

**Government of Georgia**

**Decree №627**

**19 November 2014**

**Tbilisi**

**On the Approval of the Civil Service Reform Concept and Some Other Related Measures**

In accordance with Article 5, Paragraph h<sup>3</sup> and Article 6, Paragraph 1 of the Law of Georgia on the Structure, Powers and Order of Activity of the Government of Georgia:

**Article 1**

The attached Civil Service Reform concept shall be approved.

**Article 2**

The LEPL - Civil Service Bureau shall be requested to coordinate the process of implementation of civil service reform concept and carry out related measures.

**Article 3**

The state governmental entities, local self-government agencies and legal entities of public law, shall be asked to provide functional analyze of their institution`s.

**Article 4**

The decree shall come into force on the date of its publication.

**Prime Minister**

**Irakli Garibashvili**

# **Civil Service Reform Concept**

**Tbilisi  
2014**

## **Introduction**

The Civil Service Reform (CSR) is a significant element for building a democratic state and effective governance that will facilitate the development of relevant policy recommendations, policy implementation and the rendering of services. The goal of the Reform is to form effective and efficient Civil Service (CS), which would be based on the principle of merit and will promote, support and reward professionalism. In the long term, the CSR envisages further improvement of legislative and institutional climate that would be free of bias, unethical behavior and corruption. Formation of a solid and transparent CS system is the basis for increasing the trust of population towards the state. Trust towards just and impartial CS will result in the involvement of wide segments of the society in governance, which will ultimately ensure formation of just and unbiased policy.

## **Georgia context**

CSR is relevant since the draft law submitted to the previous Parliament rejects the concept of a professional civil servant and moves civil service office legal relationship to contractual relationship, similar to the private sector. The debates around the matter have given rise to counter proposals, which were based on the “classical” model of the civil service. Discussions have formed certain expectations in the society, ultimately followed by disappointment, for no administrative, procedural and legislative actions have been effected following the discussions.

The Government of Georgia (GoG) has expressed the will to reform the civil service, in a modern and unified manner. The Law on Civil Service was enacted on October 31, 1997 and to date more than 80 amendments and additions have been entered in it. Each amendment is fragmented, directed at a relatively short-term result and focuses less on the matters directed at strengthening the effectiveness and efficiency of the Government. Respectively, there is a need for a complex reform of the Georgia CS, especially by means of effecting administrative, procedural and legal changes.

## **The Concept Development process**

CS Coordination Board<sup>1</sup> staffed from among 15 representatives of the Ministries and the Parliament and led by the Head of the Chancellery of the GoG, is leading the mentioned initiative. The goal of the initiative is to form a well-elaborated CS Concept considering international experience, that will address specific needs of the country.

The CS Concept has been developed as a result of assessment of the situation in Georgia, consultations with the representatives of the central and local authorities, civil society and universities and local and international experts. The project is implemented with the support of USAID Georgia Good Governance Program.

The Georgia Good Governance Program, jointly with its contractor, Grigol Robakidze University School of Public Administration and Politics (as well as the Institute for the Development of Freedom of Information and Smart Consulting Consortium) has facilitated the discussions. International experts (Professor Henrik Jess, Prof. Hans-Akim Roll) and other international donor organizations (EU/OECD SIGMA, UNDP, NATO Professional Development Program and the Polish Government) were also involved in the working process.

The given CS Concept reflects the results of the consultation processes. In addition to the recommendations, the Concept also includes the Action Plan for its implementation.

By means of declaring the goals of new legislation and recommending specific policy alternatives and methods, CS Concept will form solid basis for the development of the new law on the CS. Considering CS legislation of the EU and OECD member states, the mentioned law has to determine the CS system, classification of the CS, the rule of tenure in the CS, social safeguards of civil servants, the system of education, training and professional development of civil servants; at the same time, along with the development of the new Law on CS, it is very important to introduce best practice in terms of the organizational structure, administration and management of the CS; this will contribute to effective implementation and enforcement of the main law and sub-legal acts or procedural regulations.

The Civil Service Concept has been developed based on a three-phase approach designed for drafting the concept, which commenced in 2013.

1. August –September: Assessment of current situation (What stage are we at?);

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<sup>1</sup>Formed under the GoG Executive Order # 815 on July 24, 2013

2. October-December: reviewing policy alternatives (“What should we achieve?”);
3. December: developing final concept, recommendations and planning next steps (“How to achieve?”).

Recommendations and alternatives are provided according to ten categories of the civil service, based on the EU categorization system used in case of other transitional economies, in order to propose an exhaustive list for reform initiatives.

Brief summary of each category is provided below:

1. **Definition of the CS** - Main objectives of CS legislation are described.
2. **Scope of the CS** - Provides the category of positions to which the CS legislation is applicable, as well as the positions governed by other legislation.
3. **Centralized system for the management, coordination and oversight over the CS** - Information related to the management of the CS among government agencies is provided.
4. **The classification system** - Provides the criteria for managing the CS positions system and horizontal and vertical movements from/to positions.
5. **The remuneration system** - Describes the scheme of cash and non-cash remuneration that is in line with the classification system.
6. **Hiring in civil service** - Describes the methods and conditions for hiring into the civil service (including qualification requirements, probationary period, etc.).
7. **Managing civil servants** - Describes the regulations of the entire cycle of human resources management (HRM) – starting from hiring to dismissal/layoff, including, evaluation, relocation, promotion, planning retirement, and other processes which purpose is to increase the capacity of the civil service in HRM.
8. **Rights and duties of civil servants** - Describes certain rights, obligations of civil servants; further, information about disciplinary proceedings and sanctions is provided.
9. **Training and professional development** - Information with regard to the development of capacity of civil servants is provided.

**10. Equal opportunities for men and women** i.e., Gender mainstreaming, as well as, in general, equality in the civil service – describes the methods for ensuring equality and monitoring (e.g., in the process of hiring and promotion, as well as in terms of the work environment and decision-making).

Overall, the approach used for designing the CS concept is **consultative, structured, facts-based and exhaustive**.

**Consultative**, since the following was held:

- four focus-groups at the central and local level for upper and middle level managers of the GoG, as well as with the participation of local government representatives and the NGO sector;
- six workshops of the working group. One of which lasted one full week with the participation of the civil servants identified by the Government;
- four workshops on various topics, under the draft CSR concept, attended by up to forty civil servants from various ministries;
- five roundtables with the participation of NGO and donor organizations representatives. One roundtable was held with the government of the Autonomous Republic of Ajara, and in March the roundtable with the representatives of the Parliament and local self-governments is planned;
- Ongoing consultations with the Government Chancellery; consideration of the recommendations of the CS Coordination Board and obtaining consent. For confirming the approach, (four) meetings were held with the Board.

**Structured**, since the process is based on:

- a three-phase action plan that has enabled the involvement of donors (UNDP, EU/OECD SIGMA, NATO Professional Development Program and the Polish Government) and securing their support, as well as the exposure to the views and visions of international experts;
- an exhaustive listing of categories considered effective by the countries similar to Georgia in the process of the CS reform;

- The results of each focus group and workshop so that the latter is later used to identify the areas where agreement has been reached and where it is still necessary, through additional justification or holding additional activities, to develop or specify the alternatives.

**Facts based**, since: for developing relevant reform alternatives, workshop participants also had access to the comparative analysis prepared by local and international experts of EU/OECD SIGM, UNDP and G3 program and additional materials. G3 has translated for the participants of the government working group the materials reflecting international practice.

**Exhaustive**, since:

- a wide range of stakeholders are involved in the process from within, as well as outside the central and local/regional government;
- The discussions and presentations held in relation to the CSR covered all aspects of the CS.

## 1. The essence of the Civil Service Concept

### a) Goal

Form the CS, in the capacity of a national establishment that would be based on a consistent and clear legislative framework that will ensure staffing of the civil service with the staff that will have public powers, will manage public finances, or render state services.

In Georgia, representatives of all branches of the government and political forces are required to respect the values that represent the basis of administrative governance in the countries of Europe and the transatlantic community. The Law on the Civil Service is one of the distinct manifestations of these values. The mentioned values are summarized as four general principles:<sup>2</sup>

- The Rule of law means legal certainty of administrative actions and decisions.
- Transparency enables the scrutiny of administrative processes and outcomes and its consistency with procedural norms and provisions.
- Accountability ensures compliance with the rule of law in relation to other administrative authorities.
- Efficiency in the use of public resources and effectiveness in accomplishing policy goals as prescribed in legal acts.

Civil Service Laws in the EU and OECD member states differ according to the rule of forming of general principles in legislation; this is due to different legal traditions, historical experience and specific political preferences of legislative authorities. The differences among the countries evidence that successful civil service reform takes full account of the economic, social, constitutional and political context of the country where it is implemented.

