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Professionalisation of Senior Civil Service in Montenegro: Between State and Politics

Podgorica, december 2014

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ABSTRACT

Montenegro has only formally set the boundary between professional functions and political appointments in state administration. Even though the room for political influence on senior management staff and heads of authorities has been reduced with the new Law on Civil Servants and State Employees, the legal framework is still plagued by inconsistencies and imprecise norms that have an adverse effect on the overall efforts towards professionalising the state administration.

According to the existing regulation, senior civil servants do not need to be experts or specialists in the areas they cover. On average, they are mostly required to have an undergraduate degree in social sciences and at least three years of working experience in managerial positions or positions requiring autonomy. The awareness of the need for their further professional development is low, which results in their very low participation in trainings offered by the Human Resources Management Authority.

The legal framework is ridden with shortcomings when it comes to regulating the status of senior civil servants, such as insufficient provisions relating to the conditions for their dismissal and the absence of the requirement of their work's appraisal. Appraisal of the senior managers' performance is superficial, and it neglects specific benchmarks existing for their performance appraisal. The rigid wage policy for state management staff leaves little room for flexibility and additional stimuli, a consequence of which is that relatively low salaries are being supplemented through additional remuneration for membership in various working bodies and public enterprises' managing boards. The average monthly income of most senior civil servants is around EUR 1.000.

Another reason for concern is that the nominally professional nature of the senior civil service is in reality subject to direct political influence through informal practices. A considerable number of senior civil servants, at least 90 of them, are simultaneously members of organs of political parties currently in power, which indicates that Montenegro's senior civil service is in a conflicting situation of being torn between political priorities of the ruling parties, on the one hand, and the reform priorities, on the other hand. Consequently, the need for further prevention of political influence on this level of state administration is all the greater. An adoption of a special framework of competencies for senior civil servants, which in effect would contain a list of all the necessary skills they must possess, would be a good starting point for further professionalisation of these positions. Legal amendments should also thwart this cadre from participating in managing or advisory bodies of all political parties, and should define very precisely their rights and obligations in cases of deciding to run in elections.

Introduction

For the purpose of this study, the concept of professionalisation includes relevant professional skills of senior civil servants, their continuous professional development, their performance appraisal, and autonomy from political influences, both when it comes to appointment and dismissal of these officials and when it comes to their daily tasks. The senior civil service includes heads of state authorities (Directors or Secretaries) and senior management staff¹ in state administration authorities.

Professionalisation is viewed positively as a driving force of public administration's and society's development, especially in the current context of EU accession negotiations and in the light of the negative communist heritage of party-state fusion. In principle, this concept is closely related to the concept of new public management, a strand in the public administration theory which puts an emphasis on public sector adjustments to market economy, on the public service, on cooperation, and in general on the adoption of entrepreneurial values and management models into the public sector activities.²

The senior civil service walks the fine line which separates the state from politics. As such, it serves as an important indicator of the level of public administration's politicisation and professionalisation. Namely, in the context of contemporary public policy adoption and implementation, the role of the managers is extremely important, as they are no longer just bureaucrats, as the old Weberian dichotomy suggests, which postulated that politicians were in charge of passing public policies, and the bureaucrats were in charge of implementing them.³

Quite the contrary, in the contemporary state administration these two roles are intertwined, and the responsibility of managers for public policy continuity is all the greater. However, in Montenegro the senior management staff is often exposed to direct political influence. The undated resignations affair, when 148 state administration senior management staff offered envelopes with their resignations to be at the disposal of the then-Prime Minister-designate is just one manifestation of this problem.⁴

The new Law on Civil Servants and State Employees, in force since 1 January 2013, was adopted precisely with the view to de-politicising and professionalising state administration, including the senior civil service. However, the effects of the new Law remain dubious, bearing in mind the insufficient capacity of the key institutions for its implementation and the insufficient compliance to its key provisions by state authorities. Circumvention of the new rules by employment mediation, inadequate composition of the commissions for qualification assessment, low competitiveness in filling of vacant posts, lack of information for adequate human resources planning, insufficient transparency in applying the new rules, and limited and insufficient explanations of the recruitment decisions are some of the main challenges in this Law's application.⁵ Moreover, main novelties of the 2013 Law are pertaining to the lower tier of civil servants and state employees,

1 According to the Law on Civil Servants and State Employees, the senior management staff includes Secretaries and Managing Directors of Ministry, Deputy Heads of Administration Authorities and Deputy Heads of Service.

2 R. Denhart and J. Denhart, *New Public Service: Serving Rather Than Steering*, *Public Administration Review*, 60 (6), p. 549–559, November/December 2000.

3 Schreurs, F, Steen, T. and Vandenabeele, V. *Politico-administrative relations in top civil service in the EU member countries* (Study commissioned by the Belgian EU-Presidency), Undated draft.

4 Even though the managers allegedly offered their mandates at the disposal of the then-Prime Minister-designate Milo Đukanović "at their personal request," this instance has highlighted the still very high level of politicisation of senior management positions. Moreover, the fact that the resignations have formally been put at the disposal "at their personal request" has prevented the reassessment of mandate termination of the managers who have offered these so-called "blank resignations."

5 Cf. Institute Alternative, 2014, *The 2013 Monitoring Report on Recruitment and Promotion in State Administration (1 January 2013 - 1 January 2014)*, May 2014, available at: <http://institut-alternativa.org/zaposljavanje-i-napredovanje-drzavnim-organima-godisnji-monitoring-izvjestaj/?lang=en>.

and are best visible in the obligation to choose by default the best candidates following oral and written tests. This Law has made the procedures for appointment and dismissal of senior civil servants stricter as well, but it has at the same time left a significant degree of discretionary competences to the Government and the ministries.

The European Commission has recognised the importance of this issue and in its latest Progress Report on Montenegro⁶ it has highlighted the importance of monitoring the public administration reform, especially when it comes to appointments and dismissals of senior managerial staff. The aim of this study therefore is to highlight the professionalisation of the senior civil service and to answer to what degree the application of the Public Administration Reform Strategy for 2011-2016, and especially the implementation of the Law on Civil Servants and State Employees and the related bylaws, have contributed to the professionalisation of the senior management staff in Montenegro's state administration.

Aside from comparing the practices, laws, bylaws, and interviewing public policy makers in the area related to civil servants and state administration, this study uses quantitative data on the application of certain norms of the Law on Civil Servants and State Employees.

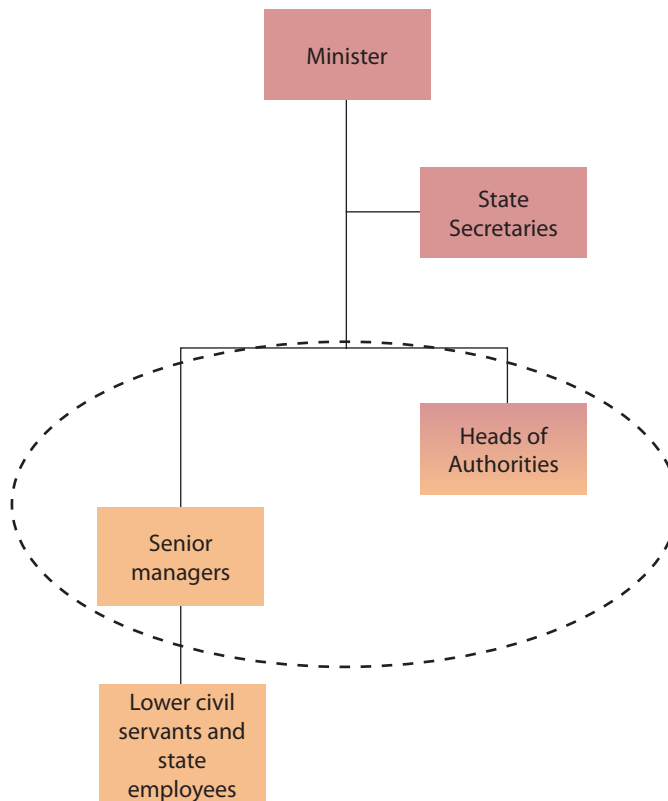
The study is composed of six main parts. The first part is related to defining the scope of the paper, i.e. defining the "senior civil service" and the main aspects of its status in Montenegro. The second part provides an overview of the extent to which the existing regulations and practice allow for professionalism to be the main characteristic of Montenegro's senior civil service, whereas the third part provides an overview of its work. The fourth and fifth part focus on professional training and wages of senior civil servants, and the sixth part covers horizontal issues of de-politicisation and the main challenges in that respect. The conclusion and recommendations highlight some desired avenues for improving the overall process of de-politicisation of the senior civil service.

