

# GUIDES TO GOOD GOVERN- ANCE

No. 01

**Professionalism and integrity  
in the public service**



CENTRE FOR INTEGRITY  
IN THE DEFENCE SECTOR

## CENTRE FOR INTEGRITY IN THE DEFENCE SECTOR

The Centre for Integrity in the Defence Sector (CIDS) is promoting integrity, anti-corruption measures and good governance in the defence sector. Working with Norwegian and international partners, the centre seeks to build competence, raise awareness and provide practical means to reduce risks of corruption. CIDS was established by the Norwegian Ministry of Defence in 2012.

The views expressed in this booklet are those of the authors and do not necessarily represent the views of, and should not be attributed to, the Norwegian Ministry of Defence.

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# FOREWORD

## Guides to Good Governance

is a series of small booklets each of which discusses a particular topic of importance to good governance in the defence sector. The format is meant to be easy to read without oversimplifying issues that are, by their nature, multifaceted and sometimes technical. The guides are written for non-specialists and do not require a professional background in any particular field. They can be read by individuals with an interest in learning more about one or several topics of direct relevance to good governance in the defence sector – or the public sector more generally – and they can also be used for educational purposes.

Centre for Integrity in the Defence Sector (CIDS) is a competence centre under the Norwegian Ministry of Defence and plays an active role in NATO's Building Integrity Programme. Its mandate encompasses both national and international work, including projects, courses, and competence and capacity building. The main reason for promoting integrity in a systematic way is to reduce the risk of corruption and other unethical behaviours while improving transparency and accountabil-

ity. Thereby, conditions for good governance within a framework of democracy and rule of law will be established. For this undertaking, public servants with personal as well as professional integrity and high ethical standards are crucial.

The guide *Professionalism and integrity in the public service* was written by Francisco Cardona and Svein Eriksen, and edited by Ingrid Busterud. I would like to thank them for their inspiring work.

Comments and responses concerning the *Guides to Good Governance* are always welcome ([cids@ifs.mil.no](mailto:cids@ifs.mil.no)). More information about CIDS may be found at [www.cids.no](http://www.cids.no).



**Bård Bredrup Knudsen**  
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# CONTENTS

INTRODUCTION .....	3
SEPARATION OF POLITICS AND ADMINISTRATION.....	5
RECRUITMENT AND PROMOTION BASED ON MERIT .....	10
ACCOUNTABILITY: HIERARCHICAL SUBORDINATION AND EXTERNAL CONTROL OF LEGALITY .....	12
DUTIES AND RIGHTS, THE SYSTEM OF INCOMPATIBILITIES AND CONFLICT OF INTEREST .....	17
A SALARY SYSTEM FIXED BY LAW .....	22
MANAGERIAL ARRANGEMENTS TO ENSURE COMMON STANDARDS.....	26
A SPECIFIC GLANCE AT MINISTRIES OF DEFENCE AND OTHER SECURITY SECTOR INSTITUTIONS.....	30
CONCLUSIONS.....	32

# Introduction

The notion of public service professionalism is intimately connected to a merit-based civil service system – a system based on competence and integrity aimed at achieving public interest objectives.<sup>1</sup> The merit system is the opposite of a system where positions are allocated through cronyism, political or personal allegiances or patronage networks rather than professional merit and capabilities.

Today, it is widely accepted that professional state institutions are crucial for economic growth and performance in other policy areas. The links between the degree of professionalism of a country's civil service and good governance are increasingly studied as indicators of a country's development, while merit-based human resource management (HRM) in public administrations is increasingly accepted as the international standard. However, while many countries acknowledge the principle of merit, it is far from universally practised.

Most countries feel the necessity to create professional civil services that are aligned with the requirements of democratic states. Political democracy, a modern market economy,

and complex states and societies require professional public administrations. At the moment, the merit system is the only known way of achieving an acceptable degree of professionalism in public administrations.

The merit system, like any other public administration mechanism, did not develop because it was intellectually or culturally more appealing than other systems, but because it proved better at solving practical political, social and economic problems in countries with a Western cultural legacy, i.e. where individual freedom, rather than the imperatives of a social group, is the cornerstone of society. The merit system has also proved indispensable in producing legal certainty and predictability in public decision-making. Each country's merit-based civil service has its own particular historical and cultural roots, but each country has also borrowed from others. European countries where the historical evolution of merit systems provided a reference for others are the United Kingdom, France and Prussia. The merit systems of most of the other European countries were based on ideas and elements taken from these national frameworks.

<sup>1</sup> Ingham, Patricia Wallace. 2006. "Building Bridges over Troubled Waters: Merit as a Guide". *Public Administration Review* 66(4): 486–495.

Good governance, professionalism and the active promotion and protection of integrity are, and should be, incorporated in the design and management of the public service as an institution, thus helping the government of the state and in the provision of public services to the population. Integrity is the quality of being guided by strong principles or being fully operational, intact and internally consistent in the application of agreed-upon principles and standards. Without these values, the democratic efficiency of the public service is impossible.

The professionalism of the civil service depends on several factors, each of which will be elaborated below.

- Clear separation of political and civil service positions.
- Recruitment and promotion based on merit and competition as a basis for professionalism.
- Ensuring accountability principally internally through a hierarchical structure vs. external

control of legality and accountability: their relative importance to ensure accountability – civil servants' ability to refuse unlawful orders.

- Regulation of duties and rights, in particular the duty of impartiality and integrity and the system of incompatibilities and conflict of interests.
- Effective regulation of the handling of grievances.
- Regulations that ensure fair performance appraisals with sufficient guarantees of individual rights (e.g. hearing, judicial review).
- A statutory salary system; transparency in assigning salary components to individual civil servants, coupled with restricted managerial discretion.
- Managerial arrangements to ensure observance of common standards in all sections of the public administration.

## Separation of politics and administration

The separation of politics and administration, though acknowledged as an ideal, is not always recognisable in administrative (and political) practice. Democratic politics is a response to the dilemmas of order and diversity. It is also an argumentative practice where public discussion and criticism, opposition, regulated competition, and conflicts are tolerated, even encouraged and institutionalised.<sup>2</sup>

In contrast, public administration is strictly focused on creating a public order that guarantees stability and continuity of the state and is able to channel and resolve conflicts through legally established instruments. Within the administration, conflict and dysfunctionality are considered as pathologies, whereas the orderly and clear distribution of responsibilities, compliance with pre-established rules and the hierarchical ladder are considered positive values.

This only goes to show that politics and administration are two different social realities that ideally should be kept apart in the development mechanisms enabling loyal cooperation between the administration and democratic politics, and subordination of the former

to the latter. The legitimacy of democratic politics will be jeopardised if it fails to produce policy outcomes such as legal certainty, rule of law and satisfactory public services that would be impossible without a developed professional administration. Democratic politics requires original legitimacy (through free elections) but must repay this legitimacy by producing results. Both original and results-based legitimacy are needed. A bureaucracy can lose legitimacy too if it is not directed by democratic politics. That is why there is a need to establish cooperative working mechanisms between these two social realities.

Building professional, democratic public services entails striving in two directions. On the one hand, towards more structural-type changes aimed at building democratic institutions ruled by law that are able, at the same time, to provide the citizenry with an acceptable standard of public services. On the other, towards more functional-type changes aimed at consolidating acceptable professional and ethical behaviour in public life, and enabling efficient public management methods. Both structural and functional aspects are intertwined as both seek to strengthen the public legitimacy of the state.

<sup>2</sup> Olsen, Johan P. and B. Guy Peters. 1996. *Lessons from experience: Experimental learning in administrative reforms in eight democracies*. Oslo: Scandinavian University Press.

It is in the structural domain where the necessity of separating politics from administration appears more sharply, along with a number of equally important issues like the set of values linked to the rule of law principle, the representation of the general or public interest, the respect of civil rights, equality before the law, etc., because they will always demand direct policy intervention to change the structural elements of the State in order to be effective. Structural change requires policy design.

In the functional domain, i.e. in the domain of behaviours and efficiency of public management, it is not always necessary to change the structural elements of the state, even though it may be sometimes unavoidable. Functional changes require mainly managerial action on processes and working procedures, but they are directly dependent on sound policy and enabling legislation relating to the organisation and functioning of the administration and administrative procedures.

The creation and development of the public service system belongs principally to the structural domain of the state. The institutional development of the public service is an essential part of the public administration system, because it entails creating a new power within the State, i.e. a bureaucratic, professional or technocratic power with a certain degree of autonomy with regard to its political power in order to work properly. The other essential part of the democratic state is the structural arrangements for democratic representation, or arrangements for enabling politics as an expression of societal pluralism. In this sense, the separation of politics and administration, even though the boundaries are often blurred in practice, is a structural distinction in this field of public life.

