health care system?**

Public employees are not directly privileged. However, the civil service may contribute to the civil servant's insurance.

**What are the differences in wage and sickness benefits between civil servants and civil service employees?**

All public employees are approached the same way in this respect

**Do working hours of civil servants differ from working hours of civil service employees?**

Working hours are the same for all public employees and, according to Article 97 of the Social Security Code, it is on average 40 hours per week with an eight-week compensatory period. The length of the shift may not exceed eight hours. In cases justified by the type of service, the length of the shift can be extended to 12 hours.

**What work-life balance tools are available for public employees?**

Public employees are entitled to flexible working hours, part-time work or teleworking. Details about the individual institutes are contained in the Work-Life Balance chapter.

**What benefits are granted to public employees? Do these benefits differ according to whether they are ordinary employees or employees in senior positions?**

Public employees are entitled to benefits in particular in the field of remuneration and allowances, and in addition, civil servants are entitled to longer leave (see holiday leave below). Depending on the manner in which human resources are managed by the individual State Secretaries, public employees may be entitled to additional benefits. The Office of the Prime Minister offers its employees, for example, the possibility to use recreational facilities under its administration at a lower price, a holiday allowance, low interest loans, a contribution to sport and cultural events or school nursery allowance.

**Are there any tools to satisfy the cultural, sporting and recreational demands of civil servants?**

Yes, the funds for these purposes can be drawn from the social needs fund (similar to the fund of cultural and social needs). The rules for drawing funds from the Fund and the area which the funds can be used for are regulated by the State Secretary by an internal regulation after being discussed with the trade union organization.

**Is a public employee entitled to a healing holiday to boost his physical and mental health? Under what conditions and assumptions?**

Public employees do not have this type of claim directly, but they can draw on funds from the Social Welfare Fund for this purpose, in accordance with the rules for drawing on the Fund.

**Is the survivor of a public employee (a wife, a husband, a dependent child) entitled to “a severance pay” if the civil servant's employment relationship ends with death unrelated to the performance of the service?**

Yes. According to Article 93 of the Labour Code, the closest relatives are entitled to financial compensation in the event of the death of a civil servant during the duration of the employment/service relationship, and it is not decisive whether the death occurred in connection with the performance of the service. The amount of financial compensation depends on the length of employment; up to 10 years is one monthly salary, up to 15 years three times the monthly salary and in case of work over 15 years it is six times the monthly salary. The amount of severance pay is divided between the husband, the children and the parents of the deceased.

**Does the service authority provide civil servants insurance in case a civil servant causes damage to a service authority? Is the service authority insured for the cases, when the service authority causes damage to the third parties? Is the reimbursement (recourse) required from the civil servant in such a case?**

These institutes are not applied.

**How many days of annual leave are public employees entitled to? Does it differ for the civil service employees and for the civil servants?**

Pursuant to the Labour Code the annual leave is 20 days and for employees with 10 years of work experience it is 26 days. The civil servants are entitled to one day of extra leave after five years of service. One more day of leave is added for each subsequent year. The maximum is 12 days of extra leave (after 10 years of service, the civil servant also achieves 26 days of leave). In total, the civil servant can achieve 32 days of leave.

**What kind of paid leave can public employees take (study leave, sick leave, leave for personal matters, etc.)?**

Public employees can make use of, in particular, service (working) leave in connection with childcare and the so called “circumstantial leave”. Details are given in the chapter on work-life balance.

**Are public employees somehow privileged in public transport? In the field of catering? Are there favourable conditions for the provision of tariffs for mobile and telephone operators for public employees?**

Funds for these areas may be drawn on the Social Welfare Fund, in accordance with the relevant internal regulation issued by the State Secretary after being discussed with the trade union.

**How is further education of civil servants (beyond the scope of service) supported?**

In accordance with Article 109 (3) of the CSA, in exceptional cases, the State Secretary may agree to reimburse the educational or other activity of a civil servant which is primarily not related to the performance of the service.

**Is a public employee entitled to cash reimbursement for his clothing?**

Generally, there is not any compensation of this type, but the State Secretary may introduce this entitlement under the rules for drawing funds from the Social Welfare Fund.

**What are the possibilities for public employees (especially senior civil servants) in exercising the right to strike? Is the right to strike wholly excluded or only restricted for ordinary civil servants or senior civil servants?**

Public employees including senior civil servants cannot under Article 78 (3) of the CSA participate in strikes or other forms of protest, which could lead to the breach of the proper functioning of the service.

**3.11.3 Career Opportunities (Career Order)**

**What determines the career advancement of a civil servant (e.g. education, the length of service, the performance of administrative activities, experience with managing of staff, quality of service tasks – service performance appraisal, the age of a civil servants, etc.)? How often (at what intervals) can career advancement be achieved?**

Civil servants can achieve a higher service grade. Higher career grade is connected with the increase in the salary, depending

on the coefficient set for that grade, multiplying the basic salary. In accordance with Article 89 of the CSA, a civil servant may move to a higher grade in case of a positive performance appraisal, which includes a reasoned proposal by the evaluator to award a higher service grade. Service performance appraisal takes place every two years. Achieving a higher grade is also automatic if the civil servants achieves the highest or second highest score in two consecutive appraisals.

**Is there a standardized career order for the entire state administration?**

The above described career advancement procedure applies only to civil servants whose status is defined by the CSA.

**Does an existing public employee, who is interested in filling a post in a higher pay grade or at a higher level of public administration, have to go through a selection procedure to fill this post?**

No, he does not have to. A public employee may be transferred to another post within the internal recruitment which is made without selection procedure.

In the case of civil service employees, it is a change in the terms of employment, in the case of civil servants, a transfer institute (Article 62 of the CSA) applies, according to which the State Secretary may transfer a civil servant to another service post and also to another service authority. A transfer to another service authority may be made on the basis of an agreement between the civil servant and both State Secretaries. Transfers can be made to a higher, as well as lower pay grade service post.

In this context, it should be mentioned that a transfer is not only a matter of internal recruiting enabling the candidates to achieve a better post. Transfers may also be applied to civil servants without their consent, by a decision of the State Secretary if the Office so requires, however the new post must correspond to the professional qualifications of the civil servant. The transfer of a civil servant to another service authority and to another place of service may be made by the Director General with regard to the civil service interest, and the transfer may last no longer than two years and can only be used twice for the duration of the service. If the salary in the new service post is lower, the civil servant is entitled to the higher salary for a period of three months.

Consent to transfer is required when it comes to a pregnant civil servant or civil servant who is the only person caring for a child under the age of 15. The transfer is also not possible if serious personal or family reasons prevent it.

**Is it possible to transfer a civil servant from his current post to another post in another service authority in the same pay grade or at the same level, if he so requests without a selection procedure being held?**

Yes, see the previous answer.

**Is there a probation period for a public employee in case of his transfer to another service authority? What is the legal regulation for such a repeated trial period?**

The probationary institute is a separate type of employment in the Polish labour law, in addition to fixed-term and indefinite

work. Under Paragraph 35 (1) of the CSA, a person may be appointed to the civil service only for a fixed or indefinite period of time, as a result of which the probationary institute does not apply.

**Is a career advancement connected with any other benefits beyond the pay entitlements?**

There are no other benefits associated with the career advancement.

**Is there a legal provision saying that a public employee may not be transferred to a lower grade post without his consent?**

The transfer without the consent of a public employee and under the conditions specified in the law is possible only in the case of civil servants, see the answer above.

**3.11.4 The Systemisation and Organization of Service Authorities**

**Is the question of systemisation in the state administration (the establishment of binding number of posts in service authorities in public administration, the distribution of these posts according to the scale of remuneration, the determination of the volume of resources for salaries) regulated in the legal system?**

No, the staff policy on the number of posts and salary is in the hands of the State Secretary. In this regard, the limit is the total amount of funds allocated to the service authority in accordance with the state budget act.

**Is the question of the organizational structure of civil service authorities (the definition of the post, types of organizational units, minimum number of posts in these units, relations of superiority and subordination, etc.) regulated in the legal system?**

The rules governing the organization of service authorities are regulated, in particular, by Article 39 of the act on government<sup>3</sup>, which defines the types of organizational units that are established in the service authorities, and names the list of areas for which they can be set up (e.g. legislation, information, budget, finance, education, etc.). In accordance with this provision, the competent minister (the head of the service authority) issues the status of the service authority and the State Secretary (head of the service authority) issues the organizational rules of the service authority.

Government Decree No 1/2011<sup>4</sup> introduces a procedure for the description and classification of a service post. The description of the post includes the tasks performed, the required competencies, the qualifications, the scope of responsibility and the position within the hierarchy of service authority. The classification of a post is a tool that determines the significance of a given place by means of a score. The classification of a post may be used by the State Secretary as a basis, for example, when deciding on the amount of salary.

<sup>3</sup> Ustawa z dnia 8. sierpnia 1996, o Radzie Ministrów (Dz.U. 2010 nr 57 poz. 354).

<sup>4</sup> Ordinance no 1 of the Prime Minister of 7 January 2011 on the rules of preparing job descriptions and job evaluation in the civil service.

**Is the procedural issue of systemisation and organizational structure (rules for processing and submitting proposals for systemisation and organizational structure) regulated in the legal system?**

There is no such regulation due to the absence of the Central systemisation system in Poland.

**Who is responsible for the processing of the systemisation project?**

There is no Central systemisation system in Poland.

**Who approves the systemisation and the organizational structure of a service authority?**

The systemisation of the service authority is the State Secretary's responsibility, but this is limited by the amount of funds allocated to the Office in accordance with the state budget act for the given calendar year. The description of the service post is in accordance with the Decree of the Prime Minister No. 1/2011 prepared by the head of the organizational unit to which the post is assigned. The proposal then goes through the Personnel Department to the State Secretary who approves it.

The Statute of the service authority, which includes, among others, a list of the organizing units constituting the service authority, is issued by the Minister (The head of the service authority) under Article 39 (6) of the act on government. The organizational rules are then issued by the relevant State Secretary (The head of the service authority).

**What is the scope of systemisation and the organizational structure (which parameters are approved by the system approver)?**

The order of the Prime Minister No. 125/2016 stipulates, in particular, the types of service posts that may be set up in the individual service authorities. Here are some examples: the auditor, the legislative expert, the chief accountant, the guardian for the protection of classified information, the statistics, the inspector, etc. The above-mentioned order of the Prime Minister also provides for a minimum level of education for each type of service.

Each post is in accordance with Article 84 (1) of the CSA characterized by a description of the post. Besides the description of the post, it also provides information on the number of subordinated public servants, the reason for the establishment of the post, the main tasks performed in this post, the rights and credentials, complexity and creativity, independence and initiative, public relations, services and competences (education, training, authorization, foreign language, other competencies, type and the length of experience).

**Is the systemisation and the organizational structure approved for a certain period or indefinitely?**

Remuneration funds are decided in connection with the approval of the State Budget Act, which means once a year.

**What are the conditions allowing for changes to systemisation and the organizational structure (under what conditions is a change in systemisation and organizational structure**

**acceptable and who approves it, or who comments on the change before its approval)?**

Changes in systemisation are approved by the State Secretary, changes in the organizational structure, by the relevant minister (the head of the service authority), who issues the status of the service authority, and the State Secretary who issues the organizational rules.

**What are the qualification requirements for the individual posts (who defines them, to what extent, what criteria is it based on)?**

The educational requirements for each type of a service post are stipulated by the Decree of the Prime Minister No. 125/2016. On the basis of the Decree of the Prime Minister No. 1/2011, a description of the service post is provided for each post, which contains further requirements for the performance of the service in the given post. A description of the service post shall be prepared by the head of the organizational unit to which the post is assigned and approved by the State Secretary.

In the case of senior civil servants, the basic prerequisites for service in these posts are set out in Article 53 of the CSA. A senior civil servant is required to have a completed Master's degree, must not be convicted of committing an intentional crime and should have leadership competencies. Any additional requirements for senior civil servants are specified in the description of the civil post and other legal regulations.

**Are there more types of systemised posts in the state administration (in the Czech Republic, service posts governed by the Civil Service Act and the posts under the Labour Code)?**

In accordance with Article 3 of the CSA, three groups of public employees are distinguished:

**Civil service employees**

The basic feature characterizing this group of public employees is the private-law relationship between the employee and the employer. The employment of civil service employees is governed by the Labour Code, except the areas governed by the CSA, such as the areas of civil servant's duties, performance appraisal, or disciplinary liability. However, the termination of employment is governed by the Labour Code. Civil service employees are the largest group of public employees. According to data from 2016, their number is about 110 thousand out of a total of 119 thousand public employees (92.4%).

**Civil servants**

This group of public employees is characterized by the service employment, i.e., the public service relationship of the employee to the employer, which arises on the basis of appointment. This type of service is described in the CSA the most detailed way, especially as regards the duties, the termination of service and greater possibilities for changes in the employment (e.g. transfer without consent). On the other hand, civil servants get compensations in the form of a service supplementary allowance, a more difficult job termination or a longer leave. In 2016 there were 7.7 thousand (6.4%) of civil servants. The number of appointed civil servants is governed by the limit laid down in the state budget act.

### Senior civil servants

This is the group of top positions in the civil service. The employment starts with an appointment and terminates with the removal from the service post by the relevant person (the minister, the head of the service authority, the State Secretary, etc.). Similarly, as in the case of civil service employees, their employment is governed by the Labour Code, with the exception of certain areas regulated by the CSA.

It should be mentioned that some positions in the state administration (e.g. Deputy Ministers, the head of service authorities, Voivods, etc.) are not included in the scope of the Civil Service Act and are governed by other special laws.

### What are the criteria for defining systemised posts by their type and who decides on this matter?

A list of senior service posts is provided in Article 52 of the CSA. As far as the difference between civil servants and civil service employees concerns, there are no specific posts that would be stipulated for one or another group. Civil servants and civil service employees may be assigned to the same posts. The difference is in the type of employment: public law for civil servants and private law for employees. This involves differences in rights, duties and benefits.

### If there are more types of systemised posts, are the rules for their systemization identical?

Yes.

### How is the activity performed in a particular service post defined (statutory list of activities, service sectors, register of administrative activities)? What way and according to what criteria are the activities performed in a particular post divided? How much detailed is the list of activities to be performed, how general or specific is the scope of each service or administrative activity, and how extensive is the list of these service or administrative activities?

The activities performed in a civil service post are not defined centrally by, for example, service sectors or a register of administrative activities. The activities performed in a given post are given in the description of the service post. For one post, there may be a maximum of eight items, each item being characterized by a single sentence and containing information on what the subject of the activity is and for what purpose it is performed, for example, the following description is given for the accountant: writes financial operations for management purposes to provide current and accurate financial information.

### Does the legal system enable to employ two or more civil servants in one systematized post (job sharing), where the work load of all civil servants together corresponds to one work load. What is the practical solution of this issue in the given country?

No, job sharing is not possible in civil service posts.

### 3.11.5 Selection procedure to fill a vacant service post<sup>5</sup>

#### Is the selection procedure conducted as an administrative procedure or is it excluded from the formal process?

The selection procedure is excluded from the formal process. The selection procedure is governed by the CSA.

#### Is it necessary to interview all applicants who comply with the formal conditions of participation (they sent all the necessary documents)? Or is it possible to select only some applicants with whom the interview shall be conducted? If so, who, and according to what criteria chooses them?

The methods and techniques used in the selection procedure are not centrally stipulated. The Civil Service Act stipulates in Article 30 (3) that a record containing information on the manner of conducting the selection procedure will be drawn up as a part of the selection process. The techniques used are the responsibility of the individual selection panel, while the rules for conducting the selection procedure in a specific service authority are regulated by the State Secretary by an internal regulation. Guidance may be given by the Director General's Decree No 3/2012, which sets out the requirements to be met by the selection procedure, including the recommendations for an interview in each competition. The Decree emphasizes that the choice of the most suitable applicant can be ensured in particular by ensuring the openness and competitive character of the selection procedure.

There is no selection procedure hold to fill a senior service post. Senior servants are appointed to their posts. It should be mentioned that the person in charge of filling this post may decide to carry out a selection procedure even when filling a senior service post, in particular for the purpose of selecting the most suitable applicant. Another cases are the State School for Public Administration graduates, who are appointed by the Director General to their service posts.

#### Who carries out the interview with the applicants and who can be present at the interview? Who can ask questions? Is it only the selection panel or can it also be the superior?

The technique of the selection procedure is not given. The selection procedure is organized by the State Secretary and under Article 29a (1) of the CSA carried out by the selection panel. The State Secretary shall regulate the details of the implementation of the selection procedure in the service body by an internal regulation.

To conduct an interview is, however, recommended by the Decree of the Director General No 3/2012<sup>6</sup>. Besides, the conditions for the selection procedure must be identical for all applicants.

#### Who evaluates the applicants (decides, if they were successful or not)? The selection panel consisting of more members, the superior, another authority?

Under Article 29a (1) the selection panel shall choose a

<sup>5</sup> This chapter deals with the external recruitment, the internal recruitment is described in chapter Career Opportunities

<sup>6</sup> Ordinance No 3 of the Head of Civil Service of 30 May 2012 concerning the standards of human resources management in the civil service.

maximum of the five most successful applicants who meet the necessary conditions for the performance of the given civil service post in accordance with the description of the post and, at the same time, best meet the additional conditions required for the optimal performance of the service in the given service post.

**Who selects the most suitable applicant who shall eventually be employed in the civil service? Selection panel, the superior, another authority?**

From the five most successful applicants presented by the selection panel, the State Secretary shall select the most suitable applicant. An exception to this is the procedure under the Article 29a (2), according to which a disabled person being one of the five most successful applicants, shall preferentially be selected for the post, in case the number of disabled persons in the service authority is less than 6% in the month preceding the competition.

**How can unsuccessful applicants defend?**

If the applicant assumes that the selection procedure has not been carried out correctly, he may send a statement to the State Secretary to investigate the selection procedure or he may, in accordance with Article 9 (2) of the CSA, lodge a complaint with a Labour Court which is competent to resolve disputes in the field of labour law.

**How can applicants who have been successful but have not been appointed to the public service defend against such decision?**

Successful completion of a selection procedure does not constitute a right to the appointment to the civil service. From the top five most successful candidates, the State Secretary selects the winner. If the applicant considers that the selection procedure has not been carried out correctly (e.g., the person has been chosen due to acquaintances), he may submit a complaint to the State Secretary or, pursuant to Article 9 (2) of the CSA, to lodge a complaint with a Labour Court competent to resolve disputes in the area of labour law.

**Are applications of unsuccessful applicants and successful applicants who, however, have not been appointed to the civil service, rejected by an administrative decision against which they could appeal? Or are they only informed about the result of the selection procedure?**

As stated above, in case of disagreement with result of the selection procedure, applicants may send a complaint to the State Secretary or appeal to the labour court competent to resolve disputes in the field of labour law.

The name and surname of the winning applicant shall be published on the public service web site to ensure the transparency of the selection procedure. In accordance with Director General's Decree 3/2012, it is necessary to ensure that applicants are informed of equal principles, particularly as regards the procedure to be followed, in the course of the selection procedure.

**Can unsuccessful applicants and successful applicants who have not been appointed to the civil service appeal to the court?**

Yes, see above.

**3.11.6 Disciplinary Proceedings**

**Is there disciplinary liability of public employees? If not, how is the breach of the duties of civil servants approached?**

Yes. A public employee is under Article 113 of the CSA responsible for breaching the duties of a public employee.

**If there is a disciplinary liability of civil servants, how are the facts of the disciplinary infraction defined?**

The fact of the breach of duties of a public employee, which is, according to Article 76 et seq. CSA, in particular, the observance the Constitution, protection of the interests of the state and human rights, economical management of public funds, reliable, impartial, effective and timely performance of the assigned tasks, confidentiality, development of professional skills, dignified behaviour (also out of the working hours) and the execution of the superiors' orders.

Public employees are also required to comply with the restrictions imposed on them, in particular they cannot exercise the right to strike if they are related, they must not be in the relationship of superiority and subordination or to carry out other gainful activity must have the written consent of the State Secretary

**If there is a disciplinary liability of public employees, what disciplinary measures (sanctions, penalties) can be imposed on public employees (reprimand, salary reduction, etc.)?**

On civil service employees and senior civil servants may, in accordance with Article 114 (2) of the CSA, be imposed the following disciplinary measures: admonition, reprimand, reduction of the basic salary by a maximum of 25% for a maximum of six months and the termination of service.

Besides, it is also possible to impose a disciplinary measure of freezing a career advancement for two years and to degrade the service grade.

In accordance with Article 115 of the CSA, the State Secretary may impose a reprimand for a minor breach of duty. Explanatory or disciplinary proceedings are not pursued in this case.

In addition, the termination of the service as a disciplinary measure, in accordance with Article 114 (4) of the Social Security Code means that a civil service employee may not apply for a civil service for the following five years.

**Who decides that a civil servant has committed a disciplinary infraction (a disciplinary panel, the superior, other body)?**

Decision-making on the matters of disciplinary liability lies with the disciplinary panel. Under Article 116 (1) of the CSA a **first-instance disciplinary** panel is set up in service authority, which is composed of at least 10 public employees appointed by the State Secretary for four years.

The second instance is **the higher disciplinary panel** set up in the Prime Minister's Office and consisting of 15 members appointed by the Prime Minister for six years. Twelve members are nominated by the Director General and three by the State Secretary for Foreign Service from public employees working in the diplomatic-consular area. The higher disciplinary panel is a first instance body in the case of a disciplinary breach committed by the State Secretary. The panel shall meet in



the composition of three persons, except for the cases where the disciplinary spokesperson suggests the termination of the service. In that case, five members of the panel are necessary, at least two of them must have law education.

Only a disciplinary spokesperson appointed by the State Secretary from the public employees of the service authority may file a complaint for the initiation of disciplinary proceedings. Disciplinary Spokesman for disciplinary infractions of state secretaries is appointed by the Prime Minister. At the initiative of the State Secretary (the Prime Minister), the Disciplinary Spokesperson shall open an explanatory procedure, after which he decides whether to submit the matter to the disciplinary panel or to relieve it with the State Secretary's approval.

**What are the public employee's possibilities of defending in the matters regarding his disciplinary liability (appeals, legal proceedings at the administrative court, others)?**

In accordance with Article 115 of the CSA, a civil service employee may lodge an appeal within seven days, which shall be dealt with by a disciplinary spokesperson in the explanatory proceedings. Against a second-instance decision of the higher disciplinary panel, it is possible to file a complaint with the Labour Court, which is competent to resolve disputes in the field of labour law, in accordance with Article 127 (2) of the CSA. Proceedings at the court are conducted in accordance with the Code of Civil Procedure. It is not possible to appeal against the decision of the court.

**3.11.7 Service Examination**

**Who organizes the service examination? Is this section subject to another section (Office of the Government, ministry) or is it independent?**

The first performance appraisal is carried out within the service authority where the civil servant is included. The appraisal is, in accordance with Article 38 (2) of the CSA, carried out by an immediate superior, in co-operation with the head of the organizational unit to which the civil servant is assigned.

The public employee is sent to the preparatory service by the State Secretary, on the basis of a meeting with the head of the organizational unit to which the civil servant is assigned.

**The Qualification process** is co-chaired by the Director General and the State School for Public Administration of the Polish President Lech Kaczyński (SSPA). The Director General, in accordance with Article 41 of the CSA, publishes, in particular, the application form for the qualification procedure, the maximum number of appointments for that year and also accepts applications. The qualification procedure itself is carried out in accordance with Article 43 (1) of the SSPA.

The State School for Public Administration is an independent institution set up under the Act on the State School of Public Administration of the President of the Republic of Poland, Lech Kaczynski <sup>7</sup>, which aims to educate public employees to perform a politically neutral and competent civil service. The SSPA body and its director are appointed and removed by the

<sup>7</sup> Ustawa z dnia 14 czerwca 1991 o Krajowej Szkole Administracji Publicznej im. Prezydenta Rzeczypospolitej Polskiej Lecha Kaczyńskiego (Dz.U. 2017 poz. 1411).

Prime Minister and the Council, which consists of a maximum of 25 members, including the Minister for Public Administration, the Minister of Finance, the Minister of Foreign Affairs, the Minister of Education and the Head of the Office of the Prime Minister or the Director General.

**Is the service examination system centrally managed for all service authorities?**

The preparatory service and the first performance appraisal are managed by the individual service authorities. The qualification procedure is managed centrally by the Director General and SSPA.

**Does the duty to pass the formal examination apply to all civil servants?**

The preparatory service and the follow-up first appraisal shall, in accordance with Article 36 et seq. the CSA apply to all civil servants employed for the first time with the exception of SSPA graduates, who are appointed to their first post by the Prime Minister, and those appointed to senior civil service posts.

The participation in the qualification procedure resulting in the appointment to a service post is voluntary. The number of annual appointments is limited by the limit specified in the state budget act.

**When is a civil servant obliged to take a service exam?**

In accordance with Article 35 (3) of the CSA, a civil servant entering the civil service is first appointed for a fixed period of 12 months. At that time, he completes a preparatory service lasting no longer than four months and ending no later than eight months after entering the civil service. The follow-up first performance appraisal shall be carried out in accordance with Article 38 (1) of the CSA not earlier than after eight months and not later than one month before the expiry of the fixed period for which the civil servant was appointed. The qualifying procedure is held once a year.

**How are the requirements for the examinee – the scope and the content of the verified knowledge and skills of the examinee and the form of the exam – [Written, Oral Model Situation] defined?**

In case of the first performance appraisal is, in accordance with Article 38 (2) of the CSA, the performance of the service up to now (i.e. the attitude, the determination, relationships with colleagues, etc.) evaluated, the professional qualification is verified by means of a written test. The content, the method of preparation and the evaluation of the test are determined by the State Secretary pursuant to Article 36 (5) of the CSA.

The qualification process consists of a part examining the knowledge in the following areas: law, public administration, public finance, foreign policy and international organizations, organization management, social sciences and economics. The knowledge is verified by a written test consisting of 90 multiple-choice questions. The test lasts 90 minutes. For a correct answer i one point is given, for a wrong answer no point. You must score at least 30 points to successfully complete this part.

The second part tests the ability to solve problems, to analyze and use information. Skills are tested in the form of

a psychological test or by solving specific tasks. Testing takes from 60 to 120 minutes. The maximum score is 60 points, to pass the test 20 points are required. To pass the exam it is necessary to score at least 90 points.

**How are the qualification requirements for the members of the examination panel defined?**

The members of the evaluation panel have the knowledge, experience and capabilities that guarantee the proper performance of the function of a member of the evaluation panel.

**Who appoints the members of the examination panel?**

The members of the evaluation panel are appointed by the Director of the SSPA.

**Are they only public employees or also other bodies (or are the members of the panel only other bodies than public employees)? How are the requirements for their education (general level of education [secondary school education, university degree] defined? Is there any training or examination needed? Are there any requirements concerning the length of their working experience?**

Not specified.

**Do they have to enhance the qualification through some unified (or even accredited) education or some tests, etc.?**

Not specified.

**Is the taking of service examination charged?**

The qualification procedure is under Article 45 (1) of the CSA subject to an amount not exceeding 50% of the minimum wage.

**Is the system of education within the civil service somehow formally linked to the service examination (before the exam – as a preparation – and after the exam)?**

The aim of the preparatory service is the theoretical and practical preparation of a civil servant performing the service for the first time to properly perform the duties of a civil servant. The knowledge gained is verified in a test which closes the preparatory service period. The result of the test is one of the criteria of the first performance appraisal and thus has an impact on keeping the post of the civil servant.

**Please name other relevant aspects of the examination. If there is a similar system as in the Czech Republic, that means, if there are several fields of the civil service for which it is necessary to take the examinations, how is the following approached:**

**– Education in case of change or extension of the fields of the civil service (preparation for another examination),**

The service fields are not defined, the preparatory service and the follow-up test are based on the description of the service post and the requirements specified there.

**– Education when being assigned to another service authority?**

Such change is not connected with any special education.

**3.11.8 Service Performance Appraisals**

**It is obligatory?**

Yes. Employees of the civil service employed for an indefinite period of time and civil servants are subject to a service performance appraisal in accordance with Article 81 (1) of the CSA.

A special type of service performance appraisal which public employees are also required to go through is the so-called first appraisal, which is carried out at the first entry into the civil service.

**Who is subject to the performance appraisal? To what extent does he participate?**

Employees of the civil service employed for an indefinite period and civil servants are subject to the service performance appraisal.

The first appraisal applies under Article 37 (1) of the CSA to all public employees who are employed in the civil service for the first time, except for the graduates of the State School of Public Administration of the Republic of Poland, who are appointed to their first post by the Prime Minister. A part of the documents for the first appraisal is also a report on the tasks carried out in the civil service, which is prepared by a civil servant.

During the proper service performance appraisal, a public employee has the opportunity to comment on the results achieved or other aspects of the service performed during the evaluated period at the so-called **evaluation interview** (see below) preceding the preparation of the written service performance appraisal, and the conclusions of which the evaluator is supposed to take into account when drawing up the service performance appraisal.

**Who is the evaluator?**

In the case of the proper performance appraisal, the evaluator of the public employee is in accordance with Article 81 (1) of the CSA his immediate superior. On the first performance appraisal of a public employee decides, in accordance with Article 38 (2) of the CSA, an immediate superior in co-operation with the head of the organizational unit to which the civil servant is assigned.

**How often is the performance appraisal carried out? Is it a fixed term event, or is it done as needed?**

The proper service performance appraisal is carried out in accordance with Article 81 (4) of the CSA for a period of 24 months, but this period may change in special cases. If a civil servant has been assigned to another post in the course of a period of service performance appraisal, where he performs significantly different tasks, a performance appraisal is carried out if more than six months have elapsed since the last evaluation. Performance appraisals may also be made on a different date, in particular if the evaluator has changed or upon request of a public employee. If a public employee receives negative performance appraisal, the next one is carried out after six months.

**Does the result of the service performance appraisal have any impact on the salary of the public employee?**

Yes, in the case of civil servants. Positive performance appraisal may be in accordance with Article 89 of the CSA connected with awarding of a higher service grade on the grounds of the evaluator's reasoned proposal. If a civil servant receives the highest or the second highest mark (more than six points) in two successive appraisals, the step-up is automatic.

However, service performance appraisals must also be seen from a more general point of view, as they have impact on the personnel policy management, serving as a basis for decision-making by the State Secretary in the matters of service (e.g. awarding of remuneration).

**Does the result of the service performance appraisal have any other impact on the employment of a public employee?**

A civil servant's service is terminated if he receives negative performance appraisals in two successive performance appraisals (Article 71 (1) (1) of the CSA). A different situation exists for the civil service employees, the negative appraisal influences the State Secretary's decisions, but does not lead to the termination of employment.

**What is the regulation governing the service performance appraisal?**

The area of the service performance appraisal is regulated by the CSA, details of which are laid down by the Decree of the Prime Minister No. 470/2016 <sup>8</sup> and in the case of the first performance appraisal in the Prime Minister's Order No. 1144/2015 <sup>9</sup>.

**What is the subject of the performance appraisal (what is evaluated)? Is the evaluation framework strictly defined or can it be adapted to the needs of the individual subjects?**

The criteria for the performance appraisal differ depending on the position held. In the case of an **ordinary public employee**, the following is evaluated:

- The use of knowledge and professional improvement
- Consistency
- The organization of work and goal Orientation
- Cooperation
- Communication.

The **senior civil servants** are evaluated within the following criteria:

- Leadership competencies
- Decision-making and responsibility
- The organization of work and goal orientation
- Cooperation
- Communication.

The last category is represented by the heads of service authorities who are public employees under the Civil Service Act. They are evaluated in the strategic management and further in the same areas as the superiors.

In addition to the above-mentioned mandatory criteria, the

<sup>8</sup> Regulation of the Prime Minister of 4 April 2016 on the terms and procedure of periodical evaluations of civil servants and civil service employees.

<sup>9</sup> Regulation of the Prime Minister of 23 July 2015 on detailed terms and procedure of the first evaluation in Civil Service.

evaluators may apply **another three criteria**, which they choose from the list of criteria included in the Order of the Prime Minister No. 470/2016. The list contains a total of 14 criteria, among which, besides the above-mentioned mandatory criteria, creativity, negotiation, negotiations in challenging situations, public performance, analytical thinking and customer orientation are.

When choosing the additional criteria for the performance appraisal, Article 81 (3) of the CSA must be followed, which provides that the performance appraisal corresponds to the requirements for a post which is defined in the description of the post.

**What is the rating scale? Is the performance appraisal carried out only verbally or by giving points? What results can be achieved in the service performance appraisal?**

The rating scale consists of five grades expressed by using points and a verbal description. One point corresponds to the phrase *well below the expectations*, three points are under *the expectations*, five points *as expected*, seven points *above the expectations* and nine points mean *well above the expectations*. Each criterion is evaluated only by assigning points, the word comment containing the justification will not apply. The verbal reasoning can be supplemented by the overall mark awarded by the evaluator, and it is also possible to comment on the performance of the service within the partial criteria. This verbal reasoning is mandatory only in the case of negative service performance appraisal.

The result of the service performance appraisal is the awarding of a positive service appraisal or of a negative service appraisal. A positive appraisal is awarded to a civil servant who has not been rated by one point in either of the criteria and has received more than four points in the overall score. The total result is calculated as the arithmetic mean of the points for the partial criteria.

**Is there a future perspective plan a part of the performance appraisal? – setting the goals, development plan, etc.?**

Yes. In accordance with Article 81 (5) of CSA, the service performance appraisal contains conclusions concerning the individual educational program which sets out the objective of a further education of a public employee. These conclusions are only one of the starting points when creating an individual educational plan by the immediate superior, which is approved then by the State Secretary (Article 108 of the CSA).

**What way is a performance appraisal made? What evaluation methods are used?**

The first step in the service performance appraisal process is the interview with the evaluated person, which takes place 30 days after the previous performance appraisal, and the purpose of which is to acquaint the evaluated person with, what will be evaluated in the next period, especially what his main tasks will be and what additional criteria for the performance appraisal were established. At the same time, the date of the service performance appraisal is determined.

Prior to the service performance appraisal, the so-called evaluation interview of the evaluated person with the evaluator is carried out, during which the fulfilment of the tasks is during

the evaluated period is discussed and the future individual educational program is formed.

The evaluator then prepares a written evaluation, which also takes into account the conclusions of the evaluation interview. The sample service performance appraisal is in the Prime Minister's Decree No. 470/2016.

As far as the evaluation methods used concerns, the main tool is the point evaluation of the individual criteria by the evaluator. The evaluation also reflects the conclusions of the evaluation interview. The overall result of the service performance appraisal (negative or positive) is reached by the arithmetic mean of the points awarded for each criterion.

#### **What is the basis for the performance appraisal?**

The details regarding the documents collection are not specified. An exception is the evaluation interview, which the evaluator has to take into account.

#### **What way are the evaluators trained?**

This area is not specified.

#### **What way does the evaluated person get acquainted with the results of the service performance appraisal?**

The service performance appraisal is in accordance with Article 81 (3) of the CSA made in writing. The civil servant shall be informed of the result without undue delay.

#### **Is a negative performance appraisal sanctioned? How?**

If a civil servant receives two consecutive negative service performance appraisals, his service is in accordance with Article 71 (1) (1) of the CSA terminated with a three-month notice period. A different situation exists for civil service employees when the negative performance appraisal does not result in the termination of employment, but serves as a basis for the State Secretary's further decisions.

In general, service performance appraisals must be viewed with regard to staff policy management, serving as a basis for decision-making by the State Secretary in service matters (e.g. awarding of remuneration).

#### **Are there any appeal measures against the results of the service performance appraisal?**

Under Article 83 of the CSA it is possible to lodge a complaint with the State Secretary against the result of the service performance appraisal within 7 days, who has to deal with it within 14 days. If the State Secretary finds the complaint reasoned the performance appraisal shall be changed or a new performance appraisal shall be carried out.

If the State Secretary rejects a complaint or does not respond to a complaint, a civil service employee may appeal to the Labour Court within 14 days, which is in charge of disputes in the area of labour law.

### **3.11.9 The Principles of Ethics in Civil Service**

#### **What are the rules governing the principles of ethics in civil service?**

The general duties governing public employees are included in Article 76 of the CSA. These include, in particular, compliance

with the Constitution, protection of the interests of the State and human rights, cost-effective management of public funds, reliable, impartial, effective and timely performance of the tasks assigned, confidentiality, development of professional skills, dignified conduct in the service and outside the service, the performance of the superior's orders.

Details on ethics are specified in the Decree of the Prime Minister No. 70/2011<sup>10</sup>, which consists of two parts: the principles of civil service and the principles of ethics in the civil service. The principles of civil service include, in particular, the rule of law, the protection of human rights, neutrality, openness, confidentiality, professionalism, responsibility for acts or negligence, economy in handling public funds and open recruitment. Among the principles of public service ethics are, in particular, dignified behaviour, public service, loyalty, political neutrality, impartiality and consistency.

#### **Can any sanctions be imposed in case of violation of ethical rules? If so, what kind of sanctions?**

The Civil Service Act does not provide for sanctions in the event of violations of ethical rules, however violations of the principles of civil service or ethical principles may lead to the commencement of disciplinary, explanatory proceedings. In this respect, the State Secretary's and the Disciplinary Spokesperson's judgement on the situation decides (for more details see the chapter on disciplinary proceedings).

In this context, it is also possible to mention the provision of Article 71 (1) (3) of the CSA, according to which, in the case of a civil servant, the loss of a good reputation leads to the termination of service. The term unruined reputation is not clearly defined, which enables its broad interpretation. The application of this measure thus depends on the State Secretary's judgement on the situation who can decide to terminate the service. It should be mentioned that the unruined reputation is, according to Article 4 (5), also one of the requirements imposed on all applicants entering the civil service.

#### **What means and methods are used to check the compliance with ethical rules?**

In general, in the area of compliance with ethics and the principles of civil service, soft tools, such as, analyzing the problems, issuing recommendations and coordinating of common action are applied.

In connection with the control, it is possible to mention, in particular, the General Director of the State Service who, in compliance with the Decree of the Prime Minister No. 70/2011, monitors the observance of the principles of civil service in the service authorities. Other methods or means are not set, so the procedures in this area depend on the State Secretary who ensures compliance with the principles of civil service in the service authorities, in particular through providing information and training to civil servants, and the superiors who are responsible for complying with these principles by the subordinated public employees.

<sup>10</sup> Ordinance no 70 of the Prime Minister of 6 October 2011 on the guidelines for compliance with the rules of the civil service and on the principles of the civil service code of ethics.

Within its scope of its competence, the Public Service Council, which is the advisory body of the Prime Minister, may also address the questions of ethics.

**What implementation tools are used in the area of public service ethics?**

In particular, the Director-General of the Civil Service, who analyzes the documents sent by the State Secretaries and provides them with methodological support, works in this area. In order to promote the public service principles, the Director can also work with other partners (trade unions, non-profit organizations, media, etc.).

As mentioned above, the role of the State Secretaries lies in ensuring compliance with the principles of ethics in the service authority. An example of the Ethics Advisors' Corps, set up in the Prime Minister's Office, illustrates how a contact point within a service authority can be ensured. The Corps consist of three ethical counsellors, who are selected by state employees included in the Prime Minister's Office. Among the main tasks of the counsellors are the provision of consultancy in the field of ethics and the principles of the public service. Counsellors also promote these principles, comment on legislation on ethics and civil service, advise on other negative phenomena such as corruption, mobbing or discrimination and, last but not least, ensure the coordination with government initiatives such as the Anti-Corruption Program, and institutions such as the governmental co-ordinator on equal treatment or ethics advisers in other authorities.

**What way does the training of the employees in the field of ethics proceed? Does the training of ordinary employees and senior civil servants differ?**

In accordance with Article 11 (1) (3) (i) of the Decree of the Prime Minister No. 70/2011, the State Secretary provides the training of public employees in the service authorities in the field of the civil service principles, and there is no specific form prescribed.

The State School for Public Administration School of Lech Kaczynski (SSPA), which, according to Article 12 of the Decree of the Prime Minister No. 70/2011, also deals with the principles of the civil service when fulfilling its tasks, namely when organizing the training of civil servants and also within the implementation of their post-Master's degree program.

**Is there a body or persons responsible for providing support in the field of ethical issues?**

In this area, the Director General, who in particular provides methodological support, monitors compliance with the principles in the service authorities, analyzes the information provided by the State Secretaries and makes recommendations. This issue also refers to the competence of the Public Administration Council or the Ethics Advisory Board within the Office of the Prime Minister.

**When recruiting new employees, is the personality potential of the applicants in the field of ethics taken into consideration?**

One of the conditions for the applicants to participate in the selection procedure is to prove their unruined reputation.

However, there is no detailed specification of this condition defined. As far as the specific methods and techniques used in the selection procedure concerns, they are not uniformly established. Service authorities may adjust the techniques and methods to specific selection procedures.

**Is the compliance with ethical rules continuously checked?**

In this context, we can refer to the above-mentioned responsibilities of the Director General, who monitors, analyzes and makes recommendations on the principles of civil service. Within the specific service authorities, the role of the State Secretary, who, among others, continuously informs the Director General about the compliance with the principles of civil service in the service authority and an important role plays the superior responsible for the compliance with these principles by the subordinated civil servants.

**To what extent is the supervision of professional ethics in the state administration institutionalized? Are there any individual employees, organizational units, collegiate bodies or other bodies providing methodological support on ethical issues, monitoring compliance with ethical rules and proposing measures in case of violation?**

The superiors, the State Secretary, the Director General and the Public Service Council are in charge of the issues in the field of ethics and civil service principles. The specific tools have been described in previous questions.

