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**PUBLIC ADMINISTRATION
ACROSS EUROPE –
STRUCTURE AND
TOP CIVIL SERVANTS**

Edited by Iztok Rakar



University of Ljubljana
Faculty of *Public Administration*

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STRUCTURE AND TOP CIVIL SERVANTS

A Technical Report

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PUBLIC ADMINISTRATION ACROSS EUROPE

STRUCTURE AND TOP CIVIL SERVANTS

A Technical Report

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FOREWORD

This publication is the result of ongoing research of public administration started within the EU-funded project “Support to Comprehensive Reform of Public Administration in Ukraine (ID No. EuropeAid/138732/DH/SER/UA),” coordinated by the Corporate & Public Management Consulting Group SIA (Estonia).

This report covers seven European countries:

1. Five EU-members (**Czechia, France, Latvia, Netherlands, and Slovenia**) and
2. Two non-members (**North Macedonia and Montenegro**).

The topics covered are:

1. Ministries;
2. Agencies;
3. Organisational separation of policy-making and policy implementation;
4. Territorial branches/units of central government;
5. Political positions in executive branch;
6. Top management in civil service;
7. Relations between politicians and top civil servants, and
8. Responsibility for civil service and HRM in public administration.

Country reports are prepared by top experts in the field and offer clear, understandable, and up-to date information on both legal regulation and practice of public administration systems.

Dr. Iztok Rakar

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📅 April 2020

1. Ministries

As of January 2020, the following ministries exist in the government setup of Czechia:

- Ministry of Foreign Affairs
- Ministry of Defence
- Ministry of the Interior
- Ministry of Justice
- Ministry of Labour and Social Affairs
- Ministry of Transport
- Ministry of Agriculture
- Ministry of Education, Youth, and Sport
- Ministry for Regional Development
- Ministry of the Environment
- Ministry of Culture
- Ministry of Health
- Ministry of Finance
- Ministry of Industry and Trade

In the past, some specific positions of ministers were seated under the Office of the Government. For instance, this was the case of the Deputy Prime Minister for the Science, Research, and Innovation; the Chairman of the Research, Development, and Innovation Council; the Minister of the Czech Republic's Government

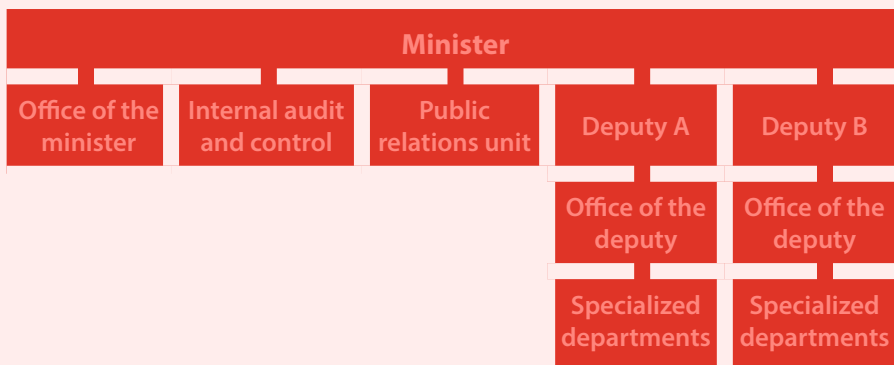
for Human Rights, Equal Opportunities, and Legislation; and the Chairman of the Government Legislative Council.

Individual ministries and their role are defined by the “act on responsibilities” (act no 2/1969¹). This act specifies the general responsibilities of the 14 ministries and some other central authorities. Changes of this Act can only be approved by the Parliament. The government can establish a specific ministry that is then seated under the Office of the Government (examples are listed in the above text).

Ministries are not perceived as separate legal personalities in Czech legislation. The State is the only legal entity and they act as its bodies. This is specified in various acts, including the Act 219/2000 on disposals with a property of the Czech Republic and acting in legal relationships.

A typical organigram of a ministry can be depicted by the following Figure:

Figure 1: Organisational structure of a typical ministry in Czechia



Ministries have usually the following internal structure: Units directly subordinated to a minister (cabinet, office, internal and inspection unit, press, and PR department). The position of secretaries is recognised by law and may be established at ministries and the Office of the Government. These state secretaries are equal to the deputies appointed for heading specialised sections. They are supposed to serve as state service managers within their sections, and also for organisations subordinated to ministries. Secretaries shall manage activities related to the organisational aspects of civil service, the management of service relations, remuneration of civil servants, and the head of the service authority subordinated to the ministry. The Act on State Service also anticipates that in case of issues related to changes in the service relations and termination of civil service employment contract, secretaries shall proceed upon consultation with a

¹ Available at (only in Czech): <https://www.zakonyprolidi.cz/cs/1969-2>.

relevant Minister or the Head of the Office of the Government. This may impact the level of politicisation of central authorities.

Specialised sections headed by Deputy Ministers, subdivided into departments or offices (usually sections responsible for financial affairs, EU funding, security department, and a section of the state secretary exist next to other sections within the structure of ministries. The structure is not harmonised across individual ministries.

The majority of the ministries can be abolished only by changes to the legislation approved by Parliament. So, their establishment, dissolution, or merges are not very easy to achieve. In practice, a kind of merging of ministries can be performed by the Government – for instance, if one minister is assigned to head two ministries (although this is usually perceived only as a temporary solution). In this situation, both the ministries are separated organisations headed by only one minister. Some ministries have been established by the Government, and their offices became parts of the Office of the Government as outlined above.

2. Agencies

There is no universally accepted definition of an agency. Also, neither the Czech language nor the legislation work with a precise definition of ‘agency.’

The literature differentiates the following characteristics of an agency (Špaček and Nemeč, 2017a):

- It is structurally differentiated from other organisations
- It has some capacity for autonomous decision-making
- There is some expectation of continuity over time
- Performs some public function
- Has some personnel and
- Some financial resources
- It is created by the government, funded for a major part by the government, or under administrative scrutiny by the government)

Taking into account these characteristics, we can differentiate the main categories of agencies that exist in the Czech Republic, as outlined in the following **Table 1** (some may also argue that public universities can have similar characteristics) (Špaček and Nemeč, 2017a):

Table 1: Main agencies in Czechia

Administrative offices with nationwide competence directly controlled by the government and listed in the Act on responsibilities of ministries and other central authorities (Act no. 2/1969) (excluding the Office of the Government)

Czech Statistical Office

State Administration of Land Surveying and Cadastre

The State Mining Administration

Industrial Property Office

The Office for the Protection of Competition

Administration of State Material Reserves

State Office for Nuclear Safety

National Security Office

Energy Regulatory Office

Czech Telecommunication Office

The Office for Personal Data Protection

Council for Radio and Television Broadcasting

The Office for Supervision of Economy of Political Parties and Movements (established recently)

The Office for Access to Transport Infrastructure (established recently)

Organisations that are to some extent still subordinated to individual ministries (and usually subjected to the State Civil Service Act)

Czech Trade Inspection

Czech Environmental Inspectorate

Financial Analytical Authority

General Financial Directorate

Financial Administration Bodies:

Appellate Financial Directorate

Specialised Tax Office

Czech Social Security Administration

The Office for Defence Standardisation, Catalogisation, and State Quality Inspection (Úřad pro obrannou standardizaci, katalogizaci a státní ověřování jakosti)

State Office for Labour Inspection

The Office for International Legal Protection of Children

Centre for Regional Development

Czech Proof House for Arms and Ammunition

State Energetic Inspection

Assay Office

Czech Office for Standards, Metrology, and Testing

Agency for Entrepreneurship and Innovation (API)

Czech School Inspectorate

National Archives

National Registers Authority

The National Institute of Public Health

State Institute for Drug Control

Czech Breeding Inspectorate

State Veterinary Administration

Czech Agriculture and Food Inspection Authority

Central Institute for Supervising and Testing in Agriculture

State Land Settlement Office

The State Agricultural Intervention Fund

Institute for State Control of Veterinary Biologicals and Medicines

Nature Conservation Agency of the Czech Republic

The State Environmental Fund of the Czech Republic

Security Services Archive

Other organisations structurally differentiated from central authorities

Hard to calculate them – ministries can have from 10 to 60 of such organisations (they have various legal forms, including partially budget-funded organisations)

The level of autonomy of agencies differs across individual types of agencies enumerated above and can be summarised as follows:

The first type of agency – administrative offices with nationwide competence listed in the Act on responsibilities of ministries and other central authorities are directly controlled by the government. They also usually have their own chapter in the State budget.

Organisations that are to some extent still subordinated to individual ministries have their own heads with some accountability links to ministries that should control them and evaluate their activities. Their budgets are usually approved by the ministries and legal status of their employees is usually subjected to the act on state civil service (Act no. 234/2014).

The last type of agencies existing within structures of central government departments is represented by organisations structurally differentiated from central authorities. Usually these organisations are established by ministries who regulate and coordinate their legal status. This type can be represented by some healthcare institutions, cultural institutions, etc.

In the case of some types of agencies, it is hard to calculate their number precisely. Some (e.g. Špaček, 2016) speak about 600 to 700 individual agencies that are somehow subjected (in terms of management, coordination, and/or regulation) to the central governmental institutions (ministries and other central authorities). The agencies from the first two groups enumerated above – administrative offices with nationwide competences directly controlled by the government and listed in the Act on the Establishment of Ministries and Other Central Authorities and their territorial branches, and also organisations that are to some extent still subordinated to individual ministries (and usually subjected to the State civil service act).

Some of the agencies are separate entities of public law, usually those that have the status of partially budget-funded organisations or that are perceived as independent public law entities, e.g. some secondary or higher education institutions, museums, or healthcare institutions. These agencies are particularly represented by [Table 3](#) agencies outlined in the above table – i.e., other organisations structurally differentiated from central authorities.

3. Organisational separation of policy-making and policy implementation

Policy-making and policy-implementation is not strictly carried out by ministries. They are the main central policy-making institutions that are also responsible for policy implementation. Their activities should comply with a policy of the national Government of the day, as well as with legislation and other regulations

approved earlier (by the Parliament or the previous government). Some specifics can be found in areas related to funding from the EU where a policy-maker is not always a policy-implementer.

In Czechia, in general, ministries perform policy-making as well as policy implementation functions. Their policy implementation functions relate to inspection, regulation of their field, coordination of their organisations, etc. Issuing of licenses is usually deconcentrated to lower state administration tiers, especially to certain categories of municipalities or regions. In these cases, ministries serve as the upper level in the administrative procedure hierarchy.

It cannot be said that core ministries perform only policy-making, and that agencies perform only policy implementation functions. This separation can be seen in some areas and is more the case of ministries which have the mentioned deconcentrates within their structure: e.g. the Ministry of Finance is responsible mainly for policy-making and proposals of legislation, while tax and custom authorities are responsible for policy implementation and control). Separation of policy-making and policy implementation can also be seen in areas for which Type 2 agencies exist. In contrast, there are ministries without deconcentrates – for instance, the Ministry for Regional Development – that are responsible for policy-making, as well as for the policy implementation.

State-owned enterprises are usually subjected to control by ministries, even though they are not usually managed by them.

4. Territorial branches/units of central government

Territorial branches of the central government usually exist as branches of some types of agencies specified in the above text (especially those from the group Type 2 from the above table). They are especially represented by branches of organisations that are to some extent still subordinated to individual ministries (and usually subjected to the State Civil Service Act).

Some administrative offices with nationwide competences that are directly controlled by the government and listed in the Act on Responsibilities of Ministries and Other Central Authorities can also have territorial branches. For instance, this is the situation for the Czech Statistical Office.

They are usually organised on the regional level (their branches mostly exist in 13 regions and Prague) and also take into account territories of 77 districts that were established in the past for the execution of state administration on the territorial level. Their number cannot be calculated exactly, as already emphasized above. Data on systemization of positions in the state civil service that are currently

available (systemization for the year 2018 – Ministerstvo vnitra, 2017) speak about 200 organisations that represent the Type 1 and Type 2 agencies from the above table.

Territorial branches of central government are not usually horizontally integrated, and exist within vertical structures of individual ministries or central agencies.

The appointment of heads of individual territorial branches of the central government is usually subjected to the State Civil Service Act that defines recruitment procedures. This means that they are perceived as civil servants in Czech legislation. Appointments are usually approved by heads of central government institutions.

Some coordination mechanisms are specified by legislation – this is, for instance, the case of commenting on bills prepared by central institutions. The local government is represented by more than 6,200 municipalities and 13+1 (Prague) regions. The local government does not only execute self-governmental responsibilities, but also state administration functions. The larger share of state administration has been transferred to certain categories of municipalities and regions that are subjected to organisations that exist in higher hierarchical tiers (municipalities can be subjected to regions or central authorities in the cases of some administrative procedures, etc.). The central level has attempted to standardize some types of activities of municipalities (some aspects of their financial, HR, or e-gov management, accounting, etc.). Other administrative tiers are usually responsible for methodical help to lower tier institutions (e.g. regions are required to provide municipalities with methodical help, this is done in the case of new legislation and changes in legislation). Some ministries are responsible for coordination in specific areas (for instance, the Ministry for Regional Development is responsible for coordination of public procurement, including e-procurement; the Ministry of Finance for accounting, etc.). Also, funding from the EU and other external sources represents another area that is more coordinated. Individual ministries can have their own coordination tools that may be rather informal – e.g. regular meetings with representatives (e.g. mayors)/civil servants, advisory bodies, quality management competition, organisation of conferences, etc. Web-pages of individual central authorities may also be used for coordination, etc.

5. Political positions in the executive branch

Currently, there are 14 ministries as mentioned in the above text. Due to problems in political coalitions, in the past two ministries could be led by one person – this was, for instance, the case of the Minister of the Interior (Jan Hamáček)

who is also the Minister for Foreign Affairs. However, in principle, each ministry is headed by only one minister in a standard situation.

Ministers are the principals in the ministries. He/She is responsible to the Prime Minister and the Government. The responsibilities of ministers are not specified. Individual deputies are responsible to him/her.

Political positions that exist in the executive branch of central government are only represented by deputies in Czechia, but only by some deputies. In particular, the position of the so-called ‘political deputy ministers’ (deputies of a member of the government, “*náměstek člena vlády*” in Czech) represent other political positions that exist in the executive branch of the central government in Czechia.

The political deputy ministers exist next to the so-called ‘expert deputy ministers’ (“deputies for management of a section,” “*náměstek pro řízení sekce*” in Czech). They are considered as senior civil servants in ministries. If a minister decides, his/her expert deputy minister can also deputize him during meetings of commissions and boards of the Parliament.

These two types of deputy ministers have been differentiated and specified by the Act on State Civil Service - Act no. 234/2014. The status of political deputies is specified in its section 173 that anticipates that these deputies are appointed by members of the government. It also has been stipulated that a member of the government can appoint a maximum of two of these political deputies. They deputize a minister during meetings of commissions and boards of the Parliament.

The role of state secretaries (or “secretaries general” – expression from the English translation of the State Civil Service Act) is a bit different. They are established in ministries and the Office of the Government. They are not political appointees, as the deputies and their status is defined in the section 15 of the State Civil Service Act as follows:

Article 15 Secretary-General

- (1) The service post of a Secretary-General shall be established at ministries and at the Office of the Government. The Secretary-General shall be in the position of a Deputy Minister for Management of the Section.
- (2) The Secretary-General shall manage activities related to the organisational aspects of civil service, management of service relations, remuneration of civil servants, and the head of the service authority subordinated to the Ministry.
- (3) The Secretary-General shall also be responsible for tasks relating to standard labour law employment of employees of a public authority.

- (4) In issues related to changes in the service relations pursuant to Article 44 (f) and (g) and termination of civil service employment contract, the Secretary-General shall proceed upon consultation with a relevant Minister or the Head of the Office of the Government.
- (5) Decisions on aspects, in respect of which, pursuant to this Act, there are no service-related proceedings, with the exception of aspects under Article 159 (2) (j), may be delegated by the Secretary-General, by ways of a Service instruction, to senior civil servants.

The number of ministerial deputies that are now established at individual ministries is summarised in the table below (the total number of deputies is stated together with the number of political deputies).

Table 2: Number of Minister Deputies in Czechia

Ministry	Number of Deputies (as at 20.08.2018) (number of political deputies - PDs)	Webpages dedicated to deputies
1. Ministry of Foreign Affairs	7 (inc. 2 PDs)	https://www.mzv.cz/jnp/cz/o_ministerstvu/organizacni_struktura/vedeni_ministerstva/index.html
2. Ministry of Defence	6 (0 PDs)	http://www.mocr.army.cz/ministr-a-ministerstvo/vedeni/default.htm
3. Ministry of the Interior	5 (inc. 1 PD) + the Deputy minister for the State civil service	http://www.mvcr.cz/clanek/vedeni-ministerstva-260932.aspx
4. Ministry of Justice	5 (inc. 1 PD)	http://portal.justice.cz/Justice2/ms/ms.aspx?j=33&o=23&k=5841&d=7979
5. Ministry of Labour and Social Affairs	2 PDs	https://www.mpsv.cz/cs/1856
6. Ministry of Transport	4 (most probably 0 PDs)	https://www.mdcr.cz/Ministerstvo
7. Ministry of Agriculture	5 (inc. 1 PD)	http://eagri.cz/public/web/mze/ministerstvo-zemedelstvi/ministr/namestci-ministra/
8. Ministry of Education, Youth and Sport	6 (0 PDs)	http://www.msmt.cz/ministerstvo/vedeni-uradu
9. Ministry for Regional Development	7 (inc. 1 PD)	http://www.mmr.cz/cs/Kontakty/Kontakty-na-vedeni-ministerstva

10. Ministry of the Environment	5 (0 PDs)	https://www.mzp.cz/cz/vedeni_ministerstva
11. Ministry of Culture	4 (0 PDs)	https://www.mkcr.cz/organizacni-struktura-74.html
12. Ministry of Health	4 (inc. 2 PDs)	https://www.mzcr.cz/dokumenty/vedeni-ministerstva_14646_841_1.html
13. Ministry of Finance	6 (inc. 1 PD)	https://www.mfcr.cz/cs/o-ministerstvu/zakladni-informace/organizacni-struktura
14. Ministry of Industry and Trade	4 (most probably 0 PDs)	https://www.mpo.cz/cz/rozcestnik/ministerstvo/o-ministerstvu/vedouci-pracovnici/

Source: The Author, based on information on websites of the ministries.

6. Top management in civil service

There is no special section dedicated to senior civil service in the Act on State Civil Service (Act no. 234/2014). One must search for special provisions, for instance, dedicated to the appointment or education of civil servants, to find specifics of their legal position.