One major problem that many countries face when attempting to develop a professional public service is to design an accepted and balanced line of demarcation between the political and professional levels of the administration while finding ways and means to make them work together in cooperative and constructive ways. Arbitrary, politicised management of key administrative systems like the civil service has to be avoided, while leaving room for the government to steer the public administration. This challenge has been addressed differently in different EU and OECD member states while developing countries are still striving to find an adequate formula.<sup>3</sup>

In the context of needed reforms taking place or envisaged at the politics-administration interface, it would be a positive development if administrative legislation and practices promoted instruments such as the delegation of administrative decision-making to lower levels in the administrative hierarchy.

However, the frontier between politics and administration is a turbulent one where interaction between these two different realities is constantly under strain and inroads into either camp are commonplace, either overtly or surreptitiously. Public management reforms during the past two or three decades in some OECD countries have produced results that are accounted for in opposite ways depending on who does the analysis.<sup>4</sup> Some see management as having invaded politics and taken over slices of political territory. Others suggest, on the contrary, that management

3 For example, through cabinets either purely political or including seconded professional civil servants; through political appointments to clearly defined posts within the hierarchy; through appointing politically associated civil servants; by using a 'pure' administrative model; through 'delegation' mechanisms, etc.

4 See Pollit, Christopher and Geert Bouckaert, 2000. *Public Management Reform: A Comparative Analysis*. New York: Oxford University Press.

reform has allowed executive politicians to get a tighter grip on their officials. Pollit and Bouckaert, urging further examination of that frontier, draw attention to the fact that the frontier between politics and administration is related to, but not necessarily identical with, the boundary between civil servants and politicians<sup>5</sup>. If politics is defined, not by the people involved (elected or appointed politicians or civil servants), but by the processes, then both politicians and managers concur on the same field of activity or processes. Political (or better policy) activity, is not necessarily the same as party politics, but it involves the mobilisation of various kinds of resources in order to achieve a chosen set of policy goals in a situation where the interest of the various parties concerned may potentially or actually conflict.

Public managers frequently have to be involved in such policy processes, even if they are and should be politically neutral in terms of party politics. In some cases, this policy activity takes a great deal of management time. It is not self-evident in the experience of most OECD countries that politicians are willing to confine themselves to the role of 'strategic steering heads' of their portfolios or whether operational public management can be radically de-politicised. It is not self-evident either whether the development of the bureaucracy has ineluctably increased the political power of senior bureaucrats since measuring the power of a group like senior civil servants is genuinely difficult.<sup>6</sup> For example, while the organisational and policy entrepreneurship skills of bureaucrats in France and Germany, or in Scandinavian countries for that matter, appear to be more highly appreciated than in Belgium,

Greece, Spain or Italy, this might well be because of the character of the political systems and the legal, statutory and organisational framework within which they operate.

What seems to be clear, however, is that when a policy becomes a law in OECD countries, the application and implementation of that law becomes a major and almost exclusive responsibility of the professional public service, not the politicians. Several legal instruments, not least the delegation of responsibilities, turn the political decision-making process into a mostly or exclusively administrative process.

Inevitably, as said, politics and administration make inroads into each other. Should this be seen as having negative connotations? Perhaps it is worth remembering here that policy-making and administration are two different but convergent processes. In general, continental EU states, which have rather strong traditions in administrative law, express policies formally by passing legislation in parliament. In the traditional understanding of the separation of politics and administration, when a policy becomes law, it should be quite easy to delegate administrative decision-making powers down the hierarchy to enable the administration to apply, enforce and implement the law (i.e. the policy). There is legislation defining how these administrative decisions have to be taken and a clearly established legal procedure for delegating authority.

Does this mean that before a policy becomes a law, the administration has no role? Does it mean that only politicians prepare and decide policies themselves? Policy describes political goals in operational terms. Many languages do not have separate words for policy and politics. In accepted usage in Europe,

<sup>5</sup> Ibid.

<sup>6</sup> See Page, Edward C. and Vincent Wright. 1999. *Bureaucratic Élités in Western European States: A comparative Analysis of Top Officials*. New York: Oxford University Press.

policy means a course of action adopted and pursued by the government. Policy is the expression of a political decision that guides the actions of officials in the public administration. A decision on policy will contain goals, a general framework for administrative action and decisions concerning policy instruments. Policy instruments are the tools the government will employ to achieve its policy goals, and include laws or regulations, public information, and public services. The rule of law demands that all government activity has to be grounded in law, and in countries with a strong tradition of administrative law, policies are often expressed and discussed in legal terms. Thus policy-making is closely linked to the process for the production of legal norms.

Policy is decided by politicians, not by administrations. Usually, constitutions designate ministers, individually and collectively, in the council of ministers, as decision-makers. Ministers decide on the content of the policy. However, the problems faced by ministers are so complicated and technical that they have to rely on professional experts in the making of policy. When a problem is identified, ministers set general guidelines for their professional experts. The latter analyse the situation and provide ministers with policy options. Ministers decide which policy option will be adopted, but the policy-making procedures are technical and administrative and subject to design.

It is vitally important to sustain the reality that ministers and councils of ministers decide policy. But the necessary symbolism surrounding government decision-making should not obscure the practice, common to many OECD and EU member states, that government policy-making follows a preordained administrative procedure. This is often a regulation of

the council of ministers with concrete administrative components such as standard forms, standard circulation lists, fixed timing relative to meetings of the council of ministers, standards for the quality of analysis (e.g. estimation of budgetary cost, environmental impact statements, etc.).

One specific principle, common to many OECD and EU member states, and embedded in their procedures of policy making, is that cross-ministerial policy discussions should take place before policy is decided by the council of ministers. In general, cross-ministerial discussions take place at the lowest possible level; only when it proves impossible to reach an agreement will the question be sent up to the next highest level. Leadership of this process is either assigned to the originating ministry (e.g. in Germany), which is responsible for piloting the issue through to government agreement or it is vested in the general secretariat of the government (e.g. in France). Cross-ministerial discussions can involve ministerial cabinets which often house political sensitivities. Eventually, all decisions reach the minister or council of ministers, but in nearly all cases, prior cross-ministerial discussion means that only a formal decision of approval is required. Government decision-making is underpinned by administrative procedures. These procedures are consciously designed and maintained. When the performance of a government in making policy is considered weak, governments reform their policy-making systems.

Numerous actors, both political and administrative, are required to play a role in developing and deciding policy. Because today's policy issues are so complex and technical, developed states are strengthening the capabilities of these actors. In OECD and EU

member states, ministers and state secretaries are given some assistance through seminars and party channels. The resources available to ministers can be enhanced (e.g. budgets for awarding contracts to study a problem, budgets for policy advisers). But civil servants usually make the most important contribution to ministers in policy development. This is because civil servants:

1. Have the most technical expertise and can best interact with other civil servants and experts; most European policy is decided at this bureaucratic level (e.g. 'comitology');
2. Provide continuity, which is especially important in the European context because European policy-making does not coincide with national political cycles; and

3. Supply expertise on implementation considerations so that policies are designed to be effective and efficient, and, above all, implemented.

The capabilities of public servants to contribute to policy-making are ensured through a system of management based on principles of merit. It can be enhanced by improving skills (e.g. training, staff selection and recruitment); ensuring organisational specialisation (e.g. creation of policy units or *chargés de mission*); increasing budgets or strengthening intra-ministerial cooperation); or setting up administrative instruments enabling, for example, the delegation of responsibilities.

## Recruitment and promotion based on merit

Given national variations and modalities, the main characteristics of civil service systems in advanced democracies, be they career or position based, can be summarised as follows:

- Civil servants are recruited and promoted by means of competitive examinations, rather than the old selection modalities based on patronage and venality;
- Restrictions to arbitrary transfer, demotion or dismissal of civil servants are well established;
- The political neutrality and impartiality of civil servants constitute stringent obligations imposed upon them;
- Civil service positions are established centrally and classified by grades or steps;
- Salaries are determined in legislation and paid according to grade and seniority rather than the quality and quantity of work actually performed (although a more performance-related salary system is currently being introduced in some countries – so far with uneven and unclear outcomes);

- The system as a whole is monitored by strong control mechanisms and institutions, including independent public service commissions (mainly in the British Commonwealth countries) or independent judicial review of the management of the civil service (mainly in administrative law countries).<sup>7</sup>

The professionalism and political neutrality of the public service require its autonomy from politics and other vested interests. The civil service, as an institution, is formed of heterogeneous professions and trades, but has the capacity to build common practices and rules of behaviour, as well as set of values and a group culture (*esprit de corps*) of its own, which in turn contribute to legitimising its existence and its actions. The professionalisation of the public service in democracies can only be achieved by means of the merit system. This system lies at the foundation of modern bureaucracies.<sup>8</sup>

Bureaucracies – and by extension key elements of the merit system – have been under attack in the past three decades or so, accused of strangling the legitimate power of govern-

7 Cardona, Francisco. 2004. "Civil Service, Democracy and Economic Development". *Viešoji Politika ir Administravimas* (7): 16-22.

