

# THE NOVELTIES OF THE SERBIAN CIVIL SERVICE LEGISLATION – INTRODUCING A COMPETENCY BASED HUMAN RESOURCE MANAGEMENT<sup>1</sup>

Zorica Vukašinić Radojičić, PhD<sup>2</sup>

University of Criminal Investigation and Police Studies, Belgrade, Serbia

**Abstract:** Strengthening administrative capacities and development of a professional and efficient public administration is one of the European Union key requirements. Introducing a new human resource management system based on competences represents an essential element of a comprehensive public administration reform in the Republic of Serbia. The main objective of the paper is to review new public administration legislative framework introducing a modern human resource management. Consequently, the paper restricts itself to the following elements: personnel planning, recruitment and selection based on competences, performance appraisal, professional training, and mobility within public administration at central and local level. In addition, according to the novelties in laws and by-laws, competences are connected with all human resources management functions. Essentially, it will create the legal basis to support professional, efficient, effective and high quality public administration performance. All of these elements make public administration dynamic and more responsive to the needs of clients and society. Furthermore, in order to provide efficient implementation of new management instruments, significant efforts need to be invested in order to implement and sustain ambitious reform program.

**Keywords:** Serbian public administration, European standards, legislative framework, human resource management based on competences.

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<sup>2</sup> zorica.vr@kpu.edu.rs.

## INTRODUCTION

Over the past years, a lot of efforts have been done in order to reform Serbian public administration at all levels. The motivation for the public administration reform has emerged from a need to strengthen professionalism, accountability, transparency, coherency, efficiency and effectiveness. In addition to this, one of the key drivers for reform is the objective to meet the European Union accession requirements. Although the European Union legal system leaves autonomy to the member states regarding their institutional and administrative organization, preparation for membership gradually worked as a factor and incentive to shape and develop structures and institutions capable of meeting the obligation and needs of European Union membership (Painter, Peters, 2009). Bearing in mind that Serbia is a candidate country, it is also to accelerate European integration process and support efficient performance of administrative functions.

Inevitably, Serbian civil service regulation creates a legal basis which provides professional, efficient, and high quality civil service operation. The regulation, by itself, however is not the guarantee for successful civil service development – it has to be effectively and appropriately implemented. Furthermore, frequent changes of the regulations (or delays of legal provisions) cannot offer a solid ground for establishing professionalism and ensuring depoliticization. Practice has shown how difficult it is to introduce a professional senior management corps in an administrative environment where political shifts have strong influence to the appointments and dismissal of leadership positions (Lippert, Umbach, 2005).

In spite of all invested efforts, there are still significant challenges for the establishment of an efficient human resource management system. Professionalization and senior civil service de-politicization remain excessively complex issues, due to predominant political criteria for the appointment, promotion and dismissal of senior officials, as opposed to meritocratic criterion (Pierre, Peters, 2003). The future reform efforts need to be focused on strengthening the key elements of human resource functions and creation of strong linkages between them.

Introducing new human resource management practice in Serbian civil service is expected to be a challenge for managers and all employees. Main reform objective is to ensure political support and cooperation between political parties and interest groups in combating against political influence in order to develop professional civil service based on merit, adhering to the principles of legal predictability, continuity and stability of civil service (Peters, Pierre, 2004).

The Serbian Civil Service Act introduces new rules with respect to modern human resource management. Consequently, new job classification system and advanced pay system, personnel planning, competency based selection, evaluation of performance based on fair and determined criteria, promotion based on performance appraisal, professional training, shall enhance merit principle, depoliticization, accountability and efficiency. The paper emphasizes the importance of upgrading administrative capacities by developing appropriate and adequate

human resource management instruments which will exceed the gaps between formal rules and informal practice.

#### Key novelties of the Civil Service Act – formal rules vs. informal practice

Institutions of the European Union have done a lot of efforts in order to define standards and principles for public administration development. The idea of “European Administrative Space” was that, in spite of the differences of institutional configurations, a degree of convergence existed among member states at least at the level of general principles (Sahling, 2009).

