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Public Administration in Montenegro:
salary schemes, reward system and opportunities
for professional advancement
in law and in practice

Podgorica, 2008



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Executive summary:

- » While Montenegrin public administration needs professional, skilled and committed people for the tasks of European Integration in all of the sectors, the administration has not managed to attract such people. Quality cadre is more attracted by independent agencies, in which salaries are twice as high as in the state administration for the same type of job, equivalent qualifications and work experience.
- » On 20 March 2008, the Constitutional Court of Montenegro has proclaimed void two articles of the *Law on Salaries of Civil Servants and State Employees*, claiming that they violate the principle of equality guaranteed by the Constitution. This indicates that an agreement on the amendments to the *Law* is difficult to reach, which hampers the overall pace of the public administration reforms in Montenegro.
- » The *Law on Amendments and Addenda to the Law on Civil Servants and State Employees* has not been passed by the Montenegrin Assembly, after having been voted against by the DPS MPs. The amendments to this *Law* would have introduced several significant reforms in the area of public administration. For instance: clear appraisal mechanisms; reduction of years of employment (by 3 years, where applicable) needed for promotion into a civil servant/state employee of a higher grade; clarification of employment procedures; establishment of specialised posts based on IT skills and knowledge of specialised areas, such as foreign languages. Although these changes would not have been revolutionary, had the *Law* been adopted, they would have accelerated the pace of the public administration reform in Montenegro.
- » The January – March 2008 events surrounding the refusal of the Montenegrin Assembly to pass the amendments to the 2004 *Law on Civil Servants and State Employees* point to:
 - the fact that there is a lack of consensus among the governing structures on how to reform the administration, since the minority partner SDP voted for the *Law*, while the majority DPS was against it;
 - the fact that for the DPS it was important to support their Presidential candidate – Vujanović – who contested the *Law* in the first place. A further proof of this is the fact that the DPS MPs voted for the *Law* in the Parliament before its legality has been contested by the President of Montenegro;
 - the fact that - since only 43 out of 81 MPs were present at the session whereby the *Law* was rejected – most of the opposition parties (headed by the MfC as one of the pivotal players in the Assembly), either did not consider the amendments to the *Law* important enough to vote on, or they wanted the *Draft law* to be rejected.

- » Motivation mechanisms are rather low, given the poor salaries, and opportunities for promotion:
 - World Bank has criticised the Montenegrin system, on the grounds that the years of work experience have too much influence on determining the salary grades. This is difficult to change since the number of employees with long tenure is high (residues from the previous system).
 - A further recommendation of the World Bank has been to introduce the merit-based salary system, based on performance related assessment. In Montenegro, the civil servants appraised with the highest appraisal marks are entitled to receive the variable part of salary. However, empirical research shows that the criteria for granting the variable part of salary are unclear, which makes this legal provision difficult to apply in practice.
 - Even though the new *Law on Salaries* has increased the remuneration of civil servants and state employees, it did not bring about any significant change.
 - * It is questionable to what extent changes could be introduced since the salaries for civil servants and state employees come from the Budget of Montenegro, which has limited resources.
 - * A radical change of the system would entail rather high social costs (education and lay off workforce), which is one of the key challenges of reform.
 - Hugh Grant, the EAR salary expert, indicates that while the adoption of a single law on salaries of civil servants and state employees is certainly a positive development, three further areas should be dealt with:
 - * Job classifications should be made simpler, in order to promote the opportunities for promotion within the same grade. There should be fewer grades, but with more categories within them;
 - * Job descriptions should be made clearer in order to allow quality personnel to occupy the posts they are qualified for;
 - * Appraisal mechanisms should be standardised and variable part of salary should be decided upon accordingly.

List of Abbreviations

AGENTEL	Agency for Telecommunications
BA	Broadcasting Agency
BP	Bosniak Party
CARDS.....	Community Assistance for Reconstruction, Development, Stabilisation
CB	Central Bank
DPS.....	Democratic Party of Socialists
EAR.....	European Agency for Reconstruction
EC	European Commission
EU	European Union
FES	Friedrich Ebert Stiftung
HRMA	Human Resources Management Authority
IPA.....	Instrument Pre-Accession Aid
IT	Information Technology
LP.....	Liberal Party
MfC.....	Movement for Change
NATO	North Atlantic Treaty Organisation
NGO	Non-governmental organisations
PARIM	Public Administration Reform in Montenegro
SAA.....	Stabilisation and Association Agreement
SDP.....	Social Democratic Party
SL.....	Serbian List
SPP	Socialist People's Party
TMA	Taxation Management Authority
UN.....	United Nations
UNDP.....	United Nations Development Program
WB.....	World Bank

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Introduction

The reality of the Montenegrin transition is marked by the urgent need for strengthening the state's institutional capacities. This proves to be of particular relevance in the light of the commitments of the Montenegrin Government to integration into the European Union (EU), as outlined also in the Stabilisation and Association Agreement (SAA), signed in October 2007. Aside from the widely known Copenhagen Criteria of 1993, the EU has posed another reform requirement before its aspiring members states – the Madrid Criterion of 1995, which involves institutional reform as a precondition for membership. The Madrid Criterion is targeted at fostering the administrative adjustment of the countries aspiring to become the members of the EU. The establishment of a new layer of efficient public administration and judicial structures is considered by the EU as a guarantee of the country's commitment to transposing and implementing the *Acquis Communautaire* into its national framework.

The process of reform of public administration has been initiated in 2001, in accordance with the *Public Administration Reform Strategy in Montenegro 2002-2009*.¹ However, the fact that Montenegro should further intensify the reforms of the public administration sector was outlined in the 2007 *European Commission (EC) Progress Report* of the EU, which has marked the country's public administration as 'weak and inefficient'.² Although the EU has acknowledged that some advancement has been made in this area, further improvements are needed in order to 'clarify sectoral responsibilities in a manner which permits oversight and transparency'.³ Having in mind all of the aforementioned, the purpose of this research is to provide an analysis of the salary schemes, reward system and opportunities for professional advancement in the public administration of Montenegro, both in law and in practice.

The process of public administration reform and approximation to EU standards require the establishment of advanced mechanisms for attracting, allocating and rewarding the employees. The poor administrative capacities are one of the key challenges Montenegro is faced with, and this fact is partly attributable to the substandard financial conditions of civil servants and state employees, lack of delegation of responsibility from managers and poor working environment. All of these factors decrease the motivation of the civil servants to give the best contribution at their workplace. This has been confirmed by the Government itself, with the public promise that the situation would improve for the civil servants and the state employees. The attempts to amend the existing *Law on Civil Servants and State Employees* and the *Law on Salaries of Civil Servants and State Employees* both resulted in legal uncertainties.

1 Further elaborated in the following section.

2 *EC Progress Report 2007*, p. 10

3 *Ibid*

The conundrum created by the current status of these laws outlines the lack of consensus among the policy-makers in Montenegro, the affair being ever more complex given the fact that these policy-makers belong to the same end of the political spectrum. Hence, the aim of this study is to invigorate the current debate on the reform of public administration, and provide for some concrete recommendations for further improvement in this sector. The need for this analysis is further asserted by the fact that the problems in the salary schemes, reward systems and opportunities for professional advancement in public administration have been perpetuating for a long time; and by the fact that so far, no serious analysis of the current state of affairs in public administration has been made, with thus no adequate recommendations offered to the policy-makers.

In order to offer the most comprehensive outlook of the current state of affairs in this area, and the most plausible solutions to the challenges, this paper is divided in four analytical parts, each having a specific scope. The first part of the study gives an overview of the existing legislation, which helps generate the second portion of research dealing with the implementation of reforms in practice. The third part of the study identifies the challenges Montenegro is faced with, in order to be able to give concrete recommendations on how to tackle them. The fourth element of analysis will consider the practices in Montenegro through comparison with Slovenia, Croatia and Malta, countries that have all recently engaged in the process of reform of public administration. The four analytical elements will be synthesised as recommendations at the end of this policy paper.

So as to present an ample overview of the current legal framework, relevant strategies, the applicability of these documents in practice and their effect on the employees, this paper uses the combination of analytical and comparative approaches. Due to such a perspective on research, qualitative methods -including text analysis and interviews with the relevant policy-makers - offer the best explanation for the examined case. The interviewed sample consists of the relevant officials of the ministries in the Government of Montenegro; and civil servants and state employees in the independent agencies and other institutions. These structured interviews are used to show and analyse the effects of the current legislation, as well as the level of the government's commitment to creating an efficient state administration.

Regulatory Framework: reform on the road?

Montenegro is still in the process of developing an advanced model for the regulation of public administration. This process has been institutionalised through the *Public Administration Reform Strategy in Montenegro 2002-2009*, developed and conducted by the Montenegrin Ministry of Justice, within the framework of the Public Administration Reform in Montenegro (PARIM) program of the European Agency for Reconstruction (EAR). *The Strategy* has been targeted at enhancing the efficiency in the administrative system of the State, with the aim of its approximation to broader social systems, and European standards.⁴ As such, this document stems out of the need for accelerating the EU integrations, which themselves are the main incentive for reform.

The basic postulates on which this program has been based are designed to procure a gradual transformation of the public administration in Montenegro through three stages, which could broadly be defined as: preparatory (Period I from 2002 to 2004); developmental (Period II from 2004 to 2007); and finalizing (Period III from 2007 to 2009). The transition of Montenegrin public administration through the steps each of the stages required, would finally lead to the completion of a set of eight goals needed for a civil service based on efficiency:⁵

- Decentralisation of the administrative system, through delegation of competences to lower levels of the system, making thus the entire public administration more flexible and operative;
- Establishment of quality control mechanisms in the procurement of services and tasks of the administrative structures, based on the determination of responsibilities at all levels;
- Launching of competitive structures, which would allow the citizens and/or business entities to opt for their preferred supplier of administrative services;
- Focus on functionality of public services, which would be client-oriented;
- Ensuring the proper human resources management that would take into consideration the capacities of civil servants;
- Modernisation of the public administration system through the benefits of the modern information technology (IT)
- Creation of an operative legal framework, which would standardise the priority areas, while deregulating the over-regulated administrative structures;
- Strengthening of the steering and monitoring processes that would enable the proper functioning of the public administration

4 *Public Administration Reform Strategy in Montenegro 2002-2009* (Podgorica, 2003), p. 13

5 The following list has been compiled in line with the *Public Administration Reform Strategy in Montenegro 2002-2009* (Podgorica, 2003), p. 16

While it would be overly enthusiastic to claim that most of the above goals have been accomplished by mid-Period III, the *Strategy* did bring about several positive changes in the administrative structures of Montenegro. The major accomplishments of the reform occurred during Period II, which brought about the adoption of an enhanced normative framework entrenched in: *Law on Civil Servants and State Employees*, which substituted the old *Law on Civil Servants*; the amendment of this *Law* through the adjunction of the complementary Article 128; and the amended *Law on Salaries of Civil Servants and State Employees*.⁶ Both of these *Laws* have been accompanied by the relevant secondary legislation.⁷

In the case of the *Law on Civil Servants and State Employees*, the derivative legislation comprised of:⁸

- *Regulation on the Conditions and Procedure for Execution of Internal Announcements for Filling Vacancies within State Administration Authorities;*
- *Regulation on the Method and Procedure of Appraisal of Probationary Work in State Administration Authorities;*
- *Regulation on the Types of Rewards and their Award to Civil Servants and State Employees; Regulation on Criteria for Performance Appraisal of Managing Persons in State Administration Authorities;*
- *Regulation on Programme and Method of Taking the Professional Exam for Work in State Administration Authorities;*
- *Regulation on the Procedure of Establishment of Competence for Performance of Tasks of a Civil Servant and a State Employee.*

6 *Law on Civil Servants and State Employees* (Official Gazette of the Republic of Montenegro 27/04); *Law on Civil Servants* (Official Gazette of the Republic of Montenegro 45/91-); Article 128 (Official Gazette of the Republic of Montenegro 31/05); *Law on Salaries of Civil Servants and State Employees* (Official Gazette of the Republic of Montenegro 27/04)

7 For the debate on the *Law on Amendments and Addenda of the Law on Salaries of Civil Servants and State Employees* (Official Gazette of the Republic of Montenegro 17/07), please consult the separate heading of this report. The documents enlisted here refer specifically to the ones adopted in the period from 2004 – 2006, enlisted as Stage II in the *Public Administration Reform Strategy in Montenegro 2002-2009*.