8 Dreyfus, Françoise. 2000. *L'invention de la bureaucratie: Servir l'État en France, en Grande-Bretagne et aux États-Unis (XVIII-XX siècles)*. Paris: Editions La Découverte.

ments, undermining efficiency incentives, blurring accountability and impeding administrative responsiveness, among other misdeeds. These criticisms, coming mainly from ultraliberal economic viewpoints, are neither original nor new. They are reminiscent of those voiced by Marx, who branded the state machinery 'the dreadful parasite body covering the French society as a suffocating membrane'.<sup>9</sup> However, while the former criticism tends to focus on a claimed lack of efficiency, suffocating individual freedom and entrepreneurship, the former sees it as a suffocating tool for the ruling class.

If public bureaucracy were as bad as its recent depiction, it would be difficult to understand how an institution that has enabled the development of the economies of developed countries could be so unfit to provide real solutions. Criticism of the merit-based civil service derives perhaps either from a lack of understanding of the real nature of the problems that the merit system is meant to solve or from a broader ideological attempt to undermine the state and its institutions.

Effectively, there has been a persistent attack on and denigration of the state and of those who work for it for the past thirty years or so.<sup>10</sup> The public sector as a whole, and in particular government bureaucracy, has been the target of merciless attacks from certain politicians, parts of academia, certain think tanks and media, with the aim of weakening its legitimacy. Denigration of the state seeks its delegitimation and the correlated sanctification of the market.<sup>11</sup> Indeed, such denigration has had

a negative impact on the public perception of government bureaucracy and therefore on the attractiveness of the public service. It led the OECD (2000) to claim that 'the most important challenge' to make public organisations seem attractive workplaces is to initiate 'a comprehensive investment in building a positive and credible image of the public sector work and working conditions'.<sup>12</sup>

Professionalism in the public service includes a strong component of integrity. Merit-based management has to be combined with active policies aimed at preserving and promoting integrity in the behaviour of those within the public service system. Trust in public institutions depends ultimately on their capability to resolve public problems efficiently and reliably. That capability depends in turn on the professional standing and integrity of the staff and on the quality of the legal framework governing the staff. In addition, the legal order public services have to apply to citizens may either enhance or reduce reliability and trust.

The capacity of national public administrations to act neutrally and impartially and to safeguard the public interest depends on the expertise, skills and moral qualities of the individual civil servants, but it also concerns the quality of the legal and administrative environment in which officials are working. This environment may inhibit or promote the possibilities of the public administration to attract and motivate qualified personnel and it also affects the functioning of arrangements to protect the professional autonomy of public servants and to hold them accountable.

9 Marx, Karl. 1852. *The Eighteenth Brumaire of Louis Bonaparte*.

10 See Suleiman, Ezra. 2003. *Dismantling Democratic States*. Princeton University Press.

11 Legitimation is a process of explaining and justifying the validity of an institutional order. See e.g. Berger, Peter L. and Thomas Luckmann. 1966. *The Social Construction of Reality*. New York: Anchor Books, Garden City.

Legitimacy is the capacity of the system to engender and maintain the belief that the existing political institutions are the most appropriate

ones for a particular society, whereas effectiveness means actual performance, the extent to which a system performs the basic functions of government to the satisfaction of most of the population and powerful groups. Effectiveness or its lack may either foster or hamper legitimacy. See Lipset, Seymour Martin. 1960. *Political Man. The Social Bases of Politics*. New York: Doubleday & Company, Garden City.

12 Äijälä, Kirsi. 2000. "Public sector - an employer of choice? Report on the competitive public employer project". OECD report. Available at: <http://www.oecd.org/austria/1937556.pdf>

## Accountability: Hierarchical subordination and external control of legality

Professionalism requires that public servants enjoy a certain degree of professional autonomy, which needs to be reconciled with the fact that public administration bodies – including ministries – are hierarchical organisations and civil servants subordinate and accountable to the political leadership. Public servants, especially those working in functions impinging upon the rights of citizens, must be impartial, but also sensitive and responsive to ministers' policy requests. The observance of the duty of loyalty alone is not enough to guarantee impartiality and fair cooperation between politicians and civil servants.

The notion of loyalty must be balanced against other important considerations such as impartiality and professional integrity. Arguably, for a country to achieve high standards of government, civil servants should enjoy a certain amount of professional autonomy. In some situations, they should be allowed and encouraged to act on the basis of their professional judgment. This does not mean that public servants are unaccountable. Whenever they act without prior instructions there should be ex-post control of their decisions and actions – the result of which – if necessary – could be used to define more precisely their scope of discretion.

The expertise of civil servants should include in-depth knowledge of the issues at hand and an ability to take initiatives and propose solutions in order to avoid any disruption of public functions and promote effective implementation of laws and policies. In a professionalised public administration, public servants should be able to tell the truth to the powers that be and resist illegal or ethically questionable political instructions. Civil servants' allegiance to the constitution and the legal order shall always take precedence over their loyalty to the government of the day.

In well-governed countries public servants tend to enjoy a considerable degree of professional autonomy. It is unfortunately uncommon in countries whose governance systems need significant improvement. In these latter two situations are common: a) civil servants are excluded from administrative decision-making processes, which probably means the civil service is expected to serve exclusively at the pleasure of or in the interest of the political elite; in this case all decisions are necessarily political; b) as a consequence, public servants cannot or are reluctant to provide professional input unless required by the political leadership or in

response to unambiguous legal obligations, provided the latter are not seen to conflict with (party) political interests.

On the contrary, professional autonomy means that civil servants are regularly involved in administrative decision-making. They are expected to freely express their expert judgement and are legally protected from retaliation by the political leadership if and when their assessments conflict with party political preferences. Civil servants enjoying professional autonomy may fearlessly 'speak truth to power' whereas this is not the case in its absence. In this regard, professional autonomy is a precondition of professionalism and integrity and ultimately of good governance.

A relatively recent paper on Australia is revealing on the still aspirational characteristics of professional autonomy among public servants, even in developed countries.<sup>13</sup> It shows, perhaps not surprisingly, how many ministers are accused by sceptical officials of not being interested in investing in public service creativity, innovation or strategic policy work. Ministers, in turn, were considered to be interested primarily in expediency, 'good news' media announcements and opinion-driven policy (reacting to polls and focus group 'research') rather than in evidence-based policies. The ministerial political adviser had emerged precisely because ministers lacked confidence in the level and types of support they required from the public service – and also because they wanted to work with advisers they had chosen themselves. Ministers claimed that they liked early warnings and wanted to be 'warned' ahead of pitfalls and likely consequences of decisions, if for no other reason than as a risk-manage-

ment technique. Some senior officials agreed with this observation. They also believed it was possible to challenge ministers with alternative policy ideas, even outside formal government policy, but ministers only appreciated frank and fearless advice within the confines of strict confidentiality. Ministers were embittered by leaks and public service indiscretions, and felt such disloyalties struck at the heart of the trust between ministers and officials so essential to responsible government (even if the evidence suggested most leaks were from ministerial offices, not professional public servants).

Also with respect to Canada, a paper by the Public Service Commission points out that non-partisanship is an essential value of the public service.<sup>14</sup> Since 1908, it has been a foundation of the roles and responsibilities of public servants. Despite this fact, increasing scrutiny of and pressures on both the public service and individual public servants have created uncertainty about the appropriate interaction between public servants and elected officials. While various codes and legislation have attempted to define the boundaries and parameters governing the values and ethics of public servants, the subject remains complex. The paper proposes a reflexion on the principle of loyalty to the government of the day.

Autonomy cannot be dissociated from accountability. The structure of government incentives and constraints shapes policy choices and the decision-making behaviour of public officials. Of particular importance are the checks and balances in the public sector, i.e. mechanisms set in place to reduce mistakes and improper behaviour and to protect the integrity and pro-

13 Wanna, John. 2008. "Independence and responsiveness – re-tying the Gordian knot". *The Australian Journal of Public Administration* vol. 67 (no. 3): 340-344.

14 Furi, Megan. 2008. *Public service impartiality: Taking Stock*. Ottawa: Public Service Commission of Canada. Available at: <http://www.psc-cfp.gc.ca/plcy-pltq/rprt/impairt/impairt-eng.pdf>.

professionalism of the public service. Checks and balances imply sharing responsibilities and information so that no one person or institution has absolute control over decisions.