Top management of the civil service is represented by the Deputy of the Minister for the Interior for the State Civil Service and the so-called ‘chief’ (“*představený*” in Czech). Their status is defined in the section 9 of the State Civil Service Act as follows:

Article 9

Senior Civil Servant

- (1) A senior civil servant shall be understood to be a civil servant empowered to manage subordinated civil servants, to assign them their service tasks and to organise, manage, and supervise their performance and to issue instructions in such respect. A natural person empowered to give orders to a civil servant to perform civil services may be, under the conditions stipulated hereby, also considered a senior civil servant; a senior civil servant may also be a member of a law enforcement body or professional military corps.
- (2) Service positions of senior civil servants at ministries or the Office of the Government and their service ranks are as follows:
 - a) Deputy Minister for Management of a Section,
 - b) Director of a Department,

- c) Head of a Unit.
 - (3) Service positions of senior civil servants at other public authorities and their service ranks are as follows:
 - a) Head of a Service Authority,
 - b) Director of a Section,
 - c) Director of a Department,
 - d) Head of a Unit.
 - (4) A Head of a diplomatic mission shall also be considered as a senior civil servant.
 - (5) The Head of the service authority shall be the person who, pursuant to a special Act, chairs and manages this public authority regardless of whether they are a civil servant or not.
 - (6) Education required for a senior civil servant shall be based on the most demanding activity they manage or perform.
 - (7) The senior civil servant shall decide for, from their directly subordinated senior civil servants, one senior civil servant, who will become their Deputy. Should the senior civil servant have no directly subordinated senior civil servants or should they be in a position of a Deputy Minister for Management of a Section, Director of a Department at a Ministry or the Office of the Government, they shall appoint one of their subordinated civil servants to become their Deputy. Such appointed civil servant shall substitute for their supervisor and cover the full scope of their activities; in doing so, they will be considered senior civil servants.
 - (8) A relevant Minister may authorise his/her Deputy for Management of Section to attend, as a substitute for the Minister, Government meetings and to represent such Minister at meetings of the Chamber of Deputies' committees or commissions, including the Investigation Commission, unless specifically required that the Minister be present, or at meetings of committees or commissions of the Senate.
-

Top-level positions can be linked to positions referred to as '*představený*' (as defined in paragraphs 2 and 3 of the article 9 of the Act no. 234/2014 on State Civil Service. In practice they are represented by expert deputy ministers (as outlined above) and directors of department or heads of units that are usually directly subjected to expert deputy ministers. Individual agencies have their individual directors or heads.

The State Civil Service is coordinated by a special deputy – Deputy of the Minister of the Interior for the State Civil Service. There is no top of the pyramid civil servant in ministries. Top of the pyramid civil servants of individual ministries are usually represented by the deputies, with some role of the state secretary –

such a position is also established within individual ministries (as already outlined above).

There are no special arrangements on the training of top managers in civil service. There is only a general provision in the Framework of Rules for Education of State Civil Servants (article 17 of this Decree of the Deputy of the Minister of the Interior for the State civil service no. 9/2015) anticipating that senior civil servants (*‘představených’*) should pass entrance training and following training in general managerial competences – e.g. rules and tools for HRM in the state civil service, team work competences, decisive competences, competences for definition of problems, interpersonal competences, training in strategic and process management, etc.

7. Relations between politicians and top civil servants

In general, selection of top managers of ministries and agencies should be based on a recruitment procedure as specified by the State Civil Service Act. A commission that is appointed for selection of applicants select more appropriate candidates (usually 3), but the final selection of a candidate is decided by the called Appointing authority (*‘Služební organ’*) that is entitled to decision-making related to the civil service employment. If we look at its definition provided in the Article 10 of the Act (see below), some political discretion is allowed.

Political discretion can be allowed when deciding on recruitment on higher positions – selection of expert deputies and heads of departments/sections is decided by ministers or political appointees. Responsibilities of the Appointing authority are defined by the section 10 of the Act on the State Civil Service as follows:

Article 10 Appointing Authority

- (1) The following entities shall be understood to be an appointing authority:
 - a) The Government or the Minister of the Interior empowered by the Government with respect to the Director- General for the Civil Service,
 - b) The Government or an authorised Minister with respect to the head of the service authority which is a central government authority,
 - c) the Director-General for the Civil Service with respect to the head of the service authority not being supervised by a super-

- vising service authority, the Secretary-General and the Director of Human Resources of the Civil Service Section,
 - d) The head of the service authority or the Secretary-General with respect to the head of the subordinated service authority,
 - e) The Director of Human Resources of the Civil Service Section with respect to civil servants assigned to the Civil Service Section, and
 - f) The Head of the service authority or the Secretary-General with respect to other civil servants.
- (2) The appointing authority shall act and make decisions in aspects related to the civil service employment.
-

In March 2018 the Government approved amendments to the Act (registered as 64/18 with regards to the Government resolution no. 166). The amendments further specify a duty of state civil servants to pass an exam after being recruited for a fixed term (successful passing of the exam is a precondition for employment with an indefinite duration). The amendments also clearly aim at making recruitment procedures more flexible. For some positions in the State civil service, the amendments also simplify a recruitment procedure for recruitment from internal sources and for situations when a candidate is not selected during the first round. Also, requirements on past experiences are slightly softened by the amendments. Most probably based on the evaluation of existing practices outlined above, the amendments also specify the process of performance appraisal more and slightly change its focus.

Top managers in ministries and agencies can be changed after a change of government, and there are various ways related to systemisation, organisational changes, and results of the performance appraisal.

In principle, the changes should not be automatic, but more flexible changes can be made particularly in positions of political deputies.

Reasons for dismissals of top managers in ministries are specified in section 60 of the State Civil Service Act. In principle those who decided on the selection of a top manager also decide on his/her dismissal. Reasons for dismissal can be related to organisational changes in the structure of ministries (his/her post has been abolished, inc. abolishment based on results of systemisation), results of their performance appraisal, their health situation, non-eligibility to work with classified information, or their placement into custody.

The amendments made to the State Civil Service Act in March 2018 specify additional reasons that may lead to recalling a civil servant from the service post of a senior civil servant – e.g. changes in paragraph 60 of the Act anticipate that

senior civil servants may also be recalled in cases when their performance appraisal concludes that their performance was unsatisfactory. Another part of the amendments further specifies the frequency of performance appraisals of civil servants and consequences of unsatisfactory performance. According to the amendments, based on needs of an office, the performance of a civil servant may be evaluated after 40 days of his/her service. If his/her performance is evaluated as unsatisfactory, he/she can be evaluated again after a rather short time – 40 days (HRM literature usually recommends annual or semi-annual performance appraisals also in order to make it possible for a civil servant to adapt to conclusions of a performance appraisal). The Act enables a civil servant to be recalled from his/her office when their performance is evaluated as unsatisfactory twice (this is specified in the paragraph 72). Although a civil servant may submit a complaint against his/her performance appraisal according to the amendments (as it would be enabled by new provisions of the paragraph 156a), the effectiveness of such complaint may be arguable and suggested changes clearly challenge a principle of stability of professional civil service, because they may lead to rather quick changes in positions (Špaček, 2018).

The status of top managers of agencies is usually specified more in the acts that established the individual agencies. They can also be recruited on a contract basis.

Disagreements and conflicts between ministers and top civil servants are present. Some may lead to dismissal of top managers.

8. Responsibility for civil service and HRM in public administration

The Minister of the Interior is politically responsible for the State Civil Service, and the civil service and HRM in the whole Czech public administration. It is responsible for coordination of the civil service and HRM in the Czech public administration. The situation is a bit complicated, because special positions (like the Deputy for the State Civil Service) have been established particularly in the field of the state civil service.

The legislation on civil service is still a bit fragmented. The Civil Service Act (act on the state civil service defining HRM in central government bodies and some Type 1 and Type 2 agencies) was proposed by the government, and a first reading was held by parliament in May 2001, but due to a lack of sufficient consensus the act was not approved. Only the Code of Ethics of Civil Servants was approved by the government in 2001, and the Act on Civil Servants of Municipal and Regional Self-Governments was passed in 2002. The legal force of this act has

been postponed nearly every two years since 2003, when it was expected to come into force. Only the Act on Civil Servants of Self-Government (Act No. 312/2002 Col.) was approved, came into enforcement since 2003, and since that time it has specified some aspects of HRM of local self-government (municipalities and regions). So prior to adopting the new Civil Service Act in September 2014 (the act 234/2014), Czechia has not had effective civil service legislation that would regulate civil servants of central authorities and their organisations. Civil servants of these authorities were employed under the General Labour Code with some specific rules, e.g. on salary or regarding their education (see Špaček and Nemeč, 2017b, for more information).

There is a special unit within an organisational structure of the Ministry of the Interior Unit of the Deputy of the Minister of the Interior for the State Civil Service that is responsible for general coordination, regulation (related to specification of provisions of the State civil service act), regular evaluation (including the publishing of annual reports), and the preparation of strategies and legislative proposals. Together with the Ministry of Finance, the Unit is also responsible for systemisation – a plan stipulating the number of service posts of civil servants for each service authority, the number of service posts of senior civil servants, the financial resources for salaries, etc. A draft systemisation is decided by the Government.

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FRANCE

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📅 **January 2020**

1. Ministries

In the current government setup the following ministries operate in France:

- Ministry of the Interior
- Ministry for the Ecological and Inclusive Transition
- Ministry of Justice
- Ministry for Europe and Foreign Affairs
- Ministry for the Armed Forces
- Ministry of Territorial Cohesion
- Ministry for Solidarity and Health
- Ministry of Economy and Finance
- Ministry of Culture
- Ministry of Labour
- Ministry of National Education
- Ministry of Agriculture and Food
- Ministry of Public Action and Accounts
- Ministry of Higher Education, Research, and Innovation
- Ministry for Overseas France
- Ministry of Sport

The number of ministries and their portfolio depend on the decision of who will compose the government. In other words, ministers via the delimitation of their field of competences by the Prime Minister and the President define ministries.

According to Article 8 of the Constitution, the President of the Republic appoints the Prime Minister. He terminates the appointment of the Prime Minister when the latter tenders the resignation of the Government. On the recommendation of the Prime Minister, he appoints the other members of the Government and terminate their appointments.

The Prime Minister recommends ministers to the President, sets out ministers' duties and responsibilities, and manages the daily affairs of government.

The Prime Minister is the Head of Government. He “directs the actions of the Government” (article 21 of the Constitution) and in principle sets out the essential political guidelines which – except in the case of cohabitation between a president and a prime minister from different political parties – are those of the President of the Republic. He must also ensure the coordination of Government action and prevent different ministers from taking contradictory initiatives through his arbitration. He is not the hierarchical superior of the other ministers. He may never force them to take a decision which they are unwilling to take responsibility for, but he may suggest their dismissal to the President in the event of serious misconduct. This role of overseeing Government action is facilitated by certain components: the Prime Minister, in the name of the Government, “shall have at its disposal the civil service” (art. 20), and more specifically of its own internal services located at the Hôtel Matignon (General Secretariat of the Government, cabinet, etc.) and a large number of services assigned to it.

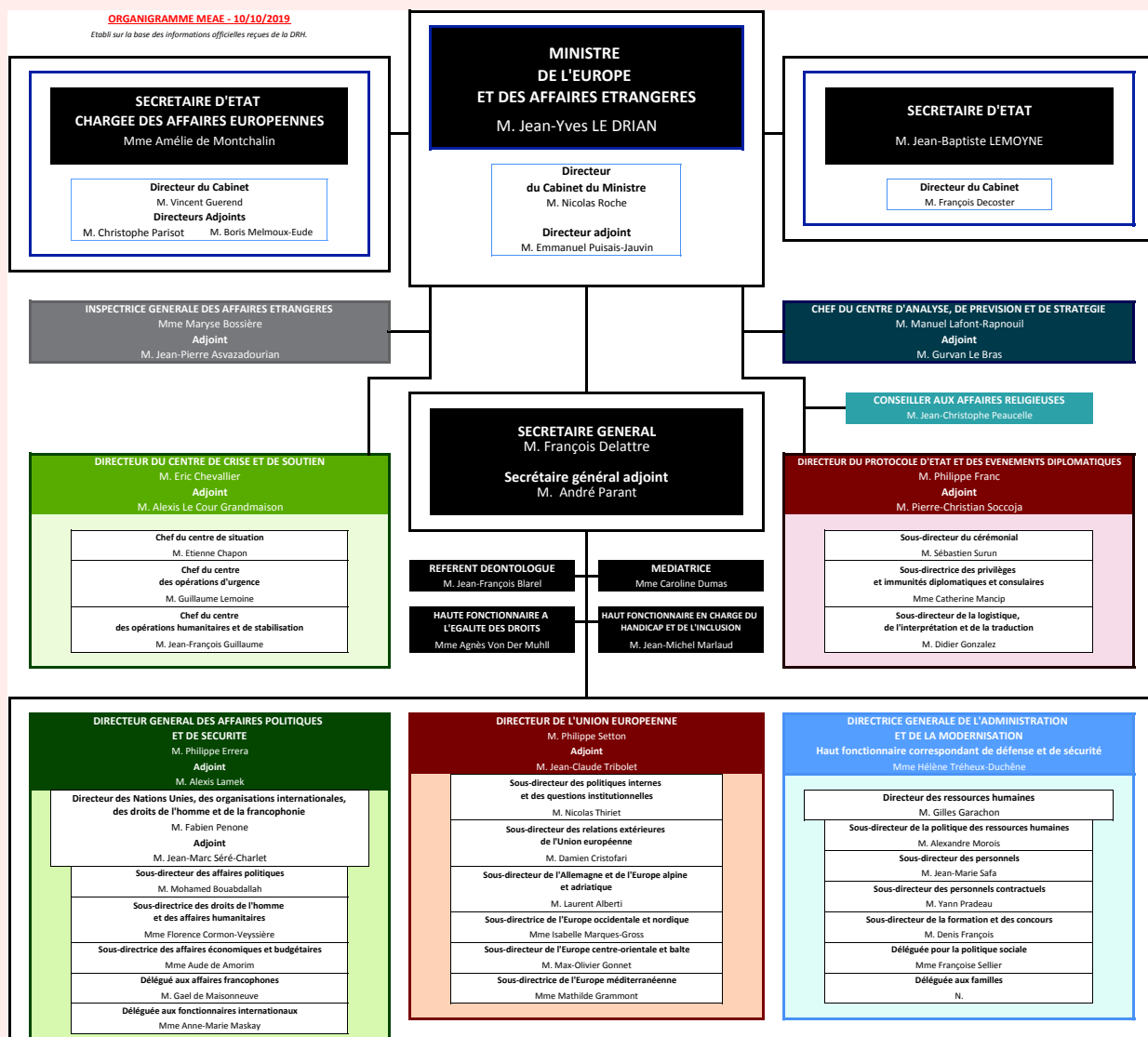
Ministries have no separate legal personality, they are administrations in charge of managing State activities (*administrations de gestion*).

There is nothing like a formalized organigram of a ministry in France. However, there are some commonalities, such as the organisation in functional or thematic departments (*directions générales* headed by *directeurs généraux*) with subdivisions: directorates (*directions*), under-directorates (*sous-directions*), desks (*bureaux*), and a general secretariat (headed by a *secrétaire général*, i.e., a permanent secretary) in charge of coordination and management of the ministry, who supervises all support functions (such as HRM, IT).

For an example of internal organisation, see (part of) the organigram of the Ministry of European and Foreign Affairs (**Figure 1**).

Ministries – their name as well as their perimeter of competences – can be changed upon the occasion of any new Government or Government reshuffle. The legal basis is a decree taken by the President on proposition by the Premier minister related to the setting-up of the Government, **followed by individual decrees based on reports by the PM related to the legal attributions of each ministry.**

Figure 1: Organigram of the Ministry of European and foreign affairs (part)



2. Agencies

There are basically two kind of agencies in France depending on the kind of tasks they perform: regulatory agencies (*autorités de régulation*) and executive agencies (*opérateurs de l'Etat*)¹. Both correspond to the definition of an agency, set

¹ Beside executive agencies such the French agency for biodiversity, there are numerous other opérateurs de l'Etat, such as universities or some museums. For a complete list in 2018, see

by the COBRA network.² They are all structurally differentiated from ministries, provide continuity over time as to their activities, have some personnel and some financial resources, but what may vary is the range of their capacity for autonomous decision-making and their missions.

The recent development of agencies with regulatory purposes is an innovation with regard to the traditional French administration scheme which places all State administrations under the authority and control of the Minister, or at least the Government. Independent administrative authorities (*Autorités publiques indépendantes* and *Autorités administratives indépendantes*, see list below) participate in a new way of sharing and exercising State power, in particular in sensitive areas related to the exercise of civil liberties and in regulating certain sectors or markets. They are thus an exception to Article 20 of the Constitution which stipulates that the administration is at the Government's disposition, as they are not subject to the hierarchic authority of a Minister. According to the definition given by the State Council (*Conseil d'Etat*), they are public bodies which act in the name of the State and have a real power of action, although they are not directly under the authority of the government.³

As for executive agencies, they have a longer tradition in France (for instance the Agency for forest management has been established 1964) and correspond to *administrations de missions*, i.e., public bodies in charge of delivering specific public services.

According to a report by the State Council from 2012, there are around 100 executive agencies, with a tendency towards mergers and restructuration. From a legal point of view, one should distinguish between *Etablissement public administratif* (EPA), which deliver administrative public services (such as ENA, the French national school of public administration in charge of selecting and training high level civil servants), and *Etablissement public industriel et commercial* (EPIC) which deliver public services with industrial or commercial character, such as RATP, the public transportation entity in Paris.

There is no single model for independent administrative authorities. Their presidents/directors are appointed in a fairly wide range of ways (appointment by the Executive or other authorities, election) so as to avoid too much political influence. Their term and conditions of office are not uniform. They have a President

https://www.performance-publique.budget.gouv.fr/sites/performance_publique/files/files/documents/gestion_publique/operateurs/OP_PLF_2018.xls

² See <https://publications.europa.eu/en/publication-detail/-/publication/3e89d981-48fc-11e8-be1d-01aa75ed71a1/language-en>.

³ Les autorités administratives indépendantes, Rapport public 2001, <http://www.conseil-etat.fr/Decisions-Avis-Publications/Etudes-Publications/Rapports-Etudes/Les-autorites-administratives-independantes-Rapport-public-2001>

who exercises authority over departments and may have specific powers. Their budget is entered in the general budget of the Ministry with the competency closest of their area of involvement. This is not the case for independent administrative authorities (regulatory agencies) which, like the financial market authority (“*Autorité des marchés financiers*” – AMF), have themselves been recognised as having a legal personality and so enjoy financial independence. In any case, all agencies have their own budget and the possibility to recruit their own staff members.