An interesting example of how ethical support can be approached is offered by the Office of the Prime Minister, where the Ethics Advisors Board has been set up.

**What are the consequences of the ethical failure of a civil servant?**

The Civil Service Act does not provide for sanctions in the event of violation of ethical rules, however violations of the principles of civil service or ethical principles may lead to the commencement of disciplinary, explanatory proceedings. In this respect, the State Secretary and the Disciplinary Spokesperson are in charge of judging the situation (for more details see the chapter on disciplinary proceedings).

**3.11.10 Work-life Balance (WLB) in Civil Service**

**Is there a work-life balance regulation?**

How to achieve a balance between a family life and the performance of the civil service is not specifically regulated in the CSA. The relevant provisions of the Labour Code and other legal regulations with the reference to the provisions of Article 9 (1) of the CSA are applied.

**What is the general regulation and the adjustment of work-life balance?**

The Labour Code regulates in particular teleworking, flexible working hours or part-time work. The use of individual instruments within a service authority depends on the decision of a particular State Secretary. An inspiration can be drawn from the State Secretaries, for example, from the Director General's Order No. 3/2012, which encourages the introduction of incentive tools, including flexible working

hours or work from home.

**Is the term WLB defined by a legal regulation? If so, how is this term defined?**

In legislation, WLB is not defined.

**Are there manuals, methodological documents or other WLB supporting documents following the legal regulation?**

At the central level, no such documents have been created yet.

**What WLB measures does the legal order offer?**

The law enables civil servants to make use of telework, flexible working hours or part-time work. As mentioned above, the use of specific instruments also depends on the individual State Secretaries, for example, there is a children's corner in the Office of the Prime Minister. The Office also organizes social events for civil servants and their families, especially children.

**Is it possible to modify working hours of a civil servant (flexible working hours, part-time employment, different time arrangement of the beginning and the end of the service)? What are the conditions for the modification of the working hours of a civil servant?**

A public employee may, with reference to Article 140 et seq. of the Labour Code, have flexible working time in two variants. Either a different start of the service time is set for each day or there is a time zone set during which the civil servant begins the service. The only limitation in this respect is the provision of Article 97 of the Social Security Code, according to which the service cannot exceed 12 hours a day.

The State Secretary decides on flexible working hours in an agreement with the trade union, also with regard to whether the nature of the service performed at a given place enables flexible working hour system. The State Secretary is also governed by the Prime Minister's Order No. 505/2007<sup>11</sup>, which stipulates that service in state administration authorities should be performed between 8:15 a.m. and 4:15 p.m.

**What are the possibilities and conditions of the performance of the civil service from a different place (home-office, teleworking and flexitime)? How are the conditions for the performance of civil service from another place defined?**

The State employee is allowed to perform the service in the form of telework, which is regulated in Art. 67 of the Labour Code. Telework is defined as the performance of a service (work) outside the workplace of the employer using the means of electronic communication. In connection with the teleworking arrangement, the employer is obliged, in particular, to secure the means of electronic communication, to insure them and to provide technical assistance to employees in case of problems with the operation of the devices. However, the employer also has the right to control the performance of the work at the place where the work was arranged and also to perform other activities such as the inventory of accessories or the labour protection inspection.

**What kind of service leave does the law offer (e.g. urgent**

<sup>11</sup> rozporządzenie Prezesa Rady Ministrów z dnia 25 kwietnia 2007 r. w sprawie czasu pracy pracowników urzędów administracji rządowej (Dz.U. z 2007 r. Nr 76, poz. 505, z późn. zm.).

**family leave, adoption leave, sabbatical leave, career break)? Is this service leave paid or unpaid?**

The Civil Service Act, different from the Labour Code, regulates in Article 105 of the CSA only civil servants' leave. Other types of leave are therefore governed by the Labour Code. These are:

- **Unpaid leave** – the length is not limited, however, after three months, the employer has the possibility to withdraw the employee back into service. In the civil service, this type is used, for example, for the time of appointment (e.g. a senior civil servant).
- **Maternity leave** – in the case of birth of one child, 20 weeks of holiday leave, if more children are born and the holiday is 31-37 weeks. Financial support is paid by the social administration.
- **Paternity leave** (*urlop tacierzyński*) – After 14 weeks of maternity leave, the remaining part can be taken by the father or the parents can divide the rest for a period of time. Financial support is paid by the social administration.
- **Paternity leave** (*urlop ojcowski*) – Up to two years of child's age, the father can take leave of 14 days. Financial support is paid by the social administration.
- **Parental leave** – leave can be taken by both father and mother. In the case of the birth of one child, the holiday is 32 weeks, and for more children 34 weeks. Financial support is paid by the social administration.
- **Holiday leave** (*urlop wychowawczy*) – the duration of the holiday is up to three years; it is possible to draw it up to the age of six of the child. The holiday is unpaid.
- **Service (working) leave** related to child care (parental leave, *prawo do corocznego zwolnienia z pracy w związku z wychowywaniem dziecka*) – parents have a total of two days of leave per year to care for a child under 14 years of age. The holiday is paid.
- **Holiday on request** (*urlop na żądanie*) – it is four days a year and it is counted on a regular vacation. The difference between regular leave is that the employer cannot reject leave on request. The holiday is paid.
- **Circumstantial leave** (*urlop okolicznościowy*) – is one to two days a year depending on the situation (circumstances), such as the death of the family member, the birth of the child, the wedding, etc. The holiday is paid.

**Does the law enable to share a service post?**

No, job sharing is not allowed.

**Does the law regulate the establishment of school facilities for children of civil servants?**

The establishment of school facilities is not regulated, however, the Social Enterprise Employee Fund stipulates directly that funds from this fund may also be used to co-finance business crèches, children's groups, nurseries and other facilities established for pre-school education.

**What are the WLB measures for civil servants on maternity and parental leave (e.g. sharing information)?**

This area is not modified.

**Are there any legal regulations for civil servants in relation to the care of older family members (e.g. parental leave, responsibility leave)?**

This kind of vacancy is not modified.

**Is there a program dealing with the physical and mental aspects of a civil service in the legal system (e.g. a similar program to "Fit at work" in the EU)?**

This area is under the responsibility of the individual service authorities (the State Secretaries). Information on the use of the programs of this type within individual service authorities is not available.

**3.11.11 Education**

**Is there an institutionalized training within or for the preparation for the performance of the civil service?**

Yes. Besides the individual service authorities, the State School of Public Administration of the President of the Republic of Poland Lecha Kaczyński plays an important role in organizing the education (SSPA). SSPA is an independent institution founded in 1990. SSPA works in the field of education, in particular, it aims at preparing people for the performance of civil service and it participates in the preparation of the programs and organizing of the training for public administration.

**What is the general regulation and setting of the education within the framework of the preparation for the performance of civil service and the performance of the civil service itself?**

The preparation for the performance of the civil service is carried out by SSPA mainly through a post-graduate program which takes 18-24 months, after which students are entitled to the appointment to a service post in the civil service.

As regards the training in the civil service, the Civil Service Act distinguishes under Article 106 et seq. four types of education:

- **Central education** – Educational events are planned and organized by the Director General of the State Service in cooperation with the SSPA. The Action Plan defines, in particular, the priority areas for the year in question.
- **General education** – Educational events are planned and organized by the State Secretary for civil servants of the service authority.
- **Education within an individual education program** – an immediate superior prepares for every civil servant except for senior civil servants an individual training program, which takes into account the conclusions of the service performance appraisal, the aimed career advancement of the employee and the needs and possibilities of the service authority. The program is subsequently approved by the State Secretary.
- **Specialized education** – Educational events are also planned and organized by the State Secretary. Thematically, these actions relate to the service authority.

In addition, the State Secretary may decide to send a civil servant to legislative practice (*applicacja legislacyjna*) with a final legislative test, the passing of which entitles the public servant to act as a legislator, which means, a person qualified to prepare legislation and comment on draft legal regulations.

**What legal regulation governs the training of civil servants?**

The training of civil servants is governed in particular by the Civil Service Act (Articles 106-112) and by the Order of the Prime Minister No. 960/2016.<sup>12</sup>

**Is the education of civil servants centrally managed or decentralized?**

The Civil Service combines both options. The Director General plans and organizes central educational events, in which all civil servants can participate. The remaining types of education (general, as a part of the individual education and a specialized program) are planned and organized by the State Secretary with regard to civil servants in their service authority.

**Who is responsible for the training of public employees?**

The Director General or the State Secretary of the Service Authority is responsible for the education, depending on the type of education. In the central education programs the SSPA also participates.

**Is this department subordinated to another department (Government Office, Ministry) or is it independent?**

The Director General and the Civil Service Section carry out the tasks resulting from the CSA and can be considered independent in this respect. In organizational terms, however, the section is included in the Office of the Prime Minister, and the Director-General is subordinated to the Prime Minister, who also appoints and removes him.

SSPA is an independent institution established in 1990, which operates in the field of education, in particular with the aim to prepare people for the performance of civil service and which participates in the preparation of the programs and the organization of the training for public administration. The bodies of the SSPA are the school head and the Council. The Director is appointed and removed by the Prime Minister, the members of the Council are some Ministers and other persons appointed.

**What is its competence in the field of education?**

The Director General and the State Secretary plan, organize and supervise the individual types of education. The SSPA participates in the preparation of the central training plan and, more generally, prepares training for the entire public administration.

**Does the education system for senior civil servants differ from the education system for ordinary civil servants?**

No, the education of the senior civil servants takes place within the general rules for the training of civil servants.

**What is the connection between the education and the career system (the education programs as a prerequisite of the participation in the selection procedure)?**

These areas are not formally connected.

<sup>12</sup> Rozporządzenie Prezesa Rady Ministrów z dnia 24 czerwca 2015 r. w sprawie szczegółowych warunków organizowania i prowadzenia szkoleń w służbie cywilnej (Dz.U. z 2015 r. poz. 960).

**What is the connection between the education and the service performance appraisal (is the choice of the education based solely on the performance appraisal results, operational needs, some general plan without performance appraisal results being taken into consideration or are there more criteria combined), and how much important is the education for the performance appraisal itself?**

The connection between the education and service performance appraisal is ensured in particular by an individual education program, which is also based on the conclusions of the service performance appraisal. In addition, the program is based on the career prognosis of the civil servant, the professional development plan of the civil servant, and the needs of the service authority.

### 3.11.12 The Termination of Service

**How is the issue of the termination of service regulated? What types of termination of service (e.g. by law, by the decision of the competent authority, on request, etc.) are there?**

The termination of service / employment of public employees must be seen with respect to the different employment relationships between civil service employees, civil servants and senior civil servants.

The employment of senior civil servants is terminated in accordance with Article 70 (1) of the Labour Code by the removal from the post by a competent person (the State Secretary, Minister, the head of the service authority), which may occur at any time.

The termination of the employment of civil servants shall be governed by the relevant provisions of the Labour Code where the termination of employment may be made by an agreement, by giving the notice of termination by one of the parties while retaining the notice period and by giving the notice by one of the parties without notice period or due to the expiration of the period agreed. In the case of civil servants, the CSA specifies beyond the scope of the Labour Code other cases where employment is terminated, for example, as a result of a disciplinary measure.

In most detail, the CSA regulates the termination of service of civil servants. In accordance with Article 70 of the CSA, statutory termination of service occurs in the following cases: 1) the refusal to take the oath of service; (2) loss of citizenship of an EU State or of another State the member of which may apply for a post in the civil service; (3) on the grounds of a disciplinary measure to terminate the service; (4) final conviction for an intentional criminal offense; (5) the loss of the possibility of exercising subjective public rights; (6) absences on duty for more than three months; (7) rejection of the transfer within the same or to another service authority.

Pursuant to Article 71 (1) of the CSA, the State Secretary shall terminate the employment relationship with three months' notice in the following cases:

- Receiving two consecutive negative performance appraisals,
- Issuing a medical report containing the conclusion that the civil servant may not perform a civil service,

- The loss of unruined reputation,
- In the case of cancellation of the service authority, when it is not possible to transfer a civil servant to another post.

If one of the circumstances listed below occurs, the State Secretary may, but also may not terminate the employment. This is particularly the case where a civil servant is in the state of health incapacity for more than one year; in case of a serious breach of the duties of a civil servant if the civil servant's fault is obvious; in the case of a criminal offense, if the official's guilt is obvious and also in case of loss of the necessary professional prerequisites for the performance of the service. In these cases, the limitation period is one month.

The employment may also be terminated on the basis of an agreement between the State Secretary and the civil servant or by giving a notice by the civil servant.

**Is the termination of the civil service connected with any financial compensation? (e.g. the end-of-service allowance, severance pay, cash settlement, etc.)? Under what conditions and to what extent is this compensation provided?**

Under Article 94 (1), a public employee is entitled to a financial benefit when going to an old-age or invalidity pension in the amount of three times the monthly salary and, if he has served for more than 20 years, in the amount of six times the monthly salary.

According to Article 93 of the Labour Code, the closest relatives are entitled to financial compensation in the event of the death of an employee during the period of employment. The amount of financial compensation depends on the length of employment, up to 10 years it is one monthly salary, up to 15 years three times the monthly salary and in the case of work over 15 years it is six times the monthly salary. The amount of severance pay is divided between the husband, the children and the parents of the deceased.

**Does a non-competition clause or any other similar institute apply after the termination of service? To what extent?**

A non-competition clause is governed by the Labour Code. In the case of public employees, however, it does not apply. According to the interpretation of the Civil Service Section, the non-competition clause applies only to those employers who carry out an economic activity, and that is not the case of the service authorities.

**What other institutes are connected with the termination of service?**

There are no other institutes.



## 3.12 THE REPUBLIC OF AUSTRIA

*The information on the Austria system was processed in the first and the second analysis phase..*

### 3.12.1 The Depoliticisation of the Public Administration

The state administration in Austria is organized on a slightly different basis than in the Czech Republic. According to Article 19 of the Federal Constitutional Act, the supreme executive bodies are executive federal presidents, **federal ministers**, state secretaries and the members of federal governments. For the purpose of the state administration at the national level, i.e. the federal level, the **ministries** are established **as central authorities** and then there are **service authorities, which are subordinate to them**, typically tax offices or police inspectorates. However, there are no central administrative authorities in Austria, as is the case in the Czech Republic. Individual ministries and their subordinate authorities form together a **department**. The departments serve to ensure the performance of the state administration, which is the responsibility of the individual ministers. In addition to the above-mentioned state administration bodies, there are still the so-called **special supreme bodies**, which are typically state administration control bodies, such as the Federal Court of Auditors. They are completely outside the departmental organization of the state administration and they are guaranteed special independence, as a rule, by law.

Ministries, as central authorities, are responsible for strategic planning, management and coordination of the state administration in the given department, for policy formation and coordination and other tasks assigned. Subordinate government authorities then provide further state administration performance.

The legal force of the ministries and their subordinate authorities is defined in **the Ministerial Act (Bundesministerienengesetz, BMG)**. This Act, in addition to the legal force, also establishes the basic organizational framework of the individual ministries. The basic organizational structure of the ministries is uniform and is described in more detail in the part on systemisation. However, each minister may, within the limits set by law, modify the organizational structure and lay down a specific division of tasks through the organisation order.

#### Which institutes ensure the depoliticisation of public administration and civil servants?

Among the main institutes that ensure apolitical and independent performance of civil service in the Austria are the following: the tenure for civil servants, the system of selection procedures for public service posts, or the system of disciplinary proceedings and disciplinary liability. However, it should be pointed out that in Austria there is no systematic separation of the policy from the professional performance of the state administration. When taking the historical development of the political system of Austria into consideration, it is generally not seen as problematic when state administration is performed by politically active persons, as long as it does not affect their professionalism and independence. Professionalism is then

ensured by a system of education and independence, especially by the existence of the tenure, and also by the obligation to act independently and impartially, under the threat of a possible disciplinary punishment.

#### Are the rights of civil servants to be a member of a political party or a political movement restricted, or does the restriction concern only holding of a post in a political party or a political movement? Does this restriction apply to all civil servants or only to senior civil servants?

The Civil Service Act does not provide for any restriction to be a member of a political party, or to exercise a function in the political party. On the contrary, it regulates the issue of the release from the service for the exercise of the mandate, both in the case of the municipal politics and in the case of the national politics (i.e., the exercise of the mandate of a member of the National Council). In Austria, it is necessary to look at this situation with the awareness that corporatism is heavily rooted in this country and that for a long time there was a so-called proportional democracy based on the principle of the division of power between two major political parties.<sup>1</sup>

However, the Civil Service Act imposes on the civil servants an obligation to act honestly, faithfully, conscientiously and impartially. By breaching this duty, the civil servant becomes disciplinary liable and can be punished.

#### Can state employees be members of local (regional) representations?

Yes. In § 78a of the BDG it is expressly stipulated that a civil servant may be a mayor, a chairman of the district or his deputy, a member of the municipal council, a district or a member of a city council or a municipal council or a district representation.

In the case that a civil servant is a member of a designated authority or performs such a function, he may, at his request, be released from service in order to perform that function. The condition, however, is that the local authority concerned will provide financial compensation to the service authority for the missing civil servant or the competent civil servant must agree with a reduction in the monthly salary. However, under Section 78a (4) of the BDG the release must not exceed half of the prescribed weekly working hours of the civil servant.

#### Where and how is the boundary between posts held on the basis of political agreements and posts held on the basis of selection procedures in ministries and other state authorities defined?

The highest level of management, which is filled on the grounds of selection procedures and therefore not filled by a political decision, corresponds to the degree of management of section directors in ministries, directors of subordinate service authorities. This definition arises from § 2 and § 3 of **the Act on Selection Procedures (AsG)**. The posts in the cabinet of the minister and the post of the Secretary General in the ministry are occupied purely by a decision of the minister. That follows, in particular, from Paragraph 7 (11) of the BMG. The post of the State Secretary, which is considered to be the executive body of the minister, is filled on the grounds of a political

<sup>1</sup> <https://web.archive.org/web/20050510111936/http://www.uni-tuebingen.de/ifp/kd87l.htm>

decision, and the State Secretary is appointed by the President on a proposal of the Federal Chancellor.

For the sake of completeness, it should be noted that the degree of management of the section directors can be compared to the deputies for the management of the section in the Czech Republic, the post of the State Secretary corresponds to the post of the deputy of a cabinet member in the Czech Republic and the post of the Secretary General does not have equivalent in the Czech Republic.

**What are the mechanisms preventing the "removal" of a civil servant from a post by means of a formal abolition of such a post?**

In this case, a distinction must be drawn between the temporary employment and the civil service with a tenure.

In the case of the temporary employment, a civil servant may, pursuant to Section 10 (4) (5) of the BDG, be dismissed for redundancy, but the notice must be reasoned. The notice takes the form of a decision of a service authority. In accordance with Paragraph 135a (1) of the BDG an appeal against the decision to terminate a temporary employment may be lodged with the Federal Administrative Court.

The situation is different for the tenure employment. In the case of the abolition of the post, the employment of the civil servant did not cease to exist. He is appointed for tenure and his service will continue together with all his rights and duties, including the entitlement to a salary.

**Is the political power allowed to decide on the employment issues of civil servants?**

It is possible. In Austria, the ministry or the whole department is, in fact, considered as an executive body of the minister. Therefore, the minister may, within the limits of the law, decide on all matters related to his department. The minister may be in the political issues represented by a State Secretary, who is also considered to be executive authority from the point of view of the constitutional laws.

For the purposes of the management of the ministry, the State Secretary may also entrust the Secretary General with tasks (§ 7 par. 11 of the BMG). The Secretary General is not a civil servant, and he stands between the minister and the department directors, who are the highest civil servants in the ministry and in the whole department. The Minister, or the Secretary General is according to § 10 par. 11 of the BMG, the immediate superior for all heads of the departments in the ministry as well as for all subordinate service authorities. However, the Secretary-General is a function that is not compulsory in ministries and the minister can manage his department on his own.

**Are there organizational units in the ministries that include employees providing activities for a member of the government that are related to political power (similar to cabinet ministries in the Czech Republic)?**

In the ministries, cabinets of the minister are established just like in the Czech Republic. There is also the State Secretary available for the minister, who is appointed and removed by the President on a proposal of the Federal Chancellor. The state secretaries in each ministry have the task of representing the

minister at the parliamentary level and also providing assistance to ministers in political issues. They are, from the point of view of the Constitution seen as a body of the executive power. From a formal point of view, the secretaries are not entrusted with any vocational agenda. Unlike Secretaries-General, the State Secretary cannot give orders to subordinate civil servants or to assign tasks.

**3.12.2 The Opportunities for Compensation of Civil Servants' Duties**

**Is the performance of civil service connected with any special pay (special supplementary allowances or something similar)? Under what conditions and assumptions?**

The total monthly salary of a civil servant consists in accordance with Section 3 (2) of **the Act on Salary** (*Gehaltsgesetz, GehG*) of the following components:

- Tariff pay,
- Supplementary allowances.

In addition, the civil servant is entitled to other special remuneration components:

- **Side payments,**
- **Special pay** under the Act on Salary (GehG).

The regulation of the salary and its components is described in the Act on Salary GehG, as well as in special laws, regulating, for example, special supplementary allowances for civil servants serving abroad or special supplementary allowances for executive civil servants (members of the security forces).

**Tariff pay**

Tariff pay is the basic component of salary. The salary is determined by the grade to which the civil servant is appointed and the salary grade, which are 19 in total. The salary grade advancement is guaranteed every two years according to Paragraph 8 (1) to (3) of the GehG. The tariff table is included directly in the Act on Salary in Section 28 (1).

**Supplementary allowances**

In general, the most important supplementary allowances in the public administration are:

- **Function supplementary allowance**

This supplementary allowance depends on the function group to which the civil servant belongs. GehG in Section 30 (1) provides a table that describes the individual function supplementary allowances for each function group. Two top-level staff, i.e. A1 and A2, do not have a function supplementary allowances. A function supplementary allowance is divided into four function ranges, and the determination of the specific grade of the function supplementary allowance depends on the civil servant's seniority. The specific distribution is stated in Paragraph 30 (2) of the GehG. For example, in order to be awarded the highest level 4 function bonus, the civil servant must serve in grade A1 for 35 years and six months, in service grade A2 for 40 years and six months, and in all other classes for 41 years and six months.

- **Seniority supplementary allowance**

§ 29 GehG: Seniority supplementary allowance is paid when the highest tariff grade is reached. Once the highest grade has

been reached, the civil servant would no longer be entitled to a further increase in the salary, and that is why there is just this supplementary allowance. There is a small and a big seniority supplementary allowance. A civil servant is entitled to a small supplementary allowance after two years of the service at the highest achievable tariff grade, the entitlement to a big supplementary allowance arises after four years of service at the highest achievable tariff grade. The amount of the supplementary allowance is stipulated in a table and fixed for each grade in the Act on Salary.

- **Service Supplementary Allowance** (*Verwendungszulage*)

§ 34 GehG: This allowance belongs to a civil servant who has been permanently assigned to a grade to which he was appointed. If a civil servant was appointed to grade A2, for example, and permanently transferred to service grade A1, he cannot be paid under the A1 tariff, but he is entitled to a certain compensation in the form of a service supplementary allowance. The service supplementary allowance is 50% of the difference of the salary between the grade to which he was appointed and the grade in which the service is performed.

- **Additional Supplementary Allowance**

§ 35 GehG: The additional supplementary allowance is a compensation for a civil servant who has been transferred to a service grade and a function group that is lower than his previous assignment. The additional supplementary allowance is related to the function supplementary allowance. In the first year, the supplementary allowance is 90% of the difference, 75% in the second year and 50% in the third year. After the third year the entitlement to the allowance ceases to exist. A civil servant may at the same time be requested by the service authority to apply for a post corresponding to his previous assignment, and if he does not do so, the entitlement to the supplementary allowance also ceases to exist.

It should be noted that some civil servants, for example in executive or military services, are entitled to some other supplementary allowances.

- **Secondary payment**

The secondary payments are detailed in Paragraph 15 (1) of the GehG. These include, for example, overtime pay, emergency pay, one-off pay, Saturday and Sunday pay, performance supplementary allowance, supplementary allowance for a service under difficult conditions, etc.).

- **Special pay**

For example, the special pay is the so-called 13th and 14th salary according to § 3 (3) GehG. This salary is paid quarterly, in the amount of the half the monthly salary together with the normal salary.

**Other forms of special pay are function compensation or service compensation.**

**Function compensation** is paid to a civil servant if he temporarily but for more than 29 days performs service in a post which is at least two function groups higher than his original one. In such a case, he is entitled to an allowance, the calculation of which is determined by the Act on Salary in Section 37.

**Service compensation** is paid to a civil servant if he is temporarily in service for more than 29 days in a post which is

in a grade higher than his original grade. In such a case, he is entitled to an allowance, the calculation of which is determined by the Act on Salary in Section 38.

**Is the termination of service connected with special pecuniary claims (redundancy pay, severance pay, end-of-service allowance, service rent and retirement benefit)? Under what conditions and assumptions?**

The civil service employment is, as a rule, tenure.

A special situation is the occurrence of a service rent claim. A civil servant may go to the pension due to a **changing (Article 13 of the BDG) or a transfer (§ 14 of the BDG)** his employment, however, shall not cease to exist and shall continue. This implies, that a retired civil servant may be called back to service once the statutory conditions are met. A civil servant shall be retired at the age of 65, without any decision or request. A civil servant may, however, apply for the retirement at the age of 61 and six months. The service authority then decides on the early retirement, the reason for the retirement may be only long-term inability to work.

In case of the termination of service other than the above-mentioned way, the entitlement to special pay shall not arise.

**Are there fixed pay tariffs for civil service performance?**

Yes, there are. For general civil servants, the Act on Salary in Section 28 (1) provides a table setting salary scales for each service grade and salary steps. A service grade is determined according to the service ranking of the civil servant, the salary step is then increased every two years. The salary steps are 19 in total, they cover 36 years of the service. If a civil servant reaches the highest salary step he is entitled to a seniority supplementary allowance, which is paid to him two years after reaching the highest salary step as the so-called "small" and after four years as the "big" supplementary allowance.

At the beginning of the service, the civil servant should provide all records regarding the period which can be included in his service (anrechenbare Vordienstzeit), which may be recognized for an immediate ranking of the civil servant to a higher salary step. If he fails to do so within three months of the date of his employment, the entitlement to the period expires.

**How are variable salary components (personal supplementary allowance, bonuses, etc.) granted to civil servants?**

Section 37a of the remuneration regulation stipulates that in the case of particularly good work performance a **performance supplementary allowance** may be awarded to the civil servant. Paragraph 3 further specifies that the length and the amount of this supplementary allowance is determined individually in the light of the quality of the work done by the civil servant. The awarding of the bonus may be based on either long-term quality performance or exemplary fulfilment of one particular task.

Under Article 39 of that regulation, the civil servant may also be granted a **special one-off payment**. Similarly, to the performance supplementary allowance, such reimbursement may be granted only on the grounds of particularly good performance of the duties. Furthermore, this provision

regulates the so-called jubilee pay-outs, which are one-time benefits granted on the grounds of the seniority.

**Are public employees privileged in social security or health care system?**

Civil servants are insured as citizens in Austria, as in the Czech Republic. This regulation is contained in a special law on health and accident insurance of civil servants B-KUVG. In the view of the fact that civil are appointed for tenure and are entitled to a service rent, they do not have retirement insurance and are not insured even for the case of unemployment as other employees.

They are privileged in the social security system, civil servants are guaranteed certainty as to the service and are entitled to receive a service rent after the retirement.

The specificity of the social system affecting civil servants is the existence of the so-called **bridging law**. This Act governs the claims of a civil servant in the case of termination of his service, when the civil servant becomes unemployed. As civil servants are usually employed for tenure and are not subject to the unemployment insurance act, they are entitled to certain benefits under the bridging act.

**What are the differences in wage and sickness benefits between civil servants and employees?**

In the case of civil servant’s incapacity for work, his / her salary shall not be reduced and shall be paid for the duration of the incapacity for work without a time limit.

An ordinary employee receives the full wage compensation for the first few weeks from the employer and then one half of the wage earned in the calendar month preceding the month in which the employee was on a sick leave.

**Do working hours of civil servants differ from working hours of employees?**

It does not differ. Both working and service hours are usually 40 hours a week.

**What work-life balance measures are available for public employees?**

This question is dealt with in the chapter Work-life Balance

**What benefits are granted to public employees? Do these benefits differ according to whether they are ordinary employees or employees in senior positions?**

Benefit issues are addressed in the individual replies of this section and in the Work-life Balance section. As a rule, the legislation does not distinguish between special entitlements that are guaranteed to ordinary employees and to those which are solely for the superiors.

**Are there any tools to satisfy the cultural, sporting and recreational demands of civil servants?**

No relevant information was found on this issue suggesting that there is a fund in Austria similar to The Fund for Social and Cultural Requirements in the Czech Republic. It is therefore necessary to assume that these tools are not available.

**Is a public employee entitled to a healing holiday to boost**

**his physical and mental health? Under what conditions and assumptions?**

The Civil Service Act in Section 79 regulates the service leave in case of a health resort stay. A civil servant may apply for this leave if the physiotherapy stay is fully or partially covered by the insurance company concerned, and provided that, during the stay the civil servant undergoes the prescribed treatment procedures under medical supervision. When determining the length of such leave, according to Section 79 (2) of the BDG, the needs of the service authority must be taken into account.

Furthermore, it is stipulated in Article 79 (3) that a civil servant may request a service leave for the purpose of staying in a health care or physiotherapy center. This leave may be claimed if the costs of a stay in a health facility are fully or partially covered by the sickness insurance fund, and the civil servant recovers from severe illness or surgery.

For the purposes of the reimbursement, both of the above mentioned service leaves are considered as an absence due to incapacity for work under Section 79 (5) of the BDG.

**Is the survivor of a public employee (a wife, a husband, a dependent child) entitled to “a severance pay” if the civil servant's employment relationship ends with death unrelated to the performance of the service?**

The rights of survivors of a civil servant are governed by a special pension law (PG), which also governs the **pension rights** of the civil servants themselves. Essential is Paragraph 3 (1) of the PG, which provides that an entitlement to a service rent, referred to as a retirement, arises to a civil servant after 15 so-called eligible years.

The “eligible” years are calculated according to § 6 PG:

- The period of service without an unexcused absence in service lasting more than three days and without the period of paid leave,
- Pre-service hours (school attendance, performance of military duties, performance of special duties in the public interest, etc.),
- Incapacity for work,
- Period governed by special legal regulations.

In case of the death of a civil servant who is entitled to a service rent, his survivors are entitled to the so-called **reinsurance income**. The amount of the reinsurance income is calculated as the percentage of the service of the deceased civil servant, taking into account also the income of the surviving spouse.

The first group are **widows and widowers**. Widow's reinsurance income belongs to the surviving spouse, from the date of death of the civil servant. The law provides for exceptions from this rule in Section 14 (2) and (3). The entitlement to the reinsurance income to the surviving spouse shall not arise if the person did not reach the age of 35 at the time of the death of the civil servant. This does not apply if the death occurred as a result of an accident at work or an occupational disease, if the marriage lasted for more than 10 years if the marriage resulted in at least one child or the child was legalized by marriage or if at the time of the death of the civil servant, there is a child sharing the household with the civil servant who is entitled to an orphan's annuity. The

entitlement of the surviving spouse to the reinsurance income does not also arise if the marriage was concluded at the time when the civil servant was already taking the service rent. However, this does not apply if the marriage lasted for at least three years and the age difference was not more than twenty years if the civil servant was recalled to the service after the marriage, if the marriage resulted in at least one child or the child was legalized by marriage or if at the time of death of the civil servant a child who is entitled to an orphan's annuity lived in a common household with the civil servant.

Another group are **orphans**. The entitlement to the reinsurance income arises if children of the deceased civil servant did not reach the age of 18 at the time of the death. In addition, this income also applies to orphans who did not reach the age of 27 and who are constantly preparing for a job. An orphan who reached the age of 18 but is not able to make his living due to illness or disability may also apply for the reinsurance income (Paragraph 17 (1), (2) and (3) of the PG). In the case of half-orphans, the amount of the reinsurance income for orphans is 24% and, in the case of full orphanage, it is 36% of the service rent.

Another group are **former husbands and wives**. The former spouse shall be entitled to survivor's income if, at the time of the death of the civil servant he or she was obliged, by virtue of a judicial decision or conciliation, to make a contribution to the former spouse. The law provides for various exceptions from this rule, depending on the length of the marriage, the divorce, or the wording of the court's decision to stipulate the alimony.

The regulation of The Act on Pension will apply *mutatis mutandis* to cases of **registered partnerships**.

**Does the service authority provide civil servants insurance in the event that a civil servant causes damage to a service authority? Is the service authority insured for a damage to third parties? Is the right to reimbursement (recourse) to the civil servant in such a case?**

There is no insurance for public employees. There is the possibility of insuring public employees as a specific type of employee, the insurance companies also offer insurance against the liability of civil servants for damage.<sup>2</sup>

**How many days of annual leave are public employees entitled to? Does it differ for the civil service employees and for the civil servants?**

According to Section 65 (1) of the BDG, the civil servants are entitled to 200 hours of leave every calendar year. After reaching the age of 43, the length of leave is increased to 240 hours per calendar year. If the birthday falls on the date before July 1, the entitlement shall be increased in the given calendar year, if the birthday falls on the date after 1 July, the entitlement to the holiday shall be increased from the next calendar year. The entitlement to leave is conditional on the duration of the service throughout the year. If the service does not last for the entire calendar year, the holiday is shortened in proportion, i.e. the same rules apply as in the Czech Republic.

2 <http://www.beamte24.info/versicherungen/versicherung-oeffentlicher-dienst/>

Employees in the private sector are entitled to five weeks of leave per calendar year, and this entitlement does not increase at any age.

**What kind of paid leave can public employees take (study leave, sick leave, leave for personal matters, etc.)?**

- Study leave;
- Indisposition leave;
- Service leave due to a recovery stay;
- Service leave during childbirth;
- Day off for a care of a dying person.

**Are public employees somehow privileged in public transport? In the field of catering? Are there favourable conditions for the provision of tariffs for mobile and telephone operators for public employees?**

The available legal regulation does not deal with this issue and no relevant information has been found.

**How is further education of civil servants (beyond the scope of service) supported?**

In Austria, there is no provision for active support of the training of civil servants beyond the scope of service. Civil servants, for example, are entitled to take part in a study leave, where they can independently develop themselves.

**Is a public employee entitled to cash reimbursement for his clothing?**

In § 60 of the BDG, it is stipulated that the service clothing is provided in the case the performance of the service requires that. However, there is no reimbursement for business (service) clothing.

**What are the possibilities for public employees (especially senior civil servants) in exercising the right to strike? Is the right to strike wholly excluded or only restricted for ordinary civil servants or senior civil servants?**

Austria has no codified right to strike, not even at the constitutional level.<sup>3</sup>

**3.12.3 Career Opportunities (Career Order)**

**What determines the career advancement of a civil servant (e.g. education, the length of service, the performance of administrative activities, experience with managing of staff, quality of service tasks – service performance appraisal, the age of a civil servants, etc.)? How often (at what intervals) can career advancement be achieved?**

Career development has two basic forms. The first is the **career advancement**. Its regulation is contained in the Act on Salary in Section 8 et seq. Career advancement is strongly related to seniority. Career advancement is connected with a change of the function group to which the civil servant is ranked and also the function supplementary allowance that is granted to him is increased. In this respect, it should also be mentioned that the salary grades are set the same way as in the Czech Republic,

3 <https://www.etui.org/content/download/2549/27836/file/08+Strike+rules+in+the+EU27+DE+R103+WEB.pdf>

so that the civil servants grow according to the seniority even in the salary grade. The increase in the grade does not only affect the salary, but also the service rank changes. It is more a symbolic thing, but changes in the service rank may also motivate some civil servants. The modification of the service rank is detailed in the annexes of the BDG.

The second way of career development is **moving to a higher service grade**. This is possible upon request but it is not a legal claim, and is considered as a special form of transfer under Section 38 of the BDG. This is, however, connected with the requirement of an adequate level of education.

**Is there a standardized career order for the entire state administration?**

There is no standardized career order in Austria, for example, in the form of a special legal regulation. The method of career advancement or the issue of pay rise is detailed mainly in the BDG, but also in other regulations.

**Does an existing public employee, who is interested in filling a post in a higher pay grade or at a higher level of public administration, have to go through a selection procedure to fill this post?**

See the introduction to the section on selection procedures.

**Is it possible to transfer a civil servant from his current post to another post in another service authority in the same pay grade or at the same level, if he so requests without a selection procedure being held?**

Yes. In such cases, the transfer shall be applied. The transfer is, pursuant to Articles 38 and 38a of the BDG, defined as a permanent transfer of a civil servant to another service authority. As a transfer are also considered cases where a civil servant is transferred within one department or even one service authority to another service post. The service authority may only transfer civil servants with tenure if there is a serious reason for doing so. Among such reasons may, according to Section 38 (3) of the BDG, be the change in the organizational structure of the service authority, the impossibility of filling a post in another service authority by an appropriate applicant, inadequate service results (negative service performance appraisal), the impossibility to perform the service in the current post due to disciplinary offenses. The jurisdiction also implies the possibility of the transfer in cases where there is a high tension in the service authority due to disagreements among civil servants or because the disagreements make proper performance of the civil servant's duties impossible.

**Is there a probation period for a public employee in case of his transfer to another service authority? What is the legal regulation for such a repeated trial period?**

There is no recurring probationary period, the BDG only requires that when moving to another post, it needs to be proven that the probationary period has already been met.

**Is a career advancement connected with any other benefits beyond the pay entitlements?**

This information is not available as no special benefits are regulated in the legislation. However, it may be assumed that,

in the case of senior civil servants, benefits will be available, for example, in the form of a service car, service electronics, etc. However, in connection with seniority, the total length of leave the civil servant may take may be extended.

**Is there a legal provision saying that a public employee may not be transferred to a lower grade post without his consent?**

Yes. Under Paragraph 40 of the BDG, which regulates a change in the civil servant's ranking, a change in ranking, which deteriorates his status, is considered a special form of transfer. The transfer is then governed by § 38 of the BDG, where it is in paragraph 7 stipulated that a transfer must be made. An appeal against that decision may be filed under the same paragraph, the appeal does not have suspensory effect.

**3.12.4 The Systemisation and Organization of Service Authorities**

**Is the question of systemisation in the state administration (the establishment of binding number of posts in service authorities in public administration, the distribution of these posts according to the scale of remuneration, the determination of the volume of resources for salaries) regulated in the legal system?**

Yes, the law regulates the systemisation in the BDG, the State Budget Act, and the Budget Rules Act. Systemisation is referred to as a staffing plan. The **staffing plan** stipulates the maximum manpower for the given year through the designation of systemised posts and indicates the number of full-time jobs in relation to the allocated funds. In the staffing plan itself, however, the funds are not specified, as they are a part of the State Budget Law. The staffing plan therefore works with the *Personalcontrolling Punkt (PCP)*, which is the value of the resources used on one systemised post, expressed in points.

The staffing plan as such is annexed to the State Budget Act for the year. It sets the maximum permissible personnel capacity of the entire public service in both quantitative and qualitative terms. It applies to both service and work posts. For each department, the staffing plan indicates in the note how many of the total number shown in the list of posts corresponds to civil servants' posts.

One entire systemised post can be filled up to the so-called full-time job equivalent. This means sharing posts is possible. If the whole post is systemised, it can be occupied by a number of people whose workloads together correspond to a full-time work load.

The **Budget Rules Act (BHG)** in Section 44 stipulates that the staffing plan must include:

- The principles of systemised post management (this is a legislative term);
- A list of systemised posts for the following financial year, indicating the number of systemised posts and the allocated PCPs. This list must be a part of The State Budget Law;
- A summary of the number of systemised posts that may be occupied by civil servants;
- Data on the actual number of employees in the given systemised posts, for the current financial year and the previous financial year;

- Summary reports by the individual departments and other criteria.

The basis of the staffing plan are table reports, divided by departments and following the text part of The State Budget Law. A separate summary table is provided for each department.

Table reports are divided into:

- **Service grades** for public employees (they are seven in total, ranked in descending order of importance) and pay grades for employees in employment (five ranked according to the importance) and
- **Function groups** for civil servants (the number depends on the service grade in question) and
- **The remuneration groups** for the employees in employment (the number depends on the pay grade).

Each service grade or pay grade consists of a number of function or remuneration groups. Not every department uses all service grades or pay grades. **Service grades** are qualitatively divided into service posts and groups according to the difficulty on the basis of criteria of "knowledge and skills", "logical reasonability" and "degree of responsibility". Appendix B to the BDG specifies, which posts are assigned to each service grade. The jobs not listed here are classified into these grades on the basis of similarity.

In each service grade, similar service posts are divided according to the complexity of tasks performed into function groups.

Thus, the **function groups** express qualitative differences between service posts in each service grade. Function groups are numbered. There are also cases when a given service post is not included in any numbered function group, then it belongs to the so-called basic function group. The two lowest grades are not divided into function groups, as with respect to the work done, it is no longer important to divide them more closely.

Service grade	Function group
A 1	Basic plus 1- 9
A 2	Basic plus 1- 8
A 3	Basic plus 1- 8
A 4	Basic plus 1 and 2
A 5	Basic plus 1 and 2
A 6	Not divided
A 7	Not divided

The table reports do not put the employees in employment in special tables. The table shows the total number of systemised posts, both service and working, with only a note under the list denoting a number of mandatory posts. The overview then works with the designation of grades and groups for public employees. The classification of working post corresponds to this classification, but it has different markings.