The area of human resources management has been a subject of *acquis communautaire*, which represents “*soft acquis*“. It constitutes common standards of the EU member states, and influences indirectly the development of the national legislation (Keune, 2009: 52). Although they are not legally binding, these standards can have significant practical impacts on the countries seeking EU membership, as the European Commission uses them as benchmarks for assessing progress towards membership (Vukašinić Radojičić, Rabrenović, 2018: 184-200). In 2014, SIGMA prepared a new document entitled “*Principles of Public Administration*”, which sets out qualitative and quantitative indicators in six areas of public administration. These areas include: strategic framework for public administration reform, policy development and co-ordination, public service and human resource management, accountability, service delivery and public financial management, including public procurement and external audit. The Principles succeeded the previous SIGMA “baseline assessment” system (SIGMA, 1999), which reviewed the quality of civil service and public management systems based on a set of qualitative indicators, related to six core functions that public management systems are expected to fulfill (SIGMA, 2009).

The key area of the Principles which sets out the requirements in the area of civil service development is the section on public service and human resource management. The section includes seven principles which cover the following areas: the scope of public service; institutional set up for HR management; recruitment and selection of senior and other civil service personnel; remuneration; professional development; measures for promoting integrity. Each of the mentioned areas contains key principles and several sub-principles and assigned indicators to measure each of them.

In its 2017 Report on the Implementation of Principles of Public Administration, European Commission recommended that the Serbian Civil Servants Act should be revised in order to ensure a depoliticised public administration and a stronger merit-based human resource management (SIGMA, 2017). Similarly, in an earlier Report, while acknowledging Serbia’s progress in the public administration reform, European Commission advised the revision of the Civil Servants Act to ensure the application of the principles of merit. In the context of the public administration reform in the Republic of Serbia, professionalization and senior civil service de-politicization remain excessively complex issues, due to predominant political criteria for the appointment, promotion and dismissal of

senior officials, as opposed to meritocratic criterion. The trend of growing politicization is continuing. Depoliticization has been highlighted as one of the main principles of the human resource management in the PAR Strategy from 2014 and identified as one of the main problems in the public administration reform in the EU accession process.

Although the existing legal framework of Serbia does initially presume these principles, the 'delay' in depoliticization seems to be influenced by several factors, some of which include: non-application of legal rules, or absence of legal sanctions for not complying with them, frequent revisions of the provisions relating to the recruitment for and dismissal from the appointed positions and to the appointment to the senior-level positions in the civil service, and generally, failure to recognise this issue as essential for ensuring professional and politically neutral work and the importance of continuity of the public administration. When assessing the progress achieved, SIGMA starts from the key standard concerned with ensuring professionalism through the application of good standards and practices of human resource management which involves the recruitment based on merit and equal treatment in all phases of the procedure, and clearly established criteria for advancement and termination of employment (SIGMA, 2017).

According to SIGMA Report for 2017, the implementation of predefined principles of good governance was low, and, because of the lack of performance indicators, it was impossible to evaluate the level of achievement of the set strategic objectives (SIGMA, 2017). A methodological approach used to assess compliance with the set standards include both qualitative and quantitative methods – the analysis of quantitative indicators that verify to what extent the law is implemented in practice and the predefined principles fulfilled. Considering the specific characteristics of the public administration and the impossibility to verify all its elements based on quantitative indicators, it seems possible to make even the compliance assessment methods significantly simplified. The insisting by the European Commission to carry out the quantitative analysis of the performance of public administration does not always give an actual, objective and reliable picture of 'non-implemented' activities, bearing in mind the immanent political and legal characteristics of the national system (Vukašinović Radojičić, 2018: 245-259).

In following the EU guidelines on the needs for the development of the civil service system, and the adopted strategic acts of the Serbian Government, the Public Administration Reform Council adopted a document *Policy Framework for Human Resource Management in the Public Administration of the Republic of Serbia*, which gives recommendations for the creation of HRM, staff retention and motivation strengthening policies. The primary goal defined under the *Policy Framework for Human Resource Management in the Public Administration of the Republic of Serbia* is the established comprehensive approach to competency-based human resource management – from human resource planning, selec-

tion and recruitment, introduction to job duties, performance management, employee development, to their leaving from the organisation.