As for regulatory agencies, there are two subcategories:

- *Autorités publiques indépendantes:*
 - Agence française de lutte contre le dopage (AFLD)
 - Autorité de régulation des activités ferroviaires et routières (ARAFER)
 - Autorité des marchés financiers (AMF)
 - Conseil supérieur de l’audiovisuel (CSA)
 - Haut Conseil du commissariat aux comptes (H3C)
 - Haute autorité de santé (HAS)
 - Haute autorité pour la diffusion des œuvres et la protection des droits sur internet (HADOPI)
 - Médiateur national de l’énergie.
- and *Autorités administratives indépendantes:*
 - Autorité de contrôle des nuisances sonores aéroportuaires (ACNUSA)
 - Autorité de la concurrence
 - Autorité de régulation de la distribution de la presse (ARDP)
 - Autorité de régulation des communications électroniques et des postes (ARCEP)
 - Autorité de régulation des jeux en ligne (ARJEL)
 - Autorité de sûreté nucléaire (ASN)
 - Comité d’indemnisation des victimes des essais nucléaires (CIVEN)
 - Commission d’accès aux documents administratifs (CADA)
 - Commission de régulation de l’énergie (CRE)
 - Commission du secret de la défense nationale (CSDN)
 - Commission nationale de contrôle des techniques de renseignement (CNCTR)
 - Commission nationale de l’informatique et des libertés (CNIL)
 - Commission nationale des comptes de campagne et des financements politiques (CCFP)
 - Commission nationale du débat public (CNDP)

- Contrôleur général des lieux de privation de liberté (CGLPL)
- Défenseur des droits
- Haut Conseil de l'évaluation de la recherche et de l'enseignement supérieur (HCERES)
- Haute autorité pour la transparence de la vie publique (HATVP)

As for executive agencies, they are in charge of public services in very different fields of activity. Examples:

- ADEME – Agence de l'environnement et de la maîtrise de l'énergie
- AEFÉ – Agence pour l'enseignement français à l'étranger
- ANRU – Agence nationale pour la rénovation urbaine
- ANTAI – Agence nationale de traitement automatisé des infractions
- ANTS – Agence nationale des titres sécurisés
- APIJ – Agence publique pour l'immobilier de la Justice

3. Organisational separation of policy-making and policy implementation

In France, high level civil servants are traditionally involved in the process of policy-making (identification of issues, policy formulation) in the form of recommendations, and sometimes even with initiatives. As a matter of fact, Ministers have both a political mission to provide impulses for the Government policy and an administrative one, to implement it.

As for the relationship between ministries and executive agencies, the State is represented in the agencies' boards, and there is participation of the state in planning and strategic supervision and in the decision-making process regarding strategic decisions.

French ministries perform both types of functions, i.e., policy-making and implementation, even if in some fields executive agencies are in charge of delivering some public services or implementing some aspects (most technical) of a public policy.

Ministers' powers are concentrated around two main missions. On the one hand, the ministers head a ministerial department. In addition, ministers are responsible for the supervision of public legal entities acting within their ministerial department's field of competence. In principle, ministers do not hold regulatory power (that is the power to dictate general standards), except in the administration over their own ministerial department. Regulatory power is generally exercised by the Prime Minister, who may delegate the exercise of this power to his

ministers. However, the latter must countersign the decrees of the President of the Republic and the Prime Minister pertaining to the areas falling within their competence. On the other hand, ministers are entrusted with a political mission. Their primary role is one of impetus and implementation of Governmental policy.

Review and deciding on appeals against the administrative decisions of agencies is the task of the administrative courts (*Tribunaux administratifs*) and of the State council (*Conseil d'Etat*), which is the guardian of administrative law.

Ministries are not responsible for managing state-owned enterprises.

4. Territorial branches/units of central government

The French polity is a decentralized unitary state. It combines a centralized direction of the State apparatus with a strong central presence subnationally through the network of *préfets* (prefect), and many local units of central ministries (deconcentrated State service) in each *département* and region.

Since 2017, there have been 13 regions and 101 *départements*. At the regional level, in addition to the *Préfecture de région*, there are 10 central government units related to different ministries,⁴ and at the department level there are eight units.⁵

The share of the central government in general government employment is under 50%. It means that the majority of State public agents do not work in ministries or central agencies. Besides teachers (855,000), and policemen (240,000), around 78,000 State civil servants work for the deconcentrated services of the State at regional (13 metropolitan regions since 2017) or departments level.

Ministries are traditionally vertically integrated. Yet, with the latest reforms called REATE (State Territorial Administration Reform, introduced 2010) and the *Plan préfecture nouvelle génération* (Reorganisation of public services provided by prefectures, launched 2015), the objective is to develop horizontal integration and coordination between State administrative services at the local level.

⁴ Direction régionale de l'Alimentation, de l'Agriculture et de la Forêt ; Direction régionale des Affaires culturelles ; Direction régionale des Entreprises, de la Concurrence, de la Consommation, du Travail et de l'Emploi ; Direction régionale de l'environnement, de l'aménagement et du logement ; Direction régionale des Finances publiques, Rectorat d'académie ; Direction régionale de la Jeunesse, des Sports et de la Cohésion sociale ; Délégation régionale à la recherche et à la technologie ; Agence régionale de santé ; Région de Gendarmerie.

⁵ Direction départementale des Finances publiques ; Délégation militaire départementale ; Direction des services départementaux de l'éducation nationale ; Direction départementale de la sécurité publique ; Service de la navigation ; Direction départementale de la cohésion sociale et de la protection des populations ; Direction départementale des territoires ; Direction départementale des territoires et de la mer.

Except for top civil servants such as *Préfets* and *Recteurs* (heads of the deconcentrated administration of the ministry of education) who are appointed by the President upon recommendation of the PM, managers of deconcentrated units are appointed and their career managed by the ministry from which they depend. They are civil servants.

Local authorities (*Conseils régionaux, conseil généraux, communes*) are formally autonomous and have their own civil service branch recruited and managed independently from the state civil service.

The prefect (*préfet*) plays a particularly important role at the local level. Appointed by the Government, they represent the state as a whole and simply the minister of the Interior, to whom they answer. They embody the power and authority of the state at the local level and oversee ministries' local branches and field services. Prefects are chief departmental administrative officers and the upper senior civil servants in local administration. They have four main functions:

Maintenance of law and order and public security, organisation of emergency and disaster relief, maintenance of order during demonstrations, etc.

Arbitration of economic and labour disputes, talks between trade unions and employees often being held under their auspices.

Administrative oversight: when the prefect considers that a decision taken by a commune, department, or region is unlawful, he can ask the administrative court to overrun it. The administrative court, which is completely independent of any government or prefectural control by virtue of the separation of the judiciary and the executive, has the final say.

The oldest and last function is to coordinate and administer policies and legislation emanating from the national government, except for military, judicial, and certain fiscal educational matters.

5. Political positions in the executive branch

The parliament has no power to define the number of ministries and the structure of ministerial portfolio (see above). As for the composition of the current government (reshuffle from June 21st, 2018, there are 16 full ministers, i.e., ministers with portfolio (from which two with the rank of *ministres d'Etat*, as for the state etiquette), three *ministres délégués* (ministers working under the authority of another minister), and 10 *secrétaires d'Etat* (state secretaries). The latter normally do not attend cabinet meetings.

The minister is the head of the ministry. The members of the Council are called Ministers, while the junior Ministers are known as Secretaries of State – the reverse of the nomenclature in the British political system.

Whereas Ministers with full competences (“*ministres de plein exercice*”) are not dependent from any other Minister, *Ministres délégués* and *secrétaires d'état*, exercise their duties under the supervision of a line Minister who delegates some functions to them. For instance, as for January 2020 at the Ministry for Europe and Foreign Affairs, there were three Ministers:

- Jean-Yves Le Drian: Minister for Europe and Foreign Affairs;
- Amélie de Montchalin: Minister of State, attached to the Minister for Europe and Foreign Affairs, in charge of European Affairs;
- Jean-Baptiste Lemoyne: Minister of State, attached to the Minister for Europe and Foreign Affairs.

6. Top management in civil service

In France there are special conditions for senior civil servants, but no formal legal status that would differ from the general regime that applies for all civil servants.

According to categories developed for international comparison (Kuperus and Rode, 2008), the two highest functional levels in France consist in Secretary-General and Director-General, the third level: Director, the fourth: Deputy Director, the fifth: Head of Service (*chef de bureau*), the sixth: Deputy Head of Service. The last two levels are not always considered as being part of the senior civil service.

There are Directors-General in charge of different departments, but there is no single top-of-pyramid civil servant in each ministry.

Recruitment and training of senior civil servants is basically centralised. The ENA is the main pathway to senior positions. Nevertheless, Decree no. 2005–1569 of 15 December 2005, which implemented the government’s initiatives in terms of career advancement, makes it easier to recruit senior executives (level of *administrateurs civils*) via the *tour extérieur*. This procedure, which is open to ‘Category A’ civil servants with at least eight years of service, is specifically designed to take account of professional experience, a practice that the government wishes to foster and encourage.

The public authorities have set up several dozen schools and training institutes that specialise in the training of civil servants. These institutions have a twofold mission: a) Ensuring training for the successful candidates to competitive examinations (practical and professional skills and working methods needed for

various positions); b) Organising life-long learning for civil servants. When appointed for the first time at the level Director-General or Directors, high level civil servants must follow a dedicated short training program.

7. Relations between politicians and top civil servants

Ministers each have their own staff, called a ‘ministerial cabinet’ (*Cabinet ministériel*). This ministerial cabinet consists of around 10 to 20 members (there are repeated attempts to limit their number), who are political appointees, even if a large share of them are civil servants who then have to temporarily leave their position as civil servant to work in a ministerial cabinet. Cabinet members assist the Minister in running a ministry i.e., in strategic planning as well as in identifying political issues and defining public policies. Members of *cabinet ministériel* can be dismissed by the Minister at any time.

The hierarchy in each ministerial cabinet is determined by the Minister. Working groups consisting of representatives from several ministries are commonplace. It is the duty of the Prime Minister to oversee these inter-ministry meetings, and to ensure that governmental work is done effectively and efficiently. Ministerial cabinets are extremely powerful centres of decisions where public policies are shaped in interaction with central administrations, thus providing attractive positions to senior civil servants ready to serve the government of the day or experts in a specific sector. Serving in ministerial cabinets has also been a reliable path for career advancement as a means of reaching leading positions in central administrations or of obtaining public and private jobs as rewards.

The Council of Ministers meets on a weekly basis usually on Wednesdays, under the chairmanship of the President of the Republic, at the Elysée Palace. It discusses individual decisions by each Minister regarding the appointment of senior civil servants.

In France, ministers can choose someone of political confidence as the highest-level top manager of their own choice following few legal rules and conditions for the candidates. This is the way to guarantee political acceptance and the ability for top public managers and politicians to work together.

Top managers in ministries and agencies can be changed after change of government. According to *décret n°85-779 du 24 juillet 1985 portant application de l'article 25 de la loi n° 84-16 du 11 janvier 1984 fixant les emplois supérieurs pour lesquels la nomination est laissée à la décision du Gouvernement*, some leading positions depend to the decision of the *gouvernement* both regarding *appointment*, as well as for ending the functions: this applies for all Secretaries-General, Di-

rector-General and Directors of Central Administrations, Ambassadors, Prefect, Head of General Inspectorates, but also for most agencies (around 500 positions).

However, there are no automatic changes. It is just a matter of trust and of HRM. The rate of turnover for the heads of ministerial divisions after a new election varies over time. Under the Sarkozy Presidency (2007–2012) and the Fillon Government, an acceleration of the rate of the turnover could be witnessed. As for Emmanuel Macron, against some declaration during the campaign stressing the necessity of political loyalty expected from top civil servants, a limited number of positions were changed during the following two years after the election.

The highest positions within the state civil service (see above) are subject to discretionary appointments by the Government without a fixed term contract and revocable at any time. For other senior civil servants positions, there are appointments with a defined duration (three years, renewable once). For discretionary appointments by the Government, a formalised procedure does not exist. For other appointments, there is a procedure to follow: advertising the position, interview by a jury, nomination, validation by the Prime Minister and the Minister concerned and consultation with the General Directorate for Administration and Civil Service.

Like for all civil servants, top public managers must follow some obligations, among them loyalty and obedience. Directors-General or Secretaries-General must follow the principle of political neutrality in performing their duty (*devoir de réserve*). If Directors-General have criticism or doubts towards the Government or their Minister's management, they are not allowed to express them. Otherwise, they will be removed.

8. Responsibility for civil service and HRM in public administration

Currently, the civil service and HRM in public administration is responsibility of the Minister of Public Action and Accounts (in charge of the *Ministère de l'Action et des Comptes publics*), Mr. Gerald Darmanin. According to decree n° 2017-1082 from 24 May 2017, related to the attribution of the minister of public action and accounts, the Minister prepares and implement the Government's policy in the field of public accounts (including issuing the multiannual strategy for public finances), modernisation of public action, and the civil service. He is also in charge of preparing and implementing the policy regarding public procurement and State property.

Together with the PM, he shares the authority over the Directorate General for public administration and civil service (see below). To support him in the field

of civil service and HRM in public administrations, a Minister of State (*secrétaire d'Etat*), Mr. Olivier Dussopt, attached to the Minister of Public Action and Accounts was appointed in November 2017.

Institutional responsibility for civil service and HRM in public administration varies. In the current government, there is no ministry specifically dedicated to public administration and the civil service, whereas this was the case under the previous one (Marylise Lebranchu between 2012 and 2017, first in combination with State reform and decentralisation after 2014 only in charge of the civil service and decentralisation). Over the last decades, the issue of civil service and public administration is mostly located under the authority of the ministry of finances.

There is no dedicated agency in France for HRM and managing the civil service. Since 1945, there has been a Directorate-General for public administration and civil service (*Direction générale de l'administration et de la fonction publique*). The DGAFP's inter-ministerial task is to conceive and implement Human resource jurisdiction for the whole civil service. Since 2016, its role as pilot and coordinator for HR policy has been strengthened.

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1. Ministries

The number of ministries is set in law “On the Cabinet of Ministers” (*Ministru kabineta iekārtas likums*)¹. There are 13 ministries:

- Ministry of Foreign affairs,
- Ministry of Defence,
- Ministry of Finance,
- Ministry of Economy;
- Ministry of Internal affairs,
- Ministry of Education and science,
- Ministry of Culture,
- Ministry of Welfare,
- Ministry of Transport,
- Ministry of Justice,
- Ministry of Health,
- Ministry of Regional Development and Environmental Protection;
- Ministry of Agriculture.

The number of line ministries is the same as a number of ministers. Each ministry is supervised by one minister. Since 2008, the amount and number of ministers (as ministries as well) in the government is regulated by the law “On the Cabinet of Ministers” (*Ministru kabineta iekārtas likums*).² Ministries can be established only by approval of the parliament.

¹ <https://likumi.lv/doc.php?id=175919>

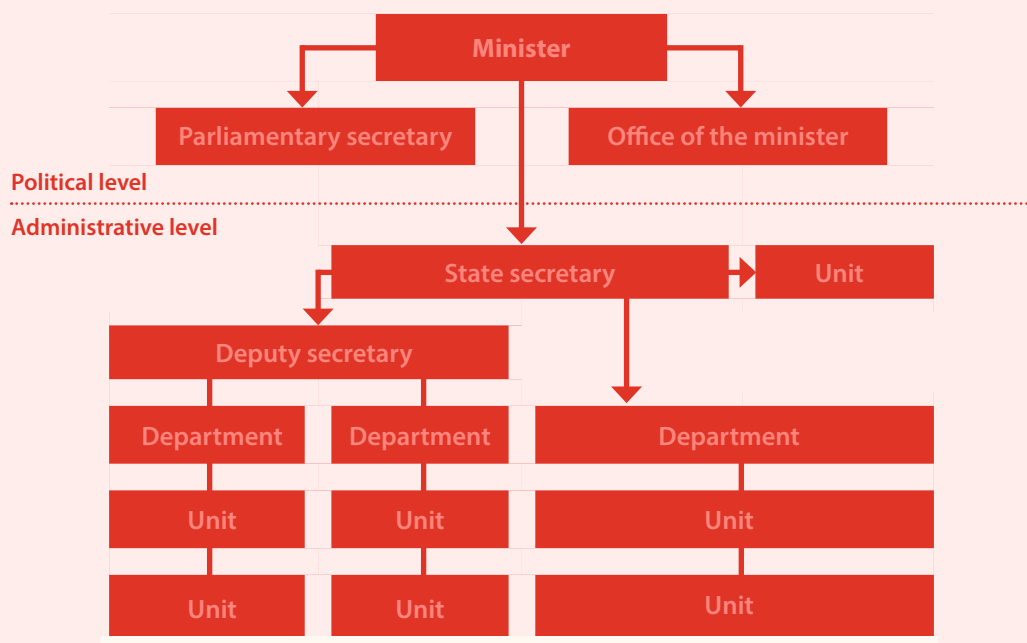
² <https://likumi.lv/doc.php?id=175919>

For purposes of political stability within a governmental coalition, there might be ministers with special assignments having their secretariats and deputy prime ministers without a portfolio. Since 2009, the position of ministers with no portfolio has not been created.

Ministries are legal personalities. According to the law “On Public Administration Structure” (2002) (*Valsts pārvaldes iekārtas likums*)³ the following typology has been created: direct public administration and indirect public administration. Direct public administration (or central level) consists of the ministries, institutions subordinated to the ministries, and state agencies. In turn, subordination to a ministry includes two sub-forms: a) direct control where the higher institution (i.e., a ministry) has the right to issue an order to the lower institution and to cancel the decision of the subordinated institutions, b) supervision: the right to check the legality of the decisions made by the lower institutions. Indirect public administration includes local municipalities, municipal agencies, municipality-owned enterprises, as well as state-owned universities.

Each ministry is divided into two parts – the political and the administrative levels. The political level consists of a politically appointed minister and his office. The administrative parts consist of the state secretary – the highest administrative position in the ministry – and subordinated units with administrative staff under the state secretary.

Figure 1:



Source: Danovskis & Reinholde (2018)

³ <https://likumi.lv/doc.php?id=63545>

Ministries can be established, dissolved or merged if the law “On the Cabinet of Ministers” is changed. On 01 January 2011, the Ministry of Environment and the Ministry of Regional Development and Local Government were merged and labelled the Ministry of Environmental Protection and Regional Development.