In Georgia, like other post-Soviet countries, the formation of the civil service according to the provided key principles ensures creating more attractive and protected employment conditions for civil servants. Notably, such outcome is obtained by means of ensuring the

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<sup>2</sup>Francisco Cardona, OECD/SIGMA, *Integrating National Administrations into the European Administrative Space*, 2009, available at <http://www.oecd.org/site/sigma/publicationsdocuments/42747690.pdf>.



integrity of the civil service, professionalism and continuity, while improved employment conditions in the civil service is not an end in itself.<sup>3</sup>

## **Discussion**

As a result of the analysis and consultations conducted in autumn, 2013 various cases when civil service definition is not ensured according to four main principles have been identified under all categories of civil service legislation.

Such cases mainly imply the presence of contravening provisions or the absence of relevant sub-legal acts, resulting in undue application of the law; vague and ambiguous wordings leave room for non-uniform practices (e.g., classification and remuneration) in relation to the issues that require unified approach; the absence of regulations condition the presence of different procedures (e.g., in human resources management field), which have to be unified.

## **Recommendations**

Considering legislative gaps, new legal approaches and the priorities of the country it is expedient to develop a new law on civil service, rather than amend/enter additions in the existing law. Furthermore, agreed capacity development will be ensured for the implementation of the reforms, in order to practically and consistently introduce those in the civil service.

The new Law on Civil Service should have the following key characteristics:

- establishing the civil service famous for integrity, impartiality and professionalism.
- establishing politically neutral civil service, as a result of separation of politics and administration.
- establish authority and relationships that ensures a unified system of consistent management, coordination and control of the civil service.
- introduction of the principles for the remuneration system that would be transparent and proportionate and will form the basis for hiring and retention of the individuals with professional talent.
- introduction of procedures for ensuring equal opportunities for personnel and according to professional merit for hiring and promotion, at all levels.
- introduce the HRM system that would be based on the standards of professionalism and performance efficiency.

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Francisco Cardona, OECD/SIGMA, *Integrating National Administrations into the European Administrative Space*, 2009, available at <http://www.oecd.org/site/sigma/publicationsdocuments/42747690.pdf>.  
[publicationsdocuments/44111573.pdf](http://www.oecd.org/site/sigma/publicationsdocuments/44111573.pdf)

- found a unified system of explicit rights and duties of civil servants, to support accountability and continuity of service;
- ensure access to professional capacity development opportunities;
- ensure permanent employment;
- hiring by means of a competitive and merit based selection process;
- legal protection of rights and duties by means of setting forth transparent disciplinary procedures and proportional sanctions;
- ensuring career growth opportunities, by giving priority to internal staff;
- use HRM methods for further development of professional capacity.

The concept is a career-oriented system.

## **2. The scope of the civil Service Law**

### **a) Goal**

The goal of the Civil Service Law is conceptualization and proper understanding of the essence of the civil service, formation of the transparent civil service system that will enable us to clearly separate legal status and categories of the individuals employed in the civil service;

### **b) Existing challenges**

The definitions in the Law of Georgia on Civil Service are very vague and incomplete. For example, the definition of the civil service mentions the duty station and rules, but it cannot be considered as a complete definition. Further, the definition of a civil servant concept includes duty station and rule, which may not be regarded to be a definition. Moreover, the definition of an officer/servant is incomplete, for it is not clear in the staffing schedule whether the position is of an officer or of a support staff (Article 7).

According to the existing legislation, specifically, pursuant to Article 5 of the Georgia Law on the Civil Service, there are four types of civil servants. Moreover, one of the types of a civil servant is a temporary servant, i.e., he/she is a civil servant; which is inexpedient, for according to the definition in the Law a temporary servant is an individual “hired for certain period for performing non-permanent assignments.” (Article 8). Notably, out of four types of civil servants the Law on the Civil Service mainly regulates only the activity of an officer, considering the limitations stipulated in Article 11. This causes certain inconvenience in case of application of the Law. The legislation does not clearly indicate as to who is a civil servant,

its types are not determined, their activities are not regulated and further, political and executive functions are [not- AA] distinctly delineated. One of the problems of the Law on the Civil Service – the vagueness of main concepts and institutions – is due to the reality that it does not correspond to the approaches introduced under the General Administrative Code of Georgia (hereinafter GACG).

One of the challenges is the determination of the superiority between the Professional Civil Servant and Contractual Relationship Models in the systems of the civil service.

### c) Recommendations

#### ● The concept of a civil servant (officer)

It is necessary to introduce a special term in order to determine the scope of the Law on Civil Service. The subject who performs public administration should fall under the term -- Civil Servant. Considering the above-mentioned, a civil servant is an individual implementing public governance who carries out paid activity in executive, legislative and judicial authorities, at Legal Entities of Public Law (LEPL) and local self-government bodies.

For determining the subjects carrying out public governance it is necessary to discriminate between state political officials of executive and legislative authorities (Article 1(3) of the current Law)), political officials of local self-governments and the representatives of the judicial authority – judges, who do not exercise public administration.

Civil servants exercise public governance (activity that is governed by the GACG). They have to be classified: professional civil servant and activity in civil service under contractual relations. In such case, support and temporary servants envisaged in current classification of civil servants will no longer be considered civil servants and labor relations with them will be governed by the Organic Law of Georgia – Labor Code of Georgia.

**Professional civil servant** - an individual who is appointed or selected permanently at an institution implementing public administration to a civil servant position envisaged by the staffing schedule. The servant of a mentioned category commences his/her professional career in the civil service from lower position and moves up based on professional knowledge, experience and the results of the evaluation system. *The establishment of a professional civil servant is based on a career principle and the servants with the mentioned status are protected against political decisions of state political officials. The institution of a professional civil servant is the safeguard for the stability of civil service.*

For determining as to who is a servant, i.e., an individual discharging governance functions, we should be guided by the following principle: following functional analysis of each institution main and support functions of such institution should be determined. (Main

functions are those functions of the institution which implementation is based on the mission of the institution and the goal and for the implementation of which a concrete institution has been created. And support are the technical functions that support the implementation of principal functions of the institution on a permanent (long-term) as well as temporary basis).

An individual discharging main functions on a permanent basis (the principle of permanent appointment) is a professional civil servant, while the individuals carrying out support functions on a permanent and temporary basis are contracted employees.

If, as a result of functional analysis of the institution it is determined that the specific activity is not support but primary function of the institution (or it became primary later), the individuals discharging thereof will acquire the status of a professional civil servant.

Core of the civil service employees are civil servants (ratio 70%-30%). Managing officials in the civil service, as well as the individuals with decision-making authority, or managerial functions, i.e., they supervise certain portion of employees, have to unconditionally enjoy the civil servant status.

**Administrative contract at civil service** - The mentioned category comprises individuals who are appointed to a staffing schedule-stipulated position for discharging public governance for the term of a political official's authority, or permanently, because he/she holds the position the implementation of which functions have to be correspond to the views and goals of a political appointee. In the mentioned case the experience gained by an individual as a result of career growth is not substantial; rather, the qualification and skills that are necessary for supporting the political official in the exercising of own authority are essential. Labor relations with the mentioned individuals are regulated with the type of an administrative contract, since public legal powers are delegated to the subject and he/she falls within the scope of the civil service principles (e.g., the principle of loyalty, official incompatibility), and legal safeguards – administrative proceedings rules are applicable to them.

**Support (contracted) employee hired under an employment contract** - An individual who exercises civil service under contractual relations and who is hired at the public institution at the position of a support employee under an employment contract. A support (contracted) employee, with the purpose of carrying out institution's objectives and functions, carries out support activity based on the delegation of public-legal powers. The mentioned category should include technical, support personnel whose activity is essential for a public institution; they fall under the Civil Service Law because, based on their functions, main principles of the civil service are applicable to them, although the relationship between such

employees and the public institution is labor law and respectively, should be governed by the Labor Code.

● **Separating political and administrative part**

The separation of political and executive functions is especially important for forming civil service that is free of political influence. The mentioned should be ensured by means of introduction and reinforcing career based professional servant's establishment. Career principle based civil service creates the possibility of liberation of a civil servant from political influence. Further, it should be noted that the content of the new law on Civil Service should be based on the career principle and it should detail the mechanisms that enable the implementation of the mentioned principle. The Law on the CS should be general and set forth basic principles. Individual minor issues should be detailed in sub-legal acts. The mentioned approach will make the law sustainable, since there will be no need for frequent amendments in the Law;

- The Law on Civil Service should be general and be applicable to the entire CS system. In individual fields (defense, police, foreign affairs) special laws should be used to regulate the specificities of such fields;
- The Law on CS should not apply to political officials. The law should separate political and administrative part of the government; the Law should set forth main directions for the implementation of public policy;
- Support and temporary personnel fall within the scope of the CS Law since a number of principles and provisions are applicable to those, while the labor law relations fully move under the scope of the Labor Law.

● **Legal Entities of Public Law (LEPL)**

The scope of the Law of Georgia on Civil Service should apply to the Legal Entities of Public Law (LEPLs) since the functions of some of the LEPLs do not differ from the administration functions exercised by state authorities. We use the deduction method for the application of the civil servant status to individuals employed at LEPLs. Out of the LEPLs falling within the scope of the Law on the Civil Service civil law corporations, educational, cultural and religious LEPLs and part of the LEPLs that provide services should be excluded. At the remaining LEPLs a unified structural scheme should be created where the employees with administrative authority should fall under the status of a servant/officer, and the remaining ones – under the labor relations within administrative-law and civil law.