8 *Regulation on the Conditions and Procedure for Execution of Internal Announcements for Filling Vacancies within State Administration Authorities* (Official Gazette of the Republic of Montenegro 73/04); *Regulation on the Method and Procedure of Appraisal of Probationary Work in State Administration Authorities* (Official Gazette of the Republic of Montenegro 17/05); *Regulation on the Types of Rewards and their Award to Civil Servants and State Employees* (Official Gazette of the Republic of Montenegro 20/05); *Regulation on Criteria for Performance Appraisal of Managing Persons in State Administration Authorities* (Official Gazette of the Republic of Montenegro 27/05); *Regulation on Programme and Method of Taking the Professional Exam for Work in State Administration Authorities* (Official Gazette of the Republic of Montenegro 29/05); and *Regulation on the Procedure of Establishment of Competence for Performance of Tasks of a Civil Servant and a State Employee* (Official Gazette of the Republic of Montenegro 33/05).

Further to this secondary legislation, the *Law on Salaries of Civil Servants and State Employees* has been supplemented by four regulations:⁹

- *Regulation on Supplements to the Salary of Civil Servants and State Employees;*
- *Regulation on Allowances and Other Incomes of Civil Servants and State Employees;*
- *Law on Amendments and Addenda of the Law on the Salaries of Civil Servants and State Employees;*
- *Regulation on Precise Criteria and Methods of Assessment of Variable Part of Salaries of Civil Servants and State Employees.*

The *Law on Amendments and Addenda of the Law on Civil Servants and State Employees* was adopted by the Montenegrin Assembly late in 2007. However, on 4 January 2008, Filip Vujanović, the President of Montenegro, did not approve this legal act, and returned it to the Parliament for further consideration. His essential remark was that the changes made to this *Law* create a misbalance in the application of the principle of equal rights of public administration personnel, as well as that these jeopardize state administration system. Vujanović argued that the amendments and addenda to this *Law* state that the Head of Authority - or an individual whose position has been determined by internal regulation within that organ of state authority - is the employer of civil servants and state employees within that organ of the state authority. This would mean that the respective individual would be given an opportunity to determine the conditions related to the equal status of civil servants and state employee. In practice, the proposed amendment would somewhat infringe upon the State as the sole employer of civil servants and state employees. Hence, Vujanović stated that, '[s]ince the *Law on Civil Servants and State Employees* designates the Head of the State Authority as the employee of that Authority; the only possible employer in this case can be the State, which is a principle that guarantees a unique status of civil servants and state employees.'¹⁰

On 4 March 2008, the Assembly of Montenegro reconsidered the *Law*, and failed to pass it, which points to the lack of consensus among the governing structures of Montenegro, rather than to the concern about equality and human rights. In fact, the *Law* was proposed by the DPS-SDP government, and then contested by the President, who is also a high official of DPS. The amendments to this *Law* would have introduced several significant reforms in the area of public administration. For instance: clear appraisal mechanisms; reduction of years of employment (by 3 years, where applicable) needed for promotion into a civil servant/

9 *Regulation on Supplements to the Salary of Civil Servants and State Employees* (Official Gazette of the Republic of Montenegro 24/05); *Regulation on Allowances and Other Incomes of Civil Servants and State Employees* (Official Gazette of the Republic of Montenegro 24/05); *Law on Amendments and Addenda of the Law on the Salaries of Civil Servants and State Employees* (Official Gazette of the Republic of Montenegro 27/07) ; *Regulation on Precise Criteria and Methods of Assessment of Variable Part of Salaries of Civil Servants and State Employees* (Government of Montenegro, No: 03 - 2817)

10 Vujanović statement for RTCG, at: <http://www.rtcg.org/index.php?news&read=27310> [February 2008]

state employee of a higher grade; clarification of employment procedures; establishment of specialised posts based on IT skills and knowledge of specialised areas, such as foreign languages.

In March, the DPS MPs granted support to Vujanović in the light of the forthcoming Presidential elections, and did not approve the *Law*. At the same time, their coalition partner – SDP – sided with the opposition (SL, SPP, BP) that supported the passing of the *Law*. Another observation stemming from the most recent events is the fact that out of the 81 MPs, only 43 voted, which merely passed the necessary quorum. This further points to the fact that – since most of the opposition were absent at the time of voting, it was not as important for them to pass the *Law* as it was for the DPS to stand behind Vujanović. Although the abovementioned amendments and addenda to the *Law on Civil Servants* would not have been revolutionary, had the *Law* been adopted, they would have accelerated the pace of the public administration reform in Montenegro.

Another development of the public administration reform in Montenegro was the establishment of the Human Resources Management Authority (HRMA) in 2004. This institution is targeted at managing and developing human resources in the state administration of Montenegro. It also maintains a database of personnel for the enhancement of human resources management of public administration. Although the establishment of HRMA was a positive effort, it has to be taken into account that it is quite a novel institution with limited human resources. This means that it is restricted in an enhanced performance of its tasks, given the scope and the need for reforms in the state administration of Montenegro, which will be further discussed in the heading that identifies the challenges in legal and practical aspects of reform.

Public administration in the new Montenegrin constitutional order

Even though the Montenegrin Constitution of 2007 contains several articles regarding the civil service, not much effort has been devoted to public administration reform in the constitutional debate. Consequently, most of the mentioned Constitutional provisions have not brought much advancement compared to the Constitution of the Republic of Montenegro of 1992. In comparison with the models present in most of the Member States of the EU, the Montenegrin Constitution still lacks explicit reference to ‘impartiality and recruitment based on merit through competitive and transparent procedures.’¹¹ Still, some significant tenets have been embedded in the new constitutional model of civil service in Montenegro, and their acknowledgment is important for the future public administration reform in the country.

Article 54 (paragraph 1) explicitly prohibits political organisation in state administration, which is a provision that was also embedded in the Article 41 (paragraph 1) of the previous Constitution. A change was made in paragraph 2 of the same article (ex paragraphs 2 and 3), prohibiting membership in political organisations to ‘Judges of the Constitutional Court, judges, state prosecutor and his/her deputy, ombudsman, members of the Council of the Central Bank, members of the Senate of the State Auditing Institution, professional military, police or other security force.’¹² The particular novelty brought about in the Montenegrin constitutional order by this provision is the fact that it ruled out the possibility of political engagement to an addition of seven categories of public officials, since the Article 41 (paragraphs 2 and 3) of the old Constitution was limited to judges of the Constitutional Court, judges, state prosecutor, and the police. This is particularly important, as the principle of non-politicization of public authorities is entrenched in the highest level within the hierarchy of Montenegro’s legal order.

Similar to its predecessor (Article 54 in 1992 Constitution), Article 66 of the Constitution of 2007 refers to the engagement of state administration in strike. However, while the old article explicitly prohibited the civil servants and police from striking, Article 66 generates three relevant changes. First, it expands the scope of application of the provision by including the categories of members of military forces and public service officials. Second, rather than a prohibition of strike, this article limits the right to strike for the designated categories of state organs. Third, this constitutional provision also contains an explicatory element of the limitation, which can be conducted ‘for the protection of public interest, in accordance

¹¹ Sigma Report on Montenegro 2007, p. 1

¹² Art. 54, *Constitution of Montenegro* (Podgorica, 2007), p. 26

with the Law.¹³ The latter two constitutional alterations are of particular importance, as they represent a concrete approximation to European legislative frameworks, which is: a) oriented towards the limitation of rights, rather than toward explicit prohibition; b) inclined to include specific clarifying provisions, especially in cases related to public administration.¹⁴

Point 10 of Article 79 of the Constitution of Montenegro, dealing with special rights and the protection of minority groups, represents a provision comparable to the one in Article 73 of the old Constitution. Namely, both provisions are aimed at protecting the rights of minorities by guaranteeing proportional representation in the state institutions, i.e. public service, organs of state authority and local administration. Although no substantial change has been made in this legal provision, its engagement in the state's constitutional order represents a commitment to civic values through the respect of the minorities, which is one of the dominant political criteria for EU accession, spelled as such in the Copenhagen Criteria.

While Article 111 indicates that the affairs pertaining to the administration of the state are to be conducted by ministries and other authorities of state administration, and no substantial change has been made compared to Article 99 of the 1992 Constitution.

However, the comparison of the provisions related to the administration of the state in the two most recent Constitutions of Montenegro, outline an omission in the highest legal act of the state. Paragraph 3 of the Article 13 of the 1992 Constitution, has been erased from the corresponding Article 10 in the Constitution of 2007. This particular line stipulated that the public officials had the duty to perform their function consciously and honestly, and that they were to be held responsible for their deeds. As opposed to all the positive tenets embedded in the new constitutional order of the state, the omission of this line signals the diminution of accountability of public officials. This is likely to have negative repercussions on the domestic debate on the conflict of interests, where this provision has often been cited as constitutional grounds for holding public officials accountable for their performance.¹⁵ Furthermore, in the light of a wider debate on EU accession - where the principles of accountability, legitimacy and representation in the state administration are the pillars of democracy - such a change is somewhat of a downbeat to the values the aspiring members should be striving to acquire.