2. Agencies

Agencies (both state and municipal) have been created at the beginning of the millennium to separate policy design from service delivery. The agency model was transferred from the UK “next step” agencies. According to the law “On Public Agencies” (*Publisko aģentūru likums*),⁴ agencies are single-type organisations subordinated to the ministry (or local authority) and deliver services.

Originally, the autonomy of agencies was intended to provide a flexibility in service delivery to be monitored via performance indicators. However, performance indicators were not a sufficient instrument to ensure the necessary external control and accountability of agencies. Thus, weak control resulted in “policy vacuums” (Pollit, 2004:292) where too much discretion with too little control allowed agencies to design their own closed policies towards services with limited accountability. Agencies are subordinated to the ministry (or local authority) and there are formed as a separate legal personality with its own budget and account. There are 92 agencies, of which 23 are state agencies and other 69 are municipal agencies.

There is database on public persons and institutions maintained by the Enterprise Register (*Uzņēmumu reģistrs*).⁵ The database includes all public institutions as ministries as agencies.

There is possibility for derived public person to establish an agency. A joint agency can be established by the State and a local government, if the government decided so. In addition, several local governments can establish a joint agency in order to ensure efficient use of public resources.

The “Public Agencies Law” states that state agency is subordinate to the ministry. Local government agency is established by a local government and is financed from the budget established by a local government.

⁴ <https://likumi.lv/doc.php?id=202272>

⁵ <https://info.ur.gov.lv/#/data-search>

3. Organisational separation of policy-making and policy implementation

The Cabinet of Ministers sets sectoral policies, adopts decisions on draft laws developed by ministries and passes regulations of the Cabinet of Ministers. The Prime Minister, along with his cabinet, possesses also the power to decide on policy implementation. The Ministry organises and co-ordinates the implementation of laws and regulations. Also, it participates in policy-making in its sector. Thus, there is high separation since the ministry designs policy, but agencies implement policies.

Ministries only perform policy-making functions. According to the law “On Public Administration Structure” (2002) (*Valsts pārvaldes iekārtas likums*) the following typology has been created: direct public administration and indirect public administration. Direct public administration (or central level) consists of the ministries, institutions subordinated to the ministries and state agencies. In turn, subordination to a ministry includes two sub-forms: a) direct control. The higher institution (i.e., a ministry) has the right to issue an order to the lower institution and to cancel the decision of the subordinated institutions, b) supervision: the right to check the legality of the decisions made by the lower institutions. Indirect public administration includes local municipalities, municipal agencies, municipality-owned enterprises, as well as state-owned universities.

Ministries review and decide in appeals only partially and only decisions issued by the organisations under direct control. Decision of agencies are subject to review by the administrative court.

The procedures for the issuance, contesting, and appeal of administrative acts are indicated in bylaws, and it may be contested in accordance with the procedures laid down in the Administrative Procedure Law, unless laid down otherwise in another law.

According to the Law “On Governance of Capital Shares of a Public Person and Capital Companies” (*Publiskas personas kapitāla daļu un kapitālsabiedrību pārvaldības likums*),⁶ the highest decision-making body of a public person in relation to the management of State capital shares and capital companies is the Cabinet, but in relation to the management of local government capital shares and capital companies it is the council of local government.

⁶ <https://likumi.lv/ta/id/269907-publiskas-personas-kapitala-dalu-un-kapitalsabiedribu-parvaldibas-likums>

4. Territorial branches/units of central government

In principle, there are no territorial branches of central government. The exceptions are state agencies having some territorial branches like the tax administration, social insurance agency, and the state unemployment agency.

There are only two levels of government in Latvia – the central and local levels. The division of powers exists at the local level, as well between the elected local council and administration of the municipality.

The functioning of the local government is based on the principles of the European Charter of Local Self-Government, as well as on the laws of the Republic of Latvia. The European Charter was adopted by *Saeima* on February 22, 1996 when Latvia had accepted 29 of the 30 paragraphs of the European Charter. In 2009, Latvia finally implemented the administrative territorial reform by amalgamating all previous 556 local municipalities into 119. The administrative territorial reform started in 1998 was slowed down due to the many factors – like the resistance of municipalities, changing political commitment, and a complicated negotiation process between government and local municipalities.

The Latvian administrative system is marked by a sectoral approach to policy design at the central level. Each sectoral ministry is responsible for its own field of policy issues and subordinated agencies with a country wide administrative jurisdiction (e.g. in social insurance or unemployment issues). At the same time, local municipalities provide basic services in spheres of local development, education, social care, public transport, and construction. The division of responsibilities among levels of governments is described in detail by the national laws, assuming that the policy design function is the responsibility of the central government, while service delivery is shared between both levels.

The ministries do not have any territorial branch. The central agencies might have some branches distributed according division of planning regions or former division of the Latvia in 26 rayons. Usually, the territorial branches are for central agencies in order to ensure delivery of services in the regions. For example, there are territorial units for food safety agency (11), traffic safety agency (29), state unemployment agency (28), environment agency (9), etc. At the same time, there are unified one-stop-shops at the regions, where all services (both central and municipal) are delivered based on e-government approach. This means the system is mixed – vertically integrated branches of state agencies and horizontally integrated one-stop-shops.

If there is a territorial unit of any agency, then this unit is integrated part of the central agency. The management are civil servants and are appointed by the law on civil service.

The division of responsibilities among levels of governments is described in detail by the national laws. The policy-making function is the responsibility of the central government, while service delivery is shared between both levels. While relations between local authorities and territorial branches are the same as between local authorities and ministries – there are formal relations and strict division of competences.

There is a cooperation procedure established between local governments and the government. The consultation and negotiation procedure is set out in the “Law on Local Governments” ⁷(*Par pašvaldībām*) and “Law on Budget and Financial Management” (*Likums par budžetu un finanšu vadību*).⁸

In total the negotiation procedure consists of several instruments:

Negotiations with Ministry of Finance – at least once per month.

Participation of representatives of local governments at the meetings of the government – every week.

Signed Memorandum of Understanding regarding public expenditures for local governments for the next fiscal year – annually.

5. Political positions in the executive branch

Since 2008, each ministry has had one minister, so there is 1:1 rule. Since 2008, the amount and number of ministers in the government is regulated by the law “On the Cabinet of Ministers” (*Ministru kabineta iekārtas likums*). According to the law, there are ministers with subordinated ministries in the fields of foreign affairs, defence, finance, economy, internal affairs, education and science, culture, welfare, transport, justice, health, regional development and environmental protection, as well as agriculture. For purposes of political stability within a governmental coalition, there might be ministers with special assignments and deputy prime ministers without a ministry. However, since 2009, the position of ministers with special assignments has not been created.

The number of ministers and structure of ministerial portfolios is defined by enacted in parliament.

The Minister manages the work of the Ministry. According to the law “On Public Administration Structure” (2002) (*Valsts pārvaldes iekārtas likums*) the Minister:

- represents the ministry without special empowerment;
- issues orders to the state secretary;

⁷ <https://likumi.lv/doc.php?id=57255>

⁸ <https://likumi.lv/doc.php?id=58057>

- issues orders to the administrative officials and employees of the ministry, who shall inform a higher official;
- revokes internal regulatory enactments, decisions and orders, except administrative acts, issued by the Parliamentary Secretary, State Secretary and other administrative officials of the ministry;
- implements the competence of the administrative manager of the Ministry himself or herself.

In Latvia, there is Parliamentary Secretary who ensures the link between the member of the Cabinet and the Saeima. The Parliamentary Secretary on the assignment of the member of the Cabinet represents the member of the Cabinet. According to the law “On Public Administration Structure” (2002) the Parliamentary Secretary:

- issues orders to the head of the institution subject to control of the member of the Cabinet and – in specific cases – to other administrative officials (employees);
- performs other duties laid down in laws and regulations.

There is one Parliamentary Secretary per one ministry. There is also State Secretary who is the administrative head of a ministry and he is subject to the control of a Minister. According to the law “On Public Administration Structure” (2002), the State Secretary organises the transfer of the records and documents, transferred to the State Secretary of the previous minister to the new minister.

6. Top management in civil service

There is no special regime for top management yet. The law “State Civil Service Law”(2000) (*Valsts civildienesta likums*)⁹ determines the legal status of a loyal to the lawful government, professional and politically neutral civil service which ensures the legal, stable, efficient, and transparent operation of the administration of the State. It also determines the mandatory requirements to be set for a candidate for a civil service position, appointment to a civil service position and dismissal from a civil service position, the duties, rights, and service career path of a civil servant, and management in the general civil service.

Top-level positions are the state secretary and heads of subordinated institutions. However, there is no clear definition what is top-level position in government institutions in Latvia. In the “State Civil Service Law,”¹⁰ there is defined that the Prime Minister, Ministers, Ministers for Special Assignments, office employees

⁹ <https://likumi.lv/doc.php?id=10944>

¹⁰ <https://likumi.lv/doc.php?id=10944>

of the aforementioned officials (assistants, advisers, press secretaries), and parliamentary secretaries are not civil servants.

A top of the pyramid civil servant is a state secretary who is the administrative head of a ministry, and he is subject to the control of a minister in the ministry. The functions of state secretaries may differ from ministry to ministry, because each ministry can define them differently in their statutes. Most of the time, the state secretary is also a representative of the ministry as a state shareholder and a decision-maker in capital companies with state-owned shares.

There are no special arrangements on training for top management. Implementation of HRM is left to ministries and institutions. They are autonomous and have a large degree of discretion in the implementation of HRM tools in recruitment, selection, promotion, appraisal, and training.

7. Relations between politicians and top civil servants

Latvian ministries and agencies are autonomous and have a large degree of discretion in the implementation of HRM tools in recruitment, selection, promotion, appraisal, and training. Despite organisational autonomy, the Latvian public administration at the central level has been secured from direct politicisation since all governments in power assumed political neutrality of public servants. Top civil servants are recruited and selected by the State Chancellery in open procedure and under scrutiny of mass media. Thus, there are very limited option for politicians to interfere the process.

Indicators of impartiality and professionalism are close to the EU average even though remuneration in the public sector is much lower than for the same position in the private sector. This sharp difference in remuneration resulted in outflow of highly qualified experts. However, to balance the economic growth, public pressure, and public expenditures, the remuneration level of top managers for certain positions in public administration is linked with the average salary in the economy and modified by different coefficients. At the same time, the remuneration system still largely depends on the financial capacity of the ministries and agencies, as some of them have managed to attract more budgetary resources than others.

Latvia applied the broader definition or understanding of the centre of government where several administrative bodies – the State Chancellery, the Cross-Sectoral Coordination Centre, the Prime Minister's office, and the Ministry of Finance are the main participants. Such a wide list of participants also requires considerable coordination efforts, almost all of them (excluding the Prime Minister's office) are civil service bodies. A mix between civil service and politically

appointed bodies ensures that the Latvian centre of government has both: content-oriented skills and procedural skills to improve horizontal coordination. The staff of the office of the Prime Minister is selected and recruited primarily based on trust and political preferences to ensure support to the Prime Minister. The Prime Minister's office usually consists of approx. a max. 10 persons who are appointed by the Prime Minister. At the same time, the Prime Minister's office is administratively supported by the State Chancellery, thus the power of the centre of government is in the hand of civil servants.

Top managers in ministries can be changed after a change of government, but these are rather rare cases, since top managers as civil servants are appointed for a period of five years. The election cycle is four years, while governments might change once per two years in average.

There are no positions in civil service with automatic changes after change of government. The government change affects only a political level – a parliamentary secretary and the office of the minister. The member of the Cabinet (i.e., the Minister) may appoint a parliamentary secretary for his or her term of office from among members of the *Saeima*, or officials of office of the relevant member of the Cabinet. The Parliamentary Secretary may only receive the remuneration intended for one office of his or her choice. Also, the member of the Cabinet can hire advisory officials and employees for the time period of his or her term of office, and establish the office in order to ensure his or her activities.

As the top manager in the ministry (i.e., state secretary) is subordinated to the Minister. However, the state secretary can be dismissed by the government according to the proposal from the respective minister.

There are very rare cases on conflicts between ministers and top civil servants. Usually, those conflicts are either resolved by mutual debates or in the administrative court.

8. Responsibility for civil service and HRM in public administration

The State Chancellery is responsible for developing human resource policy for the central level – i.e., policy planning and coordination in such fields as employment relationships, job classification, performance appraisal, etc. While the Ministry of Finance develops, coordinates, maintains, and updates a unified remuneration system for organisations financed from the public budget.

Implementation of HRM is left to ministries and institutions. They are autonomous and have a large degree of discretion in the implementation of HRM tools

in recruitment, selection, promotion, appraisal, and training. At the same time, a new e-based performance management system (NEVIS)¹¹ (from 2013) has been introduced in the central level. However, the civil service policy is the responsibility of State Chancellery (under the Prime Minister).

The political debate on establishing a senior executive system started around 2002 with an idea to design guidelines. However, the idea of having a special senior civil service and a junior civil service initiated by State Chancellery and public administration itself was not supported by the government. In practice, the senior civil servants have special conditions regarding recruitment, entry, and appointment even if there is no formal recognition and is exceptional.

Usually, the senior executive service covers the top positions at the ministries (state secretary and deputy state secretary, if any at the ministry) and heads and their deputies of government agencies. Recruitment and selection of senior executives are entrusted to the commission/special service centre under the State Chancellery (since 2015), which apply the same assessment methods as for recruitment and selection of an ordinary civil servants.

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¹¹ <https://www.mk.gov.lv/lv/content/cilvekresursu-attistibas-politika>

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MONTENEGRO

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1. Ministries

The ministries in the current government set up are:

- Ministry of Justice,
- Ministry of the Interior,
- Ministry of Defence,
- Ministry of Finance,
- Ministry of Foreign Affairs,
- Ministry of Public Administration,
- Ministry of Education,
- Ministry of Health,
- Ministry of Transport and Maritime Affairs,
- Ministry of Economy,
- Ministry of Agriculture and Rural Development,
- Ministry of Sustainable Development and Tourism,
- Ministry of Science,
- Ministry of Culture,
- Ministry of Labour and Social Welfare,
- Ministry of Human and Minority Rights,
- Ministry of Sport and Youth.

Parliament adopts the overall structure of the new government when it approves the Prime Minister's exposé and his/her cabinet.

Details of the portfolio of the ministries are prescribed by the governmental Decree on State Administration Organisation and Manner of Work. There is neither a specific law on ministries, nor a law on the government. There is a law on state administration. The 2018 Law on State Administration abolished bodies within the ministry as a form of state administration bodies, while introducing state agencies and state funds. Unlike the previous state administration organisation which consisted of 17 ministries and 35 administrative bodies (20 bodies within the administrative body and 15 independent administrative bodies), the new system of organisation envisaged 17 ministries and 29 administrative bodies.

Ministries do not have separate legal personality. Only independent state administration bodies have a separate legal personality. The internal organisation of each administration body is prescribed by the Internal Rulebook on Organisation and Systematisation (*Pravilnik o organizaciji i sistematizaciji*). Each ministry has its directorates covering specific policy area/areas. The directorate is divided into directions. Each directorate is led by a general director, while the direction is led by its Head.

Establishment of a new ministry requires a parliamentary procedure for the appointment of minister, as well as a change of Governments Decree on the Organisation of State Administration.

In a recent case when a minister resigned, the Government decided to not appoint a new minister (propose to the parliament a candidate for minister to replace the prior one), but to change the Decree on State Administration and dissolve the ministry (transferring its functions to several other ministries, as well as the government's general secretariat).

2. Agencies

The 2018 Law on State Administration (LSA) introduced state agencies and state funds. The LSA prescribes that “Holders of public powers are state agencies, state funds, and other holders of public powers established by the law.”¹ State agencies are established for the performance of market regulation affairs within the domain of public interest, and/or for the enforcement of laws in certain area, solely if there is a clear request for the functional and organisational independence of a body resulting from the EU law or international agreement, which request cannot be secured unless the body shall perform the affairs in the status of a state administration body.

¹ Law on State Administration Article 42

There are five state agencies foreseen in Law on State Administration, which are:

- Agency for Electronic Communications and Postal Services
- Agency for Medicines and Medical Devices of Montenegro – CALIMS
- Agency for Peaceful Resolution of Labour Disputes
- Insurance Supervision Agency of Montenegro
- Agency for Protection of Competition

There are three state funds foreseen in the Law on State Administration, which are:

- Pension and Disability Insurance Fund of Montenegro
- Health Insurance Fund of Montenegro
- Labour Fund

There are also independent agencies (regulatory and oversight) established by separate legislation and accountable to parliament. These agencies include: Energy Regulatory Agency, Agency for Communications and Postal Services, Agency for Electronic Media of Montenegro, Agency for Prevention of Corruption, and the Agency for Personal Data Protection and Free Access to Information.

Independent Oversight and regulatory Agencies have their separate legal personality. Independent agencies are accountable to Parliament (e.g. submit annual reports to parliament/parliament approves their annual financial plans).

There is no official register of public bodies, and the Government does not publish a list enumerating agencies and public bodies of this type. The only attempt in providing a list of public bodies (which are subject to the Law on Administrative Procedure) was made by SIGMA, Institute Alternative and the Ministry for Public Administration, which counted in October 2019 about 424 public administration bodies for which the data are publicly available or have provided the requested data, i.e., 17 ministries and 29 independent administrative bodies, six services of state bodies, 21 agencies and funds, 321 public institutions, 22 public companies, and eight other administrative bodies.

3. Organisational separation of policy-making and policy implementation

There is separation between policy-making and policy implementation functions. Policy development is strictly in the competence of respective ministries. The law on state administration prescribed that ministry shall be established for one or related administrative area. The Ministry performs the affairs of proposing

internal and foreign policy, normative activity, and administrative supervision in the administrative area for which it is competent, pursuant to the law. Policy implementation is defined as the responsibility of independent administrative bodies called administrations, directorates, agencies, and bureaus. There is a total of 29 independent state administration bodies (administrations, secretariats, directorates, etc.), and they are listed below.

The independent administrative bodies shall be:

- Institute for the Execution of Criminal Sanctions,
- Police Administration,
- Directorate for the Protection of Classified Information,
- Tax Administration,
- Customs Administration,
- Administration for Games of Chance,
- Real Estate Administration,
- Property Administration,
- Statistical Administration,
- Department for Diaspora,
- Human Resources Management Authority,
- Administration for Inspection Affairs,
- Bureau for Education Services,
- Administration for Maritime Safety and Port Management,
- Transport Directorate,
- Railways Directorate,
- Bureau of Metrology,
- Hydrocarbons Administration,
- Directorate for Food Safety, Veterinary and Phytosanitary Affairs,
- Forest Administration,
- Water Administration,
- Directorate of Public Works,
- Environmental Protection Agency,
- Institute of Hydrometeorology and Seismology,
- Administration for Protection of Cultural Property,
- State Archive,
- Institute for Social and Child Protection,
- Secretariat for Legislation,
- Secretariat for Developmental Projects.

