

PUBLIC ADMINISTRATION AND PUBLIC POLICY/170

Public Administration in Post-Communist Countries

Former Soviet Union, Central and
Eastern Europe, and Mongolia



Edited by
Saltanat Liebert
Stephen E. Condrey
Dmitry Goncharov

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Public Administration in Post-Communist Countries

Former Soviet Union, Central and
Eastern Europe, and Mongolia

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Chapter 1

Introduction: Public Administration in Central and Eastern Europe and the Former Soviet States—Common Legacy and Challenges of the Post-Communist Era

Saltanat Liebert, Stephen E. Condrey, and Dmitry Goncharov

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1.1 Introduction

Post-Communist countries in Central and Eastern Europe, the Baltics, Central Asia, and the Caucasus have a diverse and rich heritage ranging from independent statehood dating back to the Middle Ages and earlier, followed by the influence of the Mongol, Ottoman, and Austro-Hungarian empires in Central and Eastern Europe, to a fairly recent nomadic past of Kazakhstan, Kyrgyzstan, and Mongolia. What these countries do have in common is the Soviet influence, either as members of the Union of Soviet Socialist Republics (USSR) or as independent countries that were under Soviet-dominated Communist rule as a result of partitioning of Europe into East and West in the aftermath of World War II. While these countries pursued different paths after the collapse of the Soviet Union, they all had to address a common Soviet legacy—a system based

on undemocratic public administration that was designed for authoritarian rule over its citizens and governance of a command economy.

This book provides a comprehensive overview and analysis of public administration in select post-Communist countries and the paths they embarked on after the lifting of the Iron Curtain to transform the authoritarian system of governance into modern, market-based, and in some cases democratic, government. Specifically, the book focuses on the following newly independent and former socialist states: Bulgaria, Estonia, Georgia, Hungary, Kazakhstan, Kyrgyzstan, Lithuania, Moldova, Mongolia, Poland, Romania, Russia, and Ukraine. All of these countries were behind the Iron Curtain and were largely closed to the rest of the world until the late 1980s to early 1990s. As a result, public administration systems in these countries have been largely unstudied. In fact, public administration as a discipline was not taught in Soviet-era universities, even though an administrative system, however dysfunctional, was in place. Consequently, local scholarship of public administration did not exist; foreign scholars wanting to study public administration in this region did not have access to information. Thus, comprehensive scholarly studies of public administration in these countries to date were practically nonexistent. It is hoped that this volume fills a significant gap in knowledge of public administration practices in the post-Communist countries.

The choice of countries selected for this book was strategic and includes countries that were officially part of the Soviet Union (Russia, Ukraine, Moldova, Estonia, Lithuania, Georgia, Kazakhstan, and Kyrgyzstan); those that were theoretically independent but were subject to Soviet-dominated Communist rule (Bulgaria, Hungary, Romania, and Poland); and those that were satellite republics under significant Soviet influence (Mongolia). The selection of countries includes resource-rich and poorer states, politically stable as well as more turbulent countries, and recent members of the European Union (EU) that had to undergo major reforms of their public administration systems in order to be able to join the EU. We selected countries from every major region of the former Soviet bloc: Russia represents the imperial core; Ukraine is a key Slavic country with long historical, ethnic, and linguistic ties to Russia; Moldova is an example of a former Soviet republic that shares a significant cultural and linguistic heritage with a neighboring country, Romania, which was never formally a part of the USSR and is now a member of the EU; Kyrgyzstan and Kazakhstan are two Central Asian countries that have a shared nomadic history and common ethnic heritage, yet are pursuing divergent political paths since independence; Georgia is an example of a country in the Caucasus that has implemented significant (and at times, drastic) public administration reforms; Lithuania and Estonia represent the Baltic countries, with deep ties to their Nordic neighbors; Mongolia is a former Soviet satellite in Northern Asia that has developed into a stable democracy despite being wedged between two autocratic regimes to the North and South—Russia and China; and Hungary, Poland, Romania, and Bulgaria are the newest members of the EU formerly under Soviet influence. This selection captures the diversity of the former Soviet bloc and allows the editors to juxtapose contemporary, distinct public administration systems in countries that share a common Soviet legacy but have evolved quite distinctly from each other.

1.2 Historic and Administrative Legacy

It has been more than 20 years since Communism crumbled in Central and Eastern Europe and the Soviet Union. The demise of Soviet rule launched a dramatic transformation that, it was once hoped by many Western countries, in the context of the third wave of democratization,

would significantly increase the number of democracies in the world. While freedom from the Soviet yoke certainly produced a few vibrant democracies in this region, most of these hopes were unfulfilled, leaving scholars, politicians, and broader societies wondering about what the end of Communism brought to former Communist countries, and how this new reality could be studied and explained. Today the former Communist world represents a region marked by striking political, societal, and economic diversity. In some parts of this region we find poor countries, ruled by authoritarian governments, with weak states and a collapsing social structure, while in others there are relatively well-functioning and economically stable democracies with efficient states and vibrant social institutions. One of the factors explaining such diversity is the pre-Soviet history of post-Communist societies.

The 1917 Russian Revolution, followed by the building of the institutional structure of Communist totalitarianism in Russia, created a model for societal development that in the first half of the twentieth century was adopted (sometimes voluntarily, more often than not through coercion and force by the Soviet government) by most of the nations that emerged as a result of dissolution of the major European empires (Russian, German, and Austro-Hungarian). Immediately after the revolution, the Russian empire and its governing institutions that projected power within the region disintegrated, resulting in the independence of Poland, Finland, Ukraine, and trans-Caucasian and Baltic states, as well as in the loss of control over significant segments of Central Asia and Siberia. But soon thereafter the new revolutionary (Bolshevik) government was able to bring most of these territories back under control and restored the imperial system under the guise of the federal state. The restoration of this “inner” empire was completed by the initial stages of World War II in the course of the partition of Poland and occupation of the Baltic states. Following the defeat of Nazism, the Soviet Union further expanded its dominance over the Eastern and Central European countries, which created the domain of the Soviet “outer” empire.

In its pre-Communist setting, inner and outer domains of this empire were highly diverse in terms of major societal dimensions: economic and social development, politics, social structure, and culture. For analytical purposes these countries can be grouped into three categories. The first group includes countries of East Central Europe (Poland, Czech lands, East Germany, Hungary) and the Baltics that belonged to the European cultural and institutional tradition. Prior to their incorporation into the Communist world, they already had developed modern institutions, including a system of state administration, which was shaped after the Western institutional and cultural patterns (mostly after the German legal and administrative tradition, as described in the respective chapters of the book). Most of them enjoyed a rather high level of cultural, social, and economic development. All of them had a tradition and experience of statehood. In the period between World Wars I and II, these countries had some experience of democratization, but none were able to consolidate democratic regimes (with the notable exception of Czechoslovakia).

Russia, Ukraine, Belarus, and the Balkan states (as well as Georgia and Armenia) make up the second group of countries formerly comprising the inner and outer Soviet empire. Most of these countries have the tradition of Eastern (Orthodox) Christianity. Over the course of many centuries, their cultural and institutional development was shaped by societal structures of monolithic empires (Mongol, Russian, and Ottoman). Some of these countries were modernized to a significant extent. One example is Russia, which, in its centuries-long effort to attain imperial status and international standing, created a rather advanced economy and modern armed forces and implemented a number of cultural and institutional innovations modeled after the Western prototypes. A modern system of state administration was required to run this new societal structure. Yet, this goal was never fully accomplished. The Russian imperial state was inefficient and dominated by informal institutional structures serving private rather than public

interests. Russia's government-led modernization was also controversial. It created a dual society where the somewhat Westernized autocracy, backed by the military, coexisted with an inefficient, corrupt bureaucracy, which preserved the authority of an imperial aristocratic regime.

The third group includes countries that experienced limited modernization in their pre-Communist history (Central Asia and Mongolia). They were mostly Muslim (with the exception of Buddhist Mongolia), and included both sedentary (Uzbekistan and Tajikistan) and nomadic societies (Kyrgyzstan, Kazakhstan, and Turkmenistan), with rather weak (or nearly nonexistent in the case of Mongolia) institutional and cultural ties with Russia. Many of these countries were connected through the Silk Route (500 BC to AD 1500), described as "possibly the greatest trade route in world history" (Stewart 2004, 17), which connected the eastern and western ends of Eurasia. The Silk Route facilitated trade and the exchange of goods between the East and the West, but also much more: "the unseen trade of this mammoth international exchange was perhaps its greatest glory: the interaction of religions, ideas, cultures, arts and technologies enriched and enlightened civilisations from Beijing to Rome" (Stewart 2004, 17). Since the Central Asians were the middlemen in this chain, booming cities and sedentary agricultural towns were established along the Silk Route. However, this commercial international trade did not result in the establishment of modern administrative states in Central Asia.

Despite all their pre-Communist differences, nations and territories which fell under the Soviet influence were molded according to a standard model of communist totalitarianism. The model resulted from the experience of Soviet Russia's societal transformation in the USSR in the period between World Wars I and II based on Marxist principles. It included (a) the destruction of capitalism (market economy), based on private ownership, which was to be replaced by a centrally planned economic system, based on state ownership; and (b) the building of a political structure of proletarian dictatorship, which was to replace a "bourgeois" democracy that supposedly disguised class domination under the aegis of capitalism. This transformation was designed to create a utopian world of socialism, which was supposed to be an egalitarian and classless society run by the unselfish elite of ideologists and technocrats. But in reality the never-ending journey toward this goal resulted in a highly monistic structure of party control over society that destroyed the delineation between state and economic institutions. The Communist bureaucracy (*nomenklatura*) became a new ruling class and the new elite of the totalitarian society.

After the death of Joseph Stalin in 1953, who through purges and repression brutalized many of the countries covered in this book, the totalitarian dictatorship somewhat eased its grip on Communist societies. Such easing was caused, to a significant extent, by an acute need to remedy the ineffectiveness of the socialist administrative and economic system, to keep pace with the West in a zero-sum competition for global military and political supremacy during the Cold War. Governments in some countries (including the Soviet Union) initiated series of economic and administrative reforms. Their major goal was to make a distinction between political leadership and technical management of economic and social issues. In some cases, discretion was given to technocrats to challenge even basic principles of the socialist economy and introduce elements of the market system into some minor sectors. Accompanied by such factors as economic growth and social development, increase in educational level of administrators, generational change, and change in the mode of Communist state legitimation (shift from revolutionary mobilization to a form of welfarism), these reforms to some extent changed the administrative context in the Communist countries.

Despite its inability to survive in the long run, the Communist system was able to remain rather stable for many decades. The longevity of Communism can be accounted for by its penetration of

multiple layers of society, extending from the family unit to the working unit to the administrative unit, all tied together by a utopian philosophy that engendered loyalty and fervor in its citizenry comparable to that of a religion. Perhaps the most important legacy of Communism is that it had a homogenizing effect on the societies that were under its rule (the most illustrative cases of this effect are described in the chapters on Central Asian states, including Mongolia). Such homogenizing is especially striking given the pre-Communist diversity discussed earlier. The institutional (and even social and cultural) homogeneity defined the post-Communist context in which former socialist societies found themselves after the collapse of the Soviet Union. These commonalities presented a good reason to expect that the post-Communist transformation in these countries would follow a similar course. But the reality proved different. It became clear early on in the process that no matter how homogeneous and monolithic the Communist societies appeared to the outside world, there were important and critical differences that would define the development paths of these countries. Removal of Soviet control (as well as economic support) led to the rapid demise of existing institutional and social structures in the countries of the Soviet bloc, creating a vacuum that in some instances led to democratization and in others a less ideological form of authoritarianism. Their transformation since has been influenced by internal and external factors, some of which can be linked to pre-Soviet historical ties, while others were a reaction to new geopolitical and economic realities. How these factors shaped the development of public administration systems in these countries is to be explored and explained in this book.

In what follows, the authors from this region will provide an overview of public administration in their respective countries. Each chapter includes a brief introduction to the specific country, an overview of politics and administration, and a discussion of key aspects of public administration including human resource management, public budgeting and finance, corruption, accountability, and civil society. The concluding chapter then identifies common themes and trends, pinpoints similarities and differences, and sets the material in a broader comparative perspective.

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Chapter 2

Ukrainian Public Management: Top-Down or Bottom-Up Reform?

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The purpose of this chapter is to explore the extent of public management reform in Ukraine. The chapter begins with an examination of management reform, economic policy, and the prospects for the development of civil society in Ukraine and other former Soviet satellites. Specific examples are drawn from published documents and interviews with Ukrainian public managers. The chapter then follows with a discussion of civil service reform as a key element in building civil society and economic viability. The authors propose that the Orange Revolution was a key moment in Ukrainian history when public dissatisfaction with insider-elite domination may have turned the tide toward meaningful political and bureaucratic reform. The chapter concludes with a discussion of the prospects for public management reform in Ukraine and proposes that successful change

will draw strength from grassroots (bottom-up) reform efforts like those described by Peters (1996, 2001) and Farazmand (2002a).

2.1 Public Management Reform in Transition Economies

For the last few decades, public management reform has taken cues from the private sector through movements such as the new public management (NPM) (Kelman 2002; Kettl 2000). Public sector pathologies such as monopoly, hierarchy, permanence of structure, and management inflexibility have been challenged by market reforms that champion private sector innovation as a way of improving government efficiency (Ingraham 1997; Kettl 2000; Lane 1995; Savas 2000, 2006; Shleifer 1998). The global impact of such reforms has not gone unnoticed, especially in many transition economies (Farazmand 1999, 2002a; Megginson 2005; Peters 2001). With the collapse of the Soviet Union, transition economies across Central and Eastern Europe began the arduous task of economic and political reform. The reforms underway have not only transformed state functions, but have also transferred the relationship of the state to its citizens. Contrary to the public management reforms in developed economies, reforms in transition economies have had a number of difficulties (Megginson 2005; Newland 1996; Witesman and Wise 2009). Reforms in developed economies have tended to take place gradually, over an extended period of time, and isolated toward market reforms. In contrast, changes in former Soviet transition economies have been introduced rapidly over the last two decades, applied with little time for trial and error. Due to the nature and speed of these reforms, research has naturally turned an inquisitive eye toward their implications for the future of these societies. Indeed, a number of works have focused on the impact reforms have had on citizens in these transition economies (Finifter and Mickiewicz 1992; Dalton 1994; Reisinger and Miller 1995; Finifter 1996; Gibson 1996; Miller et al. 1997; Newland 1996; Legge and Rainey 2003), focusing on democratization and marketization alike.

Transition economies in Central and Eastern Europe, as well as in the former Soviet republics (FSRs), have invariably struggled with the competing demands of creating democratic institutions and rethinking the state's relationship with the private sector. For these nations in transition, this means a radical departure from typical command-and-control institutions to the development of a thriving market economy and democracy. For some nations (e.g., Poland, Hungary, the Czech Republic), the economic and democratic transition, while not without obstacles, may have been smoother given their proximity to Western institutions and ideas and comparatively limited suppression under the Soviet yoke (Battaglio and Legge 2008; Earle and Gehlbach 2003). For newly formed states such as Ukraine, economic and democratic transition has been particularly difficult given the lack of any real demarcation between public and private institutions critical to a burgeoning reform movement (see Lane 1995; Kaufmann 1991).

The post-Communist experience for Ukraine has been characterized by a prolonged period of political instability (Kravchuk and Chudowsky 2005). This instability was exacerbated by a Communist past absent of democratic traditions and an inexperienced civil society suspicious of party politics (Kravchuk and Chudowsky 2005, p. 132). Along with political instability, Ukraine's post-Communist period also experienced economic volatility during its transition toward democracy. Thus, the emerging nation-state was doubly tasked with reforming government institutions not only for democracy but also for their capacity for a modern market economy. Institutional reform is indispensable for both public management and economic progress. But more importantly, for substantive reform to take place, the existing public sector must realize and nurture the potential of civil society.

Initially, Ukraine's capacity for transformation to democracy appeared promising given the recent instances of industrialization, urbanization, war, and changing educational opportunities

under the former Soviet Union (Reisinger et al. 1994). The fledgling “civic culture” underway in Ukraine during this period of transition, while promising, was still deficient in its ability to deliver an institutionalized challenge to the political elite (Reisinger and Miller 1995; see also Reisinger et al. 1994). Without a challenge to elite-dominated market reform, corruption and insider deal-making were the norm where, as Farazmand (1999, p. 560) suggests, the economic results of privatization have exacerbated political and social problems such as job losses and unemployment and more importantly the fear of losing economic autonomy to foreign investment. A once-optimistic Ukrainian public has grown to be disillusioned by the hardships of reform, particularly by a market reform process dominated by political elites with little or no input from the public (Kubicek 2002; see also Battaglio 2007; Battaglio and Legge 2008). A recent World Bank survey of NGOs in Ukraine noted a lack of cooperation between NGOs and government authorities among the obstacles toward achieving a more active civil society (Bachynsky et al. 2003). The majority of respondents indicated that this lack of cooperation extended from “an absence of legal mechanisms for public oversight of the authorities, an absence of public information on key decisions by the authorities, a lack of desire on the part of the authorities to actively cooperate with NGO’s, and the passivity of the general public in this regard, as well” (Bachynsky et al. 2003, p. 6).

2.2 Political and Economic Reforms

Improved responsiveness to the needs of society is an intended derivative of the efficiencies offered through the NPM-oriented reforms. While supporters continue to extol the efficiencies these reforms offer, more deliberative approaches advocate a more robust role for public servants as caretakers of society (e.g., Box 1998; deLeon and Denhardt 2000; Denhardt and Denhardt 2000; Feldman and Khademian 2007; King and Stivers 1998). Recent efforts note the paucity of research detailing the connection between NPM reforms and society (Durant and Legge 2002, p. 307; Legge and Rainey 2003; Poister and Henry 1994; see also Bouckaert et al. 2005). This gap in the literature presents an opportunity to contribute to our understanding of public management reform.

Undoubtedly, public officials, in their decision-making capacity, play a significant role in the decision to reform government institutions and the market. The public management reform experiences of many of the developed market economies of Western Europe, the United States, and the Commonwealth countries of Australia and New Zealand were dominated by a number of key elected officials and senior civil servants. While many of these reform efforts were geared toward appeasing an increasingly antigovernment public, the decision to implement reform was predominantly “top-down” (Pollitt and Bouckaert 2004, p. 26). For Pollitt and Bouckaert (2004), “top-down” reform is driven by senior civil servants and/or executive politicians loosely coupled together to form an “elite” group of decision makers.

Furthermore, Pollitt and Bouckaert (2004, p. 184) posit that public management reform is strategic decision making that takes place among three interacting systems with distinct norms, rules, and cultural assumptions. The authors define these three systems as: politics, law and administration, and the market economy. These interacting systems are set in the broader context of civil society, and “the citizens of that society both participate in, and form judgments about, the legitimacy of each of these systems” (Pollitt and Bouckaert 2004, p. 183).

The political system faces two specific problems that are critical in making a strategic effort to reform. The first of these is a fiscal problem that presses government to constrain spending so as not to impede economic growth and, more importantly, to appease a discontented citizenry. The political system’s second and more pressing problem for the present research is the problem

of legitimacy. The latter problem produces a host of difficulties as a fickle public becomes wary of political power; distrustful in the capacity of the political process for problem solving; and defiant and evasive in the face of the law (Pollitt and Bouckaert 2004, p. 184). Pollitt and Bouckaert (2004) then offer a series of strategies for coping with these two problems as civil society places new demands on the governance system.

While Pollitt and Bouckaert's (2004) model is confined to developed economies, it does serve as a basis for explicating the current problem of public management reform in Ukraine. We argue that reform in transition economies, specifically the FSRs, has been strictly dominated by the "elite" in decision-making capacities. Many of these elites are holdovers from the previous Soviet regime and are closely aligned with the powers in Russia. Efforts at reform, particularly market reform, have been sluggish at best due to the many instances of corruption, lack of openness, cronyism, and limited foreign investment in the process (Megginson 2005; see also Farazmand 1999; Kubicek 2002). In the larger context of Pollitt and Bouckaert's (2004) model, civil society is what differentiates Ukraine and many FSRs from the experiences of not only developed market economies, but also from other transition economies, mentioned above.

Without a burgeoning civil society able to elevate public discourse to a level of reasoning necessary for contemplating formidable institutional changes, reform processes will continue to favor elite decision makers in Ukrainian society. To that extent, we posit that an engaged Ukrainian citizenry is necessary for public management reform to take place. Furthermore, this reform must be "bottom up," driven by public forces within civil society ready to engage the current "elite" on the issue of legitimacy. The Orange Revolution may just be the key moment in Ukrainian history where public dissatisfaction with insider-elite domination turned the tide toward meaningful political and bureaucratic reform. While positive results of the Orange Revolution may not have been immediate, we posit that this moment in the nascent state's history is one key element in building a civic culture supportive of responsive, modern, and engaged government.

2.3 Ukraine and the Orange Revolution

The world watched in late 2004 as thousands of Ukrainian citizens took to the streets in protest at election results they viewed as rigged. While successful in their protest, Charles Wise notes that "Victor Yushchenko would not be president if not for the intervention of Ukraine's Parliament and Ukraine's Supreme Court." He continues, proposing that: "The Orange Revolution constitutes an important turning point in the development of Ukraine's government and economy" (Wise 2006, p. 6). The Orange Revolution itself was, in fact, a "bottom-up" reform led by ordinary Ukrainian citizens exerting their democratic rights.

Peters (1996, p. 48) notes the importance of an involved citizenry in effective governance. Akin to his notion of a "participatory state," the Orange Revolution lent voice to ordinary citizens and "lower-echelon employees." Brinkerhoff (2008, p. 992) states that "good governance" must also be underpinned with a positive relationship "between the state and society." We argue that the lasting effect of the Orange Revolution will not be Eastern versus Western Ukraine resentments but an enduring notion that average citizens can effect change in civic and governmental affairs. Farazmand (2002b, p. 2) notes that simple administrative reform is likely to be ineffective unless "fundamental changes are not taken in the structure of the power that perpetuates itself." We propose that the Orange Revolution was the beginning of this change.

While the Orange Revolution of December 2004 resulted in Victor Yushchenko's election as president, a poll conducted in May 2007 reported that 86% of those surveyed viewed the

political situation in Ukraine as “generally unstable” (Research and Branding Group Company 2007, p. 1). If the Orange Revolution of 2004 was a key turning point in the development of a maturing Ukrainian political system, why did such a large number of Ukrainians still feel that the Ukrainian political situation was “generally unstable?” Steven Pifer sees the revolution as a turning point in Ukrainian civil development and as a “bottom-up” phenomenon “launched by Ukrainians and, in the end, resolved by Ukrainians.” Pifer continues:

The Orange Revolution was a success – it triggered a fundamental break with Ukraine’s previous politics. The super-presidency model of government of the Kuchma years has been replaced by a system in which there are greater checks and balances between different branches of the government. Moreover, Ukraine’s citizens now know that they have and can exercise real power. These are not small achievements. The fact that opportunities for more radical reform in 2005 and 2006 were missed should not diminish the importance of the Orange Revolution. Based on its current trajectory, Ukraine has every opportunity to develop as a modern European democracy with a strong market economy over the next 10–15 years. That does not mean there will not be bumps or setbacks on Ukraine’s path; there most certainly will. But in 2020 I suspect that Ukraine will look much more “Central European” than “former Soviet.” (Pifer 2007, p. 2)

While the Orange Revolution resulted in the election of Victor Yushenko, his administration quickly became unpopular. The *Economist* (2010) notes, “Mr. Yushenko was not a good president. Under him the political system was dysfunctional and some cronies turned out to be almost as corrupt as any predecessor.”

In the presidential election of 2010, Yushenko finished far behind political rivals Victor Yanukovich and Yulia Tymoshenko. Yanukovich, with much support from Eastern Ukraine, defeated Tymoshenko, who enjoyed her primary support from Western Ukraine. The recent election results also underscore the underlying tension between the Eastern and Western regions of Ukraine. Eastern Ukrainians tend to be Russian speakers and have closer ties to Russia. Western Ukrainians tend to be Ukrainian speakers and focused on compatibility with the European community. These underlying differences contribute to what Kolisnichenko and Rosenbaum (2009, p. 932) paint as an emerging Ukrainian democracy “characterized by a high level of conflict.”

While the jury is still out on the long-term effects of the Yanukovich presidency, on the first anniversary of his presidency, the Ukrainian newspaper *The Day* assessed the Yanukovich administration as having produced “mixed” results (Siruk, 2011a). The Ukrainian coauthors of this chapter report that it appears that the new president is making the same mistakes as his predecessor by choosing top bureaucratic leaders based on political affiliation rather than professional expertise.

2.4 Public Management in Ukraine

For our analysis of Ukrainian public management we concentrate on state (oblast) and local government administrations. Arguably, state and local government and the provision of basic services such as tax collection, street repair, sanitation, water purification, and social services are essential precursors to civil society. If citizens begin to witness effective and honest state and local government practices in their daily interactions with these bureaucracies, the authors posit that this will be a positive driver toward the building of civil society in Ukraine. Also, since Ukraine operates

with a unitary system of governance, local government management is a reflection of how the central government is operating.

Mussari and Cepiku (2007, p. 360) observe that “during communism, local governments were characterized by little political autonomy and high levels of social and economic responsibility.” The result of this lack of a history of autonomy coupled with pressure for service provision has strained many state and local governments to breaking point. Three of the authors collaborated in conducting training programs for over 500 Ukrainian local government managers from 1994 to 1999. In a 2001 article, they described Ukrainian public management as woefully underfunded and hampered by corruptive activities, low salaries, and an inadequate tax structure (Condrey et al. 2001).

The U.S. Agency for International Development (USAID) sees state and local government as a key to reforming Ukrainian public management.

It is reasonable to assume that Ukraine will continue down a path of greater decentralization. USAID should encourage this direction vigorously. Political leadership at the municipal level, in some localities, is keen to embrace more European approaches to local governance and sees in them a comparative electoral advantage. This, too, should be strongly encouraged. The inflated expectation that arose during the revolution, and the resultant disappointment, can be harnessed to convert dissatisfaction into demand for reform. (Spector et al. 2006, p. 58)

The authors’ discussions in Kiev with representatives of both USAID and the Eurasia Foundation validated the existence of this approach—while still paying much attention to the national government, these organizations readily acknowledged the importance of viable subnational units of government.

In order to assess progress in Ukrainian public management, the authors conducted approximately 20 extended interviews during May 2007. The majority of the interviews took place in the Transcarpathian Oblast of Western Ukraine and included *oblast* (state) officials, city officials, district (*rayon*) officials, university faculty, business owners, and an NGO official. We also conducted interviews in Kiev with U.S. government and foundation officials familiar with reform efforts in Ukraine. Furthermore, to ascertain that our perspective on state and local governments was not skewed toward a Western Ukrainian view, we conducted an additional 10 focused interviews in December 2008 in the Ukrainian region of Zaporizhzhia. The interviews in Zaporizhzhia confirmed and strengthened our initial findings from Transcarpathia, demonstrating that while there may be political differences between the two regions, there are distinct similarities and problems associated with state and local level governance.

The interviews provided context to the authors’ previous decade of research concerning Ukrainian public management. In addition, the authors also reviewed numerous documents related to Ukrainian public management. Methodologically, all the findings presented represent a triangulation of sources (Gummesson 1991).

Based on our interviews and associated research, Ukraine shows improvement in all of the 12 areas listed in Table 2.1. The economy has become more diversified and private entrepreneurship is taking hold, but key problems remain concerning corruption, political power struggles at the national level, the taxation system, and general distrust of government. The following sections elaborate three areas that are viewed by the authors as primary obstacles to effective public management in Ukraine: human resource management, corruption, and financial and budgetary management.

Table 2.1 Factors Contributing to Corruption in Ukraine

<ul style="list-style-type: none"> • An incomplete and inadequate legal framework.
<ul style="list-style-type: none"> • Selective enforcement of existing laws and regulations and the exercise of excessive discretion by public and elected officials at all levels.
<ul style="list-style-type: none"> • Excessive regulation of the economy by the state.
<ul style="list-style-type: none"> • Excessive executive control and influence over the judicial branch and the civil service, and at the same time, inadequate oversight of the executive branch by the Verkhovna Rada.
<ul style="list-style-type: none"> • Collusive ties between the political and economic elite, where the former use the state to enhance their wealth and the latter use their wealth to enhance their power.
<ul style="list-style-type: none"> • Low capacity for advocacy in civil society.
<ul style="list-style-type: none"> • Weak accountability mechanisms within government and in civil society to control potential abuses.
<ul style="list-style-type: none"> • Uneven public access to information of government decisions and operations.
<ul style="list-style-type: none"> • Resistance to decentralizing authority and resources to the regional and local levels which could break corruptive networks.
<ul style="list-style-type: none"> • High tolerance for corrupt practices among the population and the general belief that corruptive abuses and misconduct for public officials are low-risk events and can be conducted with impunity.

Source: Spector, B. I., Winbourne, S., O'Brien, J., and Rudenshiold, E., *Corruption assessment: Ukraine (Final Report)*, No. DFD-I-02-03-00144, Task Order 02, United States Agency on International Development (USAID), Washington, DC, 2006, p. v.

2.5 Human Resource Management

A 1998 U.K. report noted that the “transition in Ukraine faces a daunting range of economic, political and social changes ... Poverty is widespread and increasing” (DFID 1998, p. 1). While many of these conditions are improving, lingering economic challenges face state and local governments. One local government administrator lamented the fact that low salaries for public employees are a deterrent to attracting and retaining a competent workforce. He pointed out that graduates of the local university with degrees in law and economics were much more likely to find jobs in the private sector. He also stated that the number of technical graduates had diminished over the past 15 years; he termed this a “very serious problem.”

Oblast and district officials echoed the city administration concerning low salary levels. A Zaporizhzhia Oblast official lamented that training budgets had been cut by 30% and that many young public administrators expressed “disappointments” in their government career choice. The head of personnel for the Transcarpathian Oblast reports problems with retaining skilled college graduates, who are attracted to better-paying private sector positions. Interviewees report that the pay gap at entry level may be more than four times the average (May 2007) entry-level

government pay of approximately US\$170 per month; the pay gap expands at the upper levels for more experienced employees with salaries of 10 times the public sector average reportedly being garnered. A 2008 report by the World Bank hinted at some improvement in this area but cautioned that “multi-position appointments and bonuses are still used to make jobs attractive and reward behaviors, while base salaries per position do not correlate strongly with qualifications and responsibilities ... Transparency in the pay system is important for improving the efficiency of civil servants” (World Bank 2008, p. viii).

The pay gap situation remained virtually unchanged in 2011, creating an administrative environment ripe for public sector corruption. Also, the Ukrainian government is under pressure from the World Bank and others to reduce the number of public sector employees. If such a reduction occurs, it remains to be seen if pay rates will be increased for those employees that remain.

2.6 Corruption and Civil Society

With the above pay disparities in place, it is not surprising that all interviewees view public sector corruption as a major problem. It is a topic of concern to all interviewed; however, few specific details of such corruption were forthcoming. Public sector corruption in Ukraine is perhaps a hold-over from previous practices under waning Soviet times and is perpetuated by high taxation rates and the low level of pay for public jobs. Corruption takes place at all levels of Ukrainian government and society. Administrative leaders of the Transcarpathian Oblast indicated that the proposed national civil service law and increases to the wage structure would ameliorate (but not eliminate) corruptive influences in the government. While corruptive influences are present in all governments (Amsden 2007, p. 131), their debilitating effects are particularly present and pervasive in Ukraine (Voznyak 2008).

USAID considers corruption one of the major obstacles to building civil society and viable government in Ukraine. In February 2006, the agency published “Corruption assessment: Ukraine” (Spector et al. 2006). Much as the authors found in our interviews, USAID states that “Administrative corruption is widespread and visible in the everyday lives of citizens and businesspeople, and grand corruption is also widespread, though not as visible, in the higher levels of government where large sums of money and political influence are at stake” (Spector et al. 2006, p. iv). The report continues, stating that the Orange Revolution helped bring the issue of pervasive corruption into wide public discourse and may, in fact, eventually lead to its amelioration and ultimate elimination. Evidence of such awareness is found on the website of the Main Department of Civil Service of Ukraine, where several February 2008 postings concern anticorruption meetings and seminars (Main Department of Civil Service of Ukraine 2008). Table 2.1 lists factors that foster corruption in Ukraine.

In looking at the area of corruption in Ukraine, Witesman and Wise (2009, p. 116) “find that a centralized government structure significantly increases the odds of receiving both anticorruption and policy training.” The authors also find that a “culture of empowerment” increases the likelihood of anticorruption training (p. 121).

Creating this “culture of empowerment” is consistent with the notion of “bottom-up” reform posited by these authors. This type of empowerment appears critical to improving overall public management in Ukraine: “Ukraine, like other post-Soviet nations, inherited a bureaucratic structure that was highly centralized and characterized by a top-down management system. Concomitantly, the public management imperative for public servants was unquestioning execution of their supervisors’ task orders, no matter how corrupt, ill-conceived, or unresponsive to citizens” (Witesman and Wise 2009, p. 117).

2.7 Financial and Budgetary Management

At present there is no well-developed system of intergovernmental transfers in Ukraine. Under the Communist regime, the state did not finance government through the use of income or sales tax but through taxation of “state owned industry and borrowing” (Buss 2002). This lack of a history of tax collection and distribution coupled with an ineffective system of intergovernmental transfers presents a large problem for regional governments since they have no independent taxation power and no ensuing relationship between the level of taxes collected and services provided. The vice-mayor of the City of Uzhgorod (essentially the city manager) reports that the tax redistribution formula is a disincentive, since taxes collected in his city will be disproportionately distributed to other city governments in the region. He reports recent increased central control from the national government in Kiev and terms his financial management powers as “strictly regulated.”

In a 2011 interview with *The Day*, a United Nations official focusing on Ukraine stated that, “Given the deteriorating infrastructures and poor public service delivery, more attention needs to be devoted to improving access to financing by local government actors to enable them to rehabilitate networks, increase energy efficiency, improve water management, waste disposal, transport, etc. In that context, decentralization of power to relevant level authorities combined with administrative and territorial reforms is becoming an urgent task” (Siruk 2011a, p. 3).

The problems of corruption, inadequate/antiquated fiscal and administrative structures, and the legacy of the Soviet-era top-down political and administrative hierarchy have converged to result in a long and winding path toward Ukrainian public management modernization.

A World Bank (2010, pp. 1–4) report covering its Ukrainian “Public Finance Modernization Project” found “moderately satisfactory progress” in achieving its overall goals, such as the “increased strategic alignment of the budget with public policy priorities” and a “modernized accounting system.”

The above three problem areas—an underdeveloped system of human resource management, corruption, and lack of an effective financial and budgetary system—create seemingly insurmountable obstacles for Ukrainian state and local government managers. However, the situation appears to be getting better, albeit slowly. Table 2.2 summarizes the current state of Ukrainian public management reform.

The proposed Ukrainian Civil Service Law, discussed in the following section, coupled with a renewed emphasis on public sector pay levels, should begin to build a competent corps of managers that are less likely to be influenced by political pressures and bribery. Transcarpathian Oblast officials believe that the civil service law will foster an independent and neutrally competent workforce free from undue political influence.

2.8 Civil Service and Bottom-Up Reform

The authors propose that a viable civil service is key to the sustained development of Ukrainian governmental structures and society. We view this as a “bottom-up” reform, since it relies on a professional bureaucracy and citizen support as the main conduit for reform. A 1998 U.K. report found that Ukraine’s nascent post-Soviet “civil service is an outdated, highly centralized and unaccountable bureaucracy, which continued to busy itself with control and over-regulation” (DFID 1998, p. 2). While there was a bureaucratic corps under the Soviet regime, it derived its legitimacy from Communist party elites in Moscow and “did not in any meaningful way resemble

Table 2.2 State of Ukrainian Public Management Reform

<i>Levers of Systematic Modernization</i>	<i>PA Reform in Ukraine</i>
Public employment	Law on the Civil Service in Ukraine; creation of HolovDerzhSluzhba (Chief State Committee on Civil Service); Creation of Academy of State Administration at the President of Ukraine and four affiliates in Lviv, Odessa, Kharkiv, and Dnipropetrovsk; in each oblast there is a center for continuing education of public officials; several universities have started programs in public administration.
Open government, transparency, and accountability	Law on the Civil Service in Ukraine; law on anticorruption, law on information; law on citizen unions and associations; public hearings on budget plans are used at all levels; public discussions of important strategic development documents (e.g., Regional Development Strategy); codex on ethics of public officials (instructional document); law on information transparency approved in December 2010.
The use of market-type mechanisms	Law on privatization of state property; new law to be prepared; contracting out exists in the form of the obligatory open tenders.
Reforming organizational structure	There are pressures to reduce the number of employees at all levels of the public service, especially at the rayon level, and to give greater authority to the national level of government by creating agencies they are directly subordinate to.
Public expenditures and budgets	New budget and tax codes are approved.
Enhancing public sector performance	Level of professionalism of public officials; they are changed often by new politicians and they are not secured from such actions; there are cases where public officials do not have public administration degrees; no system on evaluation of performance of public officials, this exists only in a fragmentary form; there is no coherence in professional career development.
Control systems	Since the Orange Revolution, public officials have been more open to public requests on information, but still there is more focus on external legislature and higher institutions; also still high level of corruption despite a large number of controlling bodies. During 2010 and 2011, potential corruptive activities at the highest level of government were investigated (police and courts).
Use of ICT and e-government	There is a program on obligatory ICT and e-government, but its fulfillment is only fragmentary at the moment.

Western-style civil service systems” (Barabashev and Straussman 2007, p. 373). Therefore, there is an understandable distrust of government structures and careers that are seen as low paid, undesirable, nonprestigious, and corrupt. Tonnisson and Wilson (2007, p. 90) observe that under the former Soviet Union, “bureaucracy itself came to be regarded as integral to communism and therefore as communism was regarded as ‘bad’ so too was bureaucracy.”

The USAID report finds that “manipulation of the bureaucracy” is assisted by an underlying civil service law that does not have a code of ethical or professional standards of conduct. “The activities of civil service are subject to political manipulation. This situation is fostered by clan influence in hiring, low salaries, and the minimally adequate candidates for bureaucratic positions due to low salaries” (Spector et al. 2006, p. 7). The report continues, crediting the Main Department of Civil Service of Ukraine beginning programs in 2005 to raise awareness of and ultimately sanction and reduce corruptive bureaucratic behavior (Spector et al. 2006, p. 18).

As of this writing in early 2011, major reforms still await the Ukrainian civil service system and public management generally. A United Nations official specializing in Ukraine states: “We have had limited success in certain areas, but, despite our best efforts, key legislation is still pending approval, including civil service reform and civil society draft laws” (Siruk 2011b, p. 1).

A 2011 United Nations report assessing Ukrainian public management reform from June 2007 through December 2010 notes that while progress has been made in the area of economic stabilization, “significant reforms still need to be conducted, notably to improve the operations and responsiveness of the civil service.” The report continues, stating that “civil service reform remains, by and large, a work in progress” (UNDP 2011).

The proposition that a strong civil service is key to management reform efforts runs contrary to much of the recent Western public management reform literature. Proponents of NPM seek to streamline or weaken civil service systems in order to “let managers manage.” In the United States, the trend is toward outright dismantling civil service systems, which are viewed as a hindrance to political and managerial control and influence over the bureaucracy (Hays and Sowa 2006).

However, scholars such as Way (2002, p. 581) note that reform efforts in the post-Soviet context often run contrary to Western “best practice.” In the post-Soviet state of Ukraine, civil service reform is viewed as a means of bringing legitimacy to government, not as a hindrance to its effective operation. The *Law of Ukraine on Civil Service* (drafted in November 2007 and still under consideration/revision as of November 2012) is broad and extends civil service protection to high bureaucratic levels but excludes cabinet members, the judiciary, and the military. Article 3 of the proposed law articulates the “main principles of civil service: rule of law; patriotism and serving the Ukrainian people; legality; equal access to public service; professionalism; righteousness; political neutrality; transparency; personal responsibility” (Main Department of Civil Service of Ukraine 2012, art. 3). From the above listing it is apparent that Ukraine views the civil service as important and as undergirding bureaucratic legitimacy and authority. Figure 2.1 presents a heuristic model for the civil service reform and development.

Figure 2.1 demonstrates the tension between forces for professionalization and the counterforces of NPM, which seek to empower managers, even if in opposition to the traditional tenets of the civil service. The model also demonstrates the inherent tension between political elites and civil servants in seeking a harmonious balance between political influence and professionalism. The overall concept is that there is no “one best way” to engender bureaucratic reform and professional government. Additionally, the model suggests that a traditional Western management reform focus may not cure what ails post-Soviet governmental bureaucracies. Brinkerhoff (2008, p. 986) observes that many Western aid efforts aimed at administrative reform over the past several decades have been dominated by a “conservative ideology that called for a minimalist state

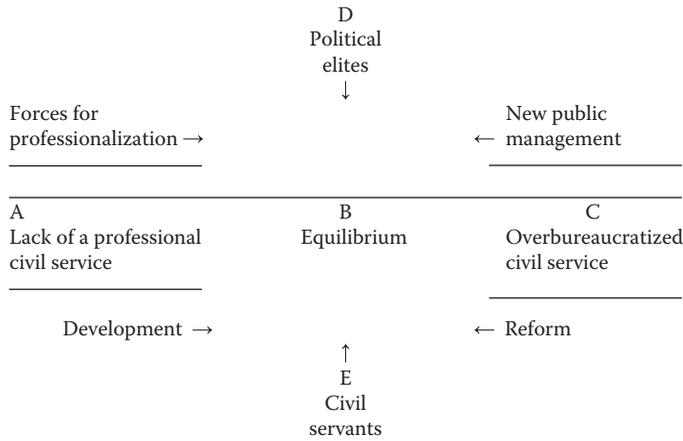


Figure 2.1 Heuristic model for the development and reform of civil service systems.

organized according to efficiency practices imported from the private sector.” Needless to say, many of these NPM-influenced reforms missed the mark.

The above model turns the traditional notion of Western public management reform on its head. What may seem a logical cure to public management ailments (increased managerial discretion) may in fact be a root cause of public management problems in developing democracies. Without a proper framework to operate within, managerial discretion may run amok and have unintended negative consequences such as cronyism and corruption. The authors propose that implementation of a civil service law will foster needed structure and professionalism in the Ukrainian public service and thus undergird the development of civil society.

2.9 Future of Ukrainian Public Management

As of this writing, the Civil Service Law of Ukraine remains under consideration. While not a panacea, its passage would send a strong signal that the chances for professional government in Ukraine and the management thereof have increased.

Farazmand (2002b, p. 4) argues that top-down reform efforts are often “highly elitist in their approach” and give little voice to “ordinary citizens” and “rank-in-file” bureaucrats. Conversely, he proposes that bottom-up reform is encouraged by “environmental conditions” that influence administrative change (p. 4). The authors propose that the “bottom-up” Orange Revolution has given potential voice to a “bottom-up” reform of Ukrainian government, eventually being led by an increasingly professional cadre of civil servants. Peters (1996, p. 6) posits that such a professional civil service is particularly “crucial within developing transitional governments. He continues, stating that civil service and bottom-up reform are in fact compatible: “The civil service, by granting tenure and permanence to its members, may in fact create an environment allowing for more participation and frankness” (p. 123).

We also see other positives in the horizon. Past management in Ukraine relied solely on a Soviet-style model with little acknowledgement of modern management techniques. As the general level of the economy increases, public demands for service and accountability increase, and the influence of the European Union continues, we expect further professionalism of Ukrainian public management.

Undergirding these reforms with a viable legal and constitutional framework is absolutely essential. We see the Orange Revolution as starting to turn the focus of governance from state-centered to citizen-centered: a government more responsive to ordinary citizens than political and economic elites (Witesman and Wise 2009, p. 117). While we are cautiously optimistic, the timetable for real reform will certainly lag behind the expectations of ordinary citizens. The Ukrainian publication *Dzerkalo Tyzhnya* [*Mirror Weekly*] (August 2, 2008) correctly observed that the political victors of the Orange Revolution lacked the administrative and professional skills necessary for effective governance (Sherr 2008). Thus, while citizen expectations of positive government reform have increased, the fruition of these expectations has not yet been realized.

We propose that the following items are necessary to creating viable public management in Ukraine: constitutional reform, regional development, reform of local government structures and authority, taxation and budgetary reform, and revised administrative and civil service laws emphasizing professional service and sanctioning corruptive activity. The authors contend that a “bottom-up” reform approach also applies to state and local government administrations: viable state and local governments can influence citizen expectations that the national government be administered in an effective and transparent fashion. To further strengthen local government, more financial authority needs to be devolved to this level—there must be a closer connection between levels of taxation and services received by the citizenry. Furthermore, oblast (state) authorities need to be given greater independence from the central government in Kiev to better coordinate programs of local and regional development, cultural development, and environmental protection. Such changes can be affected only by amendments to the Constitution of Ukraine to strengthen governmental units at the subnational level. Such changes will further enhance opportunities for the development of civil society in Ukraine.

In summary, the problems facing effective public management in Ukraine are complex and inter-related. There will be no “quick fix.” However, the aftermath of the Orange Revolution has created, expanded, and increased the expectations of the Ukrainian people for a government acting in the national interest, not in the interest of a few. The authors contend that constitutional reform, lending greater authority to subnational units of government, coupled with a professional civil service corps will lead to grassroots reform and ultimate modernization of Ukrainian public management.

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Chapter 3

Public Administration in Russia

Dmitry Goncharov and Anton Shirikov

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At the time of the Soviet Union's breakup, it was generally expected that Russia's post-Communist transformation would involve a successful transition to a modern democratic state. These expectations soon faded away, but the need for institutions capable of supporting social and economic development remains urgent. This chapter provides a description of the public administration system in post-Soviet Russia, focusing on the political and social aspects of its evolution.

3.1 General Overview of Public Administration in Russia

3.1.1 Historical Periods of Russia's Public Administration

While Russia's history can be traced back to the ninth century, the Russian centralized state came into being in the sixteenth century. An important historical shift occurred in the early eighteenth century when Tsar Peter the Great initiated a large-scale program of reforms and proclaimed

Russia an empire. Among the many institutional innovations Tsar Peter introduced were elements of modern administrative systems, including a regular army and a council of ministers working on a permanent basis. Peter put into action regional reform, which divided Russia into eight major territorial units, each headed by a governor, who was a public servant, and a military commander. By the mid-1700s Russia already had a rather vast and extensive bureaucratic system, and it grew further in the eighteenth and nineteenth centuries.

The revolution of 1917 swept away the monarchy. At first, revolutionary Soviets seemed to suggest a truly innovative way to manage a “brave, new world” of socialism—which was supposed to be an egalitarian and classless society run by an unselfish elite of ideologists and technocrats. Another important institutional innovation introduced by the Bolsheviks was a federal system that was aimed to transform the Russian imperial state into a union of free nations and nationalities. But soon the restoration of the imperial autocracy began, with the new bureaucracy strikingly resembling the old one—even though Stalin’s purges removed many of the professionals who worked in the army and civil service under the old regime. The Communist bureaucracy (*nomenklatura*) became the new ruling class and the new elite of the totalitarian society (Fitzpatrick 1999). By the 1980s, the Soviet Union was ruled by a clique of aging party bureaucrats who eventually led the country to the dead end of social and economic stagnation and decay. And even when, under Mikhail Gorbachev (1985–1991), partial reforms were started, it was too late to save the old political and social order (Hoffman 2009).

The collapse of the Soviet Union in 1991 created a new historical context for the evolution of state institutions in Russia. The first post-Soviet decade was marked by efforts to develop a public administration system that would operate in accordance with the principles of democratic responsibility and efficiency. But under the leadership of Vladimir Putin in the 2000s, the pendulum swung in the opposite direction, bringing back the tradition of authoritarianism (Shevtsova 2003; Politkovskaya 2004; Wegren and Herspring 2009).

3.1.2 Constitutional Context of Public Administration

According to the current constitution (1993), Russia (or the Russian Federation) is a semipresidential system with a very strong president, who is the formal head of state, and a cabinet of ministries (*Pravitel'stvo*) led by a prime minister and reporting both to the president and to the Parliament. The Russian legislature, the Federal Assembly, is a bicameral legislative body: the lower chamber is called the State Duma and the higher chamber is called the Federation Council. The Parliament is rather weak, both legally and politically (see Remington 2000 for a discussion). There is also the judicial system, which is highly centralized and formally independent from the legislative and executive branches (though judges are appointed by the president and approved by the Parliament).

In the 1990s and early 2000s, the structure of the cabinet was rather unstable, though it had stabilized somewhat by the end of the decade. Major federal ministries at the moment include the Ministry of the Interior, Ministry of Finance, Ministry of Economic Development, Ministry of Industry and Trade, Ministry of Defense, Ministry of Foreign Affairs, Ministry of Communications and Mass Media, Ministry of Healthcare and Social Development, Ministry of Transport, Ministry of Justice, Ministry of Energy, Ministry of Agriculture, and Ministry of Natural Resources. There are also a number of federal agencies (*agenstva*) and services (*sluzhby*); the former provide enforcement, licensing, and public service, and the latter exercise control and oversight in their respective sectors.

Both agencies and federal services are subordinate to the corresponding ministries, though some, such as the Federal Security Service (FSB, the successor to the KGB), Foreign Intelligence Service, and Federal Drug Control Service, report directly to the president. Several ministries

(in law enforcement, defense, and foreign affairs) also report to the president, rather than the prime minister. However, during Dmitry Medvedev's presidency (2008–2012, when Vladimir Putin moved to the prime minister's office) this subordination became a mere formality, and two prime minister's deputies rather than the president supervised major defense and security issues (Kryshstanovskaya 2009).

The 1993 constitution proclaimed Russia a federal state with a rather complicated structure of formally independent regional and local governments. But, in fact, subfederal governments were incorporated into a highly centralized administrative system ("power vertical") based on the principles of subordination and unification (McGregor 2004). Since 2004, the Russian president has had the power to appoint and (since 2005) dismiss regional governors (technically a governor is to be "elected" by the legislature of a particular region, but nominees are named by the president and the president may dissolve the legislature in case of disagreement). The Russian State Duma has the power to dissolve regional assemblies. Regional governors, in turn, may dismiss local mayors, and regional legislatures may dissolve local councils.

Another institutional innovation invented to secure Russia's political and administrative centralization was the system of federal districts. Federal districts were introduced by Vladimir Putin in 2001 and served as a key instrument in bringing regional elites under centralized control. Though technically districts were nothing more than offices of the president's representatives, they were vested with the power to watch, control, and push governors, as well as to supervise the law enforcement agencies in the region. Later, when their political mission was mostly accomplished and another system of control (based on Putin's "party of power"—"United Russia") was created, the representatives turned to exercising more routine administrative functions. Additionally, the president of the Russian Federation can put into effect special administrative regimes, such as a state of emergency, martial law, and closed administrative–territorial entities (secret defense facilities, of which there are now several dozen).

3.1.3 Administrative Culture

Russian administrative culture inherited many traits from the Soviet state, which (despite all its revolutionary aspects) was in many ways a continuation of Imperial Russia (Fitzpatrick 1999). A core component of this legacy is particularistic values of clientelism: subordination, exclusion, personalized trust, and a strong sense of hierarchy. Equity, social responsibility, and accountability were never seen as basic principles of the Russian administration. State employees (both prerevolutionary *chinovniki* and Soviet *apparatchiki*) considered their jobs as a way to get a privileged social position and wealth.

At the early stage of the post-Communist transformation, Russia's reformist leadership tried to break with this tradition. Principles of efficiency and democratic responsibility were proclaimed guidelines of the new administrative system. But, as with many other hopes, this one also proved to be vain. The legacy of bureaucratic paternalism easily survived the short period of halfhearted democratization. Most public servants, including those in law enforcement agencies, are suspicious of any form of autonomous (out-of-state) social activities, especially of private business and civil/political activism. They consider businessmen and civil activists to be dishonest, asocial, and even potential criminals. The state is seen by many as the leading force in society, the only institutional entity that is able to prevent selfish entrepreneurs or a radical opposition from taking over and undermining public order (Slon.ru 2009).

Attitudes toward efficiency among Russian civil workers are ambivalent. Efficiency is more often viewed as the ability to fulfill plans and predict their superiors' intentions rather than the

ability to create public good and improve citizens' living conditions. Of course, the needs of citizens are somehow represented in public policies, but often in a twisted or misinterpreted way. The recognition of the need for better management is a routine and annoying part of the official rhetoric, but in reality efficiency is not a top priority for the political leadership or the bureaucracy. Civil servants are much more interested in the financial benefits and bureaucratic connections that employment in state agencies provides (Public Opinion Foundation 2010).

Putin's rise to power was marked by important changes in the social structure of the Russian elite and bureaucracy. Being himself a KGB officer, he formed his political and administrative team by promoting *siloviki* (people with military or special services backgrounds), trusting them much more than businessmen, academics, and professional bureaucrats. The percentage of *siloviki* at the top level of the Russian political and administrative elite rose up to 77% in 2004 (Kryshtanovskaya 2005). Though later it fell to 55%, and under Medvedev it fell further to 20%, this did not mean that this group lost its influence.

Siloviki brought into Russian public administration a mentality that stressed the values of strong hierarchy and distrust, imperial nostalgia, and antiliberal and anti-Western (particularly anti-American) sentiments. These values became a part of the authoritarian backlash in Putin's Russia, which brought back the tradition of the Russian autocracy.

3.1.4 Emerging Issues

Reforms of the 1990s were aimed at creating conditions for social self-regulation through loosening political and administrative control and improving the efficiency, transparency, and accountability of the administration. Another important goal was to create a new administrative system of Russia as an independent state, not as the backbone of the Soviet empire. The major items on the reform agenda were to reform the civil service, as well as the military and secret services; to rearrange powers of the federal executive bodies; to draw a clear distinction between powers of the federal and subfederal levels of government; to limit the state's intervention in the economy; and to get rid of excessive regulation.

Russia's first president, Boris Yeltsin, was not successful in accomplishing these goals. On the contrary, by the end of his presidency many new problems had emerged. Among the most pressing ones were a growing threat of regional separatism, further decline in government capacity, and corruption. Soon after Vladimir Putin was elected as president of the Russian Federation (2000), he initiated another cycle of administrative reforms that were designed to meet all these challenges. Below we explore to what degree this program has been realized.

3.2 Political and Economic Reforms (Agenda for Post-Communist Development)

Probably the most complicated part of the post-Communist situation was the challenge of "triple transition" (Offe 1991; Gelman 2009)—post-Communist societies had to transform themselves in political, economic, and social dimensions at the same time. The deep crisis of the Communist model of a nonmarket, command economy was among the most important reasons that led the Soviet Union to its collapse. An ineffective system of state ownership had disastrous consequences: nothing could function properly under administrative planning, shortages worsened, and industrial managers had to participate in shadow market operations in order to fulfill official plans. Entrepreneurship was not encouraged—it was, in fact, illegal (more than 30% of people convicted

and sentenced to death in the USSR were persecuted for economic “crimes”). Mikhail Gorbachev (appointed as party and country leader in 1985) brought some needed changes. Gorbachev’s idea was to reconstruct Socialism, both economically and socially, avoiding fundamental political reforms. Economic transformation came first in the form of protomarket commercial enterprises (cooperatives), which were allowed from 1987 (there were 193,100 of them by 1990, with 4.9 million employees). But radical institutional changes did not occur until 1992, when a team of young economists led by Yegor Gaidar launched a program of full-scale reforms.

The program of the post-Communist economic reforms can be divided into two major dimensions: marketization and privatization (Holmes 1997). The concepts often overlap in practice but they are not synonymous. Marketization meant economic emancipation from centralized planning had to make way for Adam Smith’s “invisible hand.” It involved price and financial liberalization and liberalization of domestic and foreign trade and currency. Price liberalization, started on January 2, 1992, was a shock, with prices skyrocketing and inflation rising to 260% in 1992 (the average monthly inflation rate in 1992–1994 was 23%). Living standards fell dramatically. Groups dependent on Soviet-era state subsidies and welfare programs were especially affected. Soviet industry (first of all, its military sectors) collapsed, with many losing their jobs and savings. The ghost of this shock therapy haunts Russia years later.