13 Art. 66, Constitution of Montenegro (Podgorica, 2007), p. 29

14 See EU legislation.

15 *Commission for the Establishment of Conflict of Interests*, at: www.konfliktinteresa.cg.yu [February 2008]

Classification and Titles

Article 2 of the *Law on Civil Servants and State Employees* defines these two types of personnel in public administration as people employed in the State Authority, either as heads of the latter, or as appointees to a specific post. This excludes the MPs and personnel elected to a post by the Parliament of Montenegro. Within the scope of application of this article, the State Authority refers to state administration, or other state authority and services of the President of Republic of Montenegro, the Assembly of Republic of Montenegro, the Government of Republic of Montenegro, and the Constitutional Court of Republic of Montenegro¹⁶

Further to this definition, Article 3 sets apart civil servants from state employees in accordance with the nature of activities performed by these personnel. In fact, a civil servant is designated as a person in charge of administrative and professional tasks within the framework of the competencies of the state authority, as determined by relevant legal acts. Conversely, a state employee has administrative, financial and subsidiary duties, which are necessary for performing the affairs that stem directly from the competencies of the state authority. Aside from the difference in the nature of the tasks executed by these two types of personnel, the *Law* makes a further distinction – civil servants assist the accomplishment of the competencies of the state authority, while state employees deal with the outcomes of those competencies. Both of the elements that mark off one type of public administration personnel from the other helped generate the different classifications, managerial and other titles for civil servants and state employees.

Categories of the managerial posts for civil servants and state employees are outlined in the Article 31 of the *Law*, while the following articles (art. 32-35) deal with the requirements, appointment procedures, and release of such personnel. Commonly, the managing persons are required to possess a university degree, supplemented by a minimum work experience of five years, and an approved professional examination. Further requirements for these posts could be determined by the needs of internal organisation of a specific faction of the state authority. Managerial persons enter employment on the basis of a public vacancy notice, according to the procedures outlined by HRMA, while the decisions on appointment, nomination and release of these personnel are issued by the Government upon the proposal of the Head of the relevant authority or service.

Managing Persons in the State Authority of Montenegro	
Branch of Authority	Post
Ministry	Secretary to the Ministry
	Assistant Minister
Administration Authority	Assistant to the Head of that Authority
Government-established Service	Assistant to the Head of that service

¹⁶ *Law on Civil Servants and State Employees* (Podgorica, 2005), p.20

Articles 36 to 39 of the *Law* stipulate the classification of the civil servants, acquisition of the existing titles, or titles required by the nature of business performed by the organ of the state authority and stipulated by a separate legislative act.

Civil Servants : Titles and Requirements		
First Grade		
Advisor to the Head of an Authority Chief Inspector Chief authorised official	university degree	10 years of work experience
Independent Advisor I Inspector I Authorised Official I		8 years of work experience
Independent Advisor II Inspector II Authorised Official II		6 years of work experience
Independent Advisor III Inspector III Authorised Official II		4 years of work experience
Second Grade		
Senior Advisor I	university degree	3 years of work
Senior Advisor II		2 years of work
Senior Advisor III		1 years of work
Third Grade		
Advisor I	post-secondary education	8 years of work
Advisor II		4 years of work
Advisor III		1 years of work

Similarly, Article 40 determines the grades and titles of the State Employees by classifying them in five categories:

State Employees : Titles and Requirements		
First Grade		
Independent State Employee I	university degree	8 years of work experience
Independent State Employee II		6 years of work experience
Independent State Employee III		4 years of work experience
Second Grade		
Senior State Employee I	university degree	3 years of work
Senior State Employee II		2 years of work
Senior State Employee III		1 years of work
Third Grade		
State Employee I	post-secondary education	8 years of work
State Employee II		4 years of work
State Employee III		1 years of work
Fourth Grade		
State Employee IV	secondary education	3 years of work
State Employee V		2 years of work
State Employee VI		1 years of work
Fifth Grade		
State Employee	elementary education	N/A

The above classification is important since it has effects on the coefficients for salary, opportunities for appraisal, and career advancement.

Regulation of Salaries

All income of individuals in Montenegro is regulated through the *Law on the Taxation of Income of Natural Persons*.¹⁷ This *Law* defines the taxes payable on income a person earns in Montenegro and abroad. Article 5 of this *Law* states that 'other income', such as remuneration received as bonus, or for overtime work is exempt from taxes. Gross salary is the salary of the employee before the deduction of taxes, while the net salary equals to what an employee receives. The levels of taxes and mechanisms of their calculation are outlined in the *Guidelines for Calculating and Paying Taxes on Income*, a document prepared by the Ministry of Finance of Montenegro.¹⁸

Salaries of civil servants and state employees in Montenegro are regulated by the *Law on Salaries of Civil Servants and State Employees*; supplemented by the *Decision on Supplements and Other Income of Civil Servants and State Employees*; and recently amended by the *Law on Amendments and Addenda on the Law on Salaries of Civil Servants and State Employees*.¹⁹ Article 2 of the *Law on Salaries* stipulates that the resources for the income of the civil servants and state employees are relocated from the Montenegrin budget, while the amount received by each civil servant and state employee is regulated by an individual act, as stipulated in Article 3 of the same *Law*. Article 7 of this *Law* states that the salaries of civil servants and state employees consist of the sum of: a) a fixed part; b) a supplement to the salary; c) a variable part.²⁰

The fixed part of the salary of civil servants and state employees is regulated by Articles 7-10 of the *Law on Salaries*. According to the *Law*, '[t]he amount of the fixed part of the salary of a Civil Servant, i.e. State Employee shall be determined by multiplying the coefficient stipulated for the salary grade, in which his/her title has been classified, with the value of the coefficient determined by the Government for a certain month – period.'²¹ Article 9 determines the coefficients for salary grades, used in the calculation of the fixed part of the remuneration. The classification into 38 different grades (36 in the old classification) is based on the complexity, significance, level of responsibility of the personnel, and the working conditions in which the employees are expected to perform their tasks. Salary grade 1 bears the coefficient 9.90, while grade 38 bears 2.00.²² The arrangement of civil servants and state employees into salary grades is stipulated in Article 8, and it is closely related to the classification and titles of the employees described in the tables above.

17 *Law on the Taxation of Income of Natural Persons*, Official Gazette of Republic of Montenegro 65/01, 37/04 and 78/06

18 For further details on taxation of income, please see these documents.

19 Official Gazette of Republic of Montenegro 24/05; Official Gazette of Republic of Montenegro 27/07

20 The term 'salary' in this analysis is used with the meaning equivalent to the one in the *Law on Salaries of Civil Servants and State Employees*.

21 Article 10, *Law on Salaries of Civil Servants and State Employees* (Podgorica, 2005), p.221

22 These coefficients have been changed by the *Law on Amendments and Addenda of the Law on Salaries of Civil Servants and State Employees*. Prior to the change, salary grade bore the coefficient 8.00, and grade 36 bore 1.55.

In *Law* and practice: salary grades 1 and 2 are reserved for the Heads of the State Authority or Service; Management staff and other appointed persons receive the salary grades from 3 to 6; first grade civil servants and state employees fall within the margin of the salary grades from 6 to 14; second grade civil servants and state employees 17 to 21; third grade civil servants and state employees 24 to 28; fourth grade state employees 29 to 38; while the fifth grade state employees receive the lowest salary grade of 38. For instance, this means that the fixed salary of an Advisor to the Head Authority, who is a person classified as first grade civil servant – possessing at least a university degree and 10 years of professional experience – will be determined by the multiplication of the coefficients for salary grades 6 to 8 (7.15 to 6.89) with the value of that coefficient determined by the Government. If the value is set, for example, at 50.00 euros, the fixed net part of the wage of the Advisor to the Head Authority would fall in the range between 344.50 and 357.50 euros. At the same time, the fixed net part of the salary of the state employee of fifth grade would amount to 100.00 euros.

The requirements for receiving the supplement to the salary of civil servants and state employees, the manners of its achievement and the respective amount of the supplement – are all determined by the Government. According to Article 12, this part of the salary is based on:

- the level of difficulty of working conditions (caveat: no clear criteria for determining the difficulty are stipulated in the *Law*),
- work in night shifts,
- work during national and religious holidays,
- overtime work,
- other grounds as stipulated in separate legislation.

The third part of the salary of civil servants and state employees is the variable part of salary, granted to the personnel on the grounds of the quality of their performance at workplace, as defined in Articles 3 and 4 of the *Regulation on Precise Criteria and Methods of Assessment of Variable Part of Salaries of Civil Servants and State Employees* from 20 March 2008. The quality is assessed through the appraisal mechanisms, and the variable part is granted to those civil servants and state employees who by the efficiency at the workplace especially contributed to:²³

- the fulfilment of programme tasks of public administration;
- development of working process of importance for the work of public administration authorities and governmental policy;
- the processes of European and Atlantic integrations.

²³ *Regulation on Precise Criteria and Methods of Assessment of Variable Part of Salaries of Civil Servants and State Employees* (Government of Montenegro, No: 03 - 2817)

According to the *Regulation on Precise Criteria and Methods of Assessment of Variable Part of Salaries of Civil Servants and State Employees*, the assessment and pay of the variable part of the salary is done each month, instead of at the end of February of the current year for the previous year, as it was stipulated by the *Law on Salaries of Civil Servants and State Employees*. The assessment of the quality of work is done by head of authority based on indications from Article 3 and 4 of the *Regulation on Precise Criteria and Methods of Assessment of Variable Part of Salaries of Civil Servants and State Employees* and consequently proposes the amount of variable part of salary to the minister in charge of budgetary affairs.

However, the total amount of resources for the variable part of the salary for the entire corpus of civil servants and state employees in a fiscal year should not exceed 10% of the budgetary resources planned for the fixed part of their salary, which is in line with the *Law on Budget* in 2008 amounting 2,5 millions of euro.

Other sources of income for civil servants and state employees can be attained through compensation, reimbursement, or other incomes, outlined in Articles 16, 17 and 18 of the *Law*, respectively. Compensation is given in cases of: annual vacation; temporary illness; maternity leave; paid leave; expert training; and other regulated cases. If a civil servant or a state employee has incurred costs related to their professional activities in the State Authority, they shall be compensated for: alimentation during work; per diems for travel; use of private vehicle for official purposes; and separation from family. Other sources of income are: the severance pay on retirement; a bonus minimum (13th) salary for the use of vacation (e.g. 159.00 euros in July 2007); assistance in cases of illness, death of a family member (or assistance to the family of a deceased civil servant/state employee); and other income determined by specific regulation. Further sources of income are stated in the *Regulation on Allowances and Other Incomes of Civil Servants and State Employees*. For instance, Article 4 of this *Regulation* gives an entitlement to a civil servant to receive a monthly allowance for alimentation during working hours, amounting to 50% of the minimum salary. Other articles of this *Regulation* determine the levels of compensation for fieldwork, per diems for business trips (both domestic and international), severance pay at retirement and other compensations for civil servants and state employees.