Ministries perform policy-making functions, as well as decision-making in administrative procedures, e.g. Public Administration Ministry provides for registration procedure for NGOs and political parties.

Most inspection functions are centralised in “Administration for Inspection Affairs” (*Uprava za inspekcijske poslove*) which is the independent administration body. Some inspection control functions remained decentralised, e.g. tax administration (Tax administration is independent administrative body), defence inspection in the Ministry of Defence, etc.

The Ministry for Public Administration performs inspection control via Administrative Inspectorate (*upravna inspekcija*) with regard to provisions of Law on Civil Servants, and several other legal acts.

Ministries review and decide on appeals against the administrative decisions (acts issued in administrative procedure) of agencies. This is the case mainly as second instance in administrative procedures, e.g. for tax administration fines, it is the Ministry of Finance to decide on a second instance appeal.

There was a law on public enterprises until 2010, which ceased to be valid by introduction of the Law on the Improvement of the Business Environment which prescribed that public enterprises have to transform within next three years into commercial entities in accordance with the law on commercial entities.

Ministries oversee general policy in their respective areas, including state-owned enterprises. Government appoints members of governing bodies in state owned enterprises in proportion of state-owned capital/shares. The respective ministry proposes to the Government person for members of these governing bodies.

4. Territorial branches/units of central government

There are territorial units of core ministries, and of administration bodies. Tax Administration regional units, eight of them, for example, cover one or several municipalities each. The same is with Real Estate Administration (24 regional units plus two branch offices) and social care centres (e.g. 11 centres have been established for 21 municipality; one centre covers several municipalities). The Ministry of the Interior also has its own 7 territorial (regional) and 18 municipal offices (each associated with specific regional unit). The Ministry of Agriculture and Rural Development, more precisely Forest Administration, has a total of 17 regional units, and four branch offices.

As explained in the previous section, ministries have vertical territorial branches.

Directors of branches are civil servants appointed by procedures set in The Law on Civil Servants and State Employees. The Minister and/or Director of the independent administration body decides on the appointment.

Centres for social care, which are *de facto* branches of the Ministry for Social Care, have the status of public institutions (*javna ustanova*) and a separate legal status with their own governing boards and directors. Centres involve local government representatives in their governing boards.

Apart from social care centres, there are no particular set-up for the coordination and cooperation between branches of other agencies and local government. There are only general provisions (in the law and internal acts of organisation and systematisation) on administrative oversight of local self-governments and cooperation with local administration bodies. The law on local self-governments stipulates that the relations between local administration bodies and state administration are established on grounds of mutual cooperation, and on the oversight of legality of work of local administration by the state authorities.

5. Political positions in executive branch

Each ministry is headed by one minister. However, there is one additional minister without portfolio. The ministers are:

- Minister of Justice,
- Minister of Interior,
- Minister of Defence,
- Minister of Finance,
- Minister of Foreign Affairs,
- Minister of Education,
- Minister of Science,
- Minister of Culture,
- Minister of Economy,
- Minister of Transport and Maritime Affairs,
- Minister of Agriculture and Rural Development,
- Minister of Sustainable Development and Tourism,
- Minister of Health,
- Minister for Human and Minority Rights,
- Minister of Labour and Social Welfare,
- Minister of Public Administration,

- Minister of Sports and Youth,
- Minister of European Affairs, and
- Minister without portfolio.

There is neither a law on Government nor a law on the ministries. There is the Decree on Government, the Decree on Organisation of State Administration and Manner of Work, and Governments Rules of Procedure.

The Minister in the ministry is Head/Principal of the ministry. In line with the Law on State Administration, he or she represents the ministry, manages, and coordinates the work of the ministry.

Other political positions exist in the executive branch of central government. The Ministry may have up to two Secretaries of State responsible for the work of the Minister and the Government. The Secretary of State assists the Minister in the exercise of his/her function within the scope of his/her authority. When the ministry has two secretaries of state, the minister authorises one of them to replace him in the case when he is prevented from performing his office, within the given powers. The Secretary of State is appointed and dismissed by the Government, at the proposal of the Minister, without public competition, and his office ceases upon termination of the Minister's term of office.

The State Secretary is a political position in the Ministry which practically serves as a deputy minister. However, not all the ministries have state secretaries, and it is upon the Government to decide on the ministries which have state secretaries, and on the number of state secretaries per ministry. The mandate of a state secretary depends on the mandate of the minister. The State Secretary coordinates the work of the ministry in a certain policy area. The State Secretary, within the competence assigned by the Minister, carries out tasks related to the drafting of the policies of the ministry and monitoring their implementation.

Currently, there is a total of 23 state secretaries in 12 of 17 ministries:

- Ministry of Interior – 1;
- Ministry of Defence – 1;
- Ministry of Finance – 3;
- Ministry of Education – 1;
- Ministry of Culture – 2;
- Ministry of Economy – 2;
- Ministry of Transport and Maritime Affairs – 2;
- Ministry of Agriculture and Rural Development – 2;
- Ministry of Sustainable Development and Tourism – 2;
- Ministry of Health – 1;

- Ministry of Labour and Social Care – 1;
- Ministry of Public Administration – 3.

Heads of administrative authorities were also traditionally *de facto* politically appointed, although the Law on Civil Servants, which came into force in July 2018, explicitly recognised them as a civil service category. With the new Law on Civil Servants (2018), candidates for senior civil servants have to pass a written test and interview which will examine their qualifications (in accordance with competency frameworks), knowledge, and skills. Political advisors are excluded from the scope of the Law on Civil Servants.

6. Top management in civil service

The scope of work of top management civil servants relate to: managing, coordinating, and organising work in one or more organisational units, i.e., areas of work, ensuring relations with other state bodies, local self-government bodies, local administration bodies, businesses, non-governmental organisations, and citizens.

The Law on Civil Servants determined within the category of senior management the following posts: Secretary of the Ministry, Director-General in the Ministry, Assistant to the Head of the State Administrative Body, Deputy Head of the General secretariat of the Government, Assistant Director of State funds and Public organisations prescribed by Law (Pension and Disability Insurance Fund of Montenegro, Health Insurance Fund of Montenegro, Employment Service of Montenegro, Labor Fund and Agency for the Peaceful Settlement of Labour Disputes.)

The Ministry has a secretary. The Secretary of the Ministry coordinates the work of internal organisational units that perform financial, personnel, IT, and office activities, and ensures the relations of cooperation within the Ministry, as well as with other state bodies, bodies of local self-government, bodies of local government, the economy, non-governmental organisations, and citizens.

The Secretary of the Ministry shall be appointed by the Government for a period of five years, at the proposal of the Minister, in accordance with the law governing the rights, obligations, and responsibilities of civil servants and state employees. The Secretary is accountable to the Minister for his work.

There are specific requirements and composition of the selection committee for the interview, as well as specific criteria for dismissal, e.g. two consecutive negative reviews by his/her superior.

The Director-General of the Directorate manages and organises work in one or more organisational units and is responsible for their work to the Minister and

the Government. Directors General of directorates (former deputy ministers – in local: *pomoćnik ministra*) are senior civil servants. The number of directors-general depends on the number of directorates. In practice, it varies from 2 to 7 depending on the size of the ministry.

Deputy Head of the General Secretariat of the Government (*pomoćnik starješine službe Vlade*) assists to and act as deputy in the absence of Head of General Secretariat.

Deputy Directors of Public Funds, include those which fall under the Law on Civil Servants (Retirement and Insurance Fund) (*Fond Penzijskog i invalidskog osiguranja*), Health Insurance Fund (*Fond za zdravstveno osiguranje*), Employment Agency (*Zavod za zapošljavanje*), and the Agency for Peaceful Settlement of Labour Disputes (*Agencija za mirno rješavanje radnih sporova*).

Both secretary of the ministry and general directors are responsible to the Minister within their areas of competence.

The head of an administrative body is appointed by Government for the period of five years, upon the proposal of ministers. The head of an administrative body represents, manages, and organises its operation. The head of an administrative body shall have the autonomy in managing human resources and financial means for the performance of the activities, pursuant to the law, and is accountable to the line minister for his/her work and for the operation of the administrative body.

The head of an administrative body may have one or more assistants who manage and organise the operations in one or more internal organisational units and/or area of operation. The assistant head of administrative bodies is appointed by the Government for the period of five years, upon the proposal of the heads of administration bodies, pursuant to the law regulating the rights, obligations, and responsibilities of civil servants and public employees. The assistant head of the administrative body is accountable for his/her work to the head of the administrative body.

Civil servants are obliged by the Law on Civil Servants to participate in training programs organised for civil servants. The training programs are prepared and conducted by the Human Resource Management Authority. There are specific training programs for senior civil servants.

7. Relations between politicians and top civil servants

There is open competition, while the average number of candidates is rather low as it is obvious that most top managers and heads of agencies (this refers only to state administration bodies) belong to governing parties and have been *de facto* selected prior to formal decision on appointment.

The formal selection procedure includes a written test and interview. However, there is also room for political discretion, since the new civil service law allows selection of the top three candidates from the ranking list, thus not making it mandatory to choose the top-ranked candidate. Given the relatively low competitiveness for vacancies at these positions (e.g. in 2018 the average number of candidates applying for senior managerial positions in state administration was 2,6, as reported by the HRMA in an 2018 Annual report), political discretion remains high. The previous law (2011) stipulated that the top-ranked candidate should be selected, and, only exceptionally and following specific justification, another candidate from the ranking list could be appointed.

When it comes to top managers, in ministries and state administration, bodies change after a change of government, SIGMA noted in 2017 Assessment: “Political influence in the recruitment and dismissal of senior managerial positions remains unaltered. Turnover in these positions, however, was moderate in 2016, but spiked after the formation of the new Government in November 2016.”

Formally, only for state secretary and political advisors (of the President, President of The Government and President of The Parliament), the law stipulates automatic termination of the mandate, following the termination of the minister’s mandate. In practice, the new minister decides who is going to stay. If there is no interest in keeping a senior civil servant, the new minister will invite him/her to leave the post. Some senior civil servants move across the government following ministers – their political patrons.

Dismissal of a top manager in ministry from his or her position (or transfer him/her to another position) is made by the Government in accordance with the proposal of the respective Minister.

Disagreements and conflicts between ministers and top civil servants are not usual, but rather incidental. The most recent period, during which we have witnessed some conflicts, was following the breakup of the ruling coalition, which was comprised of the Democratic Party of Socialists and Social Democratic Party in the period 1997-2016. After the SDP refused to provide support to the Government in the confidence vote (which was nevertheless ensured by the support of other minor parties), the top civil servants who remained with the SDP were replaced. This sparked a conflict between the replaced top civil servants and competent ministers. They have tried to resolve the conflict through the Administrative Court, which is the key institutional instance through which they can protect their rights. Nonetheless, the Administrative Court usually does not decide on merit, even in cases in which it determined a breach of procedures. Consequently, the replaced top civil servants could not regain their previous positions.

8. Responsibility for civil service and HRM in public administration

The Minister of Public Administration is politically and institutionally responsible for the civil service and human resources management in public administration.

There is a separate agency in this area – the Human Resources Management Authority (HRMA) is competent, and is an independent state administration body. HRMA responsibilities include: monitoring the implementation of laws and other regulations on civil servants and state employees, and informing the competent inspection body of possible unlawful acts and irregularities; providing opinion on the act on internal organisation and systematisation of the state body and legal entity; implementation of advertisements for the needs of the state body; monitoring and evaluating the implementation of vocational training and training programs and other personnel development programs; participation in the preparation of expert bases for drafting regulations and strategic documents in the field of civil servants' relations, as well as initiating changes and amendments to regulations related to or related to official relations; maintaining the Central Personnel Record and internal labour market records; preparation of proposals for appropriate vocational training and training programs and other staff development programs; providing assistance to state bodies in the implementation of personnel policy, training, and personnel development; monitoring of the implementation of measures aimed at achieving proportional representation of national minorities and other minority national communities in state bodies, gender-balanced representation and employment of persons with disabilities; and determination of the rights and obligations of civil servants or state employees at their disposal and examining the possibility of their deployment to vacant posts in a state body.

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1. Ministries

The ministries, operating in current government setup, are:

- General Affairs
- Interior and Kingdom Relations
- Foreign Affairs
- Finance
- Justice and Security
- Economic Affairs and Climate Policy
- Defense
- Health, Welfare, and Sport
- Social Affairs and Employment
- Education, Culture, and Science
- Infrastructure and Water Management
- Agriculture, Nature, and Food Quality

They are established by the government through a Royal Decree. A royal decree is issued by the cabinet and signed by the King under ministerial responsibility. A change in the ministerial system is usually determined in the governmental agreement of a new cabinet after the elections.

A ministry has its own legal position within the context of the State and a ministry is established and changed as stipulated in article 44 of the Constitution by a

Royal Decree (*Koninklijk Besluit*).¹ That Royal decree is published in the *Government Gazette (staatscourant)*. Given this situation the (number and composition of) existing ministries can be changed quite easily.

At the top, the political leadership (minister and deputy ministers in Dutch *staatssecretarissen*) is situated under that political executive, and the Secretary-General operates with a staff bureau at his/her side. In most cases, there is a Deputy Secretary-General in charge of the ministerial staff and management units. Positioned under the Secretary-General, the directorates-general are in charge of policy-making, and under them we find the directorates, etc. All of them have staff bureaus. All of these units together form the core ministry. Still a part of the (formal) ministry we find at an arm's length, the ministerial agencies (*agentschappen*) that do have management autonomy, but still fall under the ministerial responsibility. These agencies are mainly involved with implementation and inspection. In theory, it is quite simple, as the ministries are established by Royal Decree. Nevertheless, a Royal Decree implies a cabinet agreement. This involves that the ruling cabinet that is made of a party coalition does agree. In practice, this implies that only with a change of cabinet such changes in the ministerial structure do occur.

2. Agencies

There are ministerial agencies as described above and independent agencies (*zelfstandige bestuursorganen*, which literally means 'bodies with public authority powers'). As the word 'independent' indicates they have a large degree of autonomy and are not subject to ministerial responsibility. The minister appoints the board, but in general, those boards run autonomous organisations.

Ministerial agencies are subject to ministerial (political) control and are considered a part of the ministry. The independent agencies are not a part of the ministry, but board members are appointed by the minister. There is also supervision; the same as is the case in local government. Ministerial agencies can be established within the context of the ministry and use the procedure mentioned above. Independent agencies are established by formal law and regulations.

There are 30 ministerial agencies that are part of the ministries. There are 120 independent public agencies that are part of the ministerial organisation from an internal management perspective, but are autonomous regarding the central tasks. An example is the Electoral Council (*Kiesraad*) that has to monitor elections. The supporting staff is employed by the Ministry of the Interior, but regarding its tasks, it is complete independent. The around 120 independent agencies mentioned above have a separate public law status.

¹ http://wetten.overheid.nl/BWBR0001840/2017-11-17#Hoofdstuk2_Paragraaf2_Artikel44

3. Organisational separation of policy-making and policy implementation

With respect to the ministerial agencies, only partially as the minister is still responsible, regarding the independent agencies there is a more clear separation. In terms of organisation the separation is clear, since the core ministry performs policy-making, while ministerial agencies perform policy implementation.

Ministries perform both functions, but implementation is often performed in most cases by the ministerial agencies, and the same separation applies to inspection units. Independent agencies are mainly in the area of implementation. Some inspection units also have an independent status. Therefore, the picture is mixed. With respect to ministerial agencies, yes, but this is not the case with independent agencies.

State-owned enterprises are almost exclusively on a private law basis, and have their own management system. Government influence is mainly exercised through appointments to supervisory boards of commissioners. These supervisors operate independently from the minister.

4. Territorial branches/units of central government

Some of the ministerial agencies have a territorial organisation, but their current number is six (and that number has decreased due to decentralisation to local government and some have been made in independent agencies). The most important current examples are inspection agencies, and also the Tax Office, *Rijkswaterstaat* (Public Works). They are vertically integrated as horizontal integration is seen as competitive and hostile to local government.

Managers are civil servants. These deconcentrated agencies are part of the ministries and the top is appointed accordingly. Given the fact that most are ministerial agencies with a large degree of management autonomy, management is decentralised.

There are no formal mechanisms. Formal cooperation is dependent on agreements between the ministries and local government. One of the important reasons to diminish the number of these field agencies was their involvement (bothering) with local government, which was considered centralised interference with local affairs.

5. Political positions in the executive branch

Ministers by portfolio in the current government:

- General Affairs
- Interior and Kingdom Relations
- Foreign Affairs
- Finance
- Justice and Security
- Economic Affairs and Climate Policy
- Defense
- Health, Welfare, and Sport
- Social Affairs and Employment
- Education, Culture, and Science
- Infrastructure and Water Management
- Agriculture, Nature, and Food Quality

The number of ministers is decided in the coalition agreement when forming a new cabinet. No formal law is needed, but they do need consent of Parliament in a vote of confidence in the new Cabinet. There can be two types of ministers. A minister with an overall responsibility for the ministry and her/his specific task area and a minister without portfolio who is responsible for a specific task area as ordered in the cabinet agreement, but not with an overall responsibility. The minister without portfolio is not hierarchically subordinated.

The Minister is the head of the ministry and has the final organisational responsibility, but as said there are also ministers with portfolios positioned in the ministries. They have no formal powers over the ministry, but are not subordinated from a policy perspective to the minister in the ministry. The deputy ministers are subordinated. Originally, the new cabinet had the intention to appoint two ministers with a shared responsibility for the ministry, but there were concerns voiced by constitutional expert that was running against the constitutional provisions.

In addition to the ministers, there are in total eight deputy ministers (*staatssecretarissen*) in the ministries of Defense, Education, Finance, Health Care, Infrastructure, Interior and Kingdom Relations, Justice, and Social Affairs. There are also political assistants to the minister. They are limited in number to 23 in total, are mostly junior in status, and have as task to maintain contact with their political party in parliament.

6. Top management in civil service

In 1994, the *Algemene Bestuursdienst* (ABD) or Senior Public Service (SPS) was created and composed of high-ranking civil servants assigned in the national government departments. The target groups were senior and top civil servants working in a policy-making (line) or managerial (staff) function for the government. There is a specific sub group within the SPS: the top management group (TMG): see below. The TMG consists only of secretaries-general, directors-general, inspectors-general and their functional equivalents in Central Government Planning bureaus, and the secret service. In addition, there is a category of SPS top consultants. The TMG membership amounts to around 65 in total. These members are formally appointed by the Cabinet upon the proposal of the Minister of the Interior and Kingdom Relations (who has consulted with the Minister in whose department there is a vacancy), and is then seconded for a seven-year term at that particular department after which they have to switch positions, that is, go to another department. The Secretary-General is the first advisor and the civil servant leading the ministry. There is also direct policy-related contact of the Director-General and directors with the political leadership of the ministry. Within the SPS, there are programs, but the actual use of formal programs is limited given the (time) pressures of the job.