At LEPLs rendering services a servant may be at the horizontal level, and at the LEPLs carrying out governance functions – based on vertical distribution principle.

According to the deduction method, other public institutions that do not fall in the category of the LEPLs provided above should be subjected to the status of LEPLs carrying out governance and the approach applicable to public administration bodies should be applicable to them. A special status should be determined for the leadership representatives of a LEPL (institution) that exercises administration. They have to be hired under an administrative contract, for the term of authority of an authorized individual or for an indefinite period.

Those employed at governance LEPL equipped with administration function, should fall within the professional servant status, while a private law contract should be concluded with support and temporary employees. As a result of functional analysis of an institution, in the founding act LEPL founder will stipulate the matter of subjecting the employees of a specific LEPL to the Law on Civil Service.

**The form of distribution of public legal authority within the organization (decision-making authority) should be used as a criterion for classification of employees at the governing LEPL<sup>4</sup>. Employees vested with the authority to discharge public legal administration functions should fully fall within the scope of the Law on Civil Service, while the employees which activity, in terms of functions, will not be regarded a governance activity, will fully be subjected to labor law.**

**The approach of the Concept towards LEPLs is not final since the LEPLs in Georgia additionally require functional analysis and legislative regulation. Specifically, for completing the matter it is advisable to continue the study of LEPLs and design the new law on LEPLs.**

- **Local self-government**

Local self-government authorities should fall within the unified civil service system. Along with the General Law on Civil Service additional regulation may be introduced in the

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<sup>4</sup>For the purposes of the Concept governance LEPLs are all LEPLs, except for public law corporations, LEPLs created for cultural, educational, religious purposes and service providing LEPLs.

legislation governing self-government. Principal justification for this approach is supporting the mobility among central and local self-government bodies.

### **3. Centralized system of CS management, coordination and oversight**

#### **a) Goal**

Interagency management of CS has several goals: ensure fair approach across government bodies by means of equal and due enforcement of law in all fields of the CS; establishing and operation of unbiased CS; enact sub-legal acts and design HRM policy and standards; monitoring the compliance with the CS legislation; Management and control of employment scale and distribution with the purpose of adequate budgeting and expenditures control; performing coordination and recommendation functions by personnel employed at leadership positions.

#### **b) Existing challenges**

The experience of Eastern and Central European countries with the CS reform, prior to the EU accession and following the accession (2004) evidences that a strong centralized administration body that is closely related with the government central team is the most effective model for establishing and maintaining such values of the CS as integrity, impartiality and merit (as defined in Chapter – 1).<sup>5</sup>

Experience shows that the absence of an institution with a clear legal mandate and relevant legal tools, for the oversight over the reform implementation and administration of new civil service legislation ultimately results in overlooking or distortion of the provisions of the law; and this, in turn, may be due to partisan-political goals, influential ministries or ministers, or new priorities of the existing government. Respectively, the principles of effective governance will not have “force”, while various legal mechanisms that should ensure the correspondence of practice with principles, will be ineffective or will not exist altogether.

The authority and functions of the Bureau has been ineffective for the purposes of the central government, similar has been the case in terms of its staffing.

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<sup>5</sup>Francisco Cardona, The Management of the Civil Service: European Models, OECD/SIGMA, is available in Georgian, on SIGMA website, follow the link: (<http://www.oecd.org/site/sigma/publicationsdocuments/sigmaandgovpublicationsingeorgian.htm>); and Jan-Hinrik Meyer-Sahling, “Sustainability of Civil Service Reforms in Central and Eastern Europe Five Years After EU Accession” Sigma Papers, No 44 (2009), OECD Publishing (<http://dx.doi.org/10.1787/5kml60pvjmbq-en>).

Respectively, according to the amendments in the Georgia Law on Civil Service, the CSB was subordinated to the Prime Minister. It is important to have support for the civil service reform at the high level of government, for the success of the entire reform. Moreover, the CSB should have relevant authority to lead and supervise the process of reform implementation, as well as monitor ongoing administration of the Civil Service legislation.

### **c) Recommendations**

- **retaining the existing model**

It is desirable to retain the current two-level model – the Civil Service Council and the CSB. At this stage, when the CS reform has to be implemented the CS Council has to become a driving force of the reform. For this, the Council has to be equipped with relevant functions and with relevant resources.

- **strengthening institutional capacity of the CSB**

For complete discharge of its functions and entrusted obligations it is necessary to specify the functions of the CSB, design the relevant structure of the functions and staff the CSB with relevant personnel.

## **4. Hiring/selection of a civil servant**

### **a) Goal**

The conditions of hiring into the CS have to be stipulated clearly and distinctly in legislation. Main goal of regulating the matters related to hiring in the CS is ensuring the transparent and merit-based hiring process. Specific provisions set forth objective qualification requirements and the procedures of hiring at the CS. They are used to organize the selection process and authorize specific government bodies towards coordination and oversight.

The regulations on hiring also set forth a specific form for employment relationship between government and a civil servant and the authority necessary thereof.

Main purpose of the civil servant selection system is to identify a person who best meets required qualifications for the position and at the same time is motivated, as well as to introduce such rule of selection in CS that will ensure resolving this objective.



## **b) Existing challenges**

Pursuant to the Law of Georgia on CS, recruitment from outside of CS for any (non-political) position is allowable. Recruitment of personnel from the outside at the rank of any position is contrary to the idea of permanent employment. Recruitment from the outside should be used only for the “junior positions”, while for high positions priority should be given to civil servants and the individuals in the waiting list.<sup>6</sup>

According to applicable legislation, vacancy announcement should contain the following information: position title, name of an institution, job requirements, pay, etc. Head of a relevant institution approves the job description via a normative act.<sup>7</sup>

Since there are no mandatory instructions, job descriptions and qualification requirements, criteria, in terms of their format and content, vary by government agencies. They are often vague or ambiguous or are not in place altogether. Such practice is contrary to the principles of unified civil service and merit based selection procedure, ultimately giving rise to unequal results.

The CSB publishes announcements for all vacancies (information is published on the CSB website). The fact that vacancy announcements are published only via the website also narrows the circle of potential qualified candidates (just 45% of Georgia population has internet access).

It is necessary to more distinctly stipulate the nature of documentation (e.g., in terms of determining the years of service) in new legislation, for the years of service will be a significant factor in case of the appointment (reappointment) to a position under the new classification system and will respectively have bearing on pay.

According to the Law, an individual is authorized to hold more than one position in the “same state institution system”.<sup>8</sup> This is inadmissible in the CS, where a civil servant has to work full time at one position.

Requirements under the competitions usually contain the experience of working at a certain position. There is a similar requirement for assigning some of the class ranks. According to the Law, “years of service is certified via a document formalized duly by the institution.” It is not defined as to what does the “a document formalized duly” means. Therefore, the data are evidenced usually with the information provided by such individual.

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<sup>6</sup>See Chapter 7

<sup>7</sup>The aim of the mentioned legal provision is to equip the MOJ with the controlling function. Although the MOJ is authorized to review all normative acts of the Government, it is unable to exercise practical oversight.

<sup>8</sup>Article 64.

An individual hired within the service for the first time will make an oath before the appointing officer (Article 28(1)). Furthermore, according to Paragraph 2 of the same Article, the oath text is signed by the “appointing official”, which causes misunderstanding. Oath should be signed by a person giving an oath. Moreover, actually this procedure is so formal, that it is often not used altogether.

According to applicable legislation, civil servants are mainly hired through the competition. The competition is held by a Competition Attestation Committee of an institution. Committee chair and often majority of the members, represent the management of the organization. Naturally, their time is limited and it is hard for them to get maximally involved in the process of holding competition, given their main duties and functions. Besides, they may not have relevant knowledge and experience with regard to the competition holding procedures. All this may have negative impact on the competition process; this causes negative attitude and mistrust among the candidates and the society at large.

As has been mentioned, the rule of establishing a competition commission and the rule of its activity is set forth in the Law of Georgia on the Civil Service.”<sup>9</sup> Although, the articles of the Law do not contain legal provisions and the description of relevant procedures, that would contribute to resolving the above-mentioned problems and would regulate the work of the Committee. Furthermore, Article 36<sup>4</sup> of the Law makes reference to the legislation of Georgia with regard to the rule of activity of a committee member, also, to the determining of the conditions and amount of labor remuneration of invited members, while, effectively there is no such relevant provision in the legislation.

### **c) Recommendations**

To resolve the above-mentioned challenges and improve the conditions for hiring civil servants, a relevant GoG decree has already been passed, although it is advisable to additionally plan and implement certain activities. Furthermore, **it is important that hiring conditions be unified for the central authorities, as well as local self-government and any other institution governed by the Law on CS.**

#### **● amendment in the rule of determining qualification requirements for a position**

The existing rule of establishing required qualifications, specifically, the obligation to establish those under a normative act is probably conditioned by the purpose of exerting certain control over this process (draft normative act has to be sent to the MOJ for legal conclusion). However, the MOJ effectively does not control the content of this document.