Public service professionalism cannot be attained unless civil service institutions such as ministries and other public agencies are organised and operated in ways that actually allow and encourage civil servants to use their professional autonomy. Organisational characteristics detrimental to professionalism will weaken the benefits of meritocratic arrangements. For instance, what is the use of employing highly educated and experienced people if they are not offered opportunities to fully utilise their qualifications for the benefit of the public interest in the organisation in which they are employed?

It has often been noted that deviations from the merit principle, most notably perhaps in the form of politicisation of the civil service, occur in virtually all countries. However, the institutional environment of party patronage and clannish politics – and hence its social and political impact – varies significantly across geographical spaces, notably from the south to the north of Europe.

A comparative study on party patronage in the public service of 15 European countries (East and West) found a greater degree of patronage in Germany and Austria than in Bulgaria.<sup>15</sup> However, we cannot conclude on the basis of this finding that the level of professionalism in the public service of the latter country is higher than in that of the two former. This assessment springs from the assumption that in Germany, and probably in Austria too, pub-

lic servants in bodies such as ministries – *qua* institutions – enjoy a level of professional independence that is significantly higher and more firmly rooted than in Bulgaria.<sup>16</sup>

We find the same line of reasoning in a study comparing the development of clienteles in Sweden and Greece. Whereas Greek<sup>17</sup> state institutions are ineffectively insulated from civil institutions including political life, in Sweden the State was well entrenched early on behind a ‘charter of bureaucratic autonomy’, understood as a social constellation interested in defending the autonomy of the bureaucracy from political influence.<sup>18</sup> Other studies conclude that also in countries such as the UK,<sup>19</sup> the Netherlands<sup>20</sup>, Norway and Denmark there have been mechanisms protecting the professional autonomy of civil servants and preventing a party political invasion of the public administration.<sup>21</sup> Spain and Italy, however, are similar to Greece in that the notion of bureaucratic autonomy has not been well protected, although there are noticeable geographic variations, e.g. between

16 Regarding the autonomy of the German bureaucracy, see Shefter, Martin. 1994. *Political parties and the State: The American Historical Experience*, Princeton: Princeton University Press. 36-45.

17 Papakostas, Apostolis. 2001. "Why is there no clientelism in Scandinavia? A comparison of the Swedish and Greek sequences of development". In *Clientelism, interests, and democratic representation. The European experience in historical and comparative perspective*. Simona Piattoni (ed.) 31-53. Cambridge: Cambridge University Press.

18 Piattoni, Simona. 2001. "Historical Comparative Perspectives". *Clientelism, interests, and democratic representation. The European experience in historical and comparative perspective*. Simona Piattoni (ed.) 1-30. Cambridge: Cambridge University Press.

19 O’Gorman, Frank. 2001. "Patronage and the reform of the state in England, 1700–1860". In *Clientelism, interests, and democratic representation. The European experience in historical and comparative perspective*. Simona Piattoni (ed.) 54-76. Cambridge: Cambridge University Press.

20 van Randeraad, Nico and Dirk Jan Wolfram. 2001. "Constraints on clientelism: The Dutch path to modern politics, 1848-1917". In *Clientelism, interests, and democratic representation. The European experience in historical and comparative perspective*. Simona Piattoni (ed.) 101-121. Cambridge: Cambridge University Press.

21 Around the beginning of the nineteenth century, recruitment to public administration was fundamentally meritocratic (Feldbæk, Ole. 2000. "The historical role of the Nordic countries in Europe". *European Review*, 8 (1): 123-128). Thus the professional autonomy of the public service was well established before party-based parliamentary elections gradually became the norm during the second half of the nineteenth century, requiring mass political parties to mobilise the citizenry on programmatic appeals rather than the promise of patronage.

15 Kopecky, Petr et al. 2012. *Party Patronage and Party Government in European Democracies*. Oxford: Oxford University Press. 367.

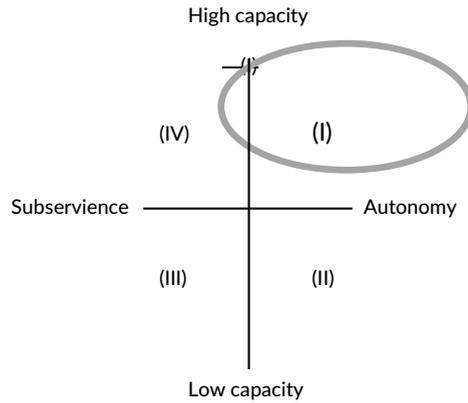
Southern and Northern Italy.<sup>22</sup> Other studies find extensive clientelistic civil services in some Southern European countries.<sup>23</sup>

Arguably, there is not just one, but several, country-specific forms of patronage, each of which will have clearly diverse consequences. While institutions lacking professional autonomy may easily fall victim to party political abuse, institutions enjoying independence may prevent such malpractices from taking root. In addition, we may assume that strong, expert institutions modify party political behaviour insofar as they promote the acceptance by political parties of the need to compete, not only on the basis of ideology or the allocation of patronage, but also by proposing evidence-based policies. In this way, the ability to demonstrate governance competence becomes a key concern of political leaders. Fukuyama uses the variables of capacity and autonomy in an even wider sense, as key indicators of the overall quality of government.<sup>24</sup>

This means that major flaws in public service professionalism and integrity may be symptoms of serious systemic failures in the public governance system, undermining democracy and rule of law, and not only indicating a lack of knowledge and skills in individual civil servants.

By combining capacity and autonomy as in the figure below, four schematic positions emerge in which civil service systems may be located.<sup>25</sup>

FIGURE 1: CIVIL SERVICE CAPACITY AND AUTONOMY



The circle in quadrant (I) represents the ideal combination of high capacity with an appropriate level of autonomy. Quadrant (III) may also denote a meaningful situation: officials lacking expertise are not given wide scope of discretion. However, if the restrictions to which they are subject are not up to standard, the quality of government is degraded from two sides: lack of expertise and inadequate regulation. The conditions exemplified by quadrants (II) and (IV) are uniquely problematic. What is the purpose of giving wide freedom of action to unqualified civil servants (II) or withholding a reasonable degree of latitude from the highly qualified (IV)?

22 Hopkin, Jonathan and Alfio Mastropaolo. 2001. "From patronage to clientelism: comparing the Italian and Spanish experiences". In *Clientelism, interests, and democratic representation. The European experience in historical and comparative perspective*. Simona Piattoni (ed.) 152-171. Cambridge: Cambridge University Press.

23 Ongaro, Edoardo. 2009. *Public management reform and modernisation: Trajectories of administrative change in Italy, France, Greece, Portugal and Spain*. Cheltenham: Edward Elgar Publishing Limited.

24 Fukuyama, Francis. 2013. "What is Governance?". *Governance: An International Journal of Policy, Administration, and Institutions*, 26 (3): 347-368.

25 The figure is based on Fukuyama 2013: 362.

This discussion shows that programmes to improve civil service professionalism and integrity should pay attention to both capacity and autonomy. Just to focus of one of the variables (either increased capacity or greater autonomy) may not be sufficient. Appropriate degrees of autonomy are contingent on the capacity of civil servants: the higher the capacity the greater the autonomy should be. And, as we have already noted – whatever the capacity of civil servants, the quality of the political and legal constraints within which they work, is crucial to their professional performance.

In conclusion, professionalism and integrity are indispensable for public administrations whose mission it is to serve the public interest in highly complex environments. This cannot be attained unless there are mechanisms protecting the professional autonomy of civil servants and deterring any party political invasion of the public administration and the influence of vested interests.

## Duties and rights, the system of incompatibilities and conflict of interest

The nature of the activity of public servants comes with obligations that employees in the private sector avoid, such as loyalty to constitutional values (e.g. obligation to treat all citizens equally, to maintain impartiality, avoid conflicts of interest, protest against illegal or ethically dubious instructions, etc.) as well as specific deontological and legal obligations. The fact that public servants are bound to protect, respect and foster constitutional values and deontological and legal obligations, even in the face of contradictory instructions from superiors or pressure from outside the administration (e.g. private or vested interests), they must be in turn legally protected against the abusive use of the sanctioning powers by their superiors.

The system of rights, obligations and discipline is part and parcel of public service accountability mechanisms. Accountability mechanisms should encourage ethical behaviour in the public service by deterring officials from acting unethically and making such behaviour easy to detect. Accountability mechanisms set guidelines for public service activities, for checking that results have been achieved, and that due process has been observed.