Late in January 2008, the Administrative Court of Montenegro initiated the proceedings for examining the constitutional legality of the *Law on Amendments and Addenda of the Law on Salaries of Civil Servants and State Employees* (Official Gazette of the Republic of Montenegro 27/07). The major problem with the Law is the margin of discretion granted to the Government in deciding the coefficients for the salaries of certain administrative bodies. Accompanied with the fact that the same Law purported the 30% increase in the salaries of other state institutions, this Law fails to address the concrete criteria for determining the remuneration levels. Consequently, according to the President of the Administrative Court, owing to the lack of its uniform applicability, this Law undermines the principle of equality before the law,

guaranteed by the Montenegrin Constitution.²⁴ Still, although the *Law on Amendments and Addenda* did not change much in principle, it introduced a few novelties compared to the *Law on Salaries of Civil Servants and State Employees*.

The *Law on Amendments and Addenda of the Law on Salaries of Civil Servants and State Employees*, changed the Article 8 of the *Law on Salaries*, introducing 38 instead of the earlier 36 salary grades. The *Law on Amendments and Addenda* does not give clear guidelines on the categorisation of grades of civil servants and state employees into salary grades. It also increased the coefficients by 30 per cent, placing them in the range from 2.00 for the salary grade 38, to 9.90 for the salary grade 1. The amendments that have been criticised in public refer to the second and third paragraphs of this article, which stipulates that the salary coefficients of the managerial personnel, and the Head of State Authority or Service are determined by a specific procedure, and regulated by separate acts of the Government.

Further changes in the *Law on Amendments and Addenda* (Article 3) provide for an addition to the salary of a civil servant or a state employee on an hourly basis, changing thus Article 12 *Law on Salaries* of the as follows:

- 1) 40% for night work,
- 2) 50% for work during national or religious holidays,
- 3) 40% for overtime work,
- 4) other grounds as stipulated in separate legislation.

The same article stipulates the increase of up to 30% of the fixed salary for certain categories of civil servants and state employees on the grounds of their working conditions; up to 20% to personnel working on the development of IT; and up to 10% to executive cadre. Article 13 of the *Law on Salaries*, related to the variable part of the salary is changed and that portion of remuneration belongs to civil servants and state employees with exemplary reference, results and quality of work; and the criteria for the determination of the latter are determined either by the Government for the State Administration, or by the Head of Authority through a regulatory act for other bodies. The Article 6 of the *Law on Amendments and Addenda* also envisages an adjunction of special Article 18a in the *Law on Salaries*, granting a special monthly remuneration amounting to 150% of the minimum wage in Montenegro to the police personnel in antiterrorist units, border patrols, personal security units, and special units, as well as the aviation personnel.

Although most of these changes are aimed at stimulating the civil servants and state employees by financial compensation, the *Law on Amendments and Addenda* was contested

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due to its imprecision, which resulted in a great margin of discretion for the managerial personnel in determining the incomes. On 20 March 2008, the Constitutional Court of Montenegro has proclaimed void two articles of the *Law*, claiming that they violate the principle of equality guaranteed by the Constitution. The overruled articles of the *Law* stipulated that the Government could regulate by a special act (i.e. not a law) the increase in the salary grades for the managerial personnel. It was also contested that the *Law* allowed the managerial personnel in some organs of the State Authority to introduce a 30 % increase in the salaries to their employees without clearly defined criteria. The Court maintained that the Government can not regulate these criteria by a special act, but that they need to be clarified by the law. However, almost simultaneously with the annulment of the listed articles of the *Law on Salaries of the State Employees and Civil Servants*, the Government of Montenegro adopted on 20 March 2008 the *Regulation on Precise Criteria and Methods of Assessment of Variable Part of Salaries of Civil Servants and State Employees*. The basic difference of annulled articles and new *Regulation* is in the fact that previously existing legal prescription referred to the fixed part of the salary, whereas the new *Regulation* refers to the variable part of the salary and the latter is based on the *Law on salaries of State Employees and Civil Servants*. These legal dilemmas are pointing out on the complexity of the state of affairs within the public administration in Montenegro, as well as on the implications which this can have for the overall reform dynamic.

Appraisal, promotion and establishment of capability

The *Law on Civil Servants and State Employees* outlines the criteria for performance appraisal, promotion and the establishment of capability. This legal framework is of a particular importance in determining the variable part of salary, and in the course of professional advancement of personnel. Although the provisions related to these procedures exist in the Montenegrin normative framework, they lack concrete reference to a merit-based system.

Performance Appraisal is conducted in relation to the civil servant's/state employee's work results; independence and creativity in the conduct of affairs; cooperation with colleagues; organisational skills; and other abilities. On the grounds of the above criteria, and in line with Article 80, civil servants/state employees are given marks 'excellent', 'good', 'satisfactory' or 'unsatisfactory'. At the same time, in line with the Article 83, managing persons are appraised by the marks 'satisfactory' or 'unsatisfactory'. All employees in the state administration are entitled to obtain a notification of their achievement, and they also have a right to complaint. The methods of assessment of managing persons are described in detail in the *Regulation on Criteria for Performance Appraisal of Managing Persons in State Administration Authorities*. At the same time, there is no regulation on the appraisal methods for other staff, which contributes to the fact that not all managers carry out the required performance appraisal on their staff.

Promotion is regulated by Articles 84 to 89 of the *Law on Civil Servants and State Employees*, and is determined by the Head of State Authority or Service upon the recommendation by a superior. The law stipulates that promotion can occur: a) within the same title; b) from a lower title to a higher; c) from a lower into a higher salary grade. Promotion requires the civil servant or the state employee to fulfil certain criteria, which usually refer to satisfying the criteria for a higher title, or a higher grade within the same title, and the adequate appraisal mark during the designed period. Promotion can only occur if the civil servant or the state employee fell within the appraisal ranges of 'good' and 'excellent'.

Establishment of competence/capability is a process opposite to the one of promotion, and it is designed for civil servant or the state employee who failed to reach the satisfactory appraisal mark. Article 92 of the *Law on Civil Servants and State Employees* makes possible the termination of employment on the grounds of ineptitude, the procedures thereby being determined by the Government at the proposal of the ministry competent for administrative matters. The guidelines for this procedure are further elaborated in the *Regulation on the Procedure of Establishment of Competence for Performance of Tasks of a Civil Servant and a State Employee*.

Professional Training and Career Advancement

The *Law on Civil Servants and State Employees* makes some scarce reference to expert and special training in Articles 93 and 94. This training is aimed at developing professional knowledge and skills of the civil servant/state employee, and its program is determined by HRMA. Additionally, civil servants and state employees in Montenegro, under Article 93 are entitled to apply for special training when it is of a particular significance for the state authority. Perhaps a better mechanism for efficient training would be if training needs of an employee were assessed jointly by staff member and manager rather than being left to staff member to apply.

The only article of the *Law* that deals with scholarships is Article 96, which states that '[a] state authority may, on the basis of a public announcement conclude a contract on awarding a scholarship, when it assumes that this is a necessary and if financial means for that purpose are provided.' This implies that the merit based system for the award of such bursary is not in place in this *Law*, since there are no clear criteria delineated within the scope of Article 96.

Current Practice

According to the information received from HRMA, in Montenegrin State Authority, 12, 640 systematised jobs for civil servants and state employees were available as of September 2007. Moreover, in line with the legal act on the internal organisation and workplace systematisation, Montenegrin administration employs a total of 10, 121 personnel on an indefinite period. The greatest number of systematised jobs, and accordingly the greatest number of permanent contracts were to be found in the following branches of the State Authority:²⁵

- *Police Directorate* (without police officers) – 5,071 positions, 4,154 permanent contracts;
- *Ministry of Interior and Public Administration* – 1,154 positions with 971 permanent contracts
- *Taxation Management Authority*- 744 positions, 609 permanent contracts;
- *Customs and Revenue Management Authority* - 669 positions, 493 permanent contracts;
- *Agency for National Security* - 410 positions, 408 permanent contracts;
- *Office for the Execution of Punitive Measures* - 405 positions, 381 permanent contracts;
- *Ministry of Defence* - 374 positions, 177 permanent contracts.

By comparison, the Ministry for the Protection of Human and Minority Rights has 11 positions, with mere 4 permanent contracts; Ministry of Justice has 40 positions with 32 permanent contracts; Ministry of Finance has 170 positions with 118 permanent contracts and the Secretariat of European Integrations 39 positions with 22 permanent contracts. These data imply that a high number of civil servants and state employees - over a half of the total number – are employed in the branches of the Montenegrin State Authority dealing with the security structures. At the same time, within some of the branches dealing with issues directly defined in the Copenhagen Criteria (e.g. judicial reform, minority rights protection, economic stability, and *Acquis* adoption) there is a comparatively lower number of employees.

The general classification of civil servants and state employees according to the parameters, such as gender, education level, years of employment, etc. has still not been compiled. However, research conducted for this report - within the Ministry of Culture, Sports and Media, Ministry of Education; Ministry of Health, Labour and Social Welfare; Ministry of Interior and

25 Information provided by HRMA, upon the MP request No. 3137 (20/09/2007)

Public Administration; the Secretariat for European Integration, the Taxation Management Authority – points to several overarching conclusions applicable to these authorities²⁶:

- the number of civil servants and state employees working in these branches of the State Authority is lower than the number of systematised workplaces, often by 10 – 20%;
- the female personnel is at least twice as many in these authorities as the male personnel;
- most of the employees have a university degree, very few have only secondary education, and a negligible number of civil servants and state employees have only elementary education;
- most of the personnel fall within the age range between 30 and 50

However, the organs of state authority in Montenegro do not have the data on nationality/ethnic background of the employees. This makes it impossible to verify whether the principle of proportional representation of minorities in public administration in Montenegro has been applied. The most recent report of the Government of Montenegro on the implementation of the *Framework Convention on Protection of Minority Rights* of the Council of Europe indicates that the Ministry of Human and Minority Rights Protection made two attempts to collect the data on the 'number of employees that belong to national minorities in the state bodies, local bodies as well as in judiciary with aim to show the real picture on applying the aforementioned provision from the Constitution'.²⁷ Both in 1999 and in 2003, when the attempts have been made, the employees surveyed have opted not to state their national/ethnic affiliation. The most probable reason for this is the political polarisation along ethnic lines in Montenegro, which has especially been emphasised since 1997.²⁸ The *Report* further states the need to create a framework which would allow for the development of mechanisms that would ensure the adequate and proportional representation of minorities in public administration:

26 Interviews with the personnel of: Ministry of Culture, Sports and Media, Ministry of Education; Ministry of Health, Labour and Social Welfare; Ministry of Interior and Public Administration; the Secretariat for European Integration and Taxation Management Authority. However, these data are not representative for the branches of the State Authority, such as the Police Management Office, or the Ministry of Defence.