7. Relations between politicians and top civil servants

Appointments to top positions are based on merit and objective procedures by the unit together with the personnel unit of the ABD personnel unit. See the procedure described above for SPS and the TMG. The positions below are in the discretion of the ministry, but still based on merit and politically neutral. There is no automatic change with respect to a change in government. Within the TMG part of the SPS, a procedure is developed for the removal of a Secretary-General or Director General from his/her office before his or her term expires. This procedure is meant to avoid legal conflicts and the payment of costly severance deals. This removal procedure is meant in cases as a top official becoming 'dysfunctional' or in the case of disturbed (also political-administrative) relationships within the ministry.

Regarding the question whether disagreements and conflicts between ministers and top civil servants are present or even usual, the answer is no. Not much, but occasionally these conflicts do happen and come into the open. They are mainly solved through the transfer of the official to another governmental position in order to avoid loss of face for the official and the political officeholder given the publicity and media attention involved in an open conflict.

8. Responsibility for civil service and HRM in public administration

The Minister of the Interior and Kingdom Relations is politically and institutionally responsible for the civil service and HRM in public administration. There is no separate agency in this area with the exception of an SPS bureau for senior and top level officials located within the Ministry of the Interior and Kingdom Relations. For general civil service issues, there is a directorate-general situated in this ministry.

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NORTH MACEDONIA

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1. Ministries

The ministries that operating in the current government set up, are:

- Ministry of Finance
- Ministry of Foreign Affairs
- Ministry of the Interior
- Ministry of Justice
- Ministry of Defence
- Ministry of Economy
- Ministry of Education and Science
- Ministry of Environment and Physical Planning
- Ministry of Health
- Ministry of Transport and Communications
- Ministry of Labour and Social Policy
- Ministry of Information Society and Administration
- Ministry of Agriculture, Forestry, and Water Economy
- Ministry of Culture
- Ministry of Local Self Government
- Ministry of Political System and Inter-Community Relations

The number the ministers correspond to the number of the ministries – the principle “one-line minister – one ministry” applies.

The ministries are established by the law adopted by the Parliament, namely the Law on the Organisation and Operation of the State Administration Bodies (ZO-

RODU) (*Закон за организација и работа на органите на државната управа, ЗОРОДУ*).¹ Ministries have separate legal personalities.

Internal organisation is structured upon three legal acts. Those are: the Law on the Organisation and Operation of the State Administration Bodies;² the Law for the Government of the Republic of Macedonia (*Закон за Владата на Република Македонија*);³ and the Act on Internal Organisation and Job Classification in a Ministry (*Акт за внатрешна организација и систематизација на работните места*), adopted by a responsible minister upon the prior approval of the Ministry of Information Society and Administration. Once brought, the Act on Internal Organisation and Job Classification in the ministry is approved by the body responsible for giving approval (in the current situation this function is performed by the Ministry of Information Society and Administration). As an exception, that procedure is not needed for the Ministry of Internal Affairs, The Intelligence Agency, the courts, and the public prosecutors' offices.⁴

The management of the ministry is structured around the Minister, Deputy Minister, and State Secretary.

The government establishes principles for the internal organisation of the ministries and other state bodies,⁵ and the content and the way for the preparation of the acts on internal organisation and job classification is prescribed by the Minister for Information Society and Administration.⁶ Upon those principles, the ministries bring the acts on internal organisation and job classification. Those internal acts regulate: the type and number of organisational units in the institution; the scope of work of the organisational units, their responsibilities, and mutual relations, the ways and forms of management (colleges, councils, etc.), their competences, and responsibilities.⁷

In general, the ministries are organised on two levels. On the first level are the units that support and are directly responsible to the Minister, and on the second level are the units that are responsible to the State Secretary. Under the direct supervision of the Minister are the cabinet of the minister and certain units such as an internal audit, or in some ministries the human resources units (as general

¹ https://vlada.mk/sites/default/files/dokumenti/zakoni/zakon_za_organizacija_i_rabota_na_organite_na_drzhavnata_uprava.pdf

² Ibid.

³ https://vlada.mk/sites/default/files/dokumenti/zakoni/zakon_za_vladata.pdf

⁴ Law for the Employees in the Public Sector, article 17 (*Закон за вработените во јавниот сектор*) http://arhiva.mioa.gov.mk/files/pdf/dokumenti/zakoni/zvjs/ZVJS_konsolidiran_060320_18.pdf, article 17

⁵ Ibid 3, art. 46, par. 2

⁶ Ibid 4

⁷ Decree for the Internal Organisation of the Bodies of the State Administration http://www.aa.mk/WBStorage/Files/Uredba_Vnatresna_Organizacija_07.pdf

rule, the human resources units are under the supervision of the state secretary), whereas all the other units are under the supervision of the state secretary, alongside with the state counsellors.

The units in the ministry are organised for the need of the ministry and depend on its specifics. Part of the units have policy-making functions, and part of them have supporting functions that enable smooth functioning of the institution (i.e., legal affairs unit, IT unit, finance, public procurement, etc.). Within the ministries, there are affiliated institutions and some of them have a status of a legal entity. In the last 10 years, there is a trend towards the independence of these organisations, and almost all are separate legal entities⁸ (currently 27 out of 45).⁹ They are established to perform functions of the policy implementation, including the inspection and administrative service delivery. The ones that have no legal personality are directly accountable to the minister (they can be established as bureaus, directorates, inspectorates, academies for training and professional development, etc.), and the ones that have the status of a separate legal entity (according to the laws upon they are established) and have their own management (general director, director, or chief inspector).

Ministries are established, dissolved, or merged with the law or with the amendment of a law, adopted by the Parliament. The process of establishment, merging, or dissolving, are not easy paths, but very formal and complex processes that require the involvement of many stakeholders, political will, legal and institutional negotiations, as well a qualified majority in the Parliament. As a result, in general practice, the applicable laws do not change often. However, in some situations, that depend on a political climate, the EU integration processes or political estimation, the potential changes proceed more smoothly and without major opposition – such as, for example the recent amendments of the laws and establishment of the Ministry of Political System and Inter-Community Relations in March 2019 (established as the 16th ministry).

2. Agencies

In general terms, in the Republic of North Macedonia, many of the state administration bodies are not entitled as an “agency,” although they operate as agencies and have the characteristics of an “agency.”¹⁰ The area in which they operate

⁸ Gocevski, D., Maleska Sacmaroska, N. (2018) Analysis of the Elected and Appointed Persons, http://www.cup.org.mk/publications/Imenuvani%20i%20izbrani_za%20web_02.pdf

⁹ <https://qb.mk/wp-mapana/organi-vo-sostav-na-ministerstvata/>

¹⁰ See EUPACK glossary in “A Comparative Overview of Public Administration Characteristics and Performance in EU28” at: <https://publications.europa.eu/en/publication-detail/-/publication/3e89d981-48fc-11e8-be1d-01aa75ed71a1/language-en>

is vast and covers almost the entire public sphere, such as the legislation, local self-government, administration, judiciary, health, agriculture and forestry, culture, transport, education, labour and social work, information society, environment, justice, finance, investigation, telecommunications activities, etc. Because of their great number, often, they are subject to criticism, since in many cases there is an overlap of the competences, authorities, and the tasks. To the general public, it is often unclear exactly which institution is in charge. Those agencies are directly funded by the budget.¹¹

According to the Law, the state administration bodies may be established as ministries, other state administration bodies, and as administrative organisations. The other state administration bodies, depending on the type of the organisation and the level of autonomy, may be established as *autonomous state administration bodies* (directorates, agencies and, commissions), the *bodies within the ministries* (administration, bureau, service, archive, inspectorate, and port authority office), or as *administrative organisations*.¹² In the Republic of North Macedonia, there are 32 autonomous state administration bodies; 45 bodies within the ministries,¹³ and three administrative organisations (established as autonomous state administration bodies).¹⁴

An *Autonomous State Administration Body* is accountable for its work to the Government of the Republic of Macedonia and to the relevant ministry. An autonomous state administration body can be established, terminated, and their competency is defined by law. The autonomous state administration bodies are Commission for Relations with the Religious Communities and the Religious groups; Agency for Youth and Sport; Agency for Emigration; Agency for Information; Agency for Development and Investments, etc.¹⁵

Bodies within ministries are established by the law.¹⁶ The bodies within ministries can be established to perform specific administrative, expert, and other tasks within the competencies of the ministries. Such bodies are, for example, the Bureau of Forensics; Bureau for Enforcement of Sanctions; Bureau for the Development of Education, Bureau for Public Procurement, etc. The bodies within the ministries can have a status of a separate legal entity if it is predicted in the law for their establishment – as for example the Bureau for Enforcement of Sanctions,

¹¹ <https://kapital.mk/preku-23-drzhavni-agentsii-ke-se-potrosat-250-milioni-evra-od-bud-hetot-vo-2019-godina-2/>

¹² Ibid 1, art. 5

¹³ <https://qb.mk/wp-mapana/>

¹⁴ Ibid 1, art. 12

¹⁵ <https://qb.mk/wp-mapana/samostojni-organi/>

¹⁶ Ibid 3, art. 36; Ibid 1, art 7

The Public Revenue Office, the Customs Administration, Bureau for Commodity Stocks, etc.¹⁷

Administrative organisations perform specific expert and other tasks, and apply scientific and expert methods in related administrative tasks in the domains for which the ministries are established.¹⁸ Administrative organisations are The State Archive of the Republic of Macedonia; the Agency for Real Estate Cadastre; and State Statistical Office.¹⁹

With the autonomous state administration body, a body within the ministries and administrative organisations, manages a director appointed and dismissed by the Government unless otherwise specified by law.²⁰ Usually, the heads of these agencies are people who have close political connections with the ruling parties.

A director who manages the autonomous state administration body and administrative organisations, is personally responsible to the Government for his/her work, for the work of the organisation that he/she manages, as well as for the state of affairs in the relevant field within the competence determined by law. A director of a body within the ministry is personally responsible for his/her work and for the work of the body that he/she manages to the Government and to the relevant minister.²¹ Additionally, according to the Law, the state administration bodies inform the public for their work in accordance with the Constitution and the laws.

There are 10 regulatory agencies which are created by separate laws, and are responsible to Parliament. They are fully independent and in sense of the previous classification cannot be determined as agencies.

3. Organisational separation of policy-making and policy implementation

The policy-making process in the Republic of North Macedonia begins with setting the political agenda, which is carried out through the adoption of the Government's Work Program for four years, based on the political program of the ruling party. It is further operationalised through the process of adopting the Government's strategic priorities for the relevant year and preparing an annual program. It is specified in each area with the creation of three-year strategic

¹⁷ Ibid 1

¹⁸ Ibid 1, art. 5

¹⁹ Ibid 1, art. 12

²⁰ Ibid 1, art. 47

²¹ Ibid 1, art. 50

plans and annual programs of the ministries, accompanied by appropriate action plans.²² The framework for specific decision-making and policy-making is set out in the Rules of the Procedure for the work of the Government that defines the rights, responsibilities, and roles of administrative bodies, public officials, and administrative staff.²³

In the Republic of North Macedonia, there is no clear organisational separation between policy-making, policy implementation, and control. Although policy-making is only performed by the ministers, the policy implementation and control function can be as well performed by the ministries and the agencies. In that sense, the ministries can issue licensing, as for example, the license for building and spatial planning issued by the Ministry of Transport and Communications; the organisation of the Bar Exam held by the Ministry of Justice, etc. From the other side, the inspections are mainly performed by the Agencies.

Ministries don't decide on appeals against the administrative decisions or the acts issued in the administrative procedure (except in the Ministry of Health and in the Ministry of Labour and Social Policy, where the second instance commission is under the minister). Appeals are decided by the second instance body (formed by the Parliament as autonomous state administration body), and if there is no such body, then are decided by the body that is responsible to supervise the body that brought the decision.²⁴

Ministries are not responsible for managing of the state-owned enterprises. According to the Law on Public Enterprises, the opposite case is considered as a conflict of interest.²⁵ The state-owned enterprises are managed by the director and the management board.

4. Territorial branches/units of central government

Central administration is territorially deconcentrated. In most of the urban municipalities, there are separate administrative units (подрачни единици) that operate on a local level. For the easier access and the realisation of the rights and interests of the citizens that are in the responsibility of the institution, territorial

²² Blazevska A., Ristevska, M., (2018). Handbook for Policy Creation in Chapter 20, (Прирачник за креирање политики во поглавје 20) <http://www.crpm.org.mk/wp-content/uploads/2018>

²³ Rules of the Procedure for the work of the Government (Деловник за работа на Владата), <https://vlada.mk/sites/default/files/dokumenti/>

²⁴ Law for General Administrative Procedure (Закон за општа управна постапка), <https://www.pravdiko.mk/wp-content/uploads/2013/11/Zakon-za-opshtata-upravna-postapka-23-07-2015-so-primena-od-31.07.20161.pdf>

²⁵ Law on Public Enterprises (Закон за јавните претпријатија), article 18 <http://www.slvesnik.com.mk/content/pdf/Zakon%20za%20javnite%20pretprijatija-redakciski-precisten.pdf>

branches can be formed, outside of the seats of the institution. The territorial branches are organised on a regional principle and there is no number limitation. The seats of the territorial branches and the area in which they are formed are regulated by the internal acts of the systematisation of the institutions.²⁶ The administrative units have the ministries, as well as the agencies. There is no official data about the number of the territorial branches/units of the Central Government, and cannot be calculated provisionally. (For example, the Ministry of Justice has territorial branches in 35 out of 80 municipalities in the city of Skopje. Only in the territorial branch –Skopje, there are 15 territorial separate units; the Ministry of Internal Affairs has eight territorial branches in the bigger cities in Macedonia). The territorial branches are part of the institution and they are predicted and incorporated within the internal act of organisation. They function as units within the institution (ministry/ agency). They don't have separate management.

5. Political positions in the executive branch

The current composition of the Government is set on 3 January 2020, as the transitional Government that should organise the fair, democratic, and credible elections scheduled for 12 April 2020.

The previous composition of the Government was elected on 31 May 2017, following the parliamentary elections in December 2016. The current government coalition consists of the Social Democratic Union of Macedonia (SDSM) and two Albanian political parties – Democratic Union for Integration (DUI) with six ministers, and the Alliance for Albanians (AA) with two ministries.

The ministers are:

- Minister of Finance
- Minister of Foreign Affairs
- Minister of the Interior
- Minister of Justice
- Minister of Defense
- Minister of Economy
- Minister of Education and Science
- Minister of Environment and Physical Planning
- Minister of Health

²⁶ Decree for the Internal Organisation of the Bodies of the State Administration, http://www.aa.mk/WBStorage/Files/Uredba_Vnatresna_Organizacija_07.pdf

- Minister of Transport and Communications
- Minister of Labour and Social Policy
- Minister of Information Society and Administration
- Minister of Agriculture, Forestry, and Water Economy
- Minister of Culture
- Minister of Local Self Government
- Minister of Political System and Inter-Community Relations

Each ministry is headed by one minister. There may be ministers without portfolio, too. In the current government, there are seven ministers without portfolio. They are Minister without portfolio for Diaspora; Minister without portfolio in charge of communications, accountability, and transparency; Minister without portfolio in charge of regulation to improve the investment climate for domestic enterprises; Minister without portfolio in charge of foreign investment (3 ministers); Minister without portfolio in charge of implementation of the strategy for improving the status of the Roma people. (The number of the ministers without portfolio is not legally limited).

The Prime Minister has four Deputy Prime Ministers. Three of them are the ministers of the above-mentioned ministries, and one of them is in charge of European Affairs. The potential President of the Government (мандаатар), that is the president of the political party that has the majority of the votes in the elections, proposes to the Parliament the ministers for the ministries that are established by the law (their number and their structure),²⁷ as well as he/she proposes the ministries without portfolio.

The Minister is the head/principal of a ministry. The minister independently manages the ministry for which he/she is selected and he/she is responsible for enforcing legal and other regulations.²⁸

The Parliament of the Republic of Macedonia appoints and dismisses the deputy of the minister of the ministry, upon the proposal of the President of the Government of the Republic of Macedonia. In the period before the elections, the Parliament of the Republic of Macedonia, on the proposal of the President of the Government of the Republic of Macedonia, appoints an additional deputy minister in the following areas: Ministry of Internal Affairs – from the political party that has the majority in the Parliament; Ministry of Labour and Social Policy – from the political party that has the majority in the Parliament; Ministry of Finance – from the political party in opposition to that which has majority in the Parliament; Ministry of Agriculture, Forestry, and Water Management – from

²⁷ Ibid 1

²⁸ Ibid 3, art. 13

the political party in opposition that has majority in the Parliament; Ministry of Information Society and Administration – from the political party in opposition that has majority in the Parliament. The mandate of the additional deputy minister lasts until the announcement of the final results of the elections by the State Election Commission.²⁹

According to the legislation in power, the minister only has one deputy minister, except in the transitional period before the election, when an additional deputy minister is appointed by the scheme explained above.

The deputy minister replaces the minister when she/ he is absent from work because of illness or other causes which stop him/her to perform the work, having all the powers and responsibilities in the management. In the ordinary cases, the deputy minister, performs all the tasks delegated by the minister and delivers them upon co-operation.³⁰

The State Secretary (државен секретар) is appointed to the ministries by the Government upon the proposal of the minister that manages the ministry. The State Secretary has the status of a state official. He/she is directly responsible to the Government and the minister for his/her work. The mandate of the State Secretary ends with the termination of the mandate of the Government.³¹

The State Secretary ensures efficient and effective work of the institution, as well as unifies the work of the organ; he/she manages the expert service of the organ and gives guidance to the management and others officials, especially in the context of human resource management; he/she is responsible for the promotion of the organisation and the conditions for the work of the organ, neatness, and timeliness in acting on the cases and performance of the work of the organ, as well as the implementation of the strategic plans, the program for the work, and the budget of the organ; he/she is concerned with time implementation of the decisions and conclusions of the Government, as well as the guidelines of the Minister; participates in the work of Secretary General's College; coordinates the preparation of the reports, proposals, programs, information, and other materials for the Government sessions, directly cooperating with the Secretary General of the Government, with other secretaries and officials in charge in others organs; maintains contacts at the appropriate level with domestic and international organisations when she/he is authorised to participate in the work of the working bodies of the Parliament of the Republic of Macedonia and the Government of the Republic of Macedonia, etc. The State Secretary also performs the works related to the rights, duties, and responsibilities of the civil servants.³²

²⁹ Ibid 3, art. 44

³⁰ Ibid 1, art.48

³¹ Ibid 3, 39-a; 39 - b

³² Ibid 3, art. 39 -a

The Government has a Secretary-General who is appointed and dismissed by the Government. The Secretary-General has rights and duties of an accountable official who manages a public administration body, and his/her work is determined by the Rules of the Procedure for the work of the Government.³³ For his/her work and the work of the Secretariat General, the Secretary-General responds to the President of the Government and the Government. The Secretary-General has a deputy appointed by the Government.³⁴

At the moment, there are 16 state secretaries appointed in ministries and one General Secretary.