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<sup>9</sup>Articles 36<sup>1</sup>-36<sup>4</sup>.

One of the ways for solving the problem is to eliminate the above-mentioned constraints with regard to setting forth via a normative act, as well as “under Law or on its basis”, and send draft legal act of an institution, for regulating the procedure, to the CSB, for concurrence. It is advisable to set minimum required qualifications according to the rank of specific positions. CSB should design standards of the mentioned minimum required qualifications, which would form the basis for determining additional required qualifications for positions by public institutions.

- **determining the conditions of official incompatibility at the time of induction**

The legislation has to clearly, accurately and explicitly set forth the conditions for official incompatibility at the time of placement. Generally, it is not advisable to allow a servant to hold two positions requiring full time work. Only such activity should be allowable that is compatible with the full time job and is not systematic (e.g., creative, pedagogical, etc.).

- **The obligation to pass a pre-qualification test for the applicants for a CS vacancy**

There is a recommendation to make a preliminary qualification test mandatory for the applicants for the CS vacancy (only for first entrants). The Chapter on the selection of civil servants addresses these issues. Furthermore, it is expedient to form and implement the relevant training course.

- **Increase the effectiveness of probation period**

The goal of probation period is to determine the level of conformity of professional skills, capacity and personal characteristics of a servant with the held position. Decision is taken according to the relevant level; therefore, examination mechanism should be clearly prescribed in the legislation. This mechanism may be included in the employee performance evaluation system.

- **ensuring the authenticity of work experience**

The work experience related data are usually testified using the information submitted by a relevant individual. Authenticity of an individual’s experience related information should be ensured under the legislation. For example, to specify and establish the format and the rule of completing of the “duly formalized document” envisaged in the Law on the CS. It is noteworthy that for years, the so-called “service record book” has been principal and to some extent, it was an authentic document evidencing an individual’s work experience, since it was a controlled document and, furthermore, it was effectively impossible to change the sequence of the records within such documents. It is advisable to design the format for such document and make the completion of such document compulsory.

- **Improve the oath-giving process**

It is advisable to give a relevant form and purpose to the oath-giving process by a civil servant, or remove it from the Law altogether.

- According to the draft Concept, selection-related norms and rule set forth in the civil service legislation will be applicable only to the professional civil servant's institution. **Importantly, the mentioned rule will be unified for the central government, as well as the local self-government and any other institution governed by the Law on Civil Service.**

- **Improvement of the processes of establishing and operation of competition-attestation committees and increase efficiency of their performance**

In addition to key principles provided in the Law, under the GoG relevant decree the composition of the committee was established, as well as the mandatory presence of independent experts with the purpose of involvement in its activity, which is some type of a tool to ensure objectivity and transparency during the decision making process.

- **improve the competition processes, ensure increasing its objectivity and uniform approaches**

In addition to considering the above-mentioned recommendations, it is advisable to stipulate the following activities in the legislation: a) the composition of a committee (or its part) may be changed/updated, for example, once in 3 years; b) grant administrative body status to the committee; c) labor remuneration to each member of the committee; d) the obligation to develop methodological guidelines for holding competitions, prior to the competition, and agree those with, for example, the CSB; e) provide a more detailed description of states of competition, especially of testing, and interview to be compulsory for any competition.

- **ensure best dissemination of information to the public about competition**

For maximum informing of the public, in addition to the website it is advisable that the heads of the institutions use mass media. These activities will ensure maximum publicity and equal access to the civil service for all those persons whose professional and personal traits meet the position requirements. However, in such case it will be necessary to specify the deadline for submission of an application, since it is usually related to the announcement day.

- **organize a preliminary “qualification test” for the applicants to a civil service job**

As has been mentioned, often, due to unsuitable qualifications of applicants for the vacancy announcement, public institution faces difficulties with the holding the competition process in a complete manner. One of the solutions is organizing a preliminary “qualification test”

(certification) for the applicants for a vacancy. Through certification an individual will be evaluated according to key requirements towards a civil servant. This is state language skills, as well as minimum knowledge of public administration basics, key legal acts governing civil service, norms of ethnics and IT. The qualification exam may also include an option for the applicants to take a foreign language test. In the course of the competition, the institution's competition-attestation committee will evaluate a candidate just according to additional requirements of a competition. Effectively, the competition will be held in two stages. At the first stage in a centralized manner general requirements will be examined, while during the second stage the institution will hold competition according to its specific requirements. Under the mentioned rule (based on certification) a candidate has to be selected for filling a vacancy in the civil service and certification should not apply to the incumbent civil servants.

The CSB shall ensure holding the qualification test (certification). The Ministry of Education and Sciences of Georgia resources and experience may be utilized. 3 years may be set as the validity of the certificate obtained as a result of the qualification exam. If a person does not commence practical activity in the civil service during the above-mentioned period it will be assumed that the individual no longer meets basic requirements necessary for a civil servant.

Different positions require different level of knowledge. Therefore, the passing score obtained by an applicant in a qualification exam, according to the requirements for a specific position, may be established by an institution head, as an additional qualification requirement.

The mentioned principle has the following upsides:

- any routine process of the competition, including establishing meeting key requirements and initial shortlisting of participants will be done in a centralized manner, at the qualification exam, which will enable the institution to use more flexible and targeted procedures. As a result, the duration and cost of the competition process will be brought down, the efficiency and quality of the personnel selection process will be increased;
- minimum knowledge standard necessary for civil service work will be determined, which will motivate the applicants to obtain and develop basic theoretical knowledge. Respectively, general level of knowledge will be increased;
- the objectivity of admission to the competition and the selection based on best results will be ensured, as well as equal conditions will be created for all candidates, since the qualification exam will be conducted only via computer-based tests;
- Holding the qualification test using the centralized, unified methodology enables to form a unified database that would be accessible for all public institutions.

## 5. The classification system

### a) Goal

One of the objectives of categorization is to organize labor remuneration system, increasing its fairness and transparency level. Specifically, to establish the same level of salary for equal positions at different institutions, and at the same time, ensure high indicators of motivation.

### b) Existing challenges

According to the Law there are four categories that correspond to administrative hierarchies of other systems, specifically, the junior civil position (assistant), senior civil position (“head of the office/service”), leading civil position (“division head”) and main civil position (department head).

Since the law does not provide the definition of the category, while sub-legal acts do not contain any instructions and no other body outside the organization is authorized to approve, classification is de facto and is based on personal views of relevant managers. As a result, there is different categorization across the entire government. Categories and class ranks are in a certain way related to remuneration. The absence of explicit criteria of classification and rules has caused unequal remuneration, which, in turn, causes the feeling of injustice and bias among the civil servants and has negative impact over their responsibility and motivation; or causes the feeling of “favoritism”, which also affects the motivation of a civil servant.

The Concept should contain the number of the measures of the classification matrix and a short list of criteria for differentiating categories and class ranks within each category. Based on the above-mentioned, throughout the administration the matrix would be used to determine the matters of assignment of duties to specific positions.

Although classification is important in terms of salary and other bonuses/allowances, classification system should be determined independently from the remuneration related decisions.

Classification systems differ significantly within the civil service legislation. The proposed scheme is based on such categorization systems that are found in Germany and the USA.

### c) Recommendations

Planning and implementation of certain activities is advisable for solving the above-listed problems and improving the civil service positions classification system. Furthermore, **it is important that the classification system will be unified for the central government, as well as local self-government and any other institutions governed by the Law on the Civil Service.**

- **The number of civil positions categories**

According to the recommended concept, the civil service is, effectively, managed by civil servants. Therefore, it is recommended that the positions classification system (categorization) is applicable only to the civil servants positions. In such case the number of the categories provided in the Law on the Civil Service, specifically four categories<sup>10</sup> – a) chief; b) leading; c) senior and d) junior civil servant position – may be considered sufficient.

- **determining the criteria and the rule of categorizing the positions**

It is necessary to design and approve under a relevant sub-legal act the method and rule of classification of positions. OECD and EU experts have similar approach towards classifying the positions. It envisages the application of the following five criteria: 1) level of responsibility of the position; 2) complexity of the position, including the number of subordinated structural units and levels and the scale of the influence of decisions; 3) communication skill necessary for the position; 4) education, knowledge, skills and training required for performing relevant assignments; 5) years of work experience necessary for the position.

According to the requirements for the position, based on the extensibility and assessment of the level of powers, assigning certain category to the position may be decided.

- **design a new version of the positions registry**

When designing a new version of the registry it is necessary to lead the process of determining position titles, their systematization and categorization based on a unified and clear rule. Moreover, it is advisable to include in the registry the classification of structural units of institutions. Such document will ensure a unified approach towards the development of structures of public institutions, will significantly streamline many procedures of HRM and enhance the level of their fairness and objectivity. The recommendation should be envisaged when designing a new version of the registry, since the current registry does not meet these requirements.<sup>11</sup>

- **Developing the rule of assigning class ranks**

It is necessary to develop and approve unified standards governing the process of assigning class ranks. For example, class rank may be assigned to a specific servant according only to the level of development of the competencies relevant to the factors established for the grade of the held position. This will be determined as a result of his/her evaluation (attestation).