Privatization was to bring the institution of private property back to the Russian economy and society. It aimed to create (1) an economic system, which could be self-regulated on a market basis, and (2) a new social strata, which could provide political support for democratization. The citizen voucher scheme was chosen for Russian privatization. Beginning September 1, 1992, every Russian citizen was able to purchase (for 25 rubles) a “voucher” that entitled him/her to a share in state assets that had a nominal value of 10,000 rubles. Theoretically, vouchers could buy their owners stakes in state-owned companies. But in fact most of these papers were bought for sums like \$10 or less by managers of these companies and some ambitious entrepreneurs, who thus consolidated major stakes in large and midlevel companies. In less than 2 years, more than 50% of the Russian economy became private (Pappe 2000). Foreigners were also allowed to own stakes in Russian companies.

The sale of the potentially most valuable companies, however, was at first blocked. Privatization of these companies took place only in 1995, when the so-called “loans-for-shares” auctions were held instead of selling stakes. Entrepreneurs and big banks acquired control in several major oil, gas, metal, and other companies (including Yukos, Lukoil, Norilsk Nickel, etc.) in exchange for loans to the government (that is why the deal was called “loans for shares”). The stakes were supposed to be bought back by the government, but with a rising budget deficit it was not really possible to repay loans—and the new owners counted on that. Stakes were acquired at large discounts (89% in the case of Lukoil, 45% in the case of Yukos, etc.) and in the next few years the value of these companies multiplied manifold. And even though these schemes were not as corrupt as they appeared to the public (Treisman 2010), many Russians still now regard privatization as a trick that robbed them of their share in the country’s wealth.

The creation of an open market was the reformers’ goal in the beginning of the 1990s, and in some ways they definitely succeeded. There are highly competitive sectors in the Russian economy such as retail, banking, and telecommunications. But major sectors such as oil and gas remain monopolized and heavily regulated or controlled by the state. State-owned companies have dominant and privileged positions in banking, telecommunications, automotive industry, and transportation. The social consequences of the reforms are also controversial, as Russian capitalism developed into an oligarchic form and produced deep inequality in the distribution of wealth.

Political transformation was no less painful than economic transformation. Political transformation started with Gorbachev's *perestroika* in the late 1980s. *Perestroika*, which was designed as a program of Socialist reconstruction, brought rapid liberalization of Soviet politics. It led to dramatic growth of political and social pluralism. In 1989, the so-called "stunning" elections to the newly established legislature (Congress of People's Deputies) were held. These were the first comparatively free elections since 1917 and party officials lost many districts to "democratic" candidates (Huntington 1991). The following political and social developments undermined the Communist Party political domination even further. In August 1991 a group of hard-liners in the Soviet leadership made an attempt to reestablish the Soviet system in its earlier form. This abortive coup put an end to the Communist rule in Russia and led to the dissolution of the USSR. For several months following this event the new Russia's leader, Boris Yeltsin, enjoyed widespread political support but remained inactive in introducing political reforms. A new constitution was not adopted and "founding" elections were not held until the fall of 1993, when a deep political crisis (resulting from the president's severe clash with the Parliament) broke out.

Despite inconsistency in the implementation of political reforms, the 1990s were the years when Russia's leadership was committed to democratization. During this period a basic structure of democratic politics emerged, including functional electoral institutions, a Parliament and party system, and the free press. The second post-Soviet decade was marked by a significant shift in Russian politics and has to be described in terms of an authoritarian backlash, which took the form of electoral authoritarianism. Access to the political arena for all opponents of the dominant group was significantly limited and eventually denied; the party system shrank dramatically: in March 2006 there still were 35 political parties, in the end of 2007—just 15, and in November 2010—7. Massive manipulations made elections a mere formality. The State Duma was reduced to a "rubber-stamp" institution, which was relegated to perform the function of a minor department of the president's administration.

3.3 Civil Society and Its Development

Good governance is not just a matter of high politics or formal institutional design. It strongly depends on the social and cultural characteristics of a society. It is generally accepted that in the modern setting, civil society is the universal instrument to provide access for all social groups to the political arena. That is why democratization theorists consider (re)building of a sustainable civil sphere to be a crucial component of a post-Communist agenda. It was expected that civil society (driven by social forces emancipated from the totalitarian grip) was to cure much of the damage (both institutional and cultural) caused by decades of Communist rule. Among those expectations was a belief that the creation of interlinking institutions would turn the repressive and inefficient Soviet state into a framework of democratically responsible and effective agencies.

But the first flush of euphoria at the establishment of a vast network of autonomous social activities soon faded away. Now, evaluating the post-Soviet social and political development, experts unanimously stress the weakness of civil society in Russia, whether compared with other regions or to the idealistic hopes of 1989–1991 (Howard 2003). According to the data of the Ministry of Justice (which is authorized to register social associations and monitor their activities), there were 217,970 registered associations, foundations, and civil groups in Russia in 2011. *Rosstat* (Russian Statistical Agency) reported that there were 342,000 NGOs. But only about one-third of these groups were active (Civic Chamber of the Russian Federation 2012). Moreover, many of the registered associations were either Soviet-era survivors (including "old" trade unions, women's and

veterans' organizations, etc.) or government-affiliated structures. In both cases, the civic nature of their associational activities is highly questionable.

There are a number of quite obvious reasons for the weakness of the post-Communist civil society. First of all is the legacy of Communist totalitarianism. Being a variety of authoritarian political systems, totalitarian regimes differ from "normal" authoritarianism in their aspiration for unlimited control not only over the political arena of a given society but also over all forms of autonomous social life. Although state domination over society and the lack of social self-organization were distinctive features of the Russian historical tradition, by 1917 more than two centuries of Westernization had created a rather visible network of social and even political engagement (mostly related to the upper strata). But the Communist government spared no effort to remove any traces of social autonomy and to keep Soviet society in a state of deep atomization.

The second reason is the nature of the post-Soviet economic development. Russian capitalism was expected to create institutional opportunities for all Russians. But reality proved to be different (Hellman 1998). Organized crime, state ineffectiveness, and endemic corruption resulted in the emergence of "crony capitalism" and oligarchy, which brought deep disappointment to the Russian people.

Finally, the way that civil society in post-Soviet Russia operates can be explained by regime strategies pursued by the government. The crucial conditions for survival of civil groups in Russia (business associations, trade unions, women's and environmental organizations, etc.) is that they stay out of politics, avoid any serious conflicts with governmental structures, and concentrate on providing civil services, education, and entertainment.

No regime based on authoritarian leadership is interested in the existence of a vibrant civil society. Some regimes do not hesitate to use massive repression and terror in suppressing any form of social self-organization. But this is not an option for the Russian ruling elite, which does not want its access to the global economic and political arena to be hindered. The Russian government prefers strangling civil society (rather than crushing it openly) by the use of "low-intensity coercion": legal and bureaucratic barriers for autonomous civil and political activities, a state-controlled system of quasi-civil activism ("government organized nongovernmental organizations" or GONGOs), a system of patronage and corruption, rigged elections, and co-optation of activists into the ranks of loyal political functionaries and bureaucrats (Way and Levitsky 2006).

Imitation of civil and political activism is the major strategy that the government employs to suffocate civil society in Russia. The Public Chamber (*Obshchestvennaya Palata*) should be mentioned as the most evident example here. It was established in 2005 to act as a quasi Parliament that was to represent a broad variety of social interests and demands. Other examples include numerous Public Councils (*Obshchestvennyye Sovety*), created by many of state agencies (Ministry of Defense, Ministry of Education, Ministry of Interior Affairs, etc.) to protect the rights of people in their dealings with these structures. Occasionally these institutions try to get involved in discussion of particular laws, regulations, and governmental decisions and try to serve as advocates for the rights of various groups and individuals. But they are never able to act independently. On the contrary, their members always stressed that their mission was not to provoke conflicts with the state but to support the government in its efforts to build stable and peaceful social and political order.

Anticivic strategies have had a number of consequences for Russia's cultural and institutional development. Among them are the domination of informal institutions built on the particularistic and hierarchical structures of uncivic solidarity (corruption networks, political patronage, organized crime, etc.); the decline of the social capital dimension in the structure of Russian society (Russia as a "low trust society"); and its further atomization. These strategies

result in huge damage to the cultural and structural resources needed for building a system of public participation and deprive Russians of any real opportunity to be involved in discussions of governmental policies and decision making. The fact that a few cases of rather successful actions could be mentioned makes no difference here.

As well-informed Western observers of the current Russian politics state, “From a distance, Russia provides a communication paradox in that there is so much information and so little democracy” (Oates and McCormack 2008). On the one hand, the Russian media industry offers a wide range of information sources. These include more than a dozen national TV channels and numerous radio stations and newspapers. But most of these offerings (first of all, television) serve as instruments of entertainment and governmental propaganda. The control over the biggest Russian TV channel, ORT, was a key factor that secured Putin’s victory in the 2000 presidential campaign. The victory was not easy as his opponents also had access to all kinds of media. Putin learned the lesson very well. One of his political priorities as a president was a powerful attack on independent media, which eventually brought all major TV channels and print media under governmental control.

According to U.S.-based international organization Freedom House, for most of Putin’s and Medvedev’s presidential terms Russia has been reported to be among the countries in the bottom portion of its annual Freedom of the Press World Rankings. The Russian government has used different tools to suppress media freedom: selective application of the law; libel charges against journalists who dare to print or broadcast something that state officials find unfavorable; and legislative manipulation that imposes restrictions on journalists’ activities and freedom of information. A good example of legislative manipulation is the Law on Fighting Extremist Activity (2001, amended in 2007). It bans extremism coverage in the media, but at the same time allows too broad an interpretation of the term “extremism.” According to this interpretation, many political or social oppositional activities could be easily labeled as “extremist.”

The high level of violence is another factor that puts significant constraints on the media’s ability to play a political and civil role in Russian society. As reported by Reporters Without Borders, Russia is one of the most dangerous countries in the world for journalists. Any criticism against state structures, powerful bureaucrats, or political bosses, and any attempt to investigate and make public the corruption schemes or cases of power abuse, can provoke threats and violence. The most high-profile case was the assassination of Anna Politkovskaya (in 2006), who was an outspoken opponent of the government on a broad range of political issues, including the Chechen War.

3.4 Human Resource Management

Russia’s government-led modernization created a dual society where autocracy, backed by the military and bureaucracy, was trying to mobilize social resources for the preservation of imperial power and integrity. That is why bureaucracy (*chinovniki*) was a key component of the pre-Communist social and political order. The Russian imperial state always suffered from a lack of efficiency and was dominated by informal institutional structures serving private rather than public interests. The Russian Socialist Revolution (1917) aimed to replace this societal setting with a classless society, which had to be administered in accordance with the principles of rational planning and scientific management. An attempt to make such a utopian program a reality led to the creation of a highly bureaucratized society with no clear borders between state, economic, and social institutions.

After the death of Stalin (1953), totalitarian dictatorship eased its grip somewhat on society. To a significant extent this was caused by the urgent necessity to cure the ineffectiveness of the

socialist administrative and economic system, which, in turn, was necessary to catch up with the West in the global military and political competition during the Cold War era. Soviet leaders initiated a series of economic and administrative reforms. Significant discretion was given to “technocrats” in developing and implementing policies on a broad range of economic and social issues. Accompanied by such factors as economic growth and social development, an increase in the educational level of administrators, and generational change, these reforms made Soviet public management more efficient than in the period of Stalin’s leadership.

During the late period of Soviet history, bureaucracy rapidly increased in numbers, though its performance could not match the growing complexity of the social, economic, and political problems facing Soviet society. Combined with economic inefficiency, the erosion of legitimacy, and imperial overstretching, lack of efficient administration was a key factor accounting for the collapse of the Communist system in Russia. One of the most urgent goals in post-Communist Russia was transforming the “old” bureaucracy, accustomed to serving its political patrons rather than society, into a corps of competent and responsible administrators.

Prior to the late 1980s, there was no official employment outside of the Communist state. Post-Soviet reforms changed employment conditions dramatically. However, about one-third of the Russian workforce is still employed by the government, while many other workers are employed by companies controlled by the state, and a large part of the population depends on the state system of social security and social care. The number of state employees was stable in the 1990s but increased significantly in the following decade (Figure 3.1). In 2009, there were 1,674,800 workers employed directly by federal, regional, and local authorities; 878,000 of these were employed by federal agencies of all kinds and 283,600 by regional authorities (Federal Service for Government Statistics 2012).

The legal foundation of human resource management in Russia is provided by a rather vast body of legislation. First of all, there is the Labor Code, which determines the basic labor rights,

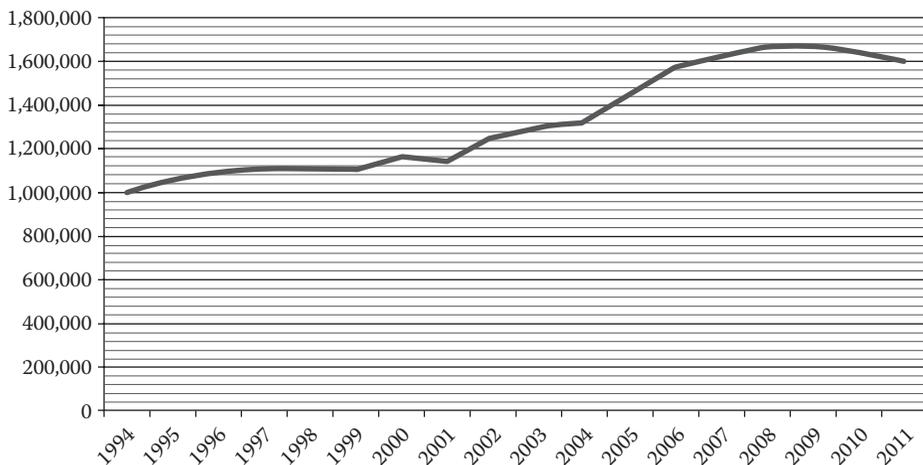


Figure 3.1 Growth of state employment in Russia, 1994–2011. (From Federal Service for Government Statistics, *Chislennos't rabotnikov gosudarstvennykh organov i organov mestnogo samoupravleniya po vetvyam vlasti i urovnnyam upravleniya* [The number of workers employed by state authorities and local governments, divided by branch of power and level of government, by the end of 2009], Rosstat website, 2012. <http://www.gks.ru/wps/wcm/connect/rosstat/rosstatsite/main/state/#>. Accessed May 2, 2012.)

dismissal rules, and requirements for job safety. There are also special regulations for public officials, including the Federal Act “On State Civil Service,” passed in 2004, as well as a number of supplemental regional acts and regulations. Specific rules and conditions can be introduced by a contract between the employer and the employee. Municipal service is regulated by the same legislation, though formally it is not included in the system of state public service since local government is formally separated from the upper levels of the administrative state.

In terms of this legislation, civil service is defined as assistance to the execution of governmental powers, which includes serving officials vested with public authority such as the president, ministers, or Parliament members who are not civil servants. The civil service (*gosudarstvennye sluzhashchie*) is established as a core group of state employees that are entitled to a wide range of benefits as well as career advancement. There are also employees of the numerous state-owned (or municipal-owned) companies or governmental agencies providing health care, education, social care, and so forth. Their jobs are regulated by the Labor Code and special statutes.

Access to the civil service is open and equal for all citizens of the Russian Federation with command of the Russian language, regardless of gender, race, nationality, origin, and religion (convicts and the legally incapable cannot seek a position in the civil service). To qualify for any position an individual should be at least 18 years old and should have a higher education degree or a secondary education, depending on the nature of the job responsibilities. In many cases, candidates are selected on a competitive basis that may include examinations. Formal rules require the vacant positions to be advertised so that anyone who meets the criteria may apply. But in reality there are many ways to make the selection process less transparent. Vacant positions could be advertised in official newspapers with low circulation and sometimes are not posted at all, so only “insiders” could know about them. If an outsider happens to find out about the vacant position, there are other ways to get rid of him/her. In some regions, in Northern Caucasus, for instance, it is possible to buy a position (even in court or law enforcement agencies). Often positions are available only for friends, relatives, and people with “connections.” This does not necessarily mean that only the well connected and the unworthy gain entry into the public service. There are quite professional people in the government and fresh blood is sometimes sought: capable university students who are trainees in federal or local agencies could be invited to apply. But this practice is not widespread and it usually involves low-level jobs. In general, open competition is very rare; the system of selection of public workers is closed and nontransparent to the public.

With the state still playing a leading role in Russian economic and social life, the status of public servants in society is rather high. An elite administrative position provides access to numerous benefits and privileges, both formal and informal. These range from access to better health care in special state-owned facilities (or abroad) and better schools for their children to using the state-controlled media to crush opponents. Public servants rarely get fined for violation of traffic laws and it is hard to punish them even for more serious crimes. Normally, it is difficult for people who do not belong to the bureaucracy to win a case against a state official in the court, except if they find another, more influential, official to back them. The power of the state media is rarely turned against state employees, unless their status is low or there is a deliberate decision to ruin that particular person’s career.

State employment is a desired thing in Russia, though not so much for its pay. Mostly, government agencies cannot offer competitive salaries for skilled employees. But relatively low base salaries are compensated for by stability and other benefits. If you become employed by the state, it is hard to be fired; and in most of Russia’s regions, state and local authorities are the major employers. Widespread corruption is another significant source of state employees’ gains. And, finally, governmental connections can later be helpful in starting a business or getting a good job

in a private company. Jobs at regulating agencies or in the courts are highly valued as compared with jobs in social-care or health-care structures. A police job (which has a negative public image) is considered an employment option for applicants with lower social status.

Under federal laws and supplemental regional legislation, civil servants are entitled to different benefits, including monthly bonuses, bonuses paid with yearly vacation leave, and extra pay based on years of experience (10%–30% of the base salary) and grade rank, special conditions of service (up to 200% of base salary), working with secret materials, and special assignments (bonus size is unlimited). Benefits also include medical insurance for civil servants and their family members, higher state pensions, and the right to use state-owned educational, leisure, and health-care facilities. Some officials are also entitled to additional education and training at the state's expense, transport services and transport allowance, and one-time subsidies for buying houses or apartments. According to Rosstat, the nominal average monthly pay in public administration and social care in Russia in 2009 was 23,960 rubles (around \$800), almost 30% higher than the average nominal pay in the economy. Average civil servants' salaries at the regional level were 28,200 rubles: 25,700 for those employed by the federal authorities, 34,400 for those who worked for regional authorities, and 23,500 for those employed by local authorities (Federal Portal for Human Resources 2010).

In many regions and municipalities, there are regulations that secure payments to former officials (equivalent to their wages and benefits) for 6–12 months immediately after they leave their jobs (Shirikov 2009). This practice costs the public finance dozens or maybe even hundreds of millions of rubles every year. Public prosecution offices have tried several times to challenge these regulations (on the grounds that federal laws do not provide for this benefit), but with little or no success.

State pensions in Russia are low and the wage replacement rate they provide is only 25%–27%; by 2040 this could be 17%–18% if the retirement age is not raised (Dzis-Voynarovskiy 2009). Private pension plans are not widespread and still unpopular; the majority of Russians do not trust them. But both federal and regional civil service legislation provides for special (much higher) pensions and retirement benefits. In Moscow, for example, severance pay is up to tenfold monthly pay. The former mayor, Yuri Luzhkov, received about 3 million rubles (\$100,000) in October 2010, when he had to leave his office (Gazeta.ru 2010).

The civil service is based on a system of appointment and key civil servants are appointed or dismissed directly by elected officials. Elections (or any other replacement procedure concerning key political figures) may bring significant changes to the upper levels of administration, but at the lower levels changes are often minimal. Civil servants have some legal protection against arbitrary dismissal and there is almost always a core group of midlevel managers that are never affected by the changes.

Civil servants have to be evaluated every 3 years to confirm their qualification. The government sets particular criteria and employees need to meet them in order to be considered successful, be promoted, and receive yearly, quarterly, or monthly bonuses. Public officials are evaluated on the basis of (1) individual performance and (2) performance of his/her department. Again, very often reality has nothing to do with the official rules. Generally, evaluation is nothing more than a mere formality because it is based on a review by the immediate supervisor, who is normally interested in keeping loyal subordinates in office. Bad performance is rarely punished directly, in the form of dismissal or demotion, though it may hinder further career advancement.

In many cases (especially at the upper levels of administrative system), performance evaluation is heavily dependent on a broad range of informal criteria. For instance, it is known that the Kremlin requires regional governors and heads of election committees to secure electoral results

for the “party of power,” United Russia. Governors who do not meet these requirements can be punished in different ways, including dismissal if the Kremlin is not happy with them otherwise.

3.5 Financial and Budgetary Management

Since the mid-1970s, the Soviet Union has become more and more dependent on revenues from oil and natural gas exports. When, in the 1980s, international prices for natural resources dramatically dropped, the Soviet government lost the ability to meet its budgetary obligations. In 1991, the fall of the Soviet Union left the Russian Federation, its successor state, virtually no financial reserves and a huge inherited foreign debt (\$67.9 billion). A deep economic crisis followed the collapse of the Soviet economy and the lack of state capacity coupled with the transition to a market economy made the situation even more complicated.

In the 1990s, external borrowing was a major source of federal budget revenues. It increased Russia’s foreign debt to \$158.7 billion. After 2000, the Russian economy started growing due to another wave of high international prices for oil, natural gas, and metals, and the Russian federal budget (as well as regional and municipal ones) was back to dependency on revenues from the export of natural resources. After oil prices reached new peaks in 2006–2007, oil and gas accounted for almost half of budget revenues in 2008 (4.39 trillion rubles—47.3% of all budget revenues). Almost two-thirds of this amount (63.7%) was customs fees and 36.3% was derived from the natural resources extraction tax (State Duma of the Russian Federation 2009).

Like other countries that are major oil and gas exporters, Russia, in 2004, created a special financial fund to absorb excessive revenues and to compensate for the potential reduction of revenues in the future. In 2008, the fund was split into the Reserve Fund and the National Welfare Fund, with the former intended to cover federal budget deficits and the latter to serve as an additional source of revenue for the state Pension Fund’s future needs. According to the Ministry of Finance, by September 2008 the Reserve Fund reached \$142.6 billion in size and then dropped to \$26.42 billion in November 2010. Since 2010, because of the economic crisis and according to the revised Budget Code, oil and gas revenues have gone directly to the federal budget (Ministry of Finance of Russian Federation 2010).

The key federal tax is the value-added tax (VAT), which contributed approximately a quarter of tax revenues in 2008 and almost 40% in 2009. The natural resources extraction tax (around 40% of tax revenues in 2008 and 33% in 2009) and the corporate profits tax (around 20% of tax revenues in 2008 and 6% in 2009) are major contributors to the federal budget (Federal Tax Service 2010). Another important tax was the unified social tax: companies and organizations had to pay 26% of their payroll, which then was to be divided between the Pension Fund, Social Security Fund, and the Medical Insurance Fund. Since 2010, these taxes have been replaced by insurance premiums paid to these state funds. At the regional level, the key taxes are corporate taxes, and at the local level they are personal income tax, land tax, and individual property tax. Some taxes are divided between federal and regional budgets or regional and local budgets. For instance, the corporate profit tax rate is 20%, with 2% going to the federal budget and 18% to regional budgets.

The current highly centralized taxation system does not allow most of Russia’s regions and municipalities to balance their budgets without external assistance. They are dependent on transfers from federal budget or regional budgets, respectively, and in many cases these transfers are the main sources of funding. These transfers reached 35% of federal budget expenses in 2008, 36% in 2009, and 38% in 2010.

Individual taxes in Russia include personal income tax and individual property tax (which is set similarly to corporate profit tax). Individuals also pay transport tax, water tax, and land tax. The standard personal income tax is 13% (30% for nonresidents), 35% for income from lotteries, prizes, and so on, and 9% for income from dividends. Tax compliance among individuals who have properly formalized legal relations with their employer is close to 100% since personal income tax is paid by the employer. Workers who do not have a formal contract evade paying this tax, though this practice has decreased in recent years. According to the National Institute of Systemic Research on Entrepreneurship Problems (NISIPP), the share of companies that paid salaries without legal paperwork fell from 69.4% in 2005 to 56% in 2009 (Dzis-Voynarovskiy 2010).

Business bears the main tax burden in Russia. It is estimated at approximately one-third of Russia's GDP. Besides paying the personal income tax on behalf of employees, organizations pay VAT, corporate profit tax, and corporate property tax. They also pay insurance premiums, which replaced unified social tax, for all their employees and, depending on the sector and activity, natural resources extraction tax, land tax, transport tax, tax on the gambling industry, water tax, and excise taxes. VAT is an indirect tax, the burden of which lies with the end consumers. VAT is charged at the point where the product or service is sold to the end consumer. The VAT rate is 18%, though for some goods it is 10%, and for export goods it is zero. The corporate profit tax rate is 20% (18% goes to regional budgets). The definition of profits for tax purposes often differs from the bookkeeping definition of profits, so many companies are expected to do regular accounting and tax accounting separately and simultaneously. Corporate property tax is set by regional authorities, though it cannot exceed 2.2%, as outlined by the federal Tax Code. The object of taxation is companies' capital assets.

Insurance premiums (formerly unified social tax) were set at 26% of the employer's payroll until 2010 and have been 34% since 2011. Since 2011, 26% has been paid to the Pension Fund through the system of mandatory pension insurance, 3.1% (5.1% since 2012) to the Medical Insurance Fund (benefits in case of sickness), and 2.9% to the Social Security Fund (benefits in case of disability, etc.). These premiums, especially since 2011, are a heavy burden for all companies where employees' salaries constitute a significant share of costs.

Natural resources extraction tax is paid by organizations that extract natural resources such as coal or metal ore, with tax rates ranging for most types of minerals from 3.8% to 8%. The key revenue here is, of course, taxes on oil and gas extraction. Oil tax rates depend on the level of exploration of oil fields, international oil prices, and the ruble exchange rate. The federal government enjoys all the benefits of high oil prices, since the higher percentage of oil profits is channeled into the federal budget. At the outset of the 2008–2009 economic crisis oil prices fell by two-thirds after reaching their peak in 2006–2007 and Russian oil exporters as well as the state budget suffered heavy losses. Moreover, oil companies turned to the government for help. They argued that the industry was on the verge of collapse and that its tax burden should be relieved. The federal government agreed and the tax burden was reduced by 500 billion rubles (close to \$16 billion) (Gaaze 2010a).

Small businesses and individual entrepreneurs may also use a special system of taxation that replaces most taxes with one—6% of revenues or 15% of revenues minus costs. A similar option—single tax on imputed income—is provided by regional authorities for entrepreneurs that provide services to business or individuals (the list of such services is limited by the Tax Code). Its rate is 15% and both tax regimes can be implemented at once.

According to an assessment done by the business association “Delovaya Rossiya” (Business Russia), the overall tax burden on business exceeds 50% of turnover (The News Department

of Information Agency 2008). There is also an “informal” tax burden—“corruption fees” for protection and “informal” governmental services—that, according to the NISIPP, amounts to 6% of business turnover overall in the economy and up to 13% among firms regularly paying these “informal” taxes (Dzis-Voynarovskiy 2010).

The most commonly evaded taxes are corporate income tax, unified social tax (and the insurance premiums that replaced it), and VAT. The Social Security Fund “lost” 5 million workers (around 7% of the country’s workforce) in 2010 due to the raised insurance premium rates: employers terminated contracts with workers and used other forms of employment that allowed them to avoid paying premiums (Kuvshinova and Sterkin 2010). At least one-fifth of businesses made payments to their counterparties without proper paperwork and accounting (Dzis-Voynarovskiy 2010).

Tax law enforcement in Russia is rather arbitrary and dependent on informal relationships that exist between business and governmental structures rather than on formal procedures. The most high-profile example of the selective repression practice is the case of Mikhail Khodorkovsky, billionaire and CEO of the oil giant Yukos, who dared to oppose President Putin politically. He was arrested in 2003 and later his company was in fact confiscated under the pretext of punishment for tax evasion. Another case is a steel company, Mechel, which was accused by Prime Minister Putin of using transfer pricing—the company’s shares fell by more than 20% as a result of these accusations (Putin 2010). This was a message to other companies as well: if they do not pay higher taxes, the government may crack down on them. Foreign companies also can be affected by this practice. For instance, IKEA Russia have tax claims for 1 billion rubles (around \$33 million) for the alleged use of shell companies, which could be some sort of vengeance for the company’s harsh policy toward bribes and corrupt officials (Zanina and Aminov 2010). The tax enforcement policy toward smaller businesses is no different. Tax evasion accusations are often used as a kind of blackmail, which involves companies and individual entrepreneurs in corruption schemes. Often entrepreneurs team with corrupt tax service officials and use such accusations to threaten competitors or businesses that they plan to take over.

Tax policy enforcement generates many problems for taxpayers. The procedures are often cumbersome; there is a lot of paperwork. Electronic reporting is possible, but it is inconvenient. For many entrepreneurs the issue in this area is not even bribery but bureaucracy: proving your case before tax service officials can be very difficult (though bureaucracy and corruption are really intertwined in this respect).

There is central budget planning in Russia and since the mid-2000s the budget has been planned for 3 years ahead based on the economic predictions for the following years. The most detailed is the budget for the next year, which includes both functional (industrial) resource allocation and allocation of funds among controllers. The budget is drafted by the cabinet of ministers and then has to be approved by the Parliament, which can alter the budget parameters but cannot increase funding without the cabinet’s consent. Regions and municipalities have their own budgets, which are drafted and approved in a similar way.

Normally each ministry receives the funding reserved for a particular industry or sector and then distributes the money among the organizations in its jurisdiction. Each regulator has its own treasury account through which the funding is executed. Treasuries report to the Ministry of Finance. The ministries compile their budget requests by gathering requests from their departments and organizations in their jurisdiction, and in some cases from regional governments (for instance, the Ministry of Regional Development spends a part of its budget through a special investment fund on development programs presented by regional authorities). Industrial lobbyists also take part in this process. An example of this lobbying is the case of aluminum tycoon Oleg

Deripaska who, in 2008–2009, regularly asked the government to provide financial aid to his companies, to lower electricity prices, and to help him to resolve political problems his company faced in Guinea (Myazina and Gaaze 2009).

After the requests are made, the ministries start negotiating for their share of the budget, with success depending on the minister's influence and the industry's importance. The Ministry of Defense, Ministry of Industry and Trade, and the Ministry of Healthcare are usually among the main beneficiaries. The Ministry of Finance and Ministry of Economic Development have for many years tried to reform this process and to introduce results-based financing that would also allow agencies to use funds more freely and effectively, similar to budget processes and principles common among private companies (Gaaze 2010b). But these efforts, including a new budget reform project, which was debated in 2010, always faced huge resistance, and still there is no significant progress in this area.

3.6 Accountability and Corruption

Corruption in Russia is endemic and is probably the biggest problem for the country. As estimated by leading experts in the field, it accounts for at least 20% of the Russian economy (Russia's GNP in 2011 = \$1.85 trillion) and penetrates into all societal segments, causing dramatic degradation of the Russian state and society (Ekho Moskvu 2011). As to the global comparative perspective provided by Transparency International rankings, the size and nature of the corruption in post-Soviet Russia are among the worst in the world (Figure 3.2).

Russia's Communist past proved decisive in the early formation of corruption but its further persistence is a result of authoritarian political choices made by the Russian ruling elite at the end of the 1990s. The key part of this regime strategy was the creation of electoral machines at all levels of the Russian political system. The spread of political corruption became an inevitable consequence of such a strategy and should be seen as a major social and institutional determinant as well as a model for other forms of corruption activities in post-Soviet Russia. We may consider corruption as a kind of social contract made between the authoritarian leadership, on the one part, and bureaucracy and some other segments of Russian society, on the other part. The main goal of the contract is to secure regime stability.

The institutional framework of corruption in Russia rests on clientelistic structures deeply rooted in the post-Soviet society. In clientelistic networks, personal loyalty to the patron prevails

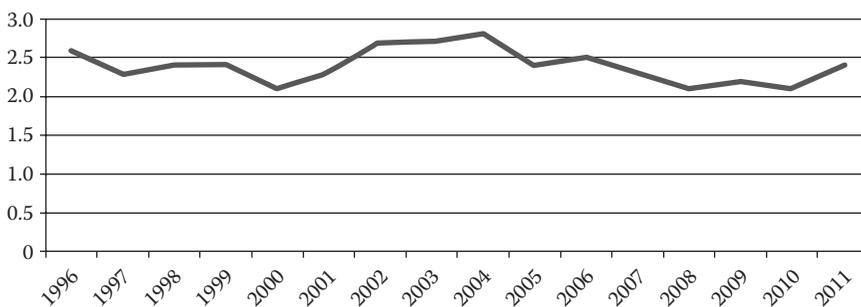


Figure 3.2 Dynamics of post-Soviet corruption (Corruption Perceptions Index). (From Transparency International, Corruption Perceptions Index, <http://cpi.transparency.org/>)

against democratic procedures and bureaucratic professionalism. That is why corruption causes much damage to the Russian administrative and political system and to Russian society as a whole. This includes a lack of political and administrative accountability, institutional inefficiency, and moral decline. Russian leaders quite often express their concern with the problem of corruption. They are aware that it leads to bad governmental performance, and economic and structural underdevelopment, thereby undermining the regime's legitimacy. That is why they try to balance the need to support a minimal level of governmental efficiency with the necessity to maintain a system of political control over society.

The basic legal framework for anticorruption policies was set by the Criminal Code, the federal act "On State Civil Service" (2004), and supplemental legislation in the regions. Some of these documents (first of all, the federal act "On State Civil Service") included more or less elaborated codes of ethical rules. But this rather vast body of regulations was not able to prevent the sweeping spread of corruption both in the 1990s and in the 2000s. Probably the most significant reason for that was the lack of enforcement of these regulations, which was limited to accidental campaigns and convictions related to extraordinary high-profile cases.

One of the most recent attempts to make anticorruption policies more efficient was a presidential decree passed in 2009. It required the top federal officials and members of their immediate families to make their income declarations public annually. Again the effect was limited, since many officials do not formally own the businesses in which they take part and use complicated schemes to launder their bribes. Some progress could be made if state officials had to declare not just their income but also their expenses (Kabanov 2010), but this is not on the agenda now.

One of the most urgent challenges here is the system of government contracts. It is one of the major sources of corruption in the Russian administrative system and yet progress in this sphere is modest at best. In recent years a few laws and regulations have been passed to improve the situation. Since the mid-2000s, the government has encouraged contracting authorities to create more transparent procedures and place their orders through electronic systems where they would be open to any potential contractor. Since 2010, electronic auctions have been made obligatory for most contracts.

The Ministry of Economic Development and Federal Anti-Monopoly Service (responsible for these initiatives) reported some success: according to their estimations budget expenses in 2009 fell by 500 billion rubles due to the new procurement procedures and prices were lowered by 25% on average, but the battle with corrupt officials is far from over. Contracting authorities invent new ways to block unwanted contractors and to let the "insiders" win. One striking example is a government order worth 55 million rubles (around \$2 million) placed in October 2010; the announcement demanded the creation of a complex IT system—a social network for doctors and patients—in 16 days. That meant that the contractor was already chosen and had the product ready (Setevaya 2010). This example is typical of the Russian system of public administration: technologies and legal regulations cannot beat the corrupt officials; they are everywhere and their influence is overwhelming.

3.7 Conclusion

The Russian government is an enormous and rather complicated administrative machine that partly inherited its institutional structure and culture of administration from the Soviet state system. In the post-Soviet years there have been several attempts to reform its structure and build a new administrative culture, few of which have been successful. Today Russia's bureaucracy

remains ineffective and clumsy, with cumbersome administrative procedures and widespread corruption.

In the early post-Soviet years the administrative system in Russia definitely became more open, transparent, and democratic than before (perhaps more than ever before). Post-Communist Russia's first president, Boris Yeltsin, and members of his reformist team had the intention to build new state institutions capable of consolidating democracy as well as providing for stable economic and social growth. Yeltsin's priority was securing conditions for social self-regulation through loosening political and administrative control and improving efficiency, transparency, and accountability of the administration. On the reform agenda were economic deregulation, civil service reform, and federalization.

During the first post-Soviet decade some progress was made. The key accomplishment was the 1993 constitution that proclaimed Russia a federal state and established a structure for the federal government. But by the end of the second Yeltsin presidential term it had become clear that the reformist efforts of his team had brought very limited success. Moreover, new problems emerged—the growing threat of state disintegration, a dramatic decline in government capacity, and corruption. The situation was complicated by the 1998 financial crisis, which seriously damaged the Russian economy and had a high social cost.

Vladimir Putin, who was elected as president of the Russian Federation in 2000, had to start another cycle of administrative reform, with an agenda similar to the previous one. But his political priorities were different: to eliminate the threat of state disintegration and restore the capacities of the federal government. Putin's first presidential term (2000–2004) was marked by considerable improvement in terms of the development of state institutions. A series of reforms, including civil service, tax, budget, judicial, and administrative reforms, were initiated. Though none of them was fully completed, they strengthened federal government and increased its policy-making ability. Even the corruption burden (as reported by Transparency International) was somewhat lighter in 2000–2004 (Figure 3.2).

Putin's state-building program was a part of the policies that stemmed from the nondemocratic political choice made by the Russian ruling elite. Strengthening of state institutions was achieved at the expense of democratic political institutions, which were abortively introduced into Russian politics in the early post-Soviet period. Fragile Russian civil society (including Russia's media) also fell victim to the authoritarian backlash. These political and social changes caused significant erosion of governmental accountability and the growth of corruption, which, in turn, led to a decline in overall governmental efficiency. Though, by the end of the 2000s, Russian bureaucracy had become more competent and experienced in some ways, it had also become much more corrupt and less open and accountable; state apparatus grew fast, sometimes at 10%–15% a year, becoming a heavy burden on the country, blocking its further development.

In conclusion, in two post-Soviet decades Russia went through two cycles of state-building reforms; both proved to be ineffective. As reported by many public opinion surveys, in Russian society there is a growing dissatisfaction with the state of public affairs and a growing disappointment in the government. Partly, this shift in public opinion could be explained by the social and economic deterioration resulting from the current global economic troubles. But people lack a positive vision of their future also because they are increasingly deprived of their political and civil rights. These cultural changes are preparing the ground for another cycle of institutional evolution in Russia. They develop demand for a renewed, more efficient, transparent, and responsive (and more humane too) administrative system and for a government that needs to be effective in providing economic and social growth.

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Chapter 4

Public Sector Reforms in Kazakhstan

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4.1 Introduction

The disintegration of the Union of Soviet Socialist Republics (USSR, hereafter referred to as the Soviet Union) in 1991 marked the beginning of a new era for Kazakhstan. From the Communist past, Kazakhstan has emerged as an independent promarket and prodemocracy state. In the West, political elites and academics expected that democracy, market, and civil society would quickly take root in the newly independent state. Yet, the enthusiasm did not last long, and after almost 20 years of radical and incremental reforms, the transition from centralized and autocratic to decentralized and democratic forms of government in Kazakhstan is still underway.

In the case of Kazakhstan, democracy has been developing in a zigzag fashion. The first president of Kazakhstan, Nursultan Nazarbayev, has initiated democratic reforms from the top down and the president himself has curtailed democratic development by concentrating power within the institution of the presidency. The case of Kazakhstan is an illustration of the central role of government in transforming economic, political, and social order with little input from the people and often against the will of the people.

4.2 Brief History

The Republic of Kazakhstan is one of the former Soviet Union republics in Central Asia. Kazakhstan gained independence in 1991, when the USSR ceased to exist. It is the ninth largest country in the world, with a territory of 2.7 million km², and a total population slightly over 16 million, as the chairman of the Agency for Statistics Alikhan Smailov announced after the census of 2009 (Kazinform 2010). Administratively, the country is divided into 14 regions (oblasts), 160 districts (raions), 10 large city districts, 200 towns, over 2000 rural settlements, and 2 cities of special status—the current capital Astana and the former capital Almaty.

Throughout their pre-Soviet history, the Kazakh people knew no central government, no military administration, and no geographic borders. Traditionally, they led a nomadic life and were engaged in cattle-breeding, moving freely to find better grazing lands. They were united by strong family ties and by loyalty to a khan (ruler), who was recognized as a family or tribe leader.

In its recent history, Kazakhstan has experienced three stages of modernization—under the Russian Empire (1731–1920), the Soviet Empire (1921–1991), and the Western Empire (1992–onward). Each stage has brought profound changes to the Kazakh lifestyle, from nomadic to settled; to the system of beliefs, from Islam to Communism; to the way the country has developed under capitalism and democracy; and to the mentality of people, from rural to urban (Abylkhozhin 2007).

The Soviet regime significantly transformed the individual, political, and social life of the Kazakh people. It lasted for more than two generations.* The weakness of national identity before the Soviet era helped formation of a Soviet identity. Soviet policy forced the nomadic population to settle, which dramatically changed the traditional way of living. Three waves of immigration during the Soviet period resulted in a low proportion of Kazakhs in the total population.

* To remain objective, we must note that the Soviet regime brought significant improvement to the lives of common people if measured by social equality, emancipation, health, and education. During 70 years of socialist development in Kazakhstan, the country achieved 98% literacy, life expectancy on average increased from 51 in 1950 to 68.3 in 1990, and women made major progress in the economic life of the republic by constituting about 48% of the labor force in all sectors of economy in 1980 (Population Division, DESA, United Nations; UNdata n.d.).

According to the census of 1959, Kazakhs represented only 37% of the country's population; other Central Asian minorities who spoke variations of Turkish constituted about 11%, other ethnicities represented roughly 9%,* while Russian-speaking ethnicities constituted 43% (The Permanent Committee on Geographic Names 2006). Therefore, the Russian language became the political and administrative language of the republic. In 1989, Kazakhs constituted 39.5% of the population and the country was the only one in the Soviet Union in which the titular ethnic group was a numerical minority (Cummings 2000).

The system of governance in Soviet Kazakhstan was represented at the top level by the Kazakhstan Council of Ministers, presided over by the chairman, which worked closely with the Central Committee of the Communist Party of Kazakhstan, headed by the first secretary. Similarly, governance structures repeated this dualism at the local level. Alongside government administrative posts, the Communist Party parallel positions were established to provide for political guidance, supervision, and control. The leaders of the Kazakhstan Communist Party were directly subordinate to the Soviet Union Central Party Committee. Therefore, in Soviet Kazakhstan many important policy decisions were made in close coordination with the Central Committee of the Communist Party of the Soviet Union and funded from the Soviet Union budget.

Kazakhstan and Russian economic relationships were characterized by high integration and interdependence of industries. During the Soviet era, Kazakhstan evolved as an urbanized and industrialized society, with significant manufacturing sectors and processing industries, a well-developed agricultural sector, and substantial natural wealth (Cummings 2000). The Constitution of Soviet Kazakhstan guaranteed many free services to its citizens. The Kazakhstan government provided free housing, secondary and higher education, and health care; subsidized transportation; and guaranteed employment to all citizens (Kaminskaya 1928; Kiselev 1962; Sirikh 1999; Volkova 1986; Olcott 1995; Roy 2000). By 1970, two-thirds of the formerly nomadic Kazakh population were living in cities and one-third were working in industry. According to the census of 1970, the numbers of individuals with high school and university degrees per 1000 were 654 males and 651 females. The retirement age for women was 55. By 1970, females represented more than 50% of the labor force: in science 47%, industry 48%, construction 29%, public administration 61%, and education and culture 72% (Big Soviet Encyclopedia 2001). After independence, Kazakhstan was a modern nation as measured by industrialization, emancipation, urbanization, and literacy.

4.3 Political Reforms: President versus Parliament

The current constitution still bears resemblance to the Constitution of the Soviet Republic of Kazakhstan from 1978 with regard to social protection of citizens. The constitution was revised in 1990 to introduce the position of the president of the Republic of Kazakhstan. In 1993, amendments to the constitution strengthened the power of the president by allowing him to issue decrees having a force of law. In 1995, the constitution was revised again to reinforce the presidential form of governance (Heinrich 2010).

Although the president initiated transfer of some powers to the Parliament in 2007, he still retained significant political power. The 2007 amendments to the constitution reduced the

* Kazakhstan was known in Soviet times as “a country of 100 languages,” where significant non-Central Asian groups, besides Russians, included Ukrainians, Polish, Germans, and Koreans.

presidential term from 7 to 5 years. The amended constitution has increased the number of members in the lower house—Majilis—from 77 to 107 and increased the term in the office for both chambers—the Senate and the Majilis. Other amendments allowed Parliament to play a bigger role in selecting the prime minister and provided nine seats in Majilis to the Assembly of the People of Kazakhstan* to ensure representation of minority rights (Golovnina 2007; Heinrich 2010). Yet, the constitution preserved the provision that allowed the first president of Kazakhstan to run for presidency an unlimited number of times. Actually, this provision provided the opportunity for President Nazarbayev to be elected more than twice, in contradiction to the current constitution,† which limits the president to two terms in the office (Golovnina 2007). Nursultan Nazarbayev, the first president of Kazakhstan, had the rank of first secretary of the Communist Party of Kazakhstan under the Soviet regime. He was a popular leader and was successfully reelected as president of the country in 1991, 1999, and 2005 (Oka 2009). On December 27, 2010, Kazakhstan's central election commission officially registered a motion to hold a referendum to prolong First President Nazarbayev's presidential term until 2020, bypassing the elections of 2012 (Solovyov 2010). On January 31, 2011, Nazarbayev issued a decree calling for an early presidential election on April 3, 2011, almost 2 years ahead of schedule. On April 3, 2011, Nursultan Nazarbayev was reelected for the fourth time as the president of the Republic of Kazakhstan (Kazakhstanskaya Pravda 2011). This reelection once again demonstrated the overwhelming power and continuing popularity‡ of President Nazarbayev.

The authors interviewed local analysts from the Alliance of Analytical Organizations of Kazakhstan. They argued that Nazarbayev called for early elections in April 2011, as a preventive measure in order to avoid possible political and civil conflict that elite groups might have initiated during the preelection year in order to take power. Additionally, some of them argue that the new term in the office will allow Nazarbayev to weaken the powerful elite groups, which currently control about 60% of the country's GDP, and introduce a successor, who will lead the country in line with the first president's vision.

Some scholars argue that the concentration of power in the hands of a reformist president could be a positive factor when the country is in a state of transition. According to Blackmon (2005), many economic and political reforms in transition countries would have proceeded much slower without the political leadership of the president, had the political and administrative power been dispersed through decentralization. The following facts demonstrate accumulation of power by the first president of Kazakhstan and the use of this power to advance market reforms. In 1993, President Nazarbayev dissolved the first Parliament of Kazakhstan, which resisted his decision to pursue a fast transition to a market economy. During 4 months without a Parliament, Nazarbayev enacted major reforms by issuing a number of decrees that had a force of law to overhaul the economy and the political system of the country. The president enacted a number of laws, such as "On Elections," "On Banks and the Banking System," "On Public Service," "On Land," "On Licensing," and "On Early Presidential Elections," and initiated a privatization program and pension system reform (Government of the Republic of Kazakhstan 2011). Gleason (2003) described

* The Assembly of the People of Kazakhstan represents the diverse ethnic population of the country. It is believed that currently there are more than 130 different ethnicities residing in Kazakhstan. The role of the assembly is to advise the president on the issues of interethnic peaceful coexistence, conflict, and reconciliation.

† The Constitution of Kazakhstan, section III, art. 42, stipulates the following: "One and the same person may not be elected the President of the Republic more than two times in a row."

‡ The country's Central Election Commission said he (President Nazarbayev) had won 95.5% of votes, based on partial results (BBC News Asia-Pacific 2011).

this combination of reforms and authoritarian decision making and implementation as a “product of compromise” that worked well in the past but could become destructive in the future.

Conversely, the authors of this chapter consider such “progressive” practice as compromising the ideals of true democracy, which President Nazarbayev has announced as his major political goal. The idea that democracy could be built by authoritarian means nullifies the essence of democratic participation in decision making. The president disbanded the first popularly elected Parliament of Kazakhstan, which expressed the will of the people by rejecting market reforms. The president rushed market reforms unilaterally. However, in the long run, the goal of democracy is not to achieve efficiency, but rather to achieve fairness and respect for the popular will. Some authors argue that for the last 20 years, Kazakhstan has been passing through semidemocratic authoritarianism to a typical authoritarian regime (Cummings 2005; Oka 2009).

The Parliament of Kazakhstan has lost competition for power to the president. With ongoing abuse of power, President Nazarbayev is still the most popular political leader. As opposition leaders and political parties have little support from the common people, the president has the chance to achieve a lifelong presidency without major challenge to his power.

4.4 Economic Reforms

Separation from the Soviet Union in 1991 brought numerous transitional challenges to Kazakhstan. Two major prominent challenges were the transitions from autocratic rule by the Communist Party to governance by democratically elected people’s representatives, and from a government-controlled economy to a market-driven economy. In 1992–1993, economic ties with Russia and the other 13 republics were broken; many industries were shut down because Soviet economic exchange and integration were incapacitated. State-controlled consumer prices were liberalized, which led to inflation, reaching an unprecedented high of 2400%; the real output dropped by 30% (World Bank 1993).

However, the president of Kazakhstan has demonstrated a strong political will to continue market reforms to gain access to world markets with the most wanted products from Kazakhstan, oil and gas, which he believed would help fix the budget deficit and improve the economic situation of Kazakhstan. Because Western countries and their leadership were determined to obtain quick access to the large hydrocarbon deposits of Kazakhstan, they ensured that the country received support from international lending institutions—the World Bank (WB) and the International Monetary Fund (IMF) in 1992. Both organizations have signed stand-by agreements with Kazakhstan to provide badly needed financial resources on the condition that the leadership of the country would initiate immediate market reforms. The WB and the IMF designed reforms and provided expertise and funding to implement them. The most notorious reforms were privatization of state-owned industries, quick price liberalization, fiscal and banking sector reforms, and pension reforms, which were seen as breakthrough measures to dismantle the Soviet system of state-owned production means, controlled prices, a public banking system, and a pay-as-you-go pensions system. In 1995–1999, President Nazarbayev and his team attracted significant foreign direct investments to start oil extraction and refinery, established a stable legal framework for commerce and international contracts, reformed the banking system by creating the independent Central Bank of Kazakhstan and establishing a private banking system, and adopted a progressive civil code, a new system of government fiscal management, and a new tax code (Perlman 2007).

In May 2000, Kazakhstan managed to repay its \$385 million debt to the IMF before the due date and reduced its dependence on the international institution, which dictated financial policies to Kazakhstan. In 2002, Kazakhstan was the first to receive an investment-grade credit rating from a major international rating company, which allowed its government to borrow and attract investments internationally (Bhuiyan 2010; Gleason 2003).

Economic growth became evident by 2002 and this situation continued to improve till 2008. In 2006, the country's annual GDP growth was 10.6%, with a projected growth of 8% between 2008 and 2012 (Knox 2008). The global financial crisis of 2008 had a profound negative influence on the country. The government responded to the crisis by introducing a stabilization plan and devaluating the Tenge—the national currency—to deal with the deteriorating macroeconomic situation, large bank debts, and growing unemployment. By the end of 2009, the country started slowly recovering from recession. According to the Deputy Minister of Economy and Trade Mr. Kusainov, the country's annual GDP growth was 1.2% in 2009, which increased to 7% in 2010; the inflation rate remained stable; and the unemployment rate decreased from 6.3% in 2009 to 5.5% in 2010 (Dubovitskikh 2011).

During the year of 2010, Kazakhstan launched and supported 80 new projects to accelerate industrial development of the country. Within the framework of the Program of Accelerated Industrial and Innovative Development, the government has already invested \$2.7 billion out of a total of \$54.3 billion from the National Fund of Kazakhstan into the program of industrialization scheduled for completion in 2014 (Central Asia Newswire 2010).

Kazakhstan still faces a number of economic and social problems, but the president's model of "legal and economic reforms first and political reforms later" has helped the country to overcome severe economic transition challenges.

4.5 Development of Civil Society in Kazakhstan

4.5.1 Civil Society at a Glance

The 20-year modern history of post-Soviet Kazakhstan encapsulates a story of a newly established nongovernmental sector. In 1989, the fledgling nongovernmental sector loudly declared itself as a public force. An enthusiastic group of Kazakhstan intelligentsia, under the leadership of the famous Kazakhstan poet and public figure Olzhas Suliemenov, has organized a social movement and a march of protest to the site of nuclear tests near the city of Semipalatinsk, Kazakhstan. The popular movement successfully pressured the government of Kazakhstan into abolishing nuclear testing in the area and fostered links with international organizations that opposed nuclear testing (Nevada-Semipalatinsk 1989; Wittner 2003). Following these powerful protests, a number of environmental nongovernmental organizations established themselves as active public players on a new democratic stage in Kazakhstan.

In 3 years, the powerful drive for democratic reforms was overwhelmed by economic turbulence created by "shock therapy" inspired by the WB. Under new economic stress, the democratic and participatory fervor subsided, giving way to the daily hunt for bread. Consequently, the popular enthusiastic and idealistic civil society momentum was lost, and the development of the nongovernmental sector slowed down. It was not revived until the international civil society community came to offer assistance to establish a Western model of civil society in Kazakhstan.

The period of 1994–1995 saw the launch of the nongovernmental sector in Kazakhstan society. That time was marked by fast and massive inflow of donor organizations, trainers, and civil society

experts from the West. Given the availability of vast and easily accessible monetary resources in the form of grants, new Kazakhstan nongovernmental organizations (NGOs) started growing in number (Franz et al. 2002). The Ministry of Justice reported that, as of April 2006, 25,868 private, nongovernmental organizations were registered in Kazakhstan (Kazakhstan Asian Bank of Development Resident Mission n.d.). However, research showed that many of these registered organizations were dormant or closed (Nezhina et al. 2008). Overall, according to the Asian Bank of Development (ABD) and the estimation of local experts, the number of active NGOs in the country totaled approximately 800–1000 (Kazakhstan Asian Bank of Development Resident Mission n.d.).

During the period from 1995 to 1999, major international nonprofit organizations and representatives from Western governments arrived in Kazakhstan to help develop the third sector. The purpose of most organizations was to facilitate democratic development in an emerging market economy, which included financial assistance to nongovernmental organizations.* Foreign organizations helped establish, support, and finance activities of many nongovernmental organizations in Kazakhstan. Ironically, the effect of massive financial assistance from foreign groups has proved detrimental to the sector in the long run. Many nongovernmental organizations developed dependency on foreign donors and learned to “adapt” their agendas to the needs of donors by stepping back from their original grassroots missions (Aksartova 2006; Luong and Weinthal 1999).

The period from 1999 onward was characterized by the gradual withdrawal of international financial support and, as a consequence, the closure of many weaker nonprofit organizations. The lack of funds also induced many strong, popular, and productive nonprofits to engage in profit-making activities such as education, consultancy, and research. Such activities were subject to taxation and complicated the work of many NGOs (Ovcharenko 2006).

4.5.2 Legal Framework for Civil Society in Kazakhstan

From 1995, the Constitution of Kazakhstan affirmed freedom of associations (art. 23), but at the same time, during the first decade of democratization, limited funding opportunities for public associations by prohibiting government financing (art. 5). The “Law on Public Associations” also prohibited the assignment of the functions of a state agency to a public association, thus banning nongovernmental organizations from contracting government services (art. 4) (Shindaulletova 2003). It was not until 2005 that the law *On State Social Service Contracts* was signed by the president to allow social services to be contracted to nongovernmental organizations. However, the mechanisms for NGO participation in competitive bidding on par with for-profit organizations were not developed, which compromised the intent of the law to engage NGOs in provision of social services (Ovcharenko 2006).