The designation mentioned above only apply to "ordinary" state employees of the so-called general administration (typically for state employees of the ministries). As mentioned

above, for example, teachers or the police are also a part of the civil service. These groups have special markings.

Graphical layout of systemisation (for the Ministry of Public Service and Sport for 2018) – an overview of the posts is shown in the pictorial annex in chapter 3.5.13.

The staffing plan is always created for one calendar year as it is related to the State Budget Act.

The staffing plan is to a certain extent supplemented by a summary of the staff, which under Article 9 of the BDG every service authority must have. The staff overview is basically a list of all civil servants in the service authority where, in addition to their personal data, also their service grade, the function group, the amount of supplementary allowances etc. are stated.

**Is the question of the organizational structure of civil service authorities (the definition of the post, types of organizational units, minimum number of posts in these units, relations of superiority and subordination, etc.) regulated in the legal system?**

Basic regulation is contained in **the Ministerial Act (BMG)**. This act establishes the basic organizational structure of ministries and subordinate service authorities. They are divided into sections and those into departments. It is also stipulated that the individual departments can form groups and can also be internally divided into individual offices. The organizational structure is obliged to be issued by the competent minister, and the law does not directly determine in what form. As a rule, this is an organigram, which shows the structure of the ministry, the resort. The minimum number of posts in the individual departments is not set, but is based on an approved staffing plan. The Act explicitly establishes the obligation to create the organizational structure of the ministry with regard to the principles of efficiency, economy and effectiveness.

The minister is also obliged to issue an organizational order for his department, which regulates the relations of superiority and subordination of the individual departments, which, moreover, results from the Act on Ministries. The organizational order also provides for the division of the agenda in the individual departments. The division of the agenda is sometimes included in the organizational chart (organigram), capturing the organizational structure of the ministry, the resort.

**Is the procedural issue of systemisation and organizational structure (rules for processing and submitting proposals for systemisation and organizational structure) regulated in the legal system?**

The staffing plan draft is under § 44 of the BHG prepared by the Federal Chancellor together with the Minister of Finance. The administrators of the individual budget chapters are required to prepare documents for the drafting of the personnel plan. The documents are sent to both the Federal Chancellor and the Minister of Finance. All data are provided through an electronic data system. The staffing plan is then approved as a part of the State Budget Act within the legislative process.

The organizational structure is then fully the minister's responsibility. The Minister may change it at his discretion, but the principles of efficiency, economy and suitability

must be respected. At the same time, it must be based on a binding staffing plan and to respect the limits stipulated by the plan. The information if it is necessary to inform the Ministry of Public Service and Sport about the changes to the organizational structure was not found.

**Who is responsible for the processing of the systemisation project?**

The Federal Chancellor is responsible for the drafting of the staffing plan, which is elaborated by the Chancellor together with the Minister of Finance. The individual administrators of the budget chapters are responsible for providing the documents and data for the drafting of the staffing plan, which must be sent to the Chancellor and the Minister of Finance.

**Who approves the systemisation and the organizational structure of a service authority?**

The staffing plan is an Annex IX to the State Budget Act and is approved as a part of it. It is therefore approved by the National Council, i.e. the lower house of Parliament.

The organizational structure is approved by the minister of the given department.

**What is the scope of systemisation and the organizational structure (which parameters are approved by the system approver)?**

The following basic parameters are approved within the HR plan:

- The number of systemised posts,
- Number of *Personalcontrollingpunkte*.<sup>4</sup>

**The staffing plan contains:**

- The principles of the management of the systemised posts
- A list of systemised posts for the following financial year, indicating the number of systemised posts and the allocated PCPs. This list must be a part of the structuring by the State Budget Act;
- A summary of the number of systemised posts that may be occupied by civil servants;
- The data on the actual number of employees in the given systemised posts, for the current financial year and the previous financial year;
- Summary reports by sector and other criteria.

**Is the systemisation and the organizational structure approved for a certain period or indefinitely?**

As the staffing plan is approved as an annex to the State Budget Act, it is always approved for one calendar year. It is, however, it is possible to change this staffing plan, according to the principles defined in a part of the staffing plan, which is called **the principles of the management of service posts**.

The organizational structure is created for an indefinite period of time, it is fully the relevant minister's responsibility and he

<sup>4</sup> According to § 44 of the BHG, these are numerical values which point out the means that are spent on one entire systemised post in the staffing plan. This mathematical term expresses the relationship between a given systemised post and the total amount of resources that is spent on it.

may change it according to the needs of the department or possible changes in the staffing plan.

**What are the conditions allowing for changes to systemisation and the organizational structure (under what conditions is a change to systemisation and organizational structure acceptable and who approves it, or who comments on the change before its approval)?**

Changes to the staffing plan are made in accordance with the principles of the service posts management which are annexed to the staffing plan and are based on the State Budget Act, namely Section 44 of the BHG.

The systemisation is approved within the legislative process. Proposals are required to be submitted by the individual ministries to the Ministry of Finance, which cooperates with the Federal Chancellery to develop a comprehensive systemisation plan. A fundamental condition for a change in systemisation is by the nature of the fact that there are funds for the given post included in the state budget. Systemisation is then explicitly considered as the maximum state that does not have to be achieved.

The organizational structure is fully within the competency of the minister. The Minister may change it at his discretion, but it must be in accordance with the principles of efficiency, economy and suitability. At the same time, it must be based on a binding staffing plan and to respect its limits. The information on whether organizational structure changes have to be reported, for example, to the Ministry of Public Service and Sport could not be found.

**What are the qualification requirements for the individual posts (who defines them, to what extent, what criteria is it based on)?**

As the qualification requirements concerns, their distribution is essential. BDG distinguishes between basic qualification requirements, special qualification requirements and the requirements for tenure appointment.

The basic qualifications are listed in § 4 (1) of the BDG. It is Austrian citizenship or citizenship of a country the citizens of which do not have limited access to the Austrian labour market, full autonomy, personal and professional ability to perform tasks connected with performance of the civil service and a minimum age of 18 years. The personal and professional abilities also include the knowledge of the German language according to Paragraph 4 (1a) of the BDG.

Special qualification prerequisites are governed by Appendix 1 to the BDG, which specifies different special qualifications for different posts individually. The division is made according to the service grades and function groups in which the service post is included. Achieving a certain level of education is a special qualification prerequisite for performing a service in a given service authority.

The prerequisites for the tenure appointment are also stipulated in Appendix 1 to the BDG and are again classified by service grades and function groups in which service posts are included. A typical prerequisite for the tenure appointment is a successful completion of basic education, together with passing the civil service examination.



Considering the fact that the requirements are stipulated by the law, better said its annex, they can only be amended through the legislative process.

**Are there more types of systemised posts in the state administration (in the Czech Republic, service posts governed by the Civil Service Act and the posts under the Labour Code)?**

The public administration distinguishes two basic types of systemised posts:

- **Service posts** occupied by civil servants. They are generally governed by the BDG Civil Service Act and by special service acts applicable only to certain groups of civil servants (the Act on the Service of Public Prosecutors, the Act on the Service of Forestry Workers, etc.);
- **Posts occupied by employees** whose employment is governed by the Act on the Contract of Employees in Public Administration, the so-called VBG.

**What are the criteria for defining systemised posts by their type and who decides on this matter?**

See the answers in this section.

**If there are more types of systemised posts, are the rules for their systemisation identical?**

Employment posts, as well as, service posts are systemised. The rules for creating and changing systemisation, i.e., the staffing plan are however uniform and apply to both types of posts.

**How is the activity performed in a particular service post defined (statutory list of activities, service sectors, register of administrative activities)? What way and according to what criteria are the activities performed in a particular post divided? How much detailed is the list of activities to be performed, how general or specific is the scope of each service or administrative activity, and how extensive is the list of these service or administrative activities?**

The service is not defined the way it was adopted by the Czech legislation. In relation to an individual post, the service is under Paragraph 36 (1) of the BDG a performance of the tasks associated with the service post which is laid down by the organizational code of the service authority.

**Does the legal system enable to employ two or more civil servants in one systemised post (job sharing), where the work load of all civil servants together corresponds to one work load. What is the practical solution of this issue in the given country?**

The systemisation enables the possibility of occupying one systemised post by several persons, the systemisation allows for such a possibility in advance. In order to be able to occupy systemised posts by more than one person, the PCP system is also created. A systemised post is explicitly defined by law as a certain amount of the workload and the amount of the funds involved. The posts can be occupied by more than one person up to the amount of the systemised workload.

**3.12.5 Selection Procedures to Fill Civil Service Posts**

The selection procedure regulation is contained in a special legal regulation, which is the **Act on Selection Procedures (AsG)**. This Act governs the selection of new civil servants, but also, in particular, the selection procedures to fill the so-called management positions. Among other things, it regulates the various types of selection procedures that can be used to select new staff. It also regulates cases where there is no obligation to conduct a competition, in § 25.

The law distinguishes four basic types of selection procedures:

- **Selection procedure with an examination pursuant to Section 37 et seq. AsG** – is considered to be the basic type of selection procedure, i.e. it is always held if there are no reasons for another type of selection;
- **Selection procedure with an interview pursuant to Section 54 et seq. AsG** – where a particular job requires specific knowledge and skills, such as special technical skill, or when there is an insufficient quantity of labour force in the labour market and the employers' demand for the employees exceeds the number of the potential employees available.
- **Short-cut selection procedure pursuant to Section 59 et seq. AsG** – takes place when a post cannot be filled by a selection procedure with an examination or a selection procedure with an interview;
- **Selection procedure with an examination in the service pursuant to Section 64 et seq. AsG** – It takes place when an employee is recruited to the lowest service grades, i.e. a qualified assistance service and an assistance service.

The type of selection procedure chosen for the given post must be stated in the selection procedure notice. If the number of women in the service is less than 50%, the notice also states that it is desirable for women to apply for the post.

For the sake of completeness, it should be added that AsG imposes on the service authorities the obligation to publish a vacancy in the resort prior to the selection procedure on the Chancellery's website, which is set up for that purpose. The purpose is to find a suitable candidate among the existing civil servants before the post is offered in the selection procedure. It is only when a post is not occupied by an existing civil servant that a selection procedure is carried out. (§ 20 ASG)

**Is the selection procedure conducted as an administrative procedure or is it excluded from the formal process?**

The selection procedure is conducted according to AsG, while the provisions of the administrative procedure order apply in a subsidiary manner. However, according to AsG, the selection procedure is a special type of procedure where the candidate does not have the status of a party and does not have a legal entitlement to the vacancy. (Paragraphs 36 (1) and 15 of the AsG).

**Is it necessary to interview all applicants who comply with the formal conditions of participation (they sent all the necessary documents)? Or is it possible to select only some applicants with whom the interview shall be conducted? If so, who, and according to what criteria chooses them?**

Yes, it is. All candidates who met the prerequisites stated in the selection procedure notice and submitted an application for the competition in time must be under § 55 (1) of the AsG invited. The fulfilment of the prerequisites is checked in the relevant service authority by the relevant department, usually the personnel department, or the department under whose jurisdiction the issue of service law falls. The criteria, i.e. the assumptions are then included in the selection procedure notice and must comply with the legal requirements for the post.

**Who carries out the interview with the applicants and who can be present at the interview? Who can ask questions? Is it only the selection panel or can it also be the superior?**

The interview is under Section 55 (2) of the ASG carried out by two persons. One of the persons is someone who is likely to be entrusted with supervising the performance of the service by the candidate in case he / she is appointed to the service (not necessarily the superior) or the person selected for that purpose by the service authority. The second person to carry out the interview is a human resources department representative.

These two persons may ask questions arbitrarily, are supposed to draw up a report for the service body suggesting which individual candidates should be appointed, whereas the list is ordered in descending order. In case of disagreement, two separate proposals shall be made. Subsequently, these proposals and any other supporting documents are forwarded to the selection committee of the service authority.

**Who evaluates the applicants (decides, if they were successful or not)? The selection panel consisting of more members, the superior, another body?**

The first evaluation is carried out by the interviewer and on the grounds of the interview the list of acceptable candidates is then drawn up by the interviewer. The list serves as a basis for further evaluation which shall be carried out in accordance with § 56 et seq. AsG by the selection committee. And its meeting, which must be convened within a week, from the submission of the list of acceptable candidates, the board decides on the following:

- If additional interviews should be conducted with some or all candidates,
- Whether a resolution will be issued only on the grounds of the documents and the list of candidates.

An additional interview or interviews should be conducted if at least one member of the committee requires it. In such cases, a further meeting of the selection committee is convened, which must take place no later than two weeks after the first meeting.

The Austrian regulation does not use the terms „passed" or "failed" for the evaluation.

**Who selects the most suitable applicant who shall eventually be employed in the civil service? Selection panel, the superior, another authority?**

The selection committee is under § 57 AsG supposed to submit a list of the most suitable candidates to the service authority

carrying out the selection procedure. In case of disagreement, the members of the selection committee draw up their own evaluation report. The final decision is then made by the head of the service authority.

**How can unsuccessful applicants appeal?**

The applicants who failed to comply with the prerequisites set out in the notice of competition or did not apply for the competition in time are only informally notified of their exclusion without any possible appeal measures. (§ 28 para. 6 AsG)

**How can applicants who were successful but were not selected for the post appeal?**

There is no possibility to appeal.

**Are applications of unsuccessful applicants and successful applicants who, however, have not been appointed to the civil service, rejected by an administrative decision against which they could appeal? Or are they only informed about the result of the selection procedure?**

They are only informed of the result. AsG explicitly states that this is done informally (e.g. § 36a AsG).

**Can unsuccessful applicants and successful applicants who have not been appointed to the civil service appeal to the court?**

There is not such possibility. This is, among other things, due to the fact that, as paragraph 36 (1), AsG provides the applicants do not have a legal entitlement to fill the post and are not granted the status of a party in the selection procedure.

**3.12.6 Disciplinary Proceeding**

**Is there disciplinary liability of public employees? If not, how is the breach of the duties of civil servants approached?**

BDG regulates the disciplinary liability in Section 8. Section 91 stipulates that a civil servant is disciplinary liable if he breaches the duties imposed on him by the Civil Service Act.

**If there is a disciplinary liability of civil servants, how are the facts of the disciplinary infraction defined?**

A disciplinary offense may be any culpable breach of the civil servant's obligations under the Civil Service Act.

**If there is a disciplinary liability of public employees, what disciplinary measures (sanctions, penalties) can be imposed on public employees (reprimand, salary reduction, etc.)?**

Pursuant to Section 92 of the BDG, a public servant may be charged with a reprimand for a disciplinary offense, a fine of half of his monthly salary, a fine of one month's salary up to five monthly salaries, or may be dismissed. The aforementioned sanctions may be imposed by a disciplinary measure or a disciplinary finding.

The disciplinary measure is the result of a short-cut procedure under Section 131 of the BDG. The procedure for imposing disciplinary measures can only be initiated if the civil servant pleaded the breach of the duties or if it was unequivocally proven or if a civil servant was sentenced by a criminal or

administrative court in connection with the breach of duties.

The disciplinary finding is then a result of proceedings before the disciplinary committee, as will be described below. Disciplinary finding is just like a disciplinary measure in this case.

For the sake of completeness: Where a fine is imposed, the amount of the fine shall always be based on the salary at the time of the first instance decision imposing the disciplinary measure or at the time of issuing of the disciplinary finding. For the purpose of imposing disciplinary measures and disciplinary findings, a normal reduction of the civil servant's monthly salary is not taken into account (according to BDG, the salary status of the civil servant is taken into account, the definition of the term salary position/status was, however, not found).

**Who decides that a civil servant has committed a disciplinary infraction (a disciplinary panel, the superior, other body)?**

Disciplinary proceedings are quite procedurally regulated, and are based on criminal proceedings. Disciplinary bodies are the service authority (BDG does not specify who specifically exercises disciplinary powers in the service authorities) and disciplinary committees.

- **The service authority** is entitled to pre-suspend a civil servant or to impose disciplinary measures within the competence of the service authority. For the imposition of disciplinary measures disciplinary proceedings are conducted, to which the provisions of the administrative order apply, unless otherwise specified.
- **The Disciplinary Commission** is entitled to issue disciplinary findings and to decide and suspend a civil servant within the department in which the commission operates. To issue a disciplinary finding, proceedings before the disciplinary committee are conducted and the regulation is contained in the BDG. There are departmental disciplinary committees and a chief disciplinary committee established by the Chancellor's Office as an appeal disciplinary committee.

**Proceedings before the disciplinary committee – Proceedings before the disciplinary committee** can be initiated on the grounds of self-accusation (§ 111 BDG), on the grounds of the disciplinary instigation of the superior (§ 109 BDG) or on the grounds of objections against the disciplinary measure which abolish the disciplinary measure.

Proceedings before the disciplinary committee are held as a special form of criminal proceedings in which the civil servant and the special disciplinary prosecutor have the status of parties. Under Section 107 of the BDG, a civil servant has the possibility of being represented in the proceedings by a lawyer, a lawyer in criminal matters or a general agent. Proceedings before the disciplinary commission are oral and public. However, the public may be excluded from the procedure under the conditions laid down by law. The proceedings may also take place without the presence of the accused, in case he or she fails to attend the hearing without excuse. The argumentation procedure is based not only on the files, but also on testimonies. The disciplinary commission may decide on the guilty and punishment and to issue a disciplinary finding, or to discontinue the proceedings because the accused has not committed it or he is not punishable or the guilt of the

accused has been proven sufficiently or if there are reasons for not being prosecuted. The proceedings are also discontinued when the service of the accused person is terminated.

The imposition of a sanction may be waived if the hearing of the case is already sufficient as a sanction to the civil servant. In such a case, only the guilty verdict is given in the disciplinary finding, but not the penalty.

All disciplinary measures and disciplinary findings are legally obligatory to be published in the legal information system of the association.

**What are the public employee’s possibilities of defending in the matters regarding his disciplinary liability (appeals, legal proceedings at the administrative court, others)?**

Under Section 132 of the BDG, objections against the **disciplinary measure** may be lodged within two weeks of the date of delivery of the measure to the civil servant. The filing of objections abolishes the disciplinary measure and the disciplinary committee decides on further proceedings according to the provisions on proceedings before the disciplinary committee contained in BDG.

An appeal against the disciplinary finding may be filed within two weeks of the date of the delivery of the disciplinary finding as a legal remedy within the disciplinary administrative proceedings. A complaint against the decision on the appeal may then be lodged with the constitutional court or the administrative court within six weeks of the date of the delivery. This complaint is then treated as legal proceedings.

**3.12.7 Service Examination**

An exam in Austria is an integral part of basic education of the civil servants. The basic training of civil servants takes place during the so-called temporary service r of at least six years in order to allow for tenure appointment. However, the length of the basic education does not need to coincide with the minimum length of the temporary service relationship referred to above. As a rule, completing basic education for a given service grade, which ends with a service examination, is one of the prerequisites that the law (Section 11 (1) of the BDG) provides for the tenure appointment of a civil servant. The basic education regulation is contained in § 25 et seq. BDG and the order on basic training for civil servants.

The basic education regulation is always issued by individual supreme service authorities, but may be common for several of them. The regulation under Paragraph 26 (2) of the BDG governs in particular:

- The basic education objectives with regard to the knowledge and skills required,
- The forms of education,
- As regards the seminars-the establishment of curricula and the required scope of the study,
- The examination regulations, drawn up in accordance with § 28 (3) of the BDG,
- Any prerequisites for admission to the examination within the meaning of Section 31 (2) of the BDG (such a prerequisite is, for example, participation in a certain number of seminars or training sessions).

In-service primary education should provide the civil servant with the basic professional, social and methodological knowledge needed for proper service. The basic education is provided by supreme service authorities and the participation in basic education is considered to be service performance.

A civil servant is under Paragraph 27 (1) of the BDG assigned to the basic education by the service authority, the period for completing the basic education being determined by taking into account the needs of the service and also after considering the civil servant's personal needs. However, the basic education regulation firmly determines the hourly scope of the individual modules, seminars or trainings that a civil servant must complete. This hourly range cannot be reduced. In order to be included in the basic education, a civil servant must also, as a general rule, serve in his post for a certain period of time. Its length is determined in the individual regulations on basic education. In case a civil servant causes by his / her own fault that to achieve the educational objectives set is not possible, he/she is removed from the basic education concept. If the educational objectives cannot be achieved without the civil servant's fault, the civil servant may be reassigned to the basic education procedure.

A part or the whole basic education may be recognized if the civil servant has completed other courses, seminars and other training events that are consistent with the basic education curricula. Also a professional practice can be included. There is no legal entitlement to a part or the whole basic education being recognized and the service authority decides on it. The amendment is contained in § 30 BDG.

The service examination itself and its implementation are governed by Sections 28 to 31 of the BDG and its further details are stipulated in the regulations mentioned above. An exam can be organized as a comprehensive exam, or as a few partial examinations in different areas of primary education.

Due to the existence of a large number of regulations governing basic education and examinations, the following answers will be based in particular on **the regulations of the Ministry of the Interior (GV BMI) and the Federal Chancellery (GV BKA)**.

#### Who organizes the exam?

Organizational matters related to the basic education are always organized by the relevant section, which is designated for this purpose within the organizational structure of the ministry. The specific designation varies by departments. There is no central subordination, as basic education is regulated by each department separately.

#### Is the service examination system centrally managed for all service authorities?

The civil service system as a whole is managed centrally by the Ministry of Public Service and Sport. This means that a service examination is in its competence. This competence of the ministry is defined in the Act on Ministries of BMG in Annex 2 to Section 2 of the BMG. This includes public service personnel issues:

- General education issues,
- General matters of the service examination.

The Civil Service Act confers specific competencies on the organization and the realization of the basic education and the

service examinations in the individual departments.

#### Does the duty to pass the formal examination apply to all civil servants?

The obligation to undergo basic education, which involves the passing of a service examination, applies only to those civil servants for whom the basic education is provided as a prerequisite for the tenure appointment. It does not, for example, apply to service grades A6 and A7, i.e. to qualified auxiliary service and auxiliary service. There are, therefore, civil servants who do not have the duty to take a service examination.

#### When is a civil servant obliged to take a service exam?

A civil servant is not required by law to take a service examination on a fixed date. The deadline depends on the time period in which the civil servant performs the basic education responsibilities and how they perform the individual modules they have to complete within the basic education. The length of the basic education is then determined by the range of hours in the individual modules that a civil servant must fulfil, but it is not the same as the minimum length of the temporary service, which is in Paragraph 11 (1) of the BBG stipulated as a prerequisite for the tenure appointment.

#### How are the requirements for the examinee - the scope and the content of the verified knowledge and skills of the examinee and the form of the exam - [Written, Oral Model Situation] defined?

The conditions for the admission of a civil servant to the examination are generally regulated by law and further regulated in the individual regulations on the basic education. Paragraph 31 (1) of the BDG expressly provides that **the conditions for admission to the examination** may be:

- The duty to participate in training seminars, trainings and other events;
- Mandatory participation in other educational programs such as e-learning;
- Completion of a specially stipulated practice period.

Each basic education regulation also includes examination rules. According to Paragraph 28 (3) of the BDG, it should include in particular:

- The determination of test fields;
- The ratio of the importance of the individual parts of the examination, unless a comprehensive examination is conducted;
- Determining whether a comprehensive examination or several partial examinations are to be conducted;
- Determining whether the examination is to be conducted before one examiner or a senate;
- Written or oral performance of the examination or partial examinations;
- Stipulation of the obligation to work out individual homework or group homework of several examinees;
- Establishing an examination plan;
- Conditions for the possibility of retesting, including the setting of appropriate time limits.

The Civil Service Act as well as the individual regulations on basic education regulate the issue of examining bodies. The Civil Service Act does so in Section 29. An **examination committee** is established to ensure that the service examination is carried out. It must be composed of persons with the necessary professional and pedagogical qualifications<sup>5</sup> and the chairperson of the examination committee must also have experience in personal development. The committee members are appointed for a fixed term. The members of the examination committee are obliged by law to perform this function impartially and independently. The members of the examination committee form individual examination senates, which carry out the examination, or the chairman of the examination committee determines the individual examiner for the individual fields.

**GV BMI example:**

The examination committee is appointed by the Minister of the Interior for a period of five years according to the regulation. The members of the examination committee form, according to Section 9 of the GV BMI, three-member examination senates, with at least one of the members of the examination senate being the teacher of the tested examination field.

**Is the taking of service examination charged?**

There is no charge for taking the service examination. As the law does not allow non-civil servants to take a service examination, there is no reason to charge the exam.

An example of a civil servant who is a “fresh” graduate who will be appointed to service grade A2 in the Ministry of Interior:

The new civil servant is appointed to a temporary service and placed in service grade A2. He is a graduate who has not been employed anywhere yet and has no professional experience or education, eligible for the basic education under Paragraph 30 of the BDG. As this civil servant is assigned to a post at the Ministry of the Interior, his primary education will be regulated by a law (BDG) and a basic education order issued by the Ministry of the Interior (GV BMI). In order to be appointed as a new civil servant, he / she must successfully complete the basic education.

The first step is to include the new civil servant in the basic education. Once enrolled in the basic education, the civil servant must be informed of the form which the education will be carried out. The GV BMI regulation stipulates that the basic education takes the form of teaching in modules prescribed for a given service grade in Annex GV BMI. As a civil servant in service grade A2, he must meet these modules within the specified range:

Subject	Module	Min. time range
Professional competencies	Constitutional law	180 hours
	Substantive administrative law	
	Administrative procedural law	
	European Union	
	Protection of personal data	
	Data and information security	
	Public procurement	
	The organization of the resort	
	Service law	
	Budgetary rules	
Personal and social competencies	Resort internal administration	72 hours
	Corruption prevention	
	Ethics	
	Psychology	
Action competencies	Rhetoric	16 hours
	Time management	
	Leadership and management basics	

A civil servant must, according to § 7 GV BMI, attend at least 75% of the tuition in each module, otherwise he must repeat the module. According to Section 7 (1) of the GV BMI, the service examination is then composed of partial examinations from each of the above mentioned modules.

In the individual modules, a civil servant may be tested either by one examiner or by a three-member examination senate. According to Section 7 (3) of the GV BMI, a civil servant is allowed to retake each test twice. If the civil servant repeats the examination a second time, he is obliged to do so before the examination senate.

In each sub-exam, a civil servant may be graded "passed with honours", "passed" or "failed". To complete the basic education, the civil servant must be assessed as "passed" at least in each sub-examination in each module. For classification passed with honours, he must be assessed passed with honours in at least two thirds of the partial examinations.

After successful completion of partial examinations in all modules, a certificate is issued to the civil servant. A copy of the certificate is put in the civil servant’s personal file.

To get a better idea of the education procedure, the modules which need to be completed by service grade A4 civil servants is listed below

<sup>5</sup> A comment or the interpretation of this provision is not available. However, it is possible to assume that the necessary professional and pedagogical qualifications will be fulfilled mainly by university teachers or other university-educated experts. This assumption is based, inter alia, on information about the Federal Administration Academy and its teachers. In addition, the answer to the question "Is there an institutionalized training within or for the preparation of a civil service?"

Subject	Module	Min. time range
Professional competencies	Constitutional law and European Union	80 hours
	Data and information security	
	The organization of the resort	
	Service law	
	Budgetary rules	
	Resort internal administration	
Personal and social competencies	Corruption protection	64 hours
	Ethics	
	Psychology	
	Rhetoric	
	Time management	

**Is the system of education within the civil service somehow formally linked to the service examination (before the exam – as a preparation – and after the exam)?**

The education system is not linked to the service examination but the exam is linked to the education system. It represents the final stage of the basic education process which every civil servant has to go through at the beginning of his career.

Apart from the basic education, Austria also has a comprehensive **system of follow-up education**, which aims to ensure not only professional, but also social and personal development of a civil servant.

Section 32 of the BDG stipulates that a civil servant should have management training possibilities to develop his / her skills in planning, organizing, controlling and performing of assigned tasks. In particular, **programs** of this type of education should in accordance with Section 32 (3) of the BDG include:

- Analyses of political, economic and social factors affecting public administration, while taking European integration into account;
- Organization management analyses;
- Improving teamwork skills, negotiation skills and other social skills;
- Personal management;
- Improving IT competencies.

In addition, Section 33 of the BDG stipulates that the service authority is required to provide additional training for the civil servant to such an extent as to ensure his professional development in the performance of the service.

Institutional provision of education is provided by **the Federal Administrative Academy**. In particular, this educational institution, established by the Federal Chancellor's Office, provides management training under Paragraph 32 of the BDG and subsequent training under Paragraph 33 of the BDG. The Act in Section 34 (2) further stipulates that if the relevant

department does not have a suitable educational institution providing the basic education, the Federal Administration Academy assumes the provision of basic education for this department. Teachers are university academics, civil servants, and other experts. More information on who is a teacher in a particular curriculum or module, you can usually find on the website of the educational institution that provides the basic education.<sup>6</sup>

**If there is a similar system as in the Czech Republic, that means, if there are several fields of the civil service for which it is necessary to take the examinations, how is the following approached:**

In case of a change of a service ranking to such an extent that it would be necessary to undergo the basic education and the service examination again, the civil servant is usually required to develop his knowledge only in those areas he has not completed yet. When changing the service authority, it must be ascertained whether the civil servant's proficiency is consistent with the internal basic education regulation.

**3.12.8 Service Performance Appraisal of Public Employees**

The law provides in Paragraph 81 (2) of the BDG that each minister is entitled to issue a regulation for the purposes of service performance appraisal, specifying details for a given department. For the purposes of this document, the regulation of the Ministry of the Interior will be used.

Pursuant to Section 81 (1) of the BDG, service performance appraisal is a binding assessment of whether a civil servant has attained the expected service results in the reporting period. The attained results may be:

- High performance beyond expectations;
- Achieved service results as expected;
- Not even after two proven admonitions, while the second admonition followed not earlier than three months and no later than five months after the first one, he did not attain the expected service results.

**Is it obligatory?**

Yes. Pursuant to Paragraph 81 (1) of the BDG, service performance appraisal is defined as a binding assessment which determines how successfully the civil servant performs the service.

**Who is subject to the performance appraisal? To what extent does he participate?**

Pursuant to the Civil Service Act all civil servants are subject to the service performance appraisal. The degree of the participation of the evaluated person is detailed in another answer of this section.

**Who is the evaluator?**

Under Article 84 (1) of the BDG, the superior carries out the basic performance appraisal and is also responsible

<sup>6</sup> An example may be the education catalogue of the Federal Security Academy, which is an educational institution of the Ministry of the Interior. [http://www.bmi.gv.at/104/files/Bildungskatalog\\_2017.pdf](http://www.bmi.gv.at/104/files/Bildungskatalog_2017.pdf)

for drawing up the service performance appraisal report. However, this report is not a definitive performance appraisal. It is forwarded to the service body, which carries out the final assessment and then conducts the service evaluation. In case the civil servant is not satisfied with the outcome of the service performance appraisal, he / she has the opportunity to initiate a review by the Service Performance Appraisal Committee. The committee decides pursuant to § 87 (5) BDG within six weeks after submitting the application. The committee decides definitively. Details on the composition of the committee and its functioning are provided in BDG in Section 88.

**How often is the performance appraisal carried out? Is it a fixed term event, or is it done as needed?**

Service performance appraisal is not bound to a fixed term. Paragraph 82 (1) of the BDG provides that service performance appraisal is effective until a new service performance appraisal is made. In addition, 81 (3) BDG states that a civil servant is deemed to achieve service performance results as expected until the opposite is revealed in the performance appraisal. However, the act stipulates the periods during which the performance appraisal is carried out.

As a rule, the evaluated period is the past calendar year. If a civil servant was given **reprimand for non-performance of his service**, performance appraisal shall be carried out for the period from the first reprimand until the end of the third month following after the second reprimand.

Service performance appraisal may also be carried out **at the civil servant's request** if the civil servant considers that he attained the service results well beyond expectations. In such a case, a civil servant may under Paragraph 86 (1) of the BDG submit a request for service performance appraisal by the end of January of the year following the year for which he is to be evaluated. The submitted application shall also contain draft assessment. The superior must immediately take a stand to the civil servant's request and it must be forwarded to the civil servant, who shall be given a period of two weeks to comment on it. Subsequently, the documents are handed over to the head of the service authority.

**Does the result of the service performance appraisal have any impact on the salary of the public employee?**

The service performance appraisal can be used as a basis for a possible awarding of **performance bonus** and **one-time payment**. However, these are non-claimable salary components and an excellent service performance appraisal results itself does not guarantee that these special salary components are awarded, in fact, it does not have a direct impact on the salary.

**Does the result of the service performance appraisal have any impact on the employment of the public employee?**

Pursuant to Paragraph 82 (3) of the BDG, in the case of a negative service performance appraisal, a civil servant may be transferred and a change in his or her service ranking may occur, because of the unsatisfactory performance of his or her duties in the current post. The above mentioned provision will be applied together with Section 38 (3) of the BDG.

A special form of service assessment is, according to § 90

BDG, **a report on a civil servant in a temporary service**, i.e. in a probation period. In case this report on a civil servant is negative, it may result in the termination of service under the relevant provisions of the BDG on a temporary service.

**What is the regulation governing the service performance appraisal?**

The 7th Part of the Civil Service Act is the basic legal framework for the service performance appraisal. Section 81 (2) of the Civil Service Act also provides for the minister's authorization to issue a regulation in the framework of his ministry stipulating the details of the service performance appraisal.

**What is the subject of the performance appraisal (what is evaluated)? Is the evaluation framework strictly defined or can it be adapted to the needs of the individual subjects?**

Pursuant to Section 81 (1) of the Civil Service Act, it is stipulated that the subject of the service evaluation is to ascertain whether the civil servant in question has achieved his goals and to what extent. It is specified that civil servant may:

- With his special commitment significantly exceed the expected results
- Can achieve the expected results or
- Does not reach the expected results.

**What is the rating scale? Is the performance appraisal carried out only verbally or by giving points? What results can be achieved in the service performance appraisal?**

The basic rating scale, or the conclusions to be drawn by the service performance appraisal, are stated in the Civil Service Act in § 81 (1), where it is stipulated that it is assessed whether the civil servant has achieved his goals by significant exceeding the required performance, whether he has achieved the expected work results or whether, despite the double warnings, he has not achieved the expected work results. A more detailed assessment method and evaluation criteria are stipulated in the minister's regulations, which are issued separately for each department, but the law allows for a single regulation for several ministries.

**Is there a future perspective plan a part of the performance appraisal? – setting the goals, development plan, etc.?**

The minister's order describing the details of the service performance appraisal under Paragraph 81 (2) of the BDG is not publicly available and therefore cannot be used to gather such information.

**What way is a performance appraisal made? What evaluation methods are used?**

A superior of the evaluated civil servant is required to prepare an evaluation report if he / she considers that the last service performance appraisal is no longer up-to-date, or if there are reasons for a repeated assessment due to civil servant's unsatisfactory performance (§ 84 para. 1 BDG). This evaluation report is not prepared if the decrease in service results occurred without the civil servant's fault.

Pursuant to Section 85 (1) of the BDG, the civil servant shall communicate **the intention to draw up the evaluation report** to the civil servant and discuss with him the reasons

for the intention. In case that the superior insists on his or her intention even after the discussion with the civil servant, the civil servant has the opportunity to give an opinion on the intention within two weeks. Subsequently, all documents are handed over to the head of the service authority. The procedure for when a service evaluation is carried out at civil servant's request is described in the answer to the question "How often is performance appraisal carried out? Is it fixed-term event or is it related to a particular event, or is it carried out as needed?"

The next step is to notify the head of the service authority of the outcome of the service performance appraisal. This notice must be delivered to the civil servant within four weeks of the submission of the documents referred to above. According to Paragraph 87 (2) of the BDG, the communication is not considered as a decision.

**The notice is considered final** and is considered a service performance appraisal within the meaning of Section 81 of the BDG if:

- The service performance appraisal is in accordance with the service performance appraisal proposal of the civil servant who filed the request or
- The evaluated civil servant has given his or her consent in writing with the performance appraisal or
- There is no objection to the service performance appraisal committee within two weeks of the service performance appraisal being notified.

If the civil servant does not agree with the result of the service performance appraisal, he or she may submit a review request to the service performance appraisal committee within two weeks of the date of the notification of the result. The committee decides pursuant to § 87 (5) BDG within six weeks of submitting the request. The committee decides definitely.

No more detailed information regarding the evaluation methods was found in the regulations.

#### **What is the basis for the performance appraisal?**

The Civil Service Act does not explicitly list or provide a detailed description of the documents to be used for the service performance appraisal. The minister's decree stipulating the details of the service performance appraisal under Paragraph 81 (2) of the BDG is not publicly available and therefore cannot be used to gather such information.

#### **What way are the evaluators trained?**

In BDG there are no specific rules for the training of the evaluators. However, BDG regulates special training in management and personal development. According to Paragraph 32 (3) of the BDG, this area also includes the development of human resources management skills, the improvement of communication skills and the improvement of leadership skills in order to achieve better results.

#### **What way does the evaluated person get acquainted with the results of the service performance appraisal?**

In the first phase, the evaluated person is informed of the intention of the superior to draw up an evaluation report and it is discussed with him.

In the next stage, the evaluated person is informed in writing of the service performance appraisal carried out by the service authority.

In case of review request being submitted, the evaluated person is then informed of the outcome of the review request by receiving a decision of the service performance appraisal committee, which includes the outcome of the review and the service performance appraisal.

#### **Is a negative performance appraisal sanctioned? How?**

Two consecutive negative service performance appraisal results may result in a removal.

#### **Are there any appeal measures against the results of the service performance appraisal?**

An appeal measure against service performance appraisal is under § 87 of BDG to submit a review request to the service performance appraisal committee. The decision of this commission is then final and only the committee has under § 87 (7) BDG a competence to any further review or annulment of this decision.

### **3.12.9 The Principles of Ethics in Civil Service**

#### **What are the rules governing the principles of ethics in civil service?**

The Civil Service Act stipulates the basic obligations which civil servants must observe when performing their duties. Among other things, it is an obligation to behave in a manner that does not have a negative impact on the esteem of the status of a civil servant. In addition to the Civil Service Act, a civil servant is also obliged to follow the so-called **Code of Conduct to Prevent Corruption**. In the field of ethics, it also regulates the prohibition of mobbing, namely in § 43 BDG. Individual ministries also have their own internal rules governing the principles of ethics. An example is the code of conduct for the staff of the Ministry of the Interior.

#### **Can any sanctions be imposed in case of violation of ethical rules? If so, what kind of sanctions?**

Violations of ethical rules can be punished as a breach of service obligations, so they are subject to disciplinary regulations and such violations can be sanctioned in disciplinary proceedings. More information on this topic can be found in chapter Disciplinary Proceedings.

#### **What means and methods are used to check the compliance with ethical rules?**

There is no information available on the means and methods used to check the compliance with ethical rules.

#### **What implementation tools are used in the area of public service ethics?**

In addition to the standard tools, in particular in the field of education, public administration publications are published, which aim at informing civil servants of their duties a user-friendly way, including providing information in the field of ethics. As a rule, these publications contain model situations which may occur during the performance of civil service and they



recommend the procedures to be followed by the civil servant and also recommend how the civil servant should behave.

**What way does the training of the employees in the field of ethics proceed? Does the training of ordinary employees and senior civil servants differ?**

Ethics education is anchored primarily as a part of a civil servant’s basic education. In the basic education, there are usually training courses or modules that focus directly on corruption prevention and ethics. Since basic education is regulated differently in individual ministries, it is necessary to look for basic education in the individual departmental regulations, where precise education plans are formulated. The above mentioned can be illustrated by the example of the Ministry of the Interior in the answer to the question "Name other relevant aspects related to the service examination."

Ethics and corruption prevention education is also a part of the subsequent education, which is to be provided by the service authority and is intended to serve the professional, personal and social development of a civil servant in the performance of his service. BDG regulates special training in management and personnel development. According to Paragraph 32 (3) of the BDG, this area also includes the development of human resources management skills, the improvement of communication skills and the improvement of leadership skills in order to achieve better results.

For the differences in the education in the field of ethics of ordinary civil servants and superiors, the same applies as what was mentioned in the chapter Education. The difference in the case of basic education is given by the service ranking of a civil servant in a particular service grade, not by the fact that he is a superior. In the case of follow-up education, there is no explicit legal difference in the education of senior civil servants and ordinary civil servants.

**When recruiting new employees, is the personality potential of the applicants in the field of ethics taken into consideration?**

The legislation does not provide any details in this respect. In a view of the fact that the tests which may be a part of the selection procedure and may also focus on the personality of the candidate, the field of ethics can also be reflected here. Similarly, in a selection procedure with an interview, it is not ruled out that the personality profile of an applicant with a focus on ethics can be evaluated in the interview with appropriate questions. In Paragraph 4 (3) of the BDG, it is explicitly stated that the applicant must have the personal prerequisites for the proper performance of the service and the tasks connected with that.

**Is the compliance with ethical rules continuously checked?**

There is no ongoing special checking of the compliance with ethical rules, but it is controlled by the superiors, since in case of non-compliance with ethical rules, the civil servant violates his / her duties in the performance of his / her duties and thus disciplinary liability procedures must be initiated.