6. Top management in civil service

The Draft Law for the Top Management in the Civil Service (Draft Law) is in the latest phase of the parliamentary procedure, and is expected to be adopted soon. The Draft Law predicts a special legal regime for the top management in the civil service.³⁵ The Draft Law specifies the processes of:

- Recruitment/selection procedure (Article 26)
- Conditions and phases of the selection procedure (Article 26–41)
- Responsibilities (Article 43)
- Termination of the mandate (52–55)
- Remuneration (Article 56)³⁶

Within the Draft Law, as the top management in civil service are considered the highest positions in the public sector institutions, which are directly responsible to the officials and other politically elected and politically appointed persons.³⁷

According to the Draft Law, the management positions are:

- Secretary – within the ministry
- Director – in other public administration bodies and public enterprises established by the Government.

³³ Ibid 23

³⁴ Ibid 3, art 39

³⁵ <https://www.sobranie.mk/materialdetails.nsp?materialId=58bca389-4ba4-40f2-9694-b2c7a35926f7>

³⁶ Ibid 35

³⁷ Ibid 35, art 3

Until the adoption of the new law, the provisions of the Law on Administrative Servants³⁸ are in place. The Law on Administrative Servants made the first effort for the professionalisation of the executive managers in the administrative service – the secretaries. Namely, in the Law on Administrative Servants, the highest category ‘A’ of administrative servants are the secretaries (state, general secretaries, and secretaries of the local self-government units and the City of Skopje) and, for that position (within the Law), there are general and special conditions that need to be fulfilled. As for the directories, the rules for their appointment are set out in 123 separate laws. These laws contain insufficient regulation (often only the provisions for the announcement of the public calls and too general conditions), and they don’t contain the provisions for open and fair competition procedures for selection, nor the criteria for the selection of the most competent candidate. Consequently, there is no unique law that regulates the rules for the appointment or the top management service. The new Law should address those challenges.³⁹

Except the top managers in civil service, the other management categories (Category B – managing administrative servants) are regulated within the Law of the Administrative servants (the same law is still on the force in respect of the regulations of the top management position until adoption of the new law). In the Law, the managing administrative servants are divided into four levels. Additionally, for each level the Law stipulates the necessary conditions that need to be fulfilled, as well as the procedure for selection.⁴⁰

On top of the top of the pyramid of the civil servants in the ministry is the State Secretary. The State Secretary is the administrative servant from the Category A – secretaries, and should fulfil the special job conditions stipulated for that category.⁴¹

There are no special requirements for the training of the top managers in civil service. According to the Law on Administrative servants, the training is the right and duty of the civil servants. The civil servants need to have five generic trainings per year. (With the new Draft Law for the amendments and the changes of the Law for the Administrative Servants, the civil servants should have two generic trainings per year).⁴² There is a special program for the training of the ad-

³⁸ Law on Administrative Servants (Закон за административни службеници), http://arhiva.mioa.gov.mk/files/pdf/dokumenti/zakoni/zas/ZAS_konsolidiran_13022018.pdf

³⁹ Ibid 35

⁴⁰ Ibid 38, art. 23

⁴¹ Ibid 38, art. 24

⁴² Draft Law for the amendments and the changes of the Law for the Administrative Servants (Нацрт – закон Предлог закон за изменување и дополнување на Законот за административните службеници), https://ener.gov.mk/Default.aspx?item=pub_regulation&subitem=view_reg_detail&itemid=53332

ministrative servants from Category B (managing administrative servants), but there are no special requirements for the training of top management.⁴³ The new law, as well, doesn't envisage a special requirement. Still in North Macedonia, in preparation is the Academy for Training and Professional Development of the civil servants that should provide the training for top-level management.

7. Relations between politicians and top civil servants

The Minister manages the ministry, and is appointed and dismissed by the Parliament of the Republic of North Macedonia. The Parliament of the Republic of North Macedonia elects the President of the Government (the Prime Minister), appoints and dismisses ministers and their deputies on the proposal of the President of the Government.

With the autonomous state administration body, bodies within ministries, and the administration organisations, manage the director appointed and dismissed by the Government.

The Government and the local self-government units establish public services in the form of public institutions and public enterprises, and elect the members of the governing bodies (as a rule, the management, and the supervisory boards) of these organisations, and, in turn, those governing bodies choose the directors.

The General Secretary manages the General Secretariat, which is the basic administrative service of the Government, and he/she is the only secretary who directly, and as a purely political function, is chosen and dismissed by the Government.

As a special service, the Service for General and Joint Work of the Government has a managing director, selected by the Government.

Only the Intelligence Agency has the status of a separate state body, which is managed by the director who is appointed and dismissed by the President of the Republic of North Macedonia.

As for the bodies within the ministries, all of them have a one-tier governance structure and one holder of the managing function – the director. The bodies delivered specialised functions and operate in an area that falls under the jurisdiction of a larger ministry. Depending on the particular organisation, a director can be appointed by a competent minister and he/she answers to him/her. The director can also be appointed by the Government of the Republic of North Macedonia and responds to the Government.

⁴³ Ibid 38, art. 54-57

The autonomous state administration bodies are the organisations with the capacity of a legal entity, and a higher degree of autonomy than the bodies within the ministries. Their relations with the ministries are horizontal, and they are responsible for their work to the founder, who, as a rule, is the Government of the Republic of North Macedonia. All of the autonomous bodies have a two-tier governance structure, with a collegial body, a managing board whose members are selected and dismissed by the Government of the Republic of North Macedonia, and a director who is chosen by the management board upon a public announcement. There are “some” selection criteria based on which the best candidate is selected. Most of the directors have deputy directors.

Except for the General Secretary of the Government, the state secretaries are administrative servants, which means they are employed persons from the career responsible for human resources management at the level of one institution. The State Secretary manages the administrative staff, gives guidance to the managerial and other staff and employees of the institution, especially in the context of human resources management, as well as resolves the rights, responsibilities, and responsibilities of the administrative staff. The state secretaries are appointed by the Government.

Public enterprises are founded to perform activities of public interest. The founder of the public enterprise can be the Republic of North Macedonia, the municipalities, and the City of Skopje. On behalf of the Republic of North Macedonia, a public enterprise establishes the Government of the Republic of North Macedonia. The public enterprises have a three-tier governance structure – a board of directors, which can consist of 5 to 15 members – that are selected and dismissed by the founder, five members of the supervisory board and the director, who are selected by the board of directors upon a public announcement.

The members of the managing boards, supervisory boards, and directors have mandates established by separate laws.⁴⁴ However, the termination of the mandate of the members of the managing boards and supervisory boards, in most of the cases depends upon the one who appoints them (the Government).

The mandate of the State Secretary terminates with the mandate of the Government.⁴⁵ The termination of the office of the secretary, ends with the termination of the office of an official who appointed him/her. In that respect, after the termination of his/her office, the person needs to be assigned to a job in a place at the same level as the level of the place of the employment on which he/ she was working before being appointed as secretary.⁴⁶

⁴⁴ Ibid 8

⁴⁵ Ibid 3, art. 39-b

⁴⁶ Ibid 38, art. 23

The Draft law of High Administrative Service, predicts the establishment of a special body, a Commission for High Administrative Service (Комисија за висока раководна служба) (Commission), that should have the status of an independent state body with a legal personality and own budget, and should select the top management (state secretaries at the ministries and directors of the agencies). Members of the Commission will have a mandate of five years, without the right to be re-elected and need to fulfil a list of conditions to be selected. The Commission will have the competencies in respect of the procedures for section/ or appointment of the top management service. Additionally, the Commission should undertake activities for settling misunderstandings and disputes between the responsible officials and top management servants; responsibilities for early termination of the mandate of top management servants; their dismissals and evaluation of their work. In the same time, the Commission will have competences to conduct disciplinary procedures and to impose disciplinary measures for the top management servants.⁴⁷

As yet, conflicts among the ministers and top civil servants haven't happened very often. If they occur, there is not an established pattern for resolving them. They are usually resolved on a political or on interpersonal level.

8. Responsibility for civil service and HRM in public administration

The Minister for Information Society and Administration is politically responsible for the civil service and human resource management (HRM) in the public administration, and the Ministry for Information Society and Administration is institutionally responsible for these issues.⁴⁸ As a separate body, the Ministry forms an academy for training and professional development of the civil servants. (With the new Draft Law for the amendments and the changes of the Law for the Administrative Servants, the name of the institution is Academy for Training and Development of the Administration).⁴⁹

Additionally, the responsible institutions are the Ministry of Finance; the Secretariat for the Implementation of the Framework Agreement, and the Agency for Administration.

The Ministry of Finance, has the competence to give approvals on annual plans of the public enterprises established by the Republic of North Macedonia for recruiting administrative officers, as well as giving consent for the funds provided

⁴⁷ Ibid 35

⁴⁸ Ibid 38, art. 7

⁴⁹ Ibid 42

in the Budget of the Republic of North Macedonia for completing each position of the administrative servant, that the salary and salary substitutes are paid by the Budget of the Republic of North Macedonia.⁵⁰

The Secretariat for the Implementation of the Framework Agreement has the authority to give consent to annual plans of the bodies of the state administration for employment of administrative officials (based on the principles of equal representation of all the communities) and participate in the selection committees for administrative officers.⁵¹ That function is now performed by the new Ministry of Political System and Inter-Community Relations.

The Agency for Administration is an independent state body, with the status of a legal entity that is announcing the public calls for recruitment of the administrative servants; organises the selection procedure; serves as the second instance for appeals and complaints; and examines the administrative servants.⁵²

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⁵⁰ Ibid 38, art. 8

⁵¹ Ibid 38, art. 9

⁵² Ibid 38, art. 13-21

References

Legal acts:

- Law for Administrative Servants (Закон за административни службеници)
- Law for the Employees in the Public Sector (Закон за вработените во јавниот сектор)
- Law for the Government of the Republic of Macedonia (Закон за Владата на Република Македонија)
- Law on the Organisation and Operation of the State Administration Bodies (Закон за организација и работа на органите на државната управа)
- Law on Public Enterprises (Закон за јавните претпријатија)
- Decree for the Internal Organisation of the Bodies of the State Administration (Уредба за внатрешна организација на органите на државна управа)
- Rules of the Procedure for the Work of the Government (Деловник за работа на Владата)
- Law for General Administrative Procedure (Закон за општа управна постапка)
- The Draft Law for the Top Management in the Civil Service (Предлог – закон за висока раководна служба)

Documents:

- Blazevska A., Ristevska, M., (2018). Handbook for Policy Creation in Chapter 20. Foundation for Management and Industrial Research.
- Gocevski, D., Maleska Sacmaroska, N. (2018). Analysis of the Elected and Appointed Persons (Анализа на Избраните и Именуваните Лица). Centre for Change Management.
- European Commission (2017). “A Comparative Overview of Public Administration Characteristics and Performance in EU28.”

Useful links

- <https://vlada.mk/vlada-ministerstva>
- <https://qb.mk/wp-mapana/organi-vo-sostav-na-ministerstvata/>
- <https://kapital.mk/preku-23-drzhavni-agent-sii-ke-se-potroshat-250-milioni-evra-od-bud-hetot-vo-2019-godina-2/>



SLOVENIA

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1. Ministries

The ministries, operating in current government setup, are:

- Ministry of Finance
- Ministry of Foreign Affairs
- Ministry of the Interior
- Ministry of Justice
- Ministry of Defence
- Ministry of Economic Development and Technology
- Ministry of Education, Science, and Sport
- Ministry of the Environment and Spatial Planning
- Ministry of Health
- Ministry of Infrastructure
- Ministry of Labour, Family, Social Affairs, and Equal Opportunities
- Ministry of Public Administration
- Ministry of Agriculture, Forestry, and Food
- Ministry of Culture

The number of line ministries corresponds to the number of line ministers – the principle “one line minister – one ministry” applies.

The ministries are established by law, adopted by the Parliament: Public Administration Act (*Zakon o državni upravi, ZDU-1*).¹ Ministries do not have a separate legal personality.

¹ <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO3225>

The internal organisation of a ministry is based on and defined by three types of legal acts: the Public Administration Act, Decree on the Internal Organisation, Job Classification, Posts and Titles in Public Administration and Justice Bodies (*Uredba o notranji organizaciji, sistemizaciji, delovnih mestih in nazivih v organih javne uprave in v pravosodnih organih*),² and the Act on Internal Organisation and Job Classification in a Ministry, Adopted by a Minister and Approved by the Government.

Ministries are divided into directorates (the implementing core, i.e., policy-making and coordination functions by policy sub-areas) and a secretariat (concentrating all supporting functions, such as HRM, IT, finance, public procurement, etc.).³ Directorates are managed by Directors-General, and the secretariat by a Secretary General. Currently, there are 54 directorates in 14 ministries, and their number is rather stable over time (Table 3). Directorates can be further divided into sectors.⁴

Certain self-standing structural units (usually small ones) can be organised outside directorates and secretariats, directly reporting to the minister and state secretary (such as the “Cabinet of the Minister,” the unit for international cooperation and EU affairs, the PR unit; and the unit for internal audit must be self-standing and directly reporting to the Minister according to the Public Finance Act [*Zakon o javnih financah, ZJF*]).

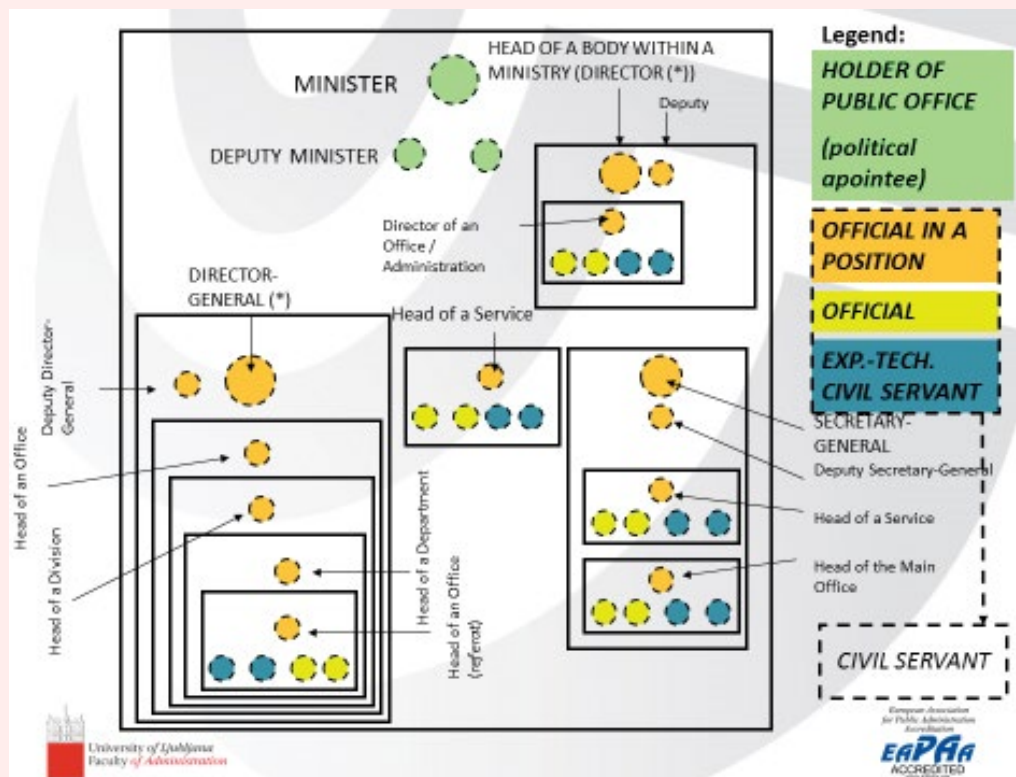
The “organs/bodies within ministries” (in comparative perspective: executive agencies) may be established to perform functions of implementation of policies, including with inspection and administrative service delivery. They have the status of a separate administrative body (organ) with their own management (general director, director, or chief inspector). They have no legal personality, but they enjoy managerial autonomy in the areas of financial management and HRM, as well as professional autonomy, all in the framework of legislation, government and ministerial regulation, and the state budget (Virant, 2011).

² <http://www.pisrs.si/Pis.web/pregledPredpisa?id=URED2954>

³ The structure at this level is defined by the decree itself, allowing the Ministry of Public Administration (responsible for proposing the decree and its amendments) to coordinate and influence the basic structure of ministries.

⁴ The total number of sub-levels within directorate is four (see Figure 1).

Figure 1: Leadership and internal organisation of a typical ministry



Source: Rakar & Tičar (2017)

Ministries are established, dissolved, or merged through amendment of an act, adopted by the parliament (i.e., the Public Administration Act). In a formal sense, this is a very inflexible way of organisational changes. In practice, however, this depends on relationship between the government and parliament. If the government holds a firm majority in the parliament, and if the members of parliament follow the party discipline, then these changes may be flexible.

2. Agencies

In Slovenia, there are many organisations which hold the word “agency” in their name. However, this is misleading in terms of comparative public administration studies. On one hand, all these organisations fall into (at least) three different categories of entities – 1) agencies *sensu stricto* without legal personality; 2) legal persons of public law; and 3) legal persons of private law. On the other hand, there are organisations which don’t hold the word “agency” in their name, but they are agencies.

According to the COBRA network an “agency”⁵ has the following characteristics:

- It is structurally differentiated from other organisations
- Some capacity for autonomous decision-making
- Some expectation of continuity over time
- Performs some public function
- Has some personnel and some financial resources

It is created by government, funded for a major part by government or under administrative scrutiny by government.

We may distinguish two types of agencies at central government level: 1) so-called “organs/bodies within ministries” (see above), and 2) agencies with separate public law personality.