6 Montenegro Progress Report 2014, European Commission, October 2014, available at: http://ec.europa.eu/enlargement/pdf/key_documents/2014/20141008-montenegro-progress-report_en.pdf.

Who manages the state administration in Montenegro?

Montenegro's state administration comprises 10,500 employees and 56 state administration authorities – 16 ministries, 22 administration authorities within ministries, and 18 independent administration authorities. In addition to these 56 bodies, which are central to this study, the public sector also comprises local self-government authorities, public institutions, public companies, and organisations performing public duties (so-called regulatory bodies).

Chart 1: Hierarchy of the top state administration positions in Montenegro



The Interior Ministry has underlined in its latest report that the human resources information system introduced for keeping records of the employees in state administration and for ensuring more efficient human resources planning is not up to date. Moreover, this software does not offer data categorisation according to the number of systematised and occupied working positions or their levels and categories.⁷ However, given that on average there are around six positions systematised in each of the ministries for the senior management staff, there should be around 90 persons occupying these positions. For the additional 40 authorities (independent or within ministries) at least 80 more senior management positions are systematised (heads and deputy heads). Therefore, there are at least 170 persons occupying senior management

positions in Montenegro, which is around 1.6% of all the employees in the state administration. This percentage is within the general standards, given that the percentage of managers in state administration is usually between 0.3% and 2.5%.⁸

In its public administration principles, SIGMA (joint initiative of the European Commission and the Organisation for Economic Cooperation and Development – OECD) lists the prevention of direct or indirect political influence on senior management positions in public administration as one of the top principles.⁹ This principle further means that the positions such as secretary or director general should be at the border separating professional job positions from political appointments.

However, in Montenegro this line is often blurred. Even though the directors generals and secretaries are recognised as civil servants, the positions of heads of independent authorities and authorities within ministries (hereinafter: heads of authorities) is not clearly defined within the

7 Government of Montenegro, Ministry of the Interior, *Report on the work in 2013 of the Ministry of the Interior and the Human Resources Management Authority, over which the Ministry exercises oversight (Montenegrin)*, Podgorica, March 2014.

8 M. Lafuente, N. Manning and J. Watkins, GET NOTE: *International experiences with senior executive cadre*, Global Expert Team (Public Sector Performance), 2012, available at: http://siteresources.worldbank.org/EXTGOVANTICORR/Resources/30358631285601351606/GET_Note_Recently_Asked_Questions_Senior_Executive_Services.pdf.

9 European Commission, SIGMA, OECD, *Principi javne uprave*, November 2014 (Montenegrin).

existing legal framework. Namely, these positions are not categorised as civil servant positions, but on the other hand positions of heads of authorities are also not political functions, given that the new Law discusses in more detail the conditions under which persons are appointed to these positions. The state administration is also run by ministers, who are essentially politically appointed, and also by state secretaries, whose position is chiefly defined by the Law on State Administration, and their mandate is defined by the Government's mandate.

Below the position of heads of authorities is the senior management staff, which comprises the positions of Secretary and Director General of Ministry, Deputy Head of Administration Authority, and Deputy Head of Service. As stated before, for the needs of this study, the senior civil service in Montenegro's state administration is defined as heads of state authorities (Directors or Secretaries) and senior management staff. However, it should be noted that the legal framework contains internal inconsistencies even when it comes to the categorisation of these positions. Namely, the senior management staff is recognised as a special category in the administration system, whereas the positions of heads of authorities are not categorised as civil servant positions, in spite of the fact that the Law on State Administration prescribes that "the head of an administrative authority shall be liable for his/her work, the operation of the administrative authority he/she manages, as well as for the condition in the specific field, to the director general and competent minister."¹⁰ The practice, however, attests to the contrary, since the general directors, which belong to the level of senior management staff, have virtually no control mechanisms over heads of authorities. Moreover, the work of senior management staff is subject to regular annual performance appraisal, whereas, on the other hand, the heads of state authorities are not evaluated at all. If the persons performing the duties of senior management staff, including general directors, receive a single non-satisfactory mark, they are automatically dismissed. Heads of state authorities, on the other hand, are not subject to performance appraisal at all, and consequently their non-satisfactory performance is not explicitly stated in the Law as the reason for their dismissal.

Apart from the senior management staff, Montenegrin civil service system includes also the expert-management staff, expert staff, and operational staff.¹¹ The Law also recognises the category of special advisors. However, the special advisors are not civil servants, but *de facto* political appointees, whom the President of Montenegro, the Speaker and Deputy Speakers of the Parliament, Prime Minister, and Deputy Prime Ministers may hire to perform duties within the remits of their work. They are appointed not in accordance with the Law on Civil Servants and State Employees, but in accordance with special regulations of those institutions. In addition, their mandate ends with the termination of the mandate of public officials that have hired them.

Special advisors enable flexibility in decision-making by allowing public officials to establish teams of people they trust, given that the conditions for their appointment is more loosely regulated than is the case with the senior management staff or the heads of authorities. Hence, the requirement for the professionalisation of managers in state administration is justified, as the system in force has allowed enough discretionary rights to public officials to bypass the relatively tougher testing procedures prescribed by the Law.

Specifics of the senior managerial staff in Montenegro

There is no single regulatory framework for senior management staff in the EU member-states. Instead, there are five main Senior Civil Service (SCS) Models of organising senior management staff.¹²

¹⁰ Article 44, Law on State Administration, Official Gazette no 38/03, 22/08, 42/11.

¹¹ The category of expert-management staff includes titles such as chief officer, manager, and coordinator. The category of expert staff includes titles such as independent advisor, senior advisor, and advisor. The category of operational staff includes titles such as independent clerk, senior clerk, and clerk.

¹² H. Kuperus and A. Rode, A., *Top Public Managers in Europe: Management and Working Conditions of the Senior Civil Servants in the European Union Member States* (Study Commissioned by the French EU-Presidency), Maastricht, European Institute of Public Administration, 2008

1. Centralised SCS organisation: this model implies that senior servants are recognised as a special group of civil servants to which special conditions apply. Also, there is a special institution for management of this staff and regulates its status, including recruitment, promotion and dismissal;
2. Formalised SCS status with special conditions: this model includes senior servants which are recognized as a special group of civil servants to which special conditions apply. However, there is no special institution which manages this cadre, and this task is assigned to the general institution for human resource management in state administration;
3. Formalised SCS status without special conditions: this manner of organization of senior civil service is similar to the previous model; yet, apart from being recognised as a special group of civil servants, to senior civil servants no special conditions apply;
4. Recognised SCS group with special conditions: in other words, senior civil servants are not formally defined in any piece of legislations, but special conditions apply to this cadre, especially with regards to recruitment, rewards and other aspects of its status.
5. No special SCS recognition or organisation.