**To what extent is the supervision of professional ethics in the state administration institutionalized? Are there**

**any individual employees, organizational units, collegiate bodies or other bodies providing methodological support on ethical issues, monitoring compliance with ethical rules and proposing measures in case of violation?**

Institutionalization in the form of establishing special bodies in the field of ethics generally does not exist. Legislation does not explicitly regulate checking of the compliance with ethical rules, but this responsibility may be a part of the supervising activities of the superiors who generally control subordinate staff, both professionally and the compliance with all their duties. In addition, it should be pointed out that civil servants (especially the superiors) may be trained in this field within their management training. As a part of these trainings, they can gain new information on how to guide their employees methodically, to become a good example for them, etc.

**What are the consequences of the ethical failure of a civil servant?**

There is a big variety of consequences of an ethical failure. First, there are impacts that will not result in any interference with the service employment of a civil servant, but will only be reflected, for example, by changing the workplace atmosphere. There will also be impacts that will result in some interference with the service employment. Such an impact will be, for example, relocation due to the persistent bad atmosphere and inappropriate workplace relationships (see the introduction to the chapter Career Opportunities). Another possible impact of ethical failure will be, for example, an imposition of a disciplinary measure, which will result from disciplinary proceedings (see Chapter on Disciplinary Proceedings).

**3.12.10 Work-life Balance (WLB) in Civil Service**

**Is the term WLB defined by a legal regulation? If so, how is this term defined?**

WLB is not clearly defined in any legislation. The public service information websites also point to its problematic definability.<sup>7</sup>

**Are there manuals, methodological documents or other WLB supporting documents following the legal regulation?**

There were no methodological documents or manuals found. However, in view of the fact that the individual measures are mostly regulated by law, for example, the annotated statutory text of the law can be used for their detailed interpretation.

**What WLB measures does the legal order offer?**

The Act on Civil Servants regulates the following WLB measures:

- Teleworking
- Flexible working hours
- Part-time job,
- Sabbatical,
- Various types of leave to resolve various personal matters due to different family situations
- Special permission for the performance of the service abroad, the so-called home holiday,

<sup>7</sup> [https://www.oeffentlicherdienst.gv.at/moderner\\_arbeitgeber/personalentwicklung/themen\\_im\\_fokus/work-life-balance.html](https://www.oeffentlicherdienst.gv.at/moderner_arbeitgeber/personalentwicklung/themen_im_fokus/work-life-balance.html)

- Release from service due to the care of a child or a family member under § 76 BDG.

**Is it possible to modify working hours of a civil servant (flexible working hours, part-time employment, different time arrangement of the beginning and the end of the service)? What are the conditions for the modification of the working hours of a civil servant?**

Under Paragraph 48 (3) of the BDG, there is a possibility of a flexible arrangement of working hours, it is conceptually identical to that of the Czech legislation.

Furthermore, according to § 50a to 50e BDG, there are **three possibilities of work load reducing**. The first one is working hours shortening **without giving any particular reason**. In these cases, the working hours can be reduced to a half and this concept may be allowed for one year. There are also two qualified reasons for shortening the working hours. The first one **is taking care of a child who has not yet started school**. It is compulsory for the service authority to comply with this request, while the working hours can be shortened to a maximum of one half for a maximum of one year or until the child starts a school. The second qualified reason is **taking care of a person in need**. In case a civil servant needs to take care of a person who requires such care, he may be allowed a reduced working hours of up to a quarter of the work load for up to three months.

A special form of working hours is **on-call duty**. Pursuant to Paragraph 50 of the BDG, a civil servant is obliged, in the case of service reasons, to be prepared to perform a civil service in the service authority or at another place stated in advance.

**What are the possibilities and conditions of the performance of the civil service from a different place (home-office, teleworking and flexitime)? How are the conditions for the performance of civil service from another place defined?**

Basically, BDG describes only one form of the performance of civil service from another place which it generally referred to as teleworking, but some other form of the performance of service from another place may also be defined. Paragraph 36a of the BDG provides that, if it is not precluded by service reasons, a civil servant may perform his service from his place of residence or another place of his choice, which is different from that of common performance of the service. However, there are the conditions defined under which this service authority enables it. First of all, the requesting civil servant must prove that he / she is able to work independently without direct control and that his / her teleworking results must be controllable and the civil servant must comply with all information protection, data protection and occupational safety obligations.

All technical equipment is under Section 36a (5) of the BDG made available to civil servants by the service authority.

To perform teleworking, the following must be defined:

- The way service task will be carried out;
- The times at which the civil servant will always be available on the phone and mail;
- Times when a civil servant will be obliged to be present in the service authority.

Teleworking can be allowed for a maximum of one year, with the possibility of one-year extension.

**What kind of service leave does the law offer (e.g. urgent family leave, adoption leave, sabbatical leave, career break)? Is this service leave paid or unpaid?**

- Study leave;
- Indisposition leave;
- Leave for spa treatment;
- Childbirth leave a
- Leave for the care of a dying person.

All these kinds of leave are paid.

Furthermore, there is a possibility to request a release from the service, which is also paid. The time-limited release from service is addressed in other parts of this section.

**Does the law enable to share a service post?**

Yes, a shared post is possible in practice. This arises from the organization of the staffing plan and the way it is created.

**Does the law regulate the establishment of school facilities for children of civil servants?**

Yes, the establishing of pre-school facilities is regulated and the regulation applies not only to civil servants but to all employees. However, hygiene regulations must be followed. According to the Austrian Institute for Family Research, there are basically two ways to proceed. The most common is ensuring the functioning of a school facility for civil servants by an external company. The other way is to ensure its functioning on its own. The Austrian Institute for Family also states that it is very popular with employers to provide long-term out-of-school activities. These include the provision of camps, holiday care for children, etc.

**What are the WLB measures for civil servants on maternity and parental leave (e.g. sharing information)?**

The procedure for civil servants on maternity and parental leave is not specifically regulated.

**Are there any legal regulations for civil servants in relation to the care of older family members (e.g. parental leave, responsibility leave)?**

For example, it is possible to apply for a release from the service under Section 76 of the BDG if it is necessary to care for a long-term ill or disadvantaged close person who lives with the civil servant in the household. A civil servant can take up to two weeks off from the service and can be taken on a per-day basis or even one hour at a time.

There is also the possibility of a shorter service period according to § 50e BDG. More in other answers in this section.

**Is there a program dealing with the physical and mental aspects of a civil service in the legal system (e.g. a similar program to "Fit at work" in the EU)?**

No such program was found in the available materials.

### 3.12.11 Education

#### Is there an institutionalized training within or for the preparation for the performance of the civil service?

There is a number of fields of study at various schools in Austria, as well as in the Czech Republic, focusing on public administration.<sup>8</sup>

Individual ministries then provide education through their own educational institutions<sup>9</sup>, or through the **Federal Administration Academy**. In particular, this educational institution, established by the Federal Chancellor's Office, provides management training under Paragraph 32 of the BDG and the follow-up training under Paragraph 33 of the BDG. The Act further stipulates in Section 34 (2) that if the relevant department does not have a suitable educational institution providing the basic education, the Federal Administration Academy ensures the provision of the basic education for this department. Teachers are university academics, civil servants, and other experts. For more information on who is a teacher in a particular curriculum or module, you can usually find it on the website of the educational institution that provides basic education.<sup>10</sup>

#### What is the general regulation and setting of the education within the framework of the preparation for the performance of civil service and the performance of the civil service itself?

As a whole, the education system is drawn up to ensure professional performance of civil service by civil servants, while at the same time offering civil servants the possibility of personal and professional development.

#### What legal regulation governs the training of civil servants?

The training of civil servants is governed by the Civil Service Act, relevant regulations of the individual ministries and also by the internal regulations of the individual ministries.

#### Is the education of civil servants centrally managed or decentralized?

See the answer to "Is the examination system managed centrally for all service authorities?"

#### Who is responsible for the training of public employees?

In accordance with § 25 (2), § 32 and § 33 BDG it is the responsibility of the service authority to ensure the training of civil servants. As a rule, a department is set up within the individual ministries to deal with the issue of service relations and is also in charge of the education. Some ministries also have separate departments that only deal with education issues.

#### Does the education system for senior civil servants differ from the education system for ordinary civil servants?

The education system does not distinguish a priori between

<sup>8</sup> <https://www.fachhochschulen.at/FH/Studium-Studieren/FH/Wirtschaft/Verwaltung.htm>

<sup>9</sup> In the case of the Ministry of the Interior, it is the Federal Security Academy, which is responsible for the training of the members of the security forces, but also civil servants of the Ministry of the Interior.

<sup>10</sup> An example may be the education catalogue of the Federal Security Academy, which is an educational institution of the Ministry of the Interior. [http://www.bmi.gv.at/104/files/Bildungskatalog\\_2017.pdf](http://www.bmi.gv.at/104/files/Bildungskatalog_2017.pdf)

the training of ordinary employees and the education of senior civil servants. In the case of basic education, the system determines its demandingness according to the civil servant's status, as is also apparent from the example given in the answer to the question "Name other relevant aspects related to the civil service examination." As the senior civil servant's posts will generally be ranked in higher service grades than those of their subordinate civil servants, higher education demands will be placed on the senior civil servants.

A special provision is included only in the follow-up education, namely in § 32 (5) of the BDG, where it is stipulated that senior civil servants should be offered special training to ensure their professional development. Thus, the service authority should do so within the first three years of taking over the senior position by a civil servant.

#### What is the connection between the education and the career system (the education programs as a prerequisite of the participation in the selection procedure)?

The connection between the education and the career system is that, in case of education enhancing, a civil servant may, under Paragraph 38 of the BDG, request a transfer to a higher grade (Überstellung). At the same time, it is stipulated that during the period of basic education the civil servant is not entitled to a function supplementary allowance, which depends on the function group classification. After completing the basic education, a civil servant moves to a higher function group and is given the first function supplementary allowance. In this respect, education also plays an important role.

#### What is the connection between the education and the service performance appraisal (is the choice of the education based solely on the performance appraisal results, operational needs, some general plan without performance appraisal results being taken into consideration or are there more criteria combined), and how much important is the education for the performance appraisal itself?

The explicit connection between the service performance appraisal and the education is in BDG not mentioned at all. It is possible that certain connection arises from the service performance appraisal structure and in particular from its individual parts, which, however, are not available.

### 3.12.12 The Termination of Service

#### How is the issue of the termination of service regulated? What types of termination of service (e.g. by law, by the decision of the competent authority, on request, etc.) are there?

The termination of service is governed by the Civil Service Act. The basic provision of the BDG is Section 20 (1) and (2). It should be noted that by retiring, the service does not cease to exist and continues to exist.

Paragraph 20 (1) of the BDG provides that a **civil service may cease to exist:**

- By leaving the service (upon request),
- By the termination of the temporary service (by a decision of the service authority),

- By a dismissal (a decision of the service authority),
- On account of a final conviction by a national court for certain criminal offences as defined in the Criminal Code (by law),
- The termination of the post under Section 27 of the Criminal Code (by law),
- Due to a loss of the civil service appointment prerequisites (by law),
- Due to the arise of the service employment in a federal country (by law),
- By the death of a civil servant (by law).

In addition, Paragraph 20 (2) of the BDG provides that a civil service of a retired civil servant may cease to exist:

- By imposing a disciplinary measure of a loss of the privileges of service employment (by law),
- On the account of an unconditional imprisonment sentence of at least one year by a national court (by law).

More detailed information on this:

**The termination of service at request** – a civil servant may under § 21 (1) of the BDG terminate his service by a written notice to the service authority. The effects of the notice shall occur on a date determined by the civil servant, but not earlier than the last day of the month in which the notice was delivered to the service authority. If the civil servant did not state the effective date of his declaration in the notice, it shall also become effective on the last day of the month in which it was delivered.

The civil servant may withdraw this notice, but no later than one month before the date of the notice coming into effect. A later revocation of the notice requires an explicit consent of the service authority. In these cases, the service authority makes no decision and it is a unilateral act of a civil servant.

**The termination of the temporary service** – A civil servant in a temporary service, i.e. prior to his appointment, may be dismissed on the grounds of non-fulfilment of the conditions for the tenure appointment, because of disability for service, because of unsatisfactory service, due to a behaviour which does not comply with the duties of a civil servant or because of redundancy. The dismissal must be justified by the service authority, with a notice period of one calendar month in the first six months of the service, two calendar months for the employment between six months and two years and three calendar months if the temporary service period lasts more than two years. Counting of the length of the service is similar to that in the Czech Republic.

**Dismissal** – Dismissal concerns civil servants with a tenure. A civil servant may be dismissed as a result of the imposition of a disciplinary measure, namely dismissal. The second reason is a dismissal because of poor service results. A civil servant may be dismissed if, in two consecutive performance appraisals, his results are unsatisfactory. For more details on the service performance appraisal, please see the relevant chapter of this document.

**Is the termination of service connected with any special financial compensation (redundancy pay, severance**

**pay, end-of-service allowance, service rent, retirement benefit)? Under what conditions and to what extent is the compensation provided?**

See the answer to the question "Is the termination of service connected with special pecuniary claims (redundancy pay, severance pay, end-of-service allowance, service rent and retirement benefit)? Under what conditions and assumptions?"

**Does a non-competition clause or any other similar institute apply after the termination of service? To what extent?**

Section 20 (3a) of the BDG provides for a ban on the performance of certain activities for a period of six months from the date of the termination of service. At that time, a former civil servant is not allowed to engage in activities for a person who is not subject to the control of the Federal Court of Auditors, the Land Court or for any other supervisory body, which was affected by the civil servant's decision within one year prior to the termination of his service. This is the case where the exercise of activities for such a person could undermine public confidence in the regularity of the service of a former civil servant in his former post.

That provision shall **not apply** if:

- The prohibition would significantly reduce the livelihood possibilities of the civil servant,
- There has been given a reasoned incentive by the service authority to file a request for the removal from the service because of the civil servant's improper behaviour,
- The civil servant has been dismissed from the temporary service due to redundancy, failure to fulfil the prerequisites for tenure appointment or health disability.

In case of a breach of that prohibition, the former civil servant shall be liable to pay a fine of three times the last monthly salary. On the other hand, a former civil servant is not entitled to a compensation for the compliance with the aforementioned prohibition.

**What other institutes are connected with the termination of service?**

The most common way of the termination of a civil service with tenure is a **service rent**. The rent is a special form of a retirement benefit, which, by its nature, is closer to salary than to the normal retirement rent of persons employed in the private sector.

**Untergliederung 17 Öffentlicher Dienst und Sport**  
(Gesamtübersicht)

Besoldungsgruppen-Bereiche	PLANSTELLEN für das Finanzjahr 2018		PLANSTELLEN für das Finanzjahr 2017		PERSONALSTAND für das Finanzjahr 2017 (31.12.)		PERSONALSTAND für das Finanzjahr 2016 (31.12.)	
	PISst	PCP *)	PISst	PCP*)	VBÄ	PCP	VBÄ	PCP
	Allgemeiner Verwaltungsdienst	230,000	93.454,000	0,000	0,000	0,000	0,000	0,000
<b>Gesamtsumme UG 17</b>	<b>230,000</b>	<b>93.454,000</b>	<b>0,000</b>	<b>0,000</b>	<b>0,000</b>	<b>0,000</b>	<b>0,000</b>	<b>0,000</b>
freie PCP		0,000		0,000				
PCP gesamt		93.454,000		0,000				

\*) In den ausgewiesenen PCP sämtlicher Besoldungsgruppen-Bereiche und den dazugehörigen Summen sind die PCP aller Nicht-Pool-Planstellen sowie alle PCP-Limits der einzelnen Pools enthalten.

Von den Planstellen für das Finanzjahr 2018 dürfen 83 mit Beamtinnen und Beamten besetzt sein

(§ 44 Abs. 4 Z 3 BHG 2013),

sind zuzüglich 6 Planstellen der UG 10 (1 A1/8, 1 A1/7, 2 A2/7, 1 A3/5, 1 A3/2) für das Büro des Vizekanzlers gebunden.

The first column indicates the distribution by service groups. The second column shows the number of systemised posts (PISst) and the corresponding *Personallcontrolling points* (PCP). The third column shows the same data for the previous year. The fourth and fifth columns shows the actual number of employees in a given post and the corresponding number of *Personallcontrolling points* (PCP). The red note indicates how many posts out of a total of 230 can be filled by government employees.

Allgemeiner Verwaltungsdienst	PLANSTELLEN für das Finanzjahr 2018		PLANSTELLEN für das Finanzjahr 2017		PERSONALSTAND für das Finanzjahr 2017 (31.12.)		PERSONALSTAND für das Finanzjahr 2016 (31.12.)		
	Verwendungs-/Funktionsgruppe	PISst	PCP	PISst	PCP	VBÄ	PCP	VBÄ	PCP
A 1/9	1,000	1.034,000	0,000	0,000	0,000	0,000	0,000	0,000	0,000
A 1/8	1,000	967,000	0,000	0,000	0,000	0,000	0,000	0,000	0,000
A 1/7	5,000	4.550,000	0,000	0,000	0,000	0,000	0,000	0,000	0,000
A 1/6	11,000	6.193,000	0,000	0,000	0,000	0,000	0,000	0,000	0,000
A 1/5	11,000	6.193,000	0,000	0,000	0,000	0,000	0,000	0,000	0,000
A 1/4	19,000	8.645,000	0,000	0,000	0,000	0,000	0,000	0,000	0,000
A 1/3					0,000	0,000	0,000	0,000	0,000
A 1/2					0,000	0,000	0,000	0,000	0,000
A 1/1					0,000	0,000	0,000	0,000	0,000
A 1/GL					0,000	0,000	0,000	0,000	0,000
<b>Summe A-Pool 1</b>	<b>80,000</b>	<b>35.306,000</b>	0,000	0,000	0,000	0,000	0,000	0,000	0,000
<b>PCP-Limit A-Pool 1</b>		<b>37.056,000</b>		0,000					

The first column shows the division by service grades and function groups. The second column shows the number of systemised posts (PISst) and the corresponding *Personallcontrolling points* (PCP). The third column shows the same data for the previous year. The fourth and fifth columns indicate the actual number of employees in a given post and their corresponding *Personallcontrolling points* (PCP)

## 3.13 THE SLOVAK REPUBLIC

*The information on the Slovak system was processed in the second analysis phase.*

### 3.13.1 The Depoliticisation of the Public Administration

#### Which institutes ensure the depoliticisation of public administration and civil servants?

A part of the performance of the civil service are the ideological principles on which it is based, and these principles are declared in the first article of Act No. 55/2017 Coll. on Civil Service and Amending and Supplementing Certain Acts (hereinafter referred to as the "Civil Service Act"). Art. 1 – The Principle of Political Neutrality – highlights the public interest over political interests. It applies to service authorities which are to decide neutrally on matters relating to service under this principle. This principle should be applied to the duties of both civil servants as well as the service authority. It sets down the duty of a civil servant to act politically neutral, to refrain from acting that could create a conflict of interests of the civil service with political interests, not to misuse information obtained during the performance of the civil service for the benefit of a political party or a movement, and to decide neutrally about service relationships in accordance with the duty of a service authority. Other public service principles include the principles of legality, transparency of employment, effective management, impartiality, professionalism, transparent and equal pay, stability and equal treatment.

The Civil Service Act establishes **the Civil Service Council** (hereinafter "the Council") as an independent coordinating and monitoring body for the protection of civil service principles. The Civil Service Council has five members, one of whom is the chairman. The members of the Council are appointed and removed by members of the National Council by an absolute majority of the members present for seven years. The function of the members of the Civil Service Council is incompatible with any other function. The Council is responsible for its work to the National Council and reports annually on the state and development of the civil service. In addition, the post of **Secretary-General** of the service authority is introduced. The Secretary-General is the supreme executive officer for all civil servants in the relevant service authority, which is the ministry or the central government authority. The Secretary-General at the Ministry is appointed and removed by the Government.

In the case of a senior civil servant in a public office, the position of the Secretary General in matters of service relations shall be assumed by the minister or the head of another central authority. The definition of a senior civil servant in a public office is contained in § 7 of the Civil Service Act, according to which a public employee in a service office is a civil servant who performs civil service in the service authority on the grounds of election to the National Council of the Slovak Republic or is appointed to the post by the Chairman of the National Council of the Slovak Republic, the President or the Government.

In other service authorities, the post of Secretary-General is

merged with the post of the head of the service authority.

#### Are the rights of civil servants to be a member of a political party or a political movement restricted, or does the restriction concern only holding of a post in a political party or a political movement? Does this restriction apply to all civil servants or only to senior civil servants?

According to § 111 par. 1 let. 1 letter b) of the Civil Service Act a civil servant is obliged to perform the civil service politically neutrally and impartially and to refrain from performing any state service that could jeopardize the confidence in the impartiality of the execution of the civil service and confidence in the objectivity of its management and decision-making. In addition, he is obliged to observe the fundamental principles of the civil service, as stated in the answer above. The Civil Service Act does not directly prohibit a civil servant from being a member of a political party or political movement.

#### Can civil servants become members of local (regional) councils?

The function of a long-term member of a municipal council or a long-term member of a higher territorial unit, mayor, chief magistrate, chairman of a higher territorial unit is incompatible with the performance of a public service. During the performance of these functions, a civil servant is granted leave to perform a function incompatible with the performance of a civil service for which no salary is paid. Functions of the service are compatible with the functions of a non-released deputy of the municipal council and of an unreleased deputy of the council of a higher territorial unit.

#### Where and how is the boundary between posts held on the basis of political agreements and posts held on the basis of selection procedures in ministries and other state authorities defined?

Under the Civil Service Act, posts are filled more ways, in particular through a selection procedure, except as provided by the Civil Service Act; see above, for example, the choice of Council members. Service posts can also be filled by appointing a civil servant under a special regulation. The civil service arises A) by signing a service contract (B) by election or appointment to a post in a public office pursuant to this Act or under a special regulation or by appointment to the post of a director of a Security Council office; (c) by appointment as a statutory body under a special regulation.

From the information above it can be stated that if the service post is occupied under a special regulation (except for the procedures of the Civil Service Act), the occupation of the relevant service post is regulated in accordance with special regulations.

#### What are the mechanisms preventing the "removal" of a civil servant from a post by means of a formal abolition of such a post?

In case an organizational change defined in § 24 of the Act (a change to systemization see below) occurs, the duty of the service authority is to proceed in such a way that its effectiveness will take effect the day after the expiry of the notice period of the civil servant who was given notice, except

for the organizational change made on the grounds of a special regulation.

If the service authority has given the civil servant a notice of termination of his post as a result of the organizational change, the service authority must not re-establish the abolished service post and fill the post with another applicant or fill the post by transferring within two months following the termination of the service.

The new Civil Service Act has also strengthened the civil servant's status by introducing a new institute enabling to **investigate a dismissal** under Section 88 of the Civil Service Act if the civil servant is dismissed by a service authority because his post has been abolished as a result of organizational changes.

A civil servant who has lost his job as a result of the organizational change may file a request to investigate the dismissal to the Secretary-General of the service authority. If the Secretary-General does not fully allow the appeal, he / she shall forward it together with the file and the written observations to the investigating committee.

The Committee has at least three members, the number of the members must always be odd. A member of the Committee may not be a Secretary-General or a person who has terminated civil service of the given civil servant, a person closes to a civil servant, a civil servant from the same service authority where the investigation is being handled, and a civil servant whose partiality cannot be excluded.

The council is the competent authority to investigate the dismissal of the civil servant of the supreme service authority. The committee will investigate the procedure of the service authority when terminating the service. It shall check whether the notice has been given in accordance with the Civil Service Act and examine the claims and facts set out in the application. The committee shall deliver its opinion within 20 days of the receipt of the request for investigation. The opinion of the committee is of a recommending nature.

In the event that the service authority does not accept the recommended measures and the civil servant appeals to the court, he may use the opinion of the investigating committee as a supporting evidence in the invalidity proceedings.

**Is the political power allowed to decide on the employment issues of civil servants?**

The Civil Service Act defines the principles of civil service that exclude the direct decision-making of political power over employment matters of civil servants. Here one can refer to the above-mentioned principle of political neutrality as defined in Article 1 of the Civil Service Act. The Civil Service Council was established by law as an independent coordinating and monitoring body for the protection of civil service principles.

In addition to this general principle, it should be noted that, under Section 17 (3) of the Civil Service Act, it acts as the Secretary-General in matters of service relations for senior employees in a public office in the service authority, which is a ministry or other central body of state administration, a minister or the head of central government. Pursuant to Section 18 (1) and (2) of the Civil Service Act of the Secretary-General in the service office, which is the ministry,

the Government appoints and removes the proposal from the relevant minister, and similarly applies to central state administration bodies. According to Section 20 (7) of the Civil Service Act on senior civil servants in a public office and the director of the office of a security council, which is a ministry or other central state administration authority, the minister or the head of the service authority fulfils the role of a managerial personnel.

**Are there organizational departments in the ministries that include employees providing activities for a member of the government related to political power (similar to the ministries in the Czech Republic)?**

Yes, these bodies exist.

**3.13.2 The Opportunities for Compensation of Civil Servants' Duties**

**Is the performance of the civil service associated with special salary entitlements (special bonus or something similar)? Under what conditions and assumptions?**

Remuneration and salary requirements of civil servants are governed by Sections 124 to 160 of the Civil Service Act.

The civil servant is entitled to a salary under the conditions stipulated by the law, which under Section 124 of the Civil Service Act consists of:

- A functional salary (it is made up of a so-called standard wage, which is supplemented by various supplementary allowances compensations or additional payments in specific cases),
- Overtime pay
- Salary for the inactive part of on-call duty at the place of civil service,
- Night service supplementary allowance
- Saturday and Sunday civil service supplementary allowance
- Supplementary allowance for public service on bank holiday
- Bonus
- Supplementary allowance as an income compensation for temporary incapacity for work.

**The functional salary consists of:**

- **Standard wage** (derived from the grade and the length of service experience);
- **Management supplementary allowance**

It belongs to the senior civil servant and the civil servant in charge of the management. The range of the supplementary allowance is a percentage of the salary scale of the position and is stipulated in Annex 4 to the Civil Service Act.

- **Supplementary allowance for substitution**

A civil servant who represents a senior civil servant in the full range of his management activities for a period of more than two weeks is entitled to a substitution supplementary allowance equivalent to the management supplementary allowance for the senior civil servant he represents. It is possible for one senior civil servant to be represented by more civil servants. It is then necessary that the individual representation supplementary allowances do not exceed the

total amount of the management supplementary allowances for the senior civil servant they represent.

- **Personal supplementary allowance**

It is possible for a civil servant to be awarded a personal bonus of up to 100% of his salary scale for the performance of his / her service tasks or based on the result of his / her service performance appraisal for a calendar year. A personal supplementary allowance can be granted at the earliest after one month of service.

The personal allowance may be increased, decreased or withdrawn on the grounds of the result of the service performance appraisal, changes in the service, which are a change of the duties or of the most demanding activity specified in the service contract, and a change in the quality of service performance. The amount of the personal supplementary allowance and its change is proposed by the direct senior employee.

- **Shift supplementary allowance**

It is granted to a civil servant who performs a shift service. The supplementary allowance is set at 1.3 – 10.3% of the salary scale of the first grade. Details of the provision for shift operation are determined by the service regulation.

- **Surcharge for the civil service in the crisis area**

A civil servant who performs civil service abroad in a crisis area is entitled to a supplementary allowance of 10% of the sum of his tariff salary and his personal supplementary allowance. This supplementary allowance is regulated by the Ministry of Foreign Affairs' staff regulations.

- **Salary compensation for the performance of the civil service in difficult conditions**

It is for the civil servant carrying out his / her activities in an environment where he / she is exposed to chemical, carcinogenic, biological and other factors, and where he / she must use personal protective equipment to reduce health risks.

- **Supplementary allowance for driving a business car and a supplementary allowance for caring for it.**

- **Supplementary allowance for mentor activities**

A civil servant who prepares a civil servant for the period of his / her adaptation training is entitled to a supplementary allowance of 10% of his / her salary if he / she prepares one civil servant; if he prepares two or more civil servants, he is entitled to an additional 15% of his salary.

- **Supplementary allowance in connection with the transfer without the consent of the civil servant**

The supplementary allowance is granted to an employee who has a lower functional salary as a result of the transfer, up to the amount of the functional salary he would have been if he had not been temporarily transferred.

Under Section 125 of the Civil Service Act, a civil servant may also, under specified conditions, be granted a **compensation** for the inactive part of on-call duty outside the place of the civil service, for emergency services in the provision of measures in

times of crisis or difficult living conditions.<sup>1</sup>

Senior employees in the ministry, central government or other selected institutions are entitled to **material benefits and flat-rate compensation** under Section 150 of the Civil Service Act, including the free use of a motor vehicle with or without a driver, a mobile phone, a flat-rate compensation to cover unavoidable expenses related to the performance of the function.

**Is the termination of service connected with special pecuniary claims (redundancy pay, severance pay, end-of-service allowance, service rent and retirement benefit)? Under what conditions and assumptions?**

If a civil servant terminates a service due to the loss of the required health condition or cancellation or termination of his / her post, he / she is entitled to **severance pay** under Section 83 of the Civil Service Act. In case that the service lasted for at least a year and a maximum of two years, the civil servant is entitled to twice the salary he / she held at the time when the reason for termination of service was incurred. In case of a service of at least two years and a maximum of five years, the civil servant is entitled to three times the salary, and if the service lasted for at least five years, the civil servant is entitled to four times the salary he / she held at the time the reason for leaving the service arose. The same employee receives the same severance pay.

The severance pay for the above-mentioned reasons also belongs to an expert temporarily performing the tasks of the civil service whose service ended before the expiry of the temporary civil service period.

If a civil servant has lost the required health condition on the grounds of an accident at work, even if he complied with all safety regulations, he is entitled to ten times his salary.

In case that the civil servant re-establishes his service before the expiry of the time determined according to the severance pay, the civil servant must pay the severance pay back or a pro rata part thereof to the service authority that paid him the severance pay within 15 days of the recurrence of the service. The service authority which received the redundancy payment must notify the service authority which the civil servant started to work for.

The severance pay is paid at the earliest possible date specified by the salary paying service authority, unless otherwise agreed with the civil servant.

**The end-of-service allowance** is paid pursuant to Section 84 of the Civil Service Act at the end of service after the entitlement to early retirement pension, retirement pension or disability pension. The end-of-service allowance corresponds to the amount of the most recently recognized functional salary.

According to the Collective Agreement of the Higher Level in the Civil Service (hereinafter referred to as the "**KSVS**") of 2018, the amount of severance pay may be increased accordingly. According to the Higher-level Collective Agreement in Civil Service for 2019-2020, collective agreements in organizations may provide for severance payments in excess of Section 83

<sup>1</sup> Under Section 146 of the Civil Service Act, health conditions, climatic conditions, degree of isolation, availability of basic foods and other local conditions are among the difficult living conditions



of the Civil Service Act and severance payments in a more favourable manner than provided for in Section 84 of the Civil Service Act.

**Are there fixed salary scales for civil service performance?**

Yes, they are listed in Annex 3 of the Civil Service Act. Pursuant to Section 170 of the Civil Service Act, the Higher-level Collective Agreement allows for more favourable conditions for the performance of the civil service by increasing salary scales. In the CFSP for the years 2019-2020, salary scales are increased by 10% from 1 January 2019 and by another 10% from 1 January 2020.

**How are variable salary components (personal supplementary allowance, bonuses, etc.) granted to civil servants?**

The award of a **personal supplementary allowance** is regulated by Section 132 of the Civil Service Act. It is possible for a civil servant to be awarded a personal bonus of up to 100% of his salary scale for the performance of his / her service tasks or based on the result of his / her service performance appraisal for a calendar year. A personal supplementary allowance can be granted at the earliest after one month of service.

The personal supplementary allowance may be increased, decreased or withdrawn on the grounds of: the result of the service performance appraisal, changes in the service, which are a change of the duties or the most demanding activity specified in the service contract, and a change in the quality of the service. The amount of the personal supplementary allowance and its change is proposed by the direct superior.

The **remuneration** may be provided to the civil servant under Section 142 of the Civil Service Act for:

- The performance of civil service duties, or for the performance of tasks, in addition to those resulting from the description of the post;
- Performing an extraordinary service task, a significant task, or a pre-assigned task or part of it;
- Performing duties for an absent civil servant if he is not entitled to a substitution supplementary allowance;
- At the age of 50 and 60, up to the amount of the most recently recognized functional salary;
- At the first termination of service due to the entitlement to an early retirement pension, retirement pension or invalidity pension, up to a maximum of three times his / her most recently granted functional salary if the civil servant applies for that pension before leaving the service or within one month of cessation of service.

A civil servant who achieved excellent or very good results in a service year for a calendar year is entitled to a **one-off bonus**. The proposal for the award of the remuneration is justified in writing by the direct superior of the civil servant. The civil servant is entitled to a maximum of 20% of his annual salary.

**Are public employees privileged in social security or health care system?**

Civil servants are not systemically favoured in the social security or health care system. By means of collective bargaining, it is possible to ensure, for example, a contribution to the pension

insurance within the service authority, corresponds to at least 2% of the volume of cleared salaries of state employees for the year 2018, which was also maintained in another KSVS.

**What are the differences in wage and sickness benefits between civil servants and civil service employees?**

For the employees under the Act No. 311/2001 Coll. of the Labour Code (hereinafter referred to as the "Labour Code"), the compensation of income for the period from the first to the third day of temporary incapacity for work amounts to 25% of the employee's daily base of assessment and 55% of the daily base of assessment falls from the fourth to tenth day of incapacity.

In the case of a civil servant under the Civil Service Act, this issue is covered by Section 143 of the Civil Service Act. A civil servant in a service who is temporarily incapable for work and who is also entitled to income compensation receives a supplementary income allowance equal to the difference between the functional salary after the deduction of advances and the income reimbursement granted. In the case of civil servants temporarily sent abroad, the income compensation is calculated from the foreign salary. The supplementary income compensation is granted for a maximum of ten days of temporary incapacity for work.

Civil servants are paid this compensation up to their daily functional salary during the first ten days of incapacity for work, as opposed to an employee employed under the Labour Code, to whom the law does not confer such an advantage.

**Do working hours of civil servants differ from working hours of civil service employees?**

The legislation does not differ; the provisions of the Labour Code shall apply mutatis mutandis to determine the civil servant's working hours. However, it may be agreed in a collective agreement to adjust the service hours more advantageously than the law. In 2018, the KSVS stipulated service hours of 37.5 hours a week, while it is even shorter in two-shift and three-shift operations. The same amendment is also included in the CPEC for the years 2019 – 2020.

**What work-life balance tools are available for public employees?**

More detailed information on this topic can be found in the chapter on Work-life Balance.

**What benefits are granted to public employees? Do these benefits differ according to whether they are ordinary employees or employees in senior positions?**

Pursuant to Section 104 of the Civil Service Act, the service authority contributes at least 65% of the meal price, but most for each meal is up to 65% of the meal allowance provided for a business trip of five to 12 hours according to a special regulation.

For senior executives in a public office in a ministry or other selected institution, Section 150 of the Civil Service Act provides for the entitlement to use a service motor vehicle with or without a driver and to provide a mobile phone. The usage limits are governed by the staff regulations of the ministry.

**Are there any tools to satisfy the cultural, sporting and recreational demands of civil servants?**

The Civil Service Act does not contain provisions regulating the privileges of civil servants in the area of cultural, sporting and recreational claims. However, it is possible to regulate this area more advantageously than in the collective agreement and to allocate funds, for example, to the social fund. The CSSA for the years 2019-2020 contains provisions for supporting contributions to supplementary pension savings (a similar possibility of using FKSP in the Czech Republic). The amount of contributions is to account for at least 2% of the volume of cleared salaries of civil servants participating in supplementary pension savings.

**Is a public employee entitled to a healing holiday to boost his physical and mental health? Under what conditions and assumptions?**

The Civil Service Act does not contain provisions regulating treatment of civil servants in the area of recovery stays. However, this area can be regulated beyond the law in the collective agreement and earmarked funds, for example, in the social fund.

**Is the survivor of a public employee (a wife, a husband, a dependent child) entitled to “a severance pay” if the civil servant's employment relationship ends with death unrelated to the performance of the service?**

If the civil servant's service is terminated by a death that is not related to the performance of the service, the survivors are not entitled to any severance pay.

A civil servant who has been recognized as disabled as a result of a terrorist attack, a wartime incident or a civil service incident shall be granted a one-off extraordinary indemnity: (a) six to twelve times his most recently granted functional salary, provided that such events have occurred in the territory of the Slovak Republic b) in the amount of 3.6 times up to 7.2 times his last foreign functional salary, if these events occurred abroad and it is a civil servant who performs civil service abroad.

If a civil servant as a result of the above events in (a) dies or has been declared dead, a single extraordinary indemnity shall be provided to the surviving spouse living with him in the amount of twelve times the most recently paid salary of a civil servant. One-off extraordinary compensation shall also be granted to any dependent child of a civil servant entitled to an orphan's pension of five times the most recently granted functional salary of the civil servant.

If a civil servant as a result of the above mentioned events in (b) dies or has been declared dead, the surviving spouse living with him shall be provided with a single extraordinary indemnity in the amount of nine times the most recently granted salary of the civil servant. One-off extraordinary compensation of three times the most recently granted salary of the civil servant shall also be granted to any dependent child of a civil servant entitled to an orphan's pension.

**Does the service authority provide civil servants insurance in case a civil servant causes damage to a service authority? Is the service authority insured for the cases, when the service authority causes damage to the third parties? Is the**

**reimbursement (recourse) required from the civil servant in such a case?**

Insurance of state employees in case of damage is not dealt with by the Civil Service Act. In the case of civil servant liability, a substantial part of the Labour Code (The Eighth Part) applies. In addition, some of the relations in Sections 166 to 168 of the Civil Service Act are specifically regulated. A significant difference compared to the regulation in the so-called classical labour law is the fact that the service authority is obliged to recover damages for which the civil servant is responsible.

Under Paragraph 166 of the Civil Service Act, a civil servant who is liable is obliged to compensate the service authority for the actual damage in money if he does not remove the damage by restoring it to its original state. Compensation for damages caused by a civil servant by negligence may not exceed four times his / her functional salary for an individual civil servant. The service authority may determine a lower amount, but the compensation must be at least one quarter of the actual damage and the damage must be more than four times the functional salary. If a civil servant has paid at least two-thirds of the determined amount of damages, the service authority may forgive him the recovery of the remaining sum. This does not apply if the damage was caused intentionally, under the influence of alcohol or by ingestion of a narcotic substance. In accordance with Section 167 of the Civil Service Act, the service authority is obliged to recover damages caused by the civil servant. In case that the service authority compensated the injured party for damage, it is pursuant to the Civil Code entitled to a compensation under Article 168 of the Civil Service Act against the person who caused the damage.

**How many days of annual leave are public employees entitled to? Does it differ for the civil service employees and for the civil servants?**

A civil servant under the age of 33 is entitled to four weeks of leave. A civil servant over the age of 33 is entitled to five weeks of leave. The extent of entitlement to leave for civil servants and employees in employment is not the same. However, the 2018 KSVS states that a civil servant is entitled to five weeks 'leave and a civil servant over the age of 33 is entitled to six weeks' leave. These conditions are also preserved in the KSVS for 2019-2020.

**What kind of paid leave can public employees take (study leave, sick leave, leave for personal matters, etc.)?**

A civil servant may take a leave of absence for the purpose of self-study to a maximum of three business days in a calendar year. For these days, the civil servant is entitled to a functional salary. Other types of leave are not mentioned in the Civil Service Act or any other legislation.

Under Section 103 of the Civil Service Act, a civil servant may apply for unpaid leave of six months after ten years of uninterrupted service at the service authority. After another ten years he can repeat his application.

**Are public employees somehow privileged in public transport? In the field of catering? Are there favourable conditions for the provision of tariffs for mobile and telephone operators for public employees?**

The Civil Service Act does not contain provisions regulating preferential treatment of public servants in the area of public transport or providing more favourable tariffs. However, these areas can be modified beyond the law in a collective agreement. There is no information available for other areas.

**How is further education of civil servants (beyond the scope of service) supported?**

Further education is regulated by a qualification agreement, which is described in detail in the chapter Education.

**Is a public employee entitled to cash reimbursement for his clothing?**

The Civil Service Act does not contain such a provision.

**What are the possibilities for public employees (especially senior civil servants) in exercising the right to strike? Is the right to strike wholly excluded or only restricted for ordinary civil servants or senior civil servants?**

The right to strike is not regulated in the Civil Service Act.

**3.13.3 Career Opportunities (Career Order)**

The Civil Service Act does not explicitly contain provisions governing the career opportunities of a civil servant. In order to promote the career advancement of civil servants, the Civil Service Act introduced the obligation to fill posts first by means of an internal selection procedure. Career advancement can be made, for example, despite the permanent transfer of a civil servant or the change of service.

A sign of creating a career advancement is the recruitment of graduates through mass selection procedures, following a model similar to that used by the European Union institutions and a number of European countries; For example, in the UK, this ensures that only the most suitable employees are selected for the job, which enables successful candidates to advance more quickly.

**What determines the career advancement of a civil servant (e.g. education, the length of service, the performance of administrative activities, experience with managing of staff, quality of service tasks – service performance appraisal, the age of a civil servants, etc.)? How often (at what intervals) can career advancement be achieved?**

The Service Act does not regulate this.

**Is there a standardized career order for the entire state administration?**

No, there is not.

**Does an existing public employee, who is interested in filling a post in a higher pay grade or at a higher level of public administration, have to go through a selection procedure to fill this post?**

Yes, a public employee has to go through a selection procedure.

**Is it possible to transfer a civil servant from his current post to another post in another service authority in the same pay grade or at the same level, if he so requests without a selection procedure being held?**

Yes, this is possible through the transfer of a civil servant.