27 *Report of the Government of Montenegro on the Implementation of the Framework Convention on Protection of Minority Rights of the Council of Europe* (Podgorica, 2007), 65-66

28 The debate on the political polarisation in Montenegro falls beyond the scope of this study.

[F]rom the answers it could have been seen that the structure of employees in state and local authorities as well as in judiciary, does not suit the national structure of the overall population. Also it was visible that representation of persons belonging to national minorities in many units was reflected through lower educational structure (couriers, security, drivers etc) i.e. they were on less influential positions, while there was a small number of educated people that held some managing positions. In certain state units and organizations, as well as in institutions on local level, which are of great significance for preserving cultural, religious and national identities of minorities, minorities were not represented at all or were represented in an inadequate number.²⁹

Most of the personnel are recruited upon public announcement managed by HRMA, an administration authority supervised by the Ministry of Interior and Public Administration.³⁰ HRMA has a managerial profile related to: the process of public announcements for job openings in the public administration of Montenegro; the standardization of record keeping procedures; training and management of cadre; and other regulated activities.³¹ Although the establishment of this body was supposed to procure a better executive framework for the application of the regulations related to the recruitment civil servants and state employees the practice points to a slightly different trend. For example, the World Bank report states that the legal distinction between civil servants and state employees is barely functioning in practice - the first category indicates people who manage the administration of the state, while the second refers to auxiliary positions. This reveals that the general practice of recruitment of civil servants and state employees is not fully in line with the legal framework that enables its application, since it makes no clear distinction between the two categories. The explanation for such an occurrence is that the collective contracts endowed the state employees (subject to the General Employment Code) with the same rights as the civil servants (subject to more legally secured employment conditions).³²

29 *Report of the Government of Montenegro on the Implementation of the Framework Convention on Protection of Minority Rights of the Council of Europe* (Podgorica, 2007), 65-66

30 Interviews with the personnel of: Ministry of Culture, Sports and Media, Ministry of Education; Ministry of Health, Labour and Social Welfare; Ministry of Interior and Public Administration; the Secretariat for European Integration and Taxation Management Authority. However, these data are not representative for the branches of the State Authority, such as the Police Management Office, or the Ministry of Defence.

31 Regulation on the Organisation and methods of Work of the State Authority. Ammended 16/09/06.

32 Republic of Montenegro: An Overview of Public Spending and Institutions (World Bank, 2006)

Remuneration and Incentives

According to the Monstat (official statistical office), the average gross monthly salary in Montenegro in December 2007 was 554.00 euros, while its net equivalent amounted to 376.00 euros. Compared to the data available for November 2007 the average wages increased by 2.8%. In 2007, the average gross salary amounted to 497.00 euros, or upon the deduction of taxes 338.00 euros, which represents a 19.9 % change compared to 2006. However, given the inflation level of 4.2 %, the real wage increase amounted to 15%.³³ Although the overall level of inflation in Montenegro is relatively low in comparison with the other countries in the region, the real costs of living in 2007 – such as electricity, accommodation and alimentation – have increased by 30.92%, 15.36% and 3.0 – 16.76 %, respectively.³⁴ Accordingly, the EAR salary expert, Hugh Grant, points to the fact that the whole set of salaries of civil servants and state employees is low at the Montenegrin market. At the same time, he indicates that, since the resources for these salaries come from the Montenegrin budget it is always complex to make radical changes.³⁵

Article 12 of the *Law on Budget of Montenegro for 2008* stipulates that, '[t]he Ministry of Finance, upon the approval of the Government establishes the utilization of the resources of the permanent budget reserve, and the resources of the current budget reserve, which are planned for urgent and unpredictable expenses incurred throughout the fiscal year'.³⁶ The same *Law* determines the gross amount of 2.100.000,00 euros for the salaries and other income of the newly employed civil servants and state employees, and the gross amount of 2.500.000,00 euros for the variable part of the salary of the current civil servants and state employees. In accordance with the above legislation, the average net salary of civil servants and state employees will amount to 345,00 euros. The highest fixed salary would amount to 544.50 euros (net), while the lowest remuneration for work in the Montenegrin public administration will be equal to 110, 00 euros (net). The range of salary grades is from 7 to 9. Compared to the above-presented Monstat data on the levels of income, the average monthly salary of civil servants and state employees in 2008, will be approximately equal to the average monthly income in Montenegro in 2007. Hence, considering the inflation pressures, and the increase in the costs of living projected for 2008, people employed in public administration will continue to have salaries lower than the average ones.

Moreover, according to the legal regulation that refers to the calculation of remuneration in the public administration in Montenegro the monthly salary amounts to the sum of the

33 Monstat – Salaries, at: <http://www.monstat.cg.yu/Mjesecna%20saopstenja.htm> (February 2008)

34 Central Bank of Montenegro: Statistical Report Price Fluctuations for the Third Quarter of 2007, 3/10 (Podgorica, 2008)

35 Interview with Hugh Grant, EAR Salary Expert (Podgorica, 04/03/2008)

36 Law on the Budget of Montenegro for 2008 (Podgorica, 2008)

fixed, supplementary and the variable part. The bulk of the amount is fixed, and as such calculated according to the procedures and standards described in the previous section. This remuneration system was aimed to procure the credible assessment of the efforts of civil servants and state employees, which would result in merit-based salaries. Nevertheless, according to Hugh Grant, the EAR salary expert, it did not create opportunities for horizontal mobility. He suggested that horizontal mobility is a common practice in Western Europe, where there are fewer salary grades, but with a higher possibility for promotion within those grades based on the quality of performance, and not on automatic progression.³⁷ Horizontal mobility also means that good workers who do not wish to take up managerial positions can earn more by being efficient within their own grade. This enhances their motivation and the performance of the system as a whole.

Moreover, the World Bank report criticises the calculation of income in the Montenegrin public administration system, stating that it is excessively influenced by the years of work experience. The findings of the WB expert group indicate that civil servants and state employees are entitled to receive up to 35% of their basic salary as a bonus for the years of experience.³⁸ In fact, in Montenegro, the employees with over 10 years of work experience receive an additional 0.75% (per year of employment) of the basic salary (increased from 0.5%), and the ones with over 20 years receive a bonus of 1%. The Montenegrin case is an exception in the region, with the similar stimuli in Serbia or Bosnia and Herzegovina not exceeding 0.5%. This practice in general undermines the workers with less experience, but with higher work productivity and superior education skills, who are able to contribute to the realisation of tasks of the public administration.

Although the Ministry of Finance has designated the resources for the variable part of salaries, and although the regulatory framework for its allocation is in place, the practice indicates the opposite. Very often civil servants and state employees do not receive this part of income, as was the case in the Ministry of Culture, Sports and Media; the Ministry of Education; and the Ministry of Health, Labour and Social Welfare. In some cases, the interviewees indicated that a number of civil servants and state employees working in these institutions fulfilled the necessary criteria, and received the required appraisal levels, but they were not granted the variable part of income.³⁹ The institution whose personnel received the variable part was the Taxation Management Authority (TMA). Civil servants and state employees of TMA received a gross total of € 92,314.18, which was then distributed in accordance with the established criteria.

37 Interview with Hugh Grant, EAR Salary Expert (Podgorica, 04/03/2008)

38 Republic of Montenegro: An Overview of Public Spending and Institutions (World Bank, 2006)

39 Interviews with the personnel of: Ministry of Culture, Sports and Media; Ministry of Education; Ministry of Health, Labour and Social Welfare; Ministry of Interior and Public Administration, the Secretariat for European Integration and Taxation Management Authority.

In terms of other income, situation is similar to the one related to the variable part of salary – they exist in law, but are marginally applied in practice. The employees working at the department coordinating the process of EU accession and the department coordinating the financial aid in the Secretariat for European Integration receive travel *per diems* for specified activities, and attendance of seminars aimed at professional development. In the Ministry of Health, Labour and Welfare, the amount of *per diems* for similar activities was 7% of income, while in the Ministry of Education this amount was 4.5%.⁴⁰

In terms of further incentives, the Budget of Montenegro for 2008 provides the resources for the settlement of accommodation needs in the amount of 4.75 million euros.⁴¹ A part of this sum (1.65 million euros) is aimed at extenuating the accommodation problems of civil servants and state employees; another part (1.00 million euros) is allocated to the Commission for Accommodation Issues for subsidizing the interest rates in the projects '1,000 accommodation credits in 2006' and '200 + 50 accommodation credits in 2007'; a further 1,20 million euros for the construction of accommodation for the employees in the health and education sectors (mutual project of the local governance, Ministry of Health, Labour and Social Welfare, Ministry of Education, Accommodation Society of Health and Education Employees, and the Government of Montenegro); while the remaining part of the Budget allocation is aimed at subsidizing accommodation based on individual requests. The criteria for the allocation of these credits included social criteria such as the current accommodation situation of the individual, and number of members of the household, while the only professional criterion were the years of employment.⁴² These criteria were made public, while the requests were handled by the Commission for Accommodation Issues according to their standardised procedures. No further data on the transparency of the process are available at present.

The empirical research shows that in a number of institutions civil servants and state employees are rent – payers, and that they do not own an apartment. Out of the surveyed branches of State Authority, TMA was allocated 15 accommodation credits in 2006, and an additional 5 in 2007. The interviewee from TMA further stated that the Government enables the civil servants and state employees to obtain a credit from independent banks, with very low interest rates.⁴³ There are no data, however, on how many employees from TMA used this possibility. Conversely, the sources at the Ministry of Health, Labour and Social Welfare

40 Ibid.

41 Law on the Budget of Montenegro for 2008 (Podgorica, 2008)

42 Ministry of Finance of Montenegro, at: <http://www.ministarstvo-finansija.cg.yu/vijesti.php?akcija=vijesti&id=12216> (01/03/2008)

43 Interview with TMA representative (14/12/2007)

stated that they proposed one candidate to take advantage of the funds available through the project '200 + 50 accommodation credits in 2007', and that the application is still in the process of review. Further 8 apartments were granted to the personnel of this ministry, with the possibility of purchase under convenient terms.⁴⁴ In terms of other financial assistance, it should be noted that, in a number cases, civil servants and state employees are not entitled to obtain private credits from commercial banks.⁴⁵ Therefore, the data indicate that despite the existence of some resources for creating further incentives that would enhance the productivity of the civil servants and state employees - these are insufficient, especially when the low level of salaries is taken into consideration. However, there is a danger here that housing benefits could be a non transparent benefit with not very clear criteria as to who should be eligible. Generally, it is considered better practice not to give such benefits, but to focus on increasing salary levels, or on performance bonuses - in a fully transparent way.

44 Interview with Ministry of Health, Labour and Social Welfare representative (14/12/2007)

45 Interview with Ministry of Culture, Sports and Media representative (14/12/2007)

Appraisal, promotion and establishment of capability

Although appraisal, promotion and establishment of capability are stipulated in the Montenegrin legislation on civil servants and state employees, these processes, and the knowledge about them is still in the cradle. The appraisal mechanisms were prepared by HRMA by February 2006. However, according to the *Sigma Report*, appraisal according to the new criteria has not been conducted in a number of administrative bodies. Furthermore, a very low number of managerial personnel graded 1 to 6, have been subject to the appraisal process.⁴⁶ HRMA further provides the data that in 2006, the professional aptitude of over 40% of managerial persons has not been evaluated. The same Authority, nonetheless, makes a note of the significant improvement in the conduct of assessment compared to 2005, when only 3 civil servants and state employees of higher grades have been subject to appraisal. It is expected that in the near future HRMA will be able to determine the criteria for performance-related-pay, which will stimulate the public administration to take part in the appraisal process.