Of the five models, Montenegro's system has the most similarities to the fourth one, given that, as was elaborated in the previous chapter, Montenegro has a special group of senior management staff who are not politically appointed in strict terms, but who are not subject to the same rules as lower categories of civil servants and state employees. The status of the senior management staff however is not formalised in the sense of there being a special institution for administering them exclusively; or in the sense of the status of heads of authorities and senior management staff being regulated through a single legal framework; or specifically regulated in regard to other levels of state administration.

Appointments and dismissals: Guarantee of autonomy or possibility of misuse?

Introduction of the merit-based system into the Montenegrin civil service is one of the main aims of the Strategy for Public Administration Reform 2011-2016. In their set of principles, SIGMA has underlined the need for the recruitment of senior management staff to be open, merit-based, and offer equal opportunities. In addition, the legal framework should prescribe clear requirements for selection and dismissal in order to reduce discretionary powers of ministers, who are first and foremost political appointees. Such solutions should also be consistently applied in practice.

The 2013 Law on Civil Servants and State Employees is a step towards meeting these requirements, as it has reduced the discretionary powers for appointing senior managers (especially heads of authorities), who previously, according to the 2005 Law, were always politically appointed by the Government following a proposal by the line ministry. Senior management staff was selected on the basis of an oral interview, which however was not conducted by a specialised testing commission formed by the Human Resources Management Authority, but was conducted by the head of state authority. Moreover, there was no obligation to appoint by default the candidate who was best ranked at the testing.

According to the new Law, both heads of authorities and persons covering positions of senior management staff are appointed for a limited period of five years. However, the testing procedure for senior management staff is regulated in more detail, since this procedure is administered by a commission formed following the same rules as when forming commissions for lower categories of civil servants, i.e. by a representative of the employing state authority, a representative of the Human Resources Management Authority, and an independent expert. However, unlike the candidates for lower civil service positions, who must also pass oral and written testing, the candidates for senior management positions are only tested in a structured interview. The testing procedure for heads of authorities is even looser and consists only of a conversation with the line

minister. Such solutions leave much discretionary power to line ministers and the Government who ultimately perform the appointment of senior managers.

When it comes to mandate termination, a distinction exists between dismissal of senior management staff and of heads of authorities. While the Law on Civil Servants and State Employees defines in great detail the reasons for the termination of a senior manager's mandate,¹³ the reasons for dismissal of a head of authority are only very vaguely regulated by the Law on State Administration. Namely, this Law states only that the head of authority shall be appointed and dismissed by the Government, on the motion of the competent minister.¹⁴

Good solutions	Bad solutions
<ul style="list-style-type: none"> 👍 Legally prescribed requirements that candidates for senior management staff positions must fulfil 👍 Limited duration of the mandate (five years) 👍 Testing procedures for candidates for senior management staff positions 	<ul style="list-style-type: none"> 👎 Insufficiently regulated testing for candidates for senior management staff positions 👎 Too large discretionary powers for line minister and the Government in appointing heads of authorities 👎 Insufficiently prescribed requirements for termination of mandate for head of state authority, making the position susceptible to political influence

It is a good solution that senior civil servants are appointed for a period of five years, which is longer than the Government's four-year mandate, thus limiting the possibility of politicising the positions. Moreover, the limited mandate is a standing practice in the EU member-states, just like the possibility for persons outside the state administration to apply for management positions, the encouragement of public-private mobility, and the appointment of candidates on the basis of experience and management skills.

The Montenegrin system of appointment of senior civil servants is therefore essentially a system of position-based employment which shares many common characteristics with various EU member-states in terms of appointment and dismissal of this staff.

The main characteristic of the position-based system is that the competition for vacant positions is open to all qualified candidates, regardless of whether they are civil servants or not. The antipode to this system is the career-based employment, a system in which a group of candidates is recruited to work in the civil service and over time they develop professionally and get promoted from lower to higher civil service positions.

Both systems have good and bad sides. The main advantage of the position-based system is that it enables the merit-based selection of the best candidates, whereas the main advantage of the career-based system is that it offers internal mobility of the human resources within the state administration, thus fostering the development of a shared culture and facilitating team work. However, it is worth mentioning the warnings that the position-based system, given that it does not imply the possibility of promotion to a higher position on the basis of high-quality work, in fact creates room for political influence on senior civil service appointments.¹⁵ Due to the both models' imperfections, we have lately often been witnessing a combination of the two, and in that sense almost a third of EU member-states have introduced a hybrid model of employment and professional development of senior civil service.¹⁶

13 Article 56, Law on Civil Servants and State Employees, Official Gazette, no. 39/11, 50/11, 66/12,34/14.

14 Article 44, Law on State Administration, Official Gazette no 38/03, 22/08, 42/11.

15 Cf. Centar za evropske politike (CEP), 2014, "Između proizvoljnosti i profesionalizma: Politika zapošljavanja na osnovu usluga u kontekstu pregovora Srbije o članstvu u EU," Belgrade, November 2014.

16 Kuperus and A. Rode, A., *Top Public Managers in Europe: Management and Working Conditions of the Senior Civil Serv-*

In Montenegro there is a pure position-based system in force, and, in principle, this solution is suitable for a small country, where human resources within the administration are not sufficiently developed and appointment to senior positions cannot easily be limited just to the pool of current civil servants and state employees. However, not all aspects of this system are consistently developed in Montenegro. Namely, whereas one of the main advantages of this system should be the possibility to select candidates with specialised skills and to train them to adapt more easily to the new positions, this potential in Montenegro has been rendered pointless by the low quality of the acts on internal organisation and systematisation of state authorities, which do not elaborate in much detail the requirements for covering all the senior management positions. Competitiveness of filling the senior positions is also low. During 2013, on average, qualification assessment was done for two candidates per public competition for positions of senior managers and heads of authorities¹⁷. Nonetheless, the qualification assessment itself is non-transparent, given that there are no publically available reports from interviews or oral conversations based on which the managers are recruited. For lower positions of civil servants, results of qualification assessment and reports on evaluation of candidates are available on the website of Human Resource Management Authority. The appointments of managers are published on the Government's website, and, based on them, indirect conclusion whether the best or the only candidates had been selected can be drawn. However, with an aim of full transparency of management of managerial staff in state administration, results of qualifications assessment and subsequent evaluation reports should be published.

ants in the European Union Member States (Study Commissioned by the French EU-Presidency), Maastricht, European Institute of Public Administration, 2008

17 According to data from Ministry of Interior and Human Resource Management Authority which falls under the scope of this Ministry, qualification assessment in 2013 was done for the total number of 106 candidates for 52 public competitions for managerial positions. Yet, competitiveness in filling the posts of heads of authorities was significantly lower and on average it is 1,3 candidates per competition, while, when filling the posts of senior managerial staff, the qualification assessment is done for 2,5 candidates on average.

Conditions without a purpose: Expertise or the bare minimum?

The rulebooks on internal systematisation and organisation which the state authorities are required to adopt in accordance with the categorisation of working positions prescribed in the Law on Civil Servants and State Employees are oftentimes just parroting the existing legal formulations, even in those ministries where one would expect that their scope of work requires special expertise and greater level of specialised skills. Consequently, by analysing in detail the rulebooks on internal systematisation and organisation of five ministries with specific domain of work (Ministry of the Interior, Ministry of Sustainable Development and Tourism, Ministry of Agriculture and Rural Development, Ministry of economy, and Ministry of Information Society and Telecommunications) one may conclude that the candidates for senior positions in these institutions and authorities within its organization must hold a university degree, but not necessarily the competences related to specific tasks in these authorities' domains.