**Is there a probation period for a public employee in case of his transfer to another service authority? What is the legal regulation for such a repeated trial period?**

No, a change in his service will be made by agreement between the service authorities in the form of an amendment to the contract by transfer. The probationary period is determined only when the service is created by a new service contract.

**Is a career advancement connected with any other benefits beyond the pay entitlements?**

Pursuant to Section 150 of the Civil Service Act, a senior employee in a public office in the service authority, which is a ministry, other central government authority or a selected institution, has the right to use the mobile phone free of charge to ensure its out-of-service reach and service vehicle with or without an assigned driver.

**Is there a legal provision saying that a public employee may not be transferred to a lower grade post without his consent?**

Yes, under Section 57 of the Civil Service Act, a civil servant may be transferred without consent for a maximum period of six months, if this is necessary for the performance of the duties of a service authority or to protect the interests of that civil servant. During a secondment without a civil servant's consent, the civil servant is entitled to a functional salary of at least the amount that he would have had if he had not been temporarily transferred. If, due to temporary transfer without a civil servant's consent to a position with a lower level of work, the service authority determines the civil servant a lower functional salary than he would have before the temporary transfer, the civil servant is entitled to remuneration up to the functional salary that would otherwise belong to him. If a civil servant is temporarily transferred to another service authority, he / she will be appointed by that service authority.

**3.13.4 The Systemisation and Organization of Service Authorities**

**Is the question of systemisation in the state administration (the establishment of binding number of posts in service authorities in public administration, the distribution of these posts according to the scale of remuneration, the determination of the volume of resources for salaries) regulated in the legal system?**

The systemisation and its changes are regulated in the Civil Service Act, Section 23 and Article 24. Systemisation means the number of posts in the service authority designated by the administrator of the budget chapter within the limit of the number of staff authorized for the financial year. The budget chapter manager must designate posts suitable for graduates; this does not apply to the administrator of a chapter with fewer than 100 posts and the Office of the National Council and Supreme Audit Office. Section 23 (3) of the Civil Service Act stipulates under what conditions a service post is or is not suitable for graduates, for example, it is appropriate in the case of the performance of a temporary civil service or if previous working experience is not necessary.

The number of service posts in the service authority corresponds to the scope and complexity of the activities performed, as referred to in § 6 (1), (2) and (4) of the Civil Service Act. These activities include, for example, management, decision-making, professional preparation of draft bills, other legislation, training of conceptual and strategic documents, professional preparation of documents for the performance of civil service, legal representation, control, supervision and inspection, internal audit, government audit, training decision.

**Is the question of the organizational structure of civil service authorities (the definition of the post, types of organizational units, minimum number of posts in these units, relations of superiority and subordination, etc.) regulated in the legal system?**

Yes, the Civil Service Act in § 23 et seq. introduces the concept of job systemisation. The principles of systemization, the minimum number of posts in organizational units of ministries and other central state administration bodies, changes in systematisation and the register of service posts are laid down in the Decree of the Office of the Government of the Slovak Republic No. 302/2017 Coll.

The Organization Order, which includes the organizational structure of the service authority, is an internal document. If there is such a change in the systemisation of service posts, which also affects the organizational structure, it is reflected, for example, in the form of an amendment to the organizational order.

**Is the procedural issue of systemisation and organizational structure (rules for processing and submitting proposals for systemisation and organizational structure) regulated in the legal system?**

Yes, in § 23 of the Civil Service Act. A change in the systemisation, which **does not result in a change in the binding indicator of the number of employees** during the financial year, shall be notified to the Government Office by the administrator of the budget chapter with a justification not later than 10 days before its termination. The change of systemization, which changes the binding indicator of the number of employees during the financial year, is notified to the Office of the Government by the administrator of the budget chapter, with justification and immediately after the change of the binding indicator of the number of employees by the Ministry of Finance.

**Who is responsible for the processing of the systemisation project?**

The administrator of the budget chapter of the service authority is responsible for the processing. The service authority judges the need to change systemisation in accordance with the principles of effective management. The systemisation of the manager of the budget chapter, which is the superior service authority, also shows the number of posts for each subordinate service authority.

**Who approves the systemisation and the organizational structure of a service authority?**

The proposal to change the systemisation is sent by the administrator of the budget chapter to the Office of the

Government. If a binding indicator of the number of employees is changed, this proposal must be approved by the Ministry of Finance and then sent to the Office of the Government. The Organization Order, which includes the organizational structure of the service authority, is an internal document. If there is such a change in the systemisation of service posts, which also affects the organizational structure, it is reflected, for example, in the form of an amendment to the Organizational Order. For example, Act No. 16/1992 Coll. on the Office of the President of the Slovak Republic regulates the rules governing the Office of the President, including the internal organization and organizational rules, and the classification of civil servants and the characteristics of grades and activities. The organizational rules of the office are set by the president.

**What is the scope of systemisation and the organizational structure (which parameters are approved by the system approver)?**

Pursuant to Decree No. 302/2017 Coll., which lays down the principles of systemizing the posts of civil servants, the systemization must result in the total number of posts in the service authority, the classification of the service post within the organizational structure, the number of civil servants' posts in the individual organizational units, the number of service posts and of the senior posts and their inclusion in the individual organizational units, the number of posts suitable for graduates and their inclusion in organizational units.

The systemisation of the manager of the budget chapter, which is the superior service authority, also shows the number of posts for each subordinate authority.

The systemisation of the administrator, who has more than 100 service posts (with the exception of the Office of the National Council of the Slovak Republic, the Supreme Audit Office), also shows the number of graduate posts designated.

The service post is in the systemization characterized by a description drawn up pursuant to Section 6 (3) of the Civil Service Act, with the exception of the service post where the employee performs the service pursuant to Section 7 (2) or (7) of the Civil Service Act, i.e. a person who has been elected by the National Council of the Slovak Republic pursuant to a special regulation, appointed to the office under the Civil Service Act or, under a special regulation, by the President of the National Council of the Slovak Republic, the President, the Government, the President of the Constitutional Court, the President of the Judicial Council, the President of the Supreme Court, the Chairman of The Security Council or a civil servant who is also a statutory body for the purposes of the Civil Service Act and is appointed under a special regulation.

The systemisation of service posts is organized according to the organizational structure of the service authority.

Section 1 (6) of Decree No. 302/2017 Coll. provides that the number of posts in the service authority and in its organizational unit corresponds to the complexity of the activities carried out under Section 6 (1), (2) and (4) of the Civil Service Act.

**Is the systemisation and the organizational structure approved for a certain period or indefinitely?**

The number of posts in the service authorities is stipulated by

the administrators of the budget chapter within the limits of the number of staff authorized for the given year.

**What are the conditions allowing for changes to systemisation and the organizational structure (under what conditions is a change in systemisation and organizational structure acceptable and who approves it, or who comments on the change before its approval)?**

The information duty of the administrator of the budget chapter when changing the systemisation of service posts is regulated by Section 23 (4) and (5) of the Civil Service Act. Paragraph 4 states that if, by changing the systemization during the year, there is no change in the mandatory limit on the number of employees, the budget chapter administrator shall notify the Government of this change no later than ten days before the change is made. Paragraph 5 states that if a change in systemization changes the binding indicator of the number of employees in the relevant authority, the administrator of the budget chapter of the service authority shall notify the Office of the Government with a justification immediately after the approval of the change of the limit by the Ministry of Finance. These provisions come into effect on January 1, 2019.

**What are the qualification requirements for the individual posts (who defines them, to what extent, what criteria is it based on)?**

The question of setting qualification requirements for a particular service post is based on the needs of each service authority. Article 6 (3) of the Civil Service Act introduces the duty of the service authority to draw up a description of each service post in the form, which is given in Annex 1 to the Civil Service Act. A civil servant can only be appointed to the civil service for a service post defined this way.

The Civil Service Act provides for an exemption from the duty to draw up a job description for a civil servant appointed by the Government, the President, chairman of the National Council of the Slovak Republic (Section 7 (2) of the Civil Service Act) and a member of the Civil Service Council. (Section 7 (6) of the Civil Service Act).

Pursuant to Section 38 of the Civil Service Act, the citizen may be admitted to the relevant service post if he or she meets the legal requirements, including qualifications that are determined by the job description. Qualification prerequisites are listed in Annex 2 to the Civil Service Act (characteristics of the civil servant's salary grades), in a special regulation or in the service regulation. The characteristics of the civil servant's salary grades include the designation of a function (e.g. a professional officer), qualification prerequisites (required education and special prerequisite stipulated in a special regulation) and a general description of the service post (similar to the Czech register of administrative activities).

**Are there more types of systemised posts in the state administration (in the Czech Republic, service posts governed by the Civil Service Act and the posts under the Labour Code)?**

It is possible to systematize special categories of posts, the so-called graduate post for graduates according to § 9, and a service post of extraordinary importance under § 11 of the

Civil Service Act. No information on the possible distribution of the types of posts under the Civil Service Act and under the Labour Code was found.

**What are the criteria for defining systemised posts by their type and who decides on this matter?**

**The graduate post** is suitable for a potential civil servant who is under 30 years old and completed his / her professional training no later than two years prior to the day he / she entered for the selection procedure. The number of graduate posts is determined by the systemisation administrator for the calendar year according to the operational possibilities. The number of graduate posts can change during the year. At the same time, it is not stipulated that a post that was once identified as a graduate post and then designated as a "regular" service post may not be re-designated as a graduate.

The systematic setting up of the administrator that has more than 100 service posts (with the exception of the Office of the National Council of the Slovak Republic, the Supreme Audit Office) also stipulates the number of designated graduate posts.

**A service post of a particular importance** is a government-designated post as a post to ensure that government-assigned tasks are prioritized.

**If there are more types of systemised posts, are the rules for their systemization identical?**

The Civil Service Act provides for an exemption from the duty to draw up a job description for a civil servant appointed by the Government, the President, chairman of the National Council of the Slovak Republic (Section 7 (2) of the Civil Service Act) and a member of the Civil Service Council. (Section 7 (6) of the Civil Service Act). For more details, see above.

The principles of systemisation management, the minimum number of service posts in the organizational units of ministries and other central state administration bodies, changes in systemisation and the register of service posts are stipulated in the Decree of the Office of the Government No. 302/2017 Coll.

**How is the activity performed in a particular service post defined (statutory list of activities, service sectors, register of administrative activities)? What way and according to what criteria are the activities performed in a particular post divided? How much detailed is the list of activities to be performed, how general or specific is the scope of each service or administrative activity, and how extensive is the list of these service or administrative activities?**

Every post, with the exception of senior posts in public office, must have a job description. The model of this description is Annex 1 to the Civil Service Act. The description includes the function, code designation and the name of the post, the field of civil service, organizational integration, senior civil servant, grade, type of civil service, the name of civil servant, whether it is a post of extraordinary importance, a post of a constitutional expert or a post of an expert temporary necessary for the performance of the public service tasks, whether it is a post co-financed by the EU, a post suitable for the graduate, less demanding activity (the characteristics of the salary grades is Annex 2 of the Act on Civil Service), more demanding activities,

further specified activities, other activities. At the end there are qualifications, which include education, special qualification prerequisite, field of study, requirements for health condition, knowledge of foreign language, work experience and abilities and characteristics.

Characteristics of salary grades (Annex 2 of the Act) for each grade indicates the function, for example, a vocational referee or state councillor, etc., qualification requirements (required education, or other requirements specified by a special regulation) and there are several characteristics for each grade activities.

The fields of service listed in the Government Order No. 113/2017 Coll. are divided into two categories. The first are the general fields of the state service, such as the management of the civil service, legislation, the international cooperation, informatics, etc. These fields are nine and each has its own code, e.g. 1.04 Legislation. Special fields of civil service include finance, culture, defense, education, construction, environment, sport, investment, etc. These fields are 31 and each has its own code.

**Does the legal system enable to employ two or more civil servants in one systematized post (job sharing), where the work load of all civil servants together corresponds to one work load. What is the practical solution of this issue in the given country?**

The Civil Service Act does not regulate this possibility.

### 3.13.5 Selection procedure to fill a vacant service post

**Is the selection procedure conducted as an administrative procedure or is it excluded from the formal process?**

The law does not state that the selection procedure is conducted as an administrative procedure. The selection procedure is regulated by Sections 39 to 47 of the Civil Service Act and Decree No. 127/2017 Coll., which lays down the details of selection procedures.

**Is it necessary to interview all applicants who comply with the formal conditions of participation (they sent all the necessary documents)? Or is it possible to select only some applicants with whom the interview shall be conducted? If so, who, and according to what criteria chooses them?**

The Civil Service Act regulates two types of selection procedure, namely **the selection procedure for filling a civil service post** under Section 40 et seq., where it is necessary to conduct a personal interview with candidates who have met the prerequisites and a so-called **collective selection procedure** under Section 44, which is announced to fill the posts suitable for graduates and where the applicants are interviewed only in the second part, only the graduates successful in the first part of the selection procedure are interviewed.

In the selection procedure for filling the post under Section 40, all prescribed parts of the selection procedure must be carried out. Pursuant to Section 41 (9) of the Civil Service Act, at least seven working days prior to the selection procedure, the service authority must invite a candidate who meets the prerequisites and requirements to the interview. According to

Section 40 (5) of the Civil Service Act, the selection procedure consists of:

- Written and oral parts or
- Oral part.

The verification of the required general knowledge, professional knowledge, abilities and personal characteristics of the applicant can be carried out by:

- A written test to verify professional knowledge (professional test)
- A written test to verify general knowledge (general test)
- A written test to verify the knowledge of the state language (state language test)
- Written test to check the knowledge of the foreign language (foreign language test)
- A written test to test their abilities and personal qualities
- Case study
- A personal interview to verify the skills and personal qualities
- By assessing the skills and personal qualities required by the assessment center method.

It is possible to distinguish the selection procedures according to the necessary extent of verification of the assumptions and it takes place gradually as stated:

- A **restricted internal selection** procedure (from civil servants or redundant employees of their own service authority) consists of a foreign language test, if required, and a personal interview.
- A **broader internal** selection procedure (from civil servants or redundant employees of all service authorities) consists of a professional test, a foreign language test if required, and a personal interview.
- The **external** selection procedure (civil servants and citizens) consists of a professional test, a state language test, a foreign language test, if required, and a personal interview.
- The service authority may add other forms of verification of assumptions to those mentioned above.

The candidate is successful if he / she met the conditions in both parts of the selection procedure. The selection committee evaluates the results of the selection procedure as the sum of the points for the individual parts of the selection procedure.

**The mass selection procedure** consists of two parts; the first one is written and consists of a general test and a state language test, possibly supplemented by other forms, if needed. The mass selection procedures are provided by the Office of the Government, which will announce the results of the first part through a register of selection procedures and successful candidates (graduates) will be included in the register of successful graduates at the central portal where they will be registered for two years. The second part of the mass selection procedure is already provided by the relevant service authority, which informs the graduate enrolled in the register of successful graduates that it starts the second part of the selection procedure. The second part is a personal interview and it is possible to give the graduate an appropriate test to

verify professional and other assumptions. A graduate who was not successful in the second part or was successful but was not selected remains in the registry of successful graduates.

**Who carries out the interview with the applicants and who can be present at the interview? Who can ask questions? Is it only the selection panel or can it also be the superior?**

The interview is conducted by the selection committee. The selection committee is composed of a chairman and at least two other members or an alternate member. Members are appointed by the Secretary-General, the number of whom must always be odd. A member of the selection committee who conducts the interview must be trained to conduct an interview and evaluate the interview before starting the interview. Section 8 of Decree No. 127/2017 Coll., which lays down details of selection procedures, stipulates that a member of the selection committee is usually a senior employee of the organizational unit where the selection procedure is announced. Legislation does not prohibit the management to participate in the selection board.

**Who evaluates the applicants (decides, if they were successful or not)? The selection panel consisting of more members, the superior, another authority?**

At least three skills and personal qualities listed in Annex No. 1 to Decree No. 127/2017 Coll. are evaluated as a part of the interview. Every single skill and personal quality of the candidate is evaluated by the members of the selection committee by giving 1-5 points. If the difference between the points from the individual members of the selection committee is greater than one, there must be a debate and, based on the argumentation, it is necessary to achieve a maximum of one-point difference between the marks from the individual members of the committee. Thereafter, the arithmetic mean determines the final grade for each assessed ability and personal characteristic. The overall evaluation of the candidate at the interview is the sum of the final marks. To pass a personal interview, at least 60% of the overall assessment is needed.

The members of the selection committee evaluate the results of the verification of the required general knowledge, professional knowledge, skills and personality of the candidate. The selection committee evaluates the results and decides on the order of the candidates based on the sum of the scores of/ for the individual parts of the selection procedure.

If more candidates on the same place, the chairman of the selection committee will open a discussion in which the members of the committee express their preferences for one of the candidates and give reasons. The justification is included in the minutes of the selection procedure. Then, the chairman shall vote on a new order in order to have only one candidate for each rank. Each member of the committee has one vote and the chairman decides if the result of the voting is equal. The order of the candidates determined by the selection board is binding.

**Who selects the most suitable applicant who shall eventually be employed in the civil service? Selection panel, the superior, another authority?**

See above. The order of the candidates is stipulated by the selection committee and is binding.

**How can unsuccessful applicants defend?**

Paragraph 4 (6) of the Civil Service Act gives the candidates the possibility of claiming protection of his rights in the service authority or in court if he considers that his rights or interests protected by law are affected by non-compliance with the principle of equal treatment.

**How can applicants who have been successful but have not been appointed to the public service defend against such decision?**

Paragraph 4 (6) of the Civil Service Act confers on the applicants the possibility of claiming protection of his rights in the service authority or in court if he considers that his rights or interests protected by law are affected by non-compliance with the principle of equal treatment. Similarly, a citizen who is applying for admission to the civil service may claim the protection referred to above.

On the grounds of an analogy, a person applying for the civil service (both a civil servant and a citizen) may also appeal to the relevant service authority and, in addition to the filing a complaint with the court, may use a complaint institute (Section 116 of the Civil Service Act), in accordance with a special regulation, law No. 9/2010 Coll on complaints, as amended.

**Are applications of unsuccessful applicants and successful applicants who, however, have not been appointed to the civil service, rejected by an administrative decision against which they could appeal? Or are they only informed about the result of the selection procedure?**

The selection procedure in the civil service is not an administrative procedure. Paragraph 4 (6) of the Civil Service Act confers on the applicant the possibility of claiming protection of his rights in the service authority or in court. Participants in the selection procedure can find out the results of the selection procedure in the register of competitions. Within 10 days of the end of the selection procedure, the service authority shall also notify the successful applicant.

**Can unsuccessful applicants and successful applicants who have not been appointed to the civil service appeal to the court?**

Yes, they can.

**3.13.6 Disciplinary Proceedings**

**Is there disciplinary liability of public employees? If not, how is the breach of the duties of civil servants approached?**

The Civil Service Act regulates **disciplinary liability** in Sections 117 through 121. A civil servant is liable for a breach of service discipline, which is a failure to comply with or the breach of statutory obligations or restrictions that relate to the performance of a service if the non-compliance and the breach occurred in connection with the performance of civil service.

**If there is a disciplinary liability of civil servants, how are the facts of the disciplinary infraction defined?**

In the provisions of Section 117 (2), the Civil Service Act defines

two levels of violation of service discipline: 1) **minor violation** and 2) **serious** violation of service discipline.

The degree of seriousness of the breach of service discipline is assessed with reference to the nature of the breach or failure to perform duties or restrictions. Furthermore, it is judged according to the circumstances under which it occurred, in particular the manner and the intensity of the act or omission, the degree of the fault, the repetition of the violation of service discipline, the current approach to the fulfilment of obligations and the compliance with restrictions or other circumstances, the extent of the damage and the consequence of violation of service discipline. For example, under Section 109 (2) of the Civil Service Act, a breach of the staff regulations is considered a serious breach.

A repetition of a minor breach of service discipline shall be deemed to occur if the civil servant, after being notified of minor violation of service discipline violates service discipline at least once in six months less serious way. A notice of breach of service discipline is put in civil servant's personal file for 18 months. After removing of this warning, the civil servant is seen as he had not broken service discipline.

**If there is a disciplinary liability of public employees, what disciplinary measures (sanctions, penalties) can be imposed on public employees (reprimand, salary reduction, etc.)?**

In the case of a minor breach of service discipline, the service authority may issue a warning of a breach of service discipline within one year of the date on which the reason for its issuing arose.

In the case of repeated minor breaches of service discipline, the service authority may give notice to the civil servant.

If a civil servant commits a serious breach of service discipline, the service authority will give him a notice of termination under Section 117 (7) of the Civil Service Act or a civil servant's employment relationship immediately ends.

**Who decides that a civil servant has committed a disciplinary infraction (a disciplinary panel, the superior, other body)?**

Breach of civil servant's discipline is assessed by **the Secretary-General on his own initiative** or **at the suggestion of a senior employee** of the employee. The senior employee submits a proposal to the Secretary-General for the investigation within 15 days of the day on which he learned of the violation of the service discipline.

For the purpose of examining the proposal or initiative, the Secretary-General shall set up an advisory committee composed of at least three members in the service authority. The number of members must be odd. The members of the advisory committee, including its chairman, shall be appointed by the Secretary-General of the staff of the service in which the committee is established. One of the members of the advisory committee must have the same field of civil service as the civil servant who violated the service discipline, and one member must normally have a secondary degree in law. An employee representative appointed by the relevant trade union body is also a member of the advisory committee.

If the Secretary-General considers that a civil servant violated his service discipline, he shall notify the advisory committee

in writing within 15 days of the day on which he learned of the infringement. Within ten days, the advisory committee shall invite the civil servant concerned by the disciplinary proceedings to respond to the case in writing at least within 10 days. The civil servant can add to the statement the evidence that confirms his claim, except for those he cannot add without breaking the discipline.

The advisory committee shall proceed with the review in cooperation with the civil servant concerned.

The advisory committee is obliged to find out exactly and completely the actual state of the matter and to obtain the necessary documents for this purpose. The scope and method of investigation is determined by the advisory committee. The service authorities are required to provide the requested information at the request of the advisory committee. The advisory committee shall draw up a written record of the progress and review of the violation of the service discipline, provide evidence, statements of the civil servant or other natural persons, and deliver it to the Secretary-General together with a recommendation statement indicating whether the discipline has been violated and to what extent. The opinion of the advisory committee shall be delivered to the Secretary-General within 30 days of receipt of the statement of the civil servant or after the expiry of the time limit for the public servant to express his opinion, if he does not to deliver his statement.

The Secretary-General is not bound by this opinion.

If, on the grounds of the above, the Secretary-General concludes that there has been a breach of service discipline, he shall issue a **warning** within 10 days of the advice of the advisory committee. The requirements of the notice are set out in Section 119 of the Civil Service Act. If, on the grounds of the opinion of the advisory committee, the Secretary-General concludes that there has been no infringement, he shall inform the civil servant accordingly within 10 days of the receipt of the **opinion**.

The warning is put in the civil servant's personal file; from which it will be removed 18 months after the date of its notification. 18 months after the date of notification of a minor breach of discipline, the civil servant is seen as if he did not violate the service discipline.

**What are the public employee's possibilities of defending in the matters regarding his disciplinary liability (appeals, legal proceedings at the administrative court, others)?**

A civil servant who considers that his rights or interests protected by law are affected by non-compliance with the principle of equal treatment may claim protection by the service authority or at court. A civil servant may lodge a complaint in matters relating to the performance of a civil service if he considers that his rights under this Act, other generally binding legal regulations and service regulations have been violated (Section 116 of the Civil Service Act).

The Civil Service Act grants state employees the opportunity to appeal to the Civil Service Council (Section 12 et seq. of the Civil Service Act) in the matter of reviewing a complaint about a breach of the civil service principles.



### 3.13.7 Service Examination

The Civil Service Act does not regulate the institute of service examinations nor the related institute. For this reason, it is not possible to answer the questions.

### 3.13.8 Service Performance Appraisals

#### It is obligatory?

It is not explicitly stated in law or in any other legal act that service performance appraisal is mandatory, but it implies that a civil servant is assessed each year by his superior. Section 122 (3) of the Civil Service Act clearly stipulates that the service performance appraisal shall be carried out by a direct superior manager until 31 January for the period of the previous calendar year.

#### Who is subject to the performance appraisal? To what extent does he participate?

Under Section 122 of the Civil Service Act, civil servants who perform civil service for at least six months are subject to service performance appraisal. Within these six months, holidays, public holidays, days when a civil servant participates in educational activities are included.

#### Who is the evaluator?

The evaluator is a **direct senior employee or an evaluation committee**. The evaluation committee shall be set up by the Secretary-General and shall be set up in case there was no performance appraisal carried out.

The evaluation committee is composed of a chairman and at least two members. The number of members is always odd. As a rule, members of the committee are senior employees or civil servants who are familiar with the performance of the civil servant to be evaluated. The chairman of the evaluation committee provides background information for the civil servant's service performance appraisal, determines the date of the performance appraisal, is responsible for the evaluation process, conducts an evaluation interview, ensures that all areas are evaluated and decides on improvement recommendations, if necessary.

#### How often is the performance appraisal carried out? Is it a fixed term event, or is it done as needed?

The performance appraisal is carried out **once a year**. The last calendar year shall be evaluated by 31 January of the year following the evaluated period.

**Partial service performance appraisal** is carried out by the evaluator who does not manage the evaluated state employee for the whole calendar year and who is at the same time not obliged to evaluate the employee for the whole calendar year. It is carried out before the end of the service of the evaluator or the evaluated person at the relevant service post. The performance appraisal then serves as a basis for the performance appraisal for the calendar year.

In addition, repeated service performance appraisals are carried out if a civil servant achieves unsatisfactory results in a service performance appraisal for a calendar year after a period of three months, no later than six months after the last service performance appraisal per calendar year.

#### Does the result of the service performance appraisal have any impact on the salary of the public employee?

Under Section 132 (2) and (3) of the Civil Service Act, a civil servant's supplementary allowance may be increased, reduced or withdrawn on the grounds of a written reasoned proposal from the senior civil servant, based on the results of the service performance appraisal for the calendar year or on the grounds of the quality of service. The service authority will withdraw a personal supplementary allowance from a public servant who will achieve unsatisfactory results in a service performance appraisal for a calendar year. Based on the result of repeated service performance appraisal, it is possible to grant the personal supplementary allowance again.

#### Does the result of the service performance appraisal have any other impact on the employment of a public employee?

In case that a **civil servant** achieved **unsatisfactory results** in a repeated service performance appraisal, the service authority may give him notice. If a civil servant has achieved excellent, very good or standard results in his / her last service performance appraisal and his service post is abolished as part of a change in the organizational structure, this employee is included in the register of redundant state employees.

A senior employee who has achieved satisfactory results may, according to § 61 para. a) of the Civil Service Act be removed from office.

#### What is the regulation governing the service performance appraisal?

Act No. 55/2017 Coll. and Decree No. 136/2017 Coll., which lays down details on the service performance appraisal.

#### What is the subject of the performance appraisal (what is evaluated)? Is the evaluation framework strictly defined or can it be adapted to the needs of the individual subjects?

The service performance appraisal evaluates:

- **Expertise** assessed in terms of compliance with and the implementation of the Constitution of the Slovak Republic, legally binding acts of the European Union, legislation of the Slovak Republic, service regulations and other internal regulations (30 points);
- **Performance** – quality of service tasks during the performance of the civil service, the amount of assigned service tasks and their difficulty, compliance with deadlines, independence (40 points);
- **Abilities and competence** – ability to organize and plan, initiative and involvement, social and communication skills, problem-solving skills, teamwork, ability to work under pressure (20 points);
- **Attitude** to personal development and to education (10 points).

In the case of senior civil servants, managerial competencies are also assessed, which are management skills and analytical, conceptual and strategic thinking. These are assessed in terms of abilities and competence. The evaluation framework is strictly defined and regulated in detail by Decree No. 136/2017 Coll.

**What is the rating scale? Is the performance appraisal carried out only verbally or by giving points? What results can be achieved in the service performance appraisal?**

Points are awarded for each ranked area, with a maximum score of one hundred. It is possible to get up to thirty points for expertise, a maximum of forty points for performance, twenty points for abilities and competence and a maximum of 10 points for the attitude to personal development and to education. They are evaluated by giving points, suggestions for improving the performance of the civil service are described in words. The result scale is as follows:

Results	Points
Excellent	90 – 100
Very good	75 – 89
Standard	50 – 74
Satisfactory	25 – 49
Unsatisfactory	less than 25

**Is there a future perspective plan a part of the performance appraisal? – setting the goals, development plan, etc.?**

In case that a civil servant fails to achieve excellent or very good results, the evaluator must recommend proposals for improvement that are in writing and must be received by the civil servant along with the service performance appraisal. The evaluator is not obliged to give the evaluated person, who achieves excellent or very good results, recommendations for improvement in the service performance appraisal.

**What way is a performance appraisal made? What evaluation methods are used?**

The evaluation is carried out in the form of an interview between the evaluator and the evaluator or the evaluation committee. It shall notify the evaluated evaluator or the chairman of the evaluation committee at least three days in advance. In the framework of the evaluation interview, the performance of the civil service in each evaluated area will be evaluated in particular and the result of the service performance appraisal and possible recommendation to improve the performance of the civil service will be justified. As a part of the interview, the evaluator can report the results achieved in each area evaluated, comment on the outcome of the evaluation and, if the evaluated person does not achieve excellent or very good results, the evaluator may also comment on the proposal to improve the performance of the civil servant. If a civil servant is assessed by an evaluation committee, members of the committee may ask him questions.

To the Decree No. 136/2017 Coll., which lays down the details of the service performance appraisal the service performance sample form is enclosed. The form contains the name of the service authority, the name of the organizational unit, the name and surname of the evaluator and the evaluated person, the type of service performance appraisal, the evaluation period. Furthermore, there is space in the form dedicated to

the evaluated areas, where only the achieved number of points in the given area is given, no verbal expression is mentioned. There is also a box where the total number of points achieved will be recorded and the results achieved (see Table of Results above). An improvement plan will be included in the evaluation if the evaluated person has achieved standard and worse results. At the end of the form, there is a line for the signatures of the evaluators and the evaluated person.

**What is the basis for the performance appraisal?**

The evaluator carries out ongoing evaluation throughout the year. This assessment serves as a basis for the annual performance appraisal. Alternatively, it may be based on a partial service performance appraisal, as described above.

**What way are the evaluators trained?**

The Civil Service Act does not explicitly regulate the training of evaluators for the service performance appraisal. The training of evaluators is carried out by means of the so-called competence training according to Section 164 of the Civil Service Act. For example, the Office of the Government provides training for civil servants called Leadership Interviewing, which is directly targeted at those civil servants who evaluate subordinate staff in service performance appraisal. This training is also a part of the management training of civil servants.

What way does the evaluated person get acquainted with the results of the service performance appraisal?

The evaluator prepares the evaluation as a form which is annexed to Decree No. 136/2017 Coll., which is drawn up in three copies, one is given to the evaluated person, the second copy being filed in a personal file, the third remaining by the evaluator. The evaluated person must become familiar with the document which must be confirmed by his signature. If he refuses to sign it, he is, according to Section 123 (6) of the Civil Service Act, considered to be familiar with the result on the date of the refusal of the signature.

**Is a negative performance appraisal sanctioned? How?**

In case a senior civil servant achieves only satisfactory results, he / she may be removed from the post of a senior employee. In case a civil servant repeatedly achieves an unsatisfactory result, his or her service may be terminated or not.

**Are there any appeal measures against the results of the service performance appraisal?**

According to Section 123 (7) of the Civil Service Act, the evaluated civil servant has the right to file a written objection to the service performance appraisal result with the evaluator within three working days from the date of becoming acquainted with his / her service performance appraisal result. If the evaluator does not fully comply with the objection, he / she shall pass it together with his / her statement to his / her direct superior. The superior will discuss the objection with the evaluated person and on the grounds of this meeting decides on the objection and informs both the evaluator and the evaluated person about the result.

If the civil servant has been evaluated by the evaluation committee and does not comply with the objections in full, the chairman of the committee shall submit the objection,

including his statement, to the Secretary General. The Secretary-General will judge the objection after the review with the evaluated civil servant and communicate the result to both the evaluated and the evaluation committee.

### 3.13.9 The Principles of Ethics in Civil Service

#### What are the rules governing the principles of ethics in civil service?

Compared to the principles of the civil service according to the previous valid civil service legislation (Act No. 400/2009 Coll.), the number of principles has been extended from six to nine and has been partially changed. The originally mentioned principle of ethics (in § 1 (2) (f) of Act No. 400/2009 Coll.) was reflected in **the principle of professionalism** in Article 6 of Act No. 55/2017 Coll., whereas this principle is closely related to transparent employment, remuneration and fair treatment.

Art. 6 of the Civil Service Act states that a civil servant acts professionally, conscientiously, in accordance with **the Code of Ethics of a Civil Servant**, and the service authority provides him with adequate training to achieve a level of professional competence that enables him to perform civil service well. Under Section 49 of the Civil Service Act, a civil servant also promises to comply with the Code of Ethics of a Civil Servant when taking over a service contract.

In addition to the information above, the civil servant is under Section 114 of the Civil Service Act obliged to make a **property declaration** on an annual basis in a form given in Annex 5 to the Act.

According to information from 2018, ethical rules are not detailed. The Code of Ethics of a Civil Servant has not yet been prepared.

#### Can any sanctions be imposed in case of violation of ethical rules? If so, what kind of sanctions?

Ethical rules are a part of the fundamental principles representing the bases of the Civil Service Act, and a civil servant promises to comply with the laws of the Slovak Republic and Code of Ethics of a Civil Servant when performing civil service. Any infringement may therefore be subject to a disciplinary action.

#### What means and methods are used to check the compliance with ethical rules?

The legislation does not contain specific conditions for checking compliance with ethical rules.

#### What implementation tools are used in the area of public service ethics?

It is assumed that the Code of Ethics of a Civil Servant will be adopted; other instruments are not subject to legislation.

#### What way does the training of the employees in the field of ethics proceed? Does the training of ordinary employees and senior civil servants differ?

Art. 6 of the Civil Service Act states that a civil servant acts professionally, conscientiously, in accordance with the Code of Ethics of a Civil Servant, and the service authority provides him with adequate training to achieve a level of professional

competence that enables him to perform civil service well. There is no information on a specific way of training in this field.

#### When recruiting new employees, is the personality potential of the applicants in the field of ethics taken into consideration?

The selection procedure includes an assessment of the applicant's personal characteristics. The ability and personality traits test is carried out by diagnostic methods based on a test profile, in which the abilities and personality traits needed for the performance of civil service are included.

The assessment center method then verifies the required skills and personal qualities of the applicant, including, for example, conscientiousness and reliability.

#### Is the compliance with ethical rules continuously checked?

The legislation does not explicitly provide for such an obligation. Compliance with ethical rules is not a part of the service performance appraisal. The Civil Service Council is supposed to supervise compliance with the Code of Ethics of a Civil Servant.

#### To what extent is the supervision of professional ethics in the state administration institutionalized? Are there any individual employees, organizational units, collegiate bodies or other bodies providing methodological support on ethical issues, monitoring compliance with ethical rules and proposing measures in case of violation?

Pursuant to Section 14 (1) of the Civil Service Act:

- Supervises compliance with the principles of civil service and the Code of Ethics of a Civil Servant;
- Draws up a draft Code of Ethics for the civil servant and submits it to the Office of the Government,
- Draws up expert studies to apply the principles of the civil service and the provisions contained in the Code of Ethics of a Civil Servant.

The Office of the Government in accordance with Section 21 (a) 1 letter h) of the Civil Service Act, issues the Code of Ethics of a Civil Servant by implementing legislation.

#### What are the consequences of the ethical failure of a civil servant?

It can be inferred from the legislation that ethical failure can lead to disciplinary proceedings, with all the consequences that may be associated with the outcome of disciplinary proceedings or repeated violations.

### 3.13.10 Work-life Balance (WLB) in Civil Service

#### Is there a work-life balance regulation? If so, how is this term defined?

This term is not defined by any legal regulation.

The Civil Service Act applies the provisions of the Labour Code in the area of work-life balance, in particular by statutory provisions concerning the provision of a break for breastfeeding. In the collective agreement it is possible to agree on more favourable conditions, such as holidays above the scope stipulated by law or shortening the weekly working

hours, which is modified for the 2018 and 2019-2020 periods. The holiday is extended by 1 week and the working hours are reduced to 37.5 hours per week.

**Are there manuals, methodological documents or other WLB supporting documents following the legal regulation?**

No manuals or methodological documents are issued in connection with the legal regulation.

**What WLB measures does the legal order offer?**

In the Civil Service Act, the following measures are directly governed: taking of unpaid leave for up to six months after ten years of active service, shorter working hours and taking of breastfeeding breaks. The Civil Service Act also regulates the special status of female workers who are pregnant, are mothers by the end of the ninth month after the childbirth, are breastfeeding, or are on maternity or parental leave.

The Civil Service Act in Section 171 stipulates that it is possible to adequately apply selected provisions of the Labour Code. These provisions also include Section 138, which states that the employer will provide the employee with time off with wage compensation in the amount of his / her average earnings for participation in blood donation; provide time off for the performance of activities performed on the basis of a voluntary activity contract under a special regulation during working hours; neither wage nor wage compensation belongs to employees.

Furthermore, the Civil Service Act refers to the appropriate use of Section 141 of the Labour Code, which states that the employer will excuse the absence of an employee at work for his temporary incapacity for work due to illness or injury, during maternity leave and parental leave, quarantine, taking care of a sick family member and when taking care of a child under the age of ten who, for serious reasons, cannot be cared for by a children's educational institution or school where the child is otherwise, or if a person who otherwise cares for a child has become ill or has been quarantined (quarantine, have undergone examinations or treatments in a healthcare facility that cannot be provided outside the employee's working hours. For this time, the employee does not include wage reimbursement unless a special regulation provides otherwise.

The employer is also under Section 141 of the Labour Code obliged to provide the employee with time off for the following reasons and to the following extent:

**(a) Examination or treatment of an employee in a medical facility:**

- Time off with wage compensation shall be granted for the necessary period, up to a maximum of seven days in a calendar year, if the examination or treatment could not be carried out outside working hours;
- Additional leave without wage compensation shall be granted for the necessary period of time if the examination or treatment could not be carried out outside working hours;
- Time off with wage compensation will be provided for the necessary period of time for preventive medical examinations related to pregnancy, if the examination or treatment could not be performed outside working hours.

**(b) Birth of a child to an employee – time off with wage**

compensation will be provided for the necessary period for transporting the mother of the child to the medical facility and back.

**(c) Accompanying**

- A family member to a medical facility for check-up or treatment because of a sudden illness or injury or pre-determined check-up or treatment; time off with wage compensation shall be granted only to one of the family members for the necessary period of time, up to seven days in a calendar year, if the accompanying is necessary and such operations could not be carried out outside the working hours,
- A disabled child to a social welfare facility or special school; time off with wage compensation will be granted only to one of the family members for the necessary period of time, up to ten days in a calendar year.

**(d) The death of a family member:**

- Time off with wage compensation for the two days following after the death of the spouse and another day to attend the funeral of those persons;
- One-day leave with pay to take part in the funeral of the parent and sibling of the employee's, parent's and sibling's spouse, as well as the sibling's spouse and for the next day if the employee cares for the funeral of those persons;
- Time off with wage compensation for a necessary period of not more than one day to attend the funeral of a grandparent or grandson of a civil servant or of another not belonging to those relatives, but who lived with the employee at the time of death in the same household, and another day if the employee is in charge of the funeral of these persons.

**(e) Wedding –** time off with wage compensation will be provided for one day to attend your own wedding and time off without wage compensation will be provided for participation in the civil servant's child's wedding or his parent's wedding.

**(f) Weather-related complications making it impossible to get to work by the individual means of transport used by a disabled employee;** time off with wage compensation will be provided for a necessary period of not more than one day.

**(g) Unforeseen interruption of or a delay in regular public transport –** leave without wage compensation shall be granted for the necessary period of time, unless the staff member was able to reach the place of work another reasonable way.

**(h) Moving of an employee who has his / her own home furnishings –** time off without wage compensation will be provided for a necessary period of not more than one day when moving in the same municipality and when moving to another municipality for a maximum of two days; in the case of moving in the interest of the employer, time off with wage compensation is provided.

**(i) Finding a new place before employment is terminated –** time off without pay shall be granted for the necessary period of time, up to one half-day a week during the period of notice; to the same extent shall be granted time off with wage compensation upon termination of employment by notice given by the employer or by agreement for reasons stated in § 63 par. a) to c); time off can be merged with the employer's consent.

**Is it possible to modify working hours of a civil servant (flexible working hours, part-time employment, different time arrangement of the beginning and the end of the service)? What are the conditions for the modification of the working hours of a civil servant?**

Pursuant to Section 99 of the Civil Service Act, a civil servant may agree with a service authority on shorter working hours, when it is not necessary to divide the working hours into all working days. A civil servant with shorter working hours may neither be favoured nor disadvantaged compared to a civil servant who performs similar activities in the same service authority.

This principle is set in order to ensure compliance with the principle of equal treatment and, at the same time, a prohibition on favouring or disadvantaging a civil servant with shorter working time than comparable employees are provided.

In the area of modification of the working hours, the Civil Service Act again refers to the Labour Code, which in Section 164 stipulates that it is possible for a pregnant woman and a woman or a man permanently caring for a child under the age of 15 to apply for shorter working hours or other suitable adjustment provided for weekly working hours. In the case of this application, the employer is obliged to comply if there are no serious operational reasons preventing it.