Currently, the establishment of the nonprofit sector in Kazakhstan is slowly proceeding, with astounding successes of very few grassroots individual organizations and sheer ineffectiveness of the sector as a whole. The NGOs’ partnerships with government are infrequent and often ineffective as government takes the upper hand in such partnerships (Brinkerhoff and McEuen 1999). We conducted interviews with three experts who used to work or continued working for

* International organizations, such as the United Nations Development Program, Soros Foundation, United States Agency for International Development (USAID), European Commission program for Technical Assistance to Commonwealth of Independent States and Mongolia (EC TACIS), Eurasia Foundation, and International NGO Training and Research Center (INTRAC) were key actors in strengthening the third sector.

international donor organizations. Before we start the analysis of the sector we need to classify the types of NGOs in Kazakhstan.

In sociology, organizations are classified on the basis of the controlling mechanism that governs people's behavior. Three types of organizations were identified on this basis: coercive, utilitarian, and normative. In coercive organizations, participants are controlled by force; in utilitarian, by money or other forms of financial benefit; in normative organizations, the control originates from shared goals, norms, and values (Andersen and Taylor 2006).

In Western societies, most NGOs are classified as normative, but in Kazakhstan, according to the experts, the classification is different. They described four types of Kazakhstan NGOs according to their leaders' goals:

- NGOs leaders are concerned with personal promotion and the mission is viewed as an instrument to receive grants. NGO leaders often use their organizations as a platform to build their political careers, to find a government job, or to work as experts.
- NGOs are converted into commercial organizations and start making profit from their original activities.
- NGOs rely on international donors to survive and implement their agenda.
- NGOs work for a short period of time while grants are available and then disappear.

Researchers face difficulties in locating a reliable list of Kazakhstani NGOs. The major problem is identification of actively working NGOs. It turns out that the majority of organizations are short-lived; they disappear without formal closure but stay for years on official lists of local governments and statistics agencies. In 2008, a group of researchers were able to identify 700 active nongovernmental organizations out of 3836 defined as active by the Kazakhstan Statistics Agency (Nezhina et al. 2008). Since then the situation has not changed much. Comprehensive analysis of the sector is still a serious challenge for researchers. To verify the earlier findings, we randomly selected 30 NGOs from the database of the Kazakhstan Ministry of Justice and called them multiple times. The results were that all 30 organizations turned out to be idle or nonexistent, as was assumed from the lack of response to our calls.

4.5.3 Freedom of Speech in Kazakhstan

In 2006 the *Analytical Report on Freedom of Speech in Kazakhstan* described the situation as grave. Multiple violations of the legal rights of journalists to receive information from government agencies were depicted in this report. Another concern was frequent arrests and harassment of journalists who reported political protests and workers' strikes (Kaleeva 2006). The report maintained that newspapers of the political opposition were shut down and full issues of newspapers were confiscated. In March 2011, the *New York Times* reported the story of *Golos Respubliki*, an opposition newspaper, which has long been a "thorn in the side of Kazakh authorities, publishing articles about corruption, human-rights violations and official malfeasance. Because of legal threats, *Golos Respubliki* has been unable to use a printing press or sell copies at newsstands, and has resorted to producing the newspaper on photocopiers and hawking it on the streets in major cities" (Barry 2011). The facts presented in a Freedom of Speech report (2006) and recent news publications suggest that the media is not free in Kazakhstan to publish demeaning but truthful facts about political leaders and government officials. According to the 2010 Worldwide Press Freedom Index (PFI) of the international media watchdog Reporters Without Borders, Kazakhstan ranked 162th out of 178 countries in its press freedom standing

(rank 1 is defined as having no corruption). The PFI of Kazakhstan has been consistently deteriorating for the last 10 years.

4.5.4 Effectiveness of NGO Sector in Kazakhstan: Empirical Findings

Research conducted by the authors in 2008 found that the nongovernmental sector in Kazakhstan was not effective or sustainable. Most NGOs still largely depended on foreign funding. Many NGOs had not succeeded in developing close ties with or gaining local support from indigenous constituencies. The authors interviewed 30 foreign and local experts in Kazakhstan to determine how academics, media, and representatives of international organizations evaluate the effectiveness of the nongovernmental sector in Kazakhstan.

All interviewees assessed the NGO sector in Kazakhstan as weak and ineffective. Experts suggested multiple reasons for the limited effectiveness of NGOs in Kazakhstan. The most frequent explanations suggested by foreign experts were: (1) low profile of NGOs and lack of initiative, (2) lack of government recognition and support, (3) donor-driven agenda, and (4) lack of interest from people. Local experts provided additional insights explaining the ineffectiveness of NGOs in Kazakhstan such as: (1) disconnect with local traditions, (2) arrogance of NGO representatives, (3) self-serving goals of local NGO leaders, (4) indifference of NGO leaders to the real needs of local people, and (5) local people's lack of attention to and trust in NGOs (Nezhina and Ibrayeva 2008).

The survey conducted by the authors to follow up the expert interviews showed that of all respondents (N = 144) only 46% could name one or two nongovernmental organizations in Kazakhstan, with the United Nations (UN)* being the most frequent (53%). These responses showed low general awareness of NGOs in Kazakhstan. The survey further asked respondents to choose one among four institutions that they would ask for assistance if faced with a specific problem such as homelessness, ethnic discrimination, violence at home, or hunger. The suggested options were (1) government agency, (2) nongovernmental organization, (3) commercial organization, and (4) friends and family members. The largest percentage of respondents chose "government agency" (49%–54%) or "friends and family members" (38%–82%), a small percentage of respondents chose nonprofit organizations (3.5%–22%), and a negligible percentage selected commercial organizations (1.4%–5%).

The findings indicated that awareness of the nonprofit sector and the need for it was low in Kazakhstan society. However, the authors inferred from the examples of individual organizations that the third sector was slowly learning to be useful to people and to be independent of foreign donors' grants simply because these grants stopped being available and because people still needed help. Consequently, the authors argued that the NGO sector would transform in response to a long-standing tradition of informal mutual assistance. Traditionally, Kazakh society has been characterized by a high degree of volunteering from friends, neighbors, and family to help the needy. In times of hardships, the level of interpersonal trust remained strong, creating informal assistance networks (Rose 1997). Formally registered nongovernmental organizations do not inspire trust among Kazakhstan people because their motivation is unclear. The lack of communication on behalf of NGOs exacerbates the situation of low trust. In the future, the sector may evolve differently from the Western model of professional do-gooders and take the institutional form that is more relevant to Kazakhstan traditions.

* The UN is an intergovernmental organization that was well known in Soviet times. It is possible that the respondents named it to give at least some response.

4.6 Public Administration Reforms: President and Central and Local Government

Knox (2008) and Cummings (2005) argue that Kazakhstan government decision making is in the hands of the political elite, with the president at the highest level of hierarchy. With Parliament's approval, the president appoints the head of presidential administration, the prime minister, and the security council secretary, who form the second node of power. The third tier of power is represented by ministers of finance, foreign affairs, KNB (Kazakhstan national security), defense, and justice. The fourth tier of the power hierarchy consists of the ministries of labor, science, and education, which are at the bottom of the hierarchy. The first two levels are the major actors in the decision-making process in Kazakhstan (Cummings 2005). The power hierarchy in Kazakhstan clearly illustrates which public goods are prioritized by the president.

The president of Kazakhstan is the head of the executive branch, which consists of 18 ministries. In accordance with constitutional amendments from May 2007, the government is formed by the Parliament based on majority party recommendations. The prime minister represents the majority party. He or she is appointed by the president after the approval of the majority of Majilis (the lower house). The prime minister forms the government in consultation with the president. The Parliament has the right to require any member of government to report on relevant implementation issues. If Parliament finds any irregularities, it places a recommendation to release the government official from the position. This provision reinforces political accountability of the executive branch.

Kadyrzhanov (2005) argues that the executive branch in Kazakhstan is still characterized as monocentric; it serves as an instrument for implementation of the presidential policies. The president has control over the prime minister, all branch ministers, and oblast akims* (regional governors) and has the right to release members of government from their offices.

Oblast akims are granted authority to appoint the city and raion akims (city and village administrators). Oblast akims are heads of local government and at the same time serve as representatives of the president (political appointee) in the oblast and are responsible for implementation of the president's policy decisions (Kadyrzhanov 2005). Structurally, government administration is a highly centralized hierarchical system, which leaves very limited decision-making authority to local administrators, and precludes input from common citizens into policy decisions.

Oblast and raion elected representatives are members of local councils called maslikhats, which are directly elected by free and open elections. Local maslikhats are elected for 4 years. Maslikhats are formally empowered to develop local economic and social policy. Oblast and raion akims are required to report to the maslikhat on the implementation of social and economic programs (Makhmutova 2001). However, the independent policy decisions by local maslikhats are impeded by centrally planned budgets. Without local sources of funding, local legislative and administrative organs have very little spending discretion for local development and social programs. Because centrally made policy decisions are mandatory for oblast and raion levels of government, the services provided locally have little variation and are uniform in their content and coverage (Makhmutova 2001). Local representative bodies cannot make decisions that

* In Kazakhstan, oblasts are large territorial divisions similar to provinces in Canada or France. Oblasts are subdivided into smaller administrative units such as raions, which are further subdivided into municipalities and villages with corresponding administrations.

would contradict internal and external central government policies and are required to support the national security interests of the country (Bhuiyan 2010).

In other words, Kazakhstan has a highly centralized government structure that is characterized by a top-down decision-making authority and management system.

4.7 Administrative Reforms and Human Resource Practices

Human resource practices in Kazakhstan government are prescribed by the *Anticorruption Law* (1998), the presidential decree *On Civil Service* (hereafter *Civil Service Law*) (1999), the *Code of Ethics in Civil Service* (issued in 2000, amended in 2005), and the decrees *On Measures to Modernize Public Administration* (2007) and *On Evaluation of Civil Service Effectiveness* (2010).

The legal framework of the public service is rooted in the presidential strategy “Kazakhstan 2030,” which formulated the major priorities in reforming the public sector with the purposes of increasing the effectiveness of government, introducing modern information technology, reducing bureaucracy, and restricting state intervention in the national and local economies (Nazarbayev 1993). Implementation of the public service reforms is managed by the Agency for the Public Service Affairs of the Republic of Kazakhstan, which is subordinate and accountable directly to the president.

4.7.1 Political versus Administrative Employees

The reforms of the public service started in 1995, with the major focus on the development of a professional merit-based public service system. The *Civil Service Law* differentiates between political and administrative civil employees,* where political employees are appointed by the president and the Parliament and public employee appointments are based on merit principles. Political employees include the president and his staff, ministers, top judiciary, prosecutor, oblast and major cities’ akims and president representatives.

The purpose of the 2005 amendments to the *Civil Service Law* was to reduce hierarchy and corruption through the innovative rotation of political employees (Turisbekov 2006). The law stipulates that rotation should not lead to the termination of career employees; however, in most cases the end of the term of a political appointee means the end of employment of his or her subordinates (Emrich-Bakenova 2008). The problem is rooted in the original decree of 1995, which allowed political employees to transfer their team members to a new appointment, therefore stimulating the formation of permanent working groups. This pattern created tightly knit administrative power groups, which sought to increase their dominance in certain policy areas. As a retired public official argued during an interview, the existence of power groups within government created open partisan policy circles, which were capable of sabotaging some government programs and promoting others. The worst effect of power groups has been a high level of corruption.

4.7.2 Recruitment and Promotion

According to the *Civil Service Law*, the Agency for Civil Service (ACS) was authorized to recruit personnel for government agencies. The ACS was made responsible for establishing the

* In 2011 in Kazakhstan there were 3,116 political employees out of 90,730 career employees (The Agency of Civil Service Affairs 2011).

eligibility criteria and ensuring that hiring is based on the results of fair competition. The ACS has established an open selection process for all citizens regardless of gender, ethnicity, religious affiliation, and income to become government employees. Since 2000, applicants have been required to submit an application package and pass an interview and a standardized computer-based entry test in order to prove their professional qualification. In addition to mandatory publication in the mass media, vacancies are also advertised on the websites of large mass media agencies and the ACS website (DPADM 2004).

According to the law, promotion and renewal is based on seniority and results of regular merit review. Tenured employees with 20 years of service are the only group that is exempt from the merit review (The Civil Service Law 1999).

However, the law allows members of the Senate and *maslikhat*, judges, political employees, former employees of international organizations, and state scholarship winners to bypass competitive selection. The heads of public agencies have a bypass right by filling up to 20% of vacant positions through temporary contracts. This practice makes the merit-based selection of employees questionable (Emrich-Bakenova 2008).

According to Janenova (2009), actual recruitment of public service managers in Kazakhstan resembles a patronage system. Managerial vacancies are rarely announced publicly with the proper notice; information on open positions circulates by “word of mouth.” Positions are often filled by friends, relatives, and other *quid pro quo* relationship figures. According to the United Nations Development Program (UNDP 2003) report, the majority of the population (including public employees) believe it is acceptable and permissible to receive a job or promotion through family or clan connections. This widely spread acceptance of nepotism results in preferential access to the public service and differential treatment of candidates for promotion. A successful career in Kazakhstan is viewed as an instrument for supporting family and clan members, therefore merit-based hiring and promotion are in conflict with the interests of a clan or other particularistic group.

4.7.3 Turnover and Compensation

According to Emrich-Bakenova (2008), the composition of the public service in Kazakhstan has changed dramatically since Kazakhstan gained its independence. In 2006, the number of public sector employees was 102,000, compared with over 1 million in 1994.* By January 2011, the overall number of employees decreased to 90,730; the proportion of public employees with higher education increased from 77% to 86% compared with 2006 (The Agency of Public Service Affairs of the Republic of Kazakhstan 2011).

The average age of public employees is 38 years and average tenure is 9 years (Turisbekov 2006), which indicates the turnover problem in the public sector. The relatively young age of many public employees—with 30% about 30 years and younger—suggests that these employees most likely do not have long-term commitments to a current job and view it as a starting point for their future careers in other sectors. The turnover rate in 2008 was 7.4% and the majority of resigned employees did not specify the reason for leaving the sector (Emrich-Bakenova 2009). Chun (2005) argues that the high turnover rate in the public service is due to insufficient compensation, which is considerably lower than in the private sector, the lack of opportunities for self-actualization, and the low efficiency of the governance system. The minimum pay of civil employees in 2011 was

* Such a dramatic reduction in public service employment is explained by the change in which categories of public employees are classified as civil servants.

39,423 Kazakhstan Tenge (KZT) (US\$265) and the maximum KZT 182,333 (US\$1,223) (The Agency of Civil Service of the RK 2011).

However, official compensation does not include other financial benefits such as quarterly, vacation, and holiday bonuses. The quarterly bonus is paid every 3 months and constitutes 4 monthly salaries of an employee. The holiday bonus is a monthly salary paid before any official national holiday (Constitution Day, Independence Day, New Year, Nauryz, March 8, etc.). The vacation bonus is defined as a health allowance and paid once a year in the amount of a monthly salary. Bonuses and allowances account for up to 57% of total pay at the central government level and 30% at the regional level,* but these figures do not include political civil servants and they can be higher in institutions that pay additional bonuses based on savings on the material and wage budget (World Bank 2005). Given all these perks, the public service should be an attractive employment option. Yet, the private sector successfully competes for the workforce with the public sector.

At the same time, the bonus distribution in many cases is left to the discretion of a supervisor and typically is disconnected from performance evaluation. According to Emrich-Bakenova (2009), a number of vacant positions stay unfilled in order to distribute wage savings among certain employees; the distribution of saved funds is also at the discretion of a manager. Another problem is that compensation in the public sector depends on seniority, which often leads to young employees having a heavy workload and multiple responsibilities with lower compensation than senior employees. The unified compensation system also does not reflect differences in the cost of living in different regions of the country, leading to a disproportional compensation of employees (World Bank 2005). As a result, the current system of promotion and compensation is perceived by government employees as unfair, which leads to high turnover and low morale, and constitutes a serious threat to the professional public service.

4.7.4 Training

Turisbekov (2006) maintains that advanced training of public employees is one of the main priorities of the government in Kazakhstan. The Public Service Training Centre and Eurasian Training Centre were established to train, upgrade, and retrain public employees. In 2005–2006, the government allocated KZT 500,314,000 (roughly US\$3,358,000) for public service training. In the course of public professional training more than 31,000 public employees participated in local training programs and 182 employees studied abroad in 2005. However, according to the UN Division for Public Administration and Development Management (DPADM 2004), nearly 40% of civil servants indicated that they have never participated in training.

The ACS reported that in 2010, 1051 public employees participated in a professional development program and 507 studied at the Academy of Public Service; 760 training seminars were conducted by the regional training centers for 14,000 public employees; other public agencies organized 775 training seminars for 17,343 employees; 112 employees from the central government studied abroad in the United Kingdom, Russia, France, the Netherlands, and Singapore (The Agency for Civil Service of the Republic of Kazakhstan 2011). Employees are provided with different types of training: professional development, retraining, and self-education. Programs include courses on public administration and general management, financial and human resource management, constitutional law, and market economics.

* Civil servants at the central level receive on average between 22 and 28 monthly salaries per year, while at local and regional levels 16–18 salaries is the general rule (World Bank 2005).

4.7.5 Performance Standards

One of the most recent public service reforms was initiated in January 2007 following the presidential decree on “Measures to Modernize the Public Administration System in the Republic of Kazakhstan” (hereafter the Law). The Law defines performance management as a tool to improve quality, efficiency, effectiveness, and coordination of public service provision. The purpose of performance management is to develop professional awareness of the goals of the public service; it establishes service standards, performance rating, effectiveness audits, annual reporting, and client feedback through regular public opinion surveys. In order to implement these initiatives, the government started to invest in a computerized information system to create a management control database, training of qualified auditors, and performance management training (Kazakhstanskaya Pravda 2007).

Regardless of the existing shortcomings, the rationalization of state bureaucracy, establishment of performance evaluation criteria, and adoption of quality standards are evidence of progress toward a professional public service. Knox (2008) argues that worldwide governance quality indicators such as accountability, impartiality, efficiency, effectiveness, imperative of law, and control of corruption place Kazakhstan at a relatively high level compared with other Commonwealth of Independent States (CIS) countries, which indicates the ongoing success of public sector modernization.

4.7.6 Administrative Culture

Kazakh public bureaucracy inherited, from the Soviet Union bureaucracy, a culture of strict subordination within a highly centralized hierarchy. The benchmark for bureaucratic power was established in pre-Soviet times through a system of local subordination and central control (Ozernoy and Samsonova 1995). In addition to the Russian Imperial administrative practices and Soviet legacy, Kazakhstan inherited patriarchic traditions of the nomad past. According to Kangas (1995), in Kazakhstan during pre-Soviet times, power was based on traditional nomadic norms of seniority and values of loyalty passed from one generation to another. Politics was the art of family connections and loyalties. The political institutions “were loosely structured, almost confederal in design” (Gleason 2003). During the Soviet era, tribal connections did not disappear and continued to play an important role in political and social developments outside the party-state system (Starr 2006).

The Soviet administrative culture was based on societal mobilization to achieve the goals of the state and redistribution of social rather than individual benefits (Perlman 2007). A manager was expected to be an authoritarian and assertive leader with knowledge of production and humanistic concern for his fellow men. He was also expected to be paternalistic. Therefore, loyalty and obedience of subordinates were requested and rewarded.

Since the collapse of the Soviet Union, Kazakhstan has implemented many political, ideological, and economic reforms, but even these profound changes have not resulted in radical change of the national and bureaucratic culture. According to Ardichvili and Gasparishvili (2001), the current administrative culture in Kazakhstan is characterized by a high degree of paternalism. The role of the supervisor in paternalist cultures is to guide, educate, and protect the subordinates; in return the employees demonstrate loyalty and commitment to the supervisor’s policy. Low (2007) defines these relationships as “father-style leadership.” From Low’s perspective, such relationships have a number of benefits such as good team spirit, motivation, loyalty among employees, transfer of skills and knowledge, and increased employee input and feedback. However, the shortcomings

are autocratic decision making, full discretion of a supervisor over a subordinate, lack of critical feedback, and lack of initiative on the part of a subordinate.

Some scholars suggest that in transition countries a centralized form of government is more effective in promoting institutional democracy and establishing training and development that lead to a shift in public organizational culture from autocratic to democratic values. According to Witesman and Wise (2009), “decentralization may undermine democratization... [It may] limit government capacity to provide training necessary to achieve institutional democratization”; often democratic reforms face opposition from regional and local government elites.

The presidential decree on “Measures to Modernize Public Administration System in the Republic of Kazakhstan” (2007) officially defines major administrative values and related goals. Among them are effectiveness, transparency, accountability, client-centered service delivery, and professionalism. Some of these values are institutionalized faster than others.

Client satisfaction is the value that has inspired the creation of one-stop shops (OSSs) in Kazakhstan. OSSs are created as walk-in government offices to guide clients through all the necessary steps to receive particular government services. The OSS illustrates how administrative values are being formally established in the public sector of Kazakhstan. It is introduced to increase efficiency, effectiveness, and client-centered service delivery. The OSSs offer multiple services to clients and are located across the country in every city, district, or village. The waiting area is equipped with an electronic counting machine for orderly queuing, a coffee machine, and a small playground for children. Consultants are available to give advice on required paperwork and related documents. All employees are located in a large operation room, overlooked by video cameras and separated by glass walls to facilitate effective management. OSS services are also provided online. A brief satisfaction survey of 28 clients conducted by the authors in one OSS in Almaty revealed a high level of satisfaction with the front desk performance, service efficiency, and reduced corruption. Online government is adding to efficiency by allowing citizens to pay bills and communicate with the government from their homes.

Even with limited participation of citizens in political decision making of highly centralized government, the improvement of government services makes people feel better about the government and the president.

4.8 Budget and Fiscal Reforms in Kazakhstan

Historically, preparation of the budget of Soviet Kazakhstan was a function of the Ministry of Finance of Kazakhstan, which was integrated in an all-Soviet Union system of intergovernmental transfers. The all-Soviet fiscal system supported a highly integrated economy, which was completely overhauled by market reforms initiated by the Kazakhstan government and supported by the WB in 1991–1993. However, some budget practices show a strong survival tendency.

Prior to 1991, fiscal policies in Kazakhstan were largely determined by Soviet Union authorities in line with the State Economic Plan. Kazakhstan received considerable fiscal support in the form of transfers from the central budget of the Soviet Union. The purpose of these transfers was to facilitate the determined level of social assistance expenditures and to promote industrial development. By 1989, Soviet Union transfers accounted for about 10% of Kazakhstan GDP (Asian Development Bank 1996).

In 1991, when Soviet Union transfers dried up and the Kazakhstan tax base deteriorated, new Kazakhstan faced a serious problem of budget shortfalls. The republican budget experienced

falling receipts from state-owned enterprises, which were shutting down and unable to sell their products, and from individual income tax, which reduced as people started losing jobs.

With an accumulating budget deficit, the Kazakhstan government had to seek help from international institutions. Initial IMF loans helped to optimize the budget by restructuring expenditure through cutting social assistance to vulnerable populations and divesting enterprises of social assistance programs, which was the standard approach of IMF and the WB in developing countries.

To support the failing economy, the Kazakhstan government has emphasized the development of the hydrocarbon sector at the expense of other sectors. Already in 2000 the strategy started paying off and the president of Kazakhstan announced that the country had paid back the loan from the IMF prematurely. However, the country's dependency on the oil sector continued to grow. Tax policy was strongly skewed to heavy reliance on oil revenues.

The legal act that establishes and regulates taxes in Kazakhstan is *The Code of the Republic of Kazakhstan on Taxes and Other Obligatory Payments to the Budget*, also known as the Tax Code. It was adopted in 2008 and came into effect in January 2009. Table 4.1 shows how the recent Tax Code determines the major tax categories.

Revenues from corporate income tax (CIT) on oil producers, refineries, and oil transport shape the budget of the Republic of Kazakhstan. The whole economy of the country depends on oil production, which defines the CIT and VAT as two major taxes. The revenues from oil exports define

Table 4.1 Taxes in Kazakhstan, 2009

Corporate income tax (CIT)	20% in 2010, both for resident legal entities and nonresident legal entities.
Value added tax (VAT)	12% applies to sales turnover and to imports to Kazakhstan.
Branch profit tax	15% is paid on the net income after corporate income tax by foreign legal entities.
Personal income tax (PIT)	10% for residents and 15% for nonresidents.
Property tax	1.5% of the value applies only to the buildings from legal entities.
Social tax	11% of salaries and in-kind benefits of employees, paid by legal entities.
Excise tax	Varies. Applies to alcohol, liquor, tobacco, gasoline, vehicles.
Rental tax on exports	0–32% applies to export of crude oil, gas condensate, and coal. Tax rate depends on the cost of a barrel in the world market.
Vehicle tax, other taxes, environmental pollution fee, other state fees and dues. Other taxes include gambling businesses. The state further levies fees on registration, licensing, environment pollution, the use of water resources, forests, etc.	

Source: International Finance Corporation, Paying taxes in Kazakhstan. International Finance Corporation and The World Bank, 2009. <http://www.doingbusiness.org/data/exploreconomies/kazakhstan/paying-taxes>. Accessed February 22, 2011.

the level of public service provided by government agencies and the level of central government intervention in national economic development, with oil-generated receipts estimated at a level of 20% of budget revenue in 2002 (Najman et al. 2005) and at a rate of 37% of budget revenue in 2006 (Usui 2007; Daly 2008). A large part of the oil revenues is deposited into the National Fund of the Republic of Kazakhstan. The function of the national fund is to create monetary reserves, to stabilize economic downturns in times of crises, and to support innovative industrial undertakings.

The financial crisis of 2008–2010 pushed Kazakhstan to strengthen its tax collection from gas and oil and other production sectors through more active engagement of the *Audit Committee for Control over Execution of Republic's Budget* (Audit Committee). The Audit Committee annually reviews oil production volumes, world prices, and taxes paid locally to ensure tax compliance. In 2009, Prime Minister Karim Massimov ordered the government to draft new tax rules to revoke tax exemptions for foreign firms engaged in major oil and gas extraction. Kazakhstan also doubled the tax from oil exports to \$40/metric ton (\$5.46/barrel). The goal of these reforms was to support the economic diversification program. According to the program's intentions, taxes in the oil, gas, and key metals sectors were to be increased, while taxes for smaller businesses in other sectors of the economy were to be reduced. The tax increase for the extracting sector followed the requirements of the new Tax Code in contrast to the old taxation rules, which were established immediately after independence, when many foreign extracting companies took advantage of the dire financial situation of Kazakhstan to bargain for favorable conditions for foreign direct investments and negotiate high tax exemptions.

Following the newly established tax compliance oversight, in 2010 the Audit Committee accused Italy's Agip KCO and U.S. oil service company Parker Drilling of evading millions of dollars in taxes. Agip and Parker Drilling Company International were found to be noncompliant, underpaying around \$66 million in taxes. The year 2010 was the year of termination of special privileges for oil extractors in Kazakhstan. Collected oil taxes boosted the economy of Kazakhstan in April 2011, when direct revenues to the National Foundation from the oil sector surpassed US\$2.4 billion (Oxford Analytica 2010).

4.8.1 Allocation of Budget Expenditures in Kazakhstan

In the Republic of Kazakhstan, the Budget Code of 2004 established three levels of budgetary system: republican (central) budget, oblast (provincial) budget, and raion budget (district, township, or municipal/village budgets).

The Budget Code stated that all budgets are independent. Locally, governments were allowed to levy local fines and fees for services. However, the most important budget decisions that deal with economic development and social services continued to be made centrally because of the strong redistributive function of the republican budget. In Kazakhstan, oblasts are unequally endowed with resources and economic opportunities. Some oblasts with oil and natural gas deposits contribute much more revenue to the republican budget. Collected revenues are redistributed from the republican budget to economically depressed oblasts, whose revenues are not sufficient to cover the cost of local social programs even at the basic level. Practically, the republican budget has the same functions and responsibilities as the old Soviet central budget—to pay for public services at the level established by the central government to ensure that local budgets receive sufficient funds to provide the entitlement services to people. The redistributive function of the central budget serves to reduce poverty in depressed regions and at the same time provides too much discretion to the Ministry of Finance, making it a powerful political player (Nezhina 2002).

At the time of the major reforms of 1992–1999, the local tax base became unsustainable because economic activity sharply declined and local property tax was unheard of in Kazakhstan because housing dwellings belonged to the state. The income tax was not sufficient to cover local government expenditures; people continued losing their income as the unemployment rate grew from 0% under Soviet rule to an unprecedented 11%–13% in 1992–1999. The real unemployment rate was probably twice as high, if we include people who were registered as employed, but, in fact, stayed home on unpaid leave or worked for months with no compensation (Gürgen et al. 1999). The official number of people below the poverty level reached 34.6% in 1996 (Murthi et al. 2002, 4). In this situation, the central government had no alternative but to continue redistributing revenues from the more affluent oblasts to the poorer oblasts, which traditionally were located in the south and engaged in agriculture.

The Budget System Law was passed in the Spring of 1999 in an effort to establish an inter-governmental fiscal system. This Law regulates fiscal relationships between the republican- and the oblast-level governments by assigning certain taxes to the oblast level and defining the size of central budget subventions. However, the current assignment of responsibilities between the oblast and raion levels of governments (towns and villages) is not formally prescribed by any legal act. The lack of budget regulation at the lower levels of government has created ample opportunity for favoritism and corruption (Makhmutova 2001; Nezhina 2002).

Another law, *On Local Government*,* from 2001, broadly defined jurisdictions of oblast and city and raion administrations. One important feature of this law is the provision allowing oblast akims (heads of administration) to propose the structure of lower-level municipal administrations (Makhmutova 2001). In general, the law *On Local Government* defined the responsibilities of oblast and raion and city akimats very broadly. These responsibilities overlap a great deal; the limits of responsibilities are blurred. WB experts reported that the current system grants oblasts a federal regime status with almost complete freedom to structure and manage their relationships with raion, town, and municipal governments. However, increasing the efficiency of decentralized expenditure would require formal, explicit assignment of responsibilities and revenues between the second and the third tiers of government (Report No. 20489-Kazakhstan).† Informal fiscal relations between oblast and raions are ripe with possibilities for favoritism and untargeted funds transfers and sometimes foster corruption.

4.8.2 Budget Transparency in Kazakhstan

The budgeting process and decision making on expenditures are not transparent in Kazakhstan. Two surveys conducted by the Sange Research Center in Kazakhstan in 2005 and 2010 show that the country falls short on the Open Budget Index, which is calculated from 1 to 100 based on the practice of open publication of budget documents. The scores for 92 questions from the Open Budget Survey 2010 were used to compile scores and rankings of Kazakhstan transparency (International Budget Partnership 2010).

Kazakhstan's OBI 2010 score is 38 out of 100, which is lower than the average score (42) for the 94 countries surveyed. Kazakhstan's score indicates that the government provides the public with minimal information on the central government budget and government financial activities (International Budget Partnership 2010).

* Law of the Republic of Kazakhstan, 2001: *On Local Government in the Republic of Kazakhstan*, #148-II ZRK.

The law defines local as different from central, which refers to the oblast (province) level of government.

† World Bank report No. 20489, Kazakhstan, Public Expenditure Review, 2000, v.2.

Kazakhstan's fiscal prospects are reassuring because oil prices continue to rise. In the first 2 months of 2011, state budget data showed that the budget recorded a small surplus, of KZT 20 billion (US\$136 million). The increase in tax revenue—which accounted for 90.4% of total revenue—was the main factor behind the 25% year-on-year increase in revenue (EIU 2011). In anticipation of growing revenues, the president of Kazakhstan has identified priorities for development in the period 2011–2020, which highlight fast growth of innovative technologies and investments in education and health.

4.9 Accountability and Corruption

The Corruption Perceptions Index, compiled by Transparency International, ranked Kazakhstan 120 in 2009 and 105 in 2010 out of 178 countries, with an improvement of 15 points from 2009 to 2010 (Table 4.2). Public officials argue that this improvement is due to the anticorruption measures implemented by the government (Arystanov 2011). However, Table 4.2 illustrates the fluctuating nature of the Corruption Perceptions Index, with temporary improvements in 2005 and a worsening index in the following year.

Turisbekov et al. (2007) differentiates between two types of corruption: political and administrative. These types of corruption coexist in equal proportions in developing and transition economies. According to Cummings (2005) and Heinrich (2010), the political corruption in Kazakhstan is characterized by the formation of political elite groups, which consist of the nation's titular ethnic group with family or clan connections.

Table 4.2 Kazakhstan Corruption Perceptions Index 2001–2011

<i>Year</i>	<i>Place of Kazakhstan (1 is the Least Corrupted)</i>	<i>Corruption Perceptions Index</i>
2001	71	2.7
2002	88	2.3
2003	100	2.4
2004	122	2.2
2005	107	2.6
2006	111	2.6
2007	150	2.1
2008	145	2.2
2009	120	2.7
2010	105	2.9
2011	120	2.7

Source: Transparency International. <http://www.transparency.org>. Accessed June 26, 2012.

The formation of elite groups dates back to the early 1990s when Soviet-era officials from political and industrial backgrounds came to occupy the most influential positions in the presidential administration, central and local governments, and Parliament. Young businessmen who established themselves in business during Gorbachev's reforms and technocrats who graduated from leading Moscow universities during Soviet times joined the elite in the early 2000s and occupied high-rank positions in government and key economic institutions. According to Heinrich (2010), these small groups of public officials are recycled through government positions. As mentioned above, the end of the term of a high-rank official often leads to the end of the term of his/her team, which results in the formation of permanent working teams, which are often corrupt. Cummings (2005, 117) argues that there is "a symbiotic relationship between elites and institutions"; the institutions protect and strengthen the political elite and the elite in return shapes the institutional architecture. At the same time, she concludes that continuity and change coexist in elite systems and the strong sense of pragmatism in institution-building allows ideological confrontation to be avoided or postponed (Cummings 2005). The members of elite groups benefit from their positions in a number of ways: some benefits are connected to oil production, abuse of position, and direct bribe extortions. The groups also enjoy immunity from any of their actions unless they engage in political and economic activities that challenge the president's power (Dave 2007).

The struggle between elite groups became evident in 2009 and resulted in open confrontation between law enforcement agencies, namely KNB, the Financial Police, and the Ministry of Internal Affairs, which started filing a court case against each others' employees. In spring 2011, the Financial Police together with the National Security Council reported that high-rank customs officials had formed an organized criminal group that consisted of 100 officials. All of them were arrested and the head of the customs service was released from his position (International Information Agency 2011). Interviewed local analysts argue that the elite groups are aiming to "replace state institutions by creating their own network of loyalty from their appointees" and reduce the influence of government structures.

Administrative corruption is the highest in the police, customs, and judiciary system. Forty percent of employees are engaged in corrupt activities on a regular basis (Trust Law 2011).

Most importantly, the general public, while complaining about the high rate of corruption, prefers informal and fast ways to receive service or to solve any problem with the police, for instance, by bribing them. A brief survey among 40 Almaty drivers revealed that 100% of respondents preferred to give money to a police officer when charged for violation of traffic rules to paying an official fine. The average price paid to traffic police is KZT 2000. The respondents reported that they were stopped by the road police at least once every 2 weeks, so a simple calculation reveals that annually the city budget loses at least KZT 80,000,000,000. According to a survey conducted in 2006, 72% of organizations and 62% of citizens used informal ways of receiving services or solving problems by bribing public officials (Turisbekov 2007).

In order to reduce the level of corruption, the president and government introduced a comprehensive legal and institutional framework, began implementation of an e-government program, initiated a public awareness campaign, and increased salaries in the public sector to make it comparable with private companies. The most significant salary raise (by 300%) is expected in the traffic police (Trust Law 2011).

The legal framework includes the Law *On the Fight against Corruption*, adopted in 1998, which has provisions in the Criminal Code criminalizing any kind of bribery: offering bribes, receiving bribes, and abuse of office. The *Law on Public Service* (1999; <http://www.kyzmet.kz>), *Code of Public Service Ethics* (issued in 2000, amended in 2005), and a number of presidential decrees on anticorruption

measures reinforced the political decision to eliminate corruption. The laws are enforced by anticorruption ministries and agencies such as the Agency of the Republic of Kazakhstan on Fighting Economic and Corruption Crimes, National Security Committee, Ministry of Internal Affairs, and Agency of Public Service. In addition to the legal provision, a number of national anticorruption programs were introduced and partially implemented. The latest program was adopted in May 2011. Public officials reported that the programs showed evident results and that “40 officials at national level and 250 officials at regional levels were charged with criminal offences. Criminal cases were filed against a minister of environmental protection and a minister of health care, a chairman of the statistics agency, vice-ministers of the Ministry for Emergency Situations and the Ministry of Defense, the chairmen of ‘Kazakhstan Temir Zholy’ (Railways of Kazakhstan), ‘KazMunayGaz’ (National Oil Company), and ‘Kazatomprom’” (News Bulletin of the Embassy of the Republic of Kazakhstan 2011). However, local analysts suggest that anticorruption measures are the part of intentional managed tension created by President Nazarbayev. On one hand, he gained public attention and increased his popularity. On the other hand, he made the elite groups understand that the president had full control over the situation. Moreover, it seems that the conflict between elite groups was initiated by and controlled from the top.

4.10 Conclusion

Since independence, Kazakhstan has identified clear priorities: economic and legal reforms first, political reforms later. As a result, the Republic of Kazakhstan has been the most successful among the CIS countries in implementing substantial economic reforms. Most of the reforms were centrally planned by the president and implemented even in the face of resistance from the Parliament or prime minister. The Kazakh market is attractive now for foreign investments, which are effectively protected by new laws. Kazakhstan’s economy still greatly depends on oil and other natural resources’ extraction and sales, but recently the president launched a national program of accelerated innovative industrial development to reduce this dependency and diversify the economy. Given growing oil and gas prices and the increasing demand for energy resources, Kazakhstan enjoys steady budget surpluses even in the face of international financial crisis. Should time and energy prices allow for this situation to persist, Kazakhstan may have a good chance to invest in technological development and break the cycle of raw materials dependency.

Political reforms were initiated in Kazakhstan to balance political power between the political institution of the presidency and the elected representatives, and to gradually transfer from an autocratic system to an effective system of checks and balances. The constitutional amendments of 2007 gave more power to the Parliament, but the president retained strong veto power, the authority to appoint and dismiss leaders of the executive branch and dissolve the Parliament, and power to issue decrees having a force of law. Nevertheless, the central autocratic form of leadership accelerated modernization of public services and allowed to make significant progress in rationalization of state bureaucracy, implementation of quality standards, adaptation of performance standards, and enforcement of anticorruption measures. The centralized system worked effectively, promoting institutional effectiveness and democratic administration, and led to a shift in public organizational culture toward favoring traditional democratic values such as client orientation, effectiveness, transparency, accountability, and professionalism.

However, the centralized system and traditional popular respect for authority led to low effectiveness of civil society. People in Kazakhstan show little trust and recognition of local

NGOs and when the need arises they rely on the government and their social networks for assistance. Most NGOs still largely depend on foreign funding and adjust their missions according to their donors' agendas. In Kazakhstan, independent and oppositional media is controlled and politically harassed; evidence of this includes multiple violations of the legal rights of journalists to receive information from government agencies and closure of newspapers. As a result, the civil society and the mass media are unable to place significant constraints on or conduct independent investigations of the behavior of public officials or politicians.

Hierarchical accountability and dependence of local government on the decisions of central government apparatus for resources lead to favoritism and corruption. Budget allocation decisions that deal with economic development and social services are made by central government authorities and often fail to provide regions with adequate funding to meet local needs.

Political corruption and fierce competition for power and natural resources represent the most serious threats to the development and stability of the country. The lack of informal and formal checks and balances in the power system, weak accountability of public officials, a powerless Parliament, and corrupt law enforcement stall anticorruption measures in political and administrative circles in Kazakhstan. Many people fear that withdrawal of President Nazarbayev from the political arena in Kazakhstan may ignite power wars between elite groups, which monger for economic and political domination. Huge oil resources and their potential profits because of the world's energy deficit make the situation in Kazakhstan prone to serious civil conflict that elite groups will draw the common people into for personal gain. Therefore, in the absence of an alternative popular figure in the political arena of Kazakhstan, the people of Kazakhstan have vested their trust and hope in Nazarbayev, viewing him as a "philosopher-king" who is disinterested in power and able to preserve peace and stability. A change of a leader seems to be akin to a change of system, which people experienced in 1992, with a resulting economic and social catastrophe. People have continuously demonstrated a high level of trust in President Nazarbayev through elections since he was first elected president in 1992. This trust has placed a serious obligation on President Nazarbayev to make the lives of people in Kazakhstan better by choosing a strategy to preserve interethnic peace, which he has succeeded in doing in the past, to ensure economic sustainability, and to institutionalize fair distribution of the natural wealth of Kazakhstan among its people.

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Chapter 5

Public Administration in Kyrgyzstan

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5.1 General Overview

Kyrgyzstan is a small, landlocked, mountainous country located in Central Asia. A former Soviet republic, it was under Russian and then Soviet influence for almost 140 years (Tabyshalieva 2005). Kyrgyzstan borders China on the southeast, Kazakhstan on the north and west, and Uzbekistan and Tajikistan on the south west. The territory of Kyrgyzstan is about the size of Great Britain, with a land mass of 198,500 km² (76,641 mi²), over 90% of which is mountainous, reaching 7,437 m (24,400 ft) (Stewart 2004). The population of Kyrgyzstan is 5.4 million (National Statistics Committee of the Kyrgyz Republic 2012), 65.5% of whom were between the ages of 15 and 64 in 2010 (World Bank 2011).

After the dissolution of the Soviet Union, Kyrgyzstan, and most other post-Soviet countries, went through radical economic reforms to transition from a command to a market-based economy. This shift has been accompanied by extreme economic hardship for most of the population, which in turn has resulted in an unprecedented level of poverty, a lower standard of living, a surge in unemployment, and a drastic deterioration of the system of social protection (Bauer et al. 1997). Many of the social services that were a norm under the Soviet system are no longer offered. Before the collapse of the Soviet Union, day care for children, education at all levels, and medical services were provided by the government at no cost. Now many day-care centers have closed and those remaining are not affordable to many parents. The health-care and education systems have deteriorated due to a lack of funding (International Organization for Migration 2000).

Today Kyrgyzstan remains one of the poorest countries of the former Soviet Union, with GDP per capita of US\$860 in 2010. According to the National Statistical Committee of Kyrgyzstan, 31.7% of the country's population lived below the national poverty line in 2009¹ (National Statistics Committee of the Kyrgyz Republic 2012). Pensioners and rural residents are especially affected by the economic hardship, as illustrated by a statement of a Kyrgyz rural resident: "out of a hundred families in our region about 7–10 are rich, the rest live just like us, with inadequate food for the children, no heating and bad housing, rising unemployment, and very little state support" (Bauer et al. 1997, 45). As the Economist Intelligence Unit (2005) reports, "workers in the health-care and agricultural sectors earn only one-half of the national average. This exacerbates regional disparities—particularly between the agricultural south and the more industrialized north. Poverty in the southern regions remains particularly high."

5.1.1 Context of Public Administration

Kyrgyzstan is a unitary country divided into 40 *rayons* (districts) and 483 local self-government units. Self-government units are governed by *keneshs*—local representative organs, to which deputies are elected for 4-year terms. *Keneshs* exist at four levels of local governments: *rayon* (district),

town, village, and *aiyl okmotu* (a big village or a number of small villages united in one structure of local government) (Shambetova et al. 2009). Responsibilities of local government authorities include primary and secondary education² and health care, with significant contributions from the central budget; social services; and municipal public services such as road maintenance and repair, water supply and sewerage, and waste management (Alymkulov and Kulatov 2003). However, due to severe underfunding, the quality of municipal public services is inadequate. The United Nations Development Programme report aptly describes the state of local service delivery:

Access to both drinking and irrigation water is a major issue of the rural poor in the South. Water channels built in the Soviet period are in serious disrepair, and many rural residents are having more frequent health problems as the result of poor water quality. For the urban poor, water is not supplied to the new districts, where most of the new migrants have settled. Thus, people must travel long distances by foot to retrieve water, since the costs of transportation or purchase of the water are often prohibitive for the poor. Roads are impassable in the more mountainous regions of Naryn and Jalal Abad Oblasts, where weather and the lack of maintenance have exacerbated the problems of the poor. The lack of useable roads mean [sic] that children have difficulty getting to distant schools, as well as farmers to local markets. (Jangaracheva 2000, 71)

In addition to economic hardship and decay of the infrastructure, Kyrgyzstan has experienced political instability and turbulence over the last decade.³ This political instability in Kyrgyzstan has significantly shaped the development of public administration. The political turmoil reflecting the struggle between the incumbent regime and the opposition was accompanied by institutional reforms that aimed to ameliorate this political conflict. The sheer number of constitutional changes undertaken since the first postindependence constitution was ratified in 1993 demonstrates the volatility and instability of political institutions: the constitution was significantly reworked or rewritten on nine separate occasions between 1993 and 2010. In some cases the changes were a preemptive action of the governing regime⁴; in others they were a result of the regime's breakup, such as in 2005 and 2010.⁵

The volatility of political processes was happening amidst attempts at power consolidation by incumbent presidents since the mid-1990s. Various constitutional reforms, especially starting in 2006 and most successfully in 2010, attempted to devolve power: the 2010 constitution shifts most power from the president to the Parliament, especially the power to appoint and dismiss the prime minister and the cabinet. A key check and balance of the 2010 constitution was also granting of special status to the opposition, which has rights to chair some parliamentary committees and nominate their members to various important governmental bodies, such as the Central Election Committee.

5.1.2 Administrative Culture

Despite the optimism for reform following the collapse of the Soviet Union and the ensuing democratization of the country, there is a deeply held belief ingrained in citizenry and pundits alike that the level of administrative culture and morale among Kyrgyzstan's bureaucrats has declined in the last two decades, largely due to corruption in the recruitment of personnel and low compensation (Bogatyrev 2005). Such an unfavorable public image and the perceived low

status of the civil service in Kyrgyzstan is in stark contrast with the Soviet era when the prestige (and compensation) of government employment was high (Kotchegura 1999). Despite the shift to a more democratic system of governance, public employees today are still generally described as having the same bureaucratic mentality as their Soviet-era predecessors: unquestioning respect for hierarchy, risk aversion, and lack of initiative (Gregory and Stuart 1986; Witesman and Wise 2009).

A further complicating factor is the existence of clans—informal identity networks based on kinship—that play a profound role in politics and institutions in Kyrgyzstan. In fact, the political regime in Kyrgyzstan is said to be dominated by clan politics. During the Soviet era, “strong regionally based patronage networks . . . served as the basis for allocating scarce economic and political resources and for the development of robust political identities” (Collins 2004, 2). Since Kyrgyzstan’s independence though, clan politics has been a force fueling corruption and undermining democratic governance (Collins 2004). Moreover, “strong, informal and traditional links among friends, family and clan members and in society, both encourage and justify corruption activities” (Cokgezen 2004, 92). Sadly, this trend is likely to continue as the Kyrgyz culture values clan and family loyalty far ahead of loyalty to one’s organization, or even the nation-state, which in turn governs individuals’ ethical or professional codes of conduct and priorities.

Petty and large-scale corruption among public employees is a major impediment for a proper, professional, and competent administrative culture. Many positions (especially higher-level, more desirable ones) in the public sector were not offered to the best candidates but were rather “sold” during the era of both Presidents Akayev and Bakiyev (Marat 2006). Marat aptly describes the state of human resource management (HRM) in the public sector:

Attaining state position turned into a bargaining game between state officials and business elites, where the state acted as a consumer of the wealthy candidates’ supply. Politically ambitious businessmen created a “free market” of bribes for government officials in order to be recruited into the state. The value of government positions increased as state structures became better organized and guaranteed institutional power to political incumbents in the mid 1990s. But since informal relations within the government still prevailed over the legal ones, Akayev’s administration and members of his family were able to impose an informal control over distribution of official governmental positions. This combination of some institutional framework in the state structure and a heavy reliance upon informal relations led to a situation where the highest echelons of the political elite could systematically allocate virtually all public positions—from judiciary to parliament—according to the prospective candidates’ financial capabilities and not political views. Thus, during the reign of Akayev, the state’s formal structure had a legal basis, but was also a source for systematized corruption. (Marat 2006, 84–85)

Not surprisingly, the status of civil servants in the society is not very high—the citizenry views most public officials and civil servants as corrupt and unmotivated to serve the public. During the Soviet era, the state “was understood to have some primacy over society . . . The state was the highest authority that decided everything in man’s destiny for him; and if the question arose—whether man or state—the latter was always a priority” (Bogatyrev 2005, 1). As a result of this legacy, serving the public is not an ethos instilled in the majority of today’s public servants.

5.1.3 Historical Periods of Public Administration

Contemporary administrative practices and culture for sedentary societies are often rooted in the traditions that evolved over hundreds of years. Kyrgyzstan had no such tradition of an administrative system until the twentieth century, which is explained by the nomadic lifestyle that the Kyrgyz led until then. The Kyrgyz are a Turkic–Mongol people, who originally inhabited what is now northwestern Mongolia. Early written records of the Kyrgyz civilization were found in Chinese chronicles starting about 2000 BC (Curtis 1997). There is evidence of inhabitation of the territory of present-day Kyrgyzstan dating back as early as 3000 BC, mainly seen in the rock carvings at Saimaly Tash in the south of the country (Hanks 2005). In the fourth century BC, the Kyrgyz tribes regularly invaded Chinese territory and were among the outside forces that prompted the construction of the Great Wall of China. A few centuries later, some Kyrgyz tribes moved north to a region of southern Siberia on the upper Yenesei River to avoid domination by the Huns (Bauer et al. 1997; Curtis 1997).

The first Kyrgyz state existed from the sixth until the thirteenth century AD. During that period, it established commercial connections with China and Persia. In 840 AD, the Kyrgyz tribes conquered the Uygur khanate and forced the Uygurs out of Mongolia. The Kyrgyz then moved south to the Tian Shan range of mountains. By the tenth century AD, the Kyrgyz khanate expanded to the eastern and northern regions of present-day Kyrgyzstan and Kazakhstan (Curtis 1997).

Although Kyrgyzstan celebrated 2200 years of its statehood in 2003, the recent history of its formal statehood could be traced only to the emergence of the Kara-Kyrgyz Autonomous Oblast in 1924, which was later transformed into the Kara-Kyrgyz Autonomous Republic and subsequently into the Kyrgyz Soviet Socialist Republic. The history of Kyrgyzstan's modern bureaucratic institutions is largely rooted in Soviet times. Hence the Soviet legacy has shaped and still shapes the development of public administration in Kyrgyzstan. In the Soviet Union the governance system was centered around the Communist party; that is no longer the case since Kyrgyzstan's independence. Yet, some institutional features of the previous system still remain. For example, in the USSR the structure of the republic's central committee of the Communist party resembled the structure of the apparatus of the council of ministers. After gaining independence, that mirror structure was recreated between the president's administration and the apparatus of the cabinet of ministers, with the former controlling the latter, just like during Soviet times. In the words of a prominent Kyrgyzstani analyst: "our government is a copy of the Soviet government. While some changes took place, the principles of the organization of the Soviet government, as well as its functions, remained intact" (Bogatyrev 2005, 1).

5.1.4 Soviet Legacy

The officially stipulated primacy of the Communist party in public life (art. 6 of the Soviet constitution⁶) meant that the party fully controlled all aspects of public administration. When Kyrgyzstan started to develop its central administrative structures, it was building on a familiar concept of control of the executive, but this time the role of the party's control was assumed by presidential administration as opposed to the cabinet. The power of presidential administration rested with its legislative function, control of civil service recruitment, and advisory role to and influence on the president. The degree of legislative function varied, but at times the head of the presidential administration was issuing his own decrees, which were lower in hierarchy than laws passed through the Parliament and presidential decrees, but still had considerable power. The administrative control

over the civil service was the most important prerogative of the presidential administration, with far-reaching negative consequences in terms of accountability and political neutrality. Even the cabinet of ministers was largely controlled by the presidential administration, which had almost the same functional departments as the prime minister's office and gave direct orders to line ministries. In light of the significant powers concentrated in the hands of the presidents of Kyrgyzstan, their administrations had the ability to influence and, in many instances, dictate almost all aspects of policy making, much like the Soviet-era Communist party.

5.1.5 Emerging Issues in Public Administration

Several issues are critical to the reform of public administration: administrative–territorial reforms, decentralization and delineation of function between central and local governments (including fiscal decentralization), functional optimization of executive agencies, the oversized civil service, public–private partnerships, and some social aspects of public administration (such as ethnic and gender representation).

5.1.5.1 Administrative Territorial Reforms

Kyrgyzstan inherited its current administrative territorial structure from the Soviet Union and despite numerous calls for reform, it remains almost unchanged and intact at the moment. The administrative territorial division is a legacy of the Soviet Union when centralized control over regions and localities necessitated the presence of four levels of government—national, regional (*oblast*), district (*rayon*), and local. The layout of the current administrative structure was almost the same throughout the post-Soviet era, with the exception of the Batken *oblast*, which emerged in 1993 by separating from the Osh *oblast*. Critics argue that regional- and district-level administration is unnecessary in such a small country: funding them results in inefficient use of resources and creates excessive bureaucracy as well as duplication of functions (Civil Service Agency of the Kyrgyz Republic 2011). Suggested reforms included elimination of either the *oblast* or *rayon* level. By various estimates more than half of governmental personnel were concentrated in these two levels of administration.

5.1.5.2 Decentralization and Development of Local Governments

The decentralization process started with the law *On Local Government in Kyrgyzstan*, adopted in April 1991. One of the major elements of the law included experiments with mayoral elections in 1995 in the two biggest cities—Bishkek and Osh. The 1996 referendum allowed transfer of municipal property to local governments. However, one year after its adoption, the law on local government was changed to the law *On Local Government and Local State Administration in the Republic of Kyrgyzstan*. The title and the substance of the new law suggest a delineation of relationship between local governments and local representatives of the central government, with more power given to the latter. In effect, local governments were subsumed by the central government.

5.1.5.3 Functional Overlap and Oversized Government

During its post-Soviet history, Kyrgyzstan attempted, at various times, to address the problem of the oversized government. In 2009, a presidential decree and in 2011 a new law limiting the number of full-time civil servants were issued. The 2009 decree stipulated the maximum number

of personnel at agencies of various levels: the law was aimed at equalizing remuneration among apparatuses of the president, prime minister, and Parliament. The law also stipulated that the maximum number of civil servants is set by the cabinet.

At the end of 2010, the number of public employees was 321,018, 97.4% of whom worked for the central government (tazar.kg 2011). (For comparison, federal employees make up 12% of all government workers in the United States.) The number of municipal civil servants was 8531 people, which equaled 0.4% of the workforce and 0.2% of the population. Planned expenditures from the state budget for the civil service for 2011 were estimated at 3.7 billion Kyrgyz soms (an equivalent of approximately US\$78 million⁷) or 3.75% of the overall planned state budget expenditures (98.5 billion soms).⁸

As mentioned earlier, the functional overlap between the presidential administration and the cabinet of ministers has been present since independence and continued until 2009, when administration of the president was abolished and instead two structures were created—an Apparatus and Secretariat. Yet at the same time the Central Agency for Development and Investment was created, which duplicated functions of the ministries of finance and economic policy. After the popular revolt of April 2010, the Central Agency for Development and Investment, the Presidential Apparatus, and the Secretariat were abolished; only the apparatus of the president was restored once a new president was elected in June 2010.

Another factor symptomatic of oversized government relates to the number of ministries. In 1993 there were 27 ministries and agencies in total, in 1996—22, in 2000—14, 2005—15, and 2007—19 (Bolotbekov 2007, 62). As of 2011 there were 20 ministries and agencies. While reduction in the number of governmental agencies in the 1990s was driven by market reforms and general de-etatization, in the last decade there has been an upsurge in the number of ministries. As the number of the ministries increases, so does the number of bureaucrats, resulting in rising government overhead costs and in overlapping responsibilities that lead to conflict and administrative inefficiencies.