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<sup>10</sup>The Law of Georgia on the Civil Service, Article 69.

<sup>11</sup>Registry of Civil Service Positions approved under the GoG September 29, 2014 Decree N 576.

Furthermore, it is important that the position grade, as well as class rank to have certain importance and objective. For example, during the competition experience of working at the position of a relevant grade and assigned class rank may be taken into account. Moreover, the benefit/allowance to the legislation-prescribed salary for the class rank has to be put into use. The servant will retain the mentioned allowance and class rank in case he/she moves to another job (institution), as envisaged under the current legislation.<sup>12</sup> According to the suggested Concept, the categorization system applies to civil servants only. Respectively, class ranks will be assigned only to civil servants. Therefore, the staffing list of institutions should clearly separate positions of civil servants and those of support staff.

● **The example of categorization of positions and designing salary matrix at the institution**

At the initial stage, according to established rule and criteria, the positions within the institution will be evaluated and the positions of civil servants and support staff will be separated. Next, according to the extensibility of competencies of each civil servant position and the level of authority, a relevant category will be assigned to it. Effectively, civil servant’s positions will be divided into four categories. Once a category is determined there may be the need to specify the titles of some positions to ensure correspondence with the approved registry. Afterwards, the so-called salary matrix of the servants, based on position category and salary class will be designed. One of the general estimated format of the matrix is provided in the table below. During the design of the matrix, it is implied that for each category of positions the legislation sets forth minimum and maximum salary.

The notations provided in the Table below means the following: *A<sub>11</sub> (min)* is the floor for the salary for a chief civil service position; *A<sub>12</sub> --* is the amount of the salary for 2<sup>nd</sup> salary level for a chief civil service position, *A<sub>1n</sub> (max)* – is the ceiling for the salary set for a chief civil service position, etc.

Table

№	Category	Salary level				
		1	2	3	...	N
1	Chief civil service position	A <sub>11</sub> (min)	A <sub>12</sub>	A <sub>13</sub>	...	A <sub>1n</sub> (max)
2	Leading civil service position	A <sub>21</sub> (min)	A <sub>22</sub>	A <sub>23</sub>	...	A <sub>2n</sub> (max)

<sup>12</sup>The Law of Georgia on Civil Service, Article 71(3)



3	Senior civil service position	A <sub>31</sub> (min)	A <sub>32</sub>	A <sub>33</sub>	...	A <sub>3n</sub> (max)
4	Junior civil service position	A <sub>41</sub> (min)	A <sub>42</sub>	A <sub>43</sub>	...	A <sub>4n</sub> (max)

For each category a matrix will be designed in a similar manner; the matrix would include the listing of all positions within such category and their relevant salaries by salary grade levels. An in-depth study will be conducted again on this issue.

As for the salary matrix structure of support personnel, it should comprise the categories of works (e.g., administrative, technical, financial, etc.) and salary levels. The amount of remuneration by levels will be distributed in three zones: entry-level salary zone, basic salary zone and top salary zone.

Salary within the beginner-level salary zone will be assigned to the employees that meet minimum required qualifications.

Basic salary zone is the amount approximated to the salary rate for similar positions at the domestic market of the country, which the employee reaches as a result of assessment of holding relevant qualifications and/or the high evaluation of his/her performance.

Top salary zone is the salary rate within which an employee is given remuneration in case he/she demonstrates top qualification.

## 6. The pay system

### a) Goal

The goal of the remuneration system is to link the fair remuneration system and the classification system in a consistent and transparent manner; Furthermore, to offer relevant pay to a civil servant employed on a full-time basis, which would be in line with the average salary rates, social allowances, employment standards and norms; Moreover, the goals of the system includes recruitment, retention and motivation of qualified individuals into the CS by offering attractive and stable salary; rewarding good results and performance (performance evaluation will be performed using the agreed upon general standards and established procedures); support estimation and planning of the budget.

Legislation governing the CS shall clearly stipulate the procedure for determining civil servants' pay (basic (minimum) salary, social allowance, premium/bonus, non-pecuniary

allowance and benefits) and the number of civil servants (by each ministry and state agency and their total number), which implies also the control over the budget processes.

## **b) Existing challenges**

The pay system for civil servants employed at different ministries and state institutions, specifically all of its components, including salary, salary allowances, premiums<sup>13</sup>, differ substantially.

Currently there is no direct link between the positions reflected in the classification matrix and the basic salary rate. Since this structure does not take account of years of service, it is contrary to the concept of permanent employment in the civil service. A wide range of the salary scale for each category and class rank (unlike single-level salary scale) will ensure establishing a more flexible salary tool to factor in such elements as years of service and experience.<sup>14</sup>

Pay also includes health insurance and social security costs, but does not comprise other in-kind allowances (e.g., vehicle, driver, accommodation, etc.).

The new law has to comprise guidelines and not such concrete aspects as salary levels, or salary differential related to various categories. Specific and detailed provisions and rules, i.e., the matters related to the remuneration mechanism, should be stipulated in a separate law or sub-legal acts.

The so-called compression factor (i.e., the difference between averaged high and low salaries) is important. This factor is quite low in the remuneration system of the central and eastern European countries and is about 3. Nevertheless, it is noteworthy that quite high premiums (relative to basic salary) balances the equalizing effect of compression and comprises a discretionary element. Respectively, it is advisable to have a higher compression factor and introduce a more differentiated salary scale according to the complexity of work and the levels of responsibility.

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<sup>13</sup>The following terms are used: 1) salary – the salary a civil servant receives; in the classification system the salary is linked to a specific position and is unchanged in case of similar other positions; 2) Salary allowance – temporary increase of salary amount, conditioned by various objective factors, e.g., workstation post or overtime work. Salary allowance will be assigned for the period the above-mentioned circumstances hold. 3) Premium - one-off cash payment to a civil servant for outstanding performance (based on performance evaluation, see Chapter 7).

<sup>14</sup>Civil servant with many years of service may have higher salary than a higher-ranking civil servant at the initial stage.

### **c) Recommendations**

#### **● Scope**

Legislative regulation of civil servants pay should be effected based on the law, to establish a unified system for the remuneration of civil servants; and the mentioned issues should not be scattered in various sub-legal acts. A separate chapter should be dedicated in the Law of Georgia on Civil Service to main issues related to the regulation of remuneration of civil servants, which comprises: definition of the parts of the remuneration of civil servants, the rule and criteria of determining the parts of the remuneration of civil servants, circumstances and established limitations to be taken into account when determining the amounts of the parts of remuneration.

As part of legal regulation of remuneration of civil servants the elements of remuneration have to be determined, furthermore, the mentioned elements should be separated, so that each of those fulfills and retains their function. The remuneration of a civil servant comprises three key elements: salary, salary allowance and evaluation based premium.

#### **● Elements of pay**

Salary of a civil servant is main part of the remuneration established by the law for a position in the civil service. Salary allowance of a civil servant is additional remuneration allocated from the State Budget for performed additional work by such individual in civil service, while the premium is the type of incentive established according to the performance evaluation results of a civil servant.

Establishing a unified system of salary of civil servants is directly related to designing the categorization system of positions of civil servants. Salary has to be determined according to the category assigned to a civil servant position by legislation and salary levels established for the positions of the given category. Therefore, civil servant's salary should be determined based on the established salary scale, as a result of determining fixed amount of remuneration for each position of the civil service or as a result of determining minimum and maximum ranges of remuneration, based on the specificity of each position. Salary scale of the civil servants should be based on the ratio of the amounts set for highest and lowest positions in the civil service.

#### **● Criteria for determining allowance**

For regulating civil servant's salary allowance the rule of granting allowance, basis and the range in relation to the salary of a civil servant should be determined. Salary allowance shall be granted to a civil servant in the following cases: work in hard working conditions, performing additional work, using additional working hours, family status and the number of

children, performing work abroad, etc. Furthermore, the salary allowance has to be granted considering the years of service (e.g., once every five years) and class rank. Salary allowance should be granted in the presence of relevant basis. The range of salary allowance should be reasonable relative to a civil servant's salary.

- **Criteria for determining premium**

The rule, grounds and range in relation to the civil servant's salary has to be determined in order to regulate civil servant's premium. The amount of premium should be linked to the civil servant performance evaluation system and it should be granted according to the evaluation results. The relationship of the range of the premium with the overall budget of the public institution (determining percentage of the premium fund according to the budget of a public institution) and salary of a civil servant (determining the share of the individual bonus amount relative to the salary).

When determining salary of a civil servant its relation to the remuneration of an employee hired under an employment contract has to be considered. Reasonable balance between the pay of a civil servant and a civil service contracted employee can be achieved by means of the introduction of collective employment contracts between the state (the MOF) and the employee rights organizations or associations.

Considering all of the above-mentioned, we can conclude that regulation of a civil servant remuneration should be effected within a unified system established based on law, which would ensure establishing in detail and separation of the components of a civil servant's remuneration, determining the rule, basis and range of pay. The development of the mentioned system of a civil servant's remuneration will bring down discretionary authority of heads of central authorities when determining the remuneration of civil servants and will introduce stable financial guarantees.