A pregnant woman, a woman or a man caring for a child under the age of three, a single woman or a single man caring for a child under the age of 15 can only work overtime with their consent. Working on-call duty can only be agreed with them.

**What are the possibilities and the conditions of the performance of civil service from a different place (home-office, teleworking and flexitime)? How are the conditions for the performance of civil service from another place defined?**

The possibilities and conditions of the performance of civil service from another place are not regulated by the Civil Service Act. Section 171 refers to a possible reasonable application of the provisions of Section 52 of the Labour Code, where so-called work from home is regulated. Work from home can be agreed in writing between the employer and the employee.

Furthermore, it is possible to agree on so-called **teleworking** between the employee and the employer. Telework is defined as work done at home or at another agreed place using information technology. Both types of work have some deviations:

- They are not covered by the provisions on the arrangement of weekly working hours, continuous daily rest, continuous weekly rest and downtime;
- In the case of important personal obstacles at work, the employee is not entitled to a wage compensation except for the death of a family member;
- He is not entitled to wages for overtime work, wage benefits for work on public holidays, wage benefits for work on Saturdays, wage benefits for working on Sundays, wage benefits for night work and wage compensation for difficult work performance, unless the employee and the employer agree otherwise.

The employer shall take appropriate measures as the work from distance concerns, in particular:

- Ensures, installs and regularly maintains the technical and software equipment needed to perform teleworking, unless the teleworker uses his / her own equipment;
- Ensures, in particular, software, data protection that is processed and used in telework;
- Informs employees of any restrictions on the use of technical equipment and software as well as penalties in case of violation of these restrictions.

The Labour Code also states that an employee who has an agreed home or teleworking job has the opportunity to meet his colleagues. Furthermore, the Labour Code stipulates that the working conditions of an employee at home and in telework-concept must not be more favourable than working conditions of ordinary employees in a comparable post. Work done from home by an employee on an occasional or exceptional basis, with the approval of the employer or on the grounds of an agreement with the employer done from home or another place than the usual place of work, is not considered to be a work from home or telework, provided that the type of work performed by the employee under the employment contract, enables that.

**What kind of service leave does the law offer (e.g. urgent family leave, adoption leave, sabbatical leave, career break)? Is this service leave paid or unpaid?**

The Civil Service Act introduced the possibility for a civil servant who worked in the service authority for a continuous ten-year period to apply for unpaid leave of a single duration for a maximum period of six months. The purpose of this leave should be to prevent potential psychological problems of the employee (burnout syndrome), to increase the attractiveness of the civil service for young people, as well as to bring the civil service in the Slovak Republic closer to other EU countries.

**Does the law enable to share a service post?**

It is not possible to share a service post.

**Does the law regulate the establishment of school facilities for children of civil servants?**

It does not, it can be regulated under a collective agreement.

**What are the WLB measures for civil servants on maternity and parental leave (e.g. sharing information)?**

Also in this issue the Service Act refers to the Labour Code. In connection with childbirth and caring for a born child, a woman is entitled to maternity leave of 34 to 43 weeks, depending on the circumstances.

To deepen the childcare, the employer is obliged to provide the woman and the man who so request with parental leave until the day the child reaches the age of three. In case of a long-term bad health condition of a child in need of special care, the employer is obliged to provide the woman and the man who so request with parental leave until the date the child reaches the age of six. This leave is granted to the extent that the parent requests, as a rule, at least one month.

The Office of the Government pays increased attention to state

employees who did not perform the civil service for a longer period, in the form of an increased number of educational activities; similarly, they proceed according to a survey carried out by the Office of the Government and by central state administration authorities.

In Articles 105 and 106 of the Civil Service Act, special conditions are laid down for female civil servants who are pregnant, are mothers with children up to the ninth month of age or breastfeeding and perform a service prohibited by medical opinion. In such cases, the service authority is obliged to make a temporary adjustment of the working conditions or to transfer the employee to another post and, if that is not possible, to suspend her. At the end of maternity or parental leave, the civil servant is to return to her original post. For a mother who works for a fixed weekly working hours, two half-an-hour breaks for breastfeeding are given to each child by the end of the sixth month of his age, and one half-an-hour break per shift in the next six months. These breaks can be merged and taken at the beginning or the end of the shift. If she is working for shorter working hours but at least half of the weekly working hours, she has only one half-an-hour break for each child until the end of the sixth month of his age. Breastfeeding breaks are included in the performance of the civil service.

**Are there any legal regulations for civil servants in relation to the care of older family members (e.g. parental leave, responsibility leave)?**

No, there are not. They can be regulated by a collective agreement.

**Is there a program dealing with the physical and mental aspects of a civil service in the legal system (e.g. a similar program to "Fit at work" in the EU)?**

No, there is not. It can be regulated by a collective agreement.

**3.13.11 Education**

**Is there an institutionalized training within or for the preparation for the performance of the civil service?**

No, there is no institutionalized training within or for the preparation for the performance of a civil service.

**What is the general regulation and setting of the education within the framework of the preparation for the performance of civil service and the performance of the civil service itself?**

The education of civil servants is regulated by Sections 161 to 165 of the Civil Service Act. The education system is structured:

- Continuous education
- Adaptation Education
- Competence education
- Qualification enhancement

**Continuous education**

Continuous education under Section 162 of the Civil Service Act is a systematic process of providing and acquiring education and knowledge, maintaining and improving and complementing the skills, abilities, habits and experiences that a civil servant needs to perform a civil service. The content focus is based on the requirements of the professional qualification (competence)

of the civil servant specified in the description of the given job. Under Section 110 (1) (a), a civil servant c) the right to continuous education and according to § 111 par. k) an obligation to continuously educate and evaluate the completed educational activity.

The forms of continuous education:

- **Collective education** is intended to clarify the issue to a greater number of civil servants and is carried out in the form of a lecture or conference.
- Group education has the following forms:
  - A course that is a self-contained multi-curricular educational form consisting of chosen topics and structured according to a predetermined curriculum;
  - A seminar aims at consolidating and broadening of the acquired knowledge in a given area related to the civil servant's profile;
  - A workshop aimed at developing the acquired knowledge and acquiring new practical skills in the process of assigning and developing specific learning tasks, with a mutual exchange of views and comparisons in order to find an optimal solution;
  - A training, which is a practically oriented form of education based on a methodological connection between the available information and practical training.
- **Individual education** has the following forms:
  - Briefing, which is to introduce a career advancement to a civil servant who acquires this practice by observing and repeating it;
  - Coaching, which means a way to support the development of civil servant's skills and abilities, in particular by a superior or senior civil servant, on the grounds of the acquired experience, he helps civil servants transform their knowledge into skills and develop their potential to maximize their performance.
- **Distance learning** is a supportive learning activity
  - E-learning
  - Webinar.
- Self-study (for more details see the chapter on compensation of civil servants' duties).
- Other forms may be a trainee-ship or a study stay.

**Continuous education is realized through adaptation education and competence education.**

**Adaptation education**

Adaptation education according to § 163 of the Civil Service Act is a systemic, organized and evaluable educational process with the aim of providing the civil servant with the acquisition, development and utilization of his professional and personal potential needed for the performance of the civil service. Adaptation education is provided under the guidance of a mentor, who provides support, assistance and help with performing tasks to support the professional growth of the new civil servant.

Adaptation training begins on the day the service begins and ends on the expiry of a probationary period of three months.

Adaptation Education is:

- **Initial** adaptation training, which aims to provide the civil servant with basic information about the service authority, its scope and functioning. This part must be completed by the civil servant within one month of the date of appointment to the civil service. As part of this phase, the mentor acquaints the new employee with the information systems of the service authority, the organizational rules of the service authority and other internal regulations and the conditions for the performance of the civil service.
- **Ongoing** adaptation training to provide civil servants with the expertise and experience needed to ensure the performance of their activities and tasks within the organizational unit where the civil servant is assigned. As part of this phase, the new civil servant is informed by a mentor of generally binding legislation that he / she must know to perform the service, organization and activities of the administration, the institutions of the European Union and its functioning, and the legislation directly related to the relevant post.

The specific content, scope and form of the adaptation education is determined by the service authority in **the plan of adaptation education of the civil servant**, which takes into account the inclusion of the civil servant in the given service area, its function, job description, previous education that the civil servant proves by means of a certificate. An adaptation education plan is developed by a mentor in cooperation with a direct superior. The service authority shall ensure that the civil servant is informed of the approved adaptation education plan no later than on the day of commencement of the civil service. The service authority keeps a register of mentors.

**A mentor** may be a civil servant if one of the following conditions is met:

- Is a graduate of a mentor training program that is provided by the service authority and is carried out by an in-service training institution or government department;
- Performs a civil service in a given service field for at least three years;
- Has a professional experience of at least five years.

A mentor may also be a senior employee if:

- There is no one in the service authority who meets the conditions for becoming a mentor (see above);
- A new civil servant performs activities that no one else in the service authority performs;
- If a civil servant who fulfils the conditions for being a mentor is not present at the workplace due to a leave, service leave, education, qualification improvement, etc.
- If there is a senior civil servant and a minor civil servant in relation to the mentee.

### **Competence education**

Competence education under Section 164 of the Civil Service Act is the systematic training of civil servants with the aim of continuously maintaining, improving and supplementing the required knowledge, skills and abilities required for the performance of civil service; furthermore, the acquisition of special qualifications necessary for the performance of the civil service.

Types of competence training are:

- **Vocational** training relating to the performance of public service tasks, in particular in the field of legislation;
- The aim of **language training** is to systematically maintain and improve the knowledge of state language and a foreign language, especially for those employees whose knowledge of a foreign language is required in relation to a given post; service authorities put particular emphasis on knowledge of English, French and German and provide individual and group courses for this purpose;
- **Management** training is aimed at acquiring and deepening the knowledge, skills and abilities required to perform senior management duties;
- **Personal development** education includes educational activities that develop characteristics and social competence;
- **Information technology** education.

Each senior employee must, by 31 January, elaborate **an individual competence training plan** for the civil servant reflecting the required competence of the civil servant which is specified in the description of the service post and reflecting the service performance appraisal. An individual competence training plan shall be evaluated by 31 December.

In case the service authority pays direct costs of EUR 2,500 for a competency training of a civil servant within one calendar year, he / she is obliged to remain in service for one year from the end of his / her competence education. The service authority is obliged to inform the civil servant of this fact. If a civil servant wishes to continue with his competency training in a given year, the service authority will conclude an agreement on competence training based on the qualification agreement (see below). In case that a civil servant's service is terminated on his own request before the expiry of his contract, the civil servant is obliged to pay, in whole or in part, the costs connected with the competence training exceeding EUR 2,500 depending on the length of service. The service authority keeps records of the competence training of state employees.

### **Qualification enhancement**

Qualifications enhancement is under Section 165 of the Civil Service Act defined for the purposes of the Service Act as obtaining a higher level of education by a civil servant in accordance with the specific requirements and needs of the civil service. If a civil servant applies, the service authority may allow a civil servant to enhance his / her qualifications, always in accordance with the needs of service authority. The agreement on qualifications enhancement besides the type of study and personal data also includes the period during which the civil servant is obliged to remain in service after the qualification has been enhanced. In addition, the agreement lists the types of costs that civil servants have to pay if they terminate their service at their request before the specified time.

The civil servant is granted leave for studying, two days for preparation and passing the examination according to the study plan, 20 days for the preparation and passing each state examination in the first and second degree of university education, five days for the preparation and passing the

doctoral examination, ten days for the final examination in the first and second degree of university education, 20 days for the final thesis in the third degree of university education and five days for the preparation of the defense of the thesis. A civil servant is entitled to a functional salary for the time that he spends studying. The service authority monitors the course of study and the civil servant is obliged to submit the test results. In case that a civil servant fails to complete his / her studies successfully, he / she must reimburse the service authority for the cost of the qualification enhancement;

**What legal regulation governs the training of civil servants?**

Act No. 55/2017 Coll. on Civil Service and on Amendments and Supplements to Certain Acts, Decree No. 126/2017 Coll., which stipulates details on the training of civil servants.

**Is the education of civil servants centrally managed or decentralized?**

It is decentralized, each service authority plans, organizes, ensures and educates its civil servants while respecting the following principles: systematism, flexibility, economy and efficiency. The service authority creates conditions for the training of civil servants through continuous training and enhancement of qualifications. The training courses are mainly provided by the service authority and by the in-service training institution accredited under Act No. 568/2009 Coll. on lifelong learning and amending and supplementing certain laws. However, the Office of the Government of the Slovak Republic, as the coordinator of the Civil Service Act, establishes the Center for Education and Evaluation (hereinafter referred to as "the Center"), which provides training for all state employees, particularly in areas arising from the new Civil Service Act. The aim of the Center is to provide all civil servants with the same standard of education in the areas concerned and also to make it easier for the service authorities, which are obliged to provide training activities for their employees. Training activities are provided free of charge. The Center is fully funded by the 45-month project called Assessment, Testing and Methodology Center for Human Resources. For this reason, the center offers its services free of charge to the service authorities. The methodology team consists of 6 internal employees and 2 experts- human resources specialists.

The role of the Center is to support professional civil services, in particular to increase the number of senior civil servants with higher competencies, which guarantee high-quality and professional performance of the civil service. Since June 2017, it has been offering courses to support the ability to effectively manage and motivate its employees, to provide assistance and support to newly recruited civil servants, and to use effective methods to verify skills and capabilities in the process of filling service posts at all levels.

On 31 December 2017, more than 1,000 civil servants were trained at the Center in courses called the Managed Selection Interview, Mentoring, Service Posts Analysis, Basic Managerial Skills and Conducting Assessment Interview. Individual courses are attended by employees from various service authorities, which in addition to development in a particular area also allows for the exchange of experience and the sharing of good practice across the government.

**Who is responsible for the training of public employees?**

**Service authority** is responsible for the training of public employees, which **organizes and manages the process of planning and evaluating education according to the organizational structure of the service authority.** By 28 February of each year, the service authority must draw up **a training plan for a calendar year, approved by the Secretary-General.** The senior employee then ensures the evaluation of the training of his / her civil servants for the previous calendar year by January 15th. By 15 February, the service authority shall draw up **an evaluation report for the previous calendar year,** approved by the Secretary-General. The service authority may order the public servant to participate in the training event if this is in order to ensure the performance of the task.

Education costs are divided into two categories: **direct and indirect.** There is a direct participation fee, the cost of purchasing study materials and other costs associated with participating in educational activities. Indirect costs are functional salary and tax payment for the time when a civil servant participates in educational activities. The service authority will allocate funds from the budget for the training of civil servants for a given calendar year to cover the direct costs of 0.5% calculated from the sum of the tariff salaries awarded to civil servants by 31 December of the previous two calendar years.

**Does the education system for senior civil servants differ from the education system for ordinary civil servants?**

The education system for senior civil servants is not different, it is only extended by managerial education (see above).

**What is the connection between the education and the career system (the education programs as a prerequisite of the participation in the selection procedure)?**

As the Civil Service Act does not regulate the career system, there is no connection between the education and career system.

**What is the connection between the education and the service performance appraisal (is the choice of the education based solely on the performance appraisal results, operational needs, some general plan without performance appraisal results being take into consideration or are there more criteria combined), and how much important is the education for the performance appraisal itself?**

Under Section 164 (3) of the Civil Service Act, each senior employee must, by 31 January, elaborate an individual competence training plan based on the competence requirements of a civil servant stipulated in the job description and on service performance appraisal results. The civil servant is obliged to participate in and evaluate educational activities. The civil servant's individual plan shall be evaluated by 31 December.

Competence education is a part of continuous education. Continuous education planning and evaluation is done at both civil servant and service authority level. By 28 February each year, the service authority shall draw up a training plan for a calendar year approved by the Secretary-General. The senior



employee will ensure the evaluation of the training of civil servants in their organizational unit for the previous calendar year by 15 January. Subsequently, by 15 February, the service authority shall draw up an evaluation report on continuous education for the previous calendar year, approved by the Secretary-General.

The service performance appraisal also assesses the attitude to personal development and to the education, which is primarily focused on the shown interest of the civil servant and on the use of available educational opportunities. For this area it is possible to get ten out of the maximum of one hundred points.

### 3.13.12 The Termination of Service

**How is the issue of the termination of service regulated? What types of termination of service (e.g. by law, by the decision of the competent authority, on request, etc.) are there?**

It is possible to terminate the service by an agreement on the termination of service, by notice, immediate termination and termination in the probation period. There are also cases where the service ends by law. The service is terminated by the death of the civil servant or by a court decision to declare the civil servant dead.

**The service termination agreement** is in writing and is concluded between the service authority and the civil servant. The reasons for termination must be stated in the agreement if the civil servant insists on them. In addition, the reasons for termination of service must be stated in the agreement if the civil servant has lost the required health condition to perform the job and the service authority does not have another suitable post for him or the civil servant does not agree with a permanent transfer to another location. Furthermore, the reasons for the termination of service must be stated if the service post is to be abolished, has been abolished or terminated as a result of the organizational change and the service authority does not have a suitable service post for the civil servant or the civil servant disagrees with the permanent transfer to another service post. In case that an organizational unit of a senior civil servant has been abolished as part of the organizational change and the service authority does not have another suitable post or civil servant with a permanent transfer to the offered post, the service is terminated by agreement.

The service authority and the civil servant may give **notice** of termination and it must be in writing. A civil servant can give notice for any reason or without giving a reason. The service authority may give notice to a civil servant if he / she loses the required health condition, his / her post is to be abolished, has been abolished or terminated as part of the organizational change. In case that a civil servant has been dismissed as a result of the abolition of a post, the service authority must not re-establish the post and fill it with someone else for two months following the termination of the service.

**The notice may be withdrawn**, but only in writing.

The notice period is two months and begins on the first day of the calendar month following the delivery of the notice. In case that at the time of the notice period, the post of a civil servant, who has been dismissed by the service authority due to a loss

of the required health condition, is abolished or terminated, the notice period shall cease and the service shall continue.

**Removal from a senior post** can be under Section 61 of the Civil Service Act made by Secretary-General and is possible in case:

- The senior civil servant no longer fulfils the assumption of integrity;
- Achieved satisfactory results in the service performance appraisal for the calendar year;
- For health reasons, he cannot perform his duties for more than six months;
- Asks for being removed.

The Secretary-General also, in accordance with Section 62 of the Civil Service Act, notifies the senior civil servant in writing of the termination of his office by virtue of the fact that:

- A change in the organizational structure, which abolished the organizational unit managed by the senior employee;
- Abolition of the service authority.

The service authority shall not give notice to a civil servant in the protective period under Section 76 of the Civil Service Act.

**The protective period** is the time when a civil servant:

- Is in temporary incapacity for work due to an accident or illness (not due to consumption of alcohol, narcotic drugs, psychotropic substances), in spa care or in institutional care;
- Performs extraordinary service in times of crisis or at the time of the delivery of conscription;
- Performs voluntary military training;
- Is pregnant, on maternity leave, parental leave or as a lone civil servant cares for a child under three years of age;
- Has been released for public office in the long term;
- Is recognized temporarily unfit for night work and performs civil service at night;
- Is excluded from service (this does not apply in the cases referred to in Section 66 of the Civil Service Act, i.e. if he has been held in custody or accused of committing an intentional crime);
- At the time of taking leave of service under Section 102 of the Civil Service Act (performance of an office incompatible with the performance of a civil service, performance of a position in a trade union organization, etc.).

The prohibition of dismissal at the time of protection does not apply in cases where it is possible to terminate the service immediately, in the case of repeated minor breaches, with the exception of employees on maternity or parental leave or pregnant employees.

Under Section 78 of the Civil Service Act, a **service authority may immediately terminate** a civil servant's **service** if a civil servant seriously violates the service discipline and receives a warning about the breach. Within two months from the notification of a repeated minor breach of service discipline, the service authority may immediately terminate a civil servant's service within one year of the date on which the reason for the immediate termination arose.

The service authority cannot immediately terminate a service

with a pregnant civil servant, a civil servant on maternity leave, on parental leave or with a civil servant caring for a child under three years of age.

**A civil servant may** under Section 79 of the Civil Service Act **immediately terminate a service** if:

- A civil servant, on the grounds of a medical opinion, cannot perform the civil service without seriously endangering his health, and the service authority does not transfer him to another suitable post within 15 days of the date of submission of this opinion;
- The service authority did not pay him the salary, travel allowances, stand-by compensation, compensation for temporary incapacity for work, or part thereof, within 15 days of their due;
- A public servant is directly threatened with life or health.

The civil servant may immediately terminate the service within one month of the date on which he learned of the reason. A civil servant is entitled to twice the last salary. The immediate termination of the service must be in writing and the reason must be stated.

**Termination in the probation period** must be made in writing and there is no need to state the reason. As a rule, a probationary termination notice is given three business days before the date on which the service is to be terminated, or on the date indicated in the probationary termination notice.

In the probationary period, the service authority may terminate the service of a pregnant civil servant, a mother by the end of the ninth month after giving birth, the breastfeeding mother only in exceptional cases not related to her pregnancy or maternity. This termination must be duly justified, otherwise it is not valid.

**Termination of service by law** occurs under Section 82 of the Civil Service Act in the following cases:

- By the expiry of a definitive time period
- A final judgment by which a civil servant was convicted of a criminal offense,
- By a final judgment of wilful crime,
- A final judgment on the conditional cessation of criminal prosecution for an intentional crime,
- By a final judgment for a negligent offense, unless the execution of a custodial sentence has been suspended;
- By limiting legal capacity,
- Failure to pass special qualifications examinations within the specified time limit
- The loss of citizenship,
- Expatriation from the Slovak Republic,
- The last day of the calendar year when the civil servant reached 65 years of age.

A civil servant may, pursuant to Section 87 et seq. ask the service authority **to investigate the termination** of service which arose due to the abolition of the service post. The request for review must be made within five days of the date of receipt of the notice. The time limit and the manner in which the results of the investigation are delivered shall be determined by the service authority itself on the grounds of Sections 31 and 32

of the Civil Service Act, but always in proportion to the action.

Both a civil servant and a service authority can appeal within two months of the termination of service by notice, the immediate termination, termination during probationary period, or by agreement at court agreement on the grounds of invalidity of this action. This service lasts until the final decision of the court.

**Is the termination of the civil service connected with any financial compensation? (e.g. the end-of-service allowance, severance pay, cash settlement, etc.)? Under what conditions and to what extent is this compensation provided?**

After the termination of service, the civil servant is under the Civil Service Act entitled to compensation money or severance pay.

A civil servant is under Section 83 of the Civil Service Act entitled to a **severance pay** if he has been dismissed under Section 75 (1) (a). 1, Letter (a) of the Civil Service Act, because he has long lost the required health condition to perform a service in a particular service post, or pursuant to Section 75 (1) (a) of the Civil Service Act. (b) his or her post should as a result of an organizational change be abolished or has been abolished or terminated. He / she is entitled to the severance pay even if he / she terminates the service for the same reasons as mentioned above by agreement.

If the service lasted for at least a year and a maximum of two years, the civil servant is entitled to twice the salary he / she had at the time when the reason for the termination of the service arose. If the service lasted least two years and not more than five years, he shall be entitled to three times the salary, if the service lasted at least five years, he is entitled to four times his salary.

The same severance pay is also paid to the senior civil servant who terminated the service according to § 75 par. (c) and (d), i.e. it has been removed from the post of managerial staff and cannot be permanently transferred to another suitable service post. Similarly, Section 83 (6) governs the severance pay of a public servant or a member of the Civil Service Council.

If a civil servant has lost the required health condition due to an accident at work, even if he complied with all safety regulations, he is entitled to ten times his salary.

If a civil service of a civil servant is re-established before the time specified by the severance grant expired, the civil servant must pay the severance pay, or a proportionate part of it back to the service authority. The civil servant is obliged to pay the severance pay back within 15 days of the recurrence of the service. The service that received the redemption must notify the service authority which the civil servant entered.

The severance pay is paid at the earliest possible date specified by the salary paying service authority, unless otherwise agreed with the civil servant.

The **end-of-service allowance** is paid pursuant to Section 84 of the Civil Service Act at the end of service after the entitlement to early retirement pension, retirement pension or disability pension. The end-of-service allowance corresponds to the amount of the last salary awarded.

According to the Collective Agreement of the Greater Level in

the Civil Service for 2019-2020, collective agreements in the organizations may provide for this allowance above the limits given by Section 83 of the Civil Service Act and the amount of the allowance may be more favourable manner than provided for in Section 84 of the Civil Service Act.

**Does a non-competition clause or any other similar institute apply after the termination of service? To what extent?**

Pursuant to § 111 para. 1 let. (d) the civil servant has an obligation not to misuse the information obtained in connection with the performance of the service for his own benefit or the benefit of someone else. This also follows from the principles of the civil service (Articles 1 and 5). The prohibition of competition is not explicitly regulated.

**What other institutes are connected with the termination of service?**

Pursuant to Section 85 of the Civil Service Act, the service authority shall issue a written service opinion to the civil servant, if so requested in writing, within 15 days of receipt of the request. The service authority is not obliged to issue a service opinion to the civil servant earlier than two months before the termination of service. A service opinion may only contain facts relating to the performance of the civil service. The basis for the service opinion is the civil servant's personal file.

Another institute is a **civil service confirmation** issued by the service authority under Section 86 of the Civil Service Act on the day of termination of service or at the latest on the day preceding the temporary transfer or permanent transfer of a civil servant to another service authority. The civil service confirmation contains information on the duration of the service, the length of the qualifying practice, the activities carried out by the civil servant according to the description of the post, the civil servant's obligations related to the service, the order of deduction from the civil servant's salary functional salary of the civil servant, if so requested, the provision of the severance pay and the end-of-service allowance. In case of a confirmation for temporary or permanent transfer, it only contains information on the duration of the service and the duration of the qualifying practice.

## 3.14 THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

*The information on the British system was processed only in the first phase of the analysis.*

### 3.14.1 The Depoliticisation of State Administration

Due to the customary law tradition, there can be found relatively little information about the relationship between politicians and civil servants in the UK legislation. The constitution does not deal with the separation of the activities of ministers and their bureaucracy. In general, executive power is exercised through a bureaucracy under the leadership of ministers who are accountable to the Parliament. The state administration therefore does not have a separate subjectivity or responsibility from the government. (Harris, 2013<sup>1</sup>)

In 2010, **the Constitutional Reform and Governance Act (CRGA, 2010)** was adopted, which addresses, among other things, the civil service. For the state administration and civil service, it represented the first comprehensive standard in the form and strength of law. According to this law, the state administration is managed by the Minister for State Administration in the case of civil servants and by the Minister of Foreign Affairs in the case of diplomats. The relationship between the Minister and the bureaucracy therefore depends to a large extent on the personality of the Minister, his work style and priorities. (Harris, 2013, pp. 10- 11)

**The Civil Service Code**, which does not have the force of law, but is generally accepted and supported by the Prime Minister, regulates in more detail the relations between the ministers and civil servants. The Code also contains a commitment to treat government civil servants apolitically and not to require them to act in violation of the Code or another legislation.

In the view of the ongoing public administration reform in the UK, the role of the Minister for State Administration, who is at the top of the management hierarchy, is important. But even the roles, powers and duties of the Minister for State Administration are not described in the legislation. (Harris 2013, p. 12)

#### What institutes ensure the apolitical nature of state administration and state employees?

The adoption of the law on public administration reform (CRGA 2010). The first norm on the power of law addressing the relationship between the political and the bureaucratic line.

**The Civil Service Commission** was supposed to guarantee the independence of the civil service from the government since 1855, but it was not until 2010 that it found explicit support in the law. (Harris, 2013, p. 17)

#### Are the rights of civil servants to be a member of a political party and political movement restricted, or is only the performance of a function in a political party or political movement restricted? Does this restriction apply to all civil servants, or only to superiors or specific superiors?

**The Civil Service Code and the Civil Service Management Code (CSMC, 2016)** leave it to each authority to limit political activity at national and local level to all or some groups of its employees. If the exercise of political rights is restricted, employees must be very well and clearly aware of it; if it is not restricted, they must be informed that this may be the case if the circumstances so require. (CSMC, point 4.4)

#### Can civil servants be members of local councils?

See the answer above.

#### Where and how is the boundary set between the posts filled on the grounds of political agreements and the posts filled on the grounds of competitions in ministries and other administrative authorities?

There is the **Permanent Secretary** or the Head of Civil Service in each Department at each ministry. This is the highest civil service, apolitical position, which is filled in accordance with the CRGA and other standards of civil servants. The Secretary manages the day-to-day running of the ministry. At the top of the state apparatus stands **the Secretary of the Entire State administration**, which is the highest civil service position in the entire state administration. The post of secretaries is filled in cooperation between the civil service level (Commission, selection committee) and the political level (ministers, the Prime Minister). The selection of secretaries must be made in accordance with the CRGA, **the Recruitment Principles (RP)** and for an indefinite period, i.e. independently of the electoral political cycle.

The CRGA introduces **the status of special advisers** who are not in the civil service and are appointed politically. Special advisers are not subject to many provisions of the law, they do not have to perform their work impartially and objectively, as is the case with other civil servants. They are appointed by the Prime Minister, but in fact the Departmental Secretaries of State have a free hand in employing special advisers. The CRGA prohibits special advisers from deciding on the use of public resources and directing civil servants. Each year, the Minister for State Administration must submit a report on special advisers to the Parliament. (CRGA, Art. 15-16)

#### What are the mechanisms to prevent the "removal" of a civil servant from service by the purposeful abolition of such a service post?

Civil servants have the opportunity to appeal to **the Civil Service Appeal Board (CSAB)**. It is an independent three-member body, with one trade union representative and one management representative. The board will hear complaints in areas such as restrictions on political activity, dismissal, early retirement, non-recognition of pension rights, non-payment of redundancy payments. (CSMC, point 12.1)

#### Is political power allowed to decide on employment matters of civil servants?

As follows from the above, the legislation is very general, much more dependent on unwritten rules. (Harris, 2013)

<sup>1</sup> Josh Harris, Institute for Government, London, 2013

### 3.14.2 The Possibilities of Compensation for the Obligations of Civil Servants

**Is the termination of employment connected with special pecuniary claims (redundancy pay, severance pay, end-of-service allowance, service rent and pension contribution)? Under what conditions and assumptions?**

The Civil Service Compensation Scheme (CSCS) is a detailed standard that addresses claims and compensation after leaving the civil service. At the moment, a new version is in the process of creating and approving, in November 2017, public consultations were completed.<sup>2</sup>

**Are there any fixed salary tariffs for the performance of civil service?**

Every year, the Cabinet Office (the Office of the Government) issues salary grades for the remuneration of managerial positions (3 grades). The authorities have the power to set their level of remuneration of the top management and a system of remuneration for all employees, while respecting salary grades, budget limits and other rules. (CSMC, point 7.1)

**How are variable components of salary (personal allowance, remuneration, etc.) granted to civil servants?**

They are the responsibility of the individual service authorities. Remuneration for senior / top positions must be in line with the remuneration framework for senior positions. Deviations from the framework must be approved by the Office of the Government. (CSMC, point 7.1.9)

The Office may grant its top management an entry allowance, a stay allowance, a London allowance, and a secretary allowance. (CSMC, point 7.1 of Annex B)

**Are civil servants favoured in the field of social security or health care system?**

There is a special pension fund. (CRGA)

**Is the scope of the prescribed working hours of civil servants different from the prescribed working hours of employees?**

Section 9.1 of the Executive Code of State Administration deals with working hours. The determination of working hours is within the competence of the service authorities. The service authority must clearly stipulate the compensation for overtime.

For senior management positions it must be at least 42 hours per week with an hourly break for lunch each day. To a reasonable extent, senior management is not entitled to compensation for overtime. (CSMC, Article 9.1.4)

**What work-family life balance tools are used to achieve balance between the performance of civil service and family life?**

Second household – the service authority may partially or completely compensate for the acquisition of a second household if the employee's family life is endangered. (CSMC, point 8.3.5)

**What benefits are granted to civil servants? Do these benefits differ depending on whether it is an ordinary employee or a manager?**

The authorities can provide support to employees in resolving the housing issue. It is not differentiated for the individual positions. (CSMC, points 8.3.6- 8.3.9)

Another benefits are stipulated at the level of the individual authorities.

**How many days of leave per year are civil servants entitled to? Is the scope of the entitlement to a leave for a civil servant different from that of an employee?**

It is within the competence of the service authority to determine the length of leave and its conditions. The leave system must not be in contrast with the performance of the public service in question and must comply with the legislation. The topic of leave is addressed in point 9.2 in the CSMC. It guarantees the following number of days of leave to senior executives.

The length of service	Number of days of leave per year
Up to 1 year	25 days
1 – 2 years	26 days
2 – 3 years	27 days
3 – 4 years	28 days
4 – 5 years	29 days
5 and more years	30 days

In exceptional and justified cases, new civil servants coming from the private sector may receive up to 30 days of leave.

In addition to all public holidays, civil servants are entitled to a day off on the Queen's birthday. (CSMC, point 9.2)

**Are civil servants favoured in the field of public transport? In the field of company catering? Are there more favourable conditions for the provision of tariffs for mobile and telephone operators agreed for civil servants?**

It is within the competence of the service authority to compensate employees for a part or all of the fare from home to work or to their original place of birth. (CSMC, point 8.2.6)

If a staff member is transferred to another place or has to move as a result of a new recruitment, the service authority has the power to compensate for the move or commuting. (CSMC, point 8.3)

**How is the further training of civil servants supported (beyond the performance of the service)?**

Tools for gaining experience from other service authorities – *mobility*: There is an institute of employee transfer. A civil servant may, without losing his status as a civil servant and his salary, be transferred to another organization from the private sector for a fixed period. Conversely, a private sector employee may gain temporary employment for the service authority. (CSMC, point 10.3)

<sup>2</sup> <http://www.civilservicepensionscheme.org.uk/members/civil-service-compensation-scheme-for-members/>

Experience in the *EU institutions*. The Code recommends that the authorities consider providing a job guarantee if a civil servant returns from a position in the EU institutions within five years. (CSMC, point 10.4)

### 3.14.3 Career Opportunities (Career Rules)

The service authorities have the power to extend the principle of mobility beyond the minimum framework set by the CSMC. The employee is obliged to accept another place of work if it is within a reasonable driving distance from his home. Senior managers can be reassigned to any position throughout the UK. The individual service authorities determine whether to extend the mobility to overseas territories. (CSMC, point 10.1)

The documents implicitly show that there is an internal selection procedure, it is simpler, it does not have to be open to the public, i.e. for what other situations it would be used. (RP)

The Code addresses the transfer for organizational reasons, not the will of the employee. In addition to the minimum framework set down in the Code, the service authorities have the power to regulate the conditions for the transfer of civil servants between authorities. At the level of the Office of the Government, the demand and the supply of the employees from the individual service authorities meet. (CSMC, point 10.2)

### 3.14.4 The Systemization and the Organization of Service Authorities

There is no centrally controlled systemization in the British system. Ministries and state administration authorities have the power to determine the number of positions, the number of management levels in the organizational structure and the number and the classification of the positions.

In the case of top management, in addition to the position of the Permanent Secretary, which is determined centrally, the service authority has the power to choose the organizational structure and to determine the salary grades at its discretion. It only has to respect the remuneration framework set by the Office of the Government. (CSMC, point 6.1.3)

In the case of other positions, the authorities must adhere to the strategy of the government for the development of the civil service and the remuneration in the public sector and adhere to budgetary limits when setting the organizational structure and the remuneration policy. (CSMC, points 6.1.1 and 6.1.2)

### 3.14.5 Selection Procedures for Filling Vacancies

The selection procedure is conducted in accordance with the **Recruitment Principles (RP, 2015)** issued by the Commission. (Constitutional Reform and Governance Act 2010, Art. 10). The Commission monitors the selection procedure through regular audits (Harris, 2013, p. 17). The Commission therefore has a proactive role in the area of admission procedures. The secretary of the ministry (the highest-ranking civil servant in the ministry) is responsible for the compliance of the selection procedures with the Recruitment Principles. The Commission may control the setting of the admission procedure at a specific service authority and request an adjustment or a change. (DP, Art. 54-56)

The Recruitment Principles of 2015 contain an annex focusing on exceptions to the standard procedure, such as cases of fixed-term employment, special interest of the ministry, employment of disadvantaged persons, specified transfers from other service authorities. (RP, Annex A)

#### Is the selection procedure conducted as an administrative procedure or is it excluded from the formal process?

The law contains a minimum of information, specifically binding for the management of human resources in the state administration. A large degree of autonomy in human resource management is formally left to the individual service authorities. On the other hand, the Office of the Government responsible for state administration reform publishes optional manuals and handbooks down to the last detail. In the case of a selection procedure, there is, for example, a handbook called the Civil Service Resourcing – Recruiter Guidance

#### Is it necessary to interview all applicants who have met the formal conditions for the participation in the competition (they have provided all the necessary documents)? Or is it possible to select only some of the applicants to be interviewed? If so, who and according to what criteria makes this selection?

The interview does not have to be part of the selection procedure at all. If the interview is part of a selection procedure, then it must be conducted with all applicants as stipulated in the terms of the selection procedure. (RP)

#### Who conducts the interview and who can be present? Who can ask the candidate questions during the interview? Only the selection committee or even the superior?

By law, a member of the Commission may be present in the selection procedure. (CRGA)

The selection committee consists of two or more members. The selection committee is chaired by a civil servant, in the case of the most important positions by one of the commissioners of the Commission for State Administration. (RP)

#### Who evaluates the applicants in the selection procedure (whether they succeeded in the selection procedure or not)? A multi-member selection committee? The superior? Another body?

Multi – member selection committee.

The minister may request that the chairman of the selection committee consult him on the setting of the selection criteria and conditions. The final version of the selection criteria and the form of the selection procedure must be submitted to him by the chairman of the selection committee for approval. (DP, Article 32)

The minister may request a meeting with a shortlist of candidates to discuss their priorities and views on holding the position. Personal meetings may give rise to a request to the selection committee for what should be tested during the selection procedure. A member of the Civil Service Commission must be present at the meeting of the minister with the candidates. The minister may not be a member of the selection committee and may not add or exclude any candidate. (DP, Article 34)

The selection procedure differs according to the position to be filled. In the case of filling the position of the Permanent Secretary or the Head of Civil Service in each Department, which is the highest civil service, apolitical position in the ministry, the selection committee must be chaired by the High Commissioner, who is responsible for adequately informing and involving the minister and the Prime Minister on the selection procedure. The selection committee will select candidates who meet the basic criteria and are according to the selection committee able to perform the position of secretary well. The list of pre-selected candidates goes to the Prime Minister. The Prime Minister, after consulting it with the High Commissioner and the Secretary of State Administration, will select the candidates. If the Prime Minister wishes to meet the candidates in person, he must meet all the candidates and in the presence of the High Commissioner. (DP, Article 38)

The commissioners of the Civil Service Commission must be members of selection procedures from the level of section directors. In common practice, commissioners chair selection committees even at the level of selection of union directors, if not internal. The departments of the service authorities must inform the Commission of the forthcoming selection procedure and the Commission will announce whether and in what form it will participate in the selection committee. The Commission may decide whether the Commissioner will chair any public selection procedure. The commissioner is then responsible for setting the admission criteria and conditions of the selection procedure, as well as for informing the minister if relevant for the position. (DP, Articles 39-47)

**Who selects the most suitable applicant in the selection procedure, who will eventually be appointed to the civil service? The selection committee? The superior? Another body?**

The selection committee will make a list of the candidates on the grounds of predetermined selection criteria. (RP)

The selection committee must evaluate all aspects / questions of the minister for all candidates. The selection committee recommends the most suitable candidate for the admission, if the minister is not satisfied with the recommendation, he may, stating the reasons, ask the selection committee to reconsider the selection. The selection committee may reconsider the candidates, the reason for the change must be recorded and the selection committee must obtain the approval of the management of the Civil Service Commission. (DP, Article 35)

In the case of the Permanent Secretary of the ministry and the Chief Secretary of the State Administration, the final selection is in the hands of the Prime Minister (see previous question).

**How can applicants who have been identified as unsuccessful appeal?**

All applicants (except for the internal minimum procedure) may lodge a complaint with the Commission, which must comply with the rules and procedures of the appeal procedure laid down by the Commission.

First, complaints are resolved with the personnel department of the service authority, which was responsible for the organization of the admission procedure. If the complaint is not satisfied, it shall be forwarded to the Commission within 12 months of the end of the competition. (DP, Articles 61-62)

**How can applicants who have been identified as successful but have not been selected for the civil service appeal?**

The same way as in the previous question.

**3.14.6 Disciplinary Proceedings**

**If there is a disciplinary liability of civil servants, what disciplinary measures (sanctions, penalties) can be imposed on a civil servant (reprimand, salary reduction and others)?**

It is left to the authority of the service authority to set the disciplinary measures. (CSMC)

**Who decides that a civil servant has committed a disciplinary offense (the disciplinary commission, the superior, other body)?**

Disciplinary proceedings must be conducted by a superior, at least one level higher in the organizational structure. (CSMC, point 4.5.6)

In the case of senior management, disciplinary proceedings should be conducted by the Permanent Secretary of the service authority. (CSMC, point 4.5.7)

**What are the possibilities of defense of a civil servant in the matter of his disciplinary liability (appeal, action before an administrative court, other)?**

Appeal. The appeal must be decided, if possible, by a person one level higher than the superior who imposed the disciplinary measure. Where possible, appeals should be conducted by someone independent of the previous decision. (CSMC, point 4.5.6)

**3.14.7 Service Examination**

The service examination is not mentioned in the law or in the codes. The admission to the state administration includes testing at a general level, trial versions are easily available on the Internet. The testing focuses on the field of mathematics (graphs, percentages and data analysis), analytical thinking in the form of answers to questions after reading the text, the assessment of situations, personality test. Only successful completion of the online test will allow entry into the other parts of the admission procedure.