In addition to the disciplinary scheme, accountability mechanisms should include internal administrative procedures (requirements that activities or requests be recorded in writing), audits and evaluations of an agency's performance, or procedures such as whistle-blowing (which can encourage public servants to expose wrongdoing committed by others or to say no when asked to do something inappropriate). They might also be external to the public service: for example, oversight mechanisms such as legislative or parliamentary committees, ombudsmen and audit office.

Codes of ethics, codes of conduct, and ethical guidelines promote an atmosphere supporting integrity, but their legal effects are limited. As the Ethical Guidelines of the Norwegian Ministry of Defence rightly point out, their aim is not to come up with new rules, but rather to clarify and raise awareness on the existing ones.<sup>26</sup>

Consistency (among provisions within the legal framework, ethical guidelines, training and practice) is key for the public service system to work properly. Effectively, the high standards

<sup>26</sup> Norwegian Ministry of Defence. 2011. "Ethical guidelines for contact with business and industry in the defence sector". Available at: [https://www.regjeringen.no/globalassets/upload/fd/reglement/ethical-guidelines-for-business-and-industry-in-the-defence-sector\\_2011\\_s-1001-e\\_web.pdf](https://www.regjeringen.no/globalassets/upload/fd/reglement/ethical-guidelines-for-business-and-industry-in-the-defence-sector_2011_s-1001-e_web.pdf)

of ethical conduct expected of public servants are one side of the coin. The other side is an array of elements that provide decent working and living conditions for public officials, not unjustified privileges. This package consists of such basics as sufficient job security and tenure, prospects for promotion and career development, fair remuneration or social appreciation.

Fair and impartial human resources management practices are essential to promote good behaviour among public servants. They ensure that selection and promotion processes in the public sector are based on professional standards and non-discrimination, and that other factors, such as political or patronage considerations, are minimised. If public servants are feeling underpaid, overworked and insecure, they are less likely to embrace initiatives to improve performance, including in the ethical domain. Organisational integrity plans may complement and help develop the kind of human resource management necessary to foster integrity in the public service.

When it comes to the obligations of public servants, we need to distinguish two main categories: work-related and constitutional obligations. Their rights should be consistent with either type of obligation. The disciplinary system should guarantee that public servants meet their obligations. There is therefore a need to maintain a strong and unambiguous consistency between rights, duties and discipline, both in legal design and in implementation. If that consistency is lacking, rights can easily become privileges, something that should be prevented in any event.

Public servants should abstain from incurring in situations and activities that are incompati-

ble with their status. This should form part of the obligations of public servants. The higher the position in the public service the more necessary and more stringent this obligation should be. Nonetheless, it does not mean that the regulation of incompatibility for lower level positions should be lax. The fewer the exceptions, the better.

Most serious incompatibilities:

1. *Incompatibility between two occupations in the public sector:* No public servant should be allowed to discharge two or more remunerated posts in the public sector. The rationale for this is to avoid the accumulation of responsibilities and remuneration for the sake of the fairness of public employment. Public employment is a scarce good, and should not be monopolised by those already in the system. It should be open to all members of society. The exception to this general rule might be the researching and teaching activities of public servants who are also part-time university professors or creative activities of artists and writers.
2. *Incompatibility with private sector occupations for the sake of impartiality:* The rationale of this is to buttress the public service's impartiality. A clear line should be drawn in law and practice between private interests and the public sphere, between the market and the state. Public servants with adjudicative responsibilities, i.e. officials in regulatory agencies such as inland revenue agencies, bodies awarding licences, building permission and subsidies, redevelopment and urban planning authorities, tax authorities etc. should be banned from working, in whatever legal relationship, either simultaneously or post-public employment, for

companies or corporations over which they had a duty of oversight as public servants. In the case of post-public employment, a cooling-off period of two to three years should be imposed. The difficulty with the cooling-off period is its enforcement. This could be ameliorated by a system of administrative penalties (especially fines).

Moreover, public servants should not own private companies that contract or have partnerships with the public sector. Private interests in these cases could compromise the proper discharge of a public official's duties. Ownership of a small percentage of shares in large companies could be admitted when they are part of private investments and when such ownership does not influence the policies of these companies, but this shareholding should be studied on a case-by-case basis, depending on the position occupied by the public official. Divestment, either by sale or by establishing a blind management agreement (blind fund), is the best solution whenever there may be a conflict of interest involved with company ownership.

By the same token, public servants' active membership in NGOs should also be clearly restricted, especially if NGOs draw their funds from government programmes.

In general, incompatibilities between a position in the public service with private sector occupations or stakes should be prohibited, as public servants are expected to devote their efforts to public service only. However, a number of exceptions may be reasonable. For example, a public servant holding a family business requiring his attention and which is totally divorced (no foreseeable

encroachment on the official duties) from his/her official job obligations, could be allowed to administer that business.

3. *Incompatibility with political activities for the sake of political neutrality:* The public service should be politically neutral, as it is to be able to serve whatever government of the day. Prohibiting public servants from participation in any partisan political activities may be too drastic a measure, but it is still a policy option. At least, political activities or support to any political party while in office, as well as being engaged in the management of political parties, should be forbidden for public servants. If a public servant becomes a MP, minister or political adviser, he/she must be relieved of their public service duties during the term of the political activity.
4. *Incompatibility with private interests:* This should be regulated by a robust conflict-of-interest legal regime. Public servants, particularly those authorised to constrain the rights of the individuals, must be impartial – i.e. unbiased both politically and in terms of personal financial interest – in implementing the policy of the government of the day and pursuing the public good through an objective application of the legislation. Both actual and apparent conflict-of-interest situations should be prevented. In order to ensure compliance with the incompatibility and conflict-of-interest regulations, it is necessary to control the sources of wealth of public servants. Therefore, as happens in many jurisdictions, public servants, especially those with powers to affect individuals' rights and property, should be obliged to declare their assets and those of their immediate families and to dis-

close their financial and personal interests.

The effectiveness of asset disclosure is questioned because it is bureaucratic, difficult to control effectively and expensive to manage. As a consequence, it is easily circumvented, creating a sense of impunity. As an alternative, a well-defined offence of illicit enrichment could be enshrined in the penal code, it has been argued, which would allow the police, prosecutors and investigating magistrates to scrutinise suspicious enrichment incommensurate with official remunerations.<sup>27</sup> The possibility of investigating suspicious enrichment is still banned in many countries.

5. *Gifts*: Receiving gifts should be completely banned, including the so-called 'pins and pens' (i.e. low priced goods). If someone in good faith insists on giving, the obligation of public servants is to kindly decline the offer. Gifts may include money, objects, favours, travels, leisure activities and any benefit that is or could be, directly or indirectly, associated with a public servant's performance of an official duty. Gifts can be the first step towards bribery, and should be completely forbidden, especially when given in appreciation of something a public official has done in carrying out his functions. They will always cast doubts on the public official's impartiality, independence and freedom to act. If social tradition demands or condones the giving and taking of gifts, such gifts should be declared transparently to the employing organisation and disclosed to citizens. In those cases, establishing a public registry of gifts may be helpful.

6. *Administrative decision making*: All persons acting on behalf of the administration must be excluded from participating in the making of an administrative decision or the establishment of a public contract whenever they have a private interest in the decision. For example, a person involved in an administrative procedure on behalf of the administration may be personally affected or may be the relative of a person affected by the administrative procedure. In such cases, it is appropriate that the public official is excused from participating in any decision-making on the matter personally affecting him or his immediate circles of interest. This can be done in several ways, such as by having an independent third party to make the decision, by having the affected official abstain from voting on decisions or withdraw from the discussion of relevant proposals and plans, or by not providing the affected official with any documents or other information related to his private interest. A party should be given the right to challenge a decision taken under such circumstances. Such measures would require a complete and detailed list of the causes of abstention or withdrawal as well as the relevant operational procedures. But the right place for these procedures would be a general law on administrative procedures.

The accountability mechanism underpinning integrity and professionalism represents the ultimate disciplinary arrangement in the public service. Ignoring the duty to prevent and avoid incompatibilities and conflicts of interest should be seriously punished under the principles of proportionality and reasonableness to ensure integrity and an impartial and trustworthy public service. As in the words of the European Ombudsman, 'It is important not only

<sup>27</sup> Martinez, Richard. « La déclaration de patrimoine est-elle efficace ? » Unpublished manuscript, 27 September 2014.

that there is good administration but also that, in the eyes of the citizens, good administration is seen to be done'.<sup>28</sup>

The rationale of the *ius puniendi* of the administration is that it reinforces internal discipline and accountability for wrongdoing and poor performance and helps ensure that its public servants will comply with their obligations. Disciplinary procedures are management instruments and their use belongs in the realm of managerial responsibility. It is the responsibility of managers to discipline members of staff.