**Furthermore, it is necessary to implement the salary reform in stages, following the implementation of functional analysis of institutions, organizing the categorization system, establishing the salary grids, considering the economic growth indicator of the country and forming the civil servants' evaluation system.**

## 7. Civil Service management

### 7.1. Performance evaluation and attestation

#### a) Goal

**Performance evaluation:** Support the improvement of indicators of performance of a civil servant by means of regular and structural dialogue with a manager (evaluator); a civil servant and his/her manager has to be able to review the possibility for the development of civil servant's knowledge and skills, to enable such employee to get to a higher position. In turn, civil servants should provide feedback to their managers about their assessment of their general management skills.

Since it is envisaged to evaluate civil servants at all levels of the organization, this process will contribute to the improvement of reporting and ultimately, to the enhancement of the results of the organization.

**Since the evaluation process is quite extensive, attestation is administered by a committee of 3-7 members, which is comprised of the individuals with experience in various field.**

#### b) Existing challenges

According to current legislation attestation procedure is envisaged for periodic evaluation of civil servants; such attestation is mandatorily held once every three years. Main conditions for conducting this procedure are stipulated in Articles 81-83 of the Law of Georgia on the Civil Service, while the rule is provided in the Government of Georgia June 18, 2014 Decree N 411 – on Approving the Rule of Attestation of Civil Servants. According to the above-mentioned Law, “Attestation is the evaluation of correspondence of a servant's professional skills, qualifications, capacity and personal traits with the requirements for the held (or to be filled) position.”<sup>15</sup> Effectively, attestation is the evaluation of performance of a servant over the attestation period. It is the procedure of evaluation of a servant's performance and therefore it is unclear as to why the definition of attestation says “position to be filled” and the servants subject to attestation includes “a candidate for a servant's position, in case the competition is used for identifying the candidate.”<sup>16</sup> Moreover, the period of three years between evaluations is very long.

According to legislation, attestation is also conducted by an institution's competition-attestation committee. Certain ideas about establishing the committee and its operation are provided in this document's chapter on the selection of civil servants.

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<sup>15</sup>The Law of Georgia on Civil Service, Article 81(1).

<sup>16</sup>The Law of Georgia on Civil Service, Article 82(1) (d).

Objective and effective periodic performance evaluation of employees and structural units, as well as, in general, HR management within the institution, is practically impossible without the use of relevant IT. Under the GoG February 20, 2012 Decree N 57 – Treasury (budget) institutions HRM automated system minimum standards on Approving – the standard of HRM automated system was approved. The decree also stipulates certain obligations with regard the implementation of the mentioned system.

### **c) Recommendations**

It is expedient to plan and implement certain activities for resolving the above-mentioned problems and improving civil servants and structural units performance evaluation system. Moreover, **it is important to implement the evaluation system at the central government, as well as local self-government and other public institutions governed by the Law on the Civil Service. Given the availability of various evaluation methods, each public institution has to take a decision about introducing a relevant evaluation method within their agency.**

#### **● Improvement of the attestation process**

During the planning of the attestation process it should be taken into account that there is a principal difference between the objectives of attestation and those of competition. In case of attestation, a servant's performance will be evaluated, while in the course of the competition the relevance of a candidate's capacity and personal traits with position requirements, as well as the level of motivation will be determined. Importantly, unlike the competition, during attestation main focus should be made on the scale and quality of performance of a servant. Therefore, during interview the committee has to hear the report of a servant about the activity performance during the attestation period. Moreover, it is advisable to replace the term "attestation" with the term "evaluation".

#### **● Bringing down the evaluation period**

It is advisable to significantly reduce a mandatory three year period of attestation prescribed by current legislation. For example, reduce to one to three years, which, considering modern methods of evaluation and IT capacity, is not difficult.

#### **● Support the introduction of automated system relevant to the modern requirements of periodic evaluation of performance of employees and structural units within public institutions**

For ensuring objective and swift resolution of HRM related issues, the obligation of establishing and implementing an evaluation system relevant to modern performance evaluation system for employee and structural units' performance, following relevant

conditions, should be prescribed in Georgia legislation. It is advisable to add the evaluation module to the system established with the HRM automated system standard approved under the GoG February 20, 2012 Decree N 57. The mentioned module should ensure the evaluation of employee and structural unit's performance within the institution at the established periodicity and using the accepted methodology, as well as evaluation of the results of a servant's probation period, training and qualification development results. A complete periodic evaluation system will significantly support swift rendering of objective, fair and transparent decisions related to the HRM within the institution.

## **7.2. Promotion**

### **a) Goal**

Ensure transparent and fair induction process for civil servants, based on their merit.

### **b) Existing challenges**

The current Law has deficiencies in terms of attestation and promotion, which has to be eliminated in the new legislation.

The matters of career development and management issues, the rule and conditions of promotion should be refined in Georgia. According to the draft reform Concept, the so-called "career principle" is the basis for the core of the civil service – professional civil servant. It envisages standardized and fair processes of hiring and promotion of civil servants, adequate and pre-determined income, as well as a duly determined and fair bonuses system (merit-based) and most importantly, the movement of a servant up the career ladder. In some of the developed countries (e.g., in France and Italy), the Career System is characterized as a closed system – promotion is effected only internally within the institution (or the civil service). Such approach has certain upsides: reduces the time and expenses necessary for the selection of employees, ensures increased motivation and stability of the staff within the civil service.

### **c) Recommendations**

It is advisable to plan and implement certain activities to address the above-mentioned problems and obtain a well-functioning system of career management and promotion within the civil service. Moreover, **it is important that the employee career management and promotion system will be unified for the central authority as well as local self-government and any other institutions governed by the Law on the Civil Service.**

- **Design employee career development plans and strategy**

For designing such plan the prospect of the development of the organization, demand for the staff and capacity and potential of each employee should be studied. Furthermore, the correspondence of the career development strategy with the goals and requirements of the organization, as well as those of the employees, should be ensured. Naturally, not all employees will be the object of the career development plan. It is written only for promising, relatively younger employees and in light of actual conditions. Main principles and rules for implementing the processes referred to in the plan (Promotion, professional development, etc.) will be stipulated in existing legislation, while specific conditions for ensuring it should be clearly and in detail prescribed in relevant legal acts approved by heads of institutions.

- **Meeting the requirements towards a position in case of moving a servant to another structural unit**

When a servant is moved to another structural unit it is not how identical the qualification requirements of the held position and those of the position to be taken that matters; rather, the fact of how much the individual meets the requirements of the position to be taken is important.

- **Using the so-called mixed system when appointing to high positions**

Based on career principle, appointing to upper steps should be done based on promotion. Promotion is done based on a servant's evaluation. A servant has to be selected from within the administrative body and the entire civil service system. An individual from the outside of the civil sector system may be hired to upper steps of the system, via an open (public) competition, but only in case relevant qualified candidates have not been identified from among the internal employees. The individuals hired under employment contract within the institution should be allowed to participate in internal competitions as well. Internal competition should be first announced across the institution, if relevant staff is not identified, then competition should be announced across the entire civil service and if a relevant staff cannot be identified via internal competitions, then, in agreement with the CSB, open competition should be announced for a high-level position.

- **Specifying the promotion conditions**

It is necessary to establish under the legislation additional conditions for promotion, for example, the results of a servant's performance evaluation; correspondence of knowledge, qualification and capacity with the position's qualification requirements; granted class rank, etc.

### **7.3. Legal safeguards**



### **a) Goal**

Determining necessary conditions for the dismissal from civil service, mainly for the purposes of safeguarding the integrity of the civil service, but also to ensure that any government acts as a thoughtful manager of HR as well as state assets.

The purpose of the above-mentioned is to allow dismissal only based on the criteria that are detailed in the main law.

### **b) Existing challenges**

The absence of legal and social safeguards in the civil service is the reason for demotivation of the servants. In practice motivation mechanisms are often either absent or are used inappropriately.

All governments face the need to revamp organizational structures, to ensure that services are rendered in a more effective manner and at less expenditures. Any democratically elected government is authorized to govern based on its political mandate, within the law-prescribed scope and according to the principles of a democratic system.

### **c) Recommendations**

#### **● Motivation tools**

One of the key elements of motivation is the presence of a fair mechanism of labor remuneration (referred to in Chapter 6). Certain safeguards, including social safeguards are nonetheless important for a civil servant. To the extent possible, the legislation should set forth acceptable procedures for hiring and dismissal/layoff, medical, insurance and retirement schemes, correct organization of a servant's labor and ensuring relevant conditions for the discharge of his/her duties, annual paid leave, possibility of professional and career development, ensuring friendly, conflict-free situation within the institution, i.e., establishing acceptable organizational culture, etc. It should be mentioned that not all the conditions provided in the listing are subject to legal regulation (for example, friendly, conflict-free situation). It is mainly dependent on the performance and efforts of the head of an institution.