5.1.5.4 *Public–Private Partnership as a Concept*

The concept of public–private partnerships in Kyrgyzstan is in a nascent stage of development. In its 2008 assessment of public–private partnerships, the European Bank for Reconstruction and Development gave Kyrgyzstan a “low compliance” status, indicating that the country is attempting to develop public–private partnerships but has not implemented such initiatives effectively (EBRD 2011). Such low compliance status can be explained by the fact that the government’s efforts in this arena have been primarily focused on developing the policy framework and the appropriate legislation. However, progress has been made and this issue is clearly on the agenda of the current administration: it was announced in March 2012 that a center for supporting public–private economic partnerships would be created. In addition, the Ministry of Finance has developed a draft law on the management of public–private partnership financial risks (Dudka 2012). These activities followed a national conference on development prospects of state–private partnership that was held in Bishkek in late 2011 (Mazykina 2011).

5.1.5.5 *Social Aspects of Administration*

Similar to other parts of the political system, public administration is expected to be representative of the society, although representativeness is emphasized less in appointments to public administrative positions compared with elected offices. In fact, public administration is not representative

of the population of Kyrgyzstan, which includes more than 80 different ethnic groups and is 50.6% female (National Statistics Committee of the Kyrgyz Republic 2012). There are two major social groups that are significantly underrepresented in public administration positions—women and ethnic minorities. Women’s rights NGOs have been lobbying for more equal gender representation in government; this movement became active when Kyrgyzstan signed the Convention on Eliminating Discrimination against Women (CEDAW) and joined the Beijing platform in 1995. There were a number of special measures designed to address gender disparity, ranging from the presidential decree of 2002 regarding state personnel policy to the electoral code of 2007, which stipulated that political party lists should have more balanced gender representation. This requirement helped to improve the gender balance in the Parliament but not in the executive branch: each of two recent coalition governments formed since the end of 2010 had only one woman in a ministerial position.

Ethnic representation in public administration was not an openly discussed issue and was never a subject of official state policy. The only exceptions in this regard are statements in the country’s constitution and other laws about equality of rights and opportunities regardless of ethnic origin and also the Electoral Code of 2007. The latter stipulates that at least 15% of members on party lists during the elections should be from ethnic minorities. Violent ethnic clashes in the south of the country in 1990 and in 2010 forced the government to address the need for ethnic representation in key positions in public administration. It was not until the 2010 violent ethnic conflict between the Kyrgyz and Uzbeks in the south of the country though that the government decided to more clearly formulate its policy toward interethnic relations. In the spring of 2011, then-President Otunbaeva began to draft the concept of ethnic policy, which might become the first official government document laying out policies in regard to ethnic representation in public administration.

5.2 Overview of Political and Administrative Reforms

Democratization in Kyrgyzstan has developed in parallel with market reforms since the early years of independence. Unlike the other regions of the former USSR, Kyrgyzstan did not have a strong and vocal independence movement. However, unlike many other post-Soviet countries, Kyrgyzstan’s new leadership emerged in a nonviolent standoff between former Communist rulers and the citizenry eager for a fresh start. In the fall of 1990, amidst accusations of the Communist leadership’s mishandling of ethnic violence that erupted in the summer of that year, the first person to be elected as a president was not from the Communist party establishment.

Askar Akayev, as the first democratically elected president, utilized the momentum to build a reformist agenda. The first privatization program started in 1992 and aimed to privatize 35% of state-owned assets within a year. Until then, virtually all industrial, agricultural, energy, and other major enterprises were state owned. The democratization reforms aimed to build new political institutions based on checks and balances, develop the civil society and independent media, and ensure basic freedoms. The early start of these reforms and relative success led to Kyrgyzstan’s description as “an island of democracy” by the Western media. As is the case in many post-Soviet countries, the good intentions of the reformist led to broken promises and unfulfilled expectations as the president and members of his family and clan accumulated power and wealth, abandoning reform for control over all aspects of government and civil society.

5.2.1 Public Administration Reform Initiatives

There were various attempts to systemically approach the issue of public administration reforms in Kyrgyzstan. The latest was the creation of the governmental commission on optimization of state governance system (*komissia po optimizatsii systemi gosudarstvennogo upravleniia*) in 2011. Other major public administration reforms carried out in the last decade include the following:

1. The World Bank's Governance Structural Adjustment Credit accompanied by technical assistance (Governance Technical Assistance Credit), or GTAC/GSAC, as it is known among the donors and government officials in Kyrgyzstan, was the largest reform initiative,⁹ which took place from 2003 to 2009. GTAC/GSAC had multiple projects in several sectors that collectively aimed to (a) "improve the transparency and responsiveness of the public sector and enhance the ability of external stakeholders to hold it accountable; and (b) to increase efficiency, effectiveness and accountability within the public sector" (World Bank 2003, 2). Individual reform projects under GTAC/GSAC were diverse and numerous, ranging from the civil service reform to modernization of the Treasury.
2. Customs service employees and tax inspectors have long been viewed by the Kyrgyz population as among the most corrupt public servants. The Asian Development Bank led two major projects from 2006 to 2012 to modernize the customs service and the taxation department of the Kyrgyz Republic. The project involved changing the business process and modernization of the tax administration as well as increasing transparency in the operations of the customs service (Kaparova 2010).
3. The United Nations Development Programme has been leading decentralization initiatives in Kyrgyzstan and facilitating capacity-building of local communities and governments.
4. A European Union/TACIS¹⁰ project assisting civil service reform in Kyrgyzstan was carried out in 2009–2010. This project included various measures aimed at professionalizing the civil service and introducing contemporary HRM practices at pilot ministries and government agencies.
5. In October 2009 then-President Bakiev presented his plans for reform of the governance system, which aimed at centralization of various strategic functions within a single entity—Central Agency for Development, Investments and Innovations. The fact that his son was appointed to head this agency was one of the factors causing unrest and further protest, culminating in the April 2010 popular revolt that ousted President Bakiev.
6. Civil servants' low pay is often cited as a cause of corruption and low morale. In order to improve compensation of civil servants, the government established a Fund for Civil Service in 2010. This initiative was a replication of Georgia's similar fund, which accumulated financial resources to supplement the pay of newly employed civil service personnel. In 2011 Russia gave a grant of US\$3 million to develop the fund; the money was spent on training civil service personnel in various governmental agencies on the basics of project management. This fund did not lead to long-term tangible improvements in the compensation structure of civil servants.
7. In June 2011 the president issued a decree on the Concept of Modernization of the Civil Service to address the following problems: inability of state agencies to provide quality public services, high level of corruption and nepotism, and low level of competence and professionalism among civil servants. Announced initiatives included a one-stop shop for public services, public–private partnerships, various anticorruption mechanisms, and competitive recruitment and development of personnel.

While this list is by no means exhaustive and does not include all of the reform projects that have been implemented (or announced) in Kyrgyzstan since its independence from USSR in 1991, it demonstrates the breadth of initiatives that have been undertaken. Most of the public administration reforms in Kyrgyzstan have been driven by foreign donors,¹¹ frequently resulting in a situation where the implementing parties (government agencies) did not have ownership of or even buy-in into specific reforms.

How effective these reforms have been is a critical question. At best, the results have been mixed; at worst, the reforms have been largely ineffective. Lack of ownership of reforms by government agencies, lack of reform champions at high levels of government, nonsystemic approach,¹² lack of continuity, and poor implementation (including intentional sabotage) are among the reasons for failure of numerous public administration reforms.

5.3 Civil Society and Its Development

As a formerly nomadic nation, Kyrgyzstan did not have a tradition of civil society prior to the Soviet era. During the Soviet Union, there were some professional and intellectual associations, such as the Union of the Artists and the Union of Cinematographers. Citizens also were allowed to create voluntary associations for the purpose of managing and maintaining the limited private property that was not government owned (associations of *dacha*—summer cottage—or garage owners, for instance). These types of civil society organizations, however, were closely controlled and were not in a position to mobilize civic activism. Despite the lack of a tradition of civil society prior to Soviet rule, after independence, Kyrgyzstan developed a very active and vibrant civil society, especially relative to its Central Asian neighbors both in number as well as in areas of its activity. Comprising various types of organizations—nongovernmental organizations and trade unions—it numbered more than 14,000 organizations in 2006 (Association of Centers Supporting NGOs 2006). Since the late 1990s, civil society organizations have attempted to work in a coordinated manner across various subsectors and created formal alliances, such as the Forum of Women's NGOs.

5.3.1 Citizen Participation in Governmental Decision Making

Participation of citizens in the decision-making process is regulated formally by laws as well as by informal practice, which was shaped throughout past decades and involved an often strained and volatile relationship between the government and civil society. The formal recognition of civil society as a key actor in governmental decision making and the political process started in the early 2000s following Akayev's third term as president. This role further solidified in response to the worsening situation with human rights and freedoms, ultimately leading to the first revolution, which led to the overthrow of President Akayev in 2005. The country would lean on civil society again 5 years later in overthrowing President Bakiyev.

Formal channels of citizens' participation in governmental decision making existed for a long time in such laws as *On the Government of the Kyrgyz Republic*, *On the Legal Normative Acts of the Kyrgyz Republic*, and others. However, these channels were largely unutilized and public administrators and politicians only paid lip service to the intent of the law: the language in the laws states that government agencies *may* seek citizens' advice and comments on draft laws prepared by the government. This voluntary, nonmandatory option for government agencies to consult with citizens and civil society in effect prevented inclusive participation from becoming

a regular practice. The early version of the law *On Legal Normative Acts of the Kyrgyz Republic* (1996) stipulated that citizens' suggestions are to be taken into account when the plan of legislative activities is prepared, but the government virtually never complied with this provision. It was not until the summer of 2009 that the new changes to the law *On the Legal Normative Acts of the Kyrgyz Republic* required and stipulated procedures for citizens' engagement in governmental decision making. Whether it is the Parliament or the government drafting laws, or the governmental agencies preparing their decisions affecting larger society, all relevant state organizations are mandated to notify citizens on the upcoming decisions and engage them in the consultation process through public hearings.

Another avenue for formal participation of citizens and civil society organizations in the governmental decision-making process was the creation of consultative mechanisms either through administrative procedures as codified in the regulations or through the venues of special consultative councils at the agency level. The first consultative procedure was embedded in the law *Regulation of the Parliament*, which stated that the legislature *could* hold public hearings; however, the law neither made it a required activity nor stipulated clearly when and how public hearings should be held. There were also *ad hoc* cases when the government set up special consultative processes on specific issues such as the welfare of vulnerable population groups. For example, in 2003, the government initiated regular consultations with the Society for Social Protection of the Population—an active nongovernmental organization advocating for the rights of pensioners. Similarly, since the early 2000s, the government has held budget hearings on occasion, mostly at the level of local governments and mostly with the support of international aid agencies such as the Urban Institute.

The law on access to information controlled by government agencies was adopted in 2006 and it requires civil servants to provide information requested by the public. However, in practice, the requested information is either provided only partially or not at all, largely because the law does not have enforcement mechanisms to punish government agencies for failing to provide this information.

Cooperation between civil society and governmental organizations has so far been ineffective. One of the factors is the mutual lack of trust and respect between NGOs and civil servants. Recent studies demonstrate that civil servants think that NGOs have a poor reputation in society and lack professionalism, while NGOs believe there is a lack of transparency in government agencies. As a result civil servants harbor a negative bias against NGOs and are generally unwilling to cooperate. Both sides agree that mechanisms for effective cooperation are lacking.¹³

5.3.2 Formal and Informal Institutionalization of Civil Society

Formal institutionalization of civil society participation started in the 2000s when nongovernmental organizations became more vocal on political as well as policy issues. In 2003 a presidential decree established the Council on Democratic Security, which was supposed to implement the program of the newly announced Year of Human Rights (2003). After the first popular revolt of 2005, which led to the ousting of then-President Akayev, the new government was keen to create (at least pro forma) some new formal institutions for engaging civil society in public administration. In 2008, the presidential decree created a Public Chamber aimed at “bringing together interests of citizens, nongovernmental organizations and state agencies” (*Polozhenie ob obshchestvennoi palate Kyrgyzskoi Respubliki* [Provision on the Public Chamber of the Kyrgyz Republic] 2008). However, the chamber, along with the earlier created Council on Democratic Security, was a short-lived attempt because it was not constructively engaged in the work of governmental agencies.

Some more systematic efforts to institutionalize engagement of civil society in the governance system were made relatively recently. The peak of such institutionalization efforts was reached in 2010 with presidential decree #212 (September 29, 2010), which established Public Observation Councils (*obshchestvennyy nabludatelnyy sovet*) at pilot ministries at first and then across all governmental agencies. By the summer of 2011, 41 governmental agencies had Public Observation Councils, which included more than 300 individuals.¹⁴ The purpose of Public Observation Councils is to increase transparency of government agencies and enable effective interaction of citizenry with government agencies. These councils include members of civil society, academics, NGOs, business associations, and the expert community among others.¹⁵ Nominated or self-nominated citizens can become members of councils.

Official documents describe Public Observation Councils as consultative and observation bodies, whose main goals include monitoring of the activities of executive branch agencies; facilitating public participation in government decision making; assisting government agencies in making sound, strategic decisions; and assessment of the quality of public services (*Provision on Public Observation Council under Government Agency* 2010). Tools available to Public Observation Councils to achieve these goals include organizing public hearings, creating temporary and permanent working groups, inviting leadership of the ministry in question to meetings of the council, and informing the public and the media in cases of unfounded rejection of the council's recommendations by the ministry. However, the effectiveness of Public Observation Councils is questionable because the decisions of the council have the form of recommendations and are not binding for the ministries (*Provision on Public Observation Council under Government Agency* 2010). Therefore, ministries seem free to ignore the recommendations of Public Observation Councils. Nevertheless, the availability of such a tool for citizens to influence policy making is a promising sign and has tremendous potential for enhancing democracy in Kyrgyzstan.

Efforts to more actively engage civil society in policy making appear to be ongoing. For example, on February 3, 2011, the government announced that one of the priorities in its plans for the year 2011 included "strengthening of interactions with civil society in adopting political decisions" (Babanov 2011).¹⁶ Whether such declarations will continue to be substantiated with specific actions remains to be seen.

The main challenge that civil society in Kyrgyzstan faces is sustainability. NGOs in Kyrgyzstan have weak domestic support, most probably due to the lack of a tradition of civil society both before and during the Soviet era and its perceived "foreignness." Consequently, almost all civil society organizations are funded by foreign donors and have limited potential to raise revenues domestically. If foreign donors were to withdraw their financial support, as they did in Kazakhstan, it is doubtful that the vibrancy of Kyrgyz civil society would be sustained. This assumption is supported by the assessment of USAID's NGO Sustainability Index: on a scale of 1 to 7, 1 indicating a very advanced level and 7 indicating a low level of development, Kyrgyzstan was rated 4.1 (United States Agency for International Development 2010).

5.4 Human Resource Management

The public sector is bloated in Kyrgyzstan, providing civilian¹⁷ jobs to 321,018 individuals (or 5.9% of the population) as of 2011 (tazar.kg 2011). Public employment accounts for about two-thirds of the nonagricultural employment in the country. For a developing country of a little over 5 million people, this is considered to be excessive (World Bank 2004). The number of civil servants has been gradually reduced: in 2004 it was estimated that there were 24,000–25,000 civil

servants in the country (World Bank 2004). By 2011 the size of the civil service¹⁸ in Kyrgyzstan was cut to 17,829 individuals (tazar.kg 2011).

The HRM system in Kyrgyzstan's public sector has significant challenges, particularly in the areas of recruitment, compensation, ethics, and performance management. The discussion below will address these and other aspects of HRM in more detail.

5.4.1 Civil Service Reforms

Since 1991, when the Soviet Union collapsed and Kyrgyzstan became an independent country, several public administration reforms have taken place, largely driven by pressure and support from donor organizations. Many of the reform projects were initially somewhat haphazard and overlapped, with little coordination of donor activities. Finally, efforts to coordinate donor programs to maximize outcomes of various reforms were undertaken in the 2000s, including the creation of a small donor coordination office based at the World Bank (WB) in Kyrgyzstan. It appears that these coordination efforts are bearing some fruit, resulting in, for instance, the Joint Country Support Strategy (JCSS) for 2007–2010 among five donor agencies: the Asian Development Bank, the Swiss Cooperation, the U.K. Department for International Development, the World Bank Group, and the United Nations Agencies. The JCSS is intended to ensure close alignment of donor projects with Kyrgyzstan's development goals. One of the goals of JCSS is to increase the capacity of the civil service and reduce corruption (World Bank 2007).

Civil service reforms were supported and financed by several multilateral and international organizations including the WB, United Nations Development Programme, European Union's Technical Assistance to the Commonwealth of Independent States (EU/TACIS), and U.K. Department of International Development (DFID) (World Bank 2003). More specifically, the WB approved a US\$20 million credit to Kyrgyzstan in 2003 to support several reforms, including civil service reform and efforts to improve personal accountability of political officials and civil servants through, among other things, a requirement to declare income and assets (World Bank 2008). This loan was supplemented by another technical assistance loan, of US\$7.77 million, to support the implementation of proposed reforms (World Bank 2008). The reform of the Kyrgyz civil service required the development of significant legislation (discussed below in more detail).

5.4.2 Legal Framework

The legal framework for managing public human resources in the country comprises the following statutes and regulations:

1. The Law on Public Service (originally passed in 2004; amendments adopted in 2006, 2007, 2008, 2009, 2010)
2. The Regulation on Public Servant Ethics ratified by the president of the Kyrgyz Republic on January 9, 2001 (Isa 2009)
3. National Strategy to Combat Corruption ratified on March 11, 2009 by Presidential Decree No. 155 (Toktom.kg 2011)
4. Labor Code of the Kyrgyz Republic
5. Ethics Codes adopted by various government ministries (Toktom.kg 2011)

Government employees are classified as civil servants and political appointees. Ministers and their first deputies are political appointees and are appointed by the president. Civil servants are governed

and protected by the Public Service Law, which was adopted in 2004 as part of the WB-designed governance reforms. The Law aims to “ensure a stable and independent professional civil service” and to “attract qualified cadre into government service” (*Law on Public Service* 2004).¹⁹

One of the key provisions of the 2004 Public Service Law was creation of the Civil Service Agency (World Bank 2008). Its responsibilities include:

- Development and implementation of civil service policies.
- Development of rules for competitive selection of candidates for vacancies at government agencies.
- Testing job candidates as part of recruitment by individual agencies.²⁰ The testing center was established in 2007 by the presidential decree. The purpose of the testing center is to enable unbiased selection of personnel for public agencies. The testing center also conducts periodic attestation of current personnel.
- Development and maintenance of the Register of Government Positions. (This register was created in 2009.) The register contains uniform position titles and their classification (category) (*Law on Public Service* 2004, art. 16).
- Coordination of recruitment efforts by individual agencies and provision of technical assistance.
- Development of proposals to improve the pay and benefits system of civil servants.

Besides normative conceptualization of the role of civil servants, this law also introduced a new position of state secretary, which was to be instituted in all governmental agencies and as the highest administrative position should not be subject to political whims and volatility. The Civil Service Agency is responsible for selection of state secretaries on a competitive basis for governmental agencies. State secretaries are responsible for streamlining personnel policy in governmental agencies and ensure that they are implemented in an effective and politically neutral way. Their positions are permanent; state secretaries cannot be terminated by the agency/ministry executive (*Law on Public Service* 2004).

The law also outlines the rights and responsibilities of government employees. More specifically, it provides for the following rights of civil servants:

- Be paid a salary, vacation, and other appropriate benefits
- Receive training to improve their professional qualifications
- Be promoted according to their education, competence, professional qualifications, experience, and work results
- Join professional unions
- Protection from harassment from a supervisor and security of tenure even following political changes (World Bank 2008)

Managers and state secretaries are responsible for ensuring that the rights of civil servants provided for by this law are observed.

Civil servants, according to the law, also have responsibilities, including to:

- Observe and uphold the Constitution of the Kyrgyz Republic
- Perform their professional duties in a diligent, honest, and unbiased manner
- Declare their assets and income as well as those of their immediate family members
- Declare their income and assets to be printed in media sources and posted on the Internet in the case of high-level officials

Perhaps largely due to pressure from the WB and its assistance in drafting it,²¹ the Civil Service Law is quite sophisticated, at least on paper. The reality and implementation of the law, however, are in stark contrast with what is on paper. According to the WB, governance reforms (with the exception of public finance and health sector reforms) “would often only be introduced into the legal framework or by the creation of a new institution with an unclear mandate. Capacity and willingness to follow through and ensure implementation of those wider reforms was low. Survey data indicated that governance was deteriorating and corruption intensifying” (World Bank 2008, 3). Human resource policies are no exception to this trend: Theoretically, appointments to the civil service are competitive; job candidates are considered for positions on the basis of their qualifications and written exams (World Bank 2008; United Nations 2004). In practice, however, selection of candidates is not merit based and the formal recruitment process is held only nominally, often for show (United Nations 2004).

The Civil Service Agency was supposed to be an independent agency that would safeguard merit-based and rule-based appointment and promotion of civil servants. Its independency was immediately undermined by the then-president himself. According to the Public Service Law, the Director of the Civil Service Agency is appointed by the president of the Kyrgyz Republic (*Law on Public Service* 2004, art. 12). Upon creation of the agency, then-President Akayev appointed his close relative as its director. The WB immediately argued that such an appointment “demonstrated a lack of commitment and understanding of the reform and was a clear breach of the overall program” (World Bank 2008, 5). Despite these arguments, the president did not concede; the appointee remained in his post until the president was overthrown in March 2005 (World Bank 2008).

5.4.3 Selection

The Public Service Law stipulates that the Civil Service Agency must create a personnel reserve to provide candidates for civil service positions (*Law on Public Service* 2004, art. 18). The reserve comprises two parts: national and internal. The national reserve can include recent graduates who passed national competition²² for entry-level government positions, civil servants wishing to be promoted, and civil servants who were dismissed due to downsizing or health conditions (*Law on Public Service* 2004, art. 18). The internal reserve of a government agency consists of civil servants who were recommended for promotion based on the attestation results and who submitted an application to be included in the reserve (*Law on Public Service* 2004, art. 18).

When a position becomes available at a government agency/ministry, the state secretary at the agency in question has to inform the Civil Service Agency of that vacancy in writing within 3 business days. The ministry then conducts a competition to fill the vacancy. Such competition is supposed to be held first among candidates in the internal personnel reserve. If the position is not filled through this process, the competition is then open to candidates in the national personnel reserve (*Law on Public Service* 2004, art. 25).

In practice, however, the personnel reserve is rarely used. Most mid- and high-level civil service positions are filled through personal connections that may involve bribes. As a study of the public service in Kyrgyzstan reports, “the number of vacancies filled without competition over the period from January to November of 2005 constituted more than 60% of the total” (Bekbolotov 2007, 8). On the few occasions that the personnel reserve is used, it is typically to recruit for entry-level, low-paying, nonprestigious government positions that attract few candidates or for positions that require specialized technical knowledge and expertise. However, professionals with technical knowledge are usually in demand in the private sector, which offers significantly higher pay than

the public sector; thus, in limited instances when government agencies do turn to the personnel reserve, they are usually unable to fill such technical positions through this channel (Informant 2011).

5.4.4 Pay and Benefits

The compensation system of public servants in Kyrgyzstan is rather fractured: there are several wage systems for various types of government employees, including law enforcement personnel, civil servants, central bank staff, and educators. These wage systems are governed by a large number of regulations²³ amended on a regular basis (World Bank 2004). At the time of writing, the wages of civil servants were paid according to Presidential Decree No. 548 on Remuneration of State and Municipal Employees, issued on December 13, 2007 (Toktom.kg 2011).

Base salaries in government agencies are modest at best and inadequate at worst. In 2005, for example, public sector employees earned between 1200 and 1600 soms, or around US\$30–40²⁴ per month—less than the average cost of living (Urmanov 2006). Top-level officials, such as a deputy minister, earned around US\$200 per month in 2001 (United Nations 2004). In addition to base salary, civil servants are eligible for various allowances including social security, pension, bonus for academic credentials, hazardous working conditions, and annual and quarterly bonuses,²⁵ which make up about 50%–70% of their total earnings (United Nations 2004; World Bank 2004). As a result, the actual compensation of civil servants can be more than 150% of the base pay. In 2012 total compensation of civil servants' was estimated to reach a maximum of 29,000 soms per month²⁶ (about US\$623²⁷) at the central level, 10,200 soms (approximately US\$219) per month at the *oblast* level and 9,000 soms (US\$193) per month at the *rayon* (local) level (Ibraev 2011). High-level public officials (such as ministers, deputy ministers, and state secretaries, as well as heads of agencies, committees, and commissions) also receive an official car and a driver (Informant 2011).

The Public Service Law outlines classification ranks of civil servants and the process for awarding such ranks (*Law on Public Service* 2004, art. 22, 23). Classification ranks matter because they can result in a slightly increased pay. Each rank is “worth” a specific amount (ranging from 600 soms, or about US\$13 per month, for a junior rank to 2000 soms, or US\$42, for the highest rank) that is paid monthly in addition to one's salary. Obtaining progressively higher ranks results in a higher monthly allowance, which is paid in addition to one's base salary.

Civil servants in Kyrgyzstan also lack the job security usually enjoyed by civil servants in more developed democracies largely because the former are significantly influenced by elected officials and political appointees. There is a noticeable trend of frequent personnel reshuffling in most government agencies. Some types of reshuffling are “routine” in that they take place every 2–3 years and follow appointments of new ministers and agency heads. Other types of reshuffling are more massive in scope and most recently took place in the aftermath of the 2005 Tulip Revolution that resulted in the ousting of President Akayev and the 2010 revolution that overthrew President Bakiyev (Marat 2006; Radio Free Europe/Radio Liberty 2009; Bolotbekov 2007; Bekbolotov 2007). The entire cabinet was reshuffled after these two events; such reshuffling trickled down to many mid-level civil servants as well. In the words of one observer: “Every newly appointed official in Kyrgyzstan brings along ‘his own’ people and creates a corporate culture which favors him” (Urmanov 2006).

5.4.5 Performance Evaluation

The Public Service Law stipulates that civil servants are subject to a qualification exam (attestation). This exam aims to “identify their professional knowledge and skills... and to assess the

productivity²⁸ of his/her work at a governmental agency” (*Law on Public Service* 2004, art. 20).²⁹ A civil servant cannot be subjected to attestation more often than once every 3 years (*Law on Public Service* 2004, art. 20). In addition, some categories of civil servants, such as individuals holding an interim position for less than 1 year, pregnant women, and those on maternity leave, are exempted from attestation. Qualification exams appear to be held fairly regularly at many government institutions. A WB survey conducted among civil servants found that 41% of respondents had been through attestation (World Bank 2002).³⁰

The Public Service Law stipulates that the qualification exams are to be administered by Attestation Committees, which in theory are independent and impartial.³¹ However, it has been reported that some members of Attestation Committees can be bribed to certify that an examinee possesses the necessary knowledge to perform their duties (Informant 2011).

Aside from attestation, a regular performance evaluation of public servants is not conducted.

5.5 Financial Management

The key economic challenges confronting Kyrgyzstan include slow economic growth, accompanied by a high poverty rate and high unemployment level; chronic budget deficits; high indebtedness (mostly external public debt); and unsustainable social policies.

Since becoming independent in 1991, Kyrgyzstan has been borrowing heavily from international lenders. By 2007, Kyrgyzstan’s indebtedness reached almost US\$2 billion, more than half of its GDP.³² Donors suggested that Kyrgyzstan join the WB and International Monetary Fund’s Heavily Indebted Poor Countries (HIPC) initiative. If Kyrgyzstan joined the HIPC initiative, US\$500–800 million of this debt would be written off provided that the country implemented significant changes in domestic economic policies. The prospect of Kyrgyzstan joining the ranks of poor countries participating in the HIPC initiative and becoming the only post-Soviet country to do so was met with stiff resistance from the citizens, civil society, and some politicians on the grounds of both sovereignty³³ and national dignity (Marat 2007). In the face of substantial resistance, Kyrgyz authorities decided against joining the HIPC initiative. By 2011, the country’s external debt reached US\$2.7 billion, 59.8% of its GDP (Karimov 2011).

Kyrgyzstan has experienced chronic budget deficits, with the level of deficit reaching 21 billion soms (US\$445 million), or 9% of the GDP (Luneva 2011). In developed countries with robust economies, debt levels of 3% or less are typically considered reasonable because the economy usually grows at the same rate (Warne 2011). Such a high rate of budget deficit for Kyrgyzstan, where the economy actually contracted in 2010 by 1.4% (World Bank 2011), is highly problematic.

The poverty level³⁴ in Kyrgyzstan has been persistently high, ranging from 49.9% in 2003 (World Bank 2011) to 33.7% in 2010 (United Nations Development Programme 2011). The official unemployment rate in 2009, according to the Statistical Committee of the Kyrgyz Republic, was 8.4%. This figure is likely to be significantly lower than the real unemployment rate. As reported by the Economist Intelligence Unit, official statistics continue

to understate the true extent of the country’s unemployment problem. Many without jobs see little incentive to register, with only 10% of the officially unemployed qualifying for benefits, which are only of token size. Many other workers, although still technically employed, are working involuntarily reduced hours, or are on unpaid leave. (Economist Intelligence Unit 2005)

the U.S. Department of State (2011) estimated the unemployment rate in Kyrgyzstan in 2010 at 20%.

Kyrgyzstan inherited Soviet-era generous (and unsustainable) welfare policies. The government of the Kyrgyz Republic provides pensions,³⁵ free basic health care,³⁶ Unified Monthly Benefit (UMB) for children from poor families, paid maternity leave, free elementary and secondary education, free higher education at state institutions to a share of students (typically based on academic achievement and financial need), and other benefits (Institute of Strategic Analysis and Evaluation under the President of the Kyrgyz Republic, and UNICEF 2009; Ministry of Education and Science of the Kyrgyz Republic 2008). However, given the challenging economic situation described above, Kyrgyzstan cannot afford such an expansive social policy. At the same time, the population has a deeply held belief (legacy of the Soviet welfare policies) that a comprehensive social policy is essential³⁷ (Becker and Paltsev 2001) and opposes any reforms that would curtail benefits.

Prior to 1991, public financial management in the Kyrgyz Republic was managed by the central government in Moscow. After the collapse of the Soviet Union in 1991, Kyrgyzstan had to build its own independent system, although initially it was based on the Soviet model.³⁸ The Kyrgyz government began to reform the public financial management system in the mid-1990s, with significant support from international donor organizations such as the WB, Asian Development Bank, DFID, USAID, International Monetary Fund, and United Nations Development Programme (Oxford Policy Management 2006). As a result of these reforms, a solid legal framework for proper financial management of public resources, a budget management system, and a treasury system were created (Shambetova et al. 2009). The legal framework for managing public finances includes the Constitution of the Kyrgyz Republic (2007), Law on the Basic Principles of Budget Management of 1998 (revised in 2009), Law on Treasury, Law on the Chamber of Accounts (2004), and Law on Procurement (2004).

According to the constitution, annual budgets are prepared by the government (Ministry of Finance) and approved by the Parliament—*Jogorku Kenesh*. The process of budget preparation works as follows: Each year the government issues a budget calendar in accordance with the Law on the Main Principles of the Budget. Different ministries and government agencies then provide the Ministry of Finance with financial and economic indicators that are based on sector strategies. The Ministry of Finance in turn prepares budget ceilings for each ministry, which are then approved by the Budget Coordination Committee.³⁹ Based on the budget ceilings, each line ministry prepares a draft budget and sends it to the Ministry of Finance. The Ministry of Finance consolidates the supplied budgets into a single republican budget. This draft budget is then presented to the Parliament for approval. Once the Parliament approves the budget, the president signs it; the annual budget has the status of law. The Chamber of Accounts, which is a supreme audit institution, submits annual audit reports on budget execution to the Parliament.

Due to prolonged discussions in the Parliament and nonadherence to the budget calendar, the annual budget is often approved and signed into law well after the beginning of the fiscal year. In the absence of an approved budget, line ministries are allowed to spend 1/12 of the not-yet-approved budget each month (Oxford Policy Management 2006).

There is limited opportunity for citizens to influence the budget process. The republican⁴⁰ draft budget is available to the public through the website of the Ministry of Finance. Theoretically, budget hearings are one of the ways for citizens to participate in the policy process. According to some studies, 7% of urban residents participated in budget hearings in 2007 (Gradval 2007). Although public discussions of the republican budget are held, there is no evidence that the government takes into account the comments and suggestions of civil society in the budget process.

Even if the citizens' input was integrated into the budget, the actual government spending does not necessarily follow the approved budget. In the words of one activist, "the budget that's been implemented is completely different from the one that was approved" (Akelev 2011b). This difference between the approved and executed budget is largely attributable to in-year revisions to the budget that are often approved by the Parliament post factum (Shambetova et al. 2009).

At the local level, municipalities and local governments hold budget discussions as well. The Law on Financial and Economic Foundation of Local Self-Governance (2003) (art. 13) specifically states that consideration and approval of local budgets is carried out in open meetings of the local *kenesh* (council) and subject to public hearings (Kyrgyz Republic 2003). Budget hearings at the local level are reported to be more effective than public hearings on the central budget (Akelev 2011b), probably due to the proximity of residents to local government officials and the local (and easily observable) nature of public services.

Public access to budget information has significantly improved over the last few years. At the time of this writing, the website of the Ministry of Finance had useful information on the budget in a separate section of the website titled "Citizens' Budget." The information in this section is presented in a user-friendly format in the form of pie charts and dynamic charts and uses nontechnical language. The charts present some information on the government expenditure and revenues and present comparable data for the current and (at least one) previous fiscal years.⁴¹ However, detailed information on government expenditure is still lacking and much of the information is hard to understand, not only for an average citizen, but also for economists and public finance specialists (Akelev 2011a).

Despite some progress on making the budget information available to the citizenry, Kyrgyzstan ranks quite low on the measure of openness of its budget on the Open Budget Index. Carried out by the International Budget Partnership, a project of the U.S.-based think tank Center on Budget and Policy Priorities, the annual survey measures budget transparency and accountability around the world. In 2010 Kyrgyzstan ranked 15 on a 0–100-point scale. The Kyrgyz Republic's score indicates that "the government provides the public with scant information on the central government's budget and financial activities assessed by the Survey. This makes it virtually impossible for citizens to hold the government accountable for its management of the public's money" (Open Budget Initiative 2010). Though low, Kyrgyzstan's 2010 score of 15 is higher than its 2008 ranking at 8. This slight improvement is a reflection of the fact that the government started publishing more comprehensive year-end reports (International Budget Partnership 2010a). Neighboring Kazakhstan's score is 38, while Russia's is 60. For comparison, the U.S. score for budget transparency is 82 (International Budget Partnership 2008).

It seems that the government of Kyrgyzstan noted and reacted to its low score on the Open Budget Index. The 2010 Open Budget Survey specifically faulted Kyrgyzstan for not producing a Citizen's Budget (Open Budget Initiative 2010, Country Report; International Budget Partnership 2010b). The Citizen's Budget, described above, was available on the website of the Ministry of Finance at the time of writing in 2011.

5.5.1 Government Revenues and Expenditures

The sources of revenue to the government of the Kyrgyz Republic in 2010 comprised tax revenues⁴² (69%), nontax revenues (19%), and official transfers (grants from international donors) (12%) (Ministry of Finance of the Kyrgyz Republic 2011b). As Table 5.1 demonstrates, major sources of tax revenues in 2010 included the value-added tax (VAT) (36%), customs duties (11%), individual income tax (10%), profit (business) tax on local businesses (5%), and excise tax (4%)

Table 5.1 Tax Revenues to the Republican Budget, 2010

<i>Source of Tax Revenues</i>	<i>Revenue Amount (in KG soms, millions)</i>	<i>Percent of Total Revenues</i>
VAT	14,602.0	37.1
Other tax revenues	12,045.2	30.6
Customs duties	4,347.7	11.0
Income tax	3,788.9	9.6
Profit tax	1,830.8	4.7
Excise tax	1,689.3	4.3
Land tax	798.8	2.0
Subsoil use tax	205.7	0.5
Road tax	48.4	0.1
Emergency management fees	5.9	0.0
<i>Total</i>	<i>39,362.7</i>	<i>100.0</i>

Source: Data from Ministry of Finance of the Kyrgyz Republic, *Poyasnitelnaya zapiska k otchetu ob ispolnenii gosudarstvennogo budzeta Kyrgyzskoi Respubliki za 2010 god* [Explanatory note on the implementation of the state budget of the Kyrgyz Republic for 2010]. Ministry of Finance, Bishkek, 2011.

(Ministry of Finance of the Kyrgyz Republic 2011b). Revenues from personal income taxes are relatively minor compared, for instance, with the United States, where personal income taxes comprised 55% of all revenues to the federal government in 2010 (Chantrill 2012). Such low revenue from personal income tax could be explained by relatively low GDP per capita (US\$860 in 2010) and widespread tax evasion. Tax collection is not very effective: collection of arrears was below 60% in 2008 (Shambetova et al. 2009).

Major nontax revenues in 2010 included fees for paid government services (44%) and income from leasing state property (31%). Practically all government agencies provide services to citizens for a fee. Observers have criticized the government for lack of transparency and accountability in fee-for-service schemes, which often lead to corruption. Arguments have been made to reduce the size of government and let the private sector provide services for a fee where appropriate (Akeleev 2011a).

As Table 5.2 shows, major central government expenditures in 2010 included education⁴³ (20.9% of all general-purpose expenditures), defense and law enforcement (15.2%), funding for general-purpose government services⁴⁴ (13.6%), economic issues (10.2%), social protection (18.4%), and health care (11%) (Ministry of Finance of the Kyrgyz Republic 2011a). The government also subsidizes the cost of utilities for some categories of individuals, such as retirees and military personnel; almost 7% of public expenditures in 2010 was spent on housing and utilities.

5.5.2 Taxation

The 2008 Tax Code of the Kyrgyz Republic is the main statute regulating taxation. In addition, there are secondary laws, including resolutions, regulations, instructions, and orders that regulate

Table 5.2 Major Government Expenditures, 2010

<i>Expenditure Categories</i>	<i>Amount (in soms, millions)</i>	<i>Share of Total Expenditures (%)</i>
Education	12,646.7	20.9
Social protection	11,101.4	18.4
Defense, public safety, and law enforcement	9,213.4	15.2
General public services	8,244.2	13.6
Health care	6,669.8	11.0
Economic activities	6,138.4	10.2
Housing and utilities	4,138.6	6.8
Recreation, culture, and religion	1,723.1	2.9
Environmental protection	571.0	0.9
<i>Total</i>	<i>60,446.5</i>	<i>100.0</i>

Source: Data from Ministry of Finance of the Kyrgyz Republic, Poyasnitelnaya zapiska k otchetu ob ispolnenii gosudarstvennogo budzeta Kyrgyzskoi Respubliki za 2010 god [Explanatory note on the implementation of the state budget of the Kyrgyz Republic for 2010]. Ministry of Finance, Bishkek, 2011.

specific aspects of taxation. The government agency responsible for ensuring payment of taxes is the State Committee on Taxes and Charges of the Kyrgyz Republic (Kalikova & Associates 2009). All but two taxes are collected at the central level. The 2008 tax code decreased the number of local taxes to two—land and property taxes.

5.5.2.1 Individual Taxes and Payments

Individuals in the Kyrgyz Republic are obliged to pay income tax, which has a flat rate of 10%. The tax is withheld by employers and transferred to the central government. Self-employed individuals are expected to file tax return declarations, though a significant number of them do not. At the time of writing there was no effective way of enforcing tax compliance. For instance, there is no centralized database that compiles information on economic activity of all businesses and individuals. Even though employers are required to report all compensation made to both employees and short-term contractors/consultants, this information goes to the tax authorities of the district in which the business/organization is located. That means that if a self-employed individual provides services to organizations or businesses located in different administrative districts within the same city, there is no way to track his/her earnings in totality; district databases are not connected to each other (Kenensarieva 2011). To address this significant problem and to ensure better compliance with tax requirements, all economically active individuals are required to file an annual declaration of income to the tax authorities starting in 2011 (Kenensarieva 2011).

In addition to income tax, all employed individuals must pay 10% of their earnings to the social security fund. The social security payments are withheld by employers and then transferred

to the social security fund. In addition to individual employee contributions, employers contribute an equivalent of 17.25% of the employee's salary to the social security fund.

Local governments collect land taxes and property taxes on movable and immovable property. Tax rates are determined by the Tax Code of the Kyrgyz Republic. Property tax rates, for instance, vary depending on whether the property is a residential dwelling not used for business purposes (taxed at a lower rate) or a dwelling and adjacent structures used for business purposes (taxed at a higher rate). The rate of vehicle taxes depends on the engine size and type of vehicle (tractors, for instance, are taxed at a different rate from personal transportation vehicles) (*The Tax Code of the Kyrgyz Republic* 2008; Kalikova & Associates 2009).

5.5.2.2 *Business Taxes*

Businesses operating in Kyrgyzstan pay a profit tax, which has a flat rate of 10%. The profit tax is levied on “profit calculated as a positive difference between a taxpayer's gross annual income and expenses⁴⁵ deductible under tax law as assessed for the tax period” (Kalikova & Associates 2009, 31).

VAT is imposed on business entities that, for 12 consecutive months or less, have been making taxable supplies of goods, works, or services in the territory of the Kyrgyz Republic for an amount exceeding 4 million soms (approximately US\$87,000 in 2011). The VAT rates vary from 0 to 20%. Zero VAT rate is applied to export of goods and international carriage of passengers and cargo as well as their international transit.⁴⁶ Supplies of goods and services are taxed at 12%, while goods imported before 2009 are taxed at 20%. There are numerous categories of goods and services that are exempt from VAT. Examples of exempt goods include provision of public utilities to households, supply and export of golden alloy and refined gold, financial services, and goods and services supplied to charitable organizations (Kalikova & Associates 2009).

Other business taxes include excise tax, subsoil use tax, automobile road tax, and sales tax, as well as property and land taxes.

Small businesses and some categories of individual entrepreneurs in the Kyrgyz Republic can use a simplified mechanism for paying profit and sales taxes under the special tax regime (*The Tax Code of the Kyrgyz Republic* 2008, art. 345). Under this tax regime some categories of individual entrepreneurs and self-employed individuals can pay taxes by purchasing a patent. A voluntary patent is a document issued by the local tax authority for a period of 15, 30, 90, or 180 days⁴⁷ and is essentially a lump-sum flat-rate tax payment for a specific period of economic activity. The cost of the patent also includes payments to the social fund and the national pension fund. For some categories of self-employed, a patent is a very cost-effective way of complying with tax obligations. For instance, a freelance interpreter working 15 days a month and earning \$1500 would purchase a patent that costs approximately \$50 per month for this category⁴⁸ of self-employed individuals.

The patent can be renewed after expiration. Moreover, if a self-employed individual is not performing paid work during a specific month, he or she does not need to purchase a patent. Entrepreneurs eligible to use a voluntary patent system of paying taxes include those who are not subject to VAT, that is, individuals generating less than 4 million soms (about US\$87,000) per year in revenue. Once the entrepreneur's revenue exceeds 4 million soms, they must pay taxes through regular business tax mechanisms.

Small businesses can use the simplified system of paying taxes (*The Tax Code of the Kyrgyz Republic* 2008, art. 357). Instead of paying profit tax and sales tax, small businesses with 30 or fewer employees can choose to pay a single tax of 6% of the revenues. Only businesses that are

exempt from VAT, that is, enterprises generating less than 4 million soms (about US\$87,000⁴⁹) per year in revenue, are eligible to pay a unified tax.

Aside from taxes, businesses (and employers in general) make social insurance payments to the social fund on behalf of their employees. (Employees also contribute their share of payments to the social fund, as discussed earlier.) Employer contribution rates to the social fund range from 3% (for foreign employees) to 19%.

The government has simplified the tax code in an effort to make Kyrgyzstan more business friendly. Specifically, the number of taxes has been reduced from 16 to 8 in the 2008 version of the tax code (*The Tax Code of the Kyrgyz Republic* 2008; Kalikova & Associates 2009). In addition, as discussed above, the government introduced a simplified tax regime for some categories of taxpayers. Kyrgyzstan's efforts to simplify the tax regime and make compliance easier for taxpayers have started to pay off: the country is perceived as having a more favorable business environment than many of its counterparts in the former Soviet Union. In 2010, the WB and International Finance Corporation's joint publication *Doing Business*, which measures business regulations in most countries in the world, reported Kyrgyzstan to be one of the "10 economies that made the largest strides in making their regulatory environment more favorable to business." Kyrgyzstan, according to the report, "implemented more than a dozen *Doing Business* reforms over the 5 years" (World Bank and International Finance Corporation 2010, 6). These reforms included simplification of registration formalities (seal, notarization, and inspection), low fixed taxes and fees⁵⁰ for property transfer, and a simplified tax regime (World Bank and International Finance Corporation 2010). However, other significant problems still exist and prevent Kyrgyzstan from being viewed as business friendly enough to the extent the local and foreign investors would rush to invest in the country: uncertain property rights, bureaucracy and excessive red tape, corruption, and political instability.

5.5.3 Tax Audits

Individual taxpayers are typically not audited for tax compliance. Entrepreneurs and businesses used to be audited en masse, where every single enterprise's tax records were audited. Obviously, audits on this scale were expensive and time consuming. The Asian Development Bank provided the State Tax Service Department with predictive analytics software that red-flags suspicious tax returns, thus signaling to tax inspectors which taxpayers most likely warrant an audit. While such predictive analytics software has significantly reduced the scope of audits, it is not always accurate because it red-flags enterprises with zero indicators—those that reported no income and no profits because they had not been operational during the tax period. Considering the anemic state of manufacturing in Kyrgyzstan, there are significant numbers of nonoperational enterprises; such enterprises are still required to submit tax reports (Kenensarieva 2011).

Official statistics on the extent of tax evasion in Kyrgyzstan are not available. Anecdotal evidence suggests that illegal practices such as double-bookkeeping⁵¹ and nonreporting of unofficial (or hard-to-track⁵²) income are widespread.

5.6 Corruption

Official corruption in Central Asia and the Caucasus is endemic; all states in this region have consistently been ranked among the most corrupt countries in the world by Transparency International, an anticorruption watchdog. According to the organization's 2011 Corruption Perceptions Index,

Kyrgyzstan was ranked 164th out of 183 countries, below Zimbabwe and in the company of countries such as Yemen, Cambodia, and Guinea (Transparency International 2011).

According to a United Nations study, the population of Kyrgyzstan perceives corruption to be “the major inhibitor of economic growth and reform, and that it is most prevalent among law enforcement agencies, including the police and courts, customs and tax agencies” (United Nations Development Programme 2010). Another study’s respondents in Kyrgyzstan ranked corruption as the most important problem facing the country (National Democratic Institute 2011).

The citizenry of Kyrgyzstan encounters diverse and numerous types of corruption. One of the most visible kinds is administrative corruption, which includes bribes extorted by traffic police from drivers for committing or allegedly committing traffic infractions or more serious traffic offenses. Small business owners and entrepreneurs complain of constant harassment from tax authorities, whose representatives regularly extort bribes in exchange for ignoring real or alleged violations. Similarly, customs authorities are notoriously corrupt; informal payments to them are part of doing business for both small and larger businesses that import goods from abroad (Jangaracheva 2000). Another example of petty corruption is informal payments for expediting or simplifying bureaucratic procedures. The following testimony of a respondent interviewed in a recent study clearly explains why many citizens are compelled to offer bribes when dealing with government agencies:

You see, our corruption takes its beginning from the fact that our methods for problem solving take too much time. For example, in order to get some sort of a certificate for a house or something else, we first have to run around to the State Registry, then to a notary, then somewhere else. It is simply necessary to shorten that route, and that will put an end to corruption. It is easier for us to take the corrupt way. For instance, in order to get a certificate, I won’t have to wait from morning till evening, I will just pay 200 Som, skip the queue, get the certificate, and go home. (National Democratic Institute 2011, 11)

Employees in the health-care and education sectors, similar to other post-Communist countries, are among the lowest paid professionals in Kyrgyzstan. Physicians typically make less than US\$100 per month and nurses earn even less. Many doctors and nurses have quit their professions because they just could not make ends meet. For those health-care professionals remaining in the practice of medicine, low pay creates incentives to seek ways to supplement their income, either through second jobs or by accepting (and demanding) informal payments from their patients. As a Kyrgyz doctor recounts, “When I was working in Talas regional hospital as an anesthetist, my salary was about 1,000 soms [26 dollars a month at current rates]. At night, I would work as a self-employed taxi-driver so as to keep my family. I have two small children, and we didn’t have enough money” (Mambetalieva 2007).

Similarly, public school teachers and university professors earn very little: teachers at public secondary schools make about 1500–1600 soms (US\$30–40) per month (Radio Free Europe/Radio Liberty 2011). For comparison, the minimum subsistence wage was 3263 soms (US\$70) per month in 2010 (National Statistics Committee of the Kyrgyz Republic 2012). Unable to meet their basic needs on such meager salaries, many teachers resort to accepting and demanding payments from parents for better grades and “gold medals” for graduating high school students. “Gold medals” are granted by schools to students with exemplary academic performance and make it easier for graduates to enter universities because they have to pass fewer admission tests (Jangaracheva 2000).

Corruption among college faculty and administrators is also a significant problem. At some institutions of higher education, parents of prospective students pay bribes to unscrupulous faculty or administrators, or both, for their children to be admitted: “Students and their families are required to pay bribes to ensure admission into good schools, to receive good marks, and to secure entry into the more desired departments or institutions of higher learning” (Jangaracheva 2000, 80). The most coveted admission is into “budget” groups (scholarship cohorts) where tuition is subsidized or fully paid for by the government.

Political corruption in Kyrgyzstan involves not only the distribution of jobs to members of one’s clan and family, as discussed earlier in this chapter, but also a sale of government positions to individuals outside of one’s clan willing to pay the requested price. It is common knowledge among the population of Kyrgyzstan that “to obtain a certain job often costs a particular amount of money. The position of cabinet minister is worth a lot of money, a position of regional governor also is associated with a bribe, and even to obtain a position of a teacher one must give a bribe” (Jangaracheva 2000, 76). Another report states, “posts in the Ministry of Internal Affairs are bought and sold for between US\$100 and \$50,000 depending on the rank of the position, but these payments are quickly reimbursed with bribes” (Cokgezen 2004, 92).

Similar to most post-Communist countries, Kyrgyzstan went through massive privatization of state-owned assets after the collapse of the Soviet Union. This process was accompanied by significant, high-stakes corruption. Corrupt practices included the sale of assets to politicians and other well-connected individuals and their families, understating the true value of assets, and rent seeking. Subsequent phases of privatization continue in Kyrgyzstan to this day. This involves the sale of the remaining state-owned assets but also privatization of land, industrial and commercial enterprises, and other property that belonged to the families of deposed Presidents Akayev and Bakiyev (Tynan 2011).

There is rampant corruption in Kyrgyzstan’s judicial system. The key facets of such corruption include political influence over judicial processes and corruption in the legal system. A study of corruption in Kyrgyzstan during President Akayev’s era reports,

The president can directly influence justices and procurators since under the Constitution, he has the authority to appoint and fire the procurator-general, deputy procurators general, oblast procurators, the procurator of the city of Bishkek and military procurators of Kyrgyzstan. During the 2000 election campaign, both national and international observers agreed that the judiciary was biased against opposition candidates and used its power selectively to harass potentially strong candidates. (Cokgezen 2004, 91)

Another type of corruption involves kickbacks paid by private firms and corporations to officials or politicians able to offer these firms some sort of benefit, such as licenses to explore and extract minerals and hydrocarbons; tax holidays passed through insider legislative action; lax enforcement (or nonenforcement) of safety, environmental, or labor regulations; and exemption from customs duties. In a study conducted by the WB and the European Bank for Reconstruction and Development, large numbers of private firms in the region—36.4% in Kyrgyzstan, 28.4% in Kazakhstan, 37.5% in Tajikistan, and 22.7% in Uzbekistan—reported regularly paying kickbacks to corrupt government officials (Fries et al. 2003). Moreover, public officials in Kyrgyzstan have reportedly tried to extort kickbacks from international organizations. As an employee of a Kyrgyz branch of an international organization reported, after yet another regime change and subsequent reshuffling, a newly appointed government official whose portfolio included issues related to the

mandate of this international organization demanded that he be paid 20% of the organization's country budget for any of its projects to have a "green light."⁵³

Given such rampant and systemic corruption, it is not surprising that respondents in a recent study commissioned by the National Democratic Institute, a U.S.-based organization, believed that corruption would take a long time to be eradicated or would be impossible to be eradicated altogether because it is so ingrained in politics, health care, education, and other aspects of government in Kyrgyzstan. One respondent, for instance, expressed the following view:

It is impossible to eradicate corruption. If I occupy some important position and someone comes to me and says, here's 10,000 dollars for you, give my son a job. Of course, I will take it. Who can spare 10,000 dollars? It is part of every human being. They just say that they will not take it, but even if you give an imam 100 dollars, he will happily take it. (National Democratic Institute 2011, 11)

Such a skeptical outlook on the prospect of eliminating corruption is fairly common among the population of Kyrgyzstan.

5.6.1 Anticorruption Initiatives

Over the years the government has announced numerous initiatives to combat corruption, ranging from the 2003 Law on Combating Corruption to the Presidential State Anti-Corruption Strategy for 2006–2010.⁵⁴ However, some of these initiatives merely paid lip service to appease the population and external donors pushing for reform. Other efforts, while possibly genuine, were simply ineffective due to insufficient political will, inadequate funding, and entrenched interests defending the status quo. An article in the respected Institute for War and Peace Reporting (IWPR) reflects the sentiment of many analysts and observers: "The authorities focus on putting tougher anticorruption legislation in place, although others argue that the police force cannot be trusted to implement it, as its own record is far from clean" (Kuramaev and Ergesheva 2010). Prosecutions of corruption cases are very few: the General Prosecutor's Office reported initiating only 170 criminal cases in the first half of 2011 under the 2003 Law on Combating Corruption (General Prosecutor's Office of the Kyrgyz Republic 2011). Considering that citizens of Kyrgyzstan encounter corruption practically on a daily basis, this number is miniscule. There have been some positive developments in this area since the election of President Almazbek Atambaev in 2011: in early 2012 local media began reporting high-profile prosecutions of government officials involved in corruption.⁵⁵ Whether President Atambaev and his administration have the political will to decisively fight corruption remains to be seen.

5.7 Conclusion

Kyrgyzstan has undergone a difficult transition from a centrally planned to market-based economy since its independence in 1991. This transition has been accompanied by severe economic hardship experienced by the majority of the population, collapse of the manufacturing industry, break of industrial–commercial ties with other post-Soviet republics, and weakening of the social safety net. The last decade has also been marked by significant political instability, culminating in two popular revolutions (in 2005 and 2010) that overthrew two presidents in a row. Economic and political instability led to massive emigration of ethnic minorities (many of whom were highly

skilled) and significant labor out-migration of ethnic Kyrgyz from the country. Education and health-care systems have been significantly weakened by chronic underfunding and outflow of skilled personnel.

After the collapse of the Soviet regime, Kyrgyzstan had to reform, modernize, or, in some instances, completely revamp its public administration system. It has some notable accomplishments in this arena: (1) the tax regime has been simplified, making tax compliance easier for taxpayers and doing business more attractive for entrepreneurs and investors; (2) a legal foundation for a politically neutral, professional civil service, exemplified by the 2004 Civil Service Law, has been created; (3) a relatively liberal political regime has enabled civil society in Kyrgyzstan to thrive. The culmination of the role that this vibrant civil society plays in public administration is arguably the Public Observation Councils created in 2010–2011, which monitor the activities of most government ministries at the central level.

However, significant challenges in establishing an effective, efficient, and representative public administration in Kyrgyzstan remain. One of the most pressing issues plaguing the public sector is corruption. Caused by low compensation of public servants, lack of public service ethos, political interference and frequent reshuffling of personnel, and perhaps also cultural values that place (however misplaced) family obligations (i.e., helping relatives get jobs) before professional duties, corruption has undermined numerous public administration reforms that have been undertaken in Kyrgyzstan. The leadership of the country so far has not demonstrated significant political will to systematically combat corruption.