Public servants are to be held accountable for their actions and omissions if they represent a violation of their statutory duties or obligations. Public servants may face three types of liabilities: disciplinary, penal and civil (patrimonial). Disciplinary and penal liabilities are determined through two different types of procedure: disciplinary (administrative) and criminal respectively. The patrimonial or civil liability is determined at the same time as the disciplinary or criminal liability and by the same

respective procedure insofar as it is connected through a cause-effect relationship with an administrative fault or a criminal offence committed by a public servant.

In addition to the general legal disciplinary regime for the public service, there may be specific disciplinary provisions for particular groups of public servants that are regulated by special statutes. For example, many provisions affecting discipline in the police, the military, judiciary, etc. may be specific to those occupations, and different from provisions regulating the general public service. The rationale for these provisions is the specific nature of these functionaries' statutory functions and responsibilities. In some cases, very politically sensitive services such as intelligence have very special disciplinary regulations. One general rule is that the more the activity of public servants has the potential to impinge upon the fundamental rights of citizens or national interests, the more demanding the behavioural standards imposed on them by regulations should be and the harsher the corrective sanctions.

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28 European Ombudsman, Decision of 27 March 2014 on Case 2522/2011/ (VIK) CK: Alleged industry bias in European Food Safety Authority (EFSA) working group on risk assessment for toxic chemicals. Types of maladministration alleged: breach of duties relating to impartiality, independence and objectivity [Articles 8 and 9 ECGAB]. According to the Ombudsman "EFSA did not dispel the citizens' impression that there was a potential conflict of interest. This constitutes an instance of maladministration".

## A salary system fixed by law

The remuneration scheme should be common to the whole public service. It should guarantee equal pay for equal work. In other words, holders of positions with the same value should enjoy equal remuneration. Remuneration should be based on grades. Grade structures are needed to provide a logical remuneration framework. Grade structures allow assessors to determine the level where jobs are to be placed in a hierarchy, define pay levels and the scope for pay progression. Grades provide the basis on which jobs can be compared and equal pay achieved. They also facilitate the monitoring and control of the implementation of pay practices. The grading system may be the result of a light, simplified job evaluation exercise in which jobs are generally grouped in families.

No perfect remuneration framework exists in public sectors around the world. What is critical is to ensure that grades are well defined, making it easier to differentiate between them, and to describe and evaluate jobs to ensure the best fit between broad individual role profiles, responsibilities and grades. However, no uncontested manner exists to evaluate jobs. Job evaluation, i.e. the systematic definition of the relative worth of jobs, is largely done in an ad-

hoc way and is generally the result of political negotiations in the majority of public services around the world. Nevertheless, a certain prior rationalisation or analysis is helpful in defining the job contents and job evaluation. Effectively, the functional job content, its place within a hierarchy, and the profile of professional competences required to occupy it should be part of the job description and the major guiding criterion in the job evaluation. These matters are of the utmost importance when inserting jobs (and jobholders) into the grading structure.

A clear differentiation should be established in law between grade and post. The grade belongs to the public servant. The post belongs to the state. This means that a public servant can be removed from a specific post, but his/her grade, and the remuneration associated with it, will follow that person wherever s/he goes. This is especially important for senior public servants and middle managers. They may be removed from their current posts and assigned to other posts adequate to their capacities. In those cases they are stripped of the post, but not of the grade.

The determination of individual salaries by ministers and heads of agencies should be

prohibited by law. The remuneration scheme should be established under a law of public service (or law on salaries) and the specific amounts determined each year under the budget law. Ministers and heads of agencies may not therefore assign salaries to concrete persons. Depending on the required educational qualifications and responsibilities of the position, a person will be classified into a position within the public service and only the law will determine the remuneration for that position. Allowances should be reviewed and reduced to a minimum. Only per diems in official travelling and family allowances such as an amount per child and spouse or other dependent relatives should be acceptable. Any other allowances are hard to justify.

Performance-related pay (PRP) is politically attractive and displays a certain logic: those producing more or performing better are paid more. Politically, PRP may show willingness to make public service employees more accountable, through regular monitoring of their level of performance. Performance-related pay has become a fashionable tool in many private sector settings. However, only a handful of OECD countries can be considered to have an extended, formalised PRP policy (Denmark, Finland, Korea, New Zealand, Switzerland, and the United Kingdom).<sup>29</sup> In many cases, PRP concerns only managerial staff or specific departments or agencies. Besides, it is worth noting that many public organisations claim to have PRP, but in practice there is often a gap between the so-called performance-related pay scheme and its concrete functioning, with only threadbare links to performance.

<sup>29</sup> We use the OECD as a reference to designate the most developed countries in the world, which also have the most sophisticated public administrations. They may or may not be used as role-models by developing countries. What is worth noting is that the difficulties the OECD countries are facing dealing by PRP may be exponentially multiplied if less sophisticated public administrations attempt to introduce PRP in their public services.

A key issue is whether performance payments are given as permanent additions to the recipient's basic pay, or as one-off payments which have to be re-earned during each appraisal period. In recent years, several OECD countries have developed bonuses at the expense of merit increments. The size of payments varies greatly across OECD member countries, but it is generally a fairly modest percentage of the basic salary, especially among non-managerial employees. Merit increments tend to be smaller than one-off bonuses, they are often below a maximum of 5 per cent of the basic salary. PRP bonuses are in general higher – but overall, maximum rewards usually represent less than 10 per cent of the basic salary for civil servants. For managers, the size of performance payments is bigger and represents, on average, 20 per cent of the basic salary for maximum rewards.

Performance assessment is inherently difficult in large parts of the public sector, owing to the difficulty of establishing clear objectives and finding suitable quantitative indicators on achievements. The monitoring and measurement of performance – especially how staff performance appraisals are undertaken – is a difficult process, as it requires a large element of subjective managerial judgement. Experience indicates that attempts to introduce highly formalised and detailed rating systems in public organisations have met with little success and have involved sometimes objectionable and cumbersome bureaucratic procedures. It remains indeed very difficult to distinguish the average performance of the majority of employees who are working satisfactorily, however complex and formal the performance appraisal criteria may be. Considering these limitations, there has been a move towards less detailed rating systems (3 point scale), fo-

cusing on the distinction between top and bad performers, and an increased use of quotas (in Canada, Germany, Korea, Switzerland, United Kingdom, and the United States).<sup>30</sup>

Whether PRP will have a positive impact on staff motivation is strongly related to how well the appraisal process is carried out. It is crucial to have a well-defined performance appraisal process based on well-identified individual and team objectives – rather than on standard criteria for a job or comparative performance – before introducing any link between performance and pay. Certain conditions, such as transparency, clear promotion mechanisms and trust in top and middle management are prerequisites to a performance-oriented culture. PRP policies are counterproductive in an inadequate management environment, and may increase problems linked to trust and even lead to corruption and patronage if these conditions are not met.

While performance-related pay appears to motivate a minority of staff in the public sector, a large majority just do not see it as an incentive to work better. Studies carried out by the OECD show that most government workers, particularly those in non-managerial roles, see basic pay and how it compares to the wider job market more important than supplementary pay increases based on performance.<sup>31</sup> This is not only because performance rewards are often limited in the public sector, but also because the job content and career development prospects have been

found to be the strongest incentives for public employees. PRP is unlikely to motivate a substantial majority of staff, irrespective of how PRP is designed.

The significance and impact of PRP should thus not be overestimated. The evidence points, therefore, to the need for a broad approach to better performance management as against a narrow preoccupation with performance-related compensation.

Performance-related pay, when implemented under a sound management framework, can be an effective lever for change both by shifting attitudes to work and by re-examining the work organisation. It appears that it is not through the financial incentives it provides that PRP can contribute to improving performance, but rather through its secondary effects: it is the reinforced empowerment of managers that PRP brings about that is likely to produce change.

Consequently, as evidence suggests, we would not recommend introducing performance-related pay in the public service. In an age in which it is important to build up reliable, predictable public services that are able to gain the trust of a rather sceptical public, perhaps it is wiser to opt for public service pay systems based on pay-for-grade rules instead of pay-per-performance schemes.