**3.14.8 Service Performance Appraisal of Civil Servants**

The salary increase is subject to the evaluation three years after the increase. (CSMC, Article 7.1.4)

**3.14.9 The Principles of Ethics in the Civil Service**

**What regulations govern the principles of ethics in the civil service?**

Since 1996, the Civil Service Code. The code is approved by the Parliament and is binding on the entire state administration. The Code is regularly updated and supplemented, the latest version was approved by the Parliament in 2010. (Harris, 2013) Since the adoption of the Reform Act in 2010 (CRGA), the

Minister for the Civil Service has been required by law to adopt a code of ethics. The Code of Ethics is automatically part of the working conditions of every civil servant. It sets the values and standards of the behaviour of a civil servant.

**Is it possible to impose any sanctions in case of violation of ethical rules? If so, which ones?**

The Civil Service Commission deals with the complaints of breaches of the code of ethics. (CRGA)

**3.14.10 Work-family life Balance (WLB)**

Section 9.3 of the CSMC is devoted to the maternity, paternity and alternating parental leave. Fathers are entitled to two weeks' paternity leave at the birth of a child. The Code stipulated the conditions for the additional parental leave and is partly again within the competence of the given service authority to set up a system for taking parental leave. (CSMC, point 9.3)

Second household – the service authority may partially or completely compensate for the acquisition of a second household if the employee's family life is endangered. (CSMC, point 8.3.5)

The service authority may compensate the staff member's travel expenses. This institute is associated with a high degree of mobility, which may even cover the whole of the British Community. (CSMC, points 8 and 9)



## 3.15 THE FEDERAL REPUBLIC OF GERMANY

Information about the German system was processed in the first and the second analysis phase.

### 3.15.1 The Depoliticisation of the Public Administration

#### Which institutes ensure the depoliticisation of public administration and civil servants?

The apolitical nature of civil service arises from a service oath, the wording of which is set down in Section 64 of the BBG. Here is directly stated: "I swear that I will observe the Constitution and all applicable laws of the Federal Republic and I will dutifully fulfil my duty, to which God will help me."

BBG in § 60 (1) stipulates as the first duty of a civil servant, to serve all the people, not one party. The civil servant must perform his duties impartially and with respect to the well-being of all. Compliance with this obligation is then ensured, inter alia, by a complicated disciplinary proceeding and disciplinary liability mechanism. However, it should be emphasized that the demand for apoliticality is in contradiction with the existence of so-called political civil servants, who BBG also expressly counts with.

#### Are the rights of civil servants to be a member of a political party or a political movement restricted, or does the restriction concern only holding of a post in a political party or a political movement? Does this restriction apply to all civil servants or only to senior civil servants?

The right of a civil servant to be a member of a political party is not restricted and this right is not restricted even in relation to the superior. In Paragraph 40 the BBG, only regulates the incompatibility of the service with the exercise of certain elected functions, such as the post of a Member of the Bundestag, a Member of the European Parliament or membership of the Government at provincial level.

#### Can civil servants become members of local (regional) councils?

Yes, civil servants may under Section 27 (5) BBG be members of local councils.

#### Where and how is the boundary between posts held on the basis of political agreements and posts held on the basis of selection procedures in ministries and other state authorities defined?

BBG in Section 8 (1) expressly states that vacant posts are filled on the grounds of a selection procedure. However, the law empowers the government to define exceptions through government regulations. It is a government regulation regulating the career system (*Laufbahnverordnung*). There are exceptions for which there is no obligation to announce a selection procedure. This exemption applies, for example, to state secretaries, departmental directors in ministries, directors of the federal administrations, directors of service authorities directly subordinated to ministries, as well as to the posts of personal assistants of directors of the highest administrative

authorities and the posts of parliamentary secretaries.

What is important in this context is the notion of the term **a political civil servant**, which is used by law without any further definition. The so-called political civil servant is as a rule a civil servant with a tenure. In addition, the condition that a civil servant performs his office in a service place and in accordance with the fundamental political direction of the government has to be fulfilled. Another condition is that the post occupied by a political civil servant is the post for which no selection procedure is made. A register of the so-called political civil servants, resp. the register of the posts occupied by political civil servants is set down in Paragraph 54 of the BBG and further in Paragraph 4 (2) of the BLV. These include state secretaries, departmental directors in ministries and directors of the federal administration authorities, directors of departments directly subordinated to ministries, as well as posts of personal assistants of directors of senior administrative authorities and posts of parliamentary secretaries. Personal assistants and parliamentary secretaries are not considered civil servants and are not in civil service. The status of parliamentary state secretaries is in Germany governed by a special law (ParlStG).

#### What are the mechanisms preventing the "removal" of a civil servant from a post by means of a formal abolition of such a post?

The basic mechanism to prevent the removal of a civil servant in virtually any case is the tenure, that is to say, non-terminability except for statutory reasons.

#### Is the political power allowed to decide on the employment issues of civil servants?

In essence, this is made possible through the so-called political civil servants. However, interventions by political power are regulated by the obligation stipulated in § 60 paragraph 1 BBG. It requires civil servant to always act in the interest of the people, not in the interests of the party.

#### Are there organizational units in the ministries that include employees providing activities for a member of the government related to political power (similar to the ministries in the Czech Republic)?

As a rule, there are three different departments subordinated directly to the minister established at the ministry. It is the office of the minister, a press and information department, and finally there is a cabinet that is exclusively responsible for the agenda associated with parliamentary issues of the minister. The Parliamentary Secretary of the State also provides direct political support to the minister.

### 3.15.2 The Opportunities for Compensation of Civil Servants' Duties

#### Is the performance of the civil service associated with special salary entitlements (special bonus or something similar)? Under what conditions and assumptions?

Service performance is associated with a range of special payments and supplementary allowances. The legislation is contained in the **Act on Remuneration (BBesG)** and in a number of implementing regulations, in particular government

regulations. In addition to the basic salary component, the civil servant is entitled to an obligatory family supplementary allowance and other special payments and supplementary allowances depending on the conditions for their payment.

**Family supplementary allowance:** This is a basic supplementary allowance, the amount of which varies depending on the family status and the number of children. According to BBesG, the entitlement to a family allowance arises not only for spouses but also for registered partners. In addition to the information above, the family supplementary allowance is also influenced by the salary grade, to which the civil servant belongs, and it is in the amount of tens of euros.

**Holiday and Christmas supplementary allowance:** It is merged into a special one-time allowance, which is paid as the 13th salary. There is no statutory entitlement to this allowance and it is contained in a collective agreement. The current collective agreement determines the stratification of this premium and its amount according to the salary grade of a civil servant. The above is stated in the collective agreement as a percentage of the civil servant's tariff base. A prerequisite for the payment of this special allowance is the duration of service on the first December of the year for which the allowance is to be paid. The special allowance is then reduced by one twelfth for each month in which the civil servant is not entitled to a salary.

**Ministerial supplementary allowance:** this is a special supplementary allowance that is paid to civil servants in the highest posts. The supplementary allowance is paid depending on the civil servant's position and the amount is variable.

**Jubilee supplementary allowance:** The anniversary of 25, 40 and 50 years of service is connected with the entitlement to this payment.

**Supplementary allowance for exercising an office:** This is a special supplementary allowance in cases where a civil servant has a time-limited office. This supplementary allowance depends on the length of the performance of the office.

**Overtime service supplementary allowance.**

Supplementary allowance for service **at the weekend or under difficult conditions.**

Supplementary allowance for **service abroad.**

**Is the termination of service connected with special pecuniary claims (redundancy pay, severance pay, end-of-service allowance, service rent and retirement benefit)? Under what conditions and assumptions?**

Under Paragraph 39 of the BBG, once a dismissal is made, the former civil servant is not entitled to any salary or any other pay.

**Are there fixed pay tariffs for civil service performance?**

Yes, there are. In Germany, salary grades are partially equivalent to service grades and other subdivision whereby civil servants are assigned to a particular service post. The division itself is as follows.

The basic classification is made on the grounds of salary groups. Ordinary civil servants belong to salary group A, and some senior civil servants and high-ranking civil servants belong to salary group B.

**Salary group A** is then divided into grades ranging from two to 16, which are sorted in ascending order. **Salary group B** is not divided into grades. To each salary grade in group A correspond 8 salary steps and in group B there are eleven salary steps.

**How are variable salary components (personal supplementary allowance, bonuses, etc.) granted to civil servants?**

The Federal Act on Remuneration (**BBesG**) regulates two basic types of non-claim salary components, the performance supplementary allowance and the performance bonus.

**The performance supplementary allowance** is, according to Paragraph 42a of the BBesG, an unlimited allowance, which is awarded to the civil servant for his outstanding service results, in particular as a result of his service performance appraisal.

**The performance bonus** is a one-time benefit that is given to a civil servant for exemplary performance of a given task. The law stipulates that performance supplementary allowances and bonuses may, as a general rule, be awarded to a maximum of 15 civil servants performing a service in the service authority. As a rule, the amount of the performance bonus may not exceed 7% of the basic salary, which is set for the civil servant in his post. A detailed regulation on performance supplementary allowance and performance bonus is contained in a special **regulation on remuneration**, which is linked to the performance of the so-called BLBV.

Other non-claim salary components are, for example, a **holiday or Christmas supplementary allowance**. These were merged in 2006 into a special one-time premium paid at the end of the year in a form similar to the 13th salary. The current collective agreement regulating this premium determines the stratification of this supplementary allowance and its amount according to the grade to which the civil servant belongs. The amount is then stated in the collective agreement as a percentage of the civil servant's tariff base. A prerequisite for the payment of this special allowance is the duration of service on the first December of the year for which the allowance is to be paid. The special allowance is then reduced by one twelfth for each month in which the civil servant is not entitled to a salary.

In addition, BBesG provides in Section 43 for a special non-claim recruitment supplementary allowance which may be awarded to a civil servant. This is a supplementary allowance that can be paid for a maximum of 48 months, either as a monthly benefit or as a one-time contribution.

**Are public employees privileged in social security or health care system?**

The social security system in Germany is derived from the permanent status of civil servants and the resulting entitlement to a service rent. As the service rent is a specific benefit which is paid by the state from the budget and is not subject to any contributions from civil servants, civil servants are not obliged to pay contributions to the social security system. The special legislation then lays down the procedures for the case when the service of a civil servant is terminated. In these cases, a civil servant is so-called additionally insured and transferred to the social security system following his / her new employment, as a rule he / she will be covered by the statutory social security system.

The health insurance system is very different from that of ordinary employees. The so-called sickness benefit is paid to civil servants, covering a certain percentage of the treatment costs, whereas it is more than a half of the cost. In the rest, civil servants have to rely on private insurance.

**What are the differences in the provision of salary and sickness benefits when a civil servant is temporarily incapable of serving from an employee in employment?**

Civil servants are not provided with sick pay, but they are entitled to full pay under BBG and BbesG during their period of incapacity. In case of long-term incapacity, the civil servant may be retired on the grounds of incapacity.

On the other hand, in case of ordinary employees, the drawing of sickness benefits is regulated by the Social Code in Book V (SGB V). The entitlement to the payment of sickness benefit is from the first day of incapacity for work determined by the doctor. Under Paragraph 47 of the SGB V, the amount of the sickness benefit is 70% of the employee's regular gross income in the period prior to the incapacity for work, but that amount cannot exceed 90% of the net income. As a rule, the period prior to incapacity for work is the month for which the employee is entitled to a wage. Under Paragraph 48 (1) of the SGB V, the entitlement to sickness benefit is limited to 78 weeks of withdrawal due to one illness.

**Do working hours of civil servants differ from working hours of employees?**

The standard weekly working hours according to the Government Order on Working Hours (AZV) is 41 hours. The maximum weekly working hours must not in accordance with Section 87 (1) of the BBG exceed 44 hours on average. The normal working hours of an ordinary employee in accordance with Section 3 (1) of the Working Time Act may not exceed 40 hours a week, respectively, eight hours a day. In both cases, however, these are basic working hours, which has many alternatives and can be both extended and shortened.

**What work-life balance tools are available for public employees?**

A separate section deals with this issue.

**What benefits are granted to public employees? Do these benefits differ according to whether they are ordinary employees or employees in senior positions?**

The issue of benefits is addressed in the individual responses of this section and in the work-life balance section. As a rule, legislation does not distinguish between special entitlements belonging to ordinary employees and those belonging only to superiors.

A special benefit that is currently being developed and implemented is the state housing development benefit for civil servants, which mainly concerns large cities where the availability of housing is getting worse. This information was provided by a communication with the Federal Ministry of the Interior for the purposes of this analysis.

**Are there any tools to satisfy the cultural, sporting and recreational demands of civil servants?**

Tools for providing cultural, sporting and recreational benefits that are conceptually similar to Cultural and Social Fund (FKSP) do not exist.

**Is a public employee entitled to a healing holiday to boost his physical and mental health? Under what conditions and assumptions?**

A civil servant is entitled to a **curative stay** in order to maintain and to boost the physical health required to perform the service. A recovery stay may be partially or fully reimbursed if the following conditions are met. The need for a curative stay must be determined officially or by medical opinion, no curative stay has been paid during the previous three years, a civil servant has been continuously on duty for the past three years, neither a request for termination of service nor an initiation for termination of service have been made and finally the civil servant must remain in service for at least one year after his / her stay. The length of the stay is limited to three weeks, with the special rules governing allowances for civil servants in case of their incapacity, the so-called *Beihilfevorschriften*.

Furthermore, the government regulation on special leave also provides for special health leave due to a health condition, which is different from the curative stay. These types of leave are listed in a separate answer to the question "What types of paid leave can civil servants (study leave, indisposition leave, time off for personal matters, etc.)?".

**Is the survivor of a public employee (a wife, a husband, a dependent child) entitled to "a severance pay" if the civil servant's employment relationship ends with death unrelated to the performance of the service?**

Yes, he/she is. Under Paragraph 18 of the BeamtVG, in case of the death of a civil servant, the survivor of the civil servant is entitled to a mortgage payment of twice the monthly income of the civil servant or twice his service rent.

**Does the service authority provide civil servants insurance in case a civil servant causes damage to a service authority? Is the service authority insured for the cases, when the service authority causes damage to the third parties? Is the reimbursement (recourse) required from the civil servant in such a case?**

The service authority does not provide insurance for civil servants in case that the civil servant causes damage to the service authority. Under Section 75 of the BBG, a civil servant is liable for damage suffered by the service authority in cases where the damage was committed intentionally or through gross negligence. Information on whether the service is insured against damage is not available and does not follow from the legislation. It is also clear from Paragraph 75 of the BBG that a service authority is entitled to a compensation from the civil servant in question, provided that the damage was incurred to a third party due to the breach of the civil servant's duty during the performance of service.

**How many days of annual leave are public employees entitled to? Does it differ for the civil service employees and for the civil servants?**

According to Section 89 of the BBG, a leave is regulated by a government decree. Pursuant to Section 5 (1), a civil servant whose working hours are divided into five days in a calendar week is entitled to 30 days of leave in a calendar year. Ordinary employees are under Section 3 of the Act on Holiday entitled to a minimum of 24 days of leave. However, the employer may increase the number of vacation days.

**What kind of paid leave can public employees take (study leave, sick leave, leave for personal matters, etc.)?**

Paragraph 90 (1) of the BBG provides that the Government may, by regulation, lay down types of leave not directly provided for by the law, including the conditions under which the civil servant is entitled to a salary in case of such leave. To this end, the Government has issued **The Regulation on special types of leave (SurlV)**. According to this regulation, civil servants can take the following types of paid leave:

- Service leave to exercise active voting rights (§ 5 SurlV);
- Service leave for the purpose of fulfilling obligations to courts, prosecutors and other public authorities (§ 5 SurlV);
- Service leave for the purpose of fulfilling honorary duties (§ 5 SurlV);
- Service leave for education enhancement up to five working days in each calendar year;
- In the case of participation in government policy education, the civil servant is given another ten working days of leave. Extended leave of service can only be provided after two years of service (§ 9 SurlV);
- Service leave for the purpose of learning a foreign language. This leave is granted for a period of up to three months for the purpose of staying and learning a language in the country where it is an official language. The condition is that the service authority is interested in having a civil servant with knowledge of this foreign language (§ 10 SurlV);
- Service leave of up to ten working days to participate in civil defense exercises (§ 11 SurlV);
- Service leave of up to five working days for the purpose of serving in the bodies of organizations engaged in the assistance of disabled persons (§ 12 SurlV);
- Service leave of up to five working days for the purpose of exercising the right of association in a trade union (§ 15 SurlV);
- Service leave of up to five working days for the purpose of serving in different bodies of churches (§ 16 SurlV);
- Service leave of up to five business days to participate in top sports events (World Championships or Olympic Games) or to perform an office in international sports associations and organizations (§ 17 SurlV);
- Service leave for travelling to meet family in case of performing a service in a place different from that of the family. There are additional conditions which must be met in order to take this kind of leave (Section 18 of the SurlV);
- Leave for reasons arising on the part of the service authority. There are two working days for relocation in case of a transfer, three working days for relocation in case of transfer back to Germany and one working day for 25, 40 or

50 years of service (§ 19 SurlV);

- Service leave for health reasons in the necessary duration in special cases (§ 20 SurlV);
- Leave for personal affairs that is differentiated as follows:
  - Giving birth of a spouse or a registered partnership woman – one working day;
  - The death of a spouse, partner or a registered partner, parents or children – two working days;
  - Caring for a sick person living in a household with a civil servant who is dependent on the help of his / her surroundings – one working day;
  - Care for a sick child – four working days for any child who is under 12 or disabled;
  - Organ donation – for the duration needed.

**Are public employees somehow privileged in public transport? In the field of catering? Are there favourable conditions for the provision of tariffs for mobile and telephone operators for public employees?**

The legislation does not provide for any similar privileges. There is no public transport benefit for civil servants. The issue of catering is the responsibility of the individual ministries. As a rule, the individual departments offer canteen catering where food is sold for lower prices.

**How is further education of civil servants (beyond the scope of service) supported?**

The education beyond the scope of service is supported, for example, by various types of leave, some of which focus solely on training support. For example, a leave for a language study stay can be mentioned. However, training beyond the scope of the service is not regulated any way and therefore no further information is available.

**Is a public employee entitled to cash reimbursement for his clothing?**

Civil servants do not legally have the right for the reimbursement for their clothing. However, Paragraph 74 of the BBG provides that the Federal President or a delegate may stipulate conditions for the use of the official service clothing. However, the available regulation applies only to selected groups of civil servants, for example, in customs service or judges, etc.

**What are the possibilities for public employees (especially senior civil servants) in exercising the right to strike? Is the right to strike wholly excluded or only restricted for ordinary civil servants or senior civil servants?**

The right to strike is totally excluded for civil servants, as the continuity of the functioning of the state apparatus <sup>1</sup> would be impaired by exercising the right to strike. This prohibition results directly from the German Constitution.

**3.15.3 Career Opportunities (Career Order)**

**What determines the career advancement of a civil servant (e.g. education, the length of service, the performance of**

<sup>1</sup> <https://www.dbb.de/lexikon/themenartikel/s/streikrecht-und-beamte.html>

**administrative activities, experience with managing of staff, quality of service tasks – service performance appraisal, the age of a civil servants, etc.)? How often (at what intervals) can career advancement be achieved?**

In principle, the civil servant has two career development options. The first option is the so-called promotion (*Beförderung*) and the second is the so-called advancement (*Aufstieg*). There is no legal claim to career growth in either case.

**Promotion**

Promotion means a transition in a service authority without changing a career group. As the posts are systemised, the basic condition for the promotion is the vacant post to be filled by the promoted civil servant. Promotion under Section 33 (1) of the BLV carried out on the basis of a service performance appraisal of a civil servant, which reflects his / her knowledge and skills and professional performance in the performance of the civil service. BLV explicitly states that appropriate diagnostic tools, which are not specified, may also be used to examine whether a civil servant is eligible for the promotion. The promoted civil servant's probationary period is re-determined which may under Section 34 BLV not be less than six months and should not exceed one year.

**Advancement**

Advancement means a transition from one service group to the next higher service group. The conditions of the procedure are again stipulated by BLV, namely in Sections 35 to 41. The basic condition is the completion of the selection procedure and, as a rule, meeting the condition of the required degree of education for the given service group. The condition for participation in the selection procedure is that the civil servant has served at least for three years after the probationary period, he was not 58 years before the application deadline, and he is at least in his second office within his service group before the expiry of the application period and he was given the best or the second best evaluation mark in the last performance appraisal.

The time span of career advancement is not fixed and depends mainly on the capacity of the service authority, the resources allocated and the current staffing needs.

**Is there a standardized career order for the entire state administration?**

Basically there is. BLV is a regulation that regulates the establishing of a service, possibilities of its changes, based on the law and also regulates the career advancement.

**Does an existing public employee, who is interested in filling a post in a higher pay grade or at a higher level of public administration, have to go through a selection procedure to fill this post?**

The answer is in the question "*What determines the career advancement ...?*"

**Is it possible to transfer a civil servant from his current post to another post in another service authority in the same pay grade or at the same level, if he so requests without a selection procedure being held?**

A civil servant may be under Paragraph 28 of the BBG

transferred without holding a selection procedure solely by means of a transfer, if he was first assigned to that post pursuant to Paragraph 27 of the BLV. The transfer is a permanent change of service in the German regulation, the assignment is only temporary.

**Is there a probation period for a public employee in case of his transfer to another service authority? What is the legal regulation for such a repeated trial period?**

If the civil servant is transferred to another service authority but the scope of his duties remains similar, the probationary period is deemed to be fulfilled if it was fulfilled in the previous service authority. The abolition of the new probationary period is set out in Section 44 of the BLV. In case of a change in the scope of service tasks, the probationary period is newly determined.

The special probationary period also applies to civil servants who have advanced to a higher office. This probationary period may not be longer than one year, but may not be less than six months. The amendment is contained in Section 34 (1) of the BLV.

**Is a career advancement connected with any other benefits beyond the pay entitlements?**

In case of career advancement, all components depending on salary are increased proportionately to the importance of the office, and some additional allowances such as a ministerial supplementary allowance are raised. However, there was no information found on what other special benefits can be provided to civil servants in connection with a career advancement (company car, business phone, etc.). However, according to the general information available from the Federal Ministry of the Interior, it can be concluded that the authorities are free to decide whether their civil servants will be provided with special benefits in connection with their career advancement.

**Is there a legal provision saying that a public employee may not be transferred to a lower grade post without his consent?**

Yes, the permanent transfer is subject to the provisions of § 28 BBG. Here it is stipulated that a civil servant may be transferred, without his consent, only to a post with at least the same monthly income as the post to which he was assigned. Paragraph 28 (3) of the BBG provides for an exception to that rule, which says that, in case of a fundamental organizational change to the service authority, the civil servant may be transferred to a post with a lower monthly income if a post with the same monthly income is not available in that service authority. However, the civil servant's new monthly income may not be lower than the one at the post preceding the service post that was abolished.

**3.15.4 The Systemisation and Organization of Service Authorities**

**Is the question of systemisation in the state administration (the establishment of binding number of posts in service authorities in public administration, the distribution of these posts according to the scale of remuneration, the**

**determination of the volume of resources for salaries) regulated in the legal system?**

Yes, systemisation is regulated in the legal order. The obligation to carry out the systemisation is set down in Section 17 (5) of **the Act on Budgetary Rules (BHO)**. Systemisation is a part of the State Budget Act and its changes are possible only if the State Budget Act will count on them in advance and allow them.

**Is the question of the organizational structure of civil service authorities (the definition of the post, types of organizational units, minimum number of posts in these units, relations of superiority and subordination, etc.) regulated in the legal system?**

The organizational structure is generally set down by the Government Regulation on the Government's Rules of Procedure and the Common Rules of Procedure of the Federal Ministries in Chapter 3. The basic organizational units of the federal ministries are set there, and it is obligatory to publish a specific organizational structure of the ministry. In the joint rules of procedure of the federal ministries, the relations of superiority and subordination of the individual organizational units are further defined and the responsibilities of the individual departments for the performance of state administration in the given section are also determined.

**Is the procedural issue of systemisation and organizational structure (rules for processing and submitting proposals for systemisation and organizational structure) regulated in the legal system?**

Yes, in general, the rules are contained in the legal regulations governing the preparation of the state budget and state management. However, the detailed rules are not available.

**Who is responsible for the processing of the systemisation project?**

The Ministry of Finance is responsible for the budgetary plan and the State Budget Act and it also prepares a staffing plan and bears responsibility for it, as the staffing plan is a part of the State Budget Act as it is an annex to it.

**Who approves the systemisation and the organizational structure of a service authority?**

Systematisation is approved by the Bundestag within a legislative procedure and as a legislative body which approves the State Budget Act with all its mandatory annexes.

The organizational structure of the ministry is the responsibility of the service authority and the minister is responsible for it. The organizational structure is then subject to publication under Section 7 (4) of the GGO.

**What is the scope of systemisation and the organizational structure (which parameters are approved by the system approver)?**

The staffing plan captures the staffing status of the respective service authorities for the current year and for the following year, for which the budget is approved. Furthermore, there is a year-on-year change, both positive and negative. In the next section of the overview, there is an overview of vacancies along with the reason why the vacancy is not filled in the given

year. The staffing plan captures the status of both civil servants and employees who are contractually in the employment with the State. The numbers of the individual employees are given by salary grade, ordered from the highest to the lowest.

**Is the systemisation and the organizational structure approved for a certain period or indefinitely?**

Systemisation is approved for the same period as the state budget, i.e. usually for one year.

**What are the conditions allowing for changes to systemisation and the organizational structure (under what conditions is a change in systemisation and organizational structure acceptable and who approves it, or who comments on the change before its approval)?**

A change to systemisation, respectively, the staffing plan is basically not possible which is given by the way it is approved. It can be assumed that within the approved systemisation, adjustments can be made in the individual departments, but the limits set by the basic systemisation must be kept.

**What are the qualification requirements for the individual posts (who defines them, to what extent, what criteria is it based on)?**

The qualification prerequisites are stipulated according to the career group and the office that corresponds to the given service post. Qualification requirements for the individual career groups are based directly on BBG.

**Are there more types of systemised posts in the state administration (in the Czech Republic, service posts governed by the Civil Service Act and the posts under the Labour Code)?**

Yes, the systemisation counts on posts for civil servants, and it also includes all post that are occupied on the grounds of so-called tariff contracts, i.e. they are not service post, but jobs.

**What are the criteria for defining systemised posts by their type and who decides on this matter?**

Within the common state administration, the systemisation divides the posts into service posts of civil servants and also posts of the so-called tariff employees. A service post of a civil servant is defined by the fact that a civil servant carries out sovereign tasks the fulfilment of which is necessary to ensure the functioning of the state. This definition is contained in § 5 BBG. Other posts which do not comply with this characteristic may not be classified as service posts where civil service is performed. However, the information on who decides on a particular division of the posts could not be found in the available resources. It can be inferred from the overall setting of the systemisation preparation procedure that the division is carried out within the department when drafting the budget chapter. Which particular department is in charge is not clear, and the answer will vary by departments.

**If there are more types of systemised posts, are the rules for their systemisation identical?**

The systemisation rules generally apply equally to all types of systemised posts that are included in the staffing plan.

**How is the activity performed in a particular service post defined (statutory list of activities, service sectors, register of administrative activities)? What way and according to what criteria are the activities performed in a particular post divided? How much detailed is the list of activities to be performed, how general or specific is the scope of each service or administrative activity, and how extensive is the list of these service or administrative activities?**

Such detailed information is not available.

**Does the legal system enable to employ two or more civil servants in one systematized post (job sharing), where the work load of all civil servants together corresponds to one work load. What is the practical solution of this issue in the given country?**

It can be inferred from the applicable legislation and the available staffing plans that sharing a job is not possible, or this issue is not dealt with by law.

### 3.15.5 Selection procedure to fill a vacant service post

The following part of the text deals with selection procedures for the so-called **preparatory service**. It is a form of preparation for the performance of the civil service in the form of waiting. The amendment is contained in Section 10a of the BLV. As there is not much information on this topic available to answer the questions below, the following questions are answered on the **Federal Bank's** example, which is also considered the supreme service authority.

**Is the selection procedure conducted as an administrative procedure or is it excluded from the formal process?**

The selection procedure is not formalized and there is no provision for administrative procedure.

**Is it necessary to interview all applicants who comply with the formal conditions of participation (they sent all the necessary documents)? Or is it possible to select only some applicants with whom the interview shall be conducted? If so, who, and according to what criteria chooses them?**

The selection procedure consists of a written and an oral part, so all candidates must take part in the oral procedure. In Section 10a, BLV generally regulates the possible forms of the oral part of the selection procedure. In the case of the Federal Bank, a colloquium, a structured interview with a presentation and a joint interview of candidates are used.

**Who carries out the interview with the applicants and who can be present at the interview? Who can ask questions? Is it only the selection panel or can it also be the superior?**

The selection procedure is carried out by a selection committee, which is usually composed of four members, appointed by the relevant post in the supreme service authority. Multiple selection boards may be set up for a single selection procedure if required by the number of candidates. The selection board members evaluate the results of the candidates independently.

**Who evaluates the applicants (decides, if they were successful or not)? The selection panel consisting of more**

**members, the superior, another authority?**

*See the previous answer.*

**Who selects the most suitable applicant who shall eventually be employed in the civil service? Selection panel, the superior, another authority?**

The selection is carried out by a selection committee which, on the grounds of the points scored in the individual parts of the selection procedure, draws up a ranking of candidates according to their results, and the best candidate is admitted.

**How can unsuccessful applicants defend?**

There is no legal entitlement to the admission to the civil service, therefore the possibility of defending against the failure of the applicants is excluded.

**How can applicants who have been successful but have not been appointed to the public service defend against such decision?**

There is no such possibility.

**Are applications of unsuccessful applicants and successful applicants who, however, have not been appointed to the civil service, rejected by an administrative decision against which they could appeal? Or are they only informed about the result of the selection procedure?**

Unsuccessful candidates are only informed of the outcome of the selection procedure in writing.

**Can unsuccessful applicants and successful applicants who have not been appointed to the civil service appeal to the court?**

There is no legal entitlement to the admission to the civil service, so this possibility is excluded.

### 3.15.6 Disciplinary Proceedings

**Is there disciplinary liability of public employees? If not, how is the breach of the duties of civil servants approached?**

Yes, disciplinary liability is established by the Act on Civil Servants and is defined in Section 77 of the BBG.

**If there is a disciplinary liability of civil servants, how are the facts of the disciplinary infraction defined?**

The disciplinary infringement is by German terminology described as **a service offense**. The legal definition is contained in Section 77 of the BBG. It is stated here that a service offense is a culpable breach of the duties of a civil servant. In case of a breach of the obligations imposed outside the performance of the service, such breach shall be deemed to be a service offense only if the credit of the office has been significantly affected. In such cases, the law imposes a specific obligation to review the circumstances in which the civil servant's obligations were violated.

**If there is a disciplinary liability of public employees, what disciplinary measures (sanctions, penalties) can be imposed on public employees (reprimand, salary reduction, etc.)?**

Disciplinary measures, as well as procedural arrangements, are contained in a special regulation, the **Disciplinary Act (BDG)**.

Here, Section 5 provides that the following sanctions may be imposed on the civil servant for a service offense:

- **Reprimand** under Section 6 of the BDG: Reprimand in the form of a written warning may be imposed for improper conduct of a civil servant.
- **Fine** under Paragraph 7 of the BDG: A fine of up to a monthly salary (including all components of salary) may be imposed and a fine of up to EUR 500 may be imposed if the civil servant does not receive a salary.
- **Reduction of salary** under Section 8 of the BDG: Reduction of salary means a proportional reduction in salary (including all salary components) of the civil servant by a maximum of one fifth for a maximum of three years. In Section 8 (2), the BDG explicitly stipulates that the reduction of salary is started by the calendar month following the calendar month in which the decision to impose disciplinary measures became enforceable. The period for which the salary is reduced is interrupted and extended by the period during which the civil servant is not entitled to salary. As long as his salary is cut, the civil servant cannot be promoted.
- **Reduction of service ranking** according to Section 9: Reduction of service ranking is a transfer of a civil servant to a lower office within a career group but with a lower basic salary. A new promotion may take place no earlier than five years after the imposition of the disciplinary measure.
- **Dismissal** under Section 10 of the BDG.

Furthermore, the law provides that the **retired** civil servants may be subject to the following sanctions:

**Reduction of a service rent** according to § 11 BDG; **Withdrawal of a service rent** according to § 12 BDG.

#### Who decides that a civil servant has committed a disciplinary infraction (a disciplinary panel, the superior, other body)?

The German Disciplinary Act distinguishes two disciplinary proceedings systems. It is a system of **civil service disciplinary proceedings** and a **judicial disciplinary system**. The following analysis applies only to the civil service disciplinary proceedings provided for in Part 3 of the BDG.

Under Section 17 (1), the immediate superior is competent to initiate disciplinary proceedings. A senior superior and the supreme service authority may, in the course of supervision at any stage of the proceedings, prosecute the case. The immediate superior also decides whether a service offense has been committed and what disciplinary action will be imposed. If the immediate superior comes to the conclusion that he / she does not have sufficient expertise to make a decision on the matter, he / she will forward the case to a senior superior under § 31 BDG.

The immediate senior superior is entitled to impose reprimand or fines. In the case of salary cuts, only the supreme service authority can decide on the salary reductions of the maximum extent and, to a limited extent, its direct subordinates. However, the supreme service authority may delegate its powers to subordinates. In the case of disciplinary measures to reduce service ranking or a dismissal, a disciplinary action must be filed and judicial proceedings are conducted.

Civil service disciplinary proceedings have the character of

criminal proceedings in terms of evidence, the burden of proof and their management.

#### What are the public employee's possibilities of defending in the matters regarding his disciplinary liability (appeals, legal proceedings at the administrative court, others)?

In the context of civil service disciplinary proceedings, a decision to impose disciplinary measures may be **appealed to the supreme service authority**. The time limits and formalities for appeals are set down in Section 70 of the Code of Administrative Procedure. An appeal cannot be filed against a decision issued by a supreme service authority.

Where an appeal body's decision has been issued or an appeal is inadmissible, the civil servant may file an action before the **administrative court** and then proceed in accordance with the BDG's judicial disciplinary procedure.

### 3.15.7 Service Examination

#### Who organizes the service examination?

Senior civil servants of the supreme service authorities and their subordinate staff are always in charge of organizing the training of the waiting civil servants. That is why different sections of different size may exist in the individual service authorities. The designated sections do not only organize the final examinations, but prepare the training and teaching plans for the entire preparatory service.

#### Is the service examination system centrally managed for all service authorities?

The system is decentralized and the preparatory service, including the training plans, is organized separately by the individual supreme service authorities which are empowered to issue regulations regulating the training programs and the examination rules. However, it is not excluded that several service authorities may jointly issue a single regulation stipulating common rules.

#### Does the duty to pass the formal examination apply to all civil servants?

The obligation to pass the final examination applies only to those civil servants for whom a successful completion of a preparatory service, completed by a final examination, is set as a requirement for the tenure appointment. Thus, under Paragraph 17 (3), (4) and (5) of the BBG, the obligation applies to civil servants of middle, higher and high service.<sup>2</sup> Simple service civil servants are also required to undergo a preparatory service,

<sup>2</sup> Middle service civil servants are civil servants who must have at least secondary education completed by a final examination. Higher-service civil servants are civil servants who must have at least a secondary education completed by the school-leaving examination and high-service civil servants are civil servants who must have at least a Master's degree.

According to the current overview of vacancies in public administration, the following can be mentioned as examples:

Meddle service: Secretary of the German Archaeological Institute, Quality Controller of the Federal Office for the Movement of Goods

Higher service: Officer of the Federal Office for Agriculture and Food, Officer of the Federal Office for Family and Civil Affairs

High service: Federal ministry officers, presentation of federal ministries and some federal offices



but there is no explicit requirement that this preparatory service must be completed with a final examination.

**When is a civil servant obliged to take a service exam?**

The civil servant shall be obliged to take the final examination or any modular examinations on the dates stipulated in the training program of the preparatory service to which he is assigned. However, deadlines similar to those governed by the Czech Civil Service Act are not set.

**How are the requirements for the examinee – the scope and the content of the verified knowledge and skills of the examinee and the form of the exam – [Written, Oral Model Situation] defined?**

The following answer is based on the information available in **the Preparatory Service Order for High Service at the German Federal Bank (HBankDVDV)**. The example is illustrative, the regulations in the individual sections may vary, and therefore the adjustment may be different.

The service examination is in this case the end of the preparatory service, which consists of theoretical instruction and practical training. The examinations themselves are then divided into two parts, written and oral. Both parts consist of a final examination, therefore no partial examinations during the preparatory service are considered as a service examination. According to § 20 of the HBankDVDV, a special examination office, which is the German Federal Bank body, ensures the service examination.

**Who appoints the members of the examination panel?**

The members of the examination committee are appointed directly by the management of the German Federal Bank, which is the supreme service authority for the section. The specific person is not named. It can be assumed that the appointment of the members of the committee is the responsibility of the President of the Bank or persons authorized by him. The members of the examination committee are appointed for four years and must be independent in the performance of their duties and must not be bound by any orders. The examination committee is composed of a chairman and two other examiners, each with a deputy.

**Are the members of the examination panel only public employees or also other bodies (or are the members of the panel only other bodies than public employees)?**

Only civil servants who are high-level civil servants, which means have at least a Master's degree, can become examiners.

**How are the requirements for their education? Is there any training or examination needed?**

Only civil servants who are high-level civil servants, which means have at least a Master's degree, can become examiners.

**Are there any requirements concerning the length of their working experience?**

Before completing the service examination, the civil servant must undergo a preparatory service, the length of which is determined in the given case according to § 1 of the HBankDVDV for usually 18 months. In the framework of this

preparatory service, the civil servant must, to a certain extent, complete the practice, the detailed description of which is given in the civil servant's framework educational program. At the end of the preparatory service, a certificate is issued to the civil servant, on the grounds of which he may be admitted to the service examination.

**Do they have to enhance the qualification through some unified (or even accredited) education or some tests, etc.?**

This issue is already covered by personal development regulation, see the other answers.

**Is the taking of service examination charged?**

There is no information about charging for the examinations. However, as it is a final examination or a module examination in the course of study in the preparatory service, one can conclude that there is no obligation to pay for the exam.

**Name other relevant aspects of the examination.**

The following answer is based on the information available in **the Preparatory Service Order for High Service at the German Federal Bank (HBankDVDV)**. The example is illustrative, the regulations in the individual sections may vary, and therefore the adjustment may be different.

The exam is divided into a written and an oral part.

**Written part:** The written part is conceived as three five-hour paper. In the first two papers it is possible to choose between two topics and assignments, the third one is fixed in advance. They can also be written in English. Each work is evaluated independently by two examiners. If the evaluation of the two examiners deviates by more than three points, the final evaluation is decided by the committee chairman.

**Oral part:** Admission to the oral part is possible only if the examiner achieved the required score for all three papers. The oral examination is conducted as a collective interview of a maximum of three examinees, each examinee should be tested in each test area for approximately 30 minutes. This interview is followed by a 15-minute discussion. The examinees are given the opportunity to prepare for one hour before the interview. On the grounds of the agreement of the examination committee, points are awarded to individual examinees.

The service exam can be repeated; the deadlines are set by the regulation.

The above is an illustrative example for top-ranking civil servants. For example, for civil servants in the Federal Ministry of the Interior there are considerably lower requirements, where the basic requirement is the elaboration of a "diploma thesis" as a housework, for which the civil servant has eight weeks, and an oral exam is also to be taken. The oral exam takes a maximum of 40 minutes and is again conducted as a group interview for a maximum of five people.

**Is the system of education within the civil service somehow formally linked to the service examination (before the exam – as a preparation – and after the exam)?**

Yes, the final exam or individual modular exams form the end of the individual training modules, which together form an

educational program that the trainee must complete in the preparatory service. This also results from § 17 BLV. Without a successful final examination or prescribed modular exams, the preparatory service cannot be successfully completed and therefore no service appointment can be made and vice versa, failure to complete the preparatory service is a reason for the termination of service.

**If there is a similar system as in the Czech Republic, that means, if there are several fields of the civil service for which it is necessary to take the examinations, how is the education in case of change or extension of the fields of the civil service?**

In case a civil servant changes the field of service, he / she is obliged to go through that part of the education he / she is not familiar with and pass the appropriate final examination. Therefore, he, in fact, goes through a shortened further preparation. That can be inferred from Paragraph 17 of the BBG in conjunction with Paragraph 17 of the BLV. If you change the service authority you do not necessarily have to change your field, so the information above.

### 3.15.8 Service Performance Appraisals

The following section will be based on the information and internal regulations provided by **the Federal Ministry of the Interior**, and the answers only relate to the modification of this sector. With regard to the decentralization of service performance appraisal, the federal state administration as a whole cannot be described, with the exceptions that arise directly from the law.

#### It is obligatory?

Yes, service performance appraisal is mandatory. The basic legislation for service performance appraisal is provided by BLV in Sections 48 to 50.

