

# The Civil Service in Poland - between Politicization and Professionalization

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The civil service is an essential element of each democratic system. This is because a stable, professional staff of highly qualified and politically neutral civil servants works to ensure the efficient and effective functioning of the state under conditions of the continuous competition between political forces.

The very establishment of the civil service has provided greater opportunities for ensuring that the tasks of public administration be performed in a professional, impartial and unimpeded way by particular political interests. The civil service is therefore a vehicle for the pursuit of the common good<sup>2</sup>.

It is altogether fitting and timely to ask just how much the new system of the civil service has contributed to the professionalization of official staff in Poland. On June 30, 2004 the five-year transitional period in the effectiveness of the Civil Service Act ended, during which time special regulations on the appointment to higher positions were implemented.

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<sup>2</sup> See: G. Rydlewski: *Służba cywilna w Polsce. Przegląd rozwiązań na tle doświadczeń innych państw i pod-stawowe akty- prawne* [The Civil Service in Poland. A survey of solutions examined against the background of the experiences of other countries, with basic legal acts]. Warsaw 2001, p. 13. On the importance of the political neutrality of state officials see: B. Kudrycka: *Neutralność polityczna urzędników* [The Political Neutrality of Officials]. Warsaw, 1998.

Work on an amendment to the Act is also currently being carried out, its thrust being determined by experience to date, as well as by the requirements stemming from Poland's membership in the European Union.

The aim of this paper is to show the relation between the political neutrality of the public sector and the quality and effectiveness of its activity. Also important herein is identification and analysis of the sources of the organizational and legal shortcomings of the civil service system in Poland. In so doing I shall take into special consideration those conditions that have a direct impact on shaping the professional staffs of public officials.

In the first part of this paper I will briefly present the development of the civil service idea in Poland from a historical perspective, along with evaluations of the Polish Civil Service made by the European Commission and SIGMA programme. Thereafter I will present the problem of Polish society's perception of corruption in the Civil Service and Poland's model for its Civil Service, reflecting on whether it is closer to the model of career or positions. I will also discuss recruitment methods for the Civil Service and appointment to managerial positions, as well as the system of remuneration in the Civil Service.

## Historical background

Poland's Civil Service has a long tradition, one that dates back to the beginnings of the independent Polish State and the dawn of the II Republic of Poland (1918 - 1922). The Act on the State Civil Service of February 17, 1922 constituted the first comprehensive regulation regarding that period's official corps<sup>3</sup>. Interestingly, it remained in force, despite many amendments, until December 31, 1974. when it was replaced - as in other countries of

<sup>3</sup> For more see: A. Górski: "The Civil Service Act of 18 December 1998 in the Light of Civil Service Acts of 1918-1922", *The Polish Yearbook of the Civil Service* 2002; A. Górski. "Civil Servans czy politicus servans- w okresie międzywojennym i obecnie" [Civil servans or politicus servans - in the interwar period and now]. *Służba Cywilna* no 3, 2001/2002 (<http://www.usc.gov.pl>).

the communist block - by the Labour Code. This change weakened the position of civil servants towards superiors and facilitated the exertion of political pressure on them.

The Act on the Employees of State Offices, passed in 1982, was to raise the rank of officials and public administration. In practice, however, throughout the period of the Polish People's Republic it was political loyalty that counted above all else and political loyalty that decided promotions (re: the *nomenklatura* system). There were no clear and coherent legal regulations pertaining to the system of recruitment, promotion, training and the upgrading of professional skills. Public administration was characterized by formalism, low effectiveness and quality of work, a flippant attitude towards customers and frequent instances of disobeying the law.

After 1989. work was initiated in Poland - as well as in other post-communist countries - aimed at establishing a professional and politically neutral civil service. The whole spectrum of political forces agreed that one of the most important tasks before the state was that of strengthening the democratic state and developing the public sector based on the idea of the civil service. The first Act on the Civil Service entered into force on July 5, 1996. It divided the positions in public administration into political positions (i.e., ministers, vice ministers, their advisors and voivodeship governors, whose appointments changed together with a change in

government) and positions that are politically neutral and thus independent of political changes. However, the procedure for appointing officials proved unreliable<sup>4</sup>.

<sup>4</sup> Under this Act 155 officials were appointed in the period from October 1 to November 24, 1997. The overall evaluation of this process is included in the *Raport z przeprowadzonej analizy i oceny tworzenia służby cywilnej (sierpień 1996 - wrzesień 1997)* [Report of the analysis conducted and an evaluation of the establishment of the Civil Service (August 1996 - September 1997)], Warsaw, February 1998, prepared by a team headed by Zbigniew Derdziuk, the Secretary of State in the Chancellery of the Prime Minister. One of the observers has pointed out that "behind the facade of the Civil Service in fact, there has been a simple reproduction of

the old bureaucracy"; K. Burnetko, *Służba Cywilna w III RP: punkty krytyczne* [The Civil Service in the Third Republic of Poland: critical points]. Report of the Stefan Baton Foundation 2003, pp.