European Commission often notes the fragmented application of rules with respect to selection and recruitment in the civil service of Serbia. As pointed out in the *Policy Framework*, to one third of all civil servants – employees in the Customs Administration, Tax Administration, Administration for Execution of Criminal Sanctions, security services – general rules in this respect do not apply, which causes a ‘concern.’ Given the specific nature of jobs in these particular sections of the civil service, their organisation, work objectives, working methods and management, a question arises whether it is necessary to insist that the general framework for recruitment and selection should consistently apply to servants whose position is regulated by special regulations. Professionalism is, indeed, a *differentia specifica* of all civil servants; however, their distinct position depends on the authorities and organisations in which they work (Pusić, 1973:176). It seems that the Commission’s requirement for the ‘extension of the scope of the civil service system’ is roughly defined, without due regard to the specific nature of jobs and work objectives in certain sections of the civil service and in public authorities.

In keeping with SIGMA’s key recommendation noting that the recruitment process is complex and that the competition procedure should be simplified and each phase of the selection clearly defined in order to improve the efficiency of the process, the amendments to the Act proceed from the assumption that procedure for the selection on the basis of internal and external competitions is simple, and the system for candidate evaluation clearly established. The amendments include: anonymous competition procedure, where applicants are assigned codenames during the submission of applications, to ensure anonymity before the selection commission; introduction of mandatory phases of the selection process which should enable shortlisting of high quality candidates; simplification of certain bureaucratic formalities that burden the competition procedure; introduction of a uniform application form for all public authorities which will contain all the essential and relevant data that the applicant must provide. Additionally, the selection process accelerates the collection of documents proving the fulfilment of appropriate admission requirements, contained in the official records of public authorities. The aim is for the Committee to conduct and conclude the selection procedure for appointed civil service positions in the shortest possible time. This rule is an asset towards further depoliticization, ensuring continuity and prevention of any direct or indirect political influence on managers.

With respect to filling vacant appointments, there is a legal obligation to undertake internal or public (external) recruitment competitions, following the clearly defined eligibility conditions, which is in line with the modern practice of fair and transparent appointment. The conditions that are of explicit concern: holding of a university qualification, a minimum professional experience of nine years in the field of expertise and a passed civil servant exam.

The fact that the provisions on filling vacant appointed positions have undergone numerous revisions since 2007 also confirms this point. Preventing the competency-based selection and dismissal of senior civil servants undermines the principles of professionalism and continuity in the work of the administration. That there are a large number of appointees in these positions serving in an 'acting' capacity is pointed out in the reports by the Human Resource Management Department and by the European Commission, frequently noting a large percentage of acting appointments in the civil service. The Commission assesses it as necessary to make provisions to regulate the status of acting civil service appointees and to implement these provisions. Since more than 70% of the civil servants in appointed positions have not been appointed according to formal criteria, the Civil Servants Act explicitly states the duration of the 'acting' appointment. Until the appointed position is formally filled, one or more civil servants can be selected and appointed on an acting basis, for a period of no longer than six months without running internal or public competitions, provided that they fulfil the relevant eligibility conditions. The aim is for the Committee to conduct and conclude the selection procedure for appointed civil service positions in the shortest possible time. This rule is an asset towards further depoliticization, ensuring continuity and prevention of any direct or indirect political influence on managers.

The European Commission assesses that heads of public authorities still have excessive discretion when choosing candidates from the list. Also, the decision issued by the president of the Selection Committee should contain reasons for deciding a candidate as (un)fit and the evaluation of candidate's performance during the selection process. Although heads of institutions have no obligation to propose a candidate from the list, they must communicate the reasons for deciding a candidate as unfit to the High Civil Service Council and the Human Resource Management Service. An appeal against the Government's decision on the appointment is not allowed; however, the candidate has a right to initiate the administrative proceedings.

In further connection with the selection process, on the basis of evaluation of candidates' performance in the selection process, the Selection Committee prepares a list of candidates eligible for the appointment and submits it to the institution head. Within 15 days from the receipt of the list, the institution head must hire the candidate who performs best in relation to the set criteria. This provision is a novelty in two respects: it terminates the possibility of discretionary decision making by institution heads when selecting the best-fitted candidate, and secondly, it ensures fairness of the process. Moreover, to ensure impartiality and transparency of the competition procedure, as recommended by the European Commission, the Act provides for the list of candidates to be published on the websites of the public authority making the announcement and the Human Resource Management Service, anonymously, using the codenames assigned during the application phase, along with the full name of the selected candidate.