Quite common are the examples where certain positions require a degree in science, social sciences, or technology – in essence any higher education degree. Moreover, conditions for appointment to positions of the same grade are not aligned between authorities. For example, some positions of the same grade require only a beginner's level of English, and some require an advanced level, whereas this distinction is not rooted in, say, different job description, such as the need to communicate or cooperate with the international community. Furthermore, a question begs as to why at all require a beginner's level of English, such as is the case with the Ministry of Agriculture and Rural Development, where all senior positions require an A1 level of English (elementary communication) which surely would not improve work efficiency, nor the exchange with foreign experts and practitioners.

Overall, the most common criteria for appointment of senior civil servants in individual authorities are more or less those already prescribed by the Law: higher education degree in the field of social sciences and at least three years of work experience in "management jobs or other appropriate jobs requiring autonomy in work," whereas it is not precisely defined what management jobs and jobs requiring autonomy in work are (see Chart 2). This unclear definition was deliberately put in order to enable flexibility in appointing persons to management positions¹⁸ and in order to open civil service to candidates with previous private and civil sector and academic experience.

Chart 2 : Chart 2: The most frequent conditions for appointment of managers in Montenegro's state administration

Educational profile

- Higher education (VII1 level)
- Social sciences faculty (law, economics)

Working experience

- three years of work experience in management jobs or other appropriate jobs requiring autonomy in work

¹⁸ Interview with Veselin Vukčević, then-director general of the Directorate for Public Administration and Local Self-Government, Ministry of the Interior, 31 July 2014.

Accountability crisis: Who makes policy?

A good argument against prescribing special requirements for appointment of senior civil servants would be that the managers need not have specialised skills in the domains they cover, but that their primary role should be to coordinate specific organisation units within the state authorities, and therefore general managerial skills should be the top requirement. In reality, the main job description of senior managers, according to the Law on Civil Servants and State Employees,¹⁹ is to manage, i.e. “work coordination, management and organisation of work in one or more organisational units or areas of work; establishing relations and cooperation with other state authorities, bodies of local self-government, economy, non-governmental organisations and citizens.” However, they are also in charge of *decision-making on most complex professional matters*.

It is not elaborated in detail what decision-making on most complex professional matters means exactly. The Decree on Internal Organisation and Job Systematisation Criteria in State Administration Bodies does not at all refer to senior management staff and heads of state authorities, but covers only the expert-management staff, placing the largest burden of responsibility for public policy development on this level of civil servants. According to this bylaw, the expert-management staff performs development tasks, which include drafting development strategies; building and developing political, economic, social, cultural, and ecological system; determining and selecting systemic measures for implementing set policies; anticipate consequences of legislative measures on the overall social development and solution of social relations and issues.²⁰ Such arrangement of the process of adopting and implementing public policies in Montenegro’s state administration creates the necessity to review the lines of accountability among various levels of state administration management. Accountability, for the needs of this study, is defined primarily as a relational concept, looking at the relations between the main actors and the general public, in which the main actors have the responsibility to justify their actions and bear consequences, and the general public to ask questions and criticise these actions.²¹

In other words, as things stand at the moment, the development of public policies in Montenegro rests on the medium-level management staff, who are also required to have the highest level of expertise, and, as a rule, have open-ended job contracts. On the other hand, the tasks of senior civil service mostly come down to coordination and organisation of work. Even their managerial skills are subject to free interpretation, given that neither testing procedures nor the job requirements related to managerial skills are clearly defined by the Law on Civil Servants and State Employees and secondary legislation. The practice of some EU member-states, who have adopted special frameworks of competencies for senior civil service, may serve as an incentive for defining more closely the required skills for senior management staff and heads of authorities in Montenegro’s state administration.

Towards a framework of competencies: Understanding the concept and its benefits

With the growth in popularity of the new way of managing the public sector, the so-called new public management (NPM), the role of managers is drastically changed. The NPM imports management practices from the private sector, emphasises service-orientation of the public service, and therefore encourages, contrary to the previous conceptions of state administration as a static and slow system, dynamism, productivity, and innovation.

With the aim of increasing the overall effectiveness of the civil service, more and more countries are starting to develop a special competency framework for senior civil service, which places an

19 Article 20.

20 Articles 10 and 13, Decree on Internal Organisation and Job Systematisation Criteria in State Administration Bodies, Official Gazette 07/13.

21 Cf. M. Maccarthaigh and R. Boyle, *Civil Service Accountability: Challenge and Change*, State of the Public Service Series, January 2014, Research paper No. 12

emphasis on competence, managerial and leadership skills, innovativeness and communication skills, and expertise. However, it is important to make a distinction between competencies and qualifications, given that competencies are related to human capital and human resources that lead to a greater productivity, whereas qualifications are the basic requirements for performing certain tasks.²²

If this distinction between qualifications and competencies is translated into the legal and regulatory framework of Montenegro, qualifications would be understood as previous requirements, prescribed by the Law and the rulebooks on internal organisation and systematisation of state authorities, which the candidate must fulfil in order to have the possibility of being appointed to a senior management position or as head of authority. Competencies, however, are understood as something more, a sort of “conglomerate, consisting of three dimensions: cognitive, functional, and personal/social competencies.”²³ Each of the three dimensions further encompasses specific skills. The cognitive one, for instance, encompasses the skills of strategic thinking and creative problem-solving, the functional one – decision-making abilities, language and communication skills, and the personal/social one – personal integrity and team-work capacity. In this sense, the competency framework should be understood as a list of all the skills that persons in charge of a certain group of tasks in the civil service should possess. Bulgaria, for instance, has adopted a competency framework for senior civil service that contains eight main sets of competencies: communicative, strategic, relationship-building, effectiveness-related, analytical, stakeholder-awareness, general management and leadership. Each set of competencies is defined more closely and described by listing numerous desired actions.²⁴

Estonia, which due to its small population, communist heritage, and relatively young statehood is comparable to Montenegro, also has a competency framework for senior management staff, which consists of five main competencies: credibility, having a vision, innovation, leadership, and achievement orientation.²⁵ On the basis of the competency framework, the competency profile for each senior manager is defined individually, taking into account that not each employee to whom this framework pertains needs to possess an equal level of all the competencies. Moreover, a competency framework defined in such a way has a double purpose of offering criteria for performance appraisal of the senior civil service and of highlighting the potential avenues of their further professional development, if the appraisal process shows that some of the competencies are not sufficiently developed.

Montenegro has no competency framework for special categories of civil servants and state employees. The only mechanism for assessing the managerial and leadership capacities of senior managers is therefore their performance appraisal. However, as a detailed overview of the appraisal practice and the application of the appraisal policy in Montenegro’s administration will show, the manner in which this area is regulated is very flawed.

22 Elstrom, in: Milan Pagon, Emanuel Banutai, Uroš Bizjak, Univesirty of Maribor Slovenia, Leadership Competencies for Succesful Change Management, Slovenian Presidency of the EU 2008, available at: http://www.dgaep.gov.pt/upload/RI_estudos%20Presid%C3%AAncias/studyseslovenis_LEADERSHIP_COMPETENCIES.pdf.

23 Medveš, in: Milan Pagon, Emanuel Banutai, Uroš Bizjak, Univesirty of Maribor Slovenia, Leadership Competencies for Succesful Change Management, Slovenian Presidency of the EU 2008, available at: http://www.dgaep.gov.pt/upload/RI_estudos%20Presid%C3%AAncias/studyseslovenis_LEADERSHIP_COMPETENCIES.pdf.