After the 1997 parliamentary elections, work was taken up on the new Civil Service Act, which was passed on December 18, 1998 and entered into force on July 1, 1999. The new Act states that the Civil Service Corps, in fulfilling the constitutional principle of ensuring the professional, reliable and politically neutral performance of state tasks, should therefore comply with the principles of a democratic society. The Corps includes employees (employed on the basis of a job contract) and civil servants (appointed), all in all about 120,000 people. They work in the offices of government administration, in ministries, central offices and subordinated offices (e.g., the revenue services and treasury offices, marine offices, national archives), voivodeship offices, as well as in voivodeship and district inspectorates. Local government administration, which is covered by separate legal regulations, does not belong to the Civil Service system in Poland.

The head of the Civil Service Corps is the Prime Minister, but the central authority of government administration is the Head of the Civil Service, who is appointed for a five-year term and is responsible for dealing with its relevant subject matters. Established in each Office is the position of Director-General, who ensures the smooth functioning and continuity of the Office's work, the conditions for its activity, work organization, and who takes action in the field of labour law in regards to the people employed in the Office. The Director-General also directly supervises the organizational units within the Office.

## The Polish Civil Service in the estimation of the European Commission and SIGMA programme

The Civil Service in Poland, especially as regards its politicization and professionalization, was the subject of keen interest on the part of international institutions. Those institutions have suggested many precise changes, and have indicated both the threats to and developmental opportunities for our public administration.

In the European Commission Report of November 5, 2003 concerning Poland's preparations for European Union membership<sup>5</sup> (*nota bene*, the final such before Poland officially joined the EU), attention was paid to the perennially small amount of higher positions that were being filled via open competitions. Despite the improvement of the situation in comparison with previous years, the Commission was concerned by the politicization of the Civil Servants in certain administration departments, this fact being recognized as an important barrier on the way to an efficiently functioning, fully professional Civil Service. That report recognized that, in spite of the acceptance of the necessary legal regulations, there were still no rules that would introduce uniform principles and standards for the whole of public administration. The Polish Civil Service is divided into segments. It is characterized by a diversity of ways of strategic planning and elaborating policies for different institutions. There are no definitions and procedures for the execution of an employee's individual responsibility for the decisions taken by them. As a result, the Civil Servants of lower and middle levels must reluctantly take the responsibility, and address decisions of all types to their superiors. Conversely, a positive evaluation was given to the law concerning access to public information (in force since January 2002). This is understandable in that said law (which ensures open access, the transparency of public services, and which provides citizens with guaranteed access to information on the activity of the authorities and the people performing public functions) has a significant anticorruption thrust.

Next, according to the 2003 SIGMA Report, whereas Poland's public administration does have the proper legal frameworks, the pace of implementation of the new system of the Civil Service is too slow in result of the many obstacles it must overcome.<sup>6</sup> The improvement of the transparency of its activity is exigent. Attention is also paid to weaknesses: there is no

*Comprehensive monitoring report on Poland's preparations for membership.* European Commission November 5, 2003 ([http://europe.eu.int/conirm/cnlargemenl/report\\_2003/pd0](http://europe.eu.int/conirm/cnlargemenl/report_2003/pd0)).

*Poland. Public Service and the Administrative Framework Assessment 2003,* Text of SIGMA report. «  
["eed.org/puma/signiaweb](http://eed.org/puma/signiaweb).

guarantee of the Civil Service's political impartiality and the mechanisms conducive to ensuring honesty are inefficient and not always properly introduced. This report confirmed that the Polish system of human resources management in the public service is still fragmented and the standards and practices of management remain incoherent. It recommends an adjustment of the procedures of application, promotion of the standards obligatory in other European countries (where the remuneration system is based on clear criteria), the creation of a Civil Service data base and register, as well as the introduction of common standards throughout government administration.

These evaluations facilitated a general and critical view that favoured the activities of Polish legislators targeted at the improvement of the Civil Service system. Stressing the necessity of the Civil Service's professionalism, it has helped to maintain the independence of the system as a whole from political influence.