It has been argued that decentralization, if done properly, results in government that is more responsive to the citizens and able to better address local needs. Decentralization in Kyrgyzstan has not been very effective: many of the responsibilities previously carried out by the central government have been delegated to local governments without appropriate and adequate funding. Local governments also have very limited authority to generate revenues; tax collection remains primarily a prerogative of the central government. As a result, the quality of municipal public services is very low, especially in rural areas.

Public sector employment in Kyrgyzstan, including the civil service corps, remains excessive. There is a functional overlap and duplication of responsibilities in several government ministries. The civil service corps is generally regarded as having low morale and being corrupt and largely ineffective. In the absence of significant reforms to civil servant compensation, “considering the extremely low level of remuneration for government positions, and the inefficient provision of non-financial incentives, unofficial income generated as a result of abuse of their position remains the major incentive for people to work for the government” (Bekbolotov 2007, 9).

Salient issues in Kyrgyzstan’s public finance include the high level of external debt, chronic budget deficits, low government revenues (further reduced by widespread tax evasion), and unsustainably liberal welfare policies. While the government has made progress in making budget information more accessible to the citizenry and establishing public budget hearings at both central and local levels, there are limited ways for citizens to participate in the budget process.

There have been numerous and diverse public administration reforms in the last two decades, many of them initiated and designed by external donor organizations. The majority of these reforms have been unsuccessful due to several factors including: (i) lack of ownership by government agencies resulting in half-hearted efforts to reform, (ii) lack of champions at high levels of government, (iii) high turnover of decision makers at implementing agencies with ensuing lack of long-term strategic thinking, (iv) nonsystemic approach, and (v) poor implementation. Moreover, too often leaders initiating the reforms were driven primarily by a desire to maintain their power and to continue corrupt (and highly lucrative) practices. While the efforts of foreign and international

donors have certainly been commendable, too often the reforms were not customized to the local setting in their design and there was a lack of continuity (both from the government and the external donors) once the reform projects ended. Problematically, many of the reforms were funded through external loans to the government of Kyrgyzstan. These loans contributed considerably to Kyrgyzstan's level of external debt without significant results to show for these reforms.

If Kyrgyzstan is to achieve and maintain an effective and efficient public administration, most (and ideally, all) of these challenges need to be addressed in the near future.

Endnotes

1. At the time of this writing the most recent data available were for 2009.
2. Local governments finance schools while the central government pays teachers' salaries (World Bank 2003).
3. Until 1990 Kyrgyzstan did not have a president. The chief executive of the country during the Soviet era was the chairman of the Communist Party of the Kyrgyz SSR, who had little autonomy from the Communist Party of the Soviet Union seated in Moscow. In 1990, at the brink of the Soviet Union's collapse, the Supreme Soviet of the Kyrgyz SSR established a post of president. Two prominent long-time Soviet party apparatchiks—Apas Jumagulov and Absamat Masaliev—contested the post. However, neither candidate received enough votes in the first round of elections. As per the constitution, both candidates were disqualified from running in the second round. The Supreme Soviet then elected a compromise candidate—Askar Akayev, a physicist and president of the Kyrgyz Academy of Sciences, with few ties to the Communist Party. President Akayev started his tenure as president of Kyrgyzstan as a liberal reformist seemingly leading a country to democratic governance, but later became increasingly corrupt and was eventually overthrown by a popular revolt, dubbed the Tulip Revolution, in 2005. Kurmanbek Bakiyev, a one-time opposition member, was elected as the next president of Kyrgyzstan. Bakiyev's rule, however, was perceived as being very corrupt as well; aside from alleged financial corruption, he appointed immediate members of his family to top posts in the government. Bakiyev, too, was overthrown in a popular revolt in 2010. Promptly thereafter, Ms. Roza Otunbayeva was named head of the Kyrgyz interim government and was sworn in as president for 1 year, until full-fledged elections were held in 2011. Ms. Otunbayeva was an opposition leader and a career diplomat, who twice served as the minister of foreign affairs as well as the Kyrgyz ambassador to the United States and United Kingdom. A condition of her interim post was that she could not run for presidency in 2011. Almazbek Atambayev won the 2011 presidential elections and Ms. Otunbayeva handed over the office of the presidency to him in what was flagged as the first peaceful and voluntary handover of presidential power in Central Asia since independence (Marat 2011).
4. Transformations of the Parliament from unicameral to bicameral in the mid-1990s and then back to unicameral in 2003, as well as the introduction of full proportional representation in 2007, with an immediate buildup of a dominant party system, were aimed at coopting recalcitrant opposition.
5. Popular revolts in 2005 and 2010 were in part driven by citizens' demands to address corruption and decentralize the political system. The latter was accomplished through the 2010 constitutional reform, which stripped the president of legislative and vetoing powers. The appointment and dismissal of the government are now an exclusive prerogative of the Parliament.
6. Article. 6 states, "the Communist Party of the Soviet Union is the leading and guiding force of the Soviet society, the core of its political system, of its state and public organizations."
7. According to the website of the National Bank of the Kyrgyz Republic, the official exchange rate on January 1, 2011 was 47.12 Kyrgyz soms per US\$1. <http://www.nbkr.kg/index1.jsp>, accessed February 16, 2012.
8. Ministry of Finance of the Kyrgyz Republic. *Informatsiya po proektu budjeta na 2011 god i prognoze na 2012–2013 gody* [Information on draft budget for 2011 and forecast for 2012–2013]. http://www.minfin.kg/index.php?option=com_content&view=article&id=321:-----2011-----2012-2013-&catid=45:2010-10-05-10-25-12&Itemid=115, accessed July 13, 2011.

9. The combined loan amount was US\$27.7 million.
10. TACIS stands for Technical Assistance to CIS countries.
11. The most influential were international financial institutions such as the International Monetary Fund or the WB who, as is typical of their operations, imposed significant conditionalities on the Kyrgyz government in exchange for their financial support (most of which comes in the form of loans as opposed to grants).
12. Some reforms addressed a specific sector (such as the Treasury) that was too closely tied to other sectors (Central Bank and taxation, for instance) that remained unreformed and thus undermined the entire reform initiative.
13. Imidj gosudarstvennogo slujashhego [Image of a civil servant: Problems of formation]. <http://www.open.kg/ru/analytics/?id=260>, accessed July 14, 2011.
14. http://www.gov.kg/index.php?option=com_content&task=view&id=1615&Itemid=112, accessed July 10, 2011.
15. Presidential Decree #212 of September 29, 2010 on Improving Interaction of Civil Society with Public Administration Bodies.
16. Page number for this quotation was unavailable because the source is an electronic newspaper.
17. Data on defense sector employment are not available.
18. Civil servants are defined as employee in a governmental agency of executive, legislative, or judicial branches, as well as in the President's Administration. Municipal employees, political post-holders, teachers, health-care workers, and researchers/academics as well as military personnel are not considered civil servants (*Law on Public Service* 2004).
19. The text of the law was downloaded from an electronic legal database, Toktom. Thus, the page number for citation purposes is unavailable. Translation from Russian by the authors.
20. This provision was added to the responsibilities of the Civil Service Agency later by a presidential decree in an effort to prevent individual ministries from subverting the testing process.
21. The following excerpt illustrates the active role played by external donor organizations. A WB project document, for example, states that the Civil Service Law “was substantially *compliant with the original intent*, although in Parliament amendments were introduced that potentially weakened the independence of the Civil Service Agency and strengthened the relative powers of ministers. For this reason the law was initially *deemed unsatisfactory* to IDA and changes were requested.” [emphasis added] (World Bank 2008, 2).
22. There is no civil service exam held in Kyrgyzstan, but civil servants have to undergo attestation for promotion to the next rank according to the Civil Service Law (art. 20). The same law also stipulates that the national competition may be conducted by the Civil Service Agency to develop the national personnel reserve (*Law on Public Service* 2004, art. 25).
23. Many of these regulations are not publicly available and are marked “for official use” (Toktom.kg 2011).
24. According to the website of the National Bank of the Kyrgyz Republic, the official exchange rate on January 1, 2005 was 40.8 Kyrgyz soms per US\$1. <http://www.nbkr.kg/index1.jsp>, accessed February 16, 2012.
25. Interestingly, “bonuses” are not performance related but are considered an entitlement.
26. Includes 12 monthly salaries, 4 quarterly bonuses, each of them equaling a monthly salary, and vacation pay (two times the monthly salary).
27. According to the website of the National Bank of the Kyrgyz Republic, the official exchange rate on January 1, 2012 was 46.5 Kyrgyz soms per 1 US dollar. <http://www.nbkr.kg/index1.jsp>; accessed February 16, 2012.
28. It is unclear how a qualification exam would assess someone's productivity.
29. The text of the law was downloaded from an electronic legal database, Toktom. Thus, the page number for citation purposes is unavailable. Translation from Russian by the authors.
30. Attestation requirements were introduced by the 1999 version of the Civil Service Law.
31. The relevant regulation states that the commission is to be composed “in a way that prevents a conflict of interest that could influence the decisions of the commission” (Temporary Provision on the Process for Conducting Attestation of Civil Servants in the Kyrgyz Republic 2005, art. II).
32. Kyrgyzstan's GDP in 2007 was US\$3.75 billion (U.S. Department of State 2011).

33. The opponents of the HIPC initiative argued that Kyrgyzstan should not allow external forces to meddle in its internal affairs to such an extensive degree.
34. Poverty level indicates the percentage of the population living below the national poverty line (World Bank 2011).
35. Pensions are very modest in size (on average 2082 soms in 2010, or one-fifth of an average salary). As a result, many pensioners are barely above or fall below the poverty line of 1744 soms per month, or US\$37. However, the retirement age is young—63 for men with at least 25 years of employment and 58 for women with at least 20 years of employment. (For more details on social security benefits in Kyrgyzstan, see U.S. Social Security Administration)
36. Theoretically, basic health care is free, although patients are often required to pay for medications, supplies, and other expenses. Also, to receive adequate care, patients often feel compelled to pay for additional services, such as private or semiprivate rooms and, sometimes, make direct payments to doctors and/or nurses.
37. In contrast to the United States, for example, there is no culture of saving for retirement in Kyrgyzstan; the population is accustomed to relying mostly on government pensions. Some pensioners are also supported by adult children. In fact, financially supporting and caring for older parents is considered a familial duty.
38. The Soviet model had a top-bottom approach to budgeting where the Communist Party of the Soviet Union, through its planning organ *Gosplan*, devised both annual and long-term (usually 5-year) plans. The party then allocated resources to the central government in Moscow, the state budgets of the republics, and the local budgets of provinces, regions, and districts (Gregory and Stuart 1986).
39. The Budget Coordination Committee consists of the Ministry of Finance and several ministers of line ministries and members of Parliament.
40. The republican budget is a combined budget of central and local governments. State budget refers to the budget of the central government only.
41. The Citizens' Budget is available at http://minfin.kg/index.php?option=com_content&view=article&id=651:2011-08-19-06-28-57&catid=107:2011-08-19-06-27-49, accessed January 12, 2012.
42. Data from <http://www.budget.kg/budget/revenues/>, accessed December 20, 2011.
43. The central government funds teacher salaries, school construction and maintenance, school lunches for pupils in first to fourth grades, textbooks for all pupils, school computerization, and other relevant expenditures. In addition, one-third of expenditures in this category were categorical grants to schools. Website of the Ministry of Finance. http://minfin.kg/index.php?option=com_content&view=article&id=651:2011-08-19-06-28-57&catid=107:2011-08-19-06-27-49.
44. The majority of the funds in this category was used to service public debt. About a quarter was used to fund government agencies.
45. Expenses that can be deducted from the gross annual income include business travel expenses, interest paid on loans, research expenses, charitable contributions, social security payments, and staff training expenses, among others. For a full list of deductible expenses, see the Tax Code (in Russian) or Kalikova & Associates (2009) (in English).
46. With the exception of travel, cargo, and transit by rail, which are entirely exempted from VAT.
47. Taxpayers purchasing a patent for 90 (consecutive) days get a discount of 5% off the tax amount due, while those purchasing patents for 180 days receive a discount of 10% (*The Tax Code of the Kyrgyz Republic* 2008, art. 355).
48. Tax rates for different types of economic activities eligible for patent-based taxation are determined by the government of the Kyrgyz Republic and can be adjusted by authorized tax authorities (*The Tax Code of the Kyrgyz Republic* 2008, art. 354).
49. The average exchange rate in 2010 was 45.96 Kyrgyz soms per US\$1 (National Statistics Committee of the Kyrgyz Republic 2012).
50. Taxes and fees for property transfer were approximately 2000 Kyrgyz soms (US\$42) in 2011 regardless of the value of the property. This is a significant change from before, when such taxes and fees were calculated as percentage of the property value, causing most buyers/sellers to significantly understate the value of the property to avoid high fees.

51. Double bookkeeping is a practice where a business maintains one set of accounting books for authorities, and another for internal accounting purposes. The former reports significantly lower personnel salaries and profits to reduce both the employees' and the employer's tax obligations. Internal accounting, hidden from the authorities, contains real salaries paid to the employees and reflects true profits earned by a company.
52. For instance, rental income, remittances received from family members working overseas, and income received from self-employment is difficult, if not impossible, for the authorities to track at this point.
53. Interview with an employee of an international organization, Bishkek, September 13, 2005. The name of this informant is withheld for confidentiality reasons.
54. This strategy was abandoned in 2010 for failing "to meet the nation's expectations with regard to prevention of corruption" (General Prosecutor's Office of the Kyrgyz Republic 2011, 3).
55. In a span of a few days, local press reported on an arrest of a taxation service official who extorted money and consumer goods from his subordinates (Information Agency 2012; *Vecherniy Bishkek* 2012a,b).

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Chapter 6

Public Administration in Georgia

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6.1 General Overview of Public Administration in Georgia

6.1.1 Context of Public Administration

The Georgian model of administrative management includes institutions of the executive government, which fulfill organizational functions on central and local levels. These institutions include the government of Georgia, local self-governmental units, the governments of the Autonomous Republics of Adjara and Abkhazia, and the government of the capital of Georgia—Tbilisi.

The national government of Georgia, consisting of a prime minister and ministers, is the main institution of executive power. It implements internal and foreign policies, controls and coordinates activities of governmental agencies and subagencies, and approves and implements governmental programs. The government is in charge of state property and controls all activities related to the distribution of property according to different public policy spheres. Within the prerogatives appropriated to it by the president of Georgia, the national government ensures fulfillment of international treaties signed by the president and ratified by the Parliament. It is responsible for protecting the basic rights of Georgia's citizens. Based on the general principles of cooperation between the president and the central government, the state budget is developed annually and submitted to the Parliament for approval. The government is also responsible for submitting reports on the fulfillment of the budget before the Parliament. The prime minister leads the government. His activities are organized and regulated by the State Chancellery. Ministries are created in order to implement state policy within different areas of social life and to conduct administrative and

executive activities within the policy spheres, such as economic development, agriculture, culture, environmental protection, internally displaced persons and habitation, health and social affairs, and youth affairs (State Law of Responsibilities and the Structure of Georgian Government*).

The executive organs of the Autonomous Republics of Adjara and Abkhazia are subordinated to the government of Georgia. These administrative units have their own governments, which perform executive functions in their territories. The government of the Autonomous Republic of Adjara is controlled by the Supreme Council. The Supreme Council is the representative body of the Autonomous Republic of Adjara, which conducts legislative activities within its prerogatives, controls activities of the government of Adjara, and conducts other activities defined by the legislation.

The autonomous republics are financially independent, which implies their discretion to obtain and to distribute financial resources (Constitutional Law of Georgia on Status of Autonomous Republic of Adjara[†]).

Recently a local system of government was introduced in Georgia. After declaring independence in 1991, the first Georgian Constitution, implemented on August 24, 1995, defined the political form of a democratic republic and the existence of local government in the territory of Georgia (art. 2, para. 4). In 1997, the Organic Law on “Self-Government and Local Government”[‡] was adopted and within a year the first elections of local authorities were conducted.

More than 1000 self-governing units existed during that time in Georgia. These units had extremely limited human resources and were limited financially. As a result, they were unable to provide the support for effective and efficient functioning of the municipalities. Major problems resulted, including inexperienced local self-government, weak mechanisms of accountability, low levels of transparency, and low levels of responsibility.

Self-governance was fully dependent on regional and central governance. In fact, the only positive characteristic of the existing system was its close proximity to the population and the resulting ability to identify the needs and views of the people. Despite this fact, the system could not provide for the participation of the population in decision-making processes. The self-governance system could be characterized as a formal institution, created to provide services to the local population, to plan and implement local economic development policies, and to support the development of business initiatives within particular regions. However, local self-government units could not fulfill any of these tasks. A lack of political will on the central level, as well as a weak understanding of the meaning of local governance in civil society, hindered efforts to provide solutions for the problems faced by the self-governance bodies.

A transition to the decentralization of government and the consequent planning of the reform began in 2004. The transformation began with ratification of the European Charter of Local Government on October 26, 2004. It should be mentioned that the Parliament of Georgia did not fully ratify the charter. In fact, it ratified only some articles of the charter, which were mandatory for any signing party. Nevertheless, this move signaled that Georgia had assumed a political obligation to reform local governance. In 2005, a number of laws were adopted regulating the responsibilities and prerogatives of the local government, budgetary processes, property disposal, and forms of supervision from the central government.

* http://www.parliament.ge/index.php?lang_id=GEO&sec_id=69&kan_det=det&kan_id=30 (accessed December 27, 2010).

† http://www.parliament.ge/index.php?lang_id=GEO&sec_id=69&kan_det=det&kan_id=30 (accessed January 5, 2011).

‡ The law regulates only issues regarded in the constitution. In the hierarchy of laws it has a primary power compared with other laws.

The most important changes made were based on the Law on Local Government, which organized approximately 1000 municipalities into 69 self-governing units (64 municipalities and 5 self-governing cities). As a result, instead of a two-level local government, a one-level system was created, which is executed on the regional level. The population of Georgia elects members on a local level of a representative organization, which in Georgian is named the *Sakrebulo*. Members of the *Sakrebulo* further affirm the structure of an executive organization (*Gamgeoba* in rayons and Mayor's office in cities) and elect a Mayor or Head of *Gamgeoba*—*Gamgebeli*. The head of the *Sakrebulo* becomes the head of the local government. According to the law, the local government possesses exclusive and delegated authority.* The reform aimed to strengthen local government's material, financial, and human resources within the municipalities.

In 2005 the Law on the Property of Local Government Units was adopted. The law recognized local governments as independent governing institutions capable of managing and disposing[†] its property, which previously was considered the exclusive responsibility of the central government. The next important step was made in May 2006 with the adoption of the Law on the Budget of the Local Government Unit. The law defines the formula for the equalization transfer,[‡] thus recognizing the right of every municipal unit to possess enough financial resources to execute its functions.

The Law on State Supervision on Local Self-Government Bodies' Activities was adopted in June 2007. The process of decentralization is still ongoing in Georgia. The work on adoption of the regulatory mechanism for the execution of local government, as well as public involvement in the decision-making process, is still in progress.

6.1.2 Historical Period of Public Administration

The history of the Georgian state spans several centuries. Development of the civil service system can be traced back to the early Middle Ages. One of the remarkable periods of Georgian state governance is the fifteenth century. Two major dichotomies, which were emphasized by Woodrow Wilson as central issues of a bureaucratic system and remain critical to the science of public administration even in modern times, were revealed in ancient Georgian historical documents. The first major dichotomy was the vertical distribution of power between central and local structures. The second major dichotomy revealed was the delineation of political and administrative professional positions, defining the former as members of a legislative or deliberative body and the latter as active “work-doers” or executives (Javakhishvili 1978). Political office was typically inherited by the nobles or granted by the monarch, while bureaucrats were appointed according to their professional skills and expertise. Governmental civil service included both the central apparatus of the royal court, as well as local administration responsible for execution of the king's will on places. Each of them could be characterized by the following bureaucratic features:

* Exclusive authority—authority of the self-governing body, which it implements according to the Georgian legislation, independently and with its own responsibility. Delegated authority is the authority of the central administrative body, which, according to this law, or based on the agreement between central and local administrative bodies, is delegated to the self-government organ for implementation. (Organic Law on Local Government, ch. 1, General Provisions, art. 1, para. 8 and 9.)

† The property of local government is categorized as main (which cannot be alienated) and additional (which can be disposed, or sold) (Law on Property of Local Government Units, ch. 1, art. 3).

‡ Equalization transfer—financial resources allocated for the budget of the local governing unit from the central budget using a special formula, provided to execute exclusive authority of the local governance. The purpose of the generated funds is defined independently by the representative organ of local government (Law on Property of Local Government Units, ch. 1, art. 2, para. 3).

1. Concrete distribution of the rights and responsibilities of civil servants—The central level consisted of royal representatives with delegated power to implement specific activities on a place on behalf of the king and the state.
2. Hierarchical arrangement of the administrative system—Posts of ministers for different fields including but not limited to state treasury, hospitality, vinery, and economy were assigned by the nobles.
3. Distinction between political and professional civil servants—or politicians and executives.
4. Restriction on the misuse of office—Neither the executives nor the professional bureaucracy were granted the authority to hand down their office or privileges to their heirs. The king had the exclusive authority of depriving a noble of his status and promoting “work-doers” (Zardiashvili et al. 2004).

Often the invasion of different aggressors caused the unstable development of state administrative systems in Georgia. The imperial models of Byzantine and Turkish blend would dominate till the eighteenth century. After the 1860s, when Russia annexed Georgia, some elements of rational bureaucracy were introduced, though the imperial model of governing, which was central to the Russian state administration, was still dominant. One specific feature of the Russian bureaucracy was “hypertrophy of ranks,” which implied the assignment of the military or royal ranks to the state bureaucrats for promotion. This kind of administration continued throughout Georgia, as well as the entire Russian empire, until 1917.

During the period of Russian annexation, Georgian society became alienated from the authorities. Any authoritative power was associated with Russian occupants and considered anti-Georgian and hostile. Consequently, attitudes of distrust toward public servants and governmental systems became a *bon ton*, or a proper thing to do, for the elite of the country. Personal interests were placed higher than the interests of the government. All public and private issues were solved through traditional (consanguine) or charismatic (national movement leaders, so-called dissidents) social structures (Zardiashvili et al. 2004).

After the revolution in 1917, Georgia had a real chance for independence. On May 26, 1918, the National Council restored Georgian statehood. The first document regulating the governmental system was Georgia’s Constitution of February 21, 1921. The 1921 constitution was an attempt to organize the structure of government on the principles of rational bureaucracy and to establish the rule of law.

These initial steps toward state building in the contemporary era were suppressed by the intervention of the Soviet Army on February 25, 1921, presaging 70 years of stagnation. Since that time, every citizen of Georgia has either fallen under the pressure of the Bolsheviks or later the pressure of the Communists. The party nomenclature was the basis for the Soviet administration, which covered all aspects of the citizens’ social and private lives. Soviet administration remained in place until the 1980s. The viability of the system greatly depended on the personal power of its party leader—Stalin. After his death, the nomenclature system started to collapse and was replaced by the patronage system of party bosses during the reign of Brezhnev. The vertical and centralized party nomenclature established by Stalin gradually morphed into a decentralized, horizontal, clan-nomenclature system. Public offices were distributed based on the latent patronage principle. Similar features characterized the Georgian Communist Party nomenclature as well (Guruli et al. 2003)

The crisis of the Soviet administrative system resulted in the launching of the so-called process of *perestroika*, which aimed at reforming governing principles in the Soviet Union.

Independence regained by the Georgian state in 1990 became a real challenge for the country. An underdeveloped civil society, a lack of political culture, destroyed social structures, and

a depleted economy were obstacles faced by the newly independent country working toward becoming a state and an integrated member of the civilized international community. The Soviet clan nomenclature still existed in the country. The government did not possess enough resources to start any constructive reforms in the public service. There were a number of problematic issues during the early stages of establishing independent governmental institutions including the delivery of proper public services and the establishment of legislative, executive, and judicial institutions. Defining the distribution of power between central and local authorities and the inability to solve territorial issues were also major problems. Soviet institutional heritage, revealed in weak governmental institutions, explained the situation Georgia faced during its early days of independence. The viability of the newly born Georgian state critically depended on the decision of the government to isolate the country from post-Soviet Russia. The political decisions of Georgia's leaders along with the internal confrontation of different political forces almost completely destroyed the independence of Georgia. The first elected president of Georgia was Zviad Gamsakhurdia, the former leader of the patriotic movement. Since Gamsakhurdia led the patriotic movement, his accession to the presidency caused strong nationalistic tendencies to dominate in the government as well as in the whole society. Shortly after Gamsakhurdia was elected, the population divided into several blocks, resulting in numerous uncontrolled armed conflicts, eventually leading to an extremely aggravated criminal situation. In the late 1990s, despite losing control over some territories of the country, Edward Shevardnadze, the second elected president, managed to bring the situation in the country under control. Control was achieved at the expense of his personal contacts with the post-Communist nomenclature in Moscow and the establishment of a "patronage" system in public organizations, when main political and administrative posts were taken by the members of the ruling party Citizens' Union (Zurcher 2005).

At the end of the twentieth century, Georgia had a market economy with an extremely low level of productivity. Considering the high level of unemployment, the state was not planning any changes in the public personnel system. The excessive number of governmental employees plus extremely low wages naturally led to a "spoils system," which consisted of corruption, informal benefits for officials, nepotism, and so forth. The protectionist system became a powerful and sustainable mechanism for the execution of power within the country at the central and local levels.

Despite an ineffective and highly corrupt public administration, some positive steps were made, especially in the legislative sphere. A new constitution was adopted on August 24, 1995. Parliamentary and presidential elections were held in November 1995. On October 31, 1997, the Parliament adopted the Law on the Civil Service of the Republic of Georgia, which stated the principles of the rational system of state bureaucracy. Among those stated principles were rule of law, protection of rights, hierarchy of the system, transparency. The constitution created strong guarantees for further reforms of the civil service. Civil service reforms became legally grounded by the adoption of the law.

Since the Rose Revolution in 2003,* significant improvements and changes have been implemented regarding the functioning of the state apparatus and governmental institutions. But despite the evident progress, the following problems can be identified:

* In November 2003, parliamentary elections were declared to have been rigged. In mid-November, massive antigovernmental meetings started in Tbilisi, which finally, on November 23, resulted in a noninvasive revolution and the resignation of President Shevardnadze. The United National Movement, democrats, the largest political organization in Georgia, led by Mikheil Saakashvili, came to power. In January 2004, Saakashvili won the presidential elections. Saakashvili marked new ways of development for the country, which can be described briefly as alienation from the Soviet heritage and adoption of a Western orientation, introduction of a new market economy, and development of a democratic country.

1. Lack of professional human resources
2. Lack of effective motivation strategies for civil servants and unattractive image of the civil service in general
3. Lack of independence in fulfilling duties
4. Poorly arranged system of wages
5. Remaining clan-nomenclature principles
6. Ineffectiveness of public agencies with scarce resources
7. Corruption and conflict of interests in public organizations
8. Constant change of administration and working staff
9. Adopting unnecessary and insufficient policies

6.2 Political and Economic Transition of Georgia

Of all the former Soviet republics, Georgia has arguably suffered the most severely from the collapse of the Soviet Union. Several political revolutions and a complex geopolitical situation* prolonged the economic crisis, which was supposed to come to an end in November 2003. The Rose Revolution was supposed to end the economic crisis and bring new hope to the country's population.

After years of stagnation and political upheaval, Georgia tried to turn itself around by carrying out radical economic and political reforms starting in 2004. The main goals of the reforms were to establish an environment conducive to economic growth and return a sense of dignity to the citizens, ultimately leading to sustainable development. The changes to the system resulted in economic growth, extensive private sector development, and impressive public infrastructure improvements.

Economic reforms implemented by the government addressed liberalization by initiating privatization, inviting foreign investments, increasing the state budget, sharply improving the macroeconomic index, lowering taxes, and simplifying customs procedures.

6.2.1 Tax Reform

Since 2003, taxation has been a major problem for Georgia, affecting both the public and private sectors. The large number of taxes complicated collection and administration, which often resulted in massive tax evasion. After the Rose Revolution, the government committed itself to reducing the number of taxes as well as each tax rate by the end of 2004. The number of taxes was reduced from 22 to 6:

- Income tax (12%) merged with social tax (20%) = income tax 25% (2006) reduced to 20% (2009)
- Profit (corporate) tax (20%) reduced to 15%
- Dividends and income tax rates on dividends reduced to 5% (2005)
- Value-added tax (VAT) reduced to 18%

* Secession of the western region, Abkhazia, resulted from the war in 1992–1993 and an uncontrolled criminogenic situation in South Ossetia for that period of time.

6.2.2 Customs Reform

Since 2005, customs tariffs reform has significantly simplified and sharply reduced the costs associated with foreign trade. Import tariffs were abolished on approximately 90% of products. Only three tariff rates (0%, 5%, and 12%) exist instead of the previous sixteen. Georgia sets import taxes on several kinds of agricultural goods and construction materials. In addition, there are no quantitative restrictions (quotas) on imports and exports.

6.2.3 Business Registration Procedure

Since 2005, the government of Georgia has improved the investment climate of Georgia by simplifying business regulation through new enterprise laws. The reforms were implemented mainly in the simplification of company registration procedures. The burdens of economic and administrative regulations and registration fees have been reduced. The time required for the registration of a company has been significantly reduced: according to the law, it must not take more than 3 days to register a legal entity and only 1 day to register an individual enterprise. The capital requirements have also been reduced significantly.

6.2.4 Reform of Licenses and Permits

In 2005, a new law on licenses was adopted, according to which only 109 licenses and permits remained from 909. The reduction in the number of licenses was a very important step for the improvement of the business environment. The following permits and licenses are covered under the law:

Types of licenses:

1. Packaging and production of child nutrition
2. Transportation and processing of natural gas and oil, distribution of electric energy and natural gas
3. Banking and nonbanking credit activity
4. Trading specific types of weapons
5. Extraction of minerals and natural resources
6. General license of forest use
7. Fishing
8. General license of oil and gas resources use

Types of permits:

1. Reconstruction and conservation works on monuments of cultural heritage
2. Environmental impacts
3. Construction works and construction of objects of special importance
4. Gambling business
5. Archaeological excavations
6. Pharmaceutical production
7. Collection of weapons
8. Exportation of cultural values of Georgia from the country
9. Outdoor advertisement

The waiting time for obtaining a license or permit was reduced significantly. At present 30 days are needed to obtain a license and 20 days to obtain a permit. A method called “Silence is Consent,” which grants licenses automatically to the applicant within the time frame defined by the law, was launched in 2006. The “one-stop shop” principle was adopted. As a result, transaction costs have decreased. Currently, licenses and permits are only used in the production of highly risky goods and services and in the usage of natural resources and specific activities (see the list of permits and licenses above).

6.2.5 Labor Regulation

The new Labor Code of 2006 established a new labor relationship between employer and employee. Minimal cost made business more flexible and decreased overall labor costs. All relations between employers and employees—working hours, number of holidays, vacation time, and so on—are based on a contract. As a result of the implementation of economic reforms, Georgia became one of the most successful reformatory countries in the field of business development, reflected by key international indices:

- On the Ease of Doing Business Index, in 2011 Georgia held 12th position—up from 112th in 2006 (<http://www.doingbusiness.org>).
- On the Economic Freedom Index (Fraser Institute), in 2008 Georgia held 23rd position—up from 76th in 2005 (<http://www.fraserinstitute.org/>).
- On the Economic Freedom Index (Heritage Foundation), in 2010 Georgia held 26th position—up from 84th in 2003 (<http://www.heritage.org>).
- On the Corruption Perceptions Index, in 2010 Georgia held 68th position—up from 124th in 2003 (<http://www.transparency.org>).

According to the World Bank’s 2007 annual survey on the Ease of Doing Business Index, Georgia earned the repute of the most successful reformer country of the world.

The establishment of Free Industrial Zones (FIZ) in Georgia has played an important role in the encouragement of foreign investment in Georgia, the stimulation of exports, and the development of Georgia’s international trade-transit activities (Georgian Law on Free Industrial Zones*). The FIZ’s favorable tax and customs framework creates strong incentives for international firms to develop their production bases within these zones. The companies operating within these zones are exempted from profit, property, and value-added taxes.

Georgia has made considerable progress in creating competitive trade regimes, such as the Free Trade Regime with Commonwealth of Independent States countries and Turkey, the Most Favored Nation Regime with World Trade Organization member countries, and the EU’s Generalized System of Preferences (GSP+), offering it particularly advantageous access to the EU market (Garello et al. 2007).

Georgia has made progress in regulatory harmonization with the EU. The removal of technical barriers for Georgian goods and services on the international market is an inevitable precondition for further economic development of Georgia. The reform of the technical regulation system has been implemented in Georgia with the aim to ensure the elimination of technical barriers to trade, promotion of exports, introduction of voluntary standards, protection of consumer rights, and the elimination of corruption.

* http://www.parliament.ge/index.php?lang_id=GEO&sec_id=69&kan_det=det&kan_id=2655 (accessed November 11, 2010).

In 2006, Georgia accepted the technical regulations of the EU and the Organization of Economic Cooperation and Development. This sphere remains under the special attention of the government in order to bring it into compliance with international standards and as a result reduce the technical barriers to trade.

The results of the reforms between 2003 and 2009 have been impressive in Georgia:

- 40.4% increase in real GDP (National Statistics Office of Georgia); nominal GDP US\$10.7 billion in 2009, compared with US\$4 billion in 2003, GDP per capita reached US\$2450.1, an increase of 166.6% from 2003 (US\$919)
- Foreign turnover US\$5.5 billion, 243.2% increase from 2005 (National Statistics Office of Georgia)
- FDI inflow reached US\$658.4 million, 93.6% increase from 2003 (National Statistics Office of Georgia)

However, Georgia needs further reforms to become more business friendly, to secure property rights, to establish a political system of checks and balances, and to make individual rights and freedom a top priority.

6.3 Civil Society Development

Modern Georgian civil society represents a weak but constantly developing embryo. It is a largely inactive and repressed element of Georgia's democratic life. On the one hand, the government mostly influences civil society. Specific policies do not always consider the interests of the citizens. The government violates principles of democracy through the suppression of the Georgian press or mass media. On the other hand, there is an Orthodox church, which enjoys the loyalty and devotion of the Georgian people. Decisions made by Orthodox Georgians (the dominating religious group) are mostly based on advice given by the church and the priests, who often moderate the needs of the citizens. The process of individual decision making for a Georgian is normally made more difficult by the necessity to take into account traditional views and values and the opinions of other members of society, the church, and, even more, the priests and the pastor of a particular church. However, it should be mentioned that this type of mindset is natural for many traditional societies. Despite this, Georgian civil society continues to grow and improve on a daily basis.

The history of Georgian civil society is tightly bound to the resistances and national wars against ruling dictatorships in the country. Starting from the nineteenth century, Georgians have been actively involved in social life and welfare. This is illustrated by the newly founded and growing number of professional unions and various interest groups.

In 1879 the "Society of Proliferation of Georgian Language and Orthography" was founded. The group of founders aimed to spread the native language of Georgia and its orthography all over the country. In 1819, the first Georgian newsletter was published. In 1863, Georgian statesman Ilia Chavchavadze published the first anti-Russian newspaper, *Georgian News*. Proclamations written in these papers openly demanded freedom and showed willingness to fight against the Russian dictatorship. But in 1918–1921, the Russian regime destroyed the newly founded Georgian civil society by taking private property and resources from them (Tsurtsunia 2006).

The new phase in the development of Georgian civil society started during the last years of the Communist regime. The transformation of Georgian civil society is connected with the policies of *perestroika* and *glasnost* initiated by Mikhail Gorbachov. Starting in the late 1980s,

nongovernmental organizations, political groups, and the free press began to develop. In 1988–1989, noncommercial civil groups were created. The Caucasian Club, Georgian Green Peace, Democratic Elections in Georgia, and Tbilisi Political Club are all examples of civil groups created during this time (Nodia and Losaberidze 2005).

The renaissance of Georgian civil society started in the post-Communist era, in 1990, with the publishing of the newspaper *Seven Days*. In 1998, a consultative organ for nongovernmental organizations was created at the State Chancellery. In the same year the number of registered NGOs reached 3000.

One of the most important achievements of Georgian civil society was the Rose Revolution, which was initiated by nongovernmental organizations and antigovernment unions. Due to massive civil activity in 2003, Georgian government was dismissed. One of the active participators of this revolution was a youth movement called *Kmara*. In the beginning *Kmara* mainly consisted of young activists who fought against the former president of Georgia, Eduard Shevardnadze, and his policies. The opposition, as well as former politicians, joined the *Kmara* movement and with the support of Georgian people overturned the president and his administration (Tsurtsumia 2006).

Broadcasting company Rustavi2 covered the events before and during the revolution. Thus Rustavi2 became the essential participant and representative of Georgian civil society. Those who had no chance to personally participate in the processes were supporting the general idea of democratic change while sitting in their homes watching Rustavi2. This broadcasting company helped Georgia reclaim democracy and was later renamed Victorious Television.

Civil participation in government decision making in Georgia is ensured on national and local government levels. The Georgian Constitution, approved on August 25, 1995, represents the will of Georgian civil society for independence in the post-Communist era. Georgia's constitution contains the essential elements of the existence of civil society and the free will of people in Georgia, stating that:

1. "There should be a freedom of information, forbiddance of censorship, that every man has [the] right to get and proliferate free information, state or spread own ideas and beliefs without fear," that "government or anyone else has no right to monopolize sources of mass information." (Constitution of Georgia, art. 24)
2. "Any citizen can get any kind of public information or documentation produced by the government without any contradictions unless this paper contains top secret information." (Constitution of Georgia, art. 41)

Therefore, the Georgian Law on Political Unions gives citizens the right to create independent volunteer unions based on common views and opinions.* The Georgian Law on Professional Unions gives society the right to create specific professional groups that will defend their interests.† The Election Code of Georgia is considered one of the main guarantees for Georgian civil society.‡ This law gives every citizen the right to participate in elections despite their political convictions. It also gives the right to an individual citizen or group of citizens to be elected in governmental structures if they succeed in obtaining enough supporters and overcoming the 7%-votes barrier.§

* http://www.parliament.ge/index.php?lang_id=GEO&sec_id=69&kan_det=det&kan_id=119 (accessed November 14, 2010).

† http://www.parliament.ge/index.php?lang_id=GEO&sec_id=69&kan_det=det&kan_id=84 (accessed December 7, 2010).

‡ http://www.cec.gov.ge/files/TEA/ELECTION_CODEOF_GEORGIA.pdf.

§ Currently the Georgian Parliament is working on the new version of the Elections Code, which has to be adopted for the upcoming parliamentary (2012) and presidential (2013) elections.

Citizens are also granted the right to be elected to representative bodies of the local government and the right to participate in the problem-solving process.

The Georgian Law on Freedom of Speech and Expression states, “the government acknowledges freedom of speech and expression as the basic right of human beings.”* The law states the circumstances under which the freedom of speech and expression is protected, as well as the conditions when it may be taken away.

The Georgian State Law of Local Government delegates specific power to citizens.† Citizens are granted the right to address local problems on their own and with the help of the government. This short list of laws portrays the view of policy the Georgian government has formulated regarding civil society in the country. By delegating a certain amount of power to the citizens, the government ensures self-participation while maintaining a certain level of government accountability.

Forty governmental organizations currently exist in Georgia. More governmental organizations exist today than in the Soviet period. These organizations interact with society on a daily basis and are characterized by a high level of accountability. The following are examples of Georgian governmental organizations: the National Agency of Public Registry; the Ministry of Internally Displaced Persons from the Occupied Territories, Accommodations, and Refugees of Georgia (which has gained a special importance and level of authority since the August War of 2008); the Ministry of Labor, Health, and Social Affairs of Georgia; and the Georgian Civil Defender.

There are approximately 30 nongovernmental organizations and foundations in Georgia. Among them, the most popular are the following local and international NGOs: Georgian Young Economists’ Association (GYEA), Georgian Young Lawyers’ Association (GYLA), Liberty Institute, Millennium Challenge Georgia Fund, and Open Society Georgia Foundation.

In 2009, the International Research and Exchanges Board (IREX) conducted research on the nongovernmental sector in Georgia. Several problems were revealed concerning civil organizations including poor development, a lack of financial resources and their high dependence on donor organizations, meaning that the strategic directions, activities, and target groups of the NGOs are identified by the donors rather than based on the needs of the society. One of the main concerns, especially for recently created NGOs, is the fact that donors prefer to cooperate with and support well-established organizations rather than promote newcomers and strengthen the development of new social groups. NGOs such as GYLA and GYEA are based on membership. They draw additional funds from membership fees, which cover minor expenses and give them an additional advantage vis-à-vis other smaller NGOs. The membership fees are usually quite low and the dues are nominal (Rukhadze 2009).

It is commonly known that a strong civil society ensures government’s efficiency and accountability. All aspects of civil society, including NGOs, the printed press, and the mass media, take a mediator’s role between the government and the opposing parties and promote mutual cooperation. The Georgian mass media has always played an essential role in social processes, by supporting or criticizing the government or the opposition. Today the Georgian government has considerable support from most representatives in the media and in the press. The most active supporters of the Georgian government are Georgian Public Broadcasting, Rustavi 2, Imedi, and Channel Saqartvelo.

The two most active media channels, Cavcasia and Maestro, are known for their support of oppositional forces and for their negative assessment of the activities of the official structures. These media

* http://www.parliament.ge/index.php?lang_id=GEO&sec_id=69&kan_det=det&kan_id=72 (accessed November 4, 2010).

† http://www.parliament.ge/index.php?lang_id=GEO&sec_id=69&kan_det=det&kan_id=1739 (accessed November 8, 2010).

outlets offer talk shows as well as online discussions. Freedom of the press and the media in Georgia is a quite difficult and painful issue. Most of the broadcasting television stations are loyal to the government. The situation is further aggravated by the fact that most channels (except those considered “official governmental TV channels”), particularly Maestro and Caucasia, are not broadcast outside of Tbilisi, the capital of Georgia. There are some regional channels, which are financially dependent on the government and are, naturally, loyal to the government. According to the Press Freedom Index used by Reporters Without Borders, Georgia was ranked 99th among 167 countries in 2010 (Reporters Without Borders 2010). The country was ranked 94th in 2004 and 73rd in 2003. Freedom House ranked Georgia 59th according to the Freedom of the Press Index (Freedom House 2010).

6.4 Human Resource Management

Public servant activities are regulated by several legal acts, mainly the Georgian Law on Public Service adopted on December 1, 1997, the Labor Code of Georgia, and other legal acts.

6.4.1 Current Situation

The public service can be defined as activities carried out at public agencies on central or local self-government levels.

The law provides three basic characteristics of a public agency:

- Foundation of the agencies supported by central or local budgetary means
- Financed by the central or local budget
- Goal is the implementation of the public service

Three basic principles are identified to define the term *public servant*:

- A public servant should be a citizen/resident of Georgia.
- A public servant should serve at the central or local governmental level.
- The job of a public servant should be remunerative.

The law defines the types of public servants:

- *Public–political officials*: Representing the special group of public servants who are assigned or elected on a constitutional basis. The implementation of the regulations of the Georgian Law on Public Service is not compulsory for them.
- *Public servant*: The primary figure of the public service agency. Based on the level of the agency they serve, public servants are divided into two categories: those serving at governmental level and those serving at local levels.
- *Supplementary staff*: Technical personnel, hired on a labor contract basis in positions of supplementary servants regulated by the institutional staff log. Unlike public servants, supplementary staff directly serve the assigned agency and their main duties comprise the provision of technical support to the relevant agency and public servants.
- *Freelance/supernumemary*: A person who is assigned or hired on a labor contract basis for a special period of time to fulfill significant responsibilities that are independent from the temporary tasks. Freelance personnel may fulfill the tasks of civil servants as well as supplementary personnel.

The Georgian Law on Public Service, adopted on December 1, 1997, has undergone various changes and amendments have been made to other legislative acts as well. The most significant and large-scale changes have been implemented since 2003.

The Public Service Council, the consultation service agency of the president of Georgia, was founded in 2004 by the president of Georgia. The head of the council is the president himself. The secretary of the council is, therefore, the head of the Public Service Bureau.

In 2009, several factors defined the foundation of the Public Service Bureau as a legal entity. The main factors were as follows:

- Providing a unified policy of public service implementation throughout the sphere and supporting the relevant coordination activities
- Implementing the main directions defined by the Law on Public Service
- Providing organizational, technical, informational support and expertise to the Public Service Council and its members
- Providing supervision of timely submission, transparency, and application procedures of government officials' declarations of income and assets
- Implementing other functions stipulated by the Georgian legislation

Nowadays, the Public Service Bureau is the initiator of various changes:

- Institutional changes

On February 11, 2004, the Law on the Structure, Proxy and Regulations of the Government of Georgia was adopted, replacing the previous Law on the Structure and Regulations of the Executive Government. Relevantly, 18 ministries and 18 state departments were reorganized into 15 ministries. This number was further reduced to 13.

- Optimization of the number of public servants

In the framework of the public service reform, in 2002–2005, the number of personnel in ministries was reduced from 102,571 to 66,615 (by 35%), while the number of employees in sub-agencies was reduced from 23,769 to 8,237 (by 65%).

- Improvement in the motivation system
- Improvements in budget planning and spending mechanisms and raised level of transparency
- Maximum elimination of the possibility of corruptive transactions, as well as reducing intervention in the activities of the private sector (Civil Service Bureau 2009)

Despite a series of successful and large-scale changes, many reforms are currently being developed (discussed later in the chapter).

6.4.2 Selection of Workers and Managers

According to the Georgian Law on Public Service, “the public servant is either elected or assigned to the position.”* A person can be assigned to a position by the head of the agency or by a specially authorized public servant. The position to which the public servant is assigned is defined by the legislation.

* Georgian Law on Public Service, ch. 21.

The Law on Public Service also defines the types of public servants that can be appointed without competitive recruitment:

- Officials who are appointed or elected to office by the president of Georgia, the Parliament of Georgia, the head of the Parliament of Georgia, or the prime minister of Georgia (April 14, 2006, N2884)
- Officials who are elected by the supreme representative bodies of the Autonomous Republics of Abkhazia and Adjara (November 10, 2006, N3653)
- Deputy ministers, assistants to ministers, and advisors
- Acting officials
- Acting officials to be appointed to the vacant positions hired on the competition basis
- In case of promotion at the office*

Regarding the assignment of the official by vacancy, the law enables, but does not bind to, the following: “A person may be appointed to the position on the basis of the results of the vacancy” (art. 29, para. 1), and more specifically, “The vacancy for an official shall be announced by the official authorized to appoint to the position” (art. 31, para. 1). Therefore, in the Law on the Public Service, there is no indication about the vacancy.

The existing legislation provides reasonable doubt that a person can be appointed to office without consideration of his/her professional characteristics, but rather based on some other criteria. These practices have created mistrust and a sense of unfair treatment within society. Such practices might be counterbalanced by the provision on “obligatory attestation for public servants every 3 years,”[†] whereby public servants must be tested to prove their professional qualifications and skills.

6.4.3 Status of Public Servants in Society

There is no specific law in Georgia regulating the status of the public servant. Thus, to define it, we can apply the Law on Public Service and the following criteria, which determine the standings of other public or governmental persons.

6.4.3.1 Rights of Public Servants

- Be paid wages
- Vacation and leave entitlement
- Compensation for business trip expenses
- Temporary mitigation of working conditions (sickness or pregnancy leave)
- Improvement of one’s qualifications
- Allowance in case of death or disability of the public servant

The Law on Public Service imposes specific restrictions on public servants, namely:

- Restriction of entrepreneurship
- Restriction of party activity

* Georgian Law on the Public Service, ch. 30.

† Georgian Law on the Public Service, ch. 82.

- Restriction related to official supervision (During the 3 years after a public servant is fired from the public service, he/she is unable to work in the institution he used to supervise while working in the public agency. A public servants should not gain income from the institution he/she supervises.) (art. 60, 61, 62)

In addition, the law defines conflict of interest for public servants, namely:

- Restriction on engaging in paid activities other than the public servant's main job
- Restriction on membership in the representative or legislative bodies
- Restriction on deals and negotiations with clients
- Restriction on participation in protests and meetings

6.4.3.2 *Responsibilities of Public Servants*

Public servants shall act according to Georgian legislation. According to the general rules of conduct, he/she is accountable to his/her direct supervisor, unless otherwise defined by law or by the regulations of the appropriate agency. The public servant must conduct all the responsibilities related to his/her position. The public servant should perform his/her duties impartially and conscientiously.

Public servants shall follow the general rules of conduct and norms regulating their activities, which are defined as guidelines covering dissemination and utilization of public information, rules of conduct in cases of incompatibility of public and personal interests, and general rules concerning avoidance of corruptive transactions.

6.4.3.3 *Guarantees Provided to Public Servants in Georgia*

An official (woman) cannot be dismissed because of a staff reduction, long-term disability, or the state of her health. She also cannot be dismissed because of the results of the attestation if she is pregnant or has a child under the age of 3 (art. 111, para. 2).

The retirement age for public servants is 65. Public servants are eligible for a pension according to the rule established by the law (art. 50, para. 1).

“In the case of death or disability due to the performance of official duties, a public servant is granted an allowance in the amount of 10,000 GEL and 5,000 GEL.”*

6.4.3.4 *Benefits and Compensation*

According to Georgian legislation, a public servant does not have any privileges compared with an individual employed in the private sector. They bear standard rights and obligations regarding the relationships between the employer and employee. There are, however, some minor differences. Public servants are granted up to 3 months of paid leave once every 5 years to continue their education (art. 48). Other differences include the list of official documentation to be submitted and hiring procedures. The Labor Code defines the restrictions on official documents and information to the employer, which can be offensive for the employee. In particular, this is the type of information that, according to constitutional principles, is regarded as basic human rights, such as confession and religion, sexual orientation, political and other affiliations, and national, ethnical, and social background and status.

* Georgian Law on the Public Service, ch. 49.

According to the Georgian Labor Code and the Law on Public Service, all female employees are granted 126 days of maternity leave. Women expecting twins as well as women with difficult pregnancies are granted 140 days (art. 41, para. 1).

At the end of each year, the heads of state agencies are authorized to financially compensate public servants for overtime work and the functional load of special responsibility, provided there are savings in the labor compensation fund (art. 37).*

Public servants are provided incentives for exemplary performance of official duties, including honorable mention, one-time bonus, valuable gifts, and wage increases (art. 74).

In the case of dismissal because of the liquidation of the agency or a staff reduction, the public servant will be granted compensation worth 2 months of their salary.

According to the existing legislation, it is clear that public servants do not enjoy any significant benefits or compensation. There is no official information regarding the average salary of public servants, although some sources defined the monthly nominal salary of public servants in 2009 as 512 GEL (US\$287) and in the first quarter of 2011 as 929 GEL (US\$563).† As for overtime work and additional payments, Article 37 of the given law allows an agency head to be biased because no other norms or criteria regulating additional remuneration exist. The provision implementing gradual salary increases with each year of additional public service was deleted from the Law on Public Service.

6.4.3.5 *Relationship between Public Servants and Elected Officials*

Currently the Law on Public Service does not regulate the relationship between public servants and elected politicians or government officials. After examining the overlapping functions of central and local public servants, as well as the inconsistency of the system, it is impossible to define the exact relevancy with the law. There are no synchronized principles or rules of central and local self-government activities. Particular articles of the Law on Public Service only relate to public servants on the central level.

6.4.3.6 *Major Human Resource Reforms in Recent Years: Brief Description*

Currently, reforms are mainly directed at amending legislation regarding the public service, as well as adopting a new Code on Public Service (Public Service Bureau 2009), which is published on the websites of the Georgian Parliament and the Public Service Bureau.

Since 2010, the Public Service Bureau has been developing a “unified electronic system for human resource management,” which will be implemented in all state agencies. In 2010, Article 18 of the Law on Public Service was amended to allow the heads of public agencies to require public servants to submit a current medical history, if allowed by the Georgian legislation (Law of Georgian Public Service 1997).

According to the Law on the Public Service, an agency head can require the submission of the results of a medical–narcotics test not only during the hiring phase, but also once a public servant has started working.

The following amendments were introduced for the Georgian Law on Incompatibility of Interests in Public Service and Corruption and The Law on Public Service in July 2010:

* The fund is formed from the budget of the relevant agency, although budget assignments cannot become a reason for reducing salaries of servants or other benefits (December 23, 2005, N2470).

† Study conducted by the Professional Association of Georgian Public Servants in the framework of the project “Decent Work in the Public Sector,” funded by the Ebert Foundation.

- Officials shall submit property statements once a year.
- The reserve list of public servants (data on personnel who are eligible to be hired for certain public servant vacancies due to their qualifications and experience) has been abolished, except in directly defined cases.
- The Interagency Anticorruption Council was created in order to maintain the progress of anticorruption activities, as well as to strengthen existing anticorruption mechanisms.

6.4.3.7 Individual Performance Management

Currently there is neither a common database nor a unified assessment system in place to conduct evaluations of public servants. Moreover, there is no integrated human resource management assessment or similar system in the majority of public offices. The human resource management offices of several ministries have a common digitalized HRM system that unifies personnel data and makes it accessible for all of the institutions involved; the systems were implemented with the intention of increasing effectiveness and transparency of human resource management in the public sector.

6.5 Financial and Budgetary Management

Fiscal policy and related reforms were one of the most difficult issues during Georgia's 19-year period of independence. Starting in the late 1990s, the Georgian government launched a number of reforms concerning the formation of the budget. November 23, 2003, at the beginning of the Rose Revolution, was the turning point for a number of reforms. After the revolution, the tax administration system and procedures became more effective, thus leading to an increase in revenues for the state budget.

6.5.1 Sources of Revenue to Central Government

In Georgia, each government entity has an independent budget. The individual budgets of the state, local self-government bodies, and autonomous republics are consolidated into one budget. The consolidated budget is not subject to approval by any of the representative state bodies. The state budget is the main financial document of the country. It outlines the activities the government intends to fund, as well as the resources to financially support those activities.

Since 2004 the Law on the Budget System has regulated the budgetary process. This new law eliminated all special funds. All budget receipts are now directed to a single account within the treasury. This change increased the transparency of the budgetary process. Government revenue and expenditure data are now easily accessible to any interested party.

The budgetary process has continuously improved since 2004. Changes have been implemented in order to make the budget legislation consistent with the new budgetary process.

In 2009, the Parliament of Georgia adopted a new Budget Code, a step forward in the improvement of the budgetary process. With the adoption of a new Budget Code, the budget process was simplified and unified under a common system.

Budgetary revenues include cash inflows received for the accounting period:

1. Taxes, grants, and other revenues, such as fees (customs, licenses, permits, tenders), revenue from the profit of the national bank, rent, revenues from services
2. Nonfinancial assets (funds received as a result of the operations of nonfinancial assets), such as funds collected from sales of noncurrent assets (buildings, equipment), revenues from

- material supplies, revenues from gems and precious metals, revenues from nonproductive assets (fossils and minerals, licenses to use radio frequency spectrum)
3. Financial assets (funds received as a result of the operations of financial assets except for using the remaining balance), such as currency and deposits, revenues from securities and assets, revenues from loans and other payables
 4. Liabilities (funds received as a result of undertaking liabilities), funds collected from the emission of state securities, and credits allocated by international financial organizations and foreign governments.

According to the budget plan of 2010, the total receipts were 7088.2 million GEL. Revenues were 5363.5 million GEL, decrease in nonfinancial assets 150.0 million GEL, decrease in financial assets 62.0 million GEL, and increase in liabilities 1512.6 million GEL.

6.5.2 State Budget Revenues

Since 2003, state budget revenues have increased each year:

- 2003: 933.3 million GEL/US\$434.093 million (US\$1 = 2.15 GEL)
- 2004: 1732.9 million GEL/US\$903.964 million (US\$1 = 1.9170 GEL)
- 2007: 4293.6 million GEL/US\$2569.94 million (US\$1 = 1.6707 GEL)

After the Russian–Georgian war, in August 2008, and the global economic crisis, the revenue growth process was hampered. In 2008, budget revenues were 5.5 billion GEL and 4.9 billion GEL in 2009.