Promotion within the same grade or to the first higher grade is a common practice, occurring through 'automatic progression'. Hence, it is heavily related with the years of work experience. As such, it need not necessarily determine the competences of a civil servant or a state employee. Consequently, it can occur that out of two colleagues, both possessing a university degree, a higher title will be given to the one with the longer tenure, regardless of whether s/he is more competent than the other. Moreover, it is a common practice that trainees remain in the public administration for a few years upon the expiry of the training. On the other hand, the low incentives given by promotion in terms of financial benefits and career advancement very often push the civil servants and state employees towards independent agencies or private sector.⁴⁷

Establishment of capability is a measure conducted by the managerial person vis-à-vis an employee who has been appraised with an 'unsatisfactory' mark. Further to this procedure, there are disciplinary measures, against employees who have been charged for the lack of professionalism. The latter is established by the Disciplinary Committee. In the case of the Ministry of Health, Labour and Social Welfare, in 2007, two employees have been held responsible for a disciplinary offence. This verdict led to the reduction of 30% in the salaries of the employees concerned.⁴⁸ Other branches of the State Authority in Montenegro, such as the Sector for European Integration, do not have punitive measures equivalent to this

46 Sigma Report on Montenegro 2007, p. 11

47 Interviews with the personnel of: Ministry of Culture, Sports and Media, Ministry of Education; Ministry of Health and Social Welfare; Ministry of Interior and Public Administration, the Secretariat for European Integration, the Taxation Management Authority.

48 Interview with Ministry of Health, Labour and Social Welfare representative (14/12/07)

one.⁴⁹ Therefore, it can be argued that in most cases employees are not held responsible for their activities at workplace due to: a) the fact that appraisal mechanism is still not in place, and their professionalism cannot be adequately assessed; b) sanction mechanisms are not standardised. At the same time, not many incentives in terms of merit-based promotion exist so as to stimulate the performance of civil servants and state employees.

49 Interview with SEI representative (14/12/07)

Professional Training and Career Advancement

In practice, the questions of professional training, scholarships and career advancement are underway in Montenegro. But there should be more opportunities for advancement available to civil servants and state employees. None of the surveyed ministries did grant a scholarship under the Article 96 of the *Law on Civil Servants and State Employees*, while TMA has no resources to grant a bursary.⁵⁰ The Ministry of Education has a distinct procedure, granting scholarships through the Department for Student Standards, but these need not affect the position of civil servants in that Ministry, as they are not directly relevant to them (unless an individual request for the support of education comes from a prospective employee). Conversely, HRMA has concluded a tripartite agreement with the State Authority and the Faculty for State Administration and European Studies in Podgorica. This agreement foresees the granting of 10 bursaries covering tuition at this Faculty. In addition, HRMA has concluded an individual agreement, with a Montenegrin student pursuing undergraduate studies in Heidelberg, whereby this institution grants the student a scholarship. The student is obliged to work for two years in one of the branches of the State Authority in Montenegro upon the completion of studies.⁵¹ The greatest number of scholarships for professional advancement has been granted in Secretariat for European Integration (8 stipends), whereby the employees are of the opinion that through a better development of skills, civil servants and state employees will be able to perform their tasks in a quality manner.

A significant number of seminars targeted at training the civil servants have been organised since the start of the public administration reform in Montenegro. However, the number of civil servants attending these seminars is rather low. One of the possible explanations for this is the fact that the trainings were organised during working hours. For instance, the seminar in Podgorica dealing with the training for the preparation of the National Plan for Integration, organised by the UNDP, was attended by mere 23 out of the 43 expected participants. According to the chief tutor at the event Mr. Juan Diego Ramirez-Cardenas, the Senior Lecturer at the European Public Administration Institute in Luxembourg, it was essential that the civil servants were motivated to attend, especially since the seminar was timely announced in all the branches of public administration in Montenegro. A further problem with this training was that it was timed during working hours, which means that a number of employees were not granted the leave from office. However, some degree of participation and interest exists for the schools prepared by the non-governmental sector, in the duration of several months, structured in modules, taking place outside the working hours. For example, within previous six generations of the European Integration School, organised by NGO consortium composed

50 Interviews with the personnel of: Ministry of Culture, Sports and Media, Ministry of Education; Ministry of Health, Labour and Social Welfare; Ministry of Interior and Public Administration, the Taxation Management Authority.

51 HRMA website, at: <http://www.uzk.cg.yu>

of Centre for Civic Education, Centre for Development of NGOs and European Movement in Montenegro with support of FOSI ROM, the programme was successfully completed by 48 civil servants and state employees. Apart of this, civil servants and state employees have, in lower number, attended other programmes of these organisations, such as Democracy School⁵² and Human Rights and Minority Rights School⁵³. In 2006 and 2007 73 civil servants and state employees completed specialised, shorter programme „Government for Europe“, organised by the European Movement in Montenegro, with support of FES.

More often, the lack of motivation on the behalf of the civil servants and state employees hinders their professional training and career advancement. The reasons for this are to be found predominantly in the low levels of financial compensation they get for their work. The second issue deals with the importance of the work experience, since an employee is unmotivated to participate in a training, which will bring him no definite benefits in terms of career advancement. Rather, s/he will be unwilling to invest his/her time and effort, because promotions both within and between titles and salary grades are legally based in the years of experience at work. The lack of motivation to participate in trainings is also attributable to the fact that the representatives of civil servants and state employees do not have an input in the planning of such activities. The outcomes of this are that: a) their real needs may be somewhat neglected; b) civil servants and state employees do not have the opportunity to practically apply what they have learned. A possible solution to this issue might be the establishment of a special post or office in each of the organs of state authority that would cooperate with HRMA in assessing the individual training needs of the employees. Such a communication would result in more efficient training sessions.

52 Democracy School is organised by the Centre for Civic Education with the support of FES. In period of 2003 until 2007 ten generations completed programme.

53 Human Rights and Minority Rights is organised by the Centre for Civic Education with different donors. In period of 2003 until 2007 five generations completed programme.

An overview of independent agencies

Secretariats, directorates, and services are the standard entities when it comes to state administration in Montenegro. Agencies, conversely, are somewhat separated from the government, and are entitled to have independent sources of revenues. This immediately results in higher salaries for the personnel employed in these agencies, compared to the civil servants with the same qualifications and years of experience. The consequence of such a situation is the outflow of quality personnel from the civil service towards the independent agencies, as there they attain better compensation for their efforts. Hence, the major question is whether the mushrooming of such agencies decreases the efficiency of the public administration in Montenegro. In fact, establishment, management and closure of these Agencies are not regulated through the legislation on public administration, which creates uncertainty when it comes to the functioning of these bodies.⁵⁴ Similarly, promotion mechanisms in these agencies are different, regulated and conducted in accordance with the internal rules and procedures. Some of the institutions falling within this category are:

- *Central Bank of Montenegro*

The establishment of the Central Bank (CB) as an independent organisation of Montenegro is regulated through the *Law on Central Bank*⁵⁵, and Article 143 of the Constitution of Montenegro from 2007 stipulates "The Central Bank of Montenegro shall be independent organisation, responsible for monetary and financial stability and banking system operations. The Bank Council shall govern the Central Bank of Montenegro. The Bank Governor shall manage the Central Bank of Montenegro". The activities of the CB are regulated through this organisation's Statute. The statute also gives guidelines on the rights, duties and responsibilities of the employees, contracted by the general manager. According to the Statute of the CB, the employees are allowed to enter a different contractual activity with another business entity, if and only if: a) it is outside the working hours of the CB; b) if they respect the code of ethics and the interests of the CB.⁵⁶

- *Agency for Telecommunications and Post*

Agency for Telecommunications (AGENTEL) was established as an independent regulatory entity in 2001, by a decree of the Government of the Republic of Montenegro. In 2005, the Agency was restructured, and postal activities added to its scope of functioning (AGENTEL becoming Agency for Telecommunications and Post, i.e. ATP). It employs 37 people, and their salaries are determined by the Manager of ATP, in line with internal regulation. The rules on the conflict of interest forbid the Manager and his Deputy from contracting in other

54 Republic of Montenegro: An Overview of Public Spending and Institutions (World Bank, 2006)

55 *Law on Central Bank* (Official Gazette of Republic of Montenegro 52/00, 53/00, 47/01)

56 Art. 64, The Statute of the Central Bank of Montenegro (Podgorica, 2000)

telecommunications companies within two years from the termination of their employment at ATP.⁵⁷ According to the Article 32 *Statute of ATP*, the Manager, in accordance with the *General Code of ATP* determines the levels of the fixed part salaries of the employees. Salaries can also be increased by a variable part, which is dependent on efficiency at workplace, and assessed by the Manager.

- *Agency for Energy*

The establishment of the Regulatory Agency for Energy in 2004 was grounded in the *Law on Energy* passed by the Montenegrin Parliament a year before. The initial resources for its functioning came from the Government, but the Agency was enabled to seek for alternative funding. All matters related to employment, salaries, incentives, and supplements are regulated through internal acts. A net total of 252,500.00 euros is planned for the gross salaries of employees for 2008, an addition of 38,300.00 euros for supplements, while scholarships and individual projects are furnished from a fund of 10,000.00 euros.⁵⁸ The salary of an employee at the Regulatory Agency for Energy consists of: a) the basic part of the salary; b) part of the salary based on efficiency at workplace; c) other income. The coefficients for determining the basic part of the salary are classified in 14 grades, and range from 2.33 to 10.00. This part of the salary can be increased through overtime or night work, as well as through years of tenure. The percentages of increase are the same as the ones stipulated in the *Law on Salaries of Civil Servants and State Employees*.