One reason is quite obvious. Pay-for-grade provides higher levels of predictability for employees and reduces the likelihood of arbitrariness in determining individual take-home pay. This is essential if public authorities are to gain the confidence of their own public servants as a pre-condition of gaining the trust of the population at large. Another reason is that

30 Marsden, David. 2009. "The paradox of performance related pay systems: why do we keep adopting them in the face of evidence that they fail to motivate?" LSE Research Online April 2009. Available at: [http://eprints.lse.ac.uk/23639/1/The\\_paradox\\_of\\_performance\\_related\\_pay%28LSERO%29.pdf](http://eprints.lse.ac.uk/23639/1/The_paradox_of_performance_related_pay%28LSERO%29.pdf)

31 OECD. 2005. "Performance-related Pay Policies for Government Employees" OECD report 20 May 2005. See also Cardona, Francisco. 2008. "Performance related Pay in the Public Service in OECD and EU Member States". Available at: <http://www.oecd.org/countries/romania/38651281.pdf>

even if a pay-per-performance scheme worked well hypothetically, the cost and benefit ratio of the system would probably disqualify it because of the bureaucratic sophistication needed to manage a pay-per-performance scheme in public organisations and to keep it running. Furthermore, from a budgetary standpoint, pay-per-performance may turn out to be incompatible with tight budget allocations for reforming the public service in a transition period. Under a PRP scheme, public expenditure may easily run out of control.

This does not mean that performance appraisal is not possible or valuable in the public service; indeed, the contrary is true. The problem comes when a large amount of the pay is linked to performance appraisal. The main purpose of performance appraisals should not be to increase or decrease pay, but to enable career planning and professional development. Performance appraisal has been used in some countries, for instance, to orient training activities and assess training needs in a given administrative unit, or assess the possibility promoting a given individual at some point, or to encourage transfers and secondments (horizontal mobility) in order to have the right person in the right position at the right time, in line with the tenet human resource management.

A positive aspect of a performance appraisal scheme is that it may facilitate a constructive and regular dialogue between senior and junior staff on the objectives of the organisation

and the role of each individual in their attainment. Or, as Marsden puts it, as the 'emergence of a new channel for employee voice, this time at the individual rather than the collective level'.<sup>32</sup> This might give employees an increased sense of participation and stimulate their creative contributions to achieve such goals. Managers might also find it a useful tool to encourage employees to commit to the organisational objectives.

In any case, the performance appraisal scheme should be designed and practised in such a way that its legitimacy is beyond any doubt. This has many meanings. Among others, it signifies that the performance appraisal scheme implies a fair and balanced system of allocation of individual responsibilities within the organisation, a transparent mechanism for setting organisational objectives and to make them known by the incumbents, an individual evaluation procedure pre-established in legal instruments or in clear internal guidelines, a possibility of internal and external review and oversight over the procedure and results of the appraisal, and finally individuals need to be reassured that the results of their evaluation will be used correctly.

Public service regulations should contain provisions obliging managers to provide feedback on the performance of their subordinates through performance dialogues or appraisals of the job done by the subordinates, but should avoid performance-related pay.

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<sup>32</sup> Ibid.

## Managerial arrangements to ensure common standards

Public service systems need to be understood not only as human resources management systems, but also, and more importantly, as constitutional instruments for governing a country. This implies that public service systems have at least two dimensions: institutional and managerial. The former regards the role of the public service as a state institution for governing a country and as instrumental in protecting fundamental values of political systems, individual rights, democracy, the rule of law, and the general interest. The managerial dimension considers the public service as a human resource management scheme in which sheer managerial techniques should be applied. The focus of attention shifts away from governance concerns to consideration of mainly economic, efficiency-related issues. The civil service is seen as a workforce – a major public capability that must be managed as efficiently and effectively as possible in order to achieve value for money for the public purse. Both the institutional and the managerial dimension must be incorporated into the public service system in a balanced way but should be treated differently as reform dimensions.

It is, for instance, important to prevent an overemphasis on managerial efficiency by

dislodging considerations of public servants' impartiality and professional autonomy. Well-established democracies have effective checks-and-balance mechanisms to protect public service professionalism and integrity. While the private sector business management attributes little significance to the workforce except as a productive resource, and totalitarian political regimes have historically mixed up the institutional and managerial dimensions of the civil service system, some Western democracies tend to separate them in their public sector management, although not always successfully. We can nevertheless conclude that separating the two dimensions is a precondition for understanding and practising democratic governance, as it requires not only the democratic legitimacy of fairly elected politicians, but also the legitimacy bestowed on public action by an autonomous and meritocratic bureaucracy in the preparation of public policy, the spending of public funds, implementation of laws and delivering of public services.

Policy-makers and governments are responsible for the quality of the public service. A key policy question is to find and maintain the balance of efficiency, effectiveness, legality, au-

tonomy, accountability and other values which preserve the desired characteristics of the system. A political judgement is always called for. The public service as a state institution has to produce legal certainty through predictable decision-making in order to make the state reliable and worthy of the trust of its own citizens and of other states and foreigners. This can only be achieved by a resolute political endeavour sustained over time.

This shows that the management of the public service is first and foremost a political responsibility. A state's public administration is clearly the responsibility of the government. Every elected body in a democracy is obliged to ascertain its public service functions correctly. It forms part of the public interest of the country. In order to be effective, this overall political responsibility needs to be organised and workable in practice. Provisions about the type of organisation and management are the usual domain of public service regulations.

The management of public services should aim at achieving the principal political-constitutional values and goals of equality before the law, fairness, equal opportunity to work and be promoted in the public service. The rule of law and transparent, competitive selection procedures based on merit are vital. The public service management has to protect the impartiality of the public service, the principle of legality and due process in public management. This makes public actions and decisions predictable, the administration of public affairs reliable, and the public service more professional. Political resolve is needed to ascertain the presence of these values in the management of the public service. Middle and junior managers have to align to that political determination and realise it in a profes-

sional manner. Inconsistency between politics and management distorts and may eventually undermine the public service system.

The private sector is not concerned with these constitutional values to the same extent as the public sector. This is one of the reasons why a business-like management is not the best approach to the management of the public sector, including the management of the sector's human resources. Furthermore, business-like managerial approaches are counterproductive. The public service is not only a system in the hands of the politicians with which to manage human resources. It is also and primarily an institution of the state for governing the country. It is an instrument of democratic public governance. A balance has to be struck between the civil service understood as a human resource management system (managerial aspect) and as a state institution (constitutional aspect).

Managing the civil service entails, thus, a political commitment and a managerial responsibility to make sure that the public administration firstly performs its duties in accordance to the rule of law and accepted principles of public law, and secondly, that the public administration is able to effectively attain public policy objectives in an efficient manner as set forth by the lawfully ruling government. Guaranteeing these two dimensions is only possible within the framework of public law, not of labour law. Administrative law takes into account both the political-constitutional dimension of the public service and the efficiency dimension of management, whereas labour law takes into account only, or mainly, this second dimension.

The management of personnel needs to be appropriately institutionalised. The way in which this institutionalisation is arranged will

be decisive for the future performance of the system as such. If the management of the public service is regarded as a common management function within the government, the selection, promotion, remuneration and disciplining of public servants should comply with common standards of professional merit, competition, legality and fairness. Issuing such standards and monitoring the management of personnel in the state institutions are important tasks for a central management unit.

A central unit need not, of course, be directly involved in the staffing and micro-management of personnel in the various government institutions. It should instead draft government regulations related to the public service, develop common policies and standards, provide advice to and monitor career management within the various institutions. Fields of policy-making for the central unit should include recruitment, selection, career development, pay and grading, training and re-deployment. Monitoring tasks should be related to the application of regulations, implementation of policies as well as to staffing and the use of budgetary allocations for personnel.

This central capacity for the management of the public service is needed because the public service has to implement constitutional principles and values throughout the whole state administration. Public service management needs to comply with a given standard. In the private sector, governed by labour law, even if some central unit sets general personnel policies for the whole firm, managers may still have a relatively large margin of discretion when recruiting and negotiating working conditions and salaries in a more or less decentralised way. In the state, this decentralised autonomy, if significant, would be inimical to

the realisation of several constitutional principles (fairness, equality before law, equal pay for equal job, etc.) and would undermine the sense of a public service ethos.

The notion of the public service as a state institution is diluted when each public agency or ministry performs as an independent employer without co-ordination. This usually hampers the governance or constitutional aspects connected to public service. The management of the state's public service should be designed as a responsibility of the government that goes from the cabinet down to line ministries and public agencies and determines an appropriate distribution of tasks and responsibilities.

It is necessary to establish a central institution with sufficient powers and resources to manage the public service horizontally across ministries and state public institutions. It is a condition to enable the development of a well-established public service system. This institution may be a ministry or a public service office or agency, or even an autonomous body attached to a ministry or commission. What is needed is that somebody takes full responsibility for co-ordinating the management of the civil service as a whole on behalf of the government.

Not all these modalities have proved to be equally effective. The effectiveness of a given modality (ministry, independent commission, autonomous body within a ministry, etc.) is country contextual. However, the experience of many countries throughout the world shows that public service management should be a political responsibility, as we have said earlier. It means that an isolated, non-political public service office is likely to fail if the country's public administration context is polit-

icised, i.e. if politicians' interference is regular, constant and incisive. The uppermost responsibility for the reform and management of the public service should be political, as only politicians can counterbalance politicians.