## The Civil Service and threats of corruption

One of the reasons for establishing a professional civil service is the belief that it can limit the scale of corruption, this being one of the most serious threats to states undergoing a transitional period. The source of corrupt behaviour may be sought in economic conditions typified by a low level of remuneration, the system of licenses and exemptions, insufficiently precise legal regulations and outright tolerance for corruption on the part of society. The low pay of public officials, together with the malfunctioning of the legal system and the complicity of political elites, may have a demoralizing effect on society and contribute to the destruction of ethical order within the state<sup>7</sup>.

for more see: [i. Szepietowska: *Analiza aspektów i praktycznych zapobiegania konfliktowi interesów* [Analysis of practical aspects of preventing conflicts of interests]: M. Zubik (red.) *V Złotybieganie konfliktowi interesów* „RP (Preventing the conflict of interests in the Third Republic of Poland). The Institute of Public Affairs Foundation, Warsaw 2003. pages 99-122.

Polish society continues to negatively perceive the honesty and professional reliability of public officials. Nepotism, favouritism, bribery, appropriation of public property for one's own profits, cashing in on influence and dishonest lobbying - these are listed among the main acts of corruption. The perception of the wide scale of corruption is confirmed by public opinion polls: as many as 69% of society believes that it is possible to change the law by passing an parliamentary act in exchange for money.<sup>8</sup> Moreover, the results of public opinion polls from January 2004 demonstrated that Poles unanimously express the opinion that corruption in all its types is common and, in comparison with previous years, is intensifying.

Type of corruption	Incidence: frequent and very frequent
Nepotism	87%
Bribery	84%
Settlement of contracts: - for friends - for own profits	81% 78%
Financing of parties from public money	74%

Source: *Korupcja, nepotyzm, nieuczciwy lobbing. Komunikat z badań* [Corruption, nepotism, dishonest lobbying. Research Bulletin], CBOS, Warsaw, January 2004.

Table. Evaluation of particular types of corruption.

*potyzm, nieuczciwy lobbing. Komunikat z badań* [Corruption, nepotism, dishonest lobbying, Research Bulletin]. CBOS. January 2004. On the methods of research and level of corruption, see in particular <sup>konka</sup> "Empiryczne badania nad poziomem korupcji" [Empirical research on [the level of corruption] S&riio Cynilna i pp 109-134. For example the "Rywingate" affair indicated the presence of "berv m nlic hialict level of Polish government directly implicating the Polish Prime Minister, the Polish <sup>1</sup> "i mogul Lew Rywvin. and the largest and most influential Polish media company, Agora The allegations <sup>e</sup> "d<sup>1</sup> Rywvin had acted as an intermediary and solicited a bribe for \$1 7.5 million from Agora in return for wance that a new bill being debated in parliament would not pass in a form that would hamper the •"> s luiure desires to monopolize the independent Polish television channels Rywin implied that he was <sup>in a</sup> Position to influence Prune Minister Leszck Miller and the -group in power".

It is believed that a low level of ethical standards in society is conducive to the temptations of corruption. This is not so clear-cut. On the one hand, there is the common belief in Polish society that material position determines high status and recognition, regardless of the source or origin of the property. On the other hand, corruption has repercussions on the image of public officials. They are one of the social groups evaluated as the most corrupted. Evaluating different professions from the point of view of honesty and reliability, respondents ranked in the first place scientists and academics (62%), nurses (57%) and teachers (43%). Local government and state officials were evaluated worst of all (9%)<sup>9</sup>. Corruption is differently perceived by civil servants. According to research carried out by the Institute of Public Affairs, the problems of unethical behaviour and corruption are of less importance to civil servants than are such problems as ineffective law, low salaries, the lack of motivational incentives for employees, an over-bearing bureaucracy and incompetence.<sup>10</sup>

It sometimes happens that the civil servant, uncertain of their job (which is easy to lose, e.g., as a result of elections, and which, consequently, is known to result in failure to uphold the apolitical principle), yields to the temptation of growing rich fast and reaping maximum profits from the position they have. Corruption can appear when the civil servant has the possibility of deciding arbitrarily on official matters. This is fostered by

Evaluating different professions from the point of view of honesty and reliability, the respondents ranked in the first place scientists (62%), nurses (57%) and teachers (43%). Local government and state officials were evaluated in the worst way (9%). See: *Opinie o uczciwosci i rzetelnosci zawodowej. Badaniaprzeprowadzone przez CBOS w czerwcu i lipcu 2000 r.* [Opinions on professional honesty and reliability. Research done by CBOS in June and July 2000]. Corruption is differently perceived by civil servants. According to research made by the Institute of Public Affairs, problems of unethical behaviour and corruption are of less importance than other problems such as weak law, low salaries and the lack of motivation incentives for employees, too much bureaucracy and incompetence. See: *Postawy czlonkow korpusu sluzby cywilnej wobec kwestii etycznych. Raport z badan* [The attitude of the civil service corps members towards the ethical issues. Report based on recent research]. Institute of Public Affairs. Warsaw. 2004. pp. 8-9, <http://www.isp.org.pl><sup>10</sup> See: *Postawy czlonkow korpusu sluzby cywilnej wobec kwestii etycznych. Raport z badan* [The attitude of Civil Service Corps members towards ethical issues. Report based on recent research]. Institute of Public Affairs. Warsaw, 2004. pp. 8-9, <http://www.isp.org.pl>