Generally, for maximum motivation of staff it is important to have the conditions when the interests of an employee and those of an organization coincide as much as possible – something that is acceptable and desirable for an employee should be acceptable and desirable for another (maybe “the latter” is implied here?- AA) as well. Naturally, it is quite difficult to solve this problem.

- **Legal protection**

The Law on Civil Service should set forth the rules for the review of official disputes. Internal mechanisms for disputes review should be determined. The Law should prescribe the category of employment disputes that may be reviewed and resolved only through court.

Especially challenging is the issue of dismissal of an employee and this needs to be very accurately defined. An employee should have guaranteed stability within the civil service, which means that the dismissal should not be dependent on the changes of government and leadership of the public institution. Dismissal should be allowable only based on law-prescribed grounds and in full compliance of procedures. A transparent dismissal mechanism and legal and social safeguards should be developed. Restoration of an individual into the service should not give rise to the dismissal of an incumbent on such position from the civil service system. A person's rights may not be protected at the expense of the violation of another person's rights; the state has to take measures for the employment of such person.

According to the principle of staff stability, the Law has to accurately define legal grounds for the dismissal/laying off a servant and legal and social safeguards.

- **Cash compensation and reserve**

An employee laid off as a result of liquidation or downsizing of staff should get cash compensation. The reserve list of the employees laid off on the grounds of liquidation or staff downsizing should be formed. A person who declines an offered job should be removed from the reserve. The CSB shall administer the reserve list.

- **Civil Service Ethics**

CSB shall coordinate the development and practical implementation of ethics codes within the civil service. The unified administrative mechanism for respecting ethics norms should be developed.

- **Social protection**

In terms of social protection, the Law should contain a number of regulations to ensure social protection of an employee.

## **8. Disciplinary responsibility of a civil servant**

### **a) Goal**

Determining the types of disciplinary misdemeanors of civil servants and disciplinary sanctions; determine the scope of authority of an individual/body responsible for designing the rules for civil servants' disciplinary proceedings and decision-making.

### **b) Existing challenges**

The Law of Georgia on Civil Service regulates disciplinary responsibility of civil servants, although existing regulation is general and does not comprise all issues related to disciplinary responsibility. The matter of disciplinary responsibility of a civil servant is additionally also regulated by a personnel policy of civil service institutions; these policies should be in line with the requirements prescribed by the Law and ensure detailed regulation of the mentioned issue.

According to the Law of Georgia on Civil Service, the following is regarded to be disciplinary misdemeanor: offensive non-performance or undue performance of official duties by a civil servant, inflicting property damages to the institution or offensive creation of the threat of emergence of such damages, as well as misbehavior directed against general moral norms or designed to discredit a servant and institution, irrespective of the place of commissioning (within or outside the premises of the duty service).<sup>17</sup> Legal regulation of disciplinary misdemeanor is general and does not contain detailed listing of the types of disciplinary misdemeanor considering the duties of civil servants, further, their classification into minor, less serious and serious disciplinary misdemeanor, which is important for a civil servant for foreseeing of a disciplinary misdemeanor and for the application of a relevant disciplinary sanction.

The Law on the Civil Service of Georgia sets forth disciplinary measures that may be imposed on a civil servant in case of a disciplinary misdemeanor.<sup>18</sup> According to legislation the following are the types of disciplinary sanction: admonition, warning, withholding maximum ten working days salary, removal from the fulfillment of official duties by suspending salary payment – for not longer than ten working days, move to a lower level position – for no longer than one year; firing based on this law. However, the legislation does not stipulate the listing of the circumstances an authorized person has to take into account when applying a law-prescribed disciplinary sanction to a civil servant.

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<sup>17</sup>The Law of Georgia on Civil Service, Article 78.

<sup>18</sup>The Law of Georgia on Civil Service, Article 79.

The regulation of civil servants disciplinary proceedings process is not stipulated in the Law on Civil Service, save the reference that an official or an institution who is authorized to appoint an individual is entitled to apply a disciplinary measure.<sup>19</sup> Legislation does not prescribe the basis for initiating disciplinary proceedings, disciplinary dispute review procedure, timeframes for disciplinary proceedings and the mechanisms of its appealing via disciplinary procedure or court.

The analysis of personnel policy of public institutions shows that in the regulations related to disciplinary responsibility rule majority of those make reference to the norms prescribed by the Law of Georgia on Civil Service and do not set forth more detailed procedures for complementing it.<sup>20</sup> The analysis of the personnel policies has also demonstrated that the provisions set forth by those may contravene with the Law of Georgia on Civil Service and require bringing into conformity with law-prescribed requirements.<sup>21</sup>

### **c) Recommendations**

#### **● Legislative amendments**

With regard to legal regulation, the following has to be determined: key aspects of a civil servant's disciplinary responsibility that should be regulated by the Law on Civil Service and the circle of the issues that may be regulated by sub-legal acts.

#### **● determining disciplinary misdemeanor and sanction**

In the direction of determining the types of disciplinary misdemeanor the existing recommendation on designing a detailed listing of the types of disciplinary misdemeanors, considering the obligations imposed by the legislation upon a civil servant, and grouping the types of mentioned misdemeanors into minor, less serious and serious disciplinary misdemeanors, with the purpose of simplifying the imposition of disciplinary sanction is important.

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<sup>19</sup>The Law of Georgia on Civil Service, Article 79.

<sup>20</sup>The Ministry of Environment and Natural Resource of Georgia; the Ministry of Economy and Sustainable Development of Georgia; the Ministry of Defense of Georgia; the Ministry of Justice of Georgia; The Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia; the Ministry of Agriculture; the Ministry of Penitentiary and Probation.

<sup>21</sup>For example, according to the National Enforcement Bureau Personnel policy (Article 23.2) several forms of disciplinary responsibility may be used for a single disciplinary misdemeanor, which is contrary to the Georgia Law on Civil Service (Article 79(2)).

- In the direction of the imposition of disciplinary sanction, it is important to determine the circumstances that should be factored in by a body reviewing the responsibility when applying disciplinary sanction relevant to a civil servant's disciplinary misdemeanor. when selecting a relevant form of a sanction the following has to be taken into account: the nature of a disciplinary misdemeanor and seriousness; position of an incumbent civil servant and the degree of responsibility; damages resulting from a disciplinary misdemeanor and the intent of a civil servant with regard to the occurrence of the mentioned damage; The nature of a disciplinary misdemeanor committed by a civil servant in the past; past performance and behavior of a civil servant; deterrent effect of a disciplinary sanction and its correspondence with committed disciplinary misdemeanor. Importantly, disciplinary sanction has to be imposed in compliance with the principle of proportionality and in the presence of a relevant substantiation.
- When designing the rule of imposition of disciplinary sanction it is important to determine the term of limitation for the imposition of a disciplinary sanction, possibility of lifting the disciplinary responsibility early, and the conditions of, as well as the period for imposition of disciplinary responsibility.

#### ● **Disciplinary proceedings**

In the direction of designing procedural norms and detailing of disciplinary proceedings it is important to determine the following issues: grounds for initiating disciplinary proceedings; disciplinary dispute review procedure; timeframes of disciplinary proceedings; Civil servant's rights in the disciplinary proceedings process, the mechanism of its appealing via disciplinary rule or in court. There are recommendations that disciplinary proceedings may be launched against the civil servant based on an application/statement of a supervisor/manager, another civil servant or a citizen.

There are two main alternatives to the publicity of the disciplinary proceedings process: according to the first alternative, the process of disciplinary proceedings of a civil servant and result should be open, while according to another alternative, the process of disciplinary proceeding of a civil servant should be closed and just the rendered decision should be open.

## 9. Training and professional development<sup>22</sup>

### Goal

The goal of the capacity development system is to establish the regulations necessary for professional development (knowledge, skills and other competencies) of civil servants, which, on the one hand, will stipulate the right of civil servants and their duty in terms of training and other professional development while, on the other, the obligation of the state to allocate relevant funds for professional development purposes.

The use of the Capacity Development concept goes beyond the definition envisaging only face-to-face classroom training. Capacity development may be achieved through various means, including electronic or complex training, internship, temporary assignment and study tours, targeted mentoring, network activities focused on a specific issue or special assignments under the project.

### Discussion

The current capacity development practice is limited because it envisages training leave for professional development by a civil servant just up to 3 months over 5 years<sup>23</sup>. The given provision is not sufficient for professional development of a civil servant, irrespective of the periodicity and the purpose (office-based, academic training, etc.) of the enjoyment of the mentioned right.

According to the current Law on Civil Service, the CSB “provides coordination and methodological support to the HRM processes, professional training, retraining and professional development of civil servants within the civil service.”<sup>24</sup> The CSB activities are limited in this regard.

Retraining of civil servants at central and local government level is implemented at the scale slightly larger than the minimum set forth under the Law on Civil Service.<sup>25</sup> Nevertheless, the format and extent of training varies significantly across various ministries and government bodies. Initiatives are not related either to professional development or to career growth, and is based on the allocation of unpredictable resources each year.

Professional knowledge and skills development activities are primarily performed via vertically integrated structures that exist separately from each ministry and have training

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<sup>22</sup>Georgia Law on Civil Service, Article 48.