Formation of the selection committees and well-functioning staff selection methods should ensure adherence to the merit principle in the staff recruitment, whether from inside or outside the civil service. In its Report, the European Commission further noted that the criteria for the selection of members of the selection committees must also be clearly defined. In view of the weak capacities of the selection committees, special importance is accorded to their composition, and the requirement for their members to act in an impartial and politically neutral manner and to possess relevant knowledge, competencies and experience in particular fields. The Civil Servants Act thus provides for the introduction of regular professional training for members of the selection committees.

SIGMA's requirement with respect to professionalism assumes that conditions for the termination of employment are also explicit. Towards specifying the grounds for dismissal and ensuring lawfulness, fairness and accountability in the work of a manager in the civil service, the law introduces one more ground for dismissal – namely, if during his/her mandate serious disruptions occur in the work of the body he/she manages, as a consequence of his/her accountability for failing to achieve the strategic plans and goals. The Act provides that a civil servant will be dismissed from the appointed position if he/she receives a rating 'needs improvement' upon an annual or a special performance appraisal or if his/her employment terminates for other reasons, that is, for failure to meet the expectation. If it is found, during the monitoring of his/her work, that a civil servant in an appointed position does not produce the desired outcomes, the head of the institution must notify those shortcomings to the civil servant, with a time limit of three months for improvement, on which expiry the civil servant undergoes reassessment.

Taking into account the Human Resource Management Strategy, the Act envisages the introduction and integration of competencies in all functions of human resource management. The processes of human resource management in public authorities are based on competencies necessary for the effective performance of functions of the public authority. The importance of enhancing the system for human resource management in the public administration of Serbia was recognised in the European Commission's annual Monitoring Report for 2006.

The application of the modern concept of human resource management based on competencies strengthens professionalism, work transparency, employees' personal responsibility, motivation and retention of highly-skilled staff in the civil service. The Decree more closely defines the term competencies by referring to it as a set of knowledge, skills, personal attributes, attitudes and abilities of the civil servant that shape his/her behaviour and lead to the expected performance at work. It distinguishes between behavioural and functional competencies that are required to carry out job-specific duties. While behavioural competencies refer to a set of behaviours essential to effective performance at work, functional competencies refer to a set of knowledge and skills essential to successful performance.

An aspect of crucial importance for the admission of highly competent staff is the competency assessment in the selection phase of the recruitment process. The Act provides that the selection of a candidate is based on professional qualifications, knowledge and skills and made on the basis of competencies. Candidate selection assumes clear definition of the assessment criteria and training for members of the selection committees, who must know how to identify competencies essential for particular jobs, how to test them and how to evaluate specific competencies. Further, professional assistance in the procedure for the verification of competencies during the internal and public competitions and in analysing individual development potentials of civil servants will be provided by the Human Resources Management Service of the Government of Serbia. Additionally, job systematisation acts will determine special requirements relating to competencies that are necessary to perform the job. The heads of public authorities have a duty to send civil servants from staff management units to training programmes where they will acquire and enhance knowledge and skills necessary for verifying candidate competencies in the selection procedure.

The Act introduces a new system of assessment which it refers to as 'performance appraisal'. Although the existing Act's solutions are compatible with European systems, in practice, the existing performance assessment system proved to have many deficiencies. The major ones are: failure to achieve the main goal and purpose of the performance assessment system for public administration; limited opportunities for the advancement of civil servants; inadequate linkage with professional training/development of civil servants; inappropriate rewarding-performance policy; a complicated and bureaucratic assessment procedure representing a burden for managers; organisational culture and 'spite avoidance' policy – since its introduction, around 85% of the civil servants have received the two highest ratings ('distinction' and 'exceptional distinction'); existing rating scale; poor target setting model; lack of connection between individual objectives and strategic/organisational targets; lack of management knowledge and skills; infrequent training for managers.