24 Cf. H. Kuperus and A. Rode, A., Top Public Managers in Europe: Management and Working Conditions of the Senior Civil Servants in the European Union Member States (Study Commissioned by the French EU-Presidency), Maastricht, European Institute of Public Administration, 2008

25 Ibidem.

Appraisal of senior managers: A shaky start

The 2013 Law on Civil Servants and State Employees has attempted to improve the appraisal of senior management staff's performance, by prescribing specific monitoring benchmarks. These benchmarks include: work organisation of organisational unit or area, management quality, level of established relations and cooperation with citizens, state authorities and other entities, non-governmental organisations and media, and other competencies and skills, as well as quality in performing of the tasks. Following the performance appraisal on the basis of these criteria, senior managers may receive the "satisfactory" or "unsatisfactory" grade. It is important to note that during the implementation of the project to support the Human Resources Management Authority (June 2013 – June 2014), which was financed through the EU's Instrument for Pre-accession Assistance (IPA), a special printed form was developed for the appraisal of senior management staff, which elaborates in more detail the performance and competencies within each of the criteria. In addition, a special section of this form is related to the suggestions for professional training and development of senior management staff, and each of these suggestions need to be developed in more detail.

Benchmarks for appraising the performance of lower level civil servants are different. They do not cover management competencies, and are much more focused on performance, work independence, organisation skills, and team-work. In addition, the grading scale is longer and it comprises the grades that range from "excellent," to "good," "satisfactory," and finally "unsatisfactory."

According to the 2005 Law on Civil Servants and State Employees, there was only one set of criteria for assessing all civil servants.²⁶ Moreover, assessment was not even done in most state authorities, and in those where it was done there were no instances of someone receiving the "unsatisfactory" grade.²⁷ However, even in the hitherto application of the 2013 Law on Civil Servants and State Employees the bylaws and appraisal forms are just mere decoration. The first year of this law's application has seen no better results when compared to old practices. According to the latest report on the implementation of the action plan for implementing the Plan for Internal Reorganisation of the Public Sector,²⁸ and the Government conclusions that followed suit, six ministries, which is more than a third of the total sixteen, have not even undertaken the appraisal process in 2013. Also, more than half of the other state administration authorities - 25 of them, have not conducted any performance appraisal at all, while in two authorities only the appraisal of negligible number of employees has been conducted.

The Institute Alternative's insight into the appraisal decisions, which state authorities are due to adopt by January 31 of the current year for the previous year, also shows that appraisal is done arbitrarily. For example, Of the 22 appraisal decisions for employees of the Administration for Prevention of Money Laundering and Terrorism Financing, into which we were given insight in February 2014, all the 22 civil servants and state employees that received appraisal received the "excellent" grade, including those who covered the positions of senior management staff, whose work should be assessed with either the "satisfactory" or "unsatisfactory" grade. In the Ministry of Interior as well, even 17 persons who occupy the positions of senior managers, were given excellent grades contrary to the Law²⁹.

This shows clearly that appraisal of the senior management staff is not done in accordance with the Decree on benchmarks and manner of performance appraisal of civil servants and state

²⁶ Cf. Article 82, Law on Civil Servants and State Employees, Official Gazette, 09/86 ,08/50.

²⁷ Cf. Institute Alternative, 2012, *"State Administration Reform in Montenegro Between ambitious plans and real possibilities,"* December 2012, Podgorica, p. 62, available at: <http://media.institut-alternativa.org/2013/03/state-administration-reform-in-montenegro.pdf>

²⁸ The report was adopted at the Government session of 18 September 2014.

²⁹ Institute Alternative, 2014, *"Recruitment and Promotion in State Authorities: Yearly Monitoring Report (1 January 2013 – 1 January 2014),* Podgorica, May 2014.

employees. Moreover, there is no requirement to appraise the heads of authorities, or even the heads of administration authorities within the ministries, whose work is subject to the control of not only the minister but also the director general, who belongs to the group of senior management staff.

Good solutions	Bad solutions
<ul style="list-style-type: none"> 👍 Work of senior managers is subject to appraisal 👍 Specific criteria and benchmarks exist for appraising senior managers 👍 With external support, the Human Resources Management Authority has developed special forms for the appraisal of senior managers 	<ul style="list-style-type: none"> 👎 Work of heads of authorities is not subject to appraisal 👎 The law does not prescribe the connection between appraisal results and strategic planning of professional development of managers 👎 Work appraisal may serve only as a basis for dismissal of senior managers, not as a basis for their rewards

An additional flaw of the very framework that regulates the monitoring of managers' work is the lack of connection between appraisal and professional development of managers. Namely, even though the mandate of senior civil servants in Montenegro's administration is limited to five years, and even though after the mandate expiration they enter an open competition with other candidates for the same position, the existing legal framework does not specify in detail in which way the satisfactory grades may affect the future "destiny" of the current managers' positions. In addition, neither the Law on Civil Servants and State Employees nor the Decree on benchmarks and manner of performance appraisal of civil servants and state employees say that the appraisal results should serve as a basis for planning these employees' training.

Professional development of senior management staff: an unrecognised necessity

Generally speaking, there is no awareness in Montenegro of the need for senior civil service training. As the institution in charge of human resource management in public administration, the Human Resources Management Authority is in charge of strategic planning of trainings and preparing the general (for all civil servants and state employees) and specialised trainings (for certain categories of public administration employees).

However, even though the Human Resource Management Authority adopted a special pilot training programme for managers in 2014, it has left out both heads of state authorities and the senior management staff, and focused only on the middle management level in state administration, i.e. the expert-management staff (such as chief officers or managers).

Until the end of 2014, the Human Resource Management Authority did not keep consistent track of the number of civil servants who attended trainings for certain categories of work places they belong in. However, based on the insight into the structure of civil servants who attended trainings in the period from 1 January to 27 November 2014, it is notable that senior management staff took part in 8% of the trainings organised by the Human Resource Management Authority for state administration employees, as well as for employees in the judiciary, Government, Parliament, Office of the President of Montenegro, local self-government, Pension and Disability Insurance fund, Health Insurance Fund, Employment Bureau, Labour Fund, Agency for peaceful resolution of labour disputes, and regulatory and independent bodies to which the Law on Civil Servants and State Employees applies. Hence, this percentage remains small. In addition, the fact that 58% of the senior management staff took part in *ad hoc* trainings, which were organised outside regular training programme prepared by the Human Resources Management Authority, points to the need for improved strategic planning of trainings for senior management staff (see Table 1).

Table 1: Structure of employees who took part in trainings organised by the Human Resource Management Authority in the period from 1 January to 27 November 2014, by work place category (Source: Human Resources Management Authority)

Data by workplace category	Registered					Attended				
	By workplace category					By workplace category				
Type of training	Expert staff	Expert management staff	Operational staff	Senior management staff	N/A	Expert staff	Expert management staff	Operational staff	Senior management staff	N/A
Trainings organised in line with the programme	185	65	47	48	1869	83	42	18	36	1039
Trainings organised outside of the programme	712	197	384	139	1486	387	112	251	114	1150
Trainings for local self-government	138	43	98	45	27	133	43	93	44	27
Foreign language courses	82	19	70	9	443	4	1	3	0	11
Computer literacy courses	41	2	28	1	19	24	1	10	1	12
Total:	1158	326	627	242	3844	631	199	375	195	2239

Trainings are not at all organised for heads of authorities at the state level which, in addition to the lack of work appraisal, the vague regulations for their appointment, and the imprecise conditions for termination of their mandates, contributes to poor results in terms of professionalisation, despite this being one of the goals of the new Law on Civil Servants and State Employees.