In 2010, total receipts of the state budget were 7088.2 million GEL (US\$3977.6 million; US\$1 = 1.782 GEL) and revenues made up 76% of the total receipts.

Revenues consist of taxes, grants, and other revenues, as listed above (customs, license, permit, and tender fees, revenue from the profit of the national bank, rent, and revenues from services).

In 2010, the tax revenues were 4,552.0 million GEL, and in 2009, 4,161.7 million GEL. The tax revenues made up 64% of the state budget total receipts and 22% of the country's GDP. In 2010, the country's nominal GDP was 20,743 million GEL (US\$11,636.5). The increase in tax revenues for 2009 is due to economic growth, the inflation rate, and improved tax collection methods.

6.5.3 Taxation System in Georgia

6.5.3.1 Tax Reforms

Reforming Georgia's tax system was an essential change. Before the Rose Revolution, the Georgian tax system was largely defective. The excessive number of taxes hindered the development of private business. The government that came to power after the revolution set out to improve the tax environment of the country by making the system more favorable to the private sector and decreasing the number of taxes from 22 to 6. New fiscal policy goals and objectives included attracting foreign investments, promoting exports, and developing the country's economic growth. On January 1, 2005, a new Tax Code was enforced, which involved reductions in the number of taxes, simplification of administrative mechanisms, the establishment of a firm legal basis, and legal support for business taxpayers.

As a result of the reforms enacted, Georgia was announced as one of the leading countries for business-favorable environments. Its position in the international rankings has significantly improved according to the data of *Doing Business*, one of the members of the World Bank group, which publishes annual reports and studies regulations supporting or hindering business activities in different countries. It shows quantitative indices of business regulation and private property protection. The report of 2010 includes 10 indices of 183 economies. According to the report, Georgia moved from 112th position (in 2006) to 13th (2010). According to the Ministry of Economy and Sustainable Development of Georgia, almost all data improved from 2009 to 2010.

According to the rating, Georgia is ahead of a number of countries, including Estonia, Germany, Lithuania, Latvia, France, Azerbaijan, Armenia, and Turkey (Ministry of Economy and Sustainable Development of Georgia).

Standard tax rates are as follows: personal income tax is 20%, corporate income tax is 15%, VAT is 18%, excise tax varies, customs tax is 0%, 5%, or 12%, and property tax is 1% on the self-assessed value of the property.

6.5.3.2 *Personal Income Tax*

Resident natural persons and nonresident natural persons receiving income from sources in Georgia pay personal income taxes. The personal income tax rate is being gradually reduced from 25% to 15% over a 5-year period starting from January 1, 2009. In 2010, income tax was 20%; however, in 2013, taxable income of the natural person will be taxed at a rate of 15% (Tax Code of Georgia 2010).

Personal income tax may be paid directly by the taxpayer, or withheld by the payer of the income at the time of payment for the following types of income: employment income, interest income, dividend income, business income of individuals not registered for tax, and gambling winnings.

The following entities are exempt from paying income tax: diplomatic missions, grants, state pension awards, certain categories of individual entrepreneurs, and refugees' compensation.

6.5.3.3 *Corporate Income Tax*

A company is treated as a Georgian company if it is either incorporated or has its place of management in Georgia. Georgian companies are subject to the Georgian corporate income tax on their international income, double taxation, and other regulations of international treaties.* Foreign companies are subject to tax on Georgian-source income only and as a result are subject to double taxation treaty relief. The corporate income tax rate is 15%. The tax period for corporate income tax is a calendar year. The tax base includes the following: trading income, capital gains, income from financial activities, dividend income, goods and services received at no charge, and other items of income (benefits, etc.).

The following are exempt from the corporate income tax: budgetary, international, and/or charitable organizations, namely, their profits from economic activities and other profits,

* In order to avoid double taxation, countries sign international treaties, which are ratified by the Parliament of the signing country. According to the treaty, all sums paid to the country's budget by a nonresident person (i.e., a person who stays in the country for less than 183 days in a year) will be returned to him/her, as far as the person is a taxpayer in his/her country. This treaty between countries helps to avoid double taxation of citizens who conduct economic or other types of activities in another country.

besides grants from local or international donors, membership fees, and donations received by the organization. National bank profits, the Church of Georgia, medical institutions, and agricultural activities generating income up to 100,000 GEL (US\$59,559.261 in 2011) are also exempt from corporate income tax.

6.5.3.4 Value-Added Tax

Business entities are obliged to register as VAT payers if they are engaged in an economic activity spanning 12 months and the taxable income exceeds 100,000 GEL. VAT is collected from an entity engaged in a one-time business operation if the taxable income exceeds 100,000 GEL and it produces or imports excisable goods. The VAT rate is either 18% or 0%. Zero-rated supplies include exports; goods or services intended for the official use of foreign diplomatic and comparable representative offices; organized foreign tours into Georgia by tour operators and the supply of tourist packages to them; international transportation of freight and passengers; supply of gold to the National Bank of Georgia; and the supply, transfer, and delivery of electric power (Tax Code of Georgia 2010).

6.5.3.5 Excise Tax

Excise taxpayers include individuals producing excisable goods in Georgia, importing or exporting excisable goods into Georgia, temporarily importing excisable goods into Georgia, and supplying condensed natural gas or natural gas for motor vehicles. The following are examples of excise goods: wine, alcoholic drinks and beer, tobacco products, petroleum gases, oil, and oil products—except crude oil and black and nonferrous scrap.

Excise tax rates are measured according to the physical unit of excisable good (liter, cubic centimeter, kilogram, ton, etc.). The reporting period for excise tax is a calendar month. Zero rating (with credit) is applicable to exports (except for the export of ferrous/nonferrous metal scrap) and to the supply of Georgian excisable products for sale in duty-free zones (Tax Code of Georgia 2010).

6.5.3.6 Customs Duty

Customs tax is an instrument used for the regulation of the country's foreign economic policy. Customs duty is a tax placed on Georgia on products imported by a foreign country.

Customs tax is based on either a customs value or a per physical unit of goods. The rate applicable to the customs value of the goods is fixed at 0%, 5%, or 12%, according to the classification of the goods. Most goods fall into the 0% rate. Most food products and construction materials fall under the 5% or 12% tax rates (Georgian Ministry of Finance, Tax and Customs Legislation).

6.5.3.7 Property Tax

Property tax is paid by each person who owns property in Georgia. Individuals who are taxed own a property tax unit or use and/or possess state-owned land on lease (in this case the person pays tax on the land). Property tax is a local tax. Local authorities set the tax rates within the limits established by the Tax Code.

An individual pays property tax (except land tax) if they own an immovable property (buildings or their parts), a property that they use for economic activities, or a car, yacht (boat), plane,

or helicopter that is registered in Georgia that is used for economic activity. Georgian and foreign enterprises, as well as organizations, pay property tax if they own private land or state-owned land as provided by the Tax Code. These might be legal entities (limited liability companies, joint stock companies) temporarily possessing state-owned land by lease. The tax rate for Georgian and foreign enterprises, in addition to organizations, is 1% of the property value. The tax rate for individual property is up to 1% of the property value. The rate of property tax depends on the person's income. The individual pays the estate tax rate if:

- The income is up to 60,000 GEL (tax rate between 0.05% and 0.2% of the base property).
- The income is from 60,000 to 100,000 GEL (tax rate between 0.2% and 0.4% of the base property).
- The income is more than 100,000 GEL (tax rate between 0.4% and 0.8% of the base property). (Georgian Ministry of Finance, Tax and Customs Legislation).

Property tax rates vary according to the type of property. The exact rate within a specific range is predetermined by the local government based on the location of the property.

6.5.3.8 *Tax Audits*

Georgian tax law envisages two types of tax audit. A desk audit involves a tax officer determining the consistency of a taxpayer's liabilities based on the requirements of the Tax Code without visiting the taxpayer's place of activity. The determination is based on an analysis of financial reports, tax returns, and other data in the possession of the tax authorities. If errors are revealed during a desk audit, the taxpayer is notified in writing.

A field audit consists of a full or random audit of all of the documents related to the calculation of taxes at a taxpayer's place of activity. A field tax audit can be planned or controlled. A taxpayer will receive a notification letter in advance of a planned field audit, but not for a controlled field audit. The authorities may conduct a field audit for any period that has not already been audited. In rare circumstances, a higher authority may, with the agreement of the court, audit a period that has previously been audited.

Tax authorities may not conduct more than one field audit of an entity or individual each year unless they are granted permission by a court. The auditors must complete a field audit within 2 months of the start date. This period may be extended by 1 month if needed. For taxpayers who have earned more than 20 million GEL in any year during the past 3 years, the time period for completing a field audit may be extended by an additional 2 months (to a maximum period of 5 months). This extension may only be granted with the agreement of the head of the tax authority (Georgian Ministry of Finance, Tax and Customs Legislation).

6.5.3.9 *Tax Fines and Penalties*

Late submission of a tax return results in a penalty of 5% of the unpaid tax amount for each month it is past due (up to a maximum of 60% of the total tax due and subject to a minimum penalty of 200 GEL). Late payment of taxes is subject to an interest penalty of 0.07% of the amount payable for each day overdue. An understated tax liability results in penalties of 50% of the understated tax, increased to 75% if the understated tax exceeds 50% of the amount of the tax required to be paid. The amount of penalty differs according to the type of the tax, although if a person conceals taxes exceeding 25,000 GEL, he/she will become subject to criminal justice.

6.5.4 Resource Allocation

In recent years, a number of important reforms have been made to the budgeting process, which have resulted in the implementation of the medium-term expenditure framework's budget principles, the adoption of the International Monetary Fund's Government Finance Statistics Manual (2001) classification, and the Budget Code. Taken together, these reforms have merged the country's budgeting process into a single system. As a result of these reforms, there has been improved accounting and reporting of Georgia's budgetary funds.

The state budget includes a description of governmental expenditures and financial plans. How income is distributed to fund various expenditures is an important component of budget policy. Each year, budget expenditures vary according to the budget income as well as governmental priorities for that particular year.

According to the budget plan of 2010, total expenditures were 7085.2 million GEL (US\$3975.9 million; US\$1 = 1.782 GEL). The increase in nonfinancial assets was 965.4 million GEL, the increase in financial assets was 338.5 million GEL, and the decrease in liabilities was 173.3 million GEL.

Expenditures for 2010 include the following:

- Remuneration (salary, bonus, additions): 1089.8 million GEL
- Goods and services (business trips, office expenses, medical expenses, transport, equipment, including the military): 793.0 million GEL
- Interest rate (domestic and foreign liabilities): 314.4 million GEL
- Subsidies: 233.4 million GEL
- Grants: 995.0 million GEL
- Social security (social insurance, social assistance): 1475.7 million GEL
- Other costs: 899.4 million GEL (information provided by Georgian Ministry of Finance)

The Ministry of Finance of Georgia is responsible for the entire budgetary process, including the preparation and submission of a draft state budget. Other state agencies submit a list of predicted expenses for their particular organization for the next year to the Ministry of Finance. Based on data received, the Ministry of Finances prepares a draft budget and submits it to the government for discussion, with further submission to the president. Once the president of Georgia approves the draft state budget, it is submitted along with enclosed materials to the Parliament of Georgia. The Parliament of Georgia must receive the draft budget by October 1. Parliament committees, parliamentary factions, and the parliamentary majority and minority, as well as all members of Parliament, review the draft state budget. The Parliament of Georgia votes on the draft state budget no later than the third Friday of December. The draft state budget must be adopted with the majority of votes in one reading.

The Ministry of Finance of Georgia is responsible for monitoring the organization and execution of the state budget. Within 1 month of the end of each quarter, the Ministry of Finance of Georgia submits the quarterly review of the execution of the cumulative state budget to Parliament. The Parliament of Georgia is authorized to control the legality of budgetary expenditures of the government of Georgia. In the case of violations such as unlawful spending from the budget or transfers that have not been considered in the budget approved by the Parliament, the Parliament must send a request to the president to withhold budgetary expenditures. The Ministry of Finance of Georgia prepares an annual report on the execution of the state budget based on data from the State Treasury and the information received from the offices of payment.

The ministry's annual report must be submitted to Parliament no later than 3 months after the end of the fiscal year.

The Chamber of Control* issues a statement regarding the annual report no later than 1 month after it is submitted to Parliament (Budgetary Code of Georgia[†]). If Parliament does not adopt the annual report on the execution of the state budget, the president reviews the authorities of the central government (the Cabinet of Ministers) and informs Parliament of his substantiated decision.

6.6 Accountability and Corruption

6.6.1 *Laws on Ethics, Compliance, and Enforcement*

Since 2004, various legislative reforms regarding accountability have been implemented. The Law on Civil Service and the Law on Conflict of Interests in the Public Sector and Corruption regulate ethical standards in the public sector in Georgia. Between 2009 and 2010, essential changes have been made to both laws. On December 4, 2009, the following changes were introduced to the Law on Civil Service:

- Handwritten applications have been replaced by an electronic version.
- The requirement to declare property and assets during entry into the public service has been abolished.
- The range of officials who are subject to the property declaration has been expanded.

Consequently, public servants do not need to declare their property when they join, but need to fill the declaration after they reach a particular level (in most agencies, head of division and higher).

At the same time, changes were made to the Law on Conflict of Interests in the Public Sector and Corruption. The changes were necessary in order to eliminate several flaws and to assist in the smooth transition of property declarations to an electronic system. Many records became obsolete. They did not show the list of those officials who are subject to obligatory property declarations. It is important to note that the declaration includes the names of the officials who have access to confidential information and could potentially tamper with the records (e.g., Heads of the Public Broadcaster, the National Public Registry, and the Government Purchasing Agency, and other legal entity under the public law [LEPL] Heads). As a result of the amendments, all the information found in civil servant property declarations is subject to publication. Confidential data

* The Chamber of Control of Georgia (CCG) is an independent public institution established under the Constitution of Georgia. According to the Law of Georgia “On the Chamber of Control of Georgia” enacted in 2009, the CCG is a Supreme Audit Institution authorized to conduct audits of the state budget, public finances, and other activities of public administration. According to law, CCG must conduct audits in compliance with international standards. It independently plans its audit activities and is accountable to the Parliament of Georgia (<http://www.control.ge/eng/strategy/>). The CCG activities include financial compliance and performance audits in order to provide Parliament and the general public with reliable information related to the legal, purposeful, economic, and efficient management of public finances as well as the implementation of activities by the government. The main purpose of CCG activities is to promote good governance on the basis of the recommendations for improvement of public finance management.

[†] Budgetary Code of Georgia, Tbilisi, December 1, 2009. http://www.mof.ge/show_law.aspx?id=419 (accessed December 28, 2010).

including personal identification numbers, residential addresses, and personal phone numbers are excluded from publication.

The changes made to the Law on Civil Service and to the Law on Conflict of Interests in Public Sector and Corruption include the following innovations:

- The annual filing of the property declaration by authorities
- The removal of the reserve of employees*
- Creation of a cross-sectional, anticorruption council to implement and enforce anticorruption actions considered by the legislation

The recently initiated reforms address improvements in the legislation of the public service, as well as in the development of the new Civil Service Code.

6.6.2 Nature of Corruption

In post-Soviet countries, corruption in the public sector has always been a significant problem. Despite the prevalence of corruption, the Soviet system prohibited it. Corruption was recognized at all levels of government. As a result, the country found itself in a serious economic situation. There were high rates of unemployment and poverty, drug mafia activity, and organized crime. The administrative system was disorganized, and there was widespread disdain of justice as well as a low civic culture. Values promoting corruption were instilled in the minds of the people. Society considered the so-called “criminal mode” as the only honorable way of living.[†]

After the Rose Revolution, the new government established a series of actions aimed at combating corruption. An anticorruption strategy was developed on the governmental level. The strategy was directed at reducing bureaucratic barriers, ensuring independence of the court system, establishing accountability and transparency of the government to ensure public participation, and developing effective management tools for the public sector. These strategies contributed to the establishment of new values, such as fairness and equality, rule of law, professional education, freedom of thought, changed attitudes toward the public service, and the introduction of basic changes in the public consciousness.

The fight against corruption led to reforms in the public service, law enforcement, the management of public funds, and communications and values. All four reforms resulted in constitutional changes regarding superiority of the law and government accountability. The reforms included the Georgian Parliament, Constitutional and Supreme Courts, the Control Chamber, the Institute of National Defender, local government, and the protection of human rights. The basic aspects of civil service reform included a number of principles such as setting of standards of services delivered by public servants to citizens and monitoring and publicizing results. Other principles included openness and access to public information, the possibility of choice among public

* Previous practice considered a reserve or database of public servants, which would be used to fill job openings. Often the cadres in the database had low professional qualifications, as the system did not create a competitive environment, and people would be hired nontransparently. After the reform the reserve was abolished and all positions in the public service are now announced publicly and filled by competition.

[†] For years the Soviet system favored unofficial “rule” of criminal social groups, led by so-called “authorities,” or “authoritative criminals.” These persons were highly influential and respected by part of society. They even played the role of informal judges and could make decisions on other people’s lives. Such criminal consciousness was typical for many generations, in some ways becoming a counterbalance for Communist rule.

services, free consultations (legal or other), the possibility of identifying and improving erroneous decisions in a timely manner, and the rational and effective use of public funds.

Throughout the years, the law enforcement system in Georgia has been the most corrupt. The civil service reform addressed the following law enforcement agencies: the Ministry of Internal Affairs, the Office of the Public Prosecutor, and the judicial system. Mechanisms for effectively combating financial crime have been introduced. The creation of the new model of police within the Ministry of Internal Affairs was the most successful. During implementation of the civil service reform, there were mass lay-offs of old “militia-men” who had been accustomed to bribery. The new system was created by young, specially trained employees who were accustomed to a new set of values, norms, and regulations. An effective tool used to combat bribery was the guarantee of a high salary.

Anticorruption reforms also targeted agencies that exercise control over public funds. A statement regarding the nature of a transparent and participatory budgeting process confirmed improvements in the given system.* International Federation of Accountants standards, International Public Sector Accounting Standards, and International Public Sector Guidelines were adopted in order to improve public accountability. For many years, the state budget of Georgia suffered from a defective tax system and a corrupt customs system. A complicated system of taxation, confusing Tax Code, and unfair tax burden encouraged businessmen to engage in corrupt transactions with officials. The customs system was plagued by corruption. The legislation was improved with changes to the personnel system. Modern information technologies were successfully introduced, minimizing direct contact between businessmen and tax or customs officers. Customs control, based on a risk management system and simpler procedures, decreased bureaucratic barriers.

The fourth component of Georgia’s anticorruption strategy was communications and values. For many years, Georgian society suffered from a lack of public participation, social responsibility, and culture of social cooperation. For the past few years, the government of Georgia has provided a mechanism for public feedback such as websites in social networks, admission of citizens, and meetings open for the general public. It is too early to judge the effect, as the experience is still too scarce. However, it should be mentioned that statistics regarding reviewing complaints in most of the agencies are quite positive.

6.6.3 Measuring Corruption

According to Transparency International, Georgia has achieved tremendous success in combating corruption during the last 5 years.† According to the organization’s 2010 report, Georgia fell from 66th place to 68th. However, the fall in points was only 0.3 and this was the first step back in the fight against corruption in recent years. Georgia’s position is impressive when compared with neighboring countries, including Armenia (123rd), Azerbaijan (134th), and Russia (154th). According to the report’s 2010 Corruption Perceptions Index, Georgia received a score of 3.8 out of a possible total of 10 (Transparency International 2010a).

According to the Global Corruption Barometer, 77% of Tbilisi residents believe that the Georgian government has been effective or extremely effective in fighting corruption. Compared with other countries polled, Georgia has the highest combined rate of respondents who feel their

* Statement or way of improving methods of fighting against corruption in the public finances sector.

† 2004: 133rd place, 2.0 points; 2005: 130th place, 2.3 points; 2006: 99th place, 2.3 points; 2007: 79th place, 3.4 points; 2008: 67th place, 3.9 points; 2009: 66th place, 4.1 points; 2010: 68th place, 3.8 points.

government's actions to fight corruption have been "effective" or "extremely effective." Similarly, with 78%, Georgia has the highest rate of people believing that corruption has "significantly decreased" or "decreased" in the past 3 years. Only 9% of respondents, the lowest proportion in all countries surveyed, said that corruption had increased (significantly) in the past 3 years in Georgia (Transparency International 2010b).

Despite several achievements, Transparency International identified a number of problems that undermine the effectiveness of Georgia's fight against corruption. Identified problems include the continued need to reform the country's judicial system, the appearance of corruption among the high-ranking political elite, the necessity to protect property rights, and the low level of transparency in budgetary and public expenditure processes.

6.6.4 Ethics Management

According to the Civil Service Bureau report, the government has had difficulty implementing reforms of the public service system. During the last 6 years, a series of reforms have been introduced to improve Georgia's public service system:

- Institutional changes, including distribution of responsibilities and functions among different agencies and ministries, and establishment of legal persons of public law, aiming at increasing effectiveness of management
- Optimization of the public personnel system
- Improved planning and budget expenditure processes
- Increased transparency of governmental activities
- Development of unified and integrated governmental strategy
- Detailed flexible short- and mid-term action plans for the ministries
- Reduction of the involvement of the government in regulating private sector activities
- Improvement of the system of civil servants' motivation

In 2007, the government confirmed a new action plan for the national anticorruption strategy. The plan's main focus was the transparency of public finances. This required the creation of a system of execution of the law and harmonization of the corresponding legislation with the international norms. Georgia's anticorruption strategy includes the following priorities: the creation of a state free from corruption, assistance to the private sector, the improvement of the judicial system and law enforcement bodies, and the strengthening of anticorruption legislation. Unfortunately, the new action plan does not establish a concrete time frame for its implementation.

At the time of this writing the Civil Service Bureau was developing the draft of the Civil Service Code. The project will settle the discrepancy between the interests of the civil service and issues related to corruption. It will replace the Law on Conflict of Interests in the Public Sector and Corruption. The new Civil Service Code will only address crucial norms of the public service. This means the issue of conflicts of interests and corruption in the public sector will be regulated, as well as labor relationships according to the Labor Code and based on the labor contract. The merger of political and administrative functions will be introduced into public structures, as well as the merger of positions according to ways of hiring—by contest, direct appointment, or election. In order to develop a set of new values within the framework of the anticorruption strategy, the government began working closely with the Georgian Orthodox Church and other religious groups. There was a realization of the necessity of joint anticorruption educational programs. The educational programs are intended to free Georgian society from the criminal subconsciousness

and pseudovalues. The establishment of a new set of national values is an extensive process. At the present time, it is impossible to make an informed assessment of the results.

6.7 Conclusion

The reform of the public administration system in Georgia is considered the main reform conducted by the government to create a basis for the sustainable political, economic, and social development of the country. It provides effective mechanisms for the functioning of governmental institutions and, at the same time, guarantees fair and equal treatment of citizens. The creation of an effective public administration and civil service system is one of the commitments made by the Georgian government. One of the main purposes of reforming Georgia's public administration system is to establish a politically neutral state bureaucracy. The establishment of a well-organized, rational public administration system is one of the key problems in Georgia. Beginning in 1997, after the adoption of the Law on Civil Service, the Georgian government launched a series of reforms. The Rose Revolution of 2003 signified a positive step toward democratization. Although not declared by the government, the reform in the Georgian public system can be described as a new public management model. It includes organizational-level public personnel reforms and the integration of business methods in public management such as motivation, results-based management, participative management, and so forth. It also accounts for the delegation of some functions and services to the private sector, development of a free market, creation of competitive environments within public organizations, and putting more emphasis on organizational effectiveness and efficiency.

The reforms concern the following issues:

- The introduction of business management principles in the public sector in order to increase effectiveness
- The establishment of participatory government, decentralization, and delegation of power
- The minimization of state responsibility and the delegation of functions to the private sector

The governmental strategy in this direction covered the following important issues:

- a. Development of the action plan for public administration reform
- b. Structural differentiation between positions in the public service system responsible for policy formulation and for policy implementation
- c. Identification of the required qualifications and duties of each position in the public service
- d. Creation of an electronic database of public servants, which is periodically updated
- e. Improvement of the competitive environment in the public service

The introduction of the integrated Civil Service Code was the first and foremost priority for effective regulation of the sector. The new code reflects the changes and dynamics of governmental structures over the last decade and addresses the problems Georgia's government faced.

Reforms aimed at improving the public service considerably increased the transparency of governmental activities. However, the Georgian government, as well as the whole society, still faces important challenges, such as:

- Transformation of the asymmetric, nonhomogenous model of public service by developing an integrated public policy for all public agencies

- Improvement of public personnel policy by introducing modern systems of personnel management and decision making
- Development and introduction of remuneration policy directed toward increasing motivation of public servants
- Introduction of ethical standards and solution of problems related to the conflict of interests

These challenges require a long-term and consistent vision of public service, which still needs to be developed. First and foremost, it is necessary to work out an integrated policy for the management and functioning of the public service, which will be used as a guiding principle by particular agencies. The policy shall envisage the establishment of general principles of recruitment and promotions, fair decision making, and equal treatment of every public servant. By overcoming the asymmetrical model, there will be no possibilities left for unfair and biased decisions, as well as nontransparent processes in particular agencies.

The Georgian government took the responsibility before its citizens to establish a rule of law, and first and foremost it shall be done regarding the people employed by the government. This will considerably improve the image of the public service, raise the motivation and effectiveness of the public servants, and increase the trust the general public have in them.

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Chapter 7

Post-Communist Public Administration in Lithuania

Saulius Pivoras

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7.1 General Overview of Public Administration

According to the Constitution of the Republic of Lithuania (1992), legislative power belongs to the Parliament (*Seimas*), and executive power consists of the president and the government of the Republic of Lithuania. The president has nominal powers; the cabinet government is responsible for running the administrative machinery. The central administration of Lithuania consists of four main groups of institutions, which are classified according to the legal criteria of accountability. The four main groups are (a) institutions accountable to the government as well as the office of the prime minister; (b) ministries and institutions under them; (c) institutions directly accountable to the Parliament (*Seimas*); and (d) institutions accountable to the administration of the president of Lithuania. The second group of institutions is the largest and most important, which alludes to the fact that the continental* tradition of rather large ministries and ministerial accountability is a characteristic feature of Lithuania's public administration.

The central administration also consists of public enterprises and so-called public bodies, the majority of which are created by ministries but have no direct accountability to them. The Law of

* Continental Europe, i.e., excluding Great Britain.

Public Nonprofit Institutions regulates these entities. Most of these institutions are line agencies, and in principle their performance should be easy to measure. Unfortunately, this is not so because they are not directly accountable to their founders (ministries) and there are no performance contracts between them and their founders (Nakrošis 2008c). Legal regulation of these public bodies improved over the course of 2009–2010.

All the institutions of the central administration are established, and they function according to laws passed by the Parliament or secondary legislation (bylaws) passed by the government of Lithuania. Some ministries were created from scratch after independence from the Soviet Union, such as the Ministry of Defense and the Ministry of Foreign Affairs. These ministries attract young and skilled employees without connections to the Soviet bureaucracy (Novagrockienė 1998). Some other ministries were reorganized on the basis of their existence during the Soviet era. The Ministry of Internal Affairs is one such example. It controlled the entire police system. All political affiliations belonging to the police were banned, and the civil servants in the ministry were asked to take an oath of loyalty. An initiative was taken to formally depoliticize the ministry, and as a result, the majority of the senior staff could retain their positions. In 1993, about 30 top management posts in the Ministry of Internal Affairs were still held by former *nomenklatura* members from the Soviet era (Vanagunas 1995).

Institutions of judicial control of public administration were underdeveloped until 1999 because the Lithuanian government lacked a strong commitment to administrative reform until then. The situation changed only with the preparations to join the European Union (EU), when obvious necessities for developing administrative capacities and more effective internal administrative control emerged. In 1999, a three-tier administrative court system was established; that same year the Law on Public Administration was passed (OECD SIGMA 2002). In 2001, the three-tier system was changed to a two-tier system.*

One of the main features that determine the functions of public administration is the prevalent administrative culture or administrative tradition. It is quite established in Lithuanian (Nakrošis 2005; Žeruolis and Maniokas 2005; Vilpišauskas and Nakrošis 2003) as well as in international (Evans and Evans 2001; Evans 2005) research literature that the legal dimension or legalistic behavior†

* There are now five regional administrative courts in the biggest cities (first tier) and a supreme administrative court of Lithuania (second tier). Unlike the courts of general jurisdiction, administrative courts consider disputes that arise in the sphere of public administration. Complaints by legal personalities, that is, legal or juridical bodies, as well as by citizens can be considered.

† Legalistic behavior is mostly displayed in the attempts to conform to the rules, established by various legal acts. Public administration is then understood as almost only the knowledge and application of legal acts. But there is also formal legalistic behavior, which shows up in very straightforward and literal (mechanic) application of the formal rules. One recent example of purely formal–legal behavior is related to the imprisonment of well-known human rights activist Ales Belyatsky from Belarus. He was detained in Minsk in August 2011 allegedly because of tax evasion. Belyatsky’s arrest was connected with the use of his personal bank account in Lithuania to support human rights work in Belarus. The grounds for politically motivated allegations of tax evasion were prepared when officials from the Ministry of Justice in Lithuania transferred to the Minsk authorities confidential data about Ales Belyatsky’s accounts in private banks in Lithuania. This data was requested from the banks and then sent to Minsk officials. Lithuanian officials later asserted they only did this based on the existing Lithuanian–Belarusian cooperation treaty and the precedents of transferring similar information as an execution of cooperation in the field of justice. But when the information was requested, they did not try to look into who it was about. They did not look into what the consequences of such information transfer could be and they did not even consult the Ministry of Foreign Affairs. The formal provisions of the valid, existing treaty precedents were enough. The existing possibility for political exploitation of confidential account data was not considered. This purely formal–legal attitude provoked a political scandal in Lithuania.

prevails in contemporary Lithuanian public administration. An important role is attributed to the legalistic mode of making public policy in Lithuania. Policy is primarily understood as the preparation and adoption of legal acts, with particular attention to legal technique, that is, the quality of laws or government decisions in a legal sense. For instance, the drafting of laws or administrative decisions is primarily understood as the task of lawyers. Every ministry and government department has a law unit, but most other units want to have their “own lawyer” to carry out the drafting or to deal with other documentation, which often has a legal character (Žeruolis and Maniokas 2005). Policy implementation as the management of programs and institutional performance is underdeveloped. The administrative tradition in Lithuania is legalistic. The highly legalistic nature of public policy in Lithuania is deemed an impediment for policy learning and development. Is the legalistic nature of public policy a new distinctive feature or was it already present in the administrative tradition of Lithuania?

It is not easy to characterize or to pinpoint the most essential elements in the administrative tradition of Lithuania’s public administration. It is common to associate the administrative culture of post-Communist countries in Central and Eastern Europe with the “Soviet” administrative tradition (Painter and Guy Peters 2010). It seems the question is to what extent and in which countries was the Soviet administrative tradition preserved after the collapse of the Soviet Union and the transition to a market economy and democracy. It would be an oversimplification if one had only to confirm or deny the legacy of the Soviet administrative tradition in Lithuania. The term “Soviet” by itself is too broad and inadequate when applied to the public bureaucracy of Soviet Union successor states. Perhaps it is better to speak about the *nomenklatura* tradition or administrative culture because *nomenklatura* as an organizational or governance system was the most important part of Soviet public bureaucracy.

Lithuanian administrative culture can be associated with a mix or diffusion of three different historical layers: the heritage of independent statehood from the interwar period (from after the First World War to the Second World War), the Soviet legacy, and the constructed or imagined European administrative tradition. All three layers possess one unifying—even if variously understood and functionally diverse—feature: the legal dimension of public administration. The civil service system during the interwar period of Lithuania’s independent statehood did not come to be fully institutionalized; in fact, it was very underdeveloped. Due to Soviet occupation in 1940, well-thought-out plans to reform public management and the public service system were not implemented. The developing model of civil service during the interwar period was oriented to and mostly resembled the civil service of Continental Europe (a Franco-German model), with a strong emphasis on professionalism, hierarchy, and the regulation of the civil service according to public law (Mikalauskas 2007).

Nevertheless, it is difficult to agree with the conclusion reached by researchers from Denmark that, of the three Baltic countries, Lithuania “comes closest to the organic vision of the state–society relationship”* (Norgaard and Skovbakke Winding 2005). In fact, the opposite assertion might seem more truthful: state estrangement from society in Lithuania was sustained not only by the *nomenklatura* administrative tradition and by the authoritarian regime of President Smetona in the interwar independent Lithuania, but also by the heritage of the empire of Russian tsars, to which Lithuania belonged in the nineteenth century. In comparison to the other Baltic states, it is important to note that the Lithuanians had less administrative autonomy in the Tsar Empire, were culturally and religiously oppressed, and

* By the state–society relationship, the Danish researchers mean primarily trust in government institutions, the involvement of citizens and interest groups in official decision making, and the harmonization of various interests.

in general evaluated the Russian Empire as an “alien” state. Presently, the level of separation between the civil service and society in Lithuania is illustrated by the findings of quantitative representative surveys conducted in 2003 and 2008, which demonstrated that the second most distrusted professional group after politicians was civil servants. Overall the social status of the civil service in Lithuania is very low. Only 5.9% of survey respondents in 2003 and 6.6% of respondents in 2008 wanted their children to become civil servants. Of all 12 new members of the EU, Lithuanians are the most skeptical about the civil service (Vaidelytė and Žvaliauskas 2010). Distrust of the civil service and state institutions may be partly related to the Soviet legacy. Palidauskaitė (2006) comments,

[Lithuanian] societal traditions require taking care of the family and relatives and fostering friendship, but do not demand the respect to the State, its property and the related institutions and officials.

With regard to the interaction of the civil service and society, an interesting distinction is proposed in the literature between a “societal model” and a “professional model” of such relations. In European countries that utilize the “societal model” (France, Spain, Portugal, Greece), the civil service is held to be very important not only functionally but also socially. In these countries, the civil service is viewed as an instrument of social promotion and social prestige. It seems appropriate and meaningful to interpret this relationship as “organic.” In countries that employ a “professional model” (Denmark, the United Kingdom, Sweden, and to some degree Germany and the Netherlands), civil servants are mostly seen as professionals and evaluated in society very similarly to private sector employees (Rouban 2007). An important characteristic of the societal model is

the demand for civil service positions is greater than the supply while it is the opposite in the professional model since the private sector offers better positions and career opportunities. (Rouban 2007)

In the case of the Lithuanian civil service, the “professional model” is a more appropriate label than the “societal model.”

In the academic literature there are some attempts to clarify the role of legalism or the legal dimension in the Soviet system of public administration and in the *nomenklatura* administrative tradition in Lithuania. As Vanagunas (1995) observes,

Communist societies never developed true formal systems of law. Soviet law, for example, even in its purest form had the character of a coercive instrument for the safeguarding of Party interests. In its ordinary, everyday manifestation, the law of the USSR was nothing more than a set of changing, often-arbitrary decrees intended to expedite a variety of Party-directed policies and programs.

Nevertheless, it is important to note that cited observation emphasizes the true character of the Soviet legal regulation of public life, but legal regulation in itself was rather extensive and present. Legal regulation had a meaningful role in social life and public administration, even if that role was mostly to provide legitimization, when formal rules followed decisions already made and had to legitimize those. Legal regulation could also be easily changed or simply circumvented when necessary. There is a well-known attitude in Soviet bureaucracy that expresses a

fundamentally manipulative mind-set: “knowing how to lean on bureaucratic rules” (Ivanauskas 2006). This meant that the formal rules could easily be changed according to the wishes of top *nomenklatura* officials and as a result, administrative voluntarism* behind the mask of formal legalism was a reality. Administrative voluntarism, for instance, technically expressed itself in the phenomenon, well-known during the Soviet time period, called the “telephone law,” when legal acts were temporarily suspended or overridden in favor of highly ranked officials’ personal wishes, usually expressed via the telephone (Paliduskaitė 2007). Vitalis Nakrošis has pointed out that legal formalism as the dominant feature of (the legal dimension of) post-Soviet public administration poses a problem that must be overcome in creating modern policy-making structures. Nakrošis (2003) states,

Under the communist administrative system, characterized by an excessively hierarchical and legalistic nature, officials were primarily concerned with carrying out formal orders rather than implementing their substantive provisions.

Somewhat paradoxically, the EU has used and strengthened legalistic public administration in Lithuania. This was necessary because during the accession and integration process a significant amount of EU legislation (*acquis*) was transposed and adapted to the national legal basis of Lithuania. Many new regulatory agencies were created in Lithuania to ensure the enforcement of the transposed legislation (Nakrošis 2003). When stressing the importance of “the rule of law,” the EU did not consider the impact or side effects of introducing and enforcing EU law in a country (or countries) that had developed mechanisms of legal formalism and manipulative legal behavior[†] during the Soviet period. At the present time there is not enough research to measure the extent of how widespread manipulative legal behavior currently is. There are only some indications of such practices, even in the spheres that have changed radically since the Soviet era. For instance, strategic management and quality management, as well as other elements of performance management, were introduced into Lithuanian public administration in the 2000s. However, influences from the Soviet heritage can be seen in these new practices. Strategic planning is considered by some institutions to be mainly a formal documentation process, needed mostly in order to demonstrate accountability. As Nakrošis (2008a) asserts,

* What is meant here by administrative voluntarism is that decisions were frequently made in the Soviet system only by the will (i.e., the wishes) of high-ranking officials and without paying any attention to public interest or public opinion, rule of law, serious policy considerations, etc.

[†] Herewith are some examples of manipulative legal behavior rooted in the Soviet heritage. One example is from civil service recruitment. There is a competitive selection process for civil service positions. But requirements for a concrete civil service position may be constructed by interested persons and with the approval of the head of institution in such a way that they only fit a certain person already known in advance and unofficially already chosen. Requirements may be, for example, an MA in law and a bachelor’s degree in economics, knowledge of Italian as a foreign language, and more than 5 years of work experience in tax administration. The combination of similar narrowly defined requirements can be arranged having a certain candidate in mind, which has happened and has been revealed by mass media sources. Another example comes from the sphere of various permits administered by the officials of government institutions. Due to existing contradictions or holes in the law, frequent changes in laws are used by allegedly corrupt officials to serve the interests of certain businesses. But it is nearly impossible to prove anything because in a formal–legal sense they are faultless. The officials also emphasize that they have paid attention to all the requirements of law. Permits to build houses in a state protected natural area or to radically reconstruct a historical building (typically in the old area of the center of town) are given utilizing legal manipulations.

Institutions executed their plans, on average, by 140 percent at the level of results and 125 percent at the level of products* The 2006 plan according to assessment criteria was executed, on average, by 132 percent at four of Lithuania's ministries (Ministries of Social Security and Labor, Education and Science, Health and Culture). However, these excellent results are not actually realistic. The administrators of allocations are playing a game: the annual plans are consciously developed to a lower degree so they can be exceeded. Since there are no financial or other penalties for unfulfilled plans, such behavior can be explained by features of the post-communist culture.

Reliance on extensive legal regulation as the foundation of public administration gained most favorable ground in post-Communist Lithuania perhaps because of the great social and economic instability in the times of rapid and massive changes. Several years after entry into the EU, the attitude that prevailed among Lithuania's civil servants was that knowledge of legal regulations and legal control is the foundation of public administration. Interviews with civil servants who participated in training courses to improve their qualifications indicated that, in their opinion, the most beneficial training was relevant to Lithuanian laws and the applications of legal acts (Pivoras 2010). In general, the legalistic attitudes of Lithuanian civil servants are similar to the attitudes of civil servants in Italy, where almost every attempt by politicians to change the behavior of civil servants only strengthens their legalistic attitude. Procedures thus become slow and inefficiency increases (Lewansky 2000).

7.2 Political and Economic Reforms

On March 11, 1990, Lithuania declared and thereby restored its forcefully and illegally destroyed independent statehood. This declaration became a reality within a short period of 18 months, when the failed coup of August 1991 released the Baltic states from the Soviet Union's embrace. At this time the USSR itself ceased to exist and foreign countries reestablished diplomatic relations with Lithuania and other Baltic states. The moment of bliss surrounding this historical achievement was short-lived. The enormity of the challenges of social–economic transition weighed heavily on the newly independent state.

At the end of 1992, the democratic Constitution of Lithuania was adopted, which led to a major overhaul of the Lithuanian political system and the creation of procedural democracy. Lithuania granted citizenship to all residents in the territory of Lithuania in 1989. Considered the zero option, citizenship of newly independent Lithuania was defined territorially, not ethnically (Lane 2001). When compared with the other Baltic states, this is a paradox, because the zero option meant not applying the logic of statehood restoration to the national citizenship policy. Restoration logic was applied in the reinstatement of potential Soviet nationalized property to original owners or their descendants. According to the constitution, the regime of the parliamentary republic was created with the center of power in the Lithuanian Parliament—the *Seimas*.

* According to the Methodology of Strategic Planning, which is legally obligatory for all central government institutions in Lithuania, there are 3 main types of indicators to measure the achievement of strategic and annual activity aims. These are indicators of output or product (immediate result), result (intermediate result) and outcome/impact or effect (long term result) So, for example, in the training of civil servants the products are training seminars, lectures and other training forms, the results are the knowledge and abilities attained by civil servants during the training and the effect is the applied knowledge and abilities of the civil servants in the public administration (i.e., the increased quality or performance of public administration).

In 1992, heated debates regarding the institution and powers of the president resulted in a compromise—the president would be directly elected but would possess rather modest powers. The president of the republic was responsible for shaping and implementing foreign policy.

Political parties first began to appear in 1989, when the one-party (Communist) monopoly was abolished. In 1992, a multiparty system was already functioning well in Lithuania. Since 1994 it has evolved from a purely confrontational model toward a more consensus-oriented model: unstable cooperation relations replaced confrontations among parties (Jankauskas and Žeruolis 2004). Until 2000, all Lithuanian governments enjoyed absolute parliamentary majorities, which, moreover, were actually single-party majorities. No party won a clear majority in the 2000 parliamentary elections and as a result, the party system began to change. Coalition politics became an indispensable element (Jankauskas and Žeruolis 2004).

The EU has exerted a very strong influence on Lithuania's political and economic development during the last 15 years. Since 1995, when Lithuania officially declared its intent to join the EU and signed an association agreement, the accession process has had a major impact on shaping the state-building effort in Lithuania. Formal negotiations on the terms of membership started in early 2000, and the accession process was completed in 2004 when Lithuania became a full member of the EU. Lithuania's accession to the EU and its first years of membership positively facilitated the development of state capacity in general, as well as the creation of a more effective administrative system. Both factors created and sustained favorable conditions for growth of the Lithuanian economy. Nevertheless, there are some ambivalent path dependencies brought to life by the accession process. On the one hand, the EU demanded adequate policy making, especially in administrative capacities, and supported their development. But, on the other hand, this did not always lead to independent strategic thinking and acting by policy makers in Lithuania. As Danish researchers have asserted, Lithuania, as well as the other accession countries from the post-Communist world,

tend to focus on day-to-day administration instead of long-term planning and development. This is partly because they want to live up to the EU-accession criteria and therefore prioritize measures aimed at meeting these criteria in the shortest possible period of time. (Drengsgaard and Hansen 2004)

Lithuanian researcher Nakrošis (2003) notes the same trend from a policy-learning perspective:

In essence, the skill of facilitating 'policy management,' important for the transposition of the *acquis* [EU legislation], was preferred over the development of 'policy entrepreneurship' skills.

Major economic reforms in post-Communist Lithuania were based on the transition from a centrally planned economy to a market economy. Privatization was the backbone of this transition and was executed in two stages (Samonis 1995). The first stage, initially planned to end by 1992, included the use of vouchers or investment checks and lasted from 1991 to 1995. The second stage, which took place between 1996 and 2003, included the use of cash. During the first stage, vouchers were distributed to all citizens of Lithuania according to the number of years spent in the labor market. Initially, physical persons or groups of individuals were permitted the use of vouchers, but not long thereafter joint-stock investment companies were legalized. The legalization of joint-stock investment companies allowed individuals to accumulate vouchers and with their help gain ownership of large enterprises.

During the first stage, 30% of all state-owned property was privatized. The biggest objects were privatized by 1994 (Čiburienė 2000). After the second stage, more than 80% of all property previously owned by the state during Soviet times was in the hands of private owners. Privatization encompassed not only state-owned enterprises and other big objects but also real estate. A sizeable part of the real estate (more than 80% of the total) was transferred into private ownership (Aleksienė and Bagdonavičius 2006). The majority of citizens used vouchers in order to privatize flats or other types of housing. Privatization went hand in hand with the process of restitution of private property, which was nationalized after the inclusion of Lithuania into the USSR. Most of the total land ownership was reinstated to private owners.

The post-Communist economic transformation occurred on an unprecedented scale and created many social and political tensions. Inflation reached more than 1000% in 1992, unemployment levels increased rapidly because of privatization and trade and industry restructuring. Enterprises established to work for the Soviet Union market went bankrupt. Unemployment climbed to 17% between 1995 and 2000. Social differentiation increased dramatically, and 16% of Lithuanians lived below or near the poverty level (Stankevičius 2009). Labor emigration began on a large scale. Migration saldo (net migration) has consistently been negative since 1990. Between 1995 and 2010, only 14 countries belonging to the UN had worse migration saldo numbers than Lithuania (UNDP 2009). All these factors paved the way for political forces to attempt to slow down the radical transformation of the economy or at least to use the opportunities created by the transformation for their own purposes. Lithuania became the first post-Communist country where, after initial disruption, ex-Communists returned to power by democratic elections in 1992. They did not stop reforms, but they created favorable conditions for former Soviet *nomenklatura* privatization. Large enterprises and other important objects were transferred to former state enterprise directors and other ex-Soviet officials (Samonis 1995, 1998).

A functioning market economy in Lithuania was created during the first years of independence, when economic growth began. GDP has increased steadily since 2000 and its rise was only severely affected by the recent recession, as Figure 7.1 illustrates.

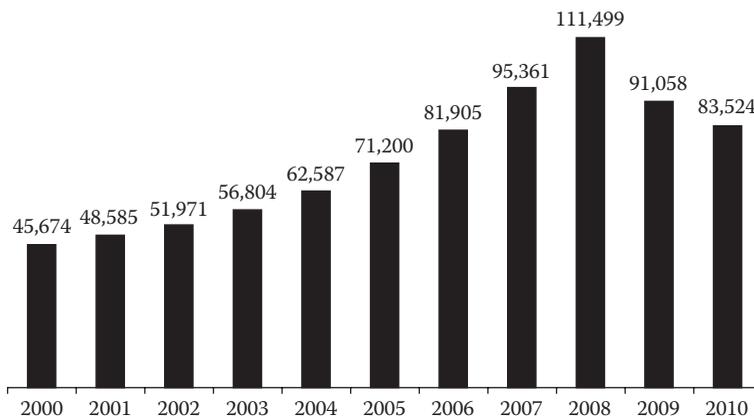


Figure 7.1 Dynamics of GDP in Lithuania (millions of litas). On January 11, 2011, 1 litas (LTL) was equivalent to US\$0.38. (From Ministry of Finance of the Republic of Lithuania. <http://www.finmin.lt>, retrieved on January 11, 2011.)

7.3 Civil Society and Its Development

Civil society development in Lithuania is historically rooted in the modernization phase of the Russian empire. At the end of the nineteenth century, a national Lithuanian movement based in the peasantry emerged. This movement, aimed at legalizing the linguistic and cultural rights of Lithuanians in the Russian empire, expressed itself through the creation of private schools, as well as theatre societies. These activities were considered illegal by the authorities, but nevertheless the number of their participants instantly grew (Hroch 1985). Civil society had more favorable conditions for development during the interwar period of Lithuania's independent statehood. The authoritarian regime of President Smetona did not suppress the activities of nongovernmental organizations. However, the regime tried to constrain them from functioning by introducing a corporative system. During Soviet times informal networks of "creative intelligentsia" existed. These networks laid the ground for the emergence of mass movement(s) during the period of perestroika.

The mass reform movement *Sąjūdis* mobilized people for social and political reforms and led Lithuania into the restoration of independence. It was, in essence, a political movement, but it also embodied the idea of civil society and stimulated the creation of civic relationship networks. Between 1988 and 1990, *Sąjūdis* created an impressive organization containing territorial and support groups throughout Lithuania and around 200,000 active participants in the movement. More than 1000 local groups were created (Bartkevičius 2010).

Since 1991, Lithuania has been categorized as a "free nation" according to Freedom House surveys, which measures the degree of democracy and political freedom in every nation (Ramonaitė 2005). There are many formal channels for citizens to influence the decision-making process. Traditional and conventional forms of political participation exist, including the right to vote, to petition, to lobby, and to contact representatives in Parliament. The right to petition was initially formalized after the Law on Petitions was passed in 2000. In principle, a petition can be directed to Parliament, as well as to any central or local government institution. There are some technical requirements for an application to be approved as a petition.

Any citizen may submit a petition. Thus citizens can initiate the adoption, modification, or invalidation of almost any legal act, with some exceptions. Despite the existence of the right to petition, this opportunity is rarely used. Between 2000 and 2003, the Parliament of Lithuania received 122 applications, 30 of which were approved as petitions. Of the 30 approved as petitions, only 2 became the basis for new laws. In 2008, three new laws were drafted on the basis of received petitions (Janeliūnas 2009).

The Lithuanian mass media significantly contributed to the freedom and independence movement that occurred between 1988 and 1991. The mass media has remained free and has functioned as an active "fourth power" ever since. According to public opinion surveys, from 1990 onwards, the mass media has enjoyed the highest levels of public trust in Lithuania besides the Catholic Church (Ališauskienė 2006). Most media companies are private Lithuanian companies, but there is no media ownership monopoly. There are at least five or six private Lithuanian media companies of about the same size and influence (Juraitė 2008). As a small country, Lithuania can generate only limited revenue from an advertising market. Therefore rather large numbers of companies compete for the same limited advertising market and thus cannot assure the best media quality; however, the nonexistence of media monopolies is favorable for the preservation of democratic diversity. According to the Press Freedom Index, Lithuania ranked 16th in 2004, and in 2010 shared (the notably high) 11th place with Denmark and Japan (Reporters without Borders 2010).

An important aspect of civil society in Lithuania is the nongovernmental sector. Between 1988 and 1996, the number of nongovernmental organizations engaging volunteers increased sevenfold. According to a survey conducted in 1998, women took part in volunteer activities twice as much as men, while students and pensioners made up the largest percentage of volunteers (Butkuvienė 2005). However, the nongovernmental sector is still underdeveloped in Lithuania. Its role in the provision of public services has increased but remains rather limited. About 80% of Lithuanian citizens are not members of nongovernmental organizations (Laurėnas 2003). Between 1999 and 2005, the number of citizens who were members of NGOs and actively participated in their activities changed insignificantly, increasing from 16% to 17% (Palidaukaitė and Ibenskas 2007).

According to the U.S. Agency for International Development (USAID) NGO Sustainability Indexes, NGOs in Lithuania are in the consolidation phase, the third and final phase of development. Statistics presented on the number of Lithuanian NGOs are unreliable. USAID concluded that only 4,500 of the approximately 15,000 officially registered NGOs in Lithuania are active (USAID 2008). Lack of organizational capacity and funding were pointed out by USAID as important obstacles to NGO development in Lithuania in recent years. Many NGOs focus on projects instead of long-term strategies. The lack of funding sources was felt immediately by the withdrawal of some previously important donors, such as the Soros Foundation. EU Structural Funds are the most important funding source for NGOs in Lithuania at the moment, but to receive funding NGOs must compete with the commercial sector and also find cofunding. Municipal funding is also important; however, this type of funding is typically distributed according to political favoritism. Better interaction between government institutions and the nongovernmental sector may be stimulated by a proposal to the Ministry of Internal Affairs to expand its functions and establish a structural division of NGO affairs to be the lead agency for state policies related to NGOs. This idea has not been realized thus far (USAID 2009). The government regularly consults NGOs for their views and expertise. However, the information-seeking process is often conducted very hastily and NGOs are often forced to study piles of documents almost overnight, before an important decision is to be made. Very few organizations, such as the Lithuanian Confederation of Industrialists, can afford a staff member to actively participate in policy making (USAID 2008). The image of NGOs is still not very attractive in Lithuanian society. Based on the results of an August 2009 survey, a little more than half the population (53%) does not know what an NGO is and 43% cannot name a single NGO (USAID 2010).

Since 2007, the Civil Society Institute in Lithuania has announced its Civic Empowerment Index, annually based on quantitative representative surveys. The Civic Empowerment Index consists of the following four dimensions: civic activeness, potential civic activeness, conception of civil society's influence, and civic activity risk assessment. Society's civic activeness is understood as forms of political participation (membership in a political party, participation in a demonstration), community actions or social solidarity (voluntary works, charity), institutionalized and traditional forms of participation (participation in public organizations), and new and nontraditional forms of civic activeness (Internet-based civic campaigns and politically motivated boycotts). According to 2007 survey data, 40% of Lithuanians do not participate in civic activities. However, the majority of Lithuanian citizens participated in charitable activities in 2007. One-third of the respondents (31%) said they had volunteered in a cleanup of surrounding areas, slightly less than one-fifth (17%) declared they had participated in the activities of the local community, and one-tenth (11%) had notified state institutions of law violations (Civil Society Institute 2008). In 2010, the Civic Empowerment Index of Lithuania increased slightly. Fifty-six percent of respondents reported participation in charitable activities in 2010 and 34% said they participated in the activities of the local community (Civil Society Institute 2011).

7.4 Human Resource Management

Reform of human resource management in the public sector occurred from the first days of the country's independence. The formal creation of the model of civil service began in 1995 when the Law on the Officials of the Republic of Lithuania was passed. The Law on Officials

had the spirit of the old Soviet nomenclature. The term "official" used in the law implied the idea of ruling and governing but not serving the public. (Palidaukaitė 2006)

At that time, one of the classical problems in organizing a public bureaucracy arose: the apportionment of political and administrative expertise and responsibility. In 1994, the Ministry of Government Reforms and Municipal Affairs was created, which was responsible for the civil service in Lithuania. The Lithuanian Ministry of Government Reforms officially declared in 1996 that

it is necessary to form a corps of professional managers which will assure the succession of the work of State management institutions and municipalities, political neutrality, effectiveness, public disclosure, flexibility and a high quality of provided services. (Ministry of Government Reforms and Municipal Affairs of the Republic of Lithuania 1996)

Various experts from international organizations abroad, starting with EU experts, emphasized the promotion of bureaucratic professionalism and the reduction of politicization. The European model of public bureaucracy, sometimes referred to as Weberian, or the model widely known as civil service, was selected when Lithuania began to prepare for EU membership. This model was formally established in 1999 with the ratification of the first Law on Civil Service, which took effect in 2000. The civil service was formally separated from politics and conditions were formed for its professionalization. Experts of the United Nations Development Programme (UNDP) noted that Lithuania's politicians did not have a clear vision of strategic reforms in public administration and the civil service during the initial stages (UNDP 2003). The scholars of Lithuania make a similar assertion (Nakrošis 2001b). A comprehensive Law on Civil Service was passed in 1999 and implemented in 2000. To a large degree, the law conformed to the requirements for EU membership, but there was simply not enough national expertise in the areas of public management and public service in Lithuania at the time. There was an opportunity for outside influences, primarily international and EU experts. From the start of civil service development in Lithuania, the Weberian model was strongly advocated. This model assumes a strict division between the spheres of politics and administration. Francisco Cardona, Principal Administrator of the EU's PHARE (*Pologne et Hongrie: assistance à la restructuration des économies*) Program for Public Administration Reforms in Lithuania, was responsible for drafting Lithuanian civil service law. Cardona asserted that such a law must be based on the public administration tradition of Continental Europe as well as of Lithuania during the period of the first independence, which had spun off from the Prussian and Napoleonic concept of the state (Židonis 2007).

The Law on Civil Service (1999) clearly reflected an orientation toward the depoliticization of the civil service and the establishment of professionalism in the field. Both trends are reflected in the names of job titles of specific positions in the civil service, including "specialist," "senior specialist," and "chief specialist." In 2002, the Social Democrats, the newly formed parliamentary majority, adopted numerous amendments to the Law on Civil Service.