The results of performance appraisals serve as a means for identifying training needs and their planning, planning of personal and professional development and training, removing shortcomings in the work, and deciding on advancement and reassignment, transfer, reward allocation and termination of employment. The appraisal is based on performance criteria, which include behavioural competencies and work results of the organisational unit in which a civil servant performs his job duties. The level of functional competencies serves to identify the needs for knowledge and skills improvement, or for professional training. The advancement of the civil servant depends on his/her performance, the evaluation of which aims to ensure the achievement of all organisational goals of a public authority and the desired work behaviour.

Current performance rating scale is undergoing changes, which will be reflected in the amendments as four options: 'failed to meet most of the expectations',



‘needs improvement’, ‘meets expectations’ and ‘exceeds expectations’. The rating must be accompanied by an explanation stating the concrete examples of actual work behaviour, and the evaluators must attend a newly-introduced mandatory training for effective performance appraisal. The Government will take steps to bring relevant regulations in line with new legal provisions. The alignment of new rules with the Public Sector Salary System Act is necessary.

Since performance appraisal and promotion are still often based on arbitrary decisions, in order to strengthen the process of setting individual work objectives, it would be necessary to develop organizational performance management framework, which would set out clear organizational objectives. In this way, a civil servant would be able to recognize his/her influence and role in achieving of the institutional and overall Government’s objectives.

Further, the Act introduces new rules with respect to civil service staff retention policy. While the Human Resources Management Service will determine the methodology to be used to monitor the state of play regarding staff drain and the effects of the drain on the functioning of public authorities, and propose measures for staff retention and prevention of drain impacts, the Government will, upon these analyses, determine the following legal measures – professional training obligation, obligation to transfer professional knowledge, increased recruitment of trainees, transfer, right to a correction coefficient, and other. To facilitate the efficient fluctuation and mobility of staff within the public administration and units of local self-government, the internal labour market is more closely regulated and thus conditions created for the efficient functioning of the Central Staff Register.

## CONCLUSION

Bearing in mind that the European Union accession is a strategic goal of Serbia, one of the fundamental requirements is to strengthen administrative capacities and accelerate approaching European Union. Inevitably, Serbia has made an important progress in developing civil service legislation in alignment with the EU requirements. The new Civil Service Act introduces a comprehensive approach to competency-based human resource management – from human resource planning, selection and recruitment, introduction to job duties, performance management, employee development, to their leaving from the organisation.

Competencies should be interlinked with all human resources management processes - human resources planning, job analysis, recruitment and selection, transfer and mobility, performance appraisal and reward system, personal and career development. In order to effectively implement the new framework, there will also be a need for intensive civil servants training, especially of high level managerial staff. In addition to this, it would be important to ensure that the central institutions responsible for the human resources management in the civil service get recognized as useful partners of civil servants and attempt to attract broader inside and outside support for their future development. The capacity of

the newly established Training Academy and its ability to demonstrate its contribution to professional development of civil servants will be very important in this respect.

However, to make the introduction of competencies in the public administration of Serbia meaningful, it is necessary to continually increase awareness and capacities of all key institutional factors, and particularly managerial civil servants. One major factor in the reform of any part of the public administration, and particularly the human resources, are good managers. If they encourage changes, changes proceed swiftly; if they hold them back, nothing will ever change. Therefore, it is crucial that managers recognise the importance of good and professional human resource management practice, and cherish and promote it. If managers have good management skills and pay sufficient attention to employee motivation and development, the organisation also develops - good results are achieved, job satisfaction increases, as well as the quality of services provided to citizens, and therefore the integrity and resistance to any form of corruption in the public sector.

The aim of the newly established system of performance appraisal is to ensure the achievement of organisational goals of public authorities and the desired work behaviour and work values of civil servants. Furthermore, a stronger linkage should also be made between performance appraisal and training, by using performance appraisal results as a key source of training needs assessment. In addition to this, it is very important to invest efforts in strengthening the fairness and effectiveness of the promotion system. To the extent that the promotion process is perceived as too slow, too inflexible, or based on factors other than merit, the most-talented and ambitious civil servants will most likely find alternative employment.

After taking into account European standards and practice, we should be primarily aware of national legal and political environment and administrative tradition and consider its relevance. Absorbing changes and upgrading administrative capacities take a lot of efforts and time. Let us hope the changes will fit with the realities of our region and our tradition.

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