It is a statement of fact that there are no systematised data on trainings and professional development programmes for managers which have not been organised by the Human Resource Management Authority. However, this additionally strengthens the argument that there is a need for strategic planning of trainings and professional development programmes for managers which would, in addition to trainings organised by the Human Resource Management Authority, include also other types of professional development, such as study-abroad programmes, foreign language courses, experience exchange, participation at conferences, etc.

Wage policy

The current wage policy in state administration is regulated by the Law on Wages of Civil Servants and State Employees,³⁰ even though the new Law on Wages of Public Sector Employees is in the adoption procedure, which aims at levelling earnings in the state administration, public service companies and public institutions, local self-governments, and regulatory bodies, i.e. organisations performing public authorisations.

As regards managers, the current Law on Wages of Civil Servants and State Employees recognises them all, including heads of authorities and even state secretaries, as senior management staff. Hence, there is a disagreement between the Law on Civil Servants and State Employees and the Law on Wages of Civil Servants and State Employees, given that the latter places state secretaries and heads of authorities within the category of senior management staff, and in fact the two do not belong to that or any other category of civil servants titles.

All job positions within the category of senior management staff thus defined are categorised in the top five of the total of 38 wage grades (see Table 2). However, unlike the lower positions, the senior management staff's wage grades have no ranges, and therefore this system is rather static, and the wage of the managers is largely predefined by the salary grade and the appropriate multiplier, which is used for stating the wage grade.

Such wage policy leaves little room for flexibility and for differentiating between the wages of managers within the same title. Additionally, this Law places heads of administration authorities and secretaries and general directors in ministries within the same category, which further complicates the manner in which the relationships between these positions are regulated. Namely, an inconsistency was shown earlier whereby the heads of authorities are not subject to performance appraisal and their positions are not civil servant positions, unlike for instance the positions of general directors in ministries, to whom they should account for their work.

Table 2: Wage grade categorisation of management positions in state administration (Source: Law on Wages of Civil Servants and State Employees, Official Gazette, 14/12)

Job position categorisation	Title	Wage grade (from-to)
Senior management staff	Head of State Authority, State Secretary	1
	Head of Service	2
	Secretary of the Ministry, Managing Director of the Ministry, Head of the Administration Authority	3
	Deputy Head of State Authority	4
	Deputy Head of the Service, Deputy Head of the Administration Authority	5

Even though there is a possibility for the civil servants showing "exceptional results and quality of work" to be rewarded with the so-called variable part of the wage, which may be up to 80% of the average wage, they are not stipulated by the Law but are instead decided on by the Government, which has a discretionary right of setting the variable part of the wage. By its Decision on the Criteria and Manner for Setting the Variable Part of the Wage of Civil Servants

³⁰ Official Gazette 14/12.

and State Employees,³¹ the Government, however, has not precisely defined the grounds for paying the variable part of the wage. This documents further delineates the “exceptional results and quality of work” through criteria that are difficult to measure, such as special contribution to the improvement of the public administration’s work process, or exceptional work efficiency.

Even the draft Law on Wages of Public Sector Employees, which was subject to public discussion in April and May of 2014, has failed to improve this area significantly, given that it did not establish a sufficient link between the variable part of the wage and the work performance, nor between the variable part of the wage and the relatively well developed system of performance appraisal. It is therefore unclear, especially in the case of senior management staff, what purpose does a system of performance appraisal have, given that it does not serve as a mechanism for professional development, but only for punishment, i.e. as the basis for dismissal of senior management staff.

In principle, the wage policy that is resting on the individual performance of employees (so-called performance-related pay) is a trend in a number of countries, especially when it comes to senior civil servants.³² However, even though this approach in principle corresponds to the needs for greater public administration efficiency, it should be treated with a degree of caution in Montenegro, especially because of the country’s irregular practice of appraising senior managers and the complete lack of practice of appraising the performance of heads of authorities. The fact remains however that the current appraisal and wage policy is insufficiently directed towards motivating and retaining the best employees. It is therefore no wonder that there are often cases of non-transparent and much less objective ways of offering additional incentives to senior civil servants.

Lack of transparency and the elusive numbers

According to the data provided by the Montenegro’s Statistical Office, the average wage in state administration bodies is around 490 EUR, which is also the national average.³³ According to our research, which was limited due to insufficient public availability of wage data of senior civil servants, the average wage is 200 EUR higher than the wage of an average civil servant and state employee.

On the basis of the Law on Free Access to Information, which entered into force in February 2013, all state authorities are obliged to publish on their websites the lists of public officials and their wages. Given that the definition of public officials encompasses the persons appointed in state authorities, administration authorities, and judicial authorities, it also covers the state administration employees who are the subject of this study – senior management staff and heads of authorities. However, by internet search of websites of the state authorities between 20 July and 1 August 2014, Institute Alternative has found only sixteen public officials’ lists with monthly incomes, which is less than one third of all the state administration authorities. Of those, only eight out of a total of 16 ministries have honoured their legal obligation of publishing public officials’ lists with monthly incomes.

For the needs of this study, we have analysed 13 public officials’ lists with monthly incomes, in which we left out authorities within ministries, and we concluded that the average wage of senior managers and heads of authorities is 690 EUR. However, this data should not be taken at face value, as it does not reflect the true state of affairs. This is visible by looking at the example of the Ministry of the Interior, which, in addition to the income of people occupying senior positions, published also their additional remunerations, adding up to a much higher average of 960 EUR per month.

31 Official Gazette 25/11.

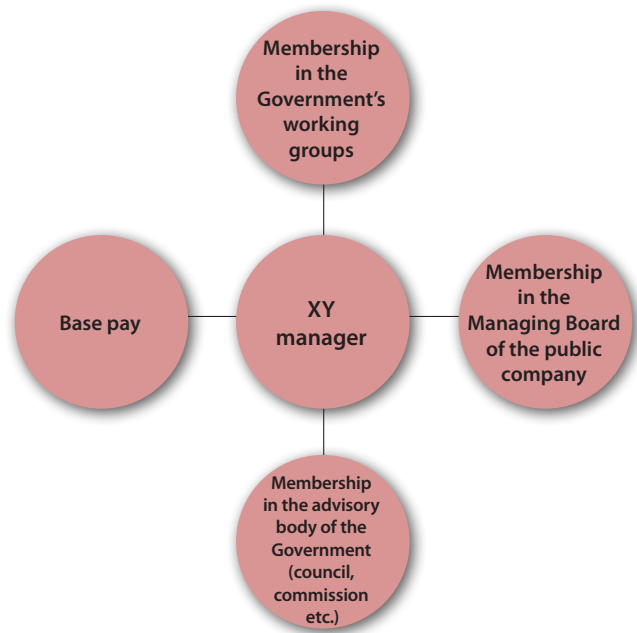
32 Cf. H. Kuperus and A. Rode, A., *Top Public Managers in Europe: Management and Working Conditions of the Senior Civil Servants in the European Union Member States (Study Commissioned by the French EU-presidency)*, Maastricht, European Institute of Public Administration, 2008

33 Montenegro Statistical Office, “*Statistical Yearbook 2013.*”

According to the Law on Prevention of the Conflict of Interests,³⁴ these other remunerations of senior managers come from their participation in permanent or *ad hoc* working bodies and joint commissions established by a state authority. They can also serve as chairpersons or members of boards of directors and control bodies, executive directors, managers in public companies, public institutions, or other legal entities in public companies or institutions owned or co-owned by the state or municipality. Having in mind the great number of these *ad hoc* working bodies and commissions,³⁵ as well as the prolific membership of senior civil servants in managing or control bodies of public companies or institutions, the overview of their average wage is not a realistic presentation of their income.