lack of procedural clarity, bad law and informal activities". It need not be added that the mechanisms of corruption cause the office held to be treated as an opportunity to gain personal profits, rather than as a service that strives for the common public good.

Unfortunately, corruption in Poland is characterized by its ubiquity across the many spheres of life, entropy (its tendency to spread to ever newer spheres), cooperativeness (it requires the collaboration of people who give and take bribes), and by its marketability (prices are set based on the relation of supply and demand for appropriated public goods)<sup>12</sup>. According to the 2003 Index of the Perception of Corruption prepared by Transparency International, Poland is ranked 64. Importantly, in comparison with Transparency's 2002 index Poland's position sank by 19 points<sup>13</sup>.

## The Civil Service Model in Poland

According to the authors from the European Institute of Public Administration (EIPA)<sup>14</sup>, the barriers to the development of the civil service in the countries of Central and Eastern Europe during the communist period included: the politicization of public administration, disobeying the rules of neutrality, corruption, lack of mobility and the diffusion of responsibility for personnel policy (sector system)<sup>15</sup>. The authors are also of the opinion that those countries, in having focused on economic and political reforms throughout the 1990s, neglected the reform of the public

<sup>9</sup> A.Z. Kamiński. B. Kamiński: *Korupcja rządów. Państwa pokomunistyczne wobec globalizacji* [The corruption of governments. Post-communist countries vis-a-vis globalization]. The Institute of Political Studies of the Polish Academy of Sciences. Warsaw 2004.

<sup>10</sup> See more: A. Kojder: *Mechanizmy zapobiegania konfliktowi interesow* [Mechanisms of preventing the clash of interests]; Marek Zubik (red.): *Zapobieganie konfliktowi interesow w III RP* [Preventing the clash of interests in the III Republic of Poland]. The Institute of Public Affairs Foundation. Warsaw. 2003, pages 20-28. " Transparency International: *Indeks Percepcji Korupcji 2003* [Index of the Perception of Corruption 2003]. <http://www.transparency.pl>

<sup>11</sup> D. Bossaert, Ch. Demmke: *Civil Services in the Accession States: New Trends and the Impact of the Integration Process*. European Institute of Public Administration. Maastricht 2003. D. Bossaert, Ch. Demmke: *Civil Services in the Accession States*. op.cit.

administration and civil service sectors, an oversight which favoured excessive politicization. In the seven countries of the region to have joined the European Union on May 1, 2004, acts on the civil service that were passed in the second half of the 90s or later are in force.

The civil service model also influences the ethical attitudes of civil servants. Its specific shape in the countries of Central and Eastern Europe results from tradition, the role ascribed to the state by society and from political conditions. A typical career model has been accepted by Cyprus, Slovenia, Turkey, Bulgaria, Romania and Slovakia. A mixed model is present in Hungary, Malta, Lithuania, the Czech Republic and Latvia. A position model is to be observed only in Estonia, an option that was inspired by Scandinavian experience (Finnish in particular). According to the OECD experts, Poland is one of the countries where a career system is present<sup>6</sup>. According to the latest OECD report, the civil service system in Poland does not well conform to any of the typical models. The features of this model include a relatively high level of delegation and a relatively low level of individualisation<sup>17</sup>. This model is known as the department-based system<sup>18</sup>.

However, according to the authors from the European Institute of Public Administration (EIPA), the Polish Civil Service is a mixed model, although it is closer to the career system than the system of positions.

Indeed, according to the original assumption, the Polish Civil Service was to be a mixed system, i.e.. to combine elements of the systems of career and positions<sup>9</sup>. In practice, however, the elements of a career system are definitely dominant. The reason for this is undoubtedly the fact that the features

characteristic of this system (employment stability, seniority system and fears of competition) are deeply rooted in the culture of Polish administration. Moreover, Polish experience shows that it is not possible to combine systems governed by divergent logics. The present characteristics of the Polish Civil Service system are presented in the following table:

Table. Features of the Polish Civil Service

Detailed list	Solutions	Civil Service Model
Recruitment for the Civil Service	Decentralized, deformed recruitment for specific positions	positions
Requirements	Each time specified in the job description	positions
Preparatory service	Mandatory	career
Guarantee of permanent employment	Nominated Civil Servants – appointment; Civil Service employees – job contract for an undefined period of time, difficult to be broken off	career
Appointment of higher positions	Since July 1, 2004, only nominated Civil Servants may apply for a higher position. <sup>20</sup>	career
Remuneration system	Statutory defined, multiplier system	career

Source: from my own study.