<sup>23</sup>Georgia Law on Civil Service, Article 48.

<sup>24</sup>Georgia Law on Civil Service, Article 130(2) (b).

<sup>25</sup> Donor-funded and program/project defined training has come on top of government-funded activities by way of respective ministries.

centers or academies. Such institutions are, for example, the Ministry of Justice, Ministry of Finance, Ministry of Internal Affairs, etc. The above-mentioned bodies have a Legal Entity of Public Law (LEPL) status and are respectively motivated to provide functional knowledge and skills that correspond to the requirements of a relevant ministry.

Independent budgetary institutions are also motivated to expand training services and related activities in order to serve a wider market, similar to the already established practice at some of the centers and academies. Their proximity with the “higher” ministries is one of the reliable ways for ensuring functionally relevant and quality training, as well as flexible services. Therefore, government bodies have several alternatives in terms of benefit from the introduction of professional development plans in the course of training and HRM process.

The current training contributes to the development of specific legal-functional skills, due to insufficient number of qualify providers able to offer trainings on a wide spectrum of matters or general matters (e.g., HRM, public administration). In the future capacity development should comprise functional as well as general issues.

The demand for the provision of similar training, as well as for the provision of wide range of knowledge and skills on various matters at the leadership and management level, by bypassing the mentioned bodies, is limited.

As for international practice, in the majority of the EU member states there are the rules according to which resources are allocated for training/development purposes. According to the mentioned regulations, usually, the percentage amount of salary expenses (e.g., in France) is set, and this amount is designated for professional development of civil servants within the institution and each ministry is in charge of allocation of these; or, in other places, a certain number of days of civil servants professional development set for a specific year or several years (e.g., Italy and Denmark) to enable all civil servants to benefit from such opportunity.

## **Recommendations**

In terms of capacity development, the new civil service legislation should be based on the following principles:

- All civil servants should have the possibility for capacity development, within the agency or in another manner.
- The CSB should set forth standards of accreditation of the institutions that provide training and determine training needs of civil servants. In case of local authorities, training and standards will be developed by the Vano Khukhunaishvili Center for

Effective Governance System and Territorial Arrangement Reform, LEPL, by the Ministry of Regional Development and Infrastructure.

- **Capacity development should be based on two approaches:**
  1. For training the central government **high-ranking** civil servants, the CSB may develop a special training course considering the experience of leading countries of the world.
  2. Training centers under the ministries and/or private providers would carry out the training of **remaining employees** of the central authorities. Each budget unit will be responsible for conducting training needs analysis of relevant employees.

Other activities directed towards ensuring capacity development according to the unified standards and the needs of public institutions are as follows:

- For the purposes of capacity development, set forth a fixed percentage of annual salary budget via a relevant sub-legal act. Each budget unit will be authorized to take decision with regard to the disposal of the capacity development budget, considering the provisions of key regulations.
- The CSB will set forth unified standards in terms of quality control and the evaluation of training results that will apply to the unified training center as well as non-governmental/private providers. The CSB will publish an annual report on training activities that will include the data about civil servants who have taken trainings, expenditures, monitoring results and final evaluation.
- The government will also promote the use of other means directed at the development of civil servants capacity and will hold discussions around the formulation of training leave for civil servants. The above-mentioned activities may also envisage internship based on contract with universities. Furthermore, performance evaluation will be used as a mechanism for determining training needs and for the evaluation of professional development and evaluation results.



## 9. Gender and equality in the civil service

### Goal

The goal of gender and equality is to ensure equal conditions at all government institutions, especially in terms of hiring, professional development, career development and the involvement in the decision making process.

### Discussion

Women are less represented at high-ranking positions within the civil service; the level of their involvement in the decision-making process at the central as well as local level is similarly low. The objective of the civil service reform is to change the culture within the government and its agencies so that they better respond to the needs of women employed in the civil service. Although there are relevant regulations and legislation, more efforts are necessary to achieve desired results by implementing the mentioned norms and gender equality mechanisms (like Georgia Gender Equality Action Plan).

A number of problems have emerged in the course of implementation and monitoring of the existing strategies. In this regard, main objective is to establish relevant conditions for promoting gender mainstreaming within the civil service and develop the mechanisms that will contribute to gender equality. Gender equality policy should envisage the obligation of gender equality at all levels of the government, furthermore, attention should be placed on the mechanisms of ensuring gender equality and identification of necessary funds for their implementation, as well as effective accountability, monitoring and evaluation systems.

Since 2006 the Government has made several important steps towards supporting gender mainstreaming in Georgia: State Concept for Gender Equality has been approved; the Gender Equality Council by the Office of the Chair of the Parliament has been formed; Interagency Commission has been established for developing gender equality government policy; the Law on Gender Equality and other legal acts on gender based-discrimination have been passed.

Nevertheless, the practice of employment and promotion falls significantly behind the declared overall obligations. Despite the developed policy and laws, implementation of the mentioned strategies as well as gender equality mechanisms (such as the gender equality action plan) is limited or they are not implemented altogether.

In the majority of the EU and EC member states there are mechanisms for ensuring equal opportunities, although no specific model is dominating. Developing gender statistical data is

a common practice at EU member states and it is implemented by an agency similar to the CSB. The recommendations presented in the Concept are analogous to the requirements in place in civil service of Germany and several EU member states. For example, in Germany, there is a requirement that all ministries/agencies should have a position of gender issues coordinator who is elected based on a secret vote by female employees. The duties of gender issues coordinator is to support the employer in all the activities carried out in this direction, as well as monitoring.<sup>26</sup>

## **Recommendations**

It is necessary to implement main obligations regarding ensuring law-prescribed gender equality, and equality, in general, and introduce relevant mechanisms.

The CSB will be formed as a principal body that will ensure effective introduction of gender and equality mechanisms at the central and local government level, relevant monitoring and coordination.

1. The CSB will develop instructions for government bodies about collection of information and preparation of reports on gender and equality, as well as about the systems and processes that have to be put into operation within current organizational structure in order to introduce the processes of gender mainstreaming and equality planning, monitoring and evaluation in key areas of HRM.
2. Each government agency will be tasked to regularly collect aggregated data based on gender and provide relevant information to the CSB at least on an annual basis.
3. Under the civil service annual report the CSB will present the conclusion and statistical information about gender mainstreaming and equality in the civil service.
4. The CSB will introduce an effective gender and equality issues coordinators resource at the central as well as local authorities level and these staff will coordinate the sharing of the knowledge around equality by means of assistance to colleagues and integration of teaching equality.

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<sup>26</sup>The Law on Equality, 1994.

## 11. Conclusion

The Concept provides the proposals for complex civil service reform in Georgia. The present chapter focuses on the matters that have decisive importance for the CS reform and respectively, are covered in the Concept, these are:

<b>What is legal basis for the civil service?</b>
According to the Concept, it is recommended to form a politically neutral civil service that will be based on the principles of integrity, impartiality and professionalism. It will remain in the service of any government, irrespective of the ruling party and will be retained after the change of the government. In such case, employment in civil service will be long-term, in compliance with the duly determined rights and duties. The recommended CS system is a long-term career oriented system.
<b>Which positions should be included to CS, considering relevant obligations, safeguards and accountability?</b>
Chapter two provides the categories of positions that have to be included or should not be included in the civil service. Notably, political positions should not fall within the regulation of the civil service legislation, while administrative positions, conversely, provided the law explicitly or indirectly stipulates the performance of obligations thereof. This recommendation also applies to employment in certain LEPLs (as it will be determined later by the detailed study of LEPLs). The decision has to be taken also with regard to administrative positions at regional and/or local self-governments.
<b>How are civil service positions systematized?</b>
Chapter 5 provides recommendations with regard to adequately managed and controlled classification system that is based on the current system. The two systems differ in terms of the difference of categories within one rank, that should be reviewed together with the pay alternatives. A more in-depth study of the mentioned issue, along with the study results, will streamline the process of the determination of the classification system and the process of linking it with the remuneration system.
<b>What is the remuneration system in the civil service?</b>
Chapter 6 provides the models of remuneration that are related to the new classification scheme. Draft concept underlines the importance of foreseeable basic salary that would be main and not the only source of income. The focus is made also on the necessity to cancel the existing bonus practice. In this regard, one of the alternatives is to establish performance based bonus, that would be determined based on fair and uniform evaluation/criteria and

which amount is limited for civil servants. Although, salary reform has to be implemented following functional analysis of the civil service, establishing of the categorization system, economic development and the introduction of the evaluation system.

**Which government entity will have the authority to oversee the civil service?**

The importance of the role of a central agency (Chapter 3) with the purpose of effective management, coordination and oversight remains valid irrespective of the configuration of the civil service selected. Its authority and functions will be dependent on a specific alternative selected by the GoG, but its centralized nature will be retained. For example, the role of such agency will be strengthened in case the Government decides to introduce general testing (Chapter 4), introduce specific reserve for civil service (Chapter 8) or centralized planning and coordination of civil servants capacity development process (Chapter 10).