Namely, by looking at the director generals' assets declarations submitted to the Commission for Prevention of the Conflict of Interests,³⁶ of the 64 persons who have been occupying these positions for at least one year in the period of 2013-2014, 51 have received additional remunerations for other functions they had been performing. These have mostly been functions at managing, control, or executive boards of state companies, or memberships at Government councils, state funds, and commissions or working groups. Average monthly remuneration in 2013 for these functions of managing directors was 330.32 EUR, and in 2014 it was 285.98 EUR. This information underlines the importance of updating data on the managers' assets declarations, which should be submitted to the Commission for Prevention of the Conflict of Interests, but also underlines the importance of keeping records on the overall income of senior civil servants, in order to ensure a more efficient management of this staff.

Chart 3: Example of different monthly incomes of one manager in Montenegro's state administration



34 Article 6, Law on Prevention of the Conflict of Interests, Official Gazette 01/09, 41/11, 47/11.

35 Government of Montenegro, *Information on the justifiability of further operation at the current level of councils and other working bodies established by the Government (Montenegrin)*, March 2013.

36 Commission's website: <http://www.konfliktinteresa.me/new/index.php?lang=me->

De-politicisation of management positions: Political parties fishing in troubled waters

De-politicisation, as was shown earlier in this study, is an important aspect of professionalisation, and in fact the very essence of it, as freedom from political influence should allow the requirements for greater professionalism of senior civil servants to be put at the forefront. However, state administration politicisation, i.e. its susceptibility to political influence, is one of its most criticised aspects, noted by the EU, the opposition, and the civil society. Management positions, which are at the very border separating the state from politics, are precisely the most vivid examples of political influence on state administration.

Their susceptibility to political influence was the reason why some countries in the region, like Bosnia, have prohibited senior managers to run in elections.³⁷ In EU countries there is no uniform way of regulating the civil servants' participation in elections, but for instance in Germany, or in the European Commission, if civil servants wish to participate in electoral campaigns, they must take unpaid leave. In Montenegro, these issues are not at all regulated.

The Law on Civil Servants and State Employees³⁸ stipulates that civil servants and state employee are "obliged to restrain from public demonstration of their political beliefs." The demonstration of those attitudes is listed among the severe violations of official duty.³⁹ In addition, the Code of Ethics of Civil Servants and State Employees prescribes that they cannot express their political views even through clothing.⁴⁰ It is however unclear whether this requirement to refrain from public expression of political views also means the ban from running in elections.⁴¹

It should be reiterated that the mandate of senior civil servants is limited to five years. With this in mind, in addition to the lack of a detailed elaboration regarding the manager's political activity in public, it remains unclear what happens with the manager's term of office in case of being elected. Failure to regulate these issues may provide a privileged status to those senior civil servants who have already been employed in the civil service on an open-ended contract before assuming the positions of senior management staff or heads of authorities. Arbitrary interpretation of the legal norms would imply that they have a right to return to the civil service after their political mandate expires. However, bearing in mind that the position-based system in force in Montenegro allows even those individuals coming from the private and civil sector to apply for management positions, thus not only those already employed for life in state administration, it remains unclear what happens with their working status in cases of being elected.

Apart from the problem of insufficiently regulated area of political activity of senior civil servants, an additional problem arises from the accumulated heritage of inadequate distinction between the state and party politics, visible in the susceptibility of administration positions (especially management positions) to inter-party bargaining and often explicit political influence. Informal practices which politicise the nominally professional positions of senior management staff and heads of authorities are one of the main challenges of the entire public administration reform.

The case of the so-called undated resignations is just one manifestation of these practices.

37 Cf. Transparency International Bosna i Hercegovina, "Kandidati koji su na rukovodećim pozicijama u državnoj službi dužni su podnijeti ostavku," available at: <http://ti-bih.org/?p=7604>.

38 Article 9.

39 Article 83.

40 Article 10, Code of Ethics of Civil Servants and State Employees, Official Gazette 20/12.

41 In the wake of the local elections in Podgorica on 25 May 2014, Institute Alternative submitted an initiative to the Ethics Committee for monitoring the Code of Ethics of Civil Servants and State Employees with the aim of establishing whether the civil servants occupying senior management positions who ran in the local elections have breached the Code by doing so. The response to the initiative has shown that the limitation of the right to run in elections would be contrary to the Constitution. However, in its response the Ethics Committee has admitted that Article 9 Paragraph 2 of the Law on Civil Servants and State Employees has not made it fully clear whether the civil servant is required to refrain from publicly expressing his political convictions on all occasions or just while performing his duties.

Namely, in December 2012, the then-Prime Minister-designate Milo Đukanović requested “blank” resignations from 148 state civil servants. In other words, the resignations signed by these persons were given to Đukanović, who could have had activated them at any moment in case he deemed it necessary.

Good solutions	Bad solutions
<ul style="list-style-type: none"> <li data-bbox="328 434 834 568">☞ The Law prescribes political neutrality of civil servants, which means that they must refrain from publicly expressing their political views. <li data-bbox="328 591 834 689">☞ Expression of political views while performing duties is a severe violation of official duty. 	<ul style="list-style-type: none"> <li data-bbox="876 434 1382 533">☞ What the public expression of political views means is subject to free interpretation. <li data-bbox="876 555 1382 654">☞ Insufficiently prescribed rights and obligations of senior civil servants in cases when they run in elections. <li data-bbox="876 676 1382 775">☞ Unclear what happens with the mandate of senior civil servants who win the elections.

Even though this took place just a month before the entry into force of the 2013 Law on Civil Servants and State Employees, it is a fact that the request, which gained a lot of media attention and EU criticism,⁴² has had a negative effect on the application of the new provisions offered by the new Law. The Government claimed in the information it adopted regarding the status of heads of state administration authorities⁴³ that this political act was motivated by a desire to reconsider and raise the level of success in the performing of their duties. However, such justification is questionable, and especially the Government’s claim that this request affected the mandates the senior civil servants had enjoyed on the basis of regulations that were put out of force and during the previous Government’s mandate. The new Law’s transitional measures envisaged that managers and civil servants who were nominated and appointed before the Law has entered into force were to continue to work in those capacities until the expiration of the period for which they had been nominated or appointed.

Apart from the case of undated resignations, there are other more dispersed practices that point to the fact that the ruling parties are used to appointing their people to the managing positions in state administration. In other words, party activity of senior civil servants is a very common occurrence. The best illustration of this is given by the case of the Democratic Party of Socialist’s (DPS) Council for monitoring the election programme, a body established in 2011 and still active. As many as 78 people out of the total of 220 on the list of this Council are state administration managers (assistant ministers, secretaries of ministries, and heads of authorities). The decision on the establishment of the Council states explicitly that it comprises secretaries and assistant ministers from DPS ranks.⁴⁴ To illustrate further: as many as six out of eight director generals at the Finance Ministry are members of the Council. On the other hand, 10 civil servants and heads of authorities were on the Main Committee and Presidency of SDP, a junior partner in the coalition, at the time of these bodies’ establishment.⁴⁵ It would therefore seem that the senior positions are divided on the basis of party quotas corresponding to the relationship of the two main parties in the ruling coalition. It is interesting to note that several senior civil servants are members of the main bodies of some of the minority parties who gave DPS and SDP the support necessary to form a majority in the Parliament and form the current Government. Namely, two positions of

42 The 2013 Montenegro Progress Report published by the European Commission has warned that the case of undated resignations has undermined the independence of managers from undue political influence. Cf. *Montenegro Progress Report 2013*, European Commission, Brussels, 16 October 2013.

43 Government of Montenegro, *Information on the realisation of Government conclusions from the session of 27 December 2012* (Montenegrin), January 2014.