A probationary period, once obligatory for first-time appointments to civil service careers, was abolished. Additionally, previous work experience in the civil service was eliminated for appointments

to the highest positions. Thereby the system of recruitment into the civil service was modified. Conditions were formed so young people could more easily enter the civil service. However, this change was a formality and the real intent, concealed between the lines of these amendments, was to create favorable conditions for entry by former political appointees (vice-ministers and the like), most of who had not served any length of time in a civil service career (Brožaitis 2002).

That same year, all of the necessary secondary legislation needed to duly implement the law was passed. One specific piece of legislation established individual performance evaluation procedures. According to the Law on Civil Service (*Seimas* of the Republic of Lithuania 2010), there are four main groups of civil servants in Lithuania:

Career civil servants: civil servants admitted to the service on the basis of competition for an indefinite term and with an opportunity to seek a higher or a different position in the service in the prescribed manner. There were about 29,000 career civil servant positions in 2010.

Statutory civil servants: civil servants or public employees including customs officers, police officers, controllers (auditors), diplomats, employees of the civilian national defense service, and employees of the Bank of Lithuania whose status is defined by a separate law or a statute. There were approximately 25,000 statutory civil servant positions in 2010.

Civil servants of political (personal) confidence: civil servants admitted to the service for a position included in the list of positions of civil servants of political (personal) confidence approved by the *Seimas*. There are a limited number of civil servants in this group. There were just 876 positions in this group in 2010.

Heads of institutions: civil servants appointed on the basis of competition or by political (personal) confidence to a position of the head of a state or municipal institution. There were 401 of these positions in 2010.

The total number of civil servants grew during the 2000s, which can be seen in Figure 7.2.

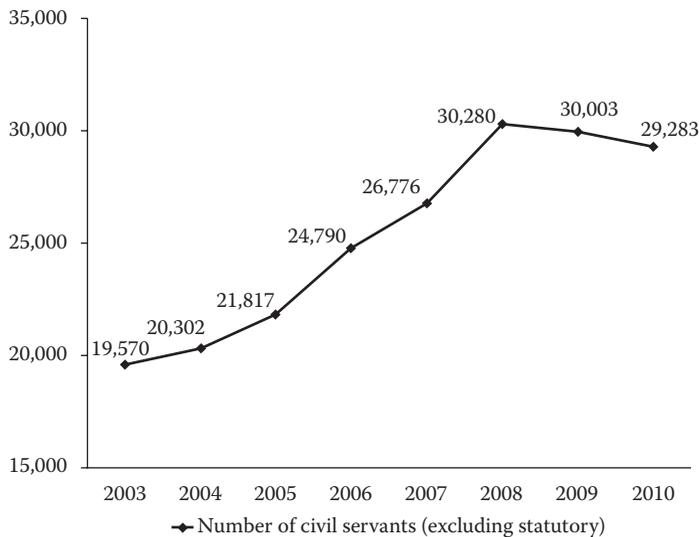


Figure 7.2 Civil servants (excluding statutory) in Lithuania. (From The Department of Civil Service, <http://www.vtd.lt/>, retrieved on July 7, 2011.)

There are also temporarily employed civil servants. However, a significant portion of civil service personnel in central and local governments has consisted of individuals employed by labor contracts. These individuals do not have the same status as traditional civil servants. As in the private sector, the Labor Code regulates their employment conditions. Many of them work in positions formally connected with the right to legitimately use administrative powers of state. Their job descriptions are the same as those of civil servants. The number of labor contract civil servants has grown consistently. By 2008, there were almost as many as labor contract civil servants as career civil servants. The practice of filling civil servant positions with individuals employed on labor contracts demonstrates the need for more flexible employment. This practice has also been connected with budgetary constraints. For example, an employee working on a labor contract usually earns a salary that is considerably lower than a career civil servant's salary. At the same time, it devalues civil service employment. It also creates confusion over how civil servants differ specifically from private sector workers.

In general, management of human resources in Lithuania's civil service is very centralized. Selection and appointment, and classification of staff, career, and remuneration procedures, are regulated in a very detailed way by the Law on Civil Service and by secondary legislation passed by Parliament or government. Civil servants in the local government are managed in accordance with the same legal regulations that apply to the central government. Lithuania has an integrated civil service system* with a single legal, institutional, and financial framework. During the accession to the EU, an integrated system of civil service was rather unique to Lithuania; at first no other country in Central and Eastern Europe utilized such a system (Verheijen 2002).

Recruitment to the civil service is based on a system of open competition. Anyone who meets the requirements for a vacant position in the civil service may apply. Position requirements are outlined in the job description. Appointments to the career civil service as well as to statutory services are made by way of competitive selection procedures. The same selection procedures apply when making the selection for the basic and senior career civil service positions. Selection procedures for career civil servants include a two-part civil service exam consisting of a written test and an oral interview with a selection board.

The real process of recruitment and selection is partly decentralized, because most selection commissions are formed in the institutions and from their staff. Employment by competitive selection to career civil service positions has grown since 2004 and only the recent economic recession has reversed this trend, as can be seen in Figure 7.3.

Competitive selection procedures are formally very strict, but in reality there are cases when these procedures are circumvented. It is difficult to measure the degree of transgression of these procedures. However, a few examples based on surveys conducted by the Lithuanian division of Transparency International illustrate some of the indiscretion. A 2005 survey asked whether participants believed civil service employment in Lithuania is corrupt. Forty-seven percent of those surveyed who were employed in the civil service reported it was partly corrupt, 22% believed that civil service employment was very corrupt, and 27% stated it was not corrupt at all (Transparency International Lithuania 2005). According to a 2007 survey, 42% of those surveyed that were employed in the civil service responded positively when asked whether they used friends or family members during the employment process (Transparency International Lithuania 2007).

* One type of civil service system is where local government employees are wholly covered by the same civil service legislation as civilian central government employees and the system is managed in a very centralized way. It has also been termed an "integrated civil service system" by some researchers (Verheijen 2002).

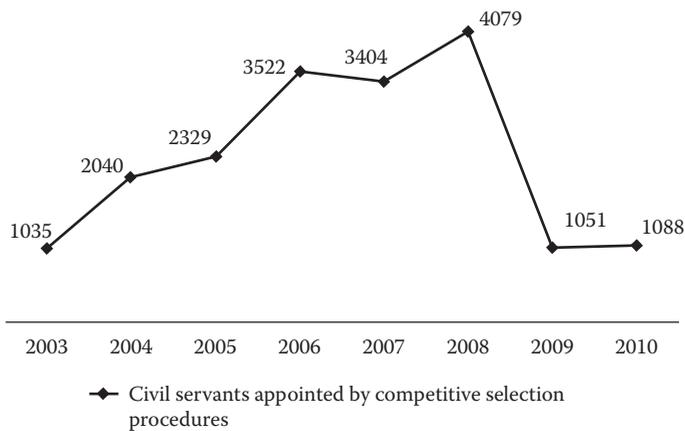


Figure 7.3 Appointment of civil servants by competitive selection. (From The Department of Civil Service, <http://www.vtd.lt>, retrieved on July 7, 2011.)

Despite the fact that each survey used a random sample of the general population and the selection of answers from only a specific portion of the respondents may cause distortions, the data presented speak of the lack of transparency in the competitive selection of civil servants. There is some specificity in the content of the written civil service exam, which can be used for circumventing real competition and for falsifying test results. Traditionally the tests are multiple choice and consist of 100 questions. Civil service exams only assess an individual's knowledge of legal acts, particularly those regulating the public sector in Lithuania. Additionally, the answers to most questions are publicly available.

Transparency is not the only problem with such types of (written) exams. Legal acts are easy to learn mechanically, but such knowledge is not always the most needed qualification in civil service jobs. The results of the written exam can be corrected by the oral interview, but there are no guarantees, because selection boards are not composed of personnel selection experts or specially trained civil servants. The Civil Service Recruitment Procedure establishes a civil service selection commission of five to seven members. It may formally include anyone except politicians. In fact, it is usually composed of staff from the same institution in which an individual is applying to be a career civil servant. As noted by a former director of the Department of Civil Service,

It is impossible to avoid subjective assessment where the selection commission directly communicates with the applicant and where there is some interest in a specific candidate. (Šarmavičius 2006)

Merit-based selection is still not without problems in Lithuania's civil service. In 2002, the practice of individual performance assessments was introduced and applied to the civil service. Assessments are organized annually and consist of two distinct steps. First, a line manager conducts an assessment. If the evaluation is exceptional, an assessment by a special performance appraisal commission takes place. Promotion decisions are based on the results of performance assessments. Performance bonuses were also introduced in 2002. These performance bonuses were allocated according to assessment results in conjunction with or as an alternative to eventual promotion for the best performers (Gustas 2003; Pivoras and Dapkutė 2004).

Until recently, Lithuania has used five performance appraisal factors and a performance appraisal rating scale of 1–4. Appraisal factors included workload, quality of the performance shown, complexity of the performance shown, individual abilities and skills to meet the requirements of the job, and communication and cooperation. The rating scale consisted of not satisfactory, satisfactory, good, and very good. One of the major challenges of the performance appraisal process is the fact that the composition and quality of the work of performance appraisal commissions and the transparency or fairness of their decisions may be called into question. At the end of 2010, a government decree to improve the performance appraisal process was issued. The new performance appraisal procedure envisions the establishment of performance target agreements at the beginning of the year, the modification of performance appraisal factors (a few are directly related to the achievement of agreed performance targets) and the development of checklists to assist with the evaluation of factors (Government of the Republic of Lithuania 2010). It remains to be seen whether these technical–methodological innovations in the performance appraisal process will help.

No improvement in the actual work of appraisal commissions has been planned thus far. For example, special training for future commission members has not been considered. In Lithuania, the core civil service group has been named “career civil servants.” Career civil service elements predominate in the Lithuanian civil service. But after the adoption of the Law on Civil Service, doubts may arise as to whether career management in the “career civil service” has been effective thus far. Job security, which is inscribed in the law, is highly limited. Recruitment by way of open competition is possible not only for entry-level positions but also for higher-level servants. Previous work experience in the civil service may not be required. These conditions distinguish a position civil service system from a career civil service system. In a career civil service system, recruitment and initial appointment are only possible at the lowest positions and grades (Bossart et al. 2001).

Performance assessment commissions rarely offer promotions. It is unclear whether so-called “qualification classes” can be considered a career development tool. The qualification ranks that were introduced in 2002 and were officially named “qualification classes” do not relate to new positions or new levels of responsibility. They are simply designations for salary bonuses. Bonuses are very substantial overall and can reach up to 50% of an employee’s base salary. A qualification rank is given following a performance assessment. However, the procedure itself and its outcome—a salary bonus—are more like an instrument for compensation according to performance than a career development tool. But “qualification classes” came to be understood mainly as career development tools by the civil servants themselves because of the lack of other career channels. Perhaps more important is the fact that qualification ranks were not given in a proportional and continuous way. They did not realize a sequential and merit-based career path for all who deserved it (Pivoras 2008, 2010).

7.5 Financial and Budgetary Management

The system of state taxes was developed after the restoration of independence. By 1990, the corporate income tax was introduced. One year later, its rate was reduced from 35% to 29%. It was further reduced to 24% in 2000 and to 15% in 2002. The Lithuanian corporate tax rate remains at 15% today. Lithuania has taken a very competitive position in comparison with other EU countries. When Lithuania joined the EU, the corporate income tax rate was 6.5% lower than the average of “new” EU countries (EU-10) and 16.4% lower than the average of “old” EU countries (EU-15). Compared with the average of the entire EU, Lithuania’s corporate tax rate was 12.4% lower (Budryté 2005).

Table 7.1 Structure of Taxes and Levies, Administered by the State Tax Inspectorate, 2010

<i>Tax</i>	<i>Percentage</i>
Value-added tax	70.3
Personal income tax	4.2
Excise	16.1
Corporate income tax	1.5
Property transactions tax	0.9
Special means	1.8
Other revenues	5.1

Source: State Tax Inspectorate, <http://www.vmi.lt/en/>, data retrieved on January 11, 2011.

Value-added tax (VAT) was introduced in 1992. It rapidly became a major source of budget revenue. The amount of revenue from VAT increased more than 15 times from 1992 to 2003 (Buškevičiūtė 2008). VAT is one of the most important budget revenue sources. Before the economic recession, it was one of the most efficient taxes in terms of generating more revenue than planned (Lukoševičius and Stankevičius 2006). In 2009, the VAT rate was increased to 21%. Flat personal income tax was introduced in 1995. In 1997, a tax rate of 33% on personal income was introduced. At that time it was the highest of the marginal rates. It was then reduced several times, mainly in order to stimulate internal consumption. Recently, in 2008, the personal income tax rate was reduced from 24% to 15%.* Personal income tax is collected through automatic salary withholdings. The State Tax Inspectorate collects the majority of all taxes. The main tax structure, administered by the State Tax Inspectorate in Lithuania, is shown in Table 7.1.

Exemptions applied to various sectors and target groups are some of the major problems with Lithuania's tax system. The International Monetary Fund estimated that a revenue gain from eliminating tax exemptions in Lithuania could constitute about 1.5% of the GDP. According to the Lithuanian Ministry of Finance, in 2007 the impact of the VAT and income tax exemptions was about 4% of the budget revenue (Nakrošis 2008b). Most tax exemptions were abolished at the end of 2008 by a new ruling coalition that formed after ordinary parliamentary elections. The payroll tax, at a rate of 34%, which includes only contributions of the employers, is administered by the State Social Insurance Fund and paid directly to the budget of that fund. In total there are five institutions charged with the administration of taxes: the State Tax Inspectorate, the Customs Department, the State Social Insurance Fund Board, the Ministry of Environment, and the Ministry of Agriculture.†

The National Audit Office (State Control) is responsible for external audits of every public sector institution in addition to audits of all central government bodies. Every year the National

* This was partially a formal reduction, because 6% of former personal income tax from 2009 constitutes separately paid obligatory health insurance tax. For taxpayers the real reduction was thus only 3%.

† There are some specific taxes that are administered (collected) by these line ministries. For instance, the Ministry of Environment administers taxes on environmental pollution and the Ministry of Agriculture administers taxes on sugar production (tax on the purchasing quota of white sugar production, etc.).

Audit Office undertakes approximately 100 financial audits and about 44 performance audits* of public sector institutions (World Bank 2006). The EU significantly influenced the creation of an internal audit system. The EU insisted on the establishment of a system of internal audit within all government ministries and agencies. In 1998, less than half of state institutions had systems of internal control. However, that figure rose to over 90% in January 2001 (Fritz 2007).

Lithuania has managed budget deficits since 1994. The deficit has significantly increased during the economic recession, reaching nearly 6.5% of the GDP in 2009. Various measures to reduce the deficit were discussed by government and Parliament. The introduction of a tax on immovable property for individuals was considered. According to the World Bank, in 2007, Lithuania's property tax revenue as a share of the GDP was the second lowest among a sample of nine new EU members (World Bank 2009). The reduction of tax evasion and the informal economy in general has been somewhat effective at increasing budget revenues. Tax evasion at a rather high, albeit not precisely measurable, level is present and acknowledged in Lithuania. In 2002, it was estimated that the total unreported economy amounted to 31% of the official GDP in Lithuania. The practice of employees receiving "envelope wages," wage income that is not reported to the authorities, continues to be widespread. According to the 1999 World Values Survey data, the Lithuanians were the most tolerant of tax evasion in the entire EU25 group (Meriküll and Staehr 2008).

The budgetary system of Lithuania consists of a state budget, the budgets of the municipalities, and nonbudgetary special state funds including the State Social Insurance Fund of and the State Health Insurance Fund. The size of Lithuanian government expenditures is one of the lowest when compared with all EU members. For instance, in 2006, government expenditures made up 34% of the country's GDP. About half of Lithuania's budget is spent on health, education, and social security. In 2005, 10% of the GDP was spent on social security. Social protection expenditures per capita as well as a percent of the GDP are low compared with most other EU countries. The EU-27 average is more than 25% of the GDP. Estonia spends nearly the same, and only Latvia, Bulgaria, and Romania spend less on social protection than Lithuania (World Bank 2009). Minimal spending on social security provides a partial explanation for why government expenditures are comparatively low.

It should be emphasized that Lithuanian expenditures have grown quickly since establishing EU membership and increased by approximately 65% between 2004 and 2007 (Nakrošis 2008b). EU financial support made up almost one-third of the central government's budget in the fiscal year 2010. The growth of Lithuanian expenditures is not only explained by the financial support provided by the EU, but a growing economy and increasing tax revenues also led to the growth of expenditures. The increase in total government expenditures is shown in Figure 7.4. The data presented include local government.

Program budgeting was introduced in Lithuania in 1998. The goal of program budgeting was to create a 3-year budget and approve it for 1 year. A 3-year budget planning cycle is not yet adequately successful. Preliminary 3-year budget indicators change about 20% every year (Korzunienė 2007). Lithuania's Planned Programmed Budgetary System is a "standard type of PPBS where the Ministry of Finance prepares proposals regarding the availability of funds and then holds discussions with politicians in relation to priorities" (World Bank 2006). Budgetary legislation for the upcoming year is usually passed in December after parliamentary discussions have taken place.

* Performance audits are state audits as well as financial audits. They are carried out by the National Audit Office (State Control). The aim of the performance audit is to evaluate if the audited public institution performs with due respect to the principles of efficiency, effectiveness, and economy, and also to give recommendations for performance improvement.

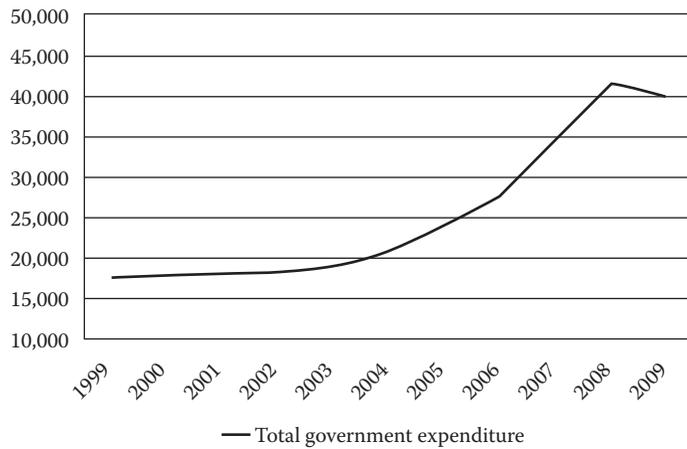


Figure 7.4 Total government expenditure in Lithuania 1999–2009 (millions litas). (From The Department of Statistics [Statistics Lithuania], <http://www.stat.gov.lt/en/>, retrieved on January 11, 2011.)

The main elements of integrated performance and of the budget management system in Lithuania include government priority-setting, preparation by individual ministries of strategic plans to reflect the government's strategic priorities, and requirements for ministries to demonstrate how their budget requests support the government's strategic priorities (Evans 2005). The strategic planning process was introduced in 1999. With the help of Canadian experts, the process was modeled after Ontario, Canada's government strategic planning system. It was fully implemented and integrated in the budgetary process in 2000 (World Bank 2006).

Program-based budgeting is still underdeveloped in Lithuania. A more appropriate label is semiprogram budgeting. Parliament approves the annual budget on a line-item basis by sector. There are more than 500 budget programs in Lithuania. Alternative budget programs are usually not proposed during the annual budget process. Ineffective implementation of the budget program does not usually lead to elimination or serious revision. During the last few years, there has been a decrease in budget programs by about one-third—from 850 to around 500. A decrease in budget programs has been the result of consolidation and functional reviews.

The possibility of more flexibility in managing public expenditures is reduced by the existence of centralized regulatory steering. For instance, the maximum number of staff positions at individual institutions that are accountable to the government are determined by special decrees. Expenditures for staff salaries are outlined separately in the budget plans (Nakrošis 2008c). According to audit results of State Control, objectives of the budgetary programs are not formulated based on clearly defined and measurable results but rather on the implementation of institutional functions prescribed by legal acts (National Audit Office of Lithuania 2007).

7.6 Accountability and Corruption

The Law on the Adjustment of Public and Private Interests in the Public Service was passed in 1997. The law is meant to guarantee adherence to public interests and to ensure that the politicians, public officials, and civil servants take them into account. The law provides a list

of principles including impartiality, honesty, competence, legality, refrain from using official position for personal gains, and equality of all persons. Adherence to these principles was meant to directly correlate with a service for the public interest. The High Commission on Ethics in Public Office was set up to monitor the implementation of the law. The commission's members are approved by Parliament. The commission mostly makes recommendations. After conducting an investigation, the commission may ask the court to issue an administrative sanction to an official who has violated the law. Declarations of interests* of public officials and civil servants should be submitted to the commission after being elected or appointed to the office (*Seimas* of the Republic of Lithuania 2009). Declarations of interest of members of Parliament as well as government and senior officials are publicly available. If suspicions arise, they may be scrutinized with the help of the media. Publicly announced decisions made by the High Commission on Ethics in Public Office can have a real impact, even if they simply confirm or repudiate the existence of a conflict of interest. Publicly announced conclusions about the unethical behavior of certain public officials have forced some of them (including cabinet members) to leave office. For instance, in 1998, after the commission confirmed that the Minister of Agriculture abused his power by utilizing a public plane for private purposes, the prime minister forced him to resign (Nakrošis 2001a). There have been additional cases that have resulted in forced resignation following the decisions of the High Commission on Ethics in Public Office, not only in the central but also in local governments. The commission makes about one hundred decisions a year based on the investigations of the cases brought before it. Over time, the publicity surrounding cases brought before the High Commission on Ethics in Public Office has lost some of its power. Some officials have learned to endure investigations without being forced to resign (Girdvainis 2010).

Ethical Rules for Public Servants were adopted by the Lithuanian Parliament in 2002. Eight key principles of ethics in public office were established in this document, namely: (1) respect for the citizen and the state, (2) fairness, (3) disinterestedness, (4) impartiality, (5) moral propriety, (6) responsibility, (7) transparency, and (8) exemplariness (Paliduskaitė et al. 2010). The Code of Conduct in Public Office was drafted several times in 2003 and 2006 but was not adopted by Parliament. In 2010 a new Code of Conduct was drafted. Despite Parliament's failure to adopt a universal code of ethics for the civil service, individual organizations have adopted institutional codes of ethics for public servants. Lithuania has more than 20 such codes (Paliduskaitė et al. 2010).

During the ex-Communist ruling period (1992–1996), “*nomenklatura* privatization” spread its roots when political figures appropriated companies for themselves and their supporters (Doig 2006). Corruption became a widespread phenomenon during this period of deep transformation and socioeconomic transition. Administrative and political corruption is still one of the major problems in Lithuanian public administration, as indicated by Transparency International's Corruption Perceptions Index. Lithuania has not received a Corruption Perceptions Index rating higher than 5. A rating higher than 5 would demonstrate the achievement of greater transparency. The Corruption Perceptions Index for Lithuania is shown in Figure 7.5.

Surveys arranged by the Lithuanian division of Transparency International revealed one of the main reasons for corruption in recent years was the use of bribes to speed up the slow processes of public bureaucracy (Transparency International Lithuania 2005). There were efforts to institutionalize anticorruption policy and corruption prevention. In 1993, the Coordination

* These documents are termed officially as declarations of interests. In reality these declarations are declarations of private interests, which may conflict with duties in a public service position and should be submitted annually. These are mainly assets declarations of a person and his close relatives, but they can also include other information that may cause a conflict of interest.

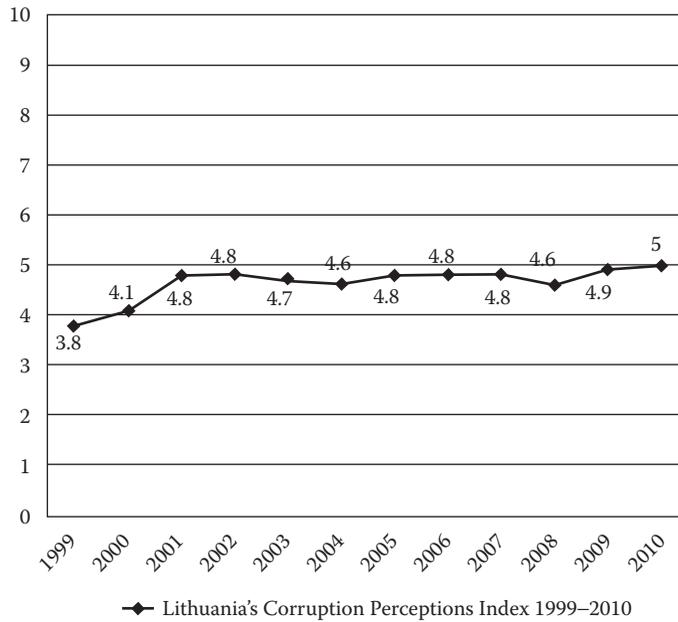


Figure 7.5 Lithuania's Corruption Perceptions Index, 1999–2010. (From Transparency International Lithuania, <http://www.transparency.lt>, retrieved on January 11, 2011.)

Group for the Fight against Organized Crime and Corruption was established under the Office of the President. It achieved no particular result but was considered an important indication of the attention given to corruption problems at the highest state level. In 1997, the Lithuanian Special Investigation Service was created for the purpose of detecting, investigating, and preventing corruption. Initially it was an agency under the Ministry of the Interior. In 2000, the Special Investigation Service was made accountable to the president and the *Seimas* of the Republic of Lithuania, thus increasing its independence (Dobryninas 2005). The Special Investigation Service has wide powers, including the ability to conduct preliminary investigations, to arrest officials suspected of corruption and to carry out searches.

In 2000, the European Commission PHARE Institutional Development Program provided financial support for the drafting of the National Anti-Corruption Strategy of the Republic of Lithuania. Mr. Bertrand de Speville, one of the drafters and a former Commissioner of the Hong Kong Independent Commission against Corruption (ICAC), was an active propagator of anticorruption activities (Dobryninas 2005). According to Dobryninas (2005),

It would be misleading to think that the authors of the National Anti-Corruption Program of Lithuania attempted to directly transfer anti-corruption experience gained by Hong Kong to Lithuania. The Anti-Corruption Strategy and its implementation mechanism contain a number of components approved in other states of the West, such as Great Britain or Canada. Nevertheless, the core idea with respect to the organization and implementation method of the Anti-Corruption Strategy is of “eastern” origin.

The Special Investigation Service was given the responsibility to implement a national anti-corruption strategy. The agency participates in various anticorruption education campaigns.

One may still be tempted to endorse Dobryninas and his mildly expressed doubts regarding the efficiency of a partly “Eastern” model of combating corruption. More active involvement of society and more decentralized management of corruption prevention (i.e., that does not rely solely on the Special Investigation Service) may be helpful.

7.7 Conclusion

The contemporary public administration system in Lithuania was created and developed from scratch after the collapse of the Communist administrative system in the context of massive and unprecedented socioeconomic reforms and transformations. Many external influences were felt during the creation of the institutional structure of public administration and during the construction of the civil service system. The EU played a significant role, particularly during Lithuania’s accession process. Lithuania experimented and decided to merge Canadian and Hong Kong models of administration with European standards in its own system of public administration. Nowadays public administration in Lithuania is functioning in an orderly manner. It assures the provision of services and basic assistance to meet the needs of citizens and businesses. Strategic planning and program-based budgeting provide a framework for rational and satisfactory public policy making.

The civil service in Lithuania is stable, with increasing professionalism of human resources. At the same time, it has developed as a rather closed social group. In general, the civil service is distrusted in society and considered a “bureaucracy.” Management of civil service human resources is in fact very centralized. Lithuania was the first country in Central and Eastern Europe to establish an integrated civil service. Management of human resources in central and local governments is based on uniform and rather detailed legal regulations set forth by Parliament and the government.

Individual performance assessments are improving. Newly introduced individual performance target-setting procedures are appreciated. The effectiveness and fairness of performance appraisals will be dependent upon the work of evaluators and assessment commissions. So far no great attention has been paid to the composition of such commissions or to the special training needs of commission members. This may change with the implementation of reforms to the management of civil service human resources. Generally, more decentralization could be helpful in the long run.

Centralized, and in fact rather inflexible, management of public finances is an obstacle for the full utilization of program and performance budgeting and management. But program management, as well as performance budgeting and management, was rather successfully introduced. Tax evasion is also an important and visible problem, with no easy solution.

One of the most peculiar features of public administration in Lithuania is its clear dominance of legalism. The legalistic culture and legalistic administrative traditions are tied to Soviet heritage, as well as to EU conditionally. The legalistic vector of Lithuanian public administration has positive and negative consequences. On the positive side there is assurance, at least at a procedural level, of the supremacy of law. Because Lithuania utilizes a traditional (Weberian or neo-Weberian) model of public administration, it brings with it a lack of economic or managerial efficiency. A Lithuanian-specific, traditional model of public administration is legal formalism. Legal formalism is an impediment for flexible and open government, as well as for trust in state institutions. Civil society has taken root in Lithuania, but there is still opportunity for future development. Civic empowerment needs to be improved. The nongovernmental sector needs to be strengthened in order to foster additional partnerships in terms of social services. It also must be shaped into an independent actor in the realms of public policy and participatory governance.

One of the major impediments for effective and equitable public administration in Lithuania, especially since its civil society is rather weak in comparison with more developed countries, is corruption. There is a legal basis for ethics and for the priority of public interest assurance in the public service. Special institutions exist for monitoring unethical behavior and for the prevention of and fight against corruption. In particular, there is one institution—the Special Investigations Service—that enjoys wide powers. However, it is not enough to radically change the situation further. More active involvement of society in public governance, and not only in special anticorruption campaigns, may result in positive changes.

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Chapter 8

Public Administration Developments and Practices in Estonia

Georg Sootla and Sulev Lääne

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8.1 Introduction: The Government System in Estonia

Estonia is the third smallest state in the European Union (EU) after Malta and Luxembourg. It is considered a successful post-Communist country because its reforms resulted in the establishment of a well-functioning and open market economy, democratic institutions, and public administration. Estonia regained independence in August 1991. In June 1992, a new constitution was adopted and, in September 1992, a new Parliament (*Riigikogu*) and the president were elected in the first completely free elections. The new government was appointed following the elections. The Constitutional Assembly drafted the constitution. The members of the Constitutional Assembly represented the composition and the attitudes of Estonian society (Peep 1997). When designing the politicoadministrative system, the assembly carefully considered Estonia's historical experience with democracy and the lessons learned from authoritarian rule in Estonia during the Estonian Republic before World War II (1934–1940).

The president of Estonia, the head of state, does not have an executive role. The president is the main guarantor of the constitution, especially during the elections of Parliament and crises, when some branches of government are temporarily not functioning. The president can refrain from countersigning the laws adopted by the Parliament, if (according to the president's opinion) they do not correspond to the constitution. If the Parliament does not agree to revise the contested law, the president can apply to the State Court (which also fulfils the role of constitutional court) to contest the decision of the Parliament (Constitution of Estonia 1992).

The Parliament (*Riigikogu*) is elected every 4 years. The elections are based on proportional party lists. The D'Hondt vote counting method used in Estonia gives preference to parties with larger numbers of votes. For this reason, and also because of the high threshold of entrance of parties into the Parliament (5% of votes), the number of party lists and the number of parties in the Parliament are decreasing. In the first elections, dozens of parties were elected to the Parliament (Pettai and Kreuzer 1999; Mikkel 2006); however, in 2007, only 6 of 11 parties registered for the elections passed the established 5% threshold. In 2011, there were 8 registered parties and 4 of them were elected to Parliament. However, although trust in parties in Estonia is the highest among Central and Eastern European (CEE) countries, only one-fifth of the electorate trusts parties. This has fuelled the initiative of individual candidates in recent years. In the 2009 European parliamentary elections, an individual candidate received the second largest number of votes—as compared with all party lists.

The Parliament plays a crucial role in appointing the government. It has the ability to accept or refuse prime minister (PM) candidates selected by the president. Parliament can also vote no-confidence against the government or individual ministers. The Parliament can dissolve itself with the president's consent. Parliament is dissolved when it is unable to accept a PM candidate after three attempts and when it is unable to adopt the annual state budget. During the 1990s, Parliament was more active in the legislative process but gradually—with increasing party discipline and majoritarian principles in politics, especially after EU membership—the role of Parliament as a source of legislative initiatives has significantly diminished. At the same time, Parliament has become more visible in initiating general policy discussions that are widely translated via the media.

In the 21 years since independence, there have been 13 cabinets in Estonia.* Each cabinet has lasted around 2 years. The caretaker governments (Gallagher et al. 2001), which do not initiate any

* This depends on the criteria used to define a cabinet change (Laver 2003). We define it as when a new cabinet is appointed after elections, when a coalition party has left or is included in the coalition, or when the prime minister changes.

Table 8.1 Trust in Main Political and Administrative Institutions in Estonia

	Autumn 2004		Autumn 2009	
	EU Average	Estonia	EU Average	Estonia
Parliament	38	41	30	38
Cabinet	34	47	29	47
Parties	17	17	16	17
Police	64	60	63	74 (2008)
Television	50	69	49	70
Legal system	45	44	43	52

Source: Eurobarometer. http://ec.europa.eu/public_opinion/archives/eb_arch_en.htm.

substantial policy, have lasted for up to 2 years in Estonia and have as a rule been minority governments (there have been four). Specific features that characterize Estonian coalition politics include the absence of strong left-wing parties and the emergence of a *pariah party*, which, although it gathered the second largest share of votes, is not accepted as a candidate of the coalition at the national level by other parties. Another prominent feature is that since 1999 one party—the Reform Party—has continuously been in office.

Similar to Nordic countries, Estonian local authorities constitute an autonomous sphere of public authority. The central government does not have the right to administrative intervention. Within the established legal context, the local council has complete discretion to adopt and enforce its legislation. In the last few years, the central government has increased the use of indirect instruments to influence local policy. For instance, it has reduced the extensive involvement of local authorities in the policy process at national level, which is characteristic of Nordic patterns of central–local relations. There are 226 municipalities, which have developed rather different institutional patterns and policy styles. The average municipality size (the capital city excluded) is 4100 inhabitants and 190 km².

Although a relatively dynamic and legitimate (Table 8.1) institutional system has emerged in Estonia, debates concerning the appropriate roles of the country's main institutions are ongoing.

The legitimacy of the main institutions is stable and higher than the EU average. The legitimacy of the public administration is even higher and continues to increase. The Estonian politicoadministrative system reflects the basic values of Western democracies as well as its deficiencies, including gerrymandering, confusion over party financing, and the covert politicization of officials. Among CEE countries, Estonia is one of the countries closest to the Western European practices of democracy and administration.

8.2 History of Statehood and Administration

8.2.1 Estonia as Part of the Russian Empire

Estonia is located between the Western Christian world, which it has administratively and culturally belonged to since the thirteenth century, and the Eastern Russian Orthodox world, which due

to suitable geographical access has in different periods attempted to control and for a long period formally governed Estonia. Throughout the Russian Empire, Baltic German landlords under a special Baltic rule governed Estonia. Later, as a member of the Soviet Union, Estonia remained a small cultural enclave of the Western world in the empire. The German nobility transmitted the continental German administrative culture and arrangements into Russia. In Estonia—especially when Russian absolutism began to reform itself as an organic state (Mann 1992)—German nobles became a hurdle to administrative innovations in the Estonian and especially Livonian provinces of the Russian Empire (Zettenberg 2009).

Within the framework of these reforms, the Russian Empire initiated the “Russification” of Estonia and recruited the local population into the Russian Orthodox Church. The response to “Russification” served as a reason for the Estonian national awakening movement in the mid-nineteenth century. At the same time, knowledge of the Russian language made it possible for Estonians (especially in St. Petersburg) to acquire the skills necessary to join administrative (especially through legal education) and military services at the institutions of the Empire. A solid base of professionalism was created, which allowed Estonia to work toward individual statehood.

At the beginning of the nineteenth century (after the abolishment of serfdom), local self-governance based on the self-government of Estonian peasant communities began to develop. However, until the end of the century local self-government remained dependent on manor’s economy. At the beginning of the twentieth century, Estonian political and administrative elites emerged at the local level (Sootla and Kattai 2010). A culture of local self-governance has profoundly influenced the general politicoadministrative culture in Estonia.

8.2.2 First Period of Independence

Estonia first gained independence at the end of World War I, in 1918. In 1920, a liberal democratic constitution was adopted, which institutionalized the parliamentary system. The constitution was strongly influenced by left-wing politicians and contained several imbalances. The institution of the head of state (the “State Elder”) was merged with the post of the prime minister and appointed by Parliament. The Parliament had extensive control over the executive and, hence, the lifetime of cabinets was very short. There were extensive freedoms to initiate bottom-up referendums, including the referendum on the constitution. The left wing of the political spectrum was seriously weakened by the Soviet-inspired Communist coup attempt in 1924. As a result, disequilibrium of the political spectrum has evolved. The military coup resulted in a trend of adversarial politics and the introduction of an authoritarian regime in 1934 (Parming 1975). Shortly after, the first wave of suppression of the emerging Estonian political elites began (Tomingas 1961).

The Estonian administrative system was strongly influenced by German–Russian legal traditions and lawyers, which ensured the fast stabilization of state services at the beginning of the 1920s. Numerous legal codes amended by the Russian Empire continued to exert their influence after Estonia established independence; they were gradually abolished. For example, new local government acts continued to be adopted until 1937–1938. This formal–legal system was based on strong and competitive corporatist networks characteristic of small societies (Vilms 1936), which created specific trends of adversarial and oligarchic politics and corruption (Tomingas 1961; Parming 1975). The authoritarian government eased the controversy by streamlining the development of society under national values and ideas. Unlike politicians, the civil service possessed a high level of prestige and considerable professionalism for such a young state administration.

8.2.3 Soviet System

In June 1940, Estonia was occupied by the Soviet Union, in 1941, by Nazi Germany, and was reoccupied by the Soviet Union in 1944. The vast majority of political, administrative, and military elites were executed, deported to Siberia, died in Stalin labor camps, or fled to the West. These horrific events signify the second major wave of the destruction of Estonian governing elites. In 1950, home-grown Communist elites, many of intellectual background, were purged and replaced by less-educated Russians or Russian-born ethnic Estonians. These events provide an explanation as to why the Communist leadership, recruited from the outside, did not have any meaningful contact with and legitimacy among the people in leading positions of state service.

The Soviet system is usually analyzed in terms of a communist ideology and the totalitarian political regime. The sociopolitical system fits well with the basic values of Byzantine–Orthodox culture, which communist dogmas were adapted to. The system was rooted in the belief (myth) that a society can be governed in a rational way if it draws on universal human will and the promotion of the common good. It is the responsibility of the Communist Party and its leader to define a common will/good. Hence, the system was based on a two-pillar bureaucracy that permeated all societal space: there were no nongovernmental or private organizations, except for collective farms in the countryside and cooperative enterprises, which were heavily taxed and strictly controlled.

A *totally administered system* existed, where rigid rules were mixed with the personal intentions of superiors. The Communist Party was responsible for developing policy and controlling the implementation of policy directives at all levels of the administrative hierarchy—all the way down to the units of individual organizations, where Communist Party caucuses were established. The role and capacity of policy making were concentrated in the hands of the party hierarchy. The administrative hierarchy was responsible for organizing and accomplishing tasks delegated by the party. The Council of Ministers and ministers had no substantial policy-making prerogatives and were carefully controlled. As policy making became more technical and required additional professional skills, the party hierarchy that had been educated and indoctrinated at special closed schools became increasingly more incapable of developing adequate tasks and plans for the administration. It finally evolved into a symbolic cheating game between two pillars—party and administration.

The Communist Party's desire to control all aspects of the state resulted in a highly centralized system with different branches and levels that were weakly connected and coordinated. As a result, the image of a huge industrial machine of a Soviet-planned economy was actually a mirage. Moreover, the Soviet Union's economy and society were focused on the extensive use of resources: the scope became the main aim of development. Such a system was bound to reach its natural limits and then crumble.

By 1960, the majority of the Soviet Union's administrative staff and military–industrial specialists were educated and socialized at higher civil educational institutions (universities). Their values, needs, and attitudes soon differed from those of the politically indoctrinated party bureaucracy. At the beginning of 1960s, Soviet leader Khrushchev developed decentralized territorial–industrial complexes and delegated the policy-making authority to regional administrative elites, thus separating the administrative system from the party hierarchy. Khrushchev was unsuccessful in separating the two entities. His failed policies resulted in Estonian purges of local elites throughout the 1970s (the fourth occurrence within 40 years). Russians and extremely loyal locals replaced Estonian Communist elites. This explains why no Communist successor parties survived in Estonia after the collapse of the Communist system in the 1990s (Sootla et al. 2006).

The second attempt to abolish the system of party control in order to ensure the economic and social survival of the Soviet Union was in the mid-1980s. Initially the plan was meant to ensure the domination of military–industrial professional elites. Mikhail Gorbachev deviated from the original plan by introducing limited democratization (similar to the plurality of opinions) to combat the party hierarchy. Gorbachev’s democratization inevitably contributed to the crumbling of the Soviet system.

The idea of developing a society dominated by administrative and professional elites without competitive political elites had been the prevailing strategy in all post-Communist countries at one point. This was characteristic of Estonia in 1988–1991. The primary task in building up a new system of democratic institutions was not only the development of a multiparty system but also the development of a political executive with the capacity and authority to engage in policy making (Goetz 2001; Goetz and Wollmann 2001). Several countries, including Estonia, were able to carry out political executive reforms rather quickly. It took other countries, including current EU members, a long time to accomplish reform and to achieve a politicoadministrative balance. A third group of post-Communist countries, first of all Russia, returned to the idea of developing a specific state-monopolist economy dominated by administrative elites. There was no room for democracy and as a result these countries were not able to combat the oligarchs that captured the state or the extreme criminalization of the society.

8.3 Specific Features of Institutional Reforms in the 1990s

Estonia began to build democratic institutions (parties and multiparty elections, cabinet system, autonomous local government) and a market economy while it was still a part of the Soviet Union. One can well imagine the scope of this endeavor. As a Soviet republic, Estonia did not possess all of the politicoadministrative services of a full-scale state (foreign, military, intelligence, tax and customs, police, etc.). These services were units of the central government. Mainly staffed with Russians, they were directly managed from Moscow. All politicoadministrative services were established within a limited period and with limited reliance on experienced staff (not only because of the lack of knowledge of the Estonian language but also because of loyalty issues).

After the collapse of the Soviet system and restoration of Estonian independence, there were neither Communist successor political actors nor a substantial left wing in Estonian politics. Liberal democratic values became dominant. On the one hand, there was very weak path dependency or institutional inertia of the former regime and its representatives. On the other hand, consensus over the main aims of transition was achieved largely because of a general fear and an actual threat from Russia to restore the Russian-Soviet rule. This was a kind of *carte blanche* situation in the institutional innovation. Entirely new institutional patterns were established within a short period of time during a profound economic and social crisis at the beginning of 1990s.

Estonia became the prime example of the promotion of vast reforms in the economy, society, and politics. The country’s initial institutional patterns bear the imprint of transition logic: the spirit of urgency, a reliance on normative ideals together with the belief that everything could be changed intentionally, and an emergence of institutional imbalances.

The prevalence of distributive or patronage policy began to develop, which is characteristic of emerging government systems (Lowi and Ginsberg 1990). Estonia’s transitional patterns became strongly institutionalized by the end of the 1990s. These specific features of Estonian institutions and politics helped the country to overcome the profound economic recession at the end of

the 2000s, that is, they worked perfectly in a period of emergency. Although Estonia should be proud of the success achieved, the country's elites must seriously consider how to change institutional patterns created for a society in transition into patterns suitable for a stable democracy and economy.

In the analysis of the Bertelsmann Transformation Index* (Polunin et al. 2009; Bertelsmann 2010), Estonia held a high position—the third position among 128 countries in the quality of governance and decision making and the fourth place in its development toward democracy and a market economy. However, its rating has dropped since 2008, which is of concern to other more advanced CEE countries as well (Bertelsmann 2010). Stagnation of institutional innovations can be explained by the institutional configuration of the policy-making process that emerged at the beginning of the 1990s and continues to exist at the beginning of the 2010s.

The Constitutional Assembly has made two very important decisions that were derived from specific historical experiences and needs. At the outset, when the party system was still fragile, the assembly decided to form a political cabinet with a weak PM, who was unable to command resources of administrative coordination (Müller-Rommel and Sootla 2001; Sootla et al. 2006; Blondel et al. 2007). To this end, all roles that require interministerial coordination were delegated to the competence of individual ministries. Issues must be managed through coordination at the cabinet level or through direct mutual networking. Thus, the Estonian PM does not have a right to issue a decree (which is the prerogative of the minister or cabinet) and the Cabinet Secretariat provides only technical services for cabinet sessions. Moreover, with some temporary exceptions, the cabinet does not have permanent committees. Permanent committees are commonly viewed in Europe as effective devices for policy coordination.

The new cabinet not only declared a clear separation of politics and administration, but it also removed all channels for the civil service to actively participate in the policy-making process, which soon resulted in the politicization of the top and senior civil service. In launching reforms, the cabinet preferred to rely on the expertise of external experts and universities. This was partly caused by a fear held by inexperienced politicians that more experienced civil servants can set obstacles or even sabotage their reform initiatives (Sootla 2001). The core public administration reform acts in the mid-1990s were prepared by university professors. Administrative issues attracted little political interest at the time because economic reforms were at the forefront.

Institution-specific reforms offered a fast solution to what may be perceived as the most difficult issue of post-Communist reforms—establishing an effective political executive capable of quickly reforming the crumbling old system. This resulted in a weak implementation capacity of the cabinet, which was emphasized by a recent OECD report (OECD 2011). It is true that right-wing politicians prefer regulatory policies that are implemented to a large extent through (rational) choices of citizens themselves as compared with interventionist policies that presume active involvement of bureaucracy (Rothstein 1996).

However, this one-sided capacity has started to restrain the achievement of expected institutional effects in the period of the EU accession and has caused substantial difficulties in coordination of Estonia as an EU member state (Drechsler 2004).

During the last 10 years, successive cabinets that have faced problems with coordination and the capacity gap in implementing institutional policies have started to focus on short-term and

* The Bertelsmann index assesses the level of development of 128 transition countries of the world community. It contains two blocks of assessment criteria. *The Status Index* shows a country's achieved state of development on the way to democracy and a market economy. *The Management Index* evaluates the quality of governance and decision making.

politically sensitive issues in order to ensure electoral support. Institutional policy issues that require an extensive period of implementation and contain unforeseen risks were left out of the core policy agenda.* As a result, all significant public administration laws, including the Local Government Act (adopted in 1993), the Government of the Republic Act (1995), and Public Service Act (1995),[†] are still enforced. Every attempt to adopt a new act has failed.

The second crucial decision made by the Constitutional Assembly was the abolishment of local self-government at county level. Instead, a generalist county governor's office was established. The county governor was appointed by the cabinet. This decision was based largely on political considerations of the day. Regional elites of Soviet background had considerable authority and legitimacy at county level at the time; however, they did not want to join with emerging political parties and preferred to remain politically neutral actors.

Some of the Soviet elites created obstacles to reforming the first tier—municipalities—of local government. Municipalities had strong political support; they formed the basis for new political elites.

As soon as the government started to weaken the county government office and politicize the governor's position at the end of the 1990s, this pattern of intergovernmental relations started to erode the balance of power between the central and local authorities. The task of the governor was to ensure the territorial integrity of the county and to balance and mediate central and local authorities. The strong county administration limited the possibility of ministries and agencies to directly administer regional field services. The centralization of the administration of government field services began when county government was weakened—numerous government services were transferred from the county governor to the direct subordination of central agencies. A strong emphasis on the sectoral (vs. territorial) principle was developed, which amplified administrative coordination problems.

Estonia is characterized by the presence of a large Russian-speaking population (almost one-third of the population) that is weakly integrated into society and constitutes an internally compact minority. About half of them, 14.9% of the total population, have either Russian citizenship or no citizenship at all (Estonian Statistics 2012). The majority are first-generation immigrants and must apply for citizenship. A requirement to obtain citizenship is knowledge of the Estonian language, which the majority do not possess at an appropriate level. Lack of citizenship prevents Russian-speaking individuals from entering into civil and military services as well as voting in national elections. They can vote in local elections. Russians are rather underrepresented in politics and the civil service. For instance, non-Estonians account for only 3% of civil service staff of ministries and the State Chancellery (Ivanov 2010).

8.4 Patterns of Politicoadministrative Culture in Estonia

Estonia's moral value system is derived from protestant ethics and thus basic value patterns are similar to those in Northern Europe. But Estonians' ethos is as controversial as their history. Due to the presence of a large Russian minority, the population of Estonia is very culturally diverse. The proliferation of controversial attitudes has resulted due to the relatively recent abolishment of

* Lowi et al. (1990) emphasized that institutional policy is a characteristic of strong executives and it presumes a low intensity of political controversies.

[†] In 2012—just as this book went to press—a new Public Service act was adopted by the Estonian Parliament after two previous unsuccessful attempts caused by the changes of governing coalitions in 2003 and 2007.

de facto serfdom, the consolidation of the nation, and foreign occupation of Estonia's territory. The most paradoxical transition controversy has been strong affiliations to nationalist and liberal values.

In most post-Communist countries, strong nationalism and images of a strong state were used by Communist elites. Both served as obstacles to the development of a market economy and democracy. This controversy was avoided to a large extent in Estonia because the notion of the state as a concentration of authority on a higher level is not positively viewed in the Estonian culture. For Estonians, the state primarily means an autonomous community united by a common culture, language, and territory. The liberal idea of a hollow state was easily accepted. It resulted in a quick transition to a market economy. Former Communist elites actively participated in the process.

Numerous Estonian studies emphasize the paradoxical position of Estonians on the axes of individualism (as a basis of liberalism) and collectivism. Both are ingrained in the Estonians' mindset. Estonians have a different view of collectivism, which has been emphasized by psychologists (Realo 2003). The importance of collectivism increases as a defensive stance toward intervention from abroad or in the private life. In the absence of those pressures, Estonians may support highly competitive, individualist relations. Another feature that sets Estonia apart from neighboring Nordic countries is—based on Hofstede's value spectrum—the *medium level* of uncertainty avoidance and of masculinity. Uncertainty avoidance indicates a higher acceptance of rules and regulations (vs. self-regulation and uncertainty). Masculinity indicates that, on the one hand, Estonians expect more recognition and have higher ego-needs in comparison with their Nordic neighbors, which make them close to Anglo-American culture. But, on the other hand, Estonians have considerably higher security needs, which make them close to Continental European culture (Vadi and Meri 2005). Estonians are rather negatively predisposed toward strong central authority (which is more characteristic of Anglo-American cultures), but at the same time they prefer the structure and codification of everyday rules of conduct (i.e., working tasks and routines) as conferred by a central governing body, which is more characteristic of Continental European–Germanic culture (Vadi and Meri 2005).

In order to more fully understand Estonians' attitudes and their impact on the formation of a politicoadministrative system, one must realize that Estonia's transition was primarily the national liberation from Russian rule. Strong support for democratic rules and institutions is largely derived from strong anti-Communist attitudes and a desire to rejoin the Western world—defensive or abstract normative values of democracy (Lauristin 1997). Estonians strongly supported the rapid erection of new democratic institutions, and in the generation of its foreign and economic policies (first of all reorientation to West) the governing elites had irrefutable support. They supported adoption of Western institutional practices such as openness of government, balanced budgets, decentralizing of authority, and delegation of public tasks to civil society organizations.

However, basic solutions did not emerge as a result of profound debates on opposing values and beliefs. Debates are the basic source of democratic balances and practical values. In the case of external incentives (North Atlantic Treaty Organization [NATO] and EU membership, joining the eurozone) or negative alternatives (e.g., the Russian threat), Estonia has been able to promote its national aims quickly. Without the above-mentioned factors, Estonian democracy does not have enough effective arenas or mechanisms for the promotion of equally attractive and legitimate aims and for the purposes of national development. There is significant political competition but no mechanism effective enough to reach elite consensus regarding new posttransition aims and purposes. Although Estonia (and other post-Communist countries) was very successful in legitimatizing democracy at the ideological level, it currently has problems developing a practical culture of democracy, including well-functioning mechanisms of practical policy making (Fukuyama 1995).

The impact of different Western practices that Estonia has adopted has been another source of institutional innovation. Contingent and contextual variables played an important role in this process. Most importantly, different dimensions of Estonia's politicoadministrative system and social-economic patterns draw on rather different or even contradictory Continental, Northern, and Anglo-American practices of institution building (Castles 1998). It is not yet clear how these differences have influenced the reliability of the entire system; however, the following analysis has revealed rather significant controversies. The differences were not obvious during the early transition stage but became more evident in 2000, especially after EU accession.

The first influence, which originated in Nordic countries, supported the popular initiative of the establishment of autonomous local governments with extensive responsibilities in service provision (Sootla and Kattai 2010; Temmes et al. 2004). An independent system of local authorities should be based on strong consensual traditions including central-local relations. Partnership values existed at the beginning of the 1990s amidst a situation of liberation and crisis. Gradually this partnership started to erode, especially in central-local relations. The second Western influence primarily comes from international fiscal institutions as well as from countries that largely use *libertarian* economic ideology and programs (the United Kingdom and United States).

A third influence is derived from Germany, which became the main advisor for the formation of the legal system, especially public law and public administration. The third influence has historical roots and is based on the German legal traditions and followers of these traditions—lawyers of the University of Tartu, who played a crucial role in law drafting in the 1990s. Estonia's transition toward democracy required the swift development of a new legal context. Within a short time, University of Tartu lawyers, who are fluent in German, translated German legal codes into the Estonian language. As evidenced above, three different politicoadministration traditions based on relatively diverse values merged to form the institutional context in Estonia.

Estonia's land area (43,000 km²) is larger than that of countries such as the Netherlands, Belgium, Switzerland, and Denmark. But Estonia has only 1.3 million inhabitants, which is several times less compared with the populations in those countries (the Netherlands has 17 million inhabitants and Belgium has 11 million). This aspect of Estonia's size creates a peculiar context for civil service organization and employment (Randma-Liiv 2002), which will be further analyzed in the next section.

8.5 Civil Service and Human Resource Management

Employment in Estonian public sector organizations is divided into two branches. The first branch—the civil service—is regulated by the Public Service Act (The State Gazette 1). The civil service includes the core staff of government organizations, which by definition of the Government of the Republic Act are involved in exercising public authority. The other branch includes public sector employees who are employed in a similar fashion to all other Estonian employees based on the Employment Contracts Act (The State Gazette 2). Second branch employees are members of budget organizations and private law organizations, which have been established or are owned by the government.

As shown in Table 8.2, in 2009, civil service and public sector employment* accounted for 23.7% of the total employment in Estonia (19.7% before the crisis in 2008). About half of them are

* Civil servants have special conditions of employment and good benefits, while public employees (teachers for instance) have much lower status and less attractive conditions of employment.

Table 8.2 Structure of Public Sector Employment

	<i>Central Government</i>	<i>Local Government</i>	<i>Public Sector</i>
Public sector in total employment	12.2	11.5	23.7
Civil service in total employment	4.0	0.9	4.9
Public law organizations in total employment	7.7	8.7	16.4
Private law organizations (quangos)	4.5	2.8	7.3
Civil service in public sector	16.8	3.8	20.6
Public law organizations in <i>de facto</i> public sector	63.1	75.7	69.2

Source: CCY, *Estonian Civil Service Yearbook 2009*, Tallinn, 2010. http://www.avalikteenistus.ee/public/2010_06_22_Avaliku_teenistuse_aastaraamat_2009.pdf; Estonian Statistics, 2011. <http://pub.stat.ee/px-web.2001/Database/Sotsiaalelu/15TOOTURG/15TOOTURG.asp>.

employed by the central government and its field services and organizations. Even these numbers of public sector employment, which include as many as 31% of employees of government-owned private law organizations, may be misleading because a considerable part of government services are outsourced not only to business enterprises but also to foundations and nonprofit organizations (Praxis 2009). The civil service in Estonia is rather small: the share of central government civil service (including military service) in all employment is 4.0% and in government sector employment is 32.7%. In 2010, the share of the civil service in the local government was 0.9% of total employment and 7.7% of local government employees. This section focuses on the analysis of the civil service at the central level.