#### Who is subject to the performance appraisal? To what extent does he participate?

Generally, every civil servant is subject to service performance appraisal in accordance with § 48 BLV. For the purpose of service performance appraisal, reference groups of civil servants are established whose activities are comparable and they are evaluated under identical rules. However, the order of the Federal Ministry of the Interior stipulates in Article 2. 6. that service performance appraisals are not carried out for salary grade B4 and higher civil servants, hence the highest civil servants who are necessarily political civil servants (for more details on the chapter on systemisation). On the example of the Federal Ministry of the Interior, it should be noted that in 2017 this exemption concerned 35 civil servants out of a total of over 1 150. The civil servant is under Article 5.4 of the HAO involved in his service performance appraisal by participating on the service performance appraisal interview about its expected content.

Subsequently, following the processing of the service performance appraisal and after the civil servant gets acquainted with the result, the civil servant is given the opportunity to comment on the service performance appraisal orally or in writing. In case that this opinion is taken into

account by the evaluator, the service performance appraisal will be revised and the civil servant is acquainted with the new evaluation.

#### Who is the evaluator?

According to HAO, the service performance appraisal is organized as a three-stage event, i.e. there is a person of the first evaluator, the inter-evaluator and the second evaluator. The specific determination of persons who are designated as evaluators is regulated by Annex No. 1 to the HAO, which is not available, therefore it is not possible to provide more detailed information on this issue. HAO only in Article 3 stipulates that when the first evaluator is a parliamentary secretary, secretary of state, the president of the Federal Administrative Academy and other high-ranking civil servants, there is no obligation to carry out further evaluations by other evaluators.

#### How often is the performance appraisal carried out? Is it a fixed term event, or is it done as needed?

BLV states in Section 48 (1) that service performance appraisals are carried out at least every three years. The Federal Ministry of the Interior is currently setting an evaluation period of two years. At the same time, in the BLV, as well as in Article 2.2 HAO, the possibility to evaluate for a special reason outside the regular term is given. According to HAO, **special reasons** for service performance appraisal are:

- Probationary period and subsequently the expiry of the probationary period under Section 28 (4) of the BLV;
- In case of a leave of for more than six months;
- In case of promotion of a civil servant;
- In case of an advancement because of excellent results;
- On removal from the service due to transfer to another service authority.

In these cases, it is individually determined in what terms the service performance appraisal will be carried out and for what period.

#### Does the result of the service performance appraisal have any impact on the salary of the public employee?

Yes, it does. Among other things, it is possible for a civil servant to be awarded a performance bonus that depends on the outcome of the service performance appraisal. More about both forms are given in the answer to the question "*How are non-claim components of the salary (personal supplementary allowances, bonuses, etc.) awarded to public employees?*"

#### Does the result of the service performance appraisal have any other impact on the employment of a public employee?

In case of an outstanding performance, there is a possibility for the civil servant to be transferred to a higher office. The basic regulation of this type of procedure is contained in Section 27 of the BLV, where it is stated that a civil servant performing particularly good service may be assigned to a suitable post in a higher office and senior service group. **The conditions** for such inclusion are as follows:

- He/she has been in service for at least 20 years;
- Has performed the highest office in the service group for at least five years;

- In the last two service performance appraisals was evaluated with the highest or the second highest grade;
- Completed the selection procedure successfully.

**What is the regulation governing the service performance appraisal?**

The basic regulation is BLV Government Order. This Regulation contains the mandate to issue separate directives for service sections, which are, however, not available. At the provincial level, the situation is different. As a rule, the service performance appraisal is regulated by law or by a government regulation and these regulations are available.

**What is subject of the performance appraisal (what is evaluated)? Is the evaluation framework strictly defined or can it be adapted to the needs of the individual subjects?**

The subject of the service performance appraisal is, according to Article 4 HAO, the evaluation of the performance of the civil servant, his knowledge and skills. The assessment is based on evaluation criteria, which are stipulated in Annex 2 HAO, which is not available. In view of this fact, three federal countries have been selected for the analysis, which have the evaluation criteria publicly available and the evaluation criteria are therefore listed for the following three countries:

**Baden-Württemberg, North Rhine-Westphalia and Saxony.**

The evaluation framework is not strictly defined, as according to Art. 4.1.1. the evaluator is entitled to delete the evaluation criteria that are not relevant for the period considered. However, the service performance appraisal is fully within the competence of each service authority, and therefore it may differ significantly for the individual sections.

**Editing evaluation criteria:**

**Baden-Württemberg**

Two categories of assessment are distinguished: **assessment of service performance and assessment of skills and competences.**<sup>3</sup>

**In the performance assessment, these areas are distinguished and they include the following criteria:**

- The amount of work:
  - The range of the assigned tasks
  - Compliance with the deadlines,
  - The ability to be fully busy with work tasks;
- The way of performing the tasks:
  - Independence,
  - Initiative and creativity in finding solutions
  - Reliability and ability to bear responsibility for performing tasks
  - Readiness for teamwork
  - Social approach to the tasks
  - Ability to perform structured and organized tasks;
- The quality of work:
  - Expertise and skills

3 Gemeinsame Verwaltungsvorschrift aller Ministerien über die dienstliche Beurteilung der Beamtinnen und Beamten des Landes (Beurteilungsrichtlinien – BRL)

- Diligence
- Ability to perform tasks effectively,
- Written communication,
- Oral speech;
- Leadership skills area:
  - Ability to motivate and support co-workers
  - Ability to control the performance of others
  - Ability to cope with conflict situations
  - Ability to make decisions and take responsibility for decisions
  - Supporting of the aim to achieve work-life balance

**The following specific criteria are evaluated in the assessment of skills and competences:**

- Ability to learn new things and develop your knowledge
- Openness to new approaches
- The ability to get a quick overview of important things
- Creativity in finding solutions
- Ability to remember
- Ability to understand other areas of expertise (ability to understand the functioning and interests of other areas of expertise)
- Reliability (ability to bear responsibility for performing assigned tasks)
- Writing (ability to formulate a statement for the addressee in a reasonable manner)
- Oral speech (ability to formulate statements adequately for the addressee)
- The ability to make contacts
- Teamwork ability
- Ability to discuss a problem
- Ability to perform tasks based on practical experience up to now
- Ability to plan and organize your own tasks ability to work conceptually and systematically in the long run
- Initiative (performing the tasks on your own initiative)
- The ability to draw conclusions (also with regard to the consequences for third parties)
- Ability to be utilized by performing tasks.

A special category **of free evaluation without criteria is the assessment of special skills and abilities.**

**North Rhine-Westphalia**

Here is the issuance of directives in the competence of individual ministries, here is an example of the **Ministry of Interior.**<sup>4</sup>

Again, two categories of assessment are distinguished: assessment of **performance** and assessment of **skills and competences.**

**In the performance assessment, these areas are distinguished and include the following criteria:**

4 Richtlinien für die dienstliche Beurteilung zur Vorbereitung von Personalmaßnahmen, insbesondere Beförderungentscheidungen RdErl. d. Ministeriums für Inneres und Kommunales (MIK)

- The way of performing tasks:
  - Ability to understand the context when performing the tasks
  - Ability to use all possibilities available when performing the tasks
  - Ability to carry out tasks in a structured and targeted way
  - Efficiency in performing tasks.
- Approach to work:
  - Independence a
  - Initiative.
- Work achievements:
  - Achieving results within a reasonable time
  - The number of tasks accomplished, when taking into account their difficulty,
  - Thoroughness and diligence
  - Emphasis on content and formal accuracy.
- Social competence:
  - Responsibility
  - Reliability, predictability and loyalty,
  - Ability to cope with conflict situations
  - The ability to communicate with others (directly targeted at citizens)
  - Ability to work with colleagues, superiors, and subordinates.

**The following specific criteria are evaluated in the assessment of skills and competences:**

- Judgment skills (ability to quickly become familiar with the assigned task, analyze and assess it)
- Conceptual thinking (systematic work)
- Ability to make clear and timely decisions
- Communication and cooperation skills – it is divided into three subsections: expressive abilities, ability to conduct a conversation, ability to cooperate in a team,
- Ability to manage conflicts
- Ability to be utilized by performing tasks.

**Saxony**

Service performance appraisal is carried out according to areas that contain individual evaluation criteria. The evaluation criteria are still internally divided into sub-criteria.

It is clear from the regulation that not all of the sub-criteria are always evaluated, but only selected ones that are most likely to manifest themselves in a given evaluated employee.<sup>5</sup>

**Vocational competences:**

- Expertise:
  - The civil servant has extensive knowledge
  - Has versatile knowledge including areas that are marginally related to work,
  - Easily acquires new knowledge
  - Monitors and participates in current expert discussions.

- Professional skills:
  - Recognizes the professional connectivity
  - Finds a reasonable solution of a problem
  - Is able to use the acquired knowledge
  - Performs work responsibly.
- Quality and quantity of work done:
  - Works efficiently – the resulting outcome corresponds to the assigned task
  - Works efficiently – the amount of work done and its quality is evaluated here
  - Working faultlessly
  - Uses work experience to fulfil tasks
  - Works carefully and accurately
  - Can recognize what is "important"
  - Performs tasks independently
  - Develops his own initiative in carrying out its tasks,
  - He can identify possible problems in advance.
- Vocational interest in tasks:
  - Recognizes the social context and the impact of his work,
  - Recognizes the environmental contexts and the impact of his work,
  - Recognizes the national economic context and the impact of their work,
  - Recognizes the political context and the impact of his work,
  - Participates in discussions on the topic and seeks solutions to problems,
  - Can see problems from different viewpoints
  - Is interested in current professional topics within his/ her expertise.

**Methodical competences:**

- Work structure:
  - The tasks are planned and fulfilled ahead of schedule
  - Organizes the fulfilment of tasks according to their importance and difficulty
  - Sets priorities
  - Submits the results of his work within the set deadlines
  - It can mitigate potential risks when performing the tasks.
- Work methods:
  - Is able to apply different methods of work
  - Can effectively combine different methods of work
  - works efficiently and results-oriented manages properly with the entrusted resources
  - Can effectively delegate work tasks
  - Can develop strategies for fulfilling the assigned tasks.
- Techniques:
  - Is familiar with the available tools,
  - Can make meaningful use of the entrusted means and tools.
- Negotiation skills:

<sup>5</sup> Verordnung der Sächsischen Staatsregierung über die dienstliche Beurteilung der Beamten (Sächsische Beurteilungsverordnung – SächsBeurtVO)

- Negotiates purposefully, confidently and convincingly,
- Can empathize with the other side
- Is communicative
- Argues factually
- Treats partners honestly.

**Personal Competence:**

- Being busy with work tasks:
  - Is ready to work overtime and beyond normal tasks when needed
  - Can keep calm in stressful situations
  - It is not moody and is balanced
  - Work performance does not fall under the pressure of impending deadlines
  - does not give up in unfavourable development of the situation,
  - Can recognize and manage their own weaknesses and mistakes
  - A higher job pace considers as a challenge.
- Ability to be responsible for performing tasks:
  - Is ready to take responsibility
  - Is aware of the importance and consequences of his acting and work,
  - Values his work
  - Is innovative
  - Can find alternative approaches
  - Comes up with suggestions for improvement can challenge routine procedures
  - Can express factual criticism
  - Shows his passion and commitment considers changes to be new opportunities
  - Is open to new methods
  - Is constructive in implementing new processes and making changes.
- The ability to learn new things:
  - Uses all available media to develop their knowledge
  - Constantly searching for new information
  - Is interested in participating in educational events
  - Is educated in areas that are indirectly related to the job description.

**Social skills:**

- Team Behaviour:
  - Can respect a different opinion
  - Can show readiness to retreat
  - Treats his teammates honestly
  - Is ready to help colleagues,
  - Can show courtesy and collegiality,
  - Actively cooperates with colleagues
  - Emphasizes the results of the whole group and does not favor his own credit
  - Can integrate into a workgroup.

- Communicativeness:
  - Is familiar with spoken and body language
  - is capable of dialogue
  - Uses comparisons, primers, etc.,
  - Speaks fluently
  - Expresses himself grammatically correct
  - Does not lead monologues
  - Has a rich vocabulary
  - Expresses exactly
  - Can argue convincingly
  - He can clearly express his thoughts.
- Ability to manage conflicts:
  - Recognizes conflict situations in time
  - He can approach the conflict openly and honestly and resolve it
  - Can judge the conflict
  - Can be a mediator between the two sides of the conflict

**Leadership Competences:**

- Collaborative approach:
  - Regularly discusses issues with co-workers
  - Purposefully supports collaborative education
  - Advocates the interests of co-workers,
  - Can identify and resolve conflict situations in time
  - Can listen to co-workers' problems
  - Controls different ways of group leadership
  - Is able to identify the shortcomings in a timely manner
  - Can praise
  - Early motivates co-workers.
- Ability to decide:
  - Knows different ways how to achieve results and can apply them
  - Is able to judge the possible solutions and to choose between them
  - Can also present the results of others,
  - Promotes the interests of himself and his colleagues
  - Makes administrative decisions
  - Remains objective in finding solutions.
- Ability to give information:
  - Informs co-workers about meetings, training opportunities, etc.
  - Can efficiently provide information to collaborators
  - Informs about the current tasks during the meetings,
  - Gives only relevant information.
- Performance-oriented
  - Can regulate the performance with respect to the result
  - Knows how to improve the performance and is able to apply it
  - Motivates to perform better
  - Even with high workloads is able to deliver performance

- Can recognize good performance with others.

**What is the rating scale? Is the performance appraisal carried out only verbally or by giving points? What results can be achieved in the service performance appraisal?**

According to Article 4.1.4 of the HAO, the evaluation scale has the form of a six-stage grading table. The marks are divided from the best A1, through A2, B1, B2, B3 to the worst C. Only mark C means that the civil servant does not meet the requirements placed on him and that he does not perform the assigned tasks properly. Each evaluation criterion is assigned a mark according to the above and it is subsequently averaged into the final score. At the same time, HAO stipulates that, on average only 5% to 10% of the civil servants may be given the two best marks in the service performance appraisal.

In addition to the marking system, a part of the service performance appraisal is also carried out in a free form verbally. It is the part of the service performance appraisal that focuses on the forward-looking plan and the recommendations for improvement.

**Is there a future perspective plan a part of the performance appraisal? – setting the goals, development plan, etc.?**

Yes, in accordance with Article 4.1.3 of the HAO the service performance appraisal includes a special section, which should include recommendations for the further development of the civil servant. These recommendations should be made in a free form. In this section, recommendations should focus especially on the area of language development, special skills in project work or recommendations for activity in various honorary positions, etc.

**What way is a performance appraisal made? What evaluation methods are used?**

The service performance appraisal is carried out in the form of an evaluation based on predefined criteria, which are included in the evaluation form. The assessment is made in a pre-determined form, which is attached to the internal regulation of the Federal Ministry of the Interior HAO. Some parts of the assessment, such as forward-looking recommendations, are set in a free form in a special text section of the form.

There is no detailed description of the evaluation methods.

**What is the basis for the performance appraisal?**

The service performance appraisal supporting documents are not explicitly stated either in the BLV or in the HAO as an internal regulation of the Federal Ministry of the Interior and therefore cannot be precisely identified.

**What way are the evaluators trained?**

The training of evaluators can be a part of the enhancement of soft skills education. The institutes of preliminary interviews on service performance appraisal, the so-called evaluation conferences, represent some form of co-ordination.

**Preliminary Interview on Service Evaluation:** This is a consultation of all evaluators. The meeting is also attended by state secretaries responsible for human resources, trade union representatives, equality representatives, data protection representatives and representatives of disabled employees.

The subject of these meetings is the factual solution of the service performance appraisal in relation to the evaluation criteria, the procedural issues of the service performance appraisal are discussed.

**Evaluation Conference:** This is a meeting following two weeks after the service performance appraisal. The purpose of this consultation is to review the approach to the past service performance appraisal in relation to the criteria used. Participants are similar to the previous case, but according to HAO, the participation of representatives of the Federal Education Academy is also required. It is explicitly forbidden to deal with service performance appraisal for individual cases.

**What way does the evaluated person get acquainted with the results of the service performance appraisal?**

A full service performance appraisal is in accordance with Section 50 (3) of the BLV submitted to the evaluatee and the civil servant is entitled to make a statement orally or in writing. A civil servant is notified of the result by recording this information into his personal file.

The results of the service performance appraisal as a whole are subject to special publication. Pursuant to Paragraph 50 (4) of the BLV, it is required that the results of the service performance appraisal must be anonymised and compiled according to an evaluation scale and that they must be made public in an appropriate form. In particular, the data should be provided for men and women, persons with reduced working hours or persons performing teleworking and persons with disabilities.

**Is a negative performance appraisal sanctioned? How?**

Negative service performance appraisal can have different impacts on the civil service. First of all, the service performance appraisal is directly related to the right to the performance bonus payment. In the case of a negative service performance appraisal, the performance supplementary allowance may be withdrawn.

Another consequence of a negative service performance appraisal is that the civil servant is completely prevented from service advancement and possible promotion.

In case of probationary civil servants, a negative service performance appraisal may also be one of the reasons for the probationary dismissal.

**Are there any appeal measures against the results of the service performance appraisal?**

The basic appeal measure is the ability of the civil servant to comment on the published service performance appraisal result that is given to him. If the civil servant expresses his opinion, either verbally or in writing, the evaluators must deal with it.

As regards another appeal measures, the legal opinions are rather inconsistent and the interpretation is not uniform. According to prevailing case-law, service performance appraisal is not considered an administrative act, but the courts still grant civil servants the right to appeal and, where appropriate, to file an administrative action.<sup>6</sup> The appeal against service

<sup>6</sup><https://www.anwalt-tomfroehlich.de/rechtsschutz-dienstliche-beurteilung/gen/>  
<http://www.michaelbertling.de/beamtenrecht/beurteilung0101.htm>

performance appraisal and possible administrative action is no longer regulated directly in the civil service legislation but in the general administrative law regulations.

### 3.15.9 The Principles of Ethics in Civil Service

#### What are the rules governing the principles of ethics in civil service?

The principles of ethics in civil service are laid down in the Act on Civil Servants, specifically in Sections 60 to 62 and further, in the section on the duties of a civil servant, for example, in Section 71. Another provision governing ethics is the BeamStG, which in Section 34 (3) expressly states that the behaviour of a civil servant must be commensurate with the seriousness and credibility of the office that the civil servant performs.

A special government directive for the prevention of corruption then regulates the behaviour of civil servants in the area of acceptance of donations, conflict of interest, participation in various interest events, etc. A manual of behaviour for corruption prevention is also issued to this directive, which describes in detail specific situations, to which the directive is related and in which the civil servant may appear, including appropriate solutions to such situations.<sup>7</sup>

#### Can any sanctions be imposed in case of violation of ethical rules? If so, what kind of sanctions?

Violation of the principles of ethics set down in the Act is considered an infringement of the duties of a civil servant and is sanctioned in disciplinary proceedings. For more details on this topic, see the disciplinary proceedings section.

#### What means and methods are used to check the compliance with ethical rules?

There is no information available on the means and methods used to check ethical compliance.

#### What implementation tools are used in the area of public service ethics?

Specific implementation means are not explicitly mentioned in the legislation. An implementation tool can be considered a system of mandatory personal development of civil servants, which can also involve the development of the civil servant in the area of knowledge of ethical rules. Ethical compliance is then enforced through disciplinary regulations.

#### What way does the training of the employees in the field of ethics proceed? Does the training of ordinary employees and senior civil servants differ?

Information on how civil servants are trained in the field of ethics is not available.

#### When recruiting new employees, is the personality potential of the applicants in the field of ethics taken into consideration?

This information is not available and could not be derived from the legal regulations.

#### Is the compliance with ethical rules continuously checked?

Checking the compliance with the principles of ethics is, to some extent, implemented through some evaluation criteria in the service performance appraisal. However, there is no specific evaluation of ethical compliance.

#### To what extent is the supervision of professional ethics in the state administration institutionalized? Are there any individual employees, organizational units, collegiate bodies or other bodies providing methodological support on ethical issues, monitoring compliance with ethical rules and proposing measures in case of violation?

The supervision of professional ethics is not institutionalized in the sense that there would be a special body dealing only with this issue. This does not follow from the internal rules of the Federal Ministry of the Interior. The issue of violation of ethical rules is then dealt with as a disciplinary failure, which is subsequently dealt with in accordance with the relevant disciplinary regulations.

#### What are the consequences of the ethical failure of a civil servant?

The impact of the civil servant's ethical failure is connected with his disciplinary liability for violating his obligations under applicable law. Subsequently, disciplinary proceedings are conducted with such a civil servant, and more detailed information is provided in a separate section.

### 3.15.10 Work-life Balance (WLB) in Civil Service

#### Is the term WLB defined by a legal regulation? If so, how is this term defined?

The WLB definition is not regulated by any law, neither at the level of law nor of a legislative rule.

#### Are there manuals, methodological documents or other WLB supporting documents following the legal regulation?

The WLB guidelines are not available.

#### Is it possible to modify working hours of a civil servant (flexible working hours, part-time employment, different time arrangement of the beginning and the end of the service)? What are the conditions for the modification of the working hours of a civil servant?

Work-life balance is understood as a set of different measures aimed at achieving a balance between the performance of civil service and having a family life. It is a wide range of institutes, which are contained in a large number of laws of different legal force from law to internal regulations of the individual authorities.

A very wide range of institutes can be included under the term work-life balance. These are especially various **types of leave**, such as:

- Service leave of up to five working days for the purpose of serving in various bodies of churches (§ 16 SurlV);
- Leave of up to five working days to participate in top sports events (world championships or Olympic games) or to serve in international sports associations and organizations (§ 17 surlv);

<sup>7</sup> <https://www.bmi.bund.de/SharedDocs/downloads/DE/publikationen/themen/moderne-verwaltung/korruptionspraevention/korruptionspraevention-regelungen-zur-integritaet.html>

- Leave for the purpose of travelling to a family in case of a performance of service in a place different from that of the family. There are additional conditions which must be fulfilled in order to claim this kind of leave (Section 18 of the surlyv);
- Leave for personal affairs, which is differentiated as follows:
  - Giving birth by a spouse or a registered partnership woman, leave of one working day;
  - The death of a spouse, partner or registered partner, parents or children, leave of two working days;
  - Caring for a sick person living in a household with a civil servant who is dependent on the help of his / her surroundings, leave for one working day;
  - Care for a sick child or any child who is under 12 or disabled; four working days
- Sabbatical – a civil servant is given the opportunity to be released from service for a period of up to one year if it does not prevent important service interests of the service authority. In such a case, his salary is cut, but it is not a time off that would be completely unpaid. The amount of income granted to a civil servant in case of a sabbatical is between 2/3 and 6/7 of the ordinary income.

Furthermore, we can subordinate this term to the entitlement of civil servants to draw the so-called **family allowance**. A civil servant is entitled to this allowance by law and it applies not only to families with children, but also to childless married couples or registered partners.

Civil servants also have the **option of modifying their working hours**. They are given the opportunity to shorten their working hours, they also have the possibility of teleworking or they are given the opportunity to serve from another place.

Another work-life balance tools include setting up pre-school facilities for employees' children.

**Is it possible to modify working hours of a civil servant (flexible working hours, part-time employment, different time arrangement of the beginning and the end of the service)? What are the conditions for the modification of the working hours of a civil servant?**

The basic modification of the working hours, which is governed by law, is part-time. It is regulated by Sections 91 and 92 of the BBG. The law distinguishes between three types of part-time work: basic, part-time for family reasons, and part-time for older people.

**Basic part-time**

Pursuant to Section 91, a civil servant may be permitted part-time work if he requests it and it is not contrary to the organization's needs. Part-time work may be authorized up to a half of the service working hours. Pursuant to Paragraph 91 (3) of the BBG, the service authority may at any time after the approval of part-time work extend the period during which the civil servant is required to be in the workplace if there are some serious service reasons.

**Part time for family reasons**

Under Paragraph 92 of the BBG, a civil servant is permitted to work part-time if he has a child under the age of 18, or

if he cares for another close person who is incapacitated or requires permanent care, as evidenced by a medical opinion. A condition of the permit of the part-time work is that it must not have a negative impact on the performance of the duties of service authority. In case of a refusal, the service authority is obliged to justify such refusal.

**Part-time for elderly people**

Under Section 93 of the BBG, part-time work may also be permitted to persons who have reached the age of 60 or 55 and are disabled or have reached 55 years of age and are in service under difficult conditions. Furthermore, the shortening of working hours may not be detrimental to the service authority.

A special arrangement is the so-called **family care period** under Section 92a of the BBG. This is another specific kind of shortening of the working time to a minimum of 15 hours a week. The reason is always only the care for a close person who is incapable or requires other permanent care, as evidenced by a medical opinion. Family care can be allowed for a maximum of 24 months.

The flexible working hours and scheduling options are then adjusted individually in each service authority.

**What are the possibilities and conditions of the performance of the civil service from a different place (home-office, teleworking and flexitime)? How are the conditions for the performance of civil service from another place defined?**

The above types of service are defined as so-called mobile work. Within the scope of the Federal Ministry of the Interior, a service agreement was concluded between the Federal Ministry of the Interior and the Trade Union Council in the Ministry, which defines and regulates various types of mobile work.

Mobile work means all forms of service outside the service authority, and the service must be performed by means of computer and communication technology with remote access to the IT infrastructure of the service authority. Home-office, teleworking and other forms of service from another place are thus merged into one concept.

The Collective agreement stipulates that, in principle, all civil servants can work under mobile work concept, but they are not legally entitled to it, and it is always subject to an application for its approval. The prerequisites for **mobile work** are as follows:

- A suitable range of service tasks that enable mobile work;
- The personality traits of the civil servant to whom mobile work is to be allowed;
- At least half-time service;
- Performing the service in a given post for at least half a year;
- Sufficient knowledge of service tasks that does not require closer cooperation with colleagues;
- Appropriate it knowledge.

Mobile work is divided by a service agreement to the so-called permanent and temporary. There are special reasons for both these forms of mobile work.

The reasons why **permanent mobile work** is allowed can



be personal or service. For personal reasons, the service agreement mentions in particular the following:

- Care for a child under the age of 18;
- Care for grandchildren up to the age of seven;
- Care for a dependent person under a special legal regulation;
- Special health reasons that have been recognized by the doctor's opinion;
- Recognized disability;
- Reaching the age of sixty.

The reasons for which **temporary mobile work** is allowed are, in particular, the following:

- Illness of a child or a close relative or an unexpected need to care for a relative;
- Special service reasons;
- Special health reasons that have been recognized by the doctor's opinion.

Mobile work may be allowed to a civil servant for a maximum of three consecutive years, it is always possible to terminate this form of service at any time without further notice, and the service authority must be notified in due time or the civil servant must be duly notified.

**What kind of service leave does the law offer (e.g. urgent family leave, adoption leave, sabbatical leave, career break)? Is this service leave paid or unpaid?**

The answer to this question is contained in a special answer, including whether it is a paid or unpaid leave.

The legal order also regulates the sabbatical. A civil servant is given the opportunity to be released from service for a period of up to one year if it does not prevent important service interests of the service authority. Sabbatical is a kind of leave that is only partially paid.

In section 95 of the BBG, a special holiday is also provided during which the civil servant is not entitled to a salary. It can be up to six years if the labour market situation is appropriate.

**Does the law enable to share a service post?**

The legal order does not regulate job sharing.

**Does the law regulate the establishment of school facilities for children of civil servants?**

Yes, the legislation regulates the possibility of setting up school facilities within companies. This regulation also applies to the service authorities and their employees. The establishment of school facilities is governed by the usual regulations governing school and pre-school education, as well as by hygiene regulations related to the issue.

**What are the WLB measures for civil servants on maternity and parental leave (e.g. sharing information)?**

Paragraph 47 (4) of the BLV expressly provides that the family situation and the status of a civil servant must be taken into account in the field of qualification improvement, and must be allowed to take part in training events and be given the opportunity for active professional development. However, the obligation to inform civil servants on parental or maternity leave is not clearly defined in the available regulations.

**Are there any legal regulations for civil servants in relation to the care of older family members (e.g. parental leave, responsibility leave)?**

A civil servant can take various types of service leave for personal affairs. In particular, it is a leave for the care of a sick person living in a household with a civil servant who is dependent on the help of his/her surroundings or the sabbatical. Furthermore, a civil servant taking care of elderly person depending on his / her help should use the mobile work institute, see previous answers. And there is also the possibility of applying for part-time work for the purpose of caring for a family member, and this request must be granted unless serious service reasons prevent it.

**Is there a program dealing with the physical and mental aspects of a civil service in the legal system (e.g. a similar program to "Fit at work" in the EU)?**

No, the legislation does not provide for similar programs. There are usually no contributions to sports activities that would be similar to Czech Cultural and Social Fund (FKSP).

**3.15.11 Education**

**Is there an institutionalized training within or for the preparation for the performance of the civil service?**

Yes, there is. In Germany, there is a differentiation of universities to such an extent that there are professional universities focusing on public administration programs. These vocational universities exist at both federal and provincial levels. **The Federal University of Public Administration** is internally subdivided into areas of expertise, such as internal administration, foreign affairs, defense administration, finance management, and so on. In addition, there is a **German University of Administration** in Speyer, which focuses on all types of public administration education. It offers both undergraduate and postgraduate educational programs, as well as special educational programs that focus on the existing civil servants who are in pre-service and the successful completion of which leads to a tenure appointment.

The training of civil servants and their professional and personal development is further provided by **the Federal Academy of Public Administration**, which is established by the Federal Ministry of the Interior. For example, it prepares programs for qualification enhancement within the meaning of Section 47 of the BLV. In addition, the Federal Academy supports the service authorities in developing the concepts of personal development of civil servants, which represent the basis of their professional and vocational development. The Federal Academy arranges the training of civil servants, in particular through the organization of various seminars and special educational events.

The central authorities are also given the opportunity to establish **specialized educational institutions** within their competence, which will ensure the fulfilment of the requirement to enhance the education of civil servants and their personal development. An example of such an educational institution is the Federal Finance Academy,

which is a part of the Federal Ministry of Finance.<sup>8</sup>

**What is the general regulation and setting of the education within the framework of the preparation for the performance of civil service and the performance of the civil service itself?**

See answers in this chapter. There is no explicit differentiation of the individual types of education as in the Czech legal order. However, it can be inferred from the division of legislation that the education is divided as follows:

- **Preparatory training within the preparatory service** – this is intended to pass a service examination and to be appointed as a civil servant with a tenure;
- **Training for the purpose of qualifications enhancement** – this aims to ensure that the civil servant reaches a higher level of education and can eventually be promoted;
- **Training for the purpose of professional qualification enhancement** – according to Sections 46 and 47 of the BLV, this is a part of the development of the civil servant and can be compared to the Czech education enhancement.

**What legal regulation governs the training of civil servants?**

The basic legislation governing the framework of education is BBG, which in § 61 (2) expressly obliges civil servants to participate in qualification enhancement that will lead to the maintaining or increasing and further development of their knowledge and skills. Another legal regulation that regulates the training of civil servants is BLV, i.e. a legislative rule, in particular § 46 and § 47. These provisions refer to staff development and professional qualifications.

**Is the education of civil servants centrally managed or decentralized?**

The training of civil servants is decentralized. Pursuant to Section 46 (1) of the BLV, staff development is based on the concepts of staff development that are formed at the level of central service authorities. These central authorities can then pass on their competence to lower authorities. These concepts of personal development also include the area of education enhancement and professional development within the meaning of Section 46 (2) No. 1 of the BLV.

**Who is responsible for the training of public employees?**

The responsibility for staff and professional development lies primarily with the civil servants who are obliged to enhance their qualification in accordance with § 61 (2) BBG and § 47 (2) BLV. Furthermore, the regulations impose an obligation on superiors to support civil servants in their development, for example by submitting proposals to them to participate in various training events.

The service authority, on the other hand, has the duty to set up concepts of personal and professional development and to create the conditions to enable civil servants to be trained. This obligation results from Sections 46 and 47 of the BLV. In each department there will be a section, which will be responsible for matters of education, usually it will be a section in charge of all

matters of service relations. However, it is not uniformly set up what section it is.

**Does the education system for senior civil servants differ from the education system for ordinary civil servants?**

A distinction needs to be made between what kind of training is involved. The system of training to pass a service examination is differentiated in its severity according to the service ranking of a civil servant. As some posts are explicitly only for the superiors, it logically means that the superior education will be different from that of ordinary staff. More information on the topic of service ranking is in the chapter on the systemisation and the organization of service authorities.

In case of personal development and education enhancement, neither the law nor BLV distinguishes between ordinary employees and superiors. On the contrary, it is explicitly obligatory for all civil servants to enhance their education and to enhance their professional competences under equal conditions.

**What is the connection between the education and the career system (the education programs as a prerequisite of the participation in the selection procedure)?**

Paragraph 47 (5) of the BLV expressly provides that civil servants who significantly enhanced their qualifications by means of qualification-enhancing tools – should be encouraged. In particular, they should be given the opportunity to participate in more complex tasks and given the opportunity to apply the acquired knowledge and skills. Another connection is that in case of a qualification enhancement, it is possible for such a civil servant to be promoted, i.e. transferred to a career group in which a higher degree of education is required to perform the service. However, the transition to a higher career group is also influenced by the vacancies in the given career group and may also be affected by the results of the service performance appraisal.

**What is the connection between the education and the service performance appraisal (is the choice of the education based solely on the performance appraisal results, operational needs, some general plan without performance appraisal results being taken into consideration or are there more criteria combined), and how much important is the education for the performance appraisal itself?**

The service performance appraisal contains a special part with recommendations for the improving and developing of the civil servant (more information on this in service performance appraisal part). Thus, in this part it is possible to write (and HAO counts on that) suggestions for example for the development of language competencies, soft skills, etc. Within the service performance appraisal, the results of their qualification and personal development can also be taken into account on the grounds of the established evaluation criteria for a given reference group development.

**3.15.12 The Termination of Service**

**How is the issue of the termination of service regulated? What types of termination of service (e.g. by law, by the decision of the competent authority, on request, etc.) are there?**

<sup>8</sup> <https://www.bundesfinanzministerium.de/Web/DE/Ministerium/Bundesfinanzakademie/bundesfinanzakademie.html>

The termination of service is governed by Part 5 of the BBG. The law distinguishes between three basic types of service termination. These are a dismissal (Section 1 of Part 5), the termination of service (Section 2 of Part 5) and a retirement (Section 3 of Part 5). The issue of retirement goes completely beyond the Czech legal framework and will therefore not be described in more detail.

In general, the BBG in Section 30 stipulates that the reason for the termination of service may be a dismissal, loss of civil servants' rights, a removal under disciplinary law, or a retirement. The release under the law is governed only by Paragraph 31 of the BBG, all other forms of dismissal being based on an administrative act.

In case of a **dismissal**, BBG distinguishes the following types:

- Pursuant to Section 31 of the BBG
  - If the civil servant is not qualified for the service anymore,
  - Started a service in an authority, which is under German law not a service authority or has become a soldier,
  - If he / she has passed a probationary period for a different career and has been appointed as a civil servant with a tenure;
- For an urgent reason under § 32 BBG;
- Upon request under Section 33 of the BBG; probationary civil servants under Section 34 of the BBG;
- Probationary civil servants under Section 35 of the BBG;
- Probationary political civil servants under Section 36 of the BBG;
- Civil servants until further notice.

**Is the termination of the civil service connected with any financial compensation? (e.g. the end-of-service allowance, severance pay, cash settlement, etc.)? Under what conditions and to what extent is this compensation provided?**

Under Paragraph 39 of the BBG, once a dismissal is made, the former civil servant is not entitled to any salary or other security.

**Does a non-competition clause or any other similar institute apply after the termination of service? To what extent?**

The non-competition clause is not expressly included in the legislation. In case of civil servants, it was even judged that competing activities could be carried out without restriction.

**What other institutes are connected with the termination of service?**

The most common way of ending a tenure service is a service rent. A service rent is a special form of retirement benefit, which, by its nature, is closer to salary than to a rent of persons employed in the private sector. In case of an early termination of service, an additional insurance of the former civil servant is common which need to be carried out for the inclusion of the former civil servant in the statutory social security scheme. However, the information above is closely connected with the tenure..

## 3.16 Terms and abbreviations used

### 3.16.1 The Kingdom of Belgium

**BEDA** – Office of Ethics and Deontology of State Administration (Bureau d’Ethique et de Déontologie administratives)

**SELOR** – The Office for the Selection of Employees for the Federal Administration (Bureau de sélection de l’Administration fédérale)

### 3.16.2 The Kingdom of Denmark

**PRP** – Performance Related Pay – result-oriented remuneration,  
**CFU** – Danish Central Federation of Civil Service Organizations.  
*Circular of 11 December 2000* – a document that defines employment in the public sector and the state

### 3.16.3 The Republic of Estonia

**CSA** – Civil Servants Act

### 3.16.4 The Republic of Finland

**HAUS** – Finnish Institute of Public Administration  
**PRP** – Performance Related Pay

### 3.16.5 The French Republic

**CAP** – Joint Administrative Commission (Commission administrative paritaire). It is a representative body of civil servants within the Office. The CAP is elected for four years. The Commission deals with all issues related to the career and professional life of officials (transfers, mobility and availability). It is an appellate instance in case of evaluation results, imposition of sanctions, obtaining official status, career growth

**CSFPE** – Supreme Council for State Administration (Conseil supérieur de la Fonction publique de l’État) – the highest consultative representative body of civil servants. The appellate body has only consultative powers, but the opinion of the Board is widely accepted and respected.

**LOLF 2001** – law on the method of drawing up the budget (Loi organique relative aux lois de finances)

**DGAFP** – Directorate-General for Public Administration (Directorate Générale de l’Administration et de la Fonction Publique)

**ENA** – The State School of Public Administration (École Nationale d’Administration)

**IRA** – *Regional Institutes of Public Administration (Institut Régional d’Administration)*

### 3.16.6 The Republic of Croatia

**CSA** – Civil Servants Act

### 3.16.7 The Republic of Ireland

**CPSA** – Commission for Public Service Appointments  
**CSA** – Civil Service Regulation (Amendment) Act, 2005  
**PAS** – Public Appointments Service  
**PIP** – Performance Improvement Plan PMDS  
**PMDS** – Performance Management Development System

**TLAC** – Top Level Appointments Commission

### 3.16.8 The Italian Republic

### 3.16.9 The Republic of Malta

### 3.16.10 The Netherland

**ABD** – General Administrative Service

**DPS** – Dutch Public Service (2016)

**LEG** – The Legal Status of Civil Servants (2010)

**TMG** – Top Management Group category

### 3.16.11 The Republic of Poland

**SŚVS = SSPA** – State Schools of Public Administration of the President of the Republic of Poland Lech Kaczyński (SSPA)

**ZSS = CSA** – Civil Service Act

### 3.16.12 The Republic of Austria

**AsG** – Act on Selection Procedures (Ausschreibungsgesetz)

**AZG** – Act on Working Hours (Arbeitszeitgesetz)

**B-KUVG** – Law on Health and Accident Insurance of Civil Servants (Beamten- Kranken und Unfallversicherungsgesetz)

**BDG** – The Act on Civil Servants and Civil Service Law (Beamten Dienstrechtsgesetz)

**BHG** – Budget Rules Act

**BMG** – The Ministerial Act (Bundesministeriumsgesetz)

**GehG** – The Act on Wages (Gehaltsgesetz)

**GV BMI** – Regulation on Basic Education of the Ministry of the Interior (Grundausbildungsverordnung Bundesministerium des Innern)

**GV BKA** – Regulation on Basic Education of the Federal Chancellery (Grundausbildungsverordnung Bundeskanzleramt)

**PG** – The Pensions Act (Pensionsgesetz)

**VBG** – the Act on the Contract of Employees in Public Administration,

### 3.16.13 The Slovak Republic

**KSVS** – Collective Agreement of a Higher Degree

### 3.16.14 The United Kingdom of Great Britain and Northern Ireland

**CRGA** – The Constitutional Reform and Governance Act

**CSCS** – The Civil Service Compensation Scheme

**CSMC** – Civil Service Management Code

**RP** – Recruitment Principles

### 3.16.15 The Federal Republic of German

**AZV** – the Government Order on Working Hours

**BBG** – The Act on Civil Servants (Bundesbeamtengesetz)

**BBesG** – The Federal Remuneration Act

(Bundesbesoldungsgesetz)

**BeamtStG** – The Act on the Status of Civil Servants (Beamtenstatusgesetz)

**BeamtVG** – Law on the Support of Civil Servants (Beamtenversorgungsgesetz)

**BDG** – Federal Disciplinary Law (Bundesdisziplinargesetz)

**BHO** – Federal Government Budget Regulation (Bundeshauhaltsordnung)

**BLBV** – Federal Government Decree on Performance Supplementary Allowances (Bundesleistungsbesoldungsverordnung)

**BLV** – Federal Government Decree on the Career of Civil Servants (Bundeslaufbahnverordnung)

**EurlV** – Federal Government Decree on the various types of leave (Erholungsurlaubsverordnung)

**GGO** – Joint Rules of Procedure of the Federal Ministries (Gemeinsame Geschäftsordnung der Bundesministerien)

**HAO** – Internal Instruction of the Federal Ministry of the Interior (Hausanordnung des Bundesministeriums des Innern)

**HBankDVDV** – Regulation on Preparatory Service for the High Service at the Federal Bank of Germany

**ParlStG** – a special law on the status of parliamentary secretaries of state

**SGB V** – Social Code, book V

**SurIV** – Federal Government Decree on Special Types of Holiday (Sonderurlaubsverordnung)

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