44 Democratic Party of Socialists webpage (<http://www.dps.me/>).

45 Social-Democratic Party webpage (<http://www.sdp.me/>).

director generals, one at the Ministry for Human and Minority Rights and other at the Ministry of Agriculture and Rural Development, belong to a member of Croatian Civic Initiative (HGI) main committee and the member of the presidency of the Bosniak Party, respectively.⁴⁶

46 Websites of the Bosniak Party (<http://www.bscg.me>) and the Croatian Civic Initiative (<http://www.hgi.co.me>).

Conclusion

The main aspects of status of Montenegro's senior civil servants presented in this study point to the fact that Montenegro has still not made notable progress in professionalising this staff. The main challenges, in addition to the practices of political influence on the civil service, come from certain legal flaws and inconsistencies. In principle, the main decision-makers in this area wander between various models of regulating the status of senior management staff and heads of authorities.

Hybrid models that lay somewhere between the position-based and the career-based system are suitable only if they overcome the shortcomings of each of the systems. However, in Montenegro elements of these two systems are combined in a way that fails to show a clear logic of the career-based system's elements' incursion into the dominant position-based system. For example, performance appraisal is one of the main aspects of the career-based system, which is aimed at determining the further development of a career of a civil servant, i.e. his promotion. However, when it comes to senior civil servants, performance appraisal is very superficial and limited only to the senior management staff. The appraisal of this staff is for the time being only a tool that may be used for punishment, and is not used as a basis for rewards or development in general.

In addition, the main advantage of the position-based system, the possibility to choose from a broad selection of applicants with the view to finding the most qualified staff, has been rendered pointless by the insufficiently precise criteria and low qualifications required for the positions of senior civil servants. Moreover, there is no uniform solution among the institutions, and even within institutions, as regards the requirement for the level of English possessed by persons occupying the positions of the same rank. The request for a beginner's level of English for certain positions also remains as a dubious solution. In addition to scarcely defined criteria as regards qualification, and the very low requirements as regards working experience, there is also no competency framework of any kind, i.e. a set of cognitive, functional, social, and personal skills senior civil servants are required to possess.

The regulations regarding appointments and dismissals of senior civil servants have improved in comparison to the previous Law, given that the positions of heads of authorities have been at least nominally professionalised, and given that the qualification assessment of prospective senior managers is now performed by specialised commissions. However, line ministers and the Government still have overly extensive discretionary rights as regards appointments. In addition, the fact that positions of heads of authorities are not categorised as civil servant positions, in spite of the fact that the manner of their appointment is more closely defined by the Law on Civil Servants and State Employees, could reflect negatively on this staff's position. Namely, the legislators have not defined more closely the procedures for heads of authorities' dismissal, which limits the possibilities for professionalising these posts.

Planning and implementation of professional training programmes is the most prominent indicator of the overall efforts towards professionalising the state administration. However, there are no special training programmes for senior civil servants. Even though the senior management staff in general is beginning to show a growing interest in attending the trainings hosted by the Human Resources Management Authority, heads of authorities are still not attending such trainings. The wage policy also leaves little room for motivating and retaining the best qualified staff, which could result in less transparent ways of rewarding the managers.

Political neutrality of senior civil servants is still not adequately prescribed by the Law. Their rights and obligations in cases of running in elections have not been defined precisely, and it is not sufficiently clear what the obligation "to refrain from public demonstration of their political beliefs" means. Furthermore, the fact that a large number of senior civil servants are at the same time members of ruling parties' bodies points to the still very present politicisation of these positions.

Recommendations

Appointments and dismissals

- The Human Resources Management Authority, in cooperation with other state administration bodies, needs to develop a competency framework, as a set of desired skills and competencies for public administration managers (heads of authorities and senior management staff). Such competency framework should serve as a basis for testing competencies of the candidates for these positions and as a basis for professional training of managers;
- A special committee for testing the competencies should also test the competencies of heads of authorities;
- It is necessary to introduce written tests which would be taken anonymously as additional methods of testing the management competencies, with the view to decreasing the discretionary rights of line ministries and the Government;
- Conditions for dismissal of heads of authorities should be more closely defined by the Law on Civil Servants and State Employees by following the example of the conditions for the dismissal of senior management staff;
- State administration bodies should, after consulting the ministry in charge of public administration reform (Ministry of the Interior) and the Human Resources Management Authority, harmonise their respective rulebooks on internal organisation and systematisation as regards the requirements for the positions of senior management staff and the heads of authorities;
- In parallel to redefining the requirements for senior management positions in the state administration, and in addition to the redefining coordination and work organisation jobs, the Law on Civil Servants and State Employees should envisage public policy development as part of the job description for senior management staff and heads of authorities, with the view to achieving further professionalisation of these positions.

Professional development

- It is necessary to carry out the performance appraisal for senior management staff in a consistent manner, and the amendments to the legal framework should also introduce the requirement to appraise the work of heads of authorities;
- It is necessary to establish a link between performance appraisal of managers and the strategic planning of their professional training;
- On the basis of previous experience of managers' performance appraisal, the needs assessment for their *ad hoc* trainings, the competency framework, and consultations with state authorities, the Human Resources Management Authority should develop a special programme for professional training of managers;
- In order to increase the participation of managers in training programmes, it is necessary to introduce, as an additional criterion for their performance appraisal, the record of attended trainings, alongside a benchmark that would define precisely the number of trainings managers are required to attend annually.

Wage policy

- All state authorities should honour the requirement from the Law on Free Access to Information and publish regularly the lists of names and wages of public officials, and should follow the example of the Interior Ministry and publish in addition to basic wage data also the data about all other remunerations the public officials receive;
- The previously tested criteria and benchmarks for performance appraisal of senior management staff should be defined as a basis for paying the variable part of the wage to managers, i.e. whether variable part of the wage should be paid on the basis of excellent results and quality of work should be assessed in relation to the defined criteria and benchmarks for appraising the performance of managers;
- The new law on public sector wages should redefine the concept of senior management staff, as the two laws in force – the Law on Wages of Civil Servants and State Employees and the Law on Civil Servants and State Employees – do not define this concept in a unified manner.

De-politicisation

- The amendments to the Law on Civil Servants and State Employees should prohibit heads of authorities and senior management staff from participating in management and advisory bodies of political parties, given that by participating in those bodies they are publicly voicing their political beliefs;
- The amendments to the Law on Civil Servants and State Employees should define more precisely the rights and obligations of civil servants in case of running in elections, by weighing several options such as unpaid leave and handing resignations;
- It is necessary to prescribe that, if elected, the mandates of heads of authorities and senior management staff must automatically terminate.

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About us

Institute Alternative (IA) is a non-governmental organization, established in September 2007 by a group of citizens with experience in civil society, public administration and business sector.

*Our **mission** is to contribute to strengthening of democracy and good governance through research and policy analysis as well as monitoring of public institutions performance.*

*Our **objectives** are to increase the quality of work, accountability and transparency, efficiency of public institutions and public officials; to encourage open, public, constructive and well-argument discussions on important policy issues; raising public awareness about important policy issues, strengthening the capacity of all sectors in the state and society for the development of public policies.*

*The **values** we follow in our work are dedication to our mission, independence, constant learning, networking, cooperation and teamwork.*

We function as a **think tank** or a research centre, focusing on the overarching areas of good governance, transparency and accountability. Our research and advocacy activities are structured within five main programme strands: i) public administration, ii) accountable public finance, iii) security and defense, iv) parliamentary programme and v) social policy.

Managing of the organization is divided between the Assembly and the Managing Board. President of the Managing Board is **Stevo Muk**. Research Coordinator is **Jovana Marović**, PhD.

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