In the remaining part of this paper I will focus on recruitment for the Civil Service, appointment to higher positions and the remuneration system, which are all of essential importance from the point of view of the politicization and Professionalization of the Civil Service

<sup>6</sup> *Public Sector Modernization: Modernizing Public Employment*. 28th Session of the Public Management Committee. 13-14 November 2003. Paris(GOV/PUMA(2003)18).

<sup>17</sup> Individual legalization is measured by the degree to which the management rules and practices vary according to individuals and less so according to the group. Delegation levels are measured in terms of where decision making power is located, from the central HRM bodies to line departments and lower administrative levels. See: *New Trends in Human Resources Management Policies in OECD Countries*. GOV/PGC/HRM(2004) See J. Czaputowicz: *Implikacje integracji z Unia Europejska. dla polskiej sluzby cywilnej* [The implication of the integration with the European Union for the Polish Civil Service]. *Sliuzbu Cywilina*, no I. 2000/2001 pp. 22-44

Article 42 paragraphs 2 and 3 of the Civil Service Act, which allows persons who are not nominated Civil Servants to apply for a position

## Recruitment for the Civil Service

The Civil Service Act seeks to introduce rules of openness and competitiveness for recruitment to the Civil Service Corps. The rule of openness indicates the necessity of making public announcements on vacancies in public administration, whereas the rule of competitiveness - employment of the best of all candidates. Requirements are defined separately for each job position. Decentralization and a search for people for specific positions is a typical feature of the position model. However, as has already been mentioned, the features of the career model are generally dominant in the Polish system of the Civil Service.

One job advertisement generates an average of 35 applications. The specific number of applications varies depending on the position: the higher the requirements, the fewer the candidates. But usually there are from one to several dozen. For positions which do not require experience there are often even several hundred. The large number of people willing to work in public administration, despite its poor remuneration, has a positive impact on civil servants already employed, for it makes them mindful of the fact that many people are waiting for their job positions. Over the five years since the Civil Service Act came into force, about 30,000 advertisements on vacancies have been published<sup>21</sup>, which corresponds to 25% of the whole Civil Service Corps. People who obtained jobs in this period of time are mostly young, highly educated and with a knowledge of foreign languages.

Recruitment for the Civil Service in Poland is carried out in a decentralized way and rests in the hands of particular offices. The Act does not specify the methods for selecting a candidate for a vacancy, but gives freedom to directors-general in this respect. One of the proposals of the amended Act on the Civil Service would introduce the obligation of publishing the list of candidates who have submitted their applications for a job in public administration.

This is designed to increase clarity and social control over the process of recruitment for the Civil Service, which is oftentimes criticized for the fictitiousness of the rule of competitiveness. Indeed, it sometimes occurs that directors-general employ people previously selected - the advertisement is only to fulfill the formality required by law.

Each employee who for the first time takes a job in public administration is obliged to complete a six-month preparatory service finalized with an exam. The aim of the service is to prepare the employee both theoretically and practically for the proper performance of professional duties. The preparatory service is but the first stage in the constant process of upgrading qualifications and overall professionalism in the Civil Service Corps, as such upgrading lies at the very foundation of the ideas for the Corps.

The serious problems in the system of human resources management in public administration are related to this system's typical guarantee of employment. This makes it well-nigh impossible to dismiss inefficient, undereducated and badly motivated civil servants. The costs of dismissal (political, legal, financial) are so high that many directors-general accept the work of ineffective civil servants. The Governmental Programme for preparing staff for European Union membership provides, among other things, for the dismissal of those civil servants who are not prepared to fulfill the new tasks resulting from Poland's membership in the European Union<sup>22</sup>. There are a lot of people well disposed to perform these tasks, people who know foreign languages, legal procedures, European law. etc., but they cannot be employed because there are no vacancies. However, it is difficult to say unequivocally what the chances are for achieving the intention of this postulate.