- *Broadcasting Agency*

The Agency for Radio Diffusion (BA) was established in 2003 as an independent regulatory body based on *Broadcasting Law*⁵⁹. A portion of the finances required for its establishment and functioning derive from the Montenegrin Budget. BA employs a total of 25 people, 5 Council Members, and 20 staff. Their salaries are determined on an individual basis, in line with the internal guidelines. According to the Article 3 of the *Guidelines for Remuneration at BA*, the salary of an employee consists of: a) the basic part of the salary; b) part of the salary based on efficiency at workplace; c) other income stipulated through individual or collective contracts. The coefficients for determining the basic part of the salary are classified in 19 grades, and range from 4.80 to 8.50. The part of the salary based on efficiency at workplace, as well as other income, and the accommodation policy are regulated through the provisions in the individual or collective contract. Over 2005 - 2007, the average net monthly salary of an employee in BA was considerably higher than in the public administration (over 30%).⁶⁰

57 ATP Statute, at: <http://www.agentel.cg.yu/regulativa/2006/Preciscen%20tekst%20Statuta%20novo.pdf> (February, 2008)

58 Agency for Energy Statute, at: <http://www.regagen.cg.yu/statutagencije.html> (February 2008)

59 *Broadcasting Law* (Official Gazette of Republic of Montenegro 52/00, 53/00, 47/01)

60 ARD, Financial Plan for 2005 (Podgorica, 2005)

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salary schemes, reward system and opportunities for professional advancement in law and in practice

Challenges

The document of the European Commission *The Strategy of Accession and Key Challenges 2007 – 2008* considers the issues related to the problems faced by the countries in transition in establishing effective public administration structures. In the section of this report - 'Administrative Capacities' - it is emphasised that state administrations across the region are generally making progress. In particular, this referred to strategic frameworks and the existing legislation. Croatia and Serbia were singled out as countries with significant administrative capacities for the implementation of the Stabilisation and Association Agreement (SAA), while the situation in the rest of the countries was marked as unsatisfactory. Additionally, the report emphasised that all of the transitional countries needed a more resolute determination to the reform process in order to establish efficient, stable and reliable bureaucratic systems at both state and local levels.⁶¹ Hugh Grant points to the EAR strategy for public administration reform, which is faced with three challenges:⁶²

- *Legal*: introducing a normative framework for the classification of posts of civil servants and state employees more in line with the Western standards;
- *Practical*: establishing clear guidelines for job descriptions, which would enable horizontal, as well as vertical promotion, in order to motivate employees to be more efficient;
- *Financial*: to what extent should appraisal mechanisms affect the variable part of salary.

61 *The Strategy of Accession and Key Challenges 2007 – 2008* (Brussels, 2007)

62 Interview with Hugh Grant, EAR Salary Expert (Podgorica, 04/03/2008)

The World Bank report of 2006 emphasises that the policy-makers in Montenegro should tackle several areas in order to enhance the public administration, strengthen the accountability and transparency of the institutions, and strengthen the overall capacities of Montenegro on its road towards the EU. These immediate challenges can be summarised as follows:⁶³

- The reduction of costs of employment in the public sector, which would enable the creation of the financial means for strengthening the administrative functions related to the EU and the investments in infrastructure;
- A clearer delineation of the functions of the branches of the administration, as to avoid bureaucratic uncertainties, which would reduce the costs of maintaining the system;
- The consolidation of the database for human resources management, in order to enable a higher degree of professionalism in service;
- The restructuring of the Collective Contract system, which would be merit-based and not determined by the years of experience;
- The establishment of accountability of public administration, which would serve as another quality control mechanism.

The list that follows is an attempt to extend and further elaborate the challenges Montenegro is facing in the course of the reform of its public administration:

- *Transparency of decision-making regarding the remuneration*

The fixed part of the salary for the civil servants and state employees in Montenegro is publicly known through the legislation. At the same time, civil servants and state employees are entitled to further benefits, such as the variable part of salary, and other incomes, regulated via internal acts. However, the World Bank report mentions that outside the scope of the laws, the Government has a separate policy of granting apartments to employees, under the criteria which are not fully regulated.⁶⁴ This means that the process lacks transparency, since in some cases no public announcements of such proclamations are made. The Sigma Report on the state of affairs in Montenegrin public administration makes reference to the 'well-entrenched patronage system in the country [which] affects all administration layers and undermines efforts geared towards introducing the values in the public service.'⁶⁵

⁶³ Republic of Montenegro: An Overview of Public Spending and Institutions (World Bank, 2006)

⁶⁴ Ibid.

⁶⁵ Sigma Report on Montenegro 2007, p. 7

- *Keeping the pace with the rest of the world*

At the opening of the Second School of International Security – The Security of the Western Balkans - the Vice-Admiral Dragan Samardžić outlined the deficit in quality personnel that would carry on the processes of EU and NATO integrations.⁶⁶ Here he not only referred to the need for fostering professional advancement, but also the issue is the one of modernisation of the structures of public administration. In fact, in Montenegrin public administration there is an urgent need for the introduction of modern computing technologies (IT), and training the civil servants and state employees to operate those technologies. This is of particular importance for the personnel that is lagging behind from the previous system, who has scarce knowledge of informatics and/or foreign languages. Further specialised training that would acquaint the civil servants and state employees with the advanced techniques in their areas is also needed to keep pace with the Western countries.

- *Necessity for stimulating the personnel to deal with EU integrations*

It is very difficult to establish the criteria which would distinguish the civil servants and the state employees directly involved in activities related to the process of EU integrations, from the ones not participating in those activities. In the public administration, at present, there are no teams formally specialised for EU integration issues. Still, there are 323 clerks working on the harmonisation of Montenegrin laws with the EU legislation. Moreover, SEI currently has 22 staff, and 39 systematised workplaces, with another 4 employees at the Office of the Deputy Prime Minister for European Integrations. Given the fact that EU integrations are designed as the Government's priority this number is quite low. One of the chief challenges in Montenegro is the low income in the State Authority, which forced a number of quality employees to seek vacancies in the independent agencies, private sector or the international organisations. Perhaps Montenegrin policy-makers should learn from Hungarian and Romanian examples. In the case of Romania, the EU has provided subsidies for the civil servants working on EU integrations according to the principle of reverse pyramid (the lower subsidy goes to the employee with a higher salary, so that remunerations are more balanced). In Hungary, all personnel employed in the country's public administration that dealt with EU accession received a stimulus through a monthly salary that was twice as high as the salary in other branches of the State Authority. The immediate effect of such a change was the motivation of professional and skilled people to take up the tasks related to EU integration. This enhanced the performance of the Hungarian public administration in the negotiation stage, as the country had a good capability base to implement the Community *Acquis*. However, bearing in mind the concern recently expressed by the President of the Administrative Court, if this approach were to be applied in Montenegro, it would be important to have clear criteria for who should receive such additions.

66 Speech at the opening of the Second School for Security: 'Security of the Western Balkans' (26/11/2007)

- *Quality control and meritocracy v. social costs of reform*

The establishment of standardised quality control mechanisms, and their uniform application is one of the main postulates of public administration reform. The pillar complementary to these appraisal methods is meritocracy, which should provide the incentives to civil servants to perform their professional duties efficiently. Introducing these two mechanisms in the Montenegrin public administration is necessary, but chances are that this process will be slow and gradual owing to the costs it involves – financial and social. In financial terms, this means that there should be stimuli based on merit, which should come from the state's budget. However, as most of the countries in transition, Montenegro has a portion of administrative structures inherited from the old system, which do lobby for the work experience to count more than knowledge, efficacy or skills. Changing the status of that layer of bureaucracy would involve high social costs for the Government, as it would produce dissatisfaction among the veteran civil servants and state employees. Perhaps such dissatisfaction would be somewhat reduced if the salary levels were increased simultaneously with the reduction of the work experience addition.

Public Administration Reform in Comparative Perspective

Countries faced with transitional reform often tend to look up to other countries for examples of success stories, in order to facilitate their own transformation. When it comes to what Montenegro can learn from the rest of the countries, three examples - which contain elements of positive practice of public administration reform - can be singled out: Croatia, Malta and Slovenia. The cases of Croatia and Slovenia, which used to be a part of the same bureaucratic structure as Montenegro show how progressively reforms yield achievements. Given the fact that Slovenia is minor in terms of population – and in that aspect closer to Montenegro – yet a Member State of the EU, the organisation and reform of its public administration can be seen as a paradigm of what is needed for EU membership. Croatia, conversely, illustrates the experience of a country that is on its way towards the EU. On the other end of the spectrum is the example of Malta, a small island state, which entered the EU along with Slovenia. It balances the experiences of Croatia and Slovenia, since Malta used to be a British colony until it gained independence in 1964. Consequently, its public administration reform had a distinct starting point, and the Maltese case gives some positive insights into an alternative restructuring trend.

Slovenia

Montenegro currently has three times as many civil servants and state employees in SEI than Slovenia had in a similar branch of state administration at the beginning of its EU integration process. However, since the inception of its aspiration to join the EU, Slovenia had committed to adapting its public administration to the requirements of new processes that the country was faced with. Two major challenges were to modernise the administration system and make it functional and effective.⁶⁷ These challenges were managed through the delegation of authority, which included the decentralisation of public administration; a system of financial incentives for civil servants; and the enhancement of professional expertise of the employees working for the state.

In terms of creating a more functional and effective state administration, Slovenia has adapted its legal framework. It introduced a new position in the public administration sphere – Deputy Secretary of State, who is the sector manager and the civil servant with the highest rank. A public announcement for 51 civil servants that would cover such managerial positions has been announced in 1996. The announcement was targeted at attracting the personnel for the Ministry of Agriculture, Ministry of Economy, Ministry of Finance and the Ministry of Work. The restructuring of the public administration managerial posts allowed for a higher degree of delegation of responsibility within the hierarchy of civil servants. In the case of Montenegro, such a practice could result in a higher degree of coordination of activities in the course of adapting the state administration to meet the challenges of integrating into the EU.

In addition, Article 96 of the Slovenian *Civil Service Act* has been amended in order to allow the civil servants to receive a salary supplement amounting up to 35% of their monthly income, upon the decision of the managing person in that branch of public administration. At the time of the adoption of amendments in Slovenia, the salaries in the private sector were three times as high as in state administration. Thus, the increase in remuneration in the example of Slovenia was used to attract and keep quality human resources in the sector of public administration, which needed to be strengthened in the light of the forthcoming EU integrations. The situation with the managerial staff allowing the supplements to salary is somewhat similar to some of the provisions envisaged in the Montenegrin *Law on Amendments and Addenda to the Law on Salaries of Civil Servants and State Employees*, since it grants a margin of discretion to senior civil servants in determining the income of employees. What can be learned from the reform that took place in Slovenia is that incentives for quality personnel are necessary in order to prevent them from fleeing to independent agencies or the private sector.

67 Marjan Brezovšek, *Transition in Public Administration: Slovenian Experience* (Ljubljana, 1999)

Slovenia also managed to promote professional training and education as further incentives for the civil servants to remain in the sphere of public administration. In fact, they used the seminars or summer academies as a reward for the civil servants' input in the reform process. These staff would – in turn – bring new skills and experiences learned during the training sessions, and use it in their daily activities. Moreover, each year the Government of Slovenia granted 12 scholarships for the postgraduate study of law, economics and public policy at the College of Europe (Bruges- Belgium and Natolin- Poland), the leading institution in the field of European Studies. Although it was the Government of Slovenia who actually granted these bursaries, the process of selection was entirely handled by the College of Europe, which eliminated the risks of unfair selection, personal connections, or other interference. Upon the selection, the candidates would sign a contract, binding them to work in the public administration for at least three years (a branch of the State Authority, the Office of the Assembly, Central Bank, etc.). Interestingly, not a single person who had been granted a scholarship terminated their employment in the civil service, since they were aware that they were working on the tasks of major importance for the future of Slovenia. As civil servants, they were also aware of the fact that upon Slovenia's entry into the EU, they would be highly educated and skilled personnel, able to seek employment on highly paid positions in Brussels. In case some of them were willing to leave the public administration sector, they would have to return to the state Budget the entire amount of 23,000.00 euros granted to them for the completion of their studies. This certainly is a positive example Montenegrin government should learn from, as such initiatives are limited in Montenegro (aside from the limited number of awards under PARIM II, which obliged the grantees to work in the state administration of Montenegro for a period from 12 to 24 months).⁶⁸ A practice similar to the one in Slovenia has been implemented in Macedonia for several years already, and most of the scholars that were involved in the program are high level civil servants contributing to their country's EU accession process.