On the other hand, the existence of a strong central capacity does not mean that everything should be done at the centre. Certain operations should be decentralised to line ministries and agencies. Wide-reaching decentralisation, however, may harm the professionalism of the core public service as well as cause the fragmentation of strategic personnel policies. In addition, as identified in a report by the United Nations, the problem with a decentralised approach is the increased possibility of conflicts among the different actors and institutions – ministries, agencies or HRM authorities – if central coordination mechanisms are weak, ineffective or non-existent.<sup>33</sup>

The success of decentralisation also depends on the skills of line managers and human resource professionals. Greater autonomy and decentralisation of responsibilities require considerable investment in management qualifications at all levels. Decentralisation efforts should combine with management training to provide the needed professional HRM skills. Decentralisation requires additional coordination and reinforced accountability procedures. Coordination and monitoring of highly decentralised systems may impose new administrative constraints, more paperwork and, eventually, more bureaucratisation. Therefore, a sound balance needs to be struck between centralisation and decentralisation.<sup>34</sup> This entails finding an answer to the question: What should be decentralised to line ministries and what should be retained by a central capacity?

<sup>33</sup> United Nations 2005. "Unlocking the Human Potential for Public Sector Performance". World public sector report 2005. Available at: <http://unpan1.un.org/intradoc/groups/public/documents/un/unpan021616.pdf>

<sup>34</sup> For a deeper analysis of decentralisation of HRM see Demke, Christoph et al. 2006. "Decentralisation of HR Practices: a European Comparative Perspective". Paper submitted at the European Group of Public Administration 2006 Conference, held in Milan in September 2006. Available at: <http://soc.kuleuven.be/io/egpa/HRM/milan/Hammerschmid-Meyer&Demmke2006.pdf>

## A specific glance at ministries of defence and other security sector institutions

Both military personnel and civilians are public servants. Therefore, military and security institutions cannot achieve levels of professionalism as if they were islands of excellence. They are embedded in the national systems of public service. They are part of national administrations in a larger sense. This is particularly worth remembering in the context of NATO enlargement.

NATO's value basis was substantially reaffirmed after the collapse of the Eastern Block when key proponents of NATO enlargement argued that eastward expansion of the Alliance would help consolidate democratic regimes in the post-communist states.<sup>35</sup> NATO documents established a direct link between the inclusion of new countries in the Alliance's community of shared values and the achievement of freedom and security: the promotion of democracy, rule of law and human rights is not only regarded as a moral obligation, it is also seen as an instrument of security policy that helps to promote peace and stability.<sup>36</sup>

<sup>35</sup> Reiter, Dan. 2001. "Why NATO Enlargement Does Not Spread Democracy", *International Security* 25 (4): 41-67.

<sup>36</sup> NATO. "The Study on NATO Enlargement". "By integrating more countries into the existing community of values and institutions, consistent with the objectives of the Washington Treaty and the London Declaration, NATO enlargement will safeguard the freedom and security of all its members in accordance with the principles of the UN Charter." The study is available at [http://www.nato.int/cps/en/natolive/official\\_texts\\_24733.htm](http://www.nato.int/cps/en/natolive/official_texts_24733.htm)

It is hardly conceivable that NATO's core values can be realised without a professional public service managed in accordance with the merit principle. As noted above, there is a well-recognised correlation between, on the one hand, arrangements for an impartial and professionally independent public service and, on the other, the development and consolidation of a democracy based on the rule of law. More specifically, robust systems for professionalism in defence establishments may prevent two possible threats to appropriate democratic and civilian control of the armed forces: military dominance over these ministries and the civilian leadership on the one hand, and political abuse of the ministry of defence and other security institutions on the other. Democracy is incompatible with capture of the state by the military and with undue manipulation of public authority – not least coercive power – by the political elite.

The professionalism and capacity of NATO member states' security institutions are not only important for the Alliance's ability to realise its collective goals and values. They may also be important for the ability of member states to gain the esteem and support of their allies and avoid the stigma feared by

new countries of having only a second-class membership.

The above discussion shows the importance of *trust* in NATO's ability to manage its complex agenda. Because the Alliance operates through the public administrations and military institutions of its member states it is crucial that these domestic arrangements are held to be reliable and trustworthy in the eyes of other member states. Reliability and trust can only be ensured by professionalism and respect for NATO's shared values. It is a well-established line of reasoning that successful international cooperation requires well-functioning national institutions, and, conversely, that dysfunctional domestic institutions frustrate joint action and spread misgivings and suspicions of free-riding by collaborating states.

There may be a relationship between the extent to which a NATO member country fulfils its NATO obligations, especially with respect to NATO's core values, and Alliance partners' willingness to resolutely come to each other's rescue in a crisis situation. It is possible to envisage circumstances in which it will be politically difficult to convince allies of the need to make great sacrifices to assist member countries that have failed to meet fundamental NATO requirements.<sup>37</sup> The more complex

security threats that have developed after the fall of the Iron Curtain may have made such scenarios more likely.

If reliability and cross-national trust cannot be achieved, result-oriented, binding international cooperation – as embodied by NATO – is not possible. In the absence of effective trust-based mechanisms, transnational challenges will have to be addressed through looser and less effective cooperative arrangements, through non-binding recommendations whose addressees may not be committed or able to realise forceful combined efforts.

In summary, the notion of common security based on credible collective defence is not simply a product of formal commitments and military operability. Trust based on common values and political reliability is equally important. A well-functioning public service is an intrinsic part of political reliability. That is why professionalism and integrity in the public service are crucial elements of both national and international security. In short, good governance may also be considered a security concern. Professionalism and integrity in the armed forces, ministries of defence and other security institutions have implications that go far beyond efficient and effective human resources management systems.

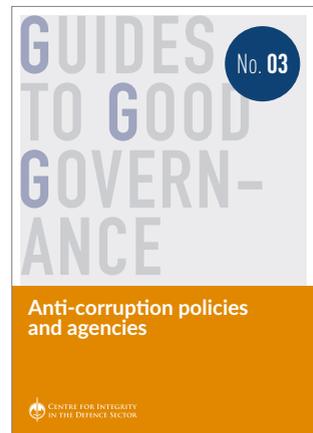
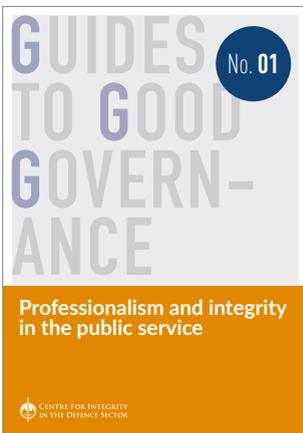
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<sup>37</sup> See for example "Freies Land?" *Frankfurter Allgemeine Zeitung*, 28 April 2014.

# CONCLUSIONS

1. Professionalism in public service requires a firm application of the merit principle in human resource management. Favouritism, nepotism, patronage and clientelism are inimical to impartiality and ultimately an obstacle to the development of a professional public service.
2. Professionalism requires stability. The necessary know-how cannot emerge and acquire robustness without stable public services. Politicisation is inimical to stability, as it generally leads to the replacement of many public servants whenever there is a government changeover.
3. Professionalism requires separation of politics and administration and a refining of their interface. The autonomy of the public service should be legally and managerially protected. This value of autonomy should be embedded in the relationships between politically elected officials and administrative officials appointed on merit, even if it is acknowledged that an autonomous public service and a good public administration are a constant political endeavour and a goal still to be fully attained in many national jurisdictions. Delegation of administrative decision-making may promote professionalism.
4. Professionalism requires resilient integrity on the part of public officials, both elected and appointed. The law and management should promote and protect the integrity and accountability of public servants. Training and disciplinary arrangements are indispensable management instruments. Codes of conduct and integrity plans may offer helpful guidelines for public officials' behaviour.
5. Military and security sector institutions will be unable to professionalise their staffs in a sustainable manner if the public administration as a whole in a country is ridden by corruption, patronage networks and politicisation. Professionalism and integrity in isolation in one public institution only are virtually impossible and will inevitably be short lived.

# Guides to Good Governance series



The guide *Professionalism and integrity in the public service* discusses the principles and standards of a merit-based civil service system. The merit system, based on competence and integrity, is a necessary underpinning of a good and effective public administration. Clear separation of political and civil service positions, recruitment and promotion, regulation of duties and rights, and a statutory salary system, are among the basic principles being discussed by the authors Francisco Cardona and Svein Eriksen.

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