Bodies within ministries can be categorised as “implementation/executive agencies.”⁶ In principle, they are responsible for policy implementation and delivery of administrative services. Bodies within ministries may be established by the government decree, if statutory conditions are fulfilled.⁷ Their number is relatively stable, and number 35 at the moment (Table 3). Some of them have their own territorial organisation, e.g. police, financial administration, inspectorates, which leads to problems of horizontal coordination. They enjoy a certain degree of managerial and professional autonomy within the framework of the state budget and laws, but are without separate legal personality.

Agencies with separate public law personality may be further divided in two sub-types – independent regulatory agencies (they only report to the parliament; e.g. The Securities Market Agency)) and other public agencies (they only report to the government; e.g. the Slovenian Book Agency). Independent regulatory agencies were established by sector specific legislation prior to the adoption of the framework legislation (Public Agencies Act of 2002 [*Zakon o javnih agencijah, ZJA*]),⁸ while the others were established by act of government, based on both

⁵ See EUPACK glossary in “A Comparative Overview of Public Administration Characteristics and Performance in EU28” at: <https://publications.europa.eu/en/publication-detail/-/publication/n/3e89d981-48fc-11e8-be1d-01aa75ed71a1/language-en>

⁶ In practice they are mainly named ‘administration,’ ‘office,’ ‘inspectorate,’ ‘agency,’ or ‘directorate.’ A few sui generis labels exist, e.g. Police, General Staff of the Slovenian Armed Forces, and Archives.

⁷ Bodies within Ministries shall be established in order to perform specialised tasks requiring expertise, executive and developmental administrative tasks, inspection and other supervisory tasks, and tasks in public services department, if thereby providing for greater efficiency and quality in the performance or if greater degree of expertise and independence is required due to the nature of administrative tasks or fields of activity (Article 14 of Public Administration Act).

⁸ <http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO2024>

framework law on agencies (Public Agencies Act) and sector specific legislation (see Virant & Rakar, 2017b).

Bodies within ministries are accountable to the minister, public agencies to the government, and independent regulatory agencies to the parliament. The level of autonomy differs (Table 1):

Table 1: Levels of formal autonomy of PA bodies

Elements of autonomy	Body/Organisational unit	Ministerial directorate	Body (agency) within ministry	Public agency
Legal personality		No	No	Yes
Decision-making		Partly	Yes	Yes
Organisation		Low	Middle/High	High
Finances		Low	Middle/High	High
HRM		Low	Middle/High	High
Mandate of head of body		Weak	Middle/Strong	Strong
Influence of government/ ministry on management		High	Middle	Low
Influence of government/ ministry on performing of tasks ⁹		High	Middle	Low

Source: Virant (2004).

Table 2: Examples and number of agencies

	EXAMPLE	NUMBER	LEGAL PERSONALITY
Body within ministry	Slovenian Environment Agency, Market Inspectorate, Police	35	no
Public agency	Agency for Communication Networks and Services, Insurance Supervision Agency, Slovenian Book Agency	16	yes
TOTAL		51	

Source: European Commission (2017), Virant & Rakar (2017).

⁹ Issuing of secondary legislation excluded.

Table 3: Number of agencies and other administrative bodies in the period 2011-2018

	DEC. 2011	OCT. 2012	MAY 2013	JAN. 2014	SEPT. 2014	NOV. 2014	JAN. 2015	JAN. 2016	SEPT. 2016	FEB. 2017	APR. 2018
	No.	No.	No.	No.	No.	No.	No.	No.	No.	No.	No.
MINISTRY	15	11	12	12	12	14	14	14	14	14	14
BODY WITHIN MINISTRY	39	36	33	33	32	33	33	34	34	34	35
GOVERN.OFFICE	14	10	10	11	12	12	12	12	12	12	13
ADMIN. UNIT	58	58	58	58	58	58	58	58	58	58	58
MINIST. DIRECT.	58	55	53	53	51	52	52	52	52	54	54
PUBLIC AGENCY	17	17	16	16	15	15	15	16	16	16	16

Source: Ministry of Public Administration (2018)

3. Organisational separation of policy-making and policy implementation

The organisational separation between policy-making (PM) and policy implementation (PI) functions is strict. PM is performed by core ministry, while the PI is performed by agencies: bodies within ministries, public agencies, and their territorial branches (see below).

Core ministries performs only PM. Ministries *lato sensu*, i.e., including their bodies within ministries (executive agencies), perform PI as well. PI pertains to inspection and issuing licenses and other concrete individual administrative legal acts in administrative procedures.

Ministries review and decide on appeals against the administrative decisions (acts issued in administrative procedure) of agencies as second instance in administrative procedures.

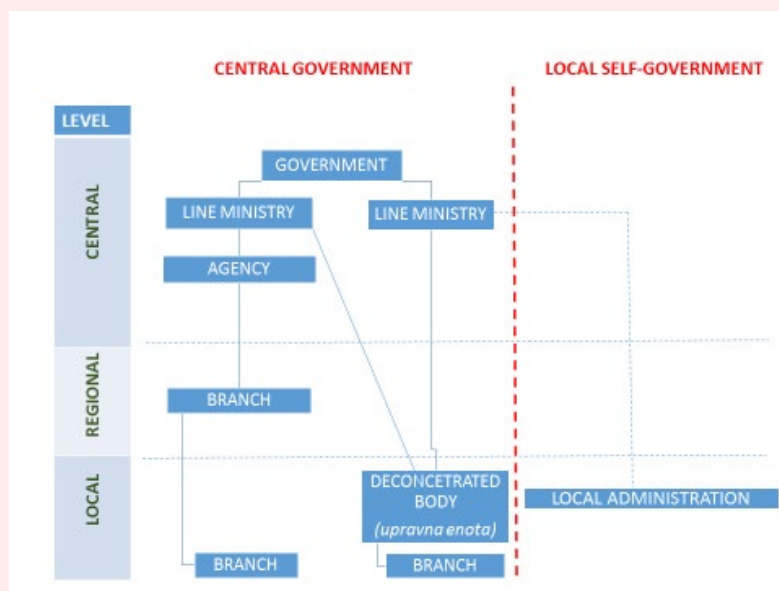
Ministries are not responsible for managing state-owned enterprises. This function is performed by Slovenian Sovereign Holding (*Slovenski državni holding*), which is established as a joint-stock company (see Slovenian Sovereign Holding Act [*Zakon o Slovenskem državnem holdingu*], Article 33).¹⁰

¹⁰ <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO6677>

4. Territorial branches/units of central government

Central administration is territorially deconcentrated – the first tier are so-called administrative units (*upravna enota*), operating on local level and further deconcentrated in local offices and the second tier are regional and local branches of bodies within ministries (executive agencies, e.g. police, financial administration, inspectorates) (Figure 2).

Figure 2: Levels of Slovenian public administration



There are 58 administrative units and over 200 branches and/or offices of bodies within ministries (cf. Ministry of Interior, 2013).¹¹ They all operate parallel.

So-called administrative units are deconcentrated bodies of central government, and responsible for policy implementation and delivery of administrative services. Their number hasn't changed since their establishment in 1994. Since some of them are very small in terms of territory, there were several initiatives to reduce their number by establishing larger administrative units, but all of them were unsuccessful. In 2016, the rationalisation of technical operations supporting financial management of administrative units began – the vision is that financial services for all of 58 units would be performed by only 12 of them (MPA, 2016). At the moment, nine units are in the pilot phase, divided in two clusters.

¹¹ Their number is hard to establish, since there is no official register. Some of them are established by a decree (e.g. Financial Administration), while the others by act on internal organisation.

Table 4: Number of territorial branches and offices

NUMBER	Cca. 10	Cca. 60
	Police administrations (8)	Administrative units (58)
BODY	Financial administration (15)	Financial offices (41)
	...	Police stations (100)

So-called administrative units represent horizontally integrated type of body, all other territorially organised bodies are vertical branches of ministries *lato sensu*.

Managers of territorial branches of central government are civil servants. Special recruitment and selection procedure applies, as regulated by Public Administration Act (see below).

For cooperation and coordination with local governments, a special Coordinating Advisory Committee (*koordinacijski sosvet načelnika upravne enote*) may be established. They cover the territory of an individual administrative unit. Its purpose is to ensure cooperation between the administrative unit, municipal administrations, regional units, branch offices, or other dislocated units of ministries or bodies within ministries, and between entities of public law founded by the state predominantly performing administrative tasks.

Members of the Coordinating Advisory Committee are head of the so-called administrative unit (*načelnik upravne enote*), mayors (*župan*) or the directors of municipal administrations (*direktor/tajnik občinske uprave*) respectively, and the heads of the above mentioned dislocated units of ministries or bodies within ministries and public law entities.

The committee deals with issues concerning organisation, the efficiency and the quality of public administration service in the so-called administrative unit territory, in order to ensure coordinated performance of public administration in the territory, and to coordinate the management of organisational and material resources issues, issues concerning premises, the issues of general business conduct (client service, the handling of documentation), and other such issues. The head of administrative unit, acting as a coordinator to the committee, communicates any joint proposals or issues to the ministry competent for public administration and to the respective competent ministries.

5. Political positions in the executive branch

On 13 September 2018, the National Assembly voted in the 13th Slovenian Government. The current government coalition consists of the Marjan Šarec Party (LMŠ), Social Democrats (SD), Party of Modern Centre (SMC), Alenka Bratušek Party (SAB), and Democratic Party of Pensioners of Slovenia (DeSUS).

The ministers are:

- Minister of Finance
- Minister of Foreign Affairs
- Minister of the Interior
- Minister of Justice
- Minister of Defence
- Minister of Economic Development and Technology
- Minister of Education, Science, and Sport
- Minister of the Environment and Spatial Planning
- Minister of Health
- Minister of Infrastructure
- Minister of Labour, Family, Social Affairs, and Equal Opportunities
- Minister of Public Administration
- Minister of Agriculture, Forestry, and Food
- Minister of Culture

Each ministry is headed by one minister. There may be ministers without portfolio, too. According to the Government of the Republic of Slovenia Act (*Zakon o Vladi Republike Slovenije, ZVRS*),¹² the Government has a minister without portfolio in the field of relations between the Republic of Slovenia and the autochthonous Slovenian national community in the neighboring countries, and between the Republic of Slovenia and Slovenians around the world. Additionally, there may be maximum two ministers without portfolio who assist the Prime Minister in coordinating his work and performing his function within the given powers (Article 8).

The Government in power has two ministers without portfolio: a minister responsible for development, strategic projects and cohesion, and a minister responsible for relations between the Republic of Slovenia and the autochthonous Slovenian national community in neighbouring countries, and between the Republic of Slovenia and Slovenians abroad.

¹² <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO242>

The number of ministers and structure of ministerial portfolios is defined by law enacted in parliament (Government of the Republic of Slovenia Act and Public Administration Act).

The minister is the head/principal of a ministry. In accordance with the policy adopted, he heads and represents a ministry, issues policy guidelines for the work of the ministry and its affiliated bodies, supervises their work, issues regulations and other legal acts within the competence of the ministry and its affiliated bodies, and carries out other tasks prescribed by law or other regulation (Article 18 of Government of the Republic of Slovenia Act).

Ministers need to keep the government informed of any issues that are relevant to the formulation and implementation of government policy. Ministers are accountable for the decisions and positions of the government and for their implementation, for their decisions in the management of ministries, as well as for abandoning the measures that should be taken (Articles 14 and 17 of Government of the Republic of Slovenia Act).

Within ministries there are deputy ministers (*državni sekretar*)¹³ as political positions (see Figure 1 above). They are appointed and dismissed by the government on the proposal of the minister. The office of deputy minister ceases to function on the date of termination of the office of the minister (Article 17 of Public Administration Act).

According to the legislation in power, no more than two deputy ministers may be appointed per ministry.¹⁴ Deputy ministers assist the minister in the exercise of his functions within the powers conferred on him by the minister. The minister may authorise the deputy minister in writing to replace him at the time of his absence or reluctance in the management and representation of the ministry and proposing materials for consideration to the government.¹⁵ The minister cannot authorise the deputy minister or anyone else to issue regulations and vote at a government session (Article 17 of Public Administration Act). At the moment, 21 deputy ministers are appointed.¹⁶

In government offices (so-called centre-of-government, CoG) state secretaries (*državni sekretar*) may be appointed on the proposal of the Prime Minister or minister without portfolio.¹⁷ They assist the Prime Minister or the minister with-

¹³ In the literature and legislation, direct translation from Slovenian language is often used – accordingly the term “State secretary” is used.

¹⁴ Ministry in charge of public finance is exemption – there may be up to four deputy ministers appointed.

¹⁵ With the granting of the authorisation, the minister is not relieved of his accountability.

¹⁶ See http://www.vlada.si/en/about_the_government/state_secretaries/.

¹⁷ According to the legislation in power, one state secretary is obligatory: the Prime Minister’s office appoints a state secretary responsible for establishing a dialogue with civil society and co-

out portfolio in the exercise of his functions under the powers vested in him. The minister without portfolio can have at most one state secretary. The office of the state secretary ceases by dismissal, resignation, or termination of the office of the person nominated for appointment (Article 24 of Government of the Republic of Slovenia Act). At the moment, there are six state secretaries appointed in the Prime Minister's office, and two in offices headed by ministers without portfolio.¹⁸

The status of political position applies to the head of Secretariat of the Government and to the head of the Prime Minister's Office, too (Article 25 of Government of the Republic of Slovenia Act).

6. Top management in civil service

There is a special legal regime for the top management in the civil service. The Civil Service Act (*Zakon o javnih uslužbencih, ZJU*)¹⁹ has special rules on:

- recruitment/selection procedure (Article 60),
- term of position (Article 68),
- manner of obtaining the position (Article 82),
- dismissal (Article 83) and
- conflict of interests (Article 100).

According to the Civil Service Act, the management position (*položaj*) pertains to the civil service position within central government bodies, at which the powers relating to the conduct, coordination and organisation of work in the body are exercised (Article 80).

Management positions are:

- Within the ministry: a director-general, secretary-general, heads of organisational units;
- Within bodies within ministries: a director, heads of organisational units;
- Within so-called administrative units: a head of unit (*načelnik upravne enote*), heads of organisational units;
- Within government offices: heads of offices, heads of organisational units.

Top management positions, to which the above mentioned special rules apply, are:

- Within ministry: a director general, secretary general;
- Within bodies within ministries: a director;

ordinating citizens' initiatives.

¹⁸ See http://www.vlada.si/en/about_the_government/state_secretaries/.

¹⁹ <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO3177>

- Within so-called administrative units: a head of unit (*načelnik upravne enote*);
- Within government offices: a head of office.
- There is no top of the pyramid civil servant in the ministry.

There are special arrangements on training of top managers in civil service. According to the Civil Service Act (Article 89) and Decree on internal organisation (Article 52), for the top management positions²⁰ in addition to the conditions laid down for management positions, functional knowledge of leadership in public administration and other special knowledge are determined. Top manager is obliged to acquire this knowledge within a maximum of 15 months from the appointment to the position within the program prescribed by the minister in charge of public administration. The training is performed by Public Service Academy,²¹ and consists of a compulsory part (six modules) and an optional selection part (nine modules).²²

7. Relations between politicians and top civil servants

A special body called ‘Officials’ (Civil Service) Council’ was established to deal with recruitment to top civil service positions. The Council is composed of 12 members, out of which four are appointed by the government, two elected by senior civil servants, two appointed by trade unions, and three appointed by the President of the Republic from the ranks of distinguished experts in the field of public administration and HRM.²³

The Council does not directly perform the tasks of a selection board; its role is to define general and position-specific competency standards, announce vacant positions, and appoint a selection board for each position (usually, selection boards are composed of one member of the Council, internal and external experts). The selection board’s mission is to check which candidates meet the competency standards and to propose a shortlist to the (prime) minister. From the shortlisted candidates, the (prime) minister can make a choice based on political discretion (Virant & Rakar, 2017a).

There are no automatic changes in top management civil service positions. Civil servants on top managerial positions may be removed within one-year after their

²⁰ The exemptions are positions of Chief of the General Staff of the Slovenian Armed Forces and the Chief Defense Inspector.

²¹ This is an internal organisational unit of Ministry of Public Administration.

²² See http://www.mju.gov.si/si/upravna_akademija/usposabljanje_za_vodenje_v_upravi/.

²³ Currently, the chairman of the Council is the dean of the Faculty of Public Administration (University of Ljubljana), a professor of HRM.

appointment or after a new (prime) minister is sworn-in, based on political discretion (Article 83 of Civil Service Act). They are, however, entitled to keep their civil service status and be transferred to a high-ranking (although not necessarily managerial) position. This possibility is often used for directors of policy directorates in ministries and heads of centre-of-government offices, but very seldom for heads of implementation agencies and de-concentrated central government agencies (administrative units).

This being said, according to the estimations in the literature of the level of political influence in the selection and removal of civil servants to top level positions is medium and does not represent a serious issue, given that the first phase of the selection procedure is designed to verify high-level competency profile of eligible candidates (see Virant & Rakar, 2017a).

A top manager is dismissed by a body/holder of public office that appoints him. Conditions differ according to the time of dismissal. Within the above mentioned one-year period, this is legally an unbound decision, i.e. political discretion (Article 83 of Civil Service Act). Afterwards, the top manager may be dismissed: 1) if he or she so requests or agrees with that; 2) if he does not conclude an employment contract or an annex to the employment contract within one month of the appointment; 3) in the event of incompetency to perform his duties in a position; 4) in the event of termination of an employment relationship in accordance with an agreement on the termination of a contract of employment or the termination of a contract of employment by a civil servant (Article 83).

Disagreements and conflicts between ministers and top civil servants are present, but not usual and frequent since ministers have the possibility to both appoint and dismiss a manager (see above).

8. Responsibility for civil service and HRM in public administration

Minister of Public Administration is politically responsible for the civil service and HRM in public administration, and the Ministry of Public Administration is institutionally responsible for these issues.

The Civil Service Council is a separate agency in this area. It is an independent body, established by the Civil Service Act (Article 174). The responsibilities of a Council are:

- 1. Takes care of the implementation of the selection of top managers;
- 2. Gives the Government and the National Assembly opinions on the regulations governing the civil service system and the position of civil servants;

- 3. In cooperation with representative trade unions in the body and professional associations of civil servants in central administration bodies and local community administrations, adopts a Code of Ethics of Civil Servants in state bodies and local community administrations.²⁴

Additionally, as already mentioned above, there is a special unit within the Ministry of Public Administration, which performs training for (top management) civil servants – Public Service Academy (<https://ua.gov.si/>).

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²⁴ Available in English at: http://www.mpju.gov.si/fileadmin/mpju.gov.si/pageuploads/Uradniski_svet/Code_of_ethics.pdf

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