68 Electronic magazine *EIC Bulletin* No 4, (Podgorica, 2006) at the www.cgo-cce.org

Croatia

The reform of the public administration in Croatia has been driven by the will to create an operative bureaucratic framework, in accordance with the standards of the EU. Consequently, Croatian experience in this area has been rather similar to the one in other transitional countries, which aspired to EU membership. What was identified as a key difficulty in the transformation of the public administration in 2004 was the "need to reduce the cost of the administration", while at the same time building an ethos of performance in the system, the need to improve coordination and coherence in the operation of the administration, the re-allocating functions between levels of government to build a more effective system of public service delivery.⁶⁹ This statement was made by Tony Verheijen of the World Bank, and it pointed out a problem at several layers. In reality, repairing the burden of excessive personnel - bearing almost a half of the country's GDP - subsequently brings economic implications as well as the social costs of laying off one fifth of the country's workforce. Hence, the limited availability of funding has somewhat slowed down the reform and decentralization of the public sector in Croatia.

A further challenge to operationalising the public administration in Croatia was the need for an increased flexibility and coordination in the segments of state administration, education and training of personnel, reduction of financial costs, and the amplification in transparency. In 2005, Croatia has adopted a *Civil Service Act*, regulating both the status of personnel and the decentralisation of the system as a whole.⁷⁰ In terms of the position of civil servants in the public administration, 'Title 2' of this Act brings about the guidelines on hierarchal relationships. As such, it outlines the rights and obligations of the civil servants with respect to their work for State Authority. What is interesting is that the provisions in the *Civil Service Act* bring about a degree of reciprocity, which enables merit-based awards for commendable performance; and opens up a possibility of sanctioning impartiality and the lack of professional behaviour at workplace (such behaviour being defined in the Act). A lesson from the Croatian legal experience in the public administration reform would be the formalisation of the behaviour of the civil servants, in positive terms – through compensation; and in negative ones – through sanction.

In terms of personnel management, upon the application of the funds from the EU's CARDS assistance program (now substituted by IPA), Croatia reduced the number of formal civil servant positions in 2003 and 2004. The immediate consequence of this was the increase in the efficiency of public administration and its rationalization.⁷¹ Montenegro already conducts

69 *Public Administration Reform and European Integration in Croatia: Towards a Medium Term Agenda*, (Zagreb, 2004), p.5

70 *Civil Service Act*, (Zagreb, 2005)

71 Inge Perko Šćeparović, *The Croatian public Administration Reform and the Decentralisation Perspectives* (Zagreb, 2004)

its public administration reform with the assistance of the EU funds. However, learning from the Croatian experience, Montenegro could make a further use of the EU programs in order to enhance the quality of its bureaucratic system. The financial assistance available through the EU's pre-accession programs could be used in order to enhance the professionalism in the civil service.

As to create a capacitated bureaucratic environment, Croatia has established the Centre for the Training of Civil Servants, which along with the Central Office for State Administration, aids the adoption and implementation of policies at the state level. Such a drive in Croatian public administration reform is aimed at "differentiation and strengthening of the operational independence of the administration, the de-concentration of government and decentralization in the political and administrative system".⁷² Perhaps HRMA could expand the amount of training of civil servants, which could help provide the personnel with enough aptitude and knowledge to carry on the EU integration process in Montenegro.

72 Antić, Teodor. "Decentralization of Public Administration in the Republic of Croatia - Reform Process Management". *Mastering Decentralization and Public Administration Reforms in Central and Eastern Europe*. Budapest: LGI OSI, 2002: 13

Malta

At present, the public administration reform in Malta is in its third stage. The first stage encompassed a process initiated in 1988, when the Government appointed the Reform Commission of the State Service to recommend the most efficient way to tackle the needs of the state. In order to achieve this, Malta focused on the internal administrative system based on sectors. The main reforms included the inclusion of the long-term system of work, the reduction of the importance of seniority as a criterion for employment, a focus on achievement, investment in IT, and the establishment of a three-year renewable managerial contracts.⁷³ Since Montenegro is faced with some similar challenges, especially the ones related to the need for modernisation, the importance of seniority and quality control (through temporary contracts in the case of Malta), the Maltese experience can be looked up to for some inspiration.

The second phase of the public administration reform in Malta consisted of three key initiatives: Quality Service Charter (binding the state administration to fulfil the quality standards); E-Government Program (provision of services via Internet, call centres, SMS messages, etc.); and Public – Private Partnership Program (efficient use of the skills of public administration). The maxims Montenegro could take from the second stage of public administration reform in Malta are: a) that it is necessary to establish guidelines that will enhance the quality of performance of the civil service; b) that modernisation is a *sine qua non* of reform; c) that it is necessary to establish a client-oriented public administration schemes.

The initiatives from the second phase resulted in the *White paper on a Public Service Act*, bringing about the third phase of the public administration reform. The *Act* was aimed to make the bureaucracy more efficient, flexible and goal-oriented, while establishing the responsibility of the managerial personnel. Yet, the major novelty introduced by this document was the institution of the merit-based system, which states that promotion is determined by achievement, and that it does not occur through automatic progression.⁷⁴ According to Godfrey Pirota, the lecturer of Public Policy at the University of Malta, the merit-based system required a superior training of civil servants that would enable Malta to catch up with the EU's Member States.⁷⁵ This led to a system of incentives for the civil servants working on EU integration related activities ranging from scholarships and professional training to a different remuneration structure.

The salary structure in the state administration of Malta has been reorganised into 20 levels,

73 Ivan-Carl Saliba, *White Paper on Public Service Launched*, at: <http://www.gov.mt/text/newsletterarticle.asp?a=59&l=2> (December 2007)

74 *White Paper on a Public Service Act*, at: <http://doi.gov.mt/EN/archive/publicservice/pservice.asp> (December 2007)

75 *Malta Today* 21/05/2006, at <http://www.maltatoday.com.mt/2006/05/21/opinion2.html> (December 2007)

the categorisation into which was based on a clear system regulated by the *Code of Public Policy Management Conduct*. This document stipulates the estimates for the salaries of civil servants, taking into account the annual inflation trends.⁷⁶ In addition to the basic salary, the employees could receive additional financial stimuli based on work performance, while the branches of administration targeted at the adoption of the *Acquis* were granted a special status in the income structure.⁷⁷ The *Code* also introduced the 'qualification supplements', granted to the civil servants in line with their educational level (if their qualification was superior to the requirements of the position they held). This provision motivated the civil servants to seek further edification, enhancing thus their personal and professional skills. Hence, the public administration reform in Montenegro could be encouraged by the example of Malta to put more weight on the civil servants' knowledge, education levels and professional skills (instead of the years of work experience) in salary schemes and career advancement opportunities.

76 Public Policy Management Code, 8th Edition, 31st May 2007

77 Republic of Malta, *Public Administration Country profile, division for Public Administration and Development Management: Department of Economic and Social Affairs* (United Nations, May 2004)

Recommendations

The Government and the Parliament of Montenegro should develop legal and structural frameworks along the lines of the following recommendations:

Legal Framework

- In line with the practice in many EU countries, the Constitution should guarantee the accountability, legitimacy and transparency of the public administration;
- A single legal act should regulate the remuneration in all the branches of the State Authority, including independent agencies, in order to create more balanced conditions for the work of public administration;

Motivation

- Motivate the trainees who achieved the best results to stay in public administration by: a) creating opportunities for both horizontal and vertical career advancement, based on merit and quality rather than on automatic progression; b) introducing special remuneration packages, targeted at quality performance;
- Initiate the negotiations with the Trade Union to change the General Collective Contract, in order for the gradual diminution of the relevance of the years of experience on the calculation of salaries of civil servants and state employees;
- Establish merit-based criteria for recruitment, promotion, and remuneration;
- Establish a clear system of job descriptions and designate responsibilities for each position, in order to create a client-oriented public administration;
- Trainees and junior civil servants and state employees should be 'coached' by the top civil servants and state employees from their branch of the State Authority;
- It should be mandatory for managers to attend trainings on performance appraisal (not all managers attended the previous trainings). Such training would help managers to carry out the appraisals more easily;
- Managing personnel who fail to appraise their employees should be sanctioned for not doing so;
- Disable the current right of the managerial personnel to refuse to recruit an employee who has fulfilled all the requirements for a certain position. In case this solution remained embedded in the legal framework, clear guidelines on the selection and appeal procedure should be established.

Human Resources

- The Budget of Montenegro should enable the granting of scholarships to a certain number of quality students, and provide more funds generally for other training for staff, similar to the example of Slovenia. The dynamics of awarding these grants should be conducted upon a detailed analysis of the needs of state administration in the light of EU integrations. There should be clear criteria and guidelines for granting these awards, whilst the procedure should be fully transparent. The recipient of the scholarship would have to commit that, upon the completion of his/her studies s/he would have to work for a pre-determined number of years in state administration;
- Each organ of the state authority should have a human resources management office/officer. In cooperation with the Head of Authority and the civil servants and state employees from that organ, the human resources management office/officer should make individual plans for professional development. Moreover, this office/officer should cooperate with HRMA, thus giving inputs for future training sessions and seminars for civil servants.
- There should be clear criteria for professional development and advancement. For instance, in order to advance professionally, each civil servant should collect a specific number of points, which would be granted to them upon successful completion of trainings/seminars. There should be clear guidelines on how many points each seminar carries, on the grounds of length, difficulty and methods of testing. The second criterion for professional advancement should be efficiency at workplace, which should be determined through clear appraisal mechanisms.
- Central Personnel register should include complete data, along with the statistics on the number of civil servants and state employees according to the years of experience, gender, representation of minorities, knowledge of foreign languages, specialist trainings completed;
- Modernise the system as a whole by the use of modern IT, and create a client-oriented public administration

EU Integrations

- A standardized rewards procedure should be established and directed towards civil servants and state employees working on the preparation of laws and policies required for EU accession;
- Civil servants and state employees dealing with EU integrations should be given complete information on the opportunities they will have in the future, considering the experience in and knowledge about the accession process they will have gained in the course of their employment;

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