*The preparation of public administration personnel for the performance of tasks resulting from Poland's membership in the European Union.* UKIL. Warsaw, 1 October 2003. This programme describes the tasks of public administration within the context of Poland's accession to the EU. They concern participation in the decision-making process, implementation of the *acquis communautaire* and the participation in EU programmes and funds. It anticipates the improvement of the quality of work of civil servants through the system of training. Among civil servants, too, is there a common opinion that a portion of fellow employees are incompetent and should be replaced. See: *Postawy członków korpusu służby cywilnej wobec etycznych. Raport z badań* [The attitude of Civil Service Corps members towards ethical issues. Report based on recent research], op.cit., pp. 8-9. 42-43.

<sup>21</sup> In the following years the below number of advertisements appeared in the Civil Service's Bulletin: in 2000-7921, in 2001-5105, in 2002-5625 and in 2003-8810; see: *The Head of the Civil Services Report on the condition of the Civil Service and its task implementation for 2003*, page 22.

## Higher positions in the Civil Service

For the effective functioning of administration the managerial staff are of great importance<sup>21</sup>. Higher positions (directors-general of offices, heads of departments or units and their deputies, who all together constitute over 1,500 persons) are filled as a result of competition. The introduction of competition was intended to uphold the principle of political neutrality on the part of civil servants". In line with this premise, the civil servants selected as a result of competition were supposed to be independent from their political superiors. However, after the 2001 parliamentary elections, a majority of directors-general of ministries and central offices who had assumed their positions as a result of competition were dismissed and replaced by other people. Changes were particularly deep in the voivodeship offices. This situation shows that it is difficult to reconcile the requirement of political neutrality with gaining the confidence of one's superior. The ministries and voivodeship governors usually had confidence in people from their own political milieu.

On December 18, 2001 Article 144a was introduced to the Civil Service Act. Article 144a made it possible, in the transitional period, to fill higher official positions with people from outside the Corps. Based on this provision, by the end of 2002, 16 positions of directors-general and 70 positions of directors and deputy directors were filled. However, the Constitutional Tribunal found that Article 144a violates the constitutional rules of professionalism, i.e., the impartiality and political neutrality of members of the Civil Service Corps. Once having determined the necessity to establish the Civil Service Corps, the Polish Constitution specifies the basic objectives for which it is

i. Wydra: *Karierajakoczymikprofesjonalizacji* [Career as a professionalization factor]: A. Debicka, M. Dmochowski, B. Kudrycka *Profesjonalizm w administracji publicznej* [Professionalism in public administration]. Association of Public Administration Education, Białystok 2004

<sup>21</sup>For more information on the apolitical attitude of officials see: J. Itch-Drabarek. *Apolitycznośc jako czynnik profesjonalizacji służby cywilnej* [The apolitical approach as a factor of professionalizing the Civil Service]: A. Debicka, M. Dmochowski, B. Kudrycka, op.cit

established (Article 153 paragraph I of the Constitution)<sup>25</sup>. According to the Tribunal, the legislator does not have an unlimited possibility of deciding the shape of the Civil Service, and any interference on the part of the legislator in the Civil Service's rules of activity must be justified in detail in each case. Such interference cannot violate constitutional objectives and the rules for the Civil Service's functioning, namely: professionalism, reliability, political impartiality and the neutrality of functionaries. Thus, on January 1, 2003 this controversial Article was annulled for its unconstitutionality. However, it should be added that a definite majority of the directors-general who gained their positions owing to Article 144a have since then passed the competition procedure.

## Three ways of filling higher positions

Higher positions in the Civil Service are filled in three ways: by appointment (before July 1, 1999), by "acting" a given position (i.e., as an "acting director-general") and as a result of competition. The graph below illustrates the current proportions.

According to January 1, 2004 data, 439 managerial positions were filled before the Civil Service Act entered into force, that is before July 1, 1999. Those people, although they had not participated in the competition procedure, took their positions in compliance with the law. Such a high number of positions filled by appointment may indicate a low mobility within Polish public administration. These positions have been occupied by the same person for at least four and a half years (or, as it sometimes happens, for over 10 years), whereas in many countries (and in the European Commission) a

Article 153. paragraph I of the Polish Constitution "A corps of civil servants shall operate in the organs of government administration in order to ensure a professional, diligent, impartial and politically neutral fulfilment of the State's obligations"

the rule that only nominated civil servants may enter a competition has strengthened the elements of a career system in the Polish Civil Service. Only in two cases may people who are not nominated civil servants participate in competitions. Firstly, in the situation when a competition has been conducted twice with no candidate among the servants having been selected for the position in question. Secondly, if special experience and professional skills are necessary for a given position, the Head of the Civil Service may open a competition to people who are not nominated civil servants.

In the Polish Civil Service there is a problem in the proper selection of candidates for managerial positions. The law on the Civil Service provides that only nominated civil servants may participate in competitions for senior positions. The assumption supporting this solution is that, within the group of nominated civil servants, the definite majority has professional dispositions and aspirations to managerial positions, while within the whole Civil Service Corps only a minority has these predispositions. There is, however, another possible assumption on the distribution of managerial predispositions, one suggesting that among nominated civil servants managerial skills are distributed in the same way as in the Civil Service Corps as a whole. Of central importance is answering the question: which of these assumptions suits Polish reality?

To do so, a reliable analysis of the method of personnel selection from the point of view of their suitability for performing managerial functions is necessary. A certain signal may be gleaned from an opinion poll carried out among people who underwent the selection proceedings. Only 10% of respondents said that the possibility of applying for higher positions was a motive for them to qualify for nominated civil servant status<sup>29</sup>.

We can hypothesize - and hope for verification in further research - that the groups of nominated civil servants and potential candidates for managerial

■ The most frequently mentioned reasons were the following: willingness to increase salary and additional privileges of appointed officials (4K S...) and stability of employment (35. "...). See: *Information on the selection proceedings in the Civil Service*, 2004, the Civil Service office. Recruitment and Selection Department in (SO, Warsaw 2004, p. 20.

positions are not identical. Many good candidates are not nominated civil servants, and often for reasons that do not entail a real obstacle to performing managerial functions. For example, they may not have the foreign language certificate for a position where knowledge of a foreign language is in fact not necessary for effective task performance. Their knowledge on various administration issues, or their ability to draw up documents as examined during the qualifying procedure, may be lower than in the case of other candidates. However, they may have managerial and organizational skills proven by their career to date which are not taken into consideration in the course of qualifying procedures. It would seem that allowing these people the possibility of taking part in competitions would be advantageous for Polish public administration.

## The Remuneration System

The system of remuneration, which fulfills important motivating functions, has a direct impact on the work of the Civil Service. A clear system, wherein the amount of earnings depends on the quality of work performed, strengthens the sense of justice and has a positive effect on the ethos of the Civil Service and the results it achieves.

In the OECD countries there is a tendency to introduce a system of remuneration related to job results (*Performance-Related Pay*) which promotes those servants who work well and effectively. A system of remuneration perceived as unfair has a deleterious effect on the motivation of civil servants<sup>30</sup>.

In Poland the amount of earnings for central administration officials established in statutory law as a result of a multiplier system. Each year in the budgetary proposal the so-called basic amount is specified, which multiplied by the so-called individual multiplier gives a basis of remuneration for particular servants. This can be increased by a seniority allowance (from 5% to a maximum 20% of basic pay). Furthermore,

■ *vcrnmcni: The Synthesis. GOV/PGC(2004)7 p*

nominated civil servants, in accord with the Civil Service Act, are entitled to a bonus for having an official rank. Official ranks are granted based on periodical appraisal. This bonus is of a permanent character, regardless of the position taken and the scope of responsibilities. In many cases, in particular those of people employed in lower positions, it is a very important element of the servant's overall earnings.

One feature of the remuneration system in the Polish Civil Service is that of the wide and unjustified differences in the remuneration systems of individual offices of the public administration. The range of remuneration in the relative groups of positions in 2002 was rendered by the proportion 3.6: 1<sup>31</sup>. In the group of the offices with the highest level of average remuneration there were ministries and offices which exercised the rights of additional payments from special means<sup>32</sup>. The differentiation in remuneration in the individual departments is presented in the table below.

The multiplier system, discussed above, was designed to protect against an excessive decrease of real remunerations as a result of inflation. However, this system has many faults - for instance, it sanctions the historically formed differentiation of remuneration among offices. It also makes it difficult to introduce performance-related pay and to condition the amount of remuneration on the work expenditure. This, in turn, influences the ethos of the Civil Service. The automatic increase of remunerations for all employees in public administration absorbs almost all the financial means from the remuneration fund which, in practice, reduces to zero the pool that offices have at their disposal. As a consequence, the directors-general have limited possibilities for motivating employees, as well as for compensating the present

<sup>31</sup> " Analiza i propozycje zmian w systemach wynagradzania obowiązujących w administracji rządowej. Sprawozdanie z prac Międzyresorsowego Zespołu ds. Opracowania Propozycji Uporządkowania Systemu Wynagrodzeń w Administracji Rządowej [An analysis and proposals for changes in (the remuneration systems obligatory for the government administration. Report on the work of the Interdepartmental Team for Elaborating a Proposal for Rationalizing the Remuneration System in Government Administration). March 2004. p. 16. " The widest differences in average monthly remuneration appear in the group of higher posts. The highest remunerations in this group are in the Ministry of National Defence (PLN 8.293.00) and in the Ministry of Justice (PLN 7,104.00); the lowest ones are in the Ministry of National Education and Sport (PLN 3.143.00)

unjustified disproportion between the amount of remuneration and the work done<sup>33</sup>.

**Table. Amount of average monthly remuneration in selected offices in 2002, including the prizes and bonuses from special funds.**

No	Name	Average remuneration (PLN)
1.	The Government Legislation Centre	6470.80
2.	The Office of the European Integration Committee	5719.51
3.	The Ministry of Finance	5416.00
4.	The Chancellery of the Prime Minister	4847.50
5.	The Ministry of Foreign Affairs	4605.52
6.	The Ministry of Culture	3700.94
7.	The Ministry of Agriculture	3 644,95
8.	The Office of the Civil Service	3553.99
9.	The Ministry of National Education	3362.10
10.	The Ministry of Infrastructure	3318.23
11.	The Ministry of the Economy	3177.29
12.	The Ministry of the Interior and Administration	3153.50
13.	The Ministry of Justice	3061.38
14.	Central Statistical Office	2855.38
15.	The Office of Civil Aviation	1839.07

Source: "Analiza i propozycje zmian w systemach wynagradzania obowiązujących w administracji rządowej". op.cit.

<sup>33</sup> Civil servants themselves point out that the lack of effective motivation incentives is one of the most important problems in Polish administration. See: *Posławy członków korpusu służby cywilnej wobec kwestii motywacyjnych* Raport z badań. op. cit., pp.8-9

## Conclusions

The five-year period during which the Civil Service Act in Poland was in force showed that it is now more difficult to use public administration for political purposes. This was demonstrated by the ruling of the Constitutional Tribunal on the unconstitutionality of Article 144a of the Civil Service Act and by the activity of the Civil Service Council, which demands competitions for directors-general. Moreover, the pressure of public opinion indicates that there is no public acceptance for abusive practices. Polish society is also increasingly aware of the existence of the relation between the political neutrality of the Civil Service and the quality of governments - as it is of the scale of corruption. This period also taught much by way of important experiences, ones that need be drawn upon while work is underway both on drafting amendments to the Act and on improving the effectiveness of the whole system. The recognition and identification of its weaknesses is the best way to eliminate undesirable phenomena and to improve the structures of the public sector. The introduction of transparency to the application procedure would make it possible to verify if the employed persons are really the best ones. Another solution would be to carry out recruitment in the same way as is done in some Western countries, e.g., in France or in the European Commission, where the offices can employ people from the group of the candidates who have passed the exams. The recruitment experiences of the Ministry of Foreign Affairs could also be made avail of<sup>14</sup>.

One of the essential problems of contemporary public administration is that of the right set of relations between politicians and civil servants. On the one hand, the method of appointment to higher official positions should ensure the adequate professionalism of the people in managerial positions. On the other hand, however, it should take into consideration the necessity of having the trust of political superiors, something necessary for the

<sup>14</sup> Employment in the **Ministry of Foreign Affairs** proceeds on the basis of an **examination procedure that takes place once a year. The best candidates (30-40 persons) undergo training in the Diplomatic Academy and are employed in the Ministry.**

implementation of the government's political programme. In considering this problem, one should uphold moderation and a necessary distance. As Herbert Kaufmann said, the politicization of the public administration can facilitate party influences at the cost of professionalism: however its excessive depoliticization can weaken the leadership necessary for the effective conducting of reforms".

Consideration is needed as regards the institution of competitions, which, as empirical data show, serves not the selection of the best candidates, but the legalization of people previously appointed to managerial positions in the "acting" mode. It discourages potential candidates from taking part in the competition procedure. The remuneration system needs to be directed towards ensuring the implementation of the rule of justice by conditioning remuneration upon the quantity and quality of work. People holding similar positions in different offices and performing a similar scope of work should be remunerated similarly.

Lastly, it is worth emphasizing that the quality of the Civil Service is of great importance for the development of the state as a whole. The Civil Service became a highly significant element of the social and political changes begun in Poland after 1989. The new conditions of its activity, as well as the new challenges it faces, have brought about a permanent increase in the demand for professionalism and creativity on the part of public administration, for the responsibility of civil servants and for acting in accordance with the law. All these values are of great importance, and they should thus be introduced composite unity and be subject to permanent monitoring. And what is of most importance - these values directly result from the constitutional the Civil Service Corps, whose duty is to implement the tasks of the state professionally, honestly, impartially and in a politically neutral way.

<sup>15</sup> **H. Kaufmann:** "Major players: Bureaucracies in American Government" in. *Public Administration Review*, January/February 2001, vol. 61, no 1, p. 40.