The adoption of a civil service act is an edifying example of policy making in the earlier stages of transition. Professors of public law at the University of Tartu prepared a draft of the act. A purely legal approach to the civil service as an institution did not make it possible to cover essential dilemmas and the actual context of the civil service. The act was adopted at the beginning of 1995 but enforcement was postponed for half a year due to a lack of budget resources and bylaws for its implementation. It was only during the elaboration of bylaws on evaluation, training, and compensation that higher officials became aware of the actual issues and options that needed to be decided both from a professional and a political point of view.

High officials drew largely on experts of public administration. As late as 1996–1997, the central issue of debate focused on whether to adopt a classical closed career system or to develop an open position system of civil service (Auer et al. 1996). These debates caused significant difference of opinions between ministries/agencies responsible for civil service development and elected and appointed politicians. The controversy surrounding the development of a closed or open system has not been resolved. Since 1996, four new draft laws have been prepared, of which three—the last one in 2009—have reached the parliamentary stage. The latest draft law was adopted in 2012 and will enter into force in 2013. None of the coalitions that prepared the draft laws managed to adopt them before the subsequent election cycle. It is a common practice in Estonian legislative affairs for new coalitions to abandon draft laws presented by previous coalitions.

Lack of cohesion and unity explains why the 1995 Public Service Act (Public Service Act of Estonia 1995) has remained a kind of technical document and has not contributed to the institutionalization of the civil service although it has been amended 64 times since 1995. For example, as many as 24.7% of central government career civil service employees (and 30.9% ministry employees) have worked in the civil service for 5 or fewer years. In 2009, the share of career civil servants employed for 20 years or more was only 12.1% (CCY 2010). That is, the civil service as an institution is very open but too volatile to ensure consistency of administration in a country that follows German traditions of public law. But continuous improvement of personnel management tools by ministerial and agency personnel services have developed human resource management of rather high quality.

The Estonian civil service is rather open. It is oriented to a position system where service conditions do not significantly differ from those of other sectors. However, the Estonian civil service is rather young: 22.1% are 30 years old or younger, although their proportion in the civil service has been decreasing (in 1998 the proportion was 28.4%). Over the years, there has been a prevalence of female civil servants, although the current economic crisis has increased the proportion of male officials employed by the civil service.

In 1997, 54% of Estonia's civil service employees were male. In 2007, the number of males decreased to 36.5% but then increased to 42.3% in 2009 (CCY 2007, 2010). This trend indirectly indicates another specific feature of Estonian society: males have considerable advantages in the labor market. According to Eurostat, in 2007, the difference between male and female salaries was 30.9%, the highest in Europe (Ministry of Social Affairs 2010). This is caused at least partly by a high masculinity or achievement index (indicated earlier), but the actual causes of that trend are not yet clear.

8.5.1 Civil Service Compensation

The average monthly salary of the Estonian civil servant in 2009 was EUR 980 (US\$1330), which corresponds to the general level of affluence of Estonia in Europe. However, civil servants are relatively highly paid in comparison with other employees in the public sector. Before the 2007 economic crisis, the salaries of civil servants were 32.4% higher than salaries of other employees in the public sector. After the crisis in 2009, they were 25% higher than the average salaries of other employees in the public sector (Ministry of Finances of Estonia 2011). Civil service salaries were lower when compared with salaries in the energy, IT, and banking sectors (Estonian Statistics 2011b). Yet, throughout the rest of the public sector, salaries of even senior specialists were 13% lower than the national average. The Estonian civil service is rather privileged, compared with Finland, where the average civil service salary is at the same level as the national average (Ministry of Finance 2011).

However, the majority of civil servants—60% in 2005 and 53% in 2009—strongly or to a large extent agree that the civil servants' low salary level restrains effective service (EMOR 2007). This paradox is at least partly explained by the considerable internal differences in the compensation of the civil service. Another explanation for this paradox is the trend of comparing civil service salaries with private sector salaries. In an open system, labor mobility between sectors is high.

There is substantial internal differentiation of the compensation between ministries (up to 43%). The difference in salaries in a ministry and its subordinated agencies may exceed 100%, especially if they include local field services (Ministry of Finances of Estonia 2011). Such compensation differentiation indicates substantial autonomy of ministries in determining their salary

levels. There are differences in salaries even between identical offices. For example, compensations in county administrations may differ by up to 30%, independent of the size of the county. The salaries of the highest officials (president, PM) are indexed and pegged to the national average salary. For example, according to law, the salary of a minister is 5.5 times and of the PM 6 times the national average salary (Ministry of Finances of Estonia 2011).

In 2007, the highest civil service salary was 63% higher than the national average and the senior (middle) civil service salary was 20% higher than the national average. However, those averages do not reflect the real difference in compensation of individual officials. Although the government has adopted the law on public service salaries, the basic salary level differs from the levels established by the law by 20%–50% (EMOR 2007). This is explained by the fact that supplemental payments related to performance or professional skills can be added to the basic salary.

The proportion of salary components does not considerably differ between organizations, although special cases, such as appointments to certain leading positions, such as top and senior managerial positions, may involve a salary equal to the salary of a top private sector manager. As a result, it is possible for an agency head to have a higher salary than the PM. In Estonian ministries, the basic salary was 63% of total compensation; supplemental payments provided by law (length of service, academic degree, etc.) were 17%–18%, payments for extra tasks 7%, quality and results 7%, and professionalism 3%.^{*} The civil servants themselves preferred the basic salary to be 83% of the compensation and the compensation for results to be 17% (EMOR 2007). The latter was characteristic of civil servant salaries during the 1990s. After the introduction of performance-related pay at the end of 1990s, the proportion of basic salary in total civil service compensation was reduced and the role of results-based pay increased proportionally to set different levels of compensation according to the actual performance.

According to law, but also to general expectations of society, the civil service must be politically neutral. As it is, political masters frequently try to appoint politically loyal individuals to higher positions and to fire those with obvious political affiliations to another party. Such reshuffling is not difficult because any civil service position can be filled with people from outside the service as well. The trend started at the beginning of the 1990s when new political elites were expected to replace officials with Soviet backgrounds.

However, there are certain higher officials who are not replaced because of their professionalism. The controversy between formal and actual practices disappeared at the beginning of the 2000s. The ministers acquired the right to replace the heads of ministerial administration (chancellors) as well as the heads of government agencies of a ministry[†] after as little as six months of working together at a ministry/agency.

Since the core coalition partner—the Reform Party—has remained in office, the number of political appointments has decreased. However, due to the lack of a career system and the relatively high turnover of civil service employees, a significant portion of officials (28.7%) are recruited from the private sector, especially to the ministries (37.4%), whereas only 28.3% are promoted from within the civil service (CCY 2007). Around 25% of civil servants would actually prefer to work in the private or nonprofit sector (EMOR 2007). This makes the introduction of new public management practices into human resource management easier.

^{*} The new Public Service Act establishes that basic salary must be no less than 80% of the total salary and abolishes all supplemental payments that are not linked to specific results.

[†] Government agencies are subordinated to ministries/ministers, but operate as autonomous units.

8.5.2 *Recruitment and Selection of Civil Servants*

According to law, high-level civil servants are appointed on the basis of an open competition centrally organized by the Cabinet Secretariat (State Chancellery). This rule is only partly followed and exceptions provided by the law are utilized as well. In 2006, only 65% of officials were selected through a competitive process. The most common exceptions include promotion and the appointment of officials as deputy staff members—21% in 2006 (CCY 2007). Civil service organizations may also organize recruitment according to their own initiatives. In 2006, 51% of senior civil service employees and 10% of junior civil service employees were appointed by open competition.

In terms of the competitiveness, in 2006 as many as 5.5 applications per announced vacancy were submitted. But at the same time, 18% of all announced vacancies were not filled due to the absence of applicants or applicants with necessary qualifications. A similar trend is observed when recruitment is organized by agencies themselves. In these cases the competition rate per vacancy was even higher (13.1 applicants per vacancy), but at the same time a larger proportion of vacancies was not filled (24%) due to the absence of applicants or applicants with necessary qualifications. In 2009, when the unemployment rate was 14.9%, the intensity of competition increased, with up to 30 applicants applying for each vacant position (CCY 2007).

In Estonia the most widely used recruitment channels are organizational websites, and advertising in the media and on Internet databases (mainly CV Centre), which are even more frequently used than intraorganizational information channels, such as mailing lists and letters to members of organizations. The most effective sources of recruitment are the media and Internet databases, which provide about half of the recruits. Organizational websites and intraorganizational information are much less efficient, providing 18% of the candidates. Headhunting, which is not frequently used, provides around 12% of the candidates. Various selection methods are used in Estonia simultaneously. Initial screening, that is, analyzing an individual's CV and other documents provided by the candidate, is used by 96% of organizations (in 2006). Eighty-seven percent of organizations have used personal background checks and 88% conducted individual or committee interviews. Approximately 40% of organizations also used practical tasks or essays as determinants for selection. Only a small proportion of organizations (8%–10%) have used human resource consulting companies during the selection process (CCY 2007).

8.5.3 *Evaluation*

Civil servants are not required to pass examinations in order to be hired or promoted. The Law on Evaluation does not prescribe an exact method of assessment. The most widely used tool is known as the *annual evaluation*, which is used for one-third of civil servants. But the law defines the skills and knowledge that different categories of civil servants must possess. Thus, evaluations mainly assess how these criteria are met, as well as the level of performance and training needs. Information obtained by evaluations allows definition of individual goals for the upcoming year. Selection of new appointees, as well as promotions, requires obligatory evaluation.

According to the law, appointed civil servants must pass an evaluation every 3 years. Three-year cycles are utilized less frequently because of the widespread use of annual evaluations. In 2000, 73% of civil servants passed their 3-year evaluation. However, in 2006, only 24% of officials passed the 3-year evaluation procedure. Nearly 59% of officials appointed for the first time, particularly senior civil servants, passed the 6-month probationary period,* which ends in evaluation (CCY 2007).

* A probationary period is not mandatory but is recommended.

Estonian civil servants have few benefits in comparison with other employees. Many benefits, except pensions, depend on the availability of budgetary resources and are paid as a portion of an individual's basic salary. Recently a very important benefit—the compensation of university study loans—was abolished. Civil service employees are entitled to a 35-day-long annual paid leave. Before the economic recession they were paid—as is common in Europe—an additional monthly salary (the 13th salary*) in the year and supplementary compensation† for vacation leave, which was used by 44% of organizations. These benefits have recently been abolished.

All civil servants are entitled to additional compensation to supplement regular pensions from 10% (for 10 years in the civil service) to 50% (for 30 or more years of service). In 2008, the average retirement pension in Estonia was only 35% of the average salary (Estonian Statistics 2011c). However, in 2009, 12.5% of civil service employees were entitled to a 25% supplement to the regular pension, which can increase the pension level up to 44% of the average salary. The most debated benefits are special pension rates for military and internal security officials, including police, as well as for high-level officials, including heads of institutions, state audit officers, and lawyers such as court members and prosecutors. Special pension rates received by the aforementioned groups range from 50% to 75% of the average salary (Leppik 2007). The majority—except for rank-and-file members of the police force and border guard—have much higher salary levels than the civil service in general.

The Estonian civil service is considerably influenced by the country's small size (Randma-Liiv 2002). Substantially fewer people provide the typical amount of public services. First of all, the organization and relations between officials cannot be highly hierarchical, formal, and impersonal. It is common that the structure of the organization is not designed based on functional needs but is adapted to the available posts and/or individuals. For example, organizational structure is often redesigned (new posts added) in order to accommodate a valuable specialist or, *vice versa*, to get rid of a person who does not fit into the internal climate of the organization.

An organization's valuable specialist is typically the only civil servant with the in-depth knowledge of a particular issue or area. As a result, they are indispensable and provided with a good bargaining position. If a valuable specialist leaves an organization either temporarily (because of illness or travel) or permanently, the agency may have difficulty immediately replacing them with an equally qualified person. Replacement of a specialist often results in the loss of substantial organizational information and contacts. The possibility of losing information and contacts once a valuable specialist leaves increases the importance of professional staff in the organization as well as the policy-making process.

In small societies, specialists are typically educated at a single institution—as a result everyone seems to know everybody else in the professional field. Given such a tight network, it is difficult to build up formal patterns of behavior. Highly personal and informal relations prevail in organizations in small societies (Randma-Liiv 2002; OECD 2011).

Personal relationships promote access to public officials in addition to helping the civil service develop closer contacts with citizens. Another result of informal relations is the prevalence of strong interorganizational networks that may facilitate *ad hoc* coordination and information flow. One negative aspect of personal relationships is that interpersonal conflicts may lead to larger interorganizational conflicts as well as to conflicts within organizations.

* The 13th salary is usually not performance related but linked to the length of service.

† These funds allow an employee to go on a vacation trip.

8.6 Fiscal and Budget Policy

8.6.1 Development of an Open Market Economy

A new Estonian financial system started to emerge during the final years of Soviet control. In 1987, the concept of self-managing Estonia (*IME*) was published and it became an official policy 2 years later. First, Estonia needed to establish its own central bank and private commercial banks in order to develop the free exchange of currency. The development of economic autonomy was not an easy task because a significant portion of Estonian industry employed Russian labor, typically affiliated with the Soviet military complex. Estonia's industrial sector and economy oriented toward the Soviet market crumbled as a result of the collapse of the Soviet empire. The collapse of the Soviet empire created a huge decline in industry and agriculture (up to 40%); it substantially facilitated the deep structural reform of the economy.

Owing to *IME*, ideas and programs for the country's new economic and financial system were elaborated rather early and were strongly influenced by neoliberal economic thought, mainly supply-side and monetary economics. The latter strategy was mainstream at the time. It was determined to reject Soviet planning and administered economics. In June 1992, on the eve of the rapid inflation of the Soviet rouble, Estonia introduced—against the recommendation of the International Monetary Fund—its own currency (*kroon*), pegged it to the German mark, and adopted a very rigid system of currency board.

Section 116 of the Estonian Constitution mandates the balance of revenues and expenditures. As a result, Estonia has an extremely low level of public sector borrowing (7.15% from GNP in 2009) and budget deficit (the largest deficit—3.5%—was in 1999). This made it possible for Estonia, despite the profound economic recession of 2009, to meet the rather strict criteria of the European Monetary Union that few EU countries are able currently to meet. In 2011, Estonia entered into the eurozone. Prior to 2009, Estonia rapidly approached the EU average level of affluence, indicated as GNP per capita (see Table 8.3). The real annual increase in the country's GNP was 6.8% in 1997–2008. In 2009, Estonia suffered one of deepest economic recessions in Europe, with a decline in GNP of 13.9%. After the crisis, Estonia restored its export capacity and high growth rate, which in the first half of 2011 reached 8% (Estonian Statistics 2011a).

Table 8.3 Relative Size of GNP Per Capita, Using PPS as Compared with EU 27 Average

	1996	2003	2007	2009
Estonia	36	54	70	63
Germany	129	116	116	116
Sweden	125	124	124	120
United States	159	156	151	147
Poland	43	49	54	54
Hungary	52	63	62	62
Lithuania	36	49	59	56
Bulgaria	32	34	40	—

Source: Estonian Statistics, 2011. <http://www.stat.ee/valik-el-statistikat>.

Estonia adopted a very open and liberal economic system, which presumes minimal interference of the government in the economy. An emphasis is placed on regulatory policy. Estonia's fiscal policy presumes minimum tax exemptions as well as conservative banking rules in order to avoid economic failures. During the development of the rules and mechanisms of the country's fiscal system, simplicity and transparency were established as priorities. In 2011, Estonia held 14th position in the world and 5th position among European countries in the Economic Freedom index (<http://www.heritage.org/index/>).

Privatization, which began in the Soviet era, was a very important reform. Estonia used the German Treuhand model of privatization—direct competitive sales of economic organizations. Only enterprises with clear public value were not sold, including power stations and regional ferry lines. All commercial and nonprofit organizations and activities that can be economically managed are regulated by private law. For example, Estonian health sector organizations are either foundations or nonprofit organizations financed to a large extent by the public Estonian Health Insurance Fund. The majority of the government's support services, including the management and steering of EU projects, are also delegated to foundations. As a result, Estonia has a relatively compact public sector as compared with other EU member states (see Figure 8.1). Local government expenditures made up 9% of the GNP in 2008—22.6% of overall public sector expenditures.

8.6.2 Budgeting Process

In 2000, the government started to use a strategic approach toward budget planning. Two years later, the development and use of a midterm budget strategy became an obligatory precondition of the annual budget. The government should approve the analysis of the next fiscal year and the following 3 years' forecasts 7 months before the budget year. The strategy is based on the general strategy and working plan of the government for subsequent years. It is actually the first stage of the budgeting process, which establishes general principles and budget priorities for 4 years. The document contains a detailed analysis and forecast of the economy and provides the necessary information for drawing up the budget.

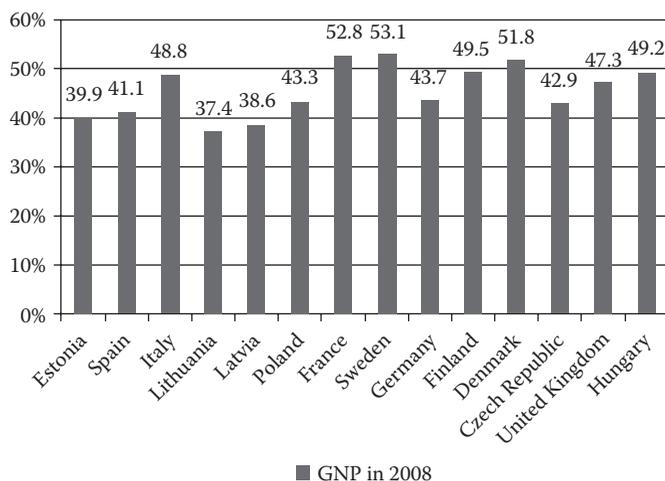


Figure 8.1 The role of public sector in GNP in 2008. (From OECD, Country statistical profiles 2009. <http://stats.oecd.org/Index.aspx?DataSetCode=CSP2009>.)

As an example, preparation of the 2011 budget involved the following steps. In late spring of 2010, ministries prepared the 2011 budget proposals together with strategic and fiscal plans and submitted them to the Ministry of Finance (Ministry of Finance of the Republic of Estonia 2010). In August, following negotiations of top-level Ministry of Finance officials, individual negotiations between ministers (cabinet members) and the minister of finance took place. The cabinet presented a draft budget law to Parliament in September and it was adopted in November (Ministry of Finance of the Republic of Estonia 2010). The main parliamentary budget discussions involve the majority coalition as well as the opposition. However, the latter has almost no possibility of amending the proposed draft law.

According to the constitution, the proposal for supplementary funding must also indicate a source of supplementary revenue. In economically prosperous years, excess tax revenues are not spent but rather transferred to the State Reserve Fund. In 2007, reserves constituted 13.4% of GNP and they were used during the period of economic crisis. This explains why budget expenditures decreased only 2.3%, while tax revenues decreased as much as 9.4% in 2009 (Ministry of Finance of the Republic of Estonia 2010).

8.6.3 Sources of Revenue

Sources of central government revenue include taxes (74.1% of all revenues in 2008) in addition to nontax revenues (25% of total revenues). The role of external (EU) support constitutes 15.1% of total revenues. Estonia's central tax structure differs significantly from the EU (Table 8.4). Estonia does not have corporate income tax on investments from profit. In 2007, the government began to reduce personal income tax from 26% to 21%; the goal is to reduce the tax to 18%. At the same time, consumption taxes, such as value-added tax (VAT) and excise taxes, are significantly higher in Estonia than in the EU on average (Ministry of Finance of the Republic of Estonia 2007).

The government taxation strategy for 2011–2014 prescribes a shift in emphasis from taxation of income to taxation of consumption, which includes utilization of natural resources and pollution. At the same time, “the tax system should remain stable, simple and transparent with as few exceptions and differences as possible” (Ministry of Finance of the Republic of Estonia 2010: 28). Right-oriented cabinets have kept tax exemptions at the lowest possible level. Exemptions constitute 7.7% of Estonia's tax revenues. So, the taxation system must continuously ensure a favorable investment climate and encourage active environmental protection through measures such as tax privileges for production of renewable energy.

The highest tax rate in Estonia is the social tax, calculated at a rate of 33% of one's salary, paid by the employer. This includes 20% of the salary dedicated to social security and 13% to the

Table 8.4 Structure of Taxes in 2009

	<i>EU Average (of Tax Revenues)</i>	<i>Estonia (of Tax Revenues)</i>	<i>Estonia (of GNP)</i>
Labor taxes	50	55.3	16.5
Consumption taxes	27.4	36.8	12.4
Capital taxes	22.8	7.9	2.3

Source: Republic of Estonia, *Budget Strategy 2011*, Ministry of Finance, Tallinn, 2010. <http://www.fin.ee>, pp. 28–29.

Table 8.5 The Role of Taxes in Total Tax Revenues at Central Level

	<i>Tax Rate (%)</i>	<i>2000</i>	<i>2008</i>
All taxes		100	100
Income taxes		14.9	12.1
Personal income tax	21	11.6	6.1
Corporate income tax	21 after investments	3.4	5.9
Social tax	33 ^a	41.1	44.5
VAT	20	32.3	29.2
Excise	Complex/multiple assessment criteria	11.2	12.8
Alcohol and tobacco		6.2	5.6
Fuel excise		4.5	6.7
Gambling tax		0.40	0.69
Custom taxes		0.14	0.72

Source: Estonian Statistics, 2011. http://pub.stat.ee/px-web.2001/Database/Majandus/14Rahandus/08Valitsemisssektori_rahandus/04Maksud/04Maksud.asp.

^a There is a supplementary obligatory pension insurance (2% of salary), voluntary personal pension insurance, and obligatory unemployment insurance tax (2% paid by employee and 1% by employer).

Health Insurance Fund (Table 8.5). As demonstrated above, social taxes can hardly cover the real need in social security payments due to pensioners and cannot fully fund adequate access to health services.* In both cases the solution has been to increase employees' self-contributions, which started in the mid-2000s with the introduction of retirement contributions by employees. In increasing the social security contribution, the principle of solidarity in payments by employees, employers, and the government is followed.

Even though in 2009 the rate of VAT increased from 18% to 20%, the role of VAT has decreased since 2000 due to the decrease in consumption. However, the decreasing trend in consumption is temporary. EU laws determine the increase in the share of excise taxes in the overall budget revenues. The share of excise taxes on alcohol and fuel has already reached the minimum level established by the EU. An increase in the role of customs taxes is accounted for by the fact that they did not exist prior to EU membership.

Local taxes make up less than 1% of the local government budgets. The main source of tax revenue to local governments (47% of their budget revenues in 2009) is a shared state personal income tax; 11.4% of personal income (about half of the tax, which is currently 21%) is taxed and directed by the Tax and Customs Board directly to local government budgets. The land tax is also a state tax that is completely transferred to local budgets. But the concrete level of land tax is decided by local authorities themselves (it may be up to 2% of the market price of the land). Unconditional grants,

* At present, waiting times for health services are long.

which are aimed at reducing the disparities of the revenue basis of different localities, make up only 5% of budget revenues of municipalities, although disparities between them are increasing. At the same time, the role of conditional grants to cover costs of concrete services has increased 6.6 times since 1998 and constituted already 27% of municipal budget revenues in 2009 (Sootla and Kattai 2010). It is commonly accepted in Estonia that such a system of local tax revenues is not sustainable, but there is no consensus yet about what types of changes are feasible.

Local authorities are completely autonomous in deciding all financial matters, including borrowing. Their loans cannot exceed 60% of the annual budget. Since 2009, they have had the right to borrow only for the cofinancing of EU-supported projects. Estonia has one of the lowest tax burdens in the EU. While the EU average approached 40% of GNP in 2009, the respective Estonian tax burden was 35.2% (being the sixth lowest). Estonia's tax burden reached as low as 31.2% of GNP in 2008.

8.6.3.1 *Estonian Tax and Customs Board*

Estonia's Tax and Customs Board began in 1993 with 12 people. The Board currently employs 1979 tax officers and accounts for 8.3% of the Estonian civil service. By 2000, Estonia had established a tax administration that, due to the simplicity of taxes and significant emphasis on customer service, is working rather efficiently (Sootla et al. 2000). Around 92% of taxpayers are declaring their taxes via e-declaration. The vast majority of information about individual income is directly available to tax officers through databases (including the income of Estonian citizens received in other countries). Tax evasion is mainly linked to organized criminal actions, which take advantage of discrepancies or loopholes in the legislation. Cases involving VAT tax fraud and the use of receipts/transfers to fictional companies to demonstrate fictional expenditures (often via offshore companies) are the most frequently revealed and contested in court. For example, tax evasion concerning fuel VAT is estimated at approximately 0.8% of budget revenues or 1.1% of tax revenues. In order to restrain this channel of tax evasion, a new law was being prepared at the time of this writing. Simple cases of incorrect tax declarations are usually resolved at the regular audit stage and if accepted by the taxpayer, as a rule, penalties are not imposed. A special autonomous unit at the Estonian Tax and Customs Board deals with intentional tax evasion of a criminal nature.

8.6.4 *Structure of Expenditures*

The largest item in the structure of government expenditures is social security costs. Social security costs are increasing due to the rapid increase in life expectancy of the Estonian population.* The share of pensions in 2010 was 63.5% of all social security payments (and 22.3% of all budget expenditures) (see Table 8.6). The other important item of expenditures is investments. However, in 2010, as much as 61% of all spending on investments came from external support (mainly EU funds) and 13% of investments are financed from selling CO₂ quotas. This indicates that the investment capacity of the government is still rather unsustainable.

Estonian budget statistics have been reliable for comparison since 2000, when the Public Pension Fund and the Health Insurance Fund were included in the state budget. When Estonia was assessed for eligibility for the eurozone, the EU required the inclusion of some *de facto* public expenditures (e.g., the state real estate company) in the budget. In 2000, Estonia determined that business profits

* In 1995, the mean life expectancy in Estonia was 67.61 (61 years for males and 74 years for females), but in 2010 it was already 75.84 years (71 for males and 81 for females) (Estonian Statistics 2011b).

Table 8.6 General Structure of Government Expenditures

	<i>2009 Expenditures (% of all Expenditures)</i>
Government administration	8.8
Defense	4.2 ^a
Public order and security	5.7
Economics and infrastructure services	16.2
Environment protection	3.8
Health	13.6
Culture and recreation	3.0
Education	12.4
Social security	32.1

Source: Ministry of Finance of the Republic of Estonia, Estonian State Budget Strategy, 2010. <http://www.fin.ee/index.php?id=100927>.

^a In 2012, defense expenditures reached 5.1% to meet the NATO requirement of 2% of GNP.

used for business purposes (investments) should not be taxed annually. Enterprises have the ability to save profits in special accounts to be used for further investments. In 2003, the government decided to reduce the personal income tax from 26% to 18% (by 1% per year). The reduction of the personal income tax was halted in 2009 because of the economic recession. A customs tax was established after Estonia's entrance into the EU. Some EU states are displeased with the liberal tax policy in Estonia. Economic crises in Greece and Ireland have led to serious consideration of the establishment of more standardized public budgeting and taxation rules for EU members.

Estonia took a risky step by joining the eurozone at that stage of its crisis. However, there was no alternative, as three-quarters of Estonian foreign trade is linked to the countries in the EU Baltic Sea region. The legitimacy of the currency of such a small state was seriously harmed during the recent economic crisis. However, Estonian politicians expect that the government's ability to follow a very conservative budgeting policy during a crisis will give more legitimacy at least to Estonian public economics, but also to the EU fiscal system as well.

8.7 Ethics and Corruption

In a society where formal bureaucratic rules do not ensure effective administration and where personal contacts and networks play an important role, the adoption of certain values and patterns of behavior in the civil service may become crucial to ensuring honest and effective governance. The share of civil servants who agree that the civil service must hold specific values and attitudes increased from 75% in 2005 to 92% in 2009 (CCY 2010). Studies show that Estonian officials strongly support moral values of being honest (88%), abiding by laws (85%), responsibility (78%),

and reliability (77%) (EMOR 2007, 2009). Although the need of professionalism was not denied (81% strongly agree), purely instrumental values such as innovativeness (34% strongly agree) and being economical (34%), effective (43%), and result oriented (47%) were supported much less frequently than moral values.

Estonian civil servants most of all value a good atmosphere at work (62% strongly agree), 62% value job security, 55% benefits, and 44% the possibility of development. The other values, such as the possibility to represent citizens' interests (17%), making a career in the public sector (19%), prestige (29%), and even working for the public good (31%), were not considered as very important incentives for work.

Civil servants expect officials in their organization—7.5 on 10-point scale—to follow ethical norms. Civil servants assessed civil service ethics almost as positively (65%) as citizens (60%) (EMOR 2009).

The Code of Ethics for the Civil Service was adopted in 1999 as a supplement to the Civil Service Act. Its first provision reads: "An official is a citizen in the service of people" (Avalik teenistus 2012).^{*} From 2004, the State Chancellery (currently the Ministry of Finance) has been in charge of ethical issues. However, civil servants do not actively use the code, as is demonstrated by the fact that only 16% have drawn on the code in their work, 19% have read it carefully, and 35% of civil servants either do not know about the code at all or know but have not read it (EMOR 2009).

Another important issue regarding officials is the avoidance of conflicts of interests. This practice is carefully followed. Chapter 60 of the new Public Service Act restricts conflicts of interests. For example, an official may be involved in a business as an owner but not as chairman of the board. Civil servants cannot be connected to an organization they are supervising within 3 years after finishing the service.

The law on corruption prescribes that every official must fill out an annual declaration of interests, which is published on Internet. The declaration includes major economic interests and obligations, ownership of any form, savings in bank accounts and loans, real estate property, and cars. As a rule, officials must complete declaration forms correctly. Citizens and the media have a keen interest in civil servants' declarations.

8.7.1 Corruption

In 2010, the Corruption Perceptions Index (Transparency International) ranked Estonia 26th in the world, the least corrupt among post-Communist countries. In 2009, Estonia held the 27th position along with Cyprus and Slovenia. In the respective EU survey, Estonia ranks exactly in the middle (again being the first post-Communist country) (Eurobarometer 2007).

Estonia's law on corruption was adopted in 1997 and substantially revised in 2007. In 2004, the government developed an anticorruption strategy known as "Honest State," and currently the 2008–2012 strategy and its implementation plan are in force (Honest State 2008). The Ministry of Justice (2008) publishes an annual report on the implementation of "Honest State," which is presented to the cabinet. Estonia has joined seven international conventions concerning corruption. The government carries out annual surveys on corruption (Ministry of Justice 2010a). The proportion of people who consider corruption in Estonia a serious issue is significant (68%). This figure has slightly grown, which is a result of public debates. Between 2006 and 2010, the share of people who had witnessed corruption decreased from 20% to 19% among entrepreneurs and from 14% to 11% among citizens (Ministry of Justice 2010a).

^{*} The code was accessed electronically, thus no page number is available for citation purposes.

In 2006, 15% of entrepreneurs were asked for a bribe, while only 10% were asked in 2010. Seventy-four percent of entrepreneurs admitted to giving a bribe. Eighteen percent of citizens had been asked for a bribe, while 4% had given bribes to officials in the previous year. There was an increase in the number of doctors requesting bribes (9% of respondents). In 2010, around 10% of officials were tolerant of corrupt activities, whereas among citizens (34%) and entrepreneurs (35%) acceptance is much higher, at 34% and 35%, respectively (Ministry of Justice of the Republic of Estonia 2010). Despite the high position in Transparency International's world ranking, corruption is a serious problem.

Criminal offenses related to officials constitute about 1% of all crimes in Estonia. In 2009, the level of revealed corruption was the lowest, with 203 cases, while, in 2006, 511 cases were revealed. Between 2003 and 2006, the most common criminal offences were linked with bribery (giving, taking, mediating), fabricating documents, and abusing official positions and power. The frequencies of different crimes vary from year to year and largely depend on the ability of the government to detect and investigate cases. In 2009, most criminal offense cases were found among police and law enforcement; however, the majority of cases were linked to abuses of power, which does not always involve corruption. The acceptance of bribes by local authorities was another main source of corruption. A third source of revealed corruption was directly related to annual motor vehicle inspections; however, cases only concerned two offices. The aforementioned cases illustrate that corruption is unevenly spread among different organizations. In organizations with a fragile organizational culture and discipline, officials may provide contradictory signals to customers that are further amplified by the public (Ministry of Justice 2010b).

During the last few years, a select number of court cases involving judges accepting bribes in return for favorable decisions have been revealed. Recently the public was shocked to learn that a high-level police official had delivered secret information to criminals (Postimees 2011). But those are rare exceptions rather than a regular pattern of behavior.

Over the past couple of years, there has been more attention paid to politicians. There is much concern regarding the unlawful financing of parties as well as the abuse of power to influence and buy votes (Anti-Corruption Strategy 2008–2012). Between 2006 and 2010, the proportion of citizens who witnessed corruption involving politicians increased from 10% to 15%, conflict of interests from 14% to 21%, and the unlawful use of confidential information from 15% to 20%.

8.8 Development of Civil Society

The prevalence of bottom-up organizations was triggered when Estonia gained independence in 1918. Before World War II, the Estonian population was involved in a significant number of voluntary associations (Vilms 1936). The first music festival took place as early as 1869. Music and dance festivals were the most large-scale and legitimate organized public actions even during the Soviet era. In addition to music and dance festivals, there was also a large number of formal (i.e., Union of Writers) and semiformal professional and intellectual associations. In addition, a significant number of semilegal citizens' informal networks, or the gray market, emerged, which enabled them to exchange different goods and services and also to ensure access to benefits (such as resort or tour packets) as a response to a shortage of goods and services. Besides the immediate instrumental purposes of consumption, these networks became a kind of a substitute for horizontal social integration and communication. So, common statements about the absence of civil society during Soviet times are not entirely accurate. Existing networks played a very important role in mobilizing citizens to support democratization at the

end of the 1980s and in surviving the deepest economic and social crisis at the beginning of the 1990s (Sajo 1998).

Voluntary associations formed a basis for new parties at the end of the 1980s. The democratization process was rooted in extensive social movements, first environmental and national heritage protection movements, then later in the form of the Popular Front (in 1988). The Estonian democratization process was called a “Singing Revolution” because mass movement meetings took place at the Song Festival Grounds. One fourth of the Estonian population was present on such occasions.

In 1991, the Estonian Foundation Center (<http://www.ngo.ee>) was established. Since 1994, the center has acted as the Network of Estonian Nonprofit Organisations and Foundations. The Nonprofit Organizations Act was adopted in 1996. In 2002, the Estonian Parliament adopted the Civil Society Development Concept, which regulates the roles and mutual relations of public authorities and civic organization (CSO) in promoting civil society. In 2007, a joint commission of the government and CSO was established for the implementation of the concept. Also, the Civil Society Endowment was established for the financial support of CSO as a result of the CSO Support Development Plan (KATA 2008).

In Estonia there are almost 26,000 nonprofit organizations (NPOs) and foundations. There is one NPO for every 50 Estonians. Twenty-five percent of the country’s NPOs and foundations are inactive or work irregularly (KATA 2008). The majority of NPOs (47%) are cooperative societies, formed by the owners of privatized apartments of large blocks of flats (or garages) built during the Soviet era in order to manage and maintain the buildings. They are usually left out of the statistics and analysis. However, the general meetings of cooperative societies’ NPOs are where citizens are able to see organizations’ budget and balance sheets and to participate in the planning of investments. The largest sectors of NPOs are health and social care, education, agriculture, and hunting. Foundations are most often established in the health and social services sectors by public or private authorities. NPOs in Estonia (and probably elsewhere) could be divided into four main groups.

The first group of NPOs are completely bottom-up civic associations representing a plethora of sectors. Civic associations organize collective actions from singing and dancing to waste-collecting campaigns. Often these associations are not even legally registered actors but are acting as informal groups or initiatives.

The second type of CSOs, also bottom-up associations, has a slightly different role from the first group. Their role is to represent, protect, and promote the interests of some categorical group, whether it be parents, homeowners, or patients.

The third category consists of CSOs, which are formed to provide services to a specific target group; however, they most often provide services for citizens. CSOs in the third category may sometimes coincide with organizations in the second group. Some of them have been formed in order to obtain financial support from international and domestic sponsors. Usually, they are professionally oriented and may offer competition (and alternative) to public and private organizations because of low maintenance and labor costs.

The fourth type include the NPOs, especially foundations, which are formed by public or private authorities in order to delegate certain public tasks and roles to them, thus making it possible to manage them more efficiently and autonomously. Most frequently NPOs in the fourth category are hospitals and schools. They are not necessarily CSOs per se, although some of them may be very active in mobilizing people and increasing social inclusion in society.

At least one person has been employed by 40% of the active NPOs in 2006 and 29% in 2008* (Kodanikuühiskonna Sihtkapital 2010). The vast majority of NPOs employ an average

* Project-based financing has caused the extensive fluctuation of the level of employment.

of 1.3 persons. Foundations, which often belong to the fourth category of NPOs, have a much higher level of employment: 59% in 2006 and 49% in 2008. Unlike NPOs, almost 30% of foundations employ 10 or more persons. Both types of CSOs rely heavily on volunteers. During the previous year, only 35.7% of NPOs and 43.1% of foundations did not utilize volunteers (Kodanikuühiskonna Sihtkapital 2010).

CSOs use rather different sources of financing. In 2009, NPOs were financed by membership fees (64% of CSOs), local authorities (51%), and government foundations (31%). Only 28% of NPOs generate revenue from their own economic activities. Foundations have a different structure of financing. A foundation's main source of revenue is their own economic activity (52%). Foundations also generate revenue from private persons and private enterprises (36% and 34% respectively) and government foundations (40%). Both types are almost equally financed by the government directly (25%). Foundations receive extensive funding from the EU as well as other foreign individuals and organizations (Kodanikuühiskonna Sihtkapital 2010).

The government provides more funding to NPOs that were established before 2000. Almost 51% of the organizations created before 1990 receive government support, whereas only 22% of the NPOs established between 2000 and 2005 receive government funding. Only 12% of those recently established, between 2006 and 2009, benefit from government support. This trend is not observed among NPOs supported by local governments (Kodanikuühiskonna Sihtkapital 2010).

According to the 2008 USAID NGO Sustainability Index (see Table 8.7), Estonia has the most sustainable civil society organization among transition countries. Estonia has the best scores in almost all dimensions of NGO developments, having best organizational capacity and financial viability and best public image and channels of advocacy. However, the legal environment is better in Hungary (1.5) and service provision is better in the Czech Republic and in Poland (2.2).

According to different studies, 69%–75% of the population do not participate in any NPOs (excluding apartment- and garage-owners' cooperative societies) and only 17.6% are participating actively. As indicated in Table 8.8, Estonian citizens' involvement in CSOs is significantly lower compared with its neighbor, Finland, as well as Western Europe in general.

Although Estonia has had success in the revival of its civil society in comparison with other CEE countries, an acceptable level of participation has not yet been achieved.

Relative openness is a distinctive characteristic of Estonian public administration. The Public Information Act adopted in 2000 provides 32 categories of information that must be made public (Public Information Act of Estonia 2000). Information is most commonly publicized via an organization's website. According to law, all public organizations must maintain a website. Every

Table 8.7 USAID NGO Sustainability Index 2008

	<i>Legal Environment</i>	<i>Organizational Capacity</i>	<i>Financial Viability</i>	<i>Advocacy</i>	<i>Service Provision</i>	<i>Infrastructure</i>	<i>Public Image</i>	<i>Overall Score</i>
Estonia/ ranking	1.7 (2)	2.3 (1)	2.3 (1)	1.8 (1)	2.3 (3)	1.6 (1)	2.0 (1)	2.0 (1)
Average among Northern tier	2.4	2.9	3.1	2.5	2.6	2.5	2.8	2.7

Source: USAID, NGO Sustainability Index (for year 2008), 2008. http://www.usaid.gov/locations/europe_eurasia/dem_gov/ngoindex/.

Note: Assessment in 7-point scale, 1 = consolidations.

Table 8.8 Participation of Citizens in CSOs in Estonia and Finland

	<i>Intensity of Participation</i>	<i>Political Party</i>	<i>Trade Union</i>	<i>Church</i>	<i>Recreation, Sports</i>	<i>Other NPOs</i>
Estonia (2007)	Actively	1.8	1.6	3.0	9.3	3.9
	Formal member	3.2	3.3	7.4	2.9	2.5
Finland (2004)	Actively	1.6	6.0	7.2	22.5	15.7
	Formal member	7.9	49.9	61.0	17.2	20.3
Western Europe on average (2007)	Actively	2.6		14.5	27.6	14.4
	Formal member	6.8		32.4	12.5	9.5

Source: Hea Kodanik, *The third sector: A data mirror* [in Estonian], Tallinn, 46, 2008. <http://www.ngo.ee/orb.aw/class=file/action=preview/id=22832/Kolmas+sektor+arvupeeglis.pdf>.

citizen has the right to submit an information request to a public organization concerning the respective organization or a field of its activity. Organizations should provide the required information within five working days. The government has established the interactive website *TOM* (Today I Decide) (<https://www.osale.ee/ideed/>) through which citizens can submit ideas and proposals to the government (including draft bills) and collect signatures for citizens' initiatives. A study of local authorities demonstrated that, in comparison with CEE countries (Hungary, Slovakia, Poland), Estonian local authorities prefer to communicate through electronic or media channels rather than at public meetings (Sootla and Küngas 2007).

There is no public print media at the central level but almost all local authorities issue newsletters. Very often the service is outsourced. The government provides financing for the autonomous public broadcasting company (similar to the BBC), which is managed by the board. The board does not have the right to intervene in the program policy.

8.9 Conclusion

An overview of Estonian public administration clearly demonstrates that, when compared with other CEE countries, Estonia is relatively advanced in many dimensions. Out of every CCE country, Estonia ranks among the first according to a variety of different ratings, which indicates a transition to a liberal democracy including economic freedom, free media, the development of civil society, and the reduction of corruption. At the same time we should realize that in many other dimensions, Estonian development—which can be defined as quality of life or sustainability of the system—lags far behind the developed Western world.

Estonia has a considerable number of HIV-infected citizens. Estonia ranks first in alcohol consumption in Europe. In terms of life expectancy, Estonia is still far behind the developed world. There is no access to key public services for many people. While the role of the capital city is increasing, as in developed countries, regional development lags far behind. Regional development is to a large extent not included in the core policy agenda. Many Estonians have emigrated in search of better education and higher-paying jobs, which has created existential problems for a small nation. Estonia has witnessed oligarchic trends in the development of politics and administration. Estonia should considerably improve policy coordination in order

to meet the requirements of good governance set forth by the EU and to avoid fines for the inability to follow European directives. The controversies of the institutional system that was introduced at the start of transition (i.e., initial imbalances or discrepancies of the system) have not yet completely revealed their restraining impact.

The main challenge for Estonia at the present time is to shift its functioning from the *transition logic*, which focuses on quantitative and formal institutional dimensions, to the *logic of reproduction of balances*, which centers on qualitative and sustainability dimensions of the development of institutions. Estonia faces difficulty in reorganizing its core executive and civil service, which still contain considerable imbalances. Imbalances between the two entities served as the driving force for radical reforms in the 1990s.

A big challenge for Estonia now is to be closely involved in the EU Baltic Sea Strategy activities. The concept of macroregions as engines of multilevel governance and territory-based policies is a new direction in the European regional policy to increase competitiveness. This requires the reorganization of its policy-making style in order to link the needs and agenda of domestic policy issues with the needs and policy agenda of the Baltic macroregion. Estonia must trigger engines of development at regional and local levels. In order to accomplish this, Estonia should substantially revise central–local relations. Estonia must ensure better integration of Russians into the society and—as the eastern border of the EU—meet the challenges of immigration.

The level of development of a country is not measured by the affluence and glamour of the capital city center, but rather by the capacity to ensure a high quality of life in peripheral areas, at locations where ordinary citizens meet the public authority and are provided with quality public services. The main issue is how to transform the capacity of the system into the affluence and well-being of everyone.

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Chapter 9

Republic of Moldova: Toward a European Administration

Lucica Matei

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9.1 General Overview of Public Administration

9.1.1 Context of Public Administration

In the 1990s, Central-Eastern European states began to implement legal, institutional, political, and economic reforms—a comprehensive process of public administration reforms. Taking

into consideration the reforms of the administrative and judicial systems, some states focused on adopting a collection of laws, strategies, and action plans in order to become EU and NATO members. Some states continued the implementation process of EU Community Law in domestic legislation, as well as adapting to specific European requirements and developments. The Republic of Moldova has sought to achieve political and legal changes representing the basis of Moldova's autonomy, as well as economic, political, social, and human reforms since the country declared its independence in 1991.

The transition from communism to democracy, the strengthening of national political stability and administrative bodies, and the reform of central and local governments were accompanied by the restructuring of domestic legislation. The constitution was democratically adopted on July 29, 1994, thus creating the legal framework for a multiparty system intended to develop participatory democracy. Lacking a model adequate for its needs, Moldova adopted another institutional "model." This model is adapted according to specific characteristics, including structural, functional, and cultural elements, and complies with the "classical" principles of public administration organization and functioning.

The administrative organization of Moldova is derived from a deductive approach. It distinguishes the role of the state as an instrument of organization, which comprises a number of services to ensure the welfare of the public. This approach resulted in the definition of goals needing to be accomplished in the areas of security, development, and solidarity. This process resulted in functions of control, regulation, planning, programming, involvement, and expertise.

Reforming public administration, especially its design structure and organization, has been a feature of all national governments since 1992. Public administration is organized according to territorial-administrative units—district, city, and village (Constitution of the Republic of Moldova, art. 110 and 111). It is based on the principles of local self-government, the decentralization of public services, the democratic elections of local public authorities, and consultation of citizens on local matters of special interest (Constitution of the Republic of Moldova, art. 109; law no. 436-XVI/2006 on local government, art. 3*). The ratification of the European Charter of Local Self-Government by Moldova in 1997[†] and the harmonization of the legal framework demonstrate the need for public administration reform and the enforcement of European principles and standards in Moldova.

The organizational and functional structure of public administration authorities is established by vertical and hierarchical subordination and comprises various authorities on numerous levels. The government represents the top authority or central body of the executive power. It exercises the general management of public administration. The organization of public administration is regulated by normative acts concerning the government including the procedure for electing the president of the Republic of Moldova, local government, territorial-administrative organization, public property of the territorial-administrative units, and local public finance.

In redefining the central government, its role in relation to the local government, and the functions and competences of public administration, the Republic of Moldova could be characterized by the following features:

* Law no. 436-XVI of December 28, 2006 on local government, published in the *Official Gazette of the Republic of Moldova* no. 32-35/116 of March 9, 2007.

[†] European Charter of Local Self-Government of October 15, 1985, ratified by the Republic of Moldova through Parliament Decision no. 1253-XIII of July 16, 1997.

- I. The general management of public administration is entrusted to the government.
- II. On the one hand, the organization and function of public administration emphasizes the territorial dimension of public authorities in the Republic of Moldova.
 1. Central authorities include the government, as well as specialized state bodies consisting of ministries and central government authorities.
 2. Local authorities are organized in two tiers:
 - a. The first tier of local authority includes local city councils, communes, or local village councils elected as deliberative authorities, and mayors elected as executive authorities.
 - b. The second tier of local authority includes district councils, the Council of Chisinau Municipality as a deliberative authority, the autonomous territorial unit with special legal status, and the presidents of districts as executive public authorities.

However, on the other hand, Moldova's public administration emphasizes the functional and hierarchical dimensions.

 3. Authorities with general competence include the government, local councils, and mayors.
 4. Specialized authorities include ministries and other central administrative authorities such as services, offices, and agencies.
- III. Public administration has important political, social, economic, cultural, and historical purposes. In the last two decades, it has encompassed reforms and restructuring processes related to political changes. From functional and institutional points of view, Moldova experienced a restrictive adaptation to the conditions of a democratic system with a modern administration and market economy. This fact is demonstrated by structural and organizational changes, turnover among a number of structures within the framework of central government authorities, as well as their comprehensive activity in accordance with several regulations because the old regulations were not abrogated.
- IV. The enforcement of new laws on local government such as law no. 436-XVI/2006 and on administrative decentralization such as law no. 435-XVI/2006* enables the delineation of competences, transfers, authority delegation, decentralization, and the development of new types of relations with the central authorities. Local public authorities exercise their own competences, both delegated and shared. In some areas of activity, the two tiers of local public authority have the same competences or ones that are confusing and contradictory in nature (Chivriga and Furdui 2009). This tends to lead to different interpretations of competences by each authority. In many cases, the delegation of authority from central to local authorities of the first and second tiers is not feasible due to the lack of financial resources at the local level. It is also infeasible because of the confusion generated by other normative acts, which do not clearly stipulate the legal aspects for their own or delegated competences of local authorities.
- V. The organization and function of the administrative system in the Republic of Moldova and its reforms are based on a general legal framework and a specialized legal framework, including both a new constitution and specific laws, adopted in 1990. The legal framework was

* Law no. 435-XVI of December 28, 2006, on administrative decentralization, published in the *Official Gazette of the Republic of Moldova* no. 29-31/91 of March 2, 2007.

adapted and renewed at every stage of development and restructuring, thus demonstrating the complexity of the public system's organization.

- VI. The process of restructuring the territorial-administrative units in the Republic of Moldova is marked by the downsizing of the second tier (converting 32 districts into 10 counties in 1999) or the merging of some villages into communes.* The restructuring of the first tier was aimed at strengthening the local and regional economic system, which demonstrates the fragility of the Moldovan public administration system.

In the Republic of Moldova, the executive power, according to the constitution, which is the fundamental law of the republic, is entrusted to the president and the government, which is typical of parliamentary regimes. Aware of its role as the executive power, the government complies with the principles of democracy, legality, and social usefulness, which support the rule of law and the promotion of democratic governance by its programs (i.e., Government of the Republic of Moldova 2010).

The government is organized and run according to constitutional provisions (Chapter VI, Government, Constitution of the Republic of Moldova, law no. 64/1990 on Government, amended by law no. 72/2010). Constitutional provisions are based on a collection of documents† for the organization, work, and planning of its activity until 2013. Governmental functions such as state authority, representation, strategy, regulation, state property and administration are subject to parliamentary control. The government consists of the prime minister, prime-vice-prime minister, vice-prime ministers, ministers, and other members stipulated by law (art. 4, law no. 64/1990, published in 2002).

The complexity of the organization and restructuring process of public sector institutions and bodies through mergers, divisions, and the creation or dissolution of governmental departments and agencies was based on a broad process of adoption and adaption of field legislation (e.g., during 1990–2002, law no. 64/1990 on Government was amended 25 times) and the normative acts.

9.1.2 Premises of a Specific Administrative Culture

The administrative structure of a state represents the outcome of a long developmental process. The structure identifies “progressive agglomerations of territories, populations, and languages” (Constitution of Moldova 1994) and directs relations between local communities and the state, as well as the regime of the legislative, executive, and judicial powers.

The Republic of Moldova also experienced a theoretical “model” that concerns the long development process of the state and its territorial-administrative structure ranging from administrative entities to autonomous districts or regions. Every previous development stage reflects the traditions, habits, and cultural values, as well as economic and spiritual activities, found in Moldova's territorial-administrative structure.

* A commune is a territorial-administrative unit, comprising a rural population united by interests and traditions, including one or several villages.

† Examples include “The Activity Programme of the Government of the Republic of Moldova” and documents approved and comprised by Government Decision no. 194/2010 concerning the approval of the Government Activity Plan for 2010.

In this context, we distinguish the following structural characteristics:

1. The influence of Moldova's geographical position in Central Europe (in the Northeastern Balkans) on its culture, history, traditions, and the establishment of the Moldovan feudal state in the Middle Ages, in the historical Carpathian-Balkan, Central European, and Euro-Asian areas. At that time the state was divided into lands and wards.
2. The influence of:
 - a. The *Tsarist* administrative and political system: Bessarabia, the eastern part of Moldova, situated between the Prut and Dniester rivers. It joined the Russian Empire in 1812 and was an autonomous region until 1873. It was also a *guberniya* (province in Russian), divided into eight counties during 1873–1917.
 - b. The *Romanian* administrative and political system: In the interwar period, the territorial-administrative structure in Romania was organized according to the French model: departments, arrondissements, and communes. Moldova was organized into 10 counties comprising of villages and communes.
 - c. The *Soviet* administrative and political system: Moldova was organized into districts and village soviets whose evolution was determined by the reorganization of the administrative centers. This resulted in political and economic decisions, as well as the enforcement of the principles of the centrally planned economy.
3. The influence of material and natural resources determined the establishment of the rural, local communities along the rivers in plain areas, where agriculture became the main occupation of the local communities. This was reflected by high employment in agriculture and a significant portion of the population in rural areas (53.7%).
4. Development of administrative centers was hypertrophied. The monoindustrial towns that developed on the left side of Dniester during the Soviet economic system joined the local communities, which created the basis of historical affinities, natural resources, and the traditional economy, as well as the cultural and spiritual heritage.
5. The territorial-administrative reforms in the Republic of Moldova during the modern period include the reforms in 1994, 1998, and 2003 and have led to adoption of the laws on the territorial-administrative organization of the Republic of Moldova (law nos. 306-XII/1994 [abrogated], 191/1998, and 764-XV/2001, respectively).

These laws brought changes to Moldova's Soviet system of administrative organization. In 1994 they created the first autonomous territorial unit with a special regime, Gagauzia (Gagauz Yeri), which was made up of three separate districts. The laws also established 38 districts until 1998. Five of the established districts were in the separatist region of Transnistria.*

Following the Romanian model, in 1999 (law no. 191/1998), 10 counties were created. In 2003, Moldova experienced a return to a quasi-Soviet model of territorial division. This included district, city, and village as territorial-administrative units: 5 municipalities, 60 cities, 40 localities in the frame of cities (municipalities), 659 localities in the frame of communes, 917 villages/residences, and 32 counties.

* Transnistria is a geographic region of the Republic of Moldova, situated east (on the left side) of the Dniester river. Considered at an international level and by the government of the Republic of Moldova as an autonomous region of Moldova (called a "territorial unit on the left side of Dniester"), in fact, Transnistria has declared its independence and established Tiraspol as its capital. This fact has determined the conflict.

The Republic of Moldova is a sovereign, independent, unitary, and indivisible state according to the constitution (art. 1(1), title I, General Principles, Constitution of the Republic of Moldova, July 29, 1994). A literature review of this fundamental law reveals the main features of the political regime, emphasizing the following issues:

1. The form of government of the state is a republic (Constitution of the Republic of Moldova, art. 1(2)).
2. The organization of the state is based on the principle of the separation and balance of legislative, executive, and judicial powers (Constitution of the Republic of Moldova, art. 6).
3. The Parliament is the sole legislative authority of the state and the supreme representative body of the people in the Republic of Moldova (Constitution of the Republic of Moldova, art. 60(1), title III, Public Authorities, chapter IV, Parliament).
4. The government represents the executive power. It ensures the achievement of the domestic and foreign policy of the state, and the general management of public administration (Constitution of the Republic of Moldova, art. 96(1), chapter VI, Government). The government is politically responsible to the Parliament (Constitution of the Republic of Moldova, art. 104 and 105).
5. The legal delegation (Constitution of the Republic of Moldova, art. 106/2) entitles the government to issue ordinances in domains other than subjects of organic laws* (based on a special law).
6. The judicial authority is represented by the Supreme Court of Justice and courts of law (Constitution of the Republic of Moldova, art. 114 and 115, chapter IX, Judicial Authority).
7. The Constitutional Court guarantees the supremacy of the constitution (Constitution of the Republic of Moldova, art. 134(3), title V, Constitutional Court). It enforces the separation of state powers—legislative, executive, and judicial.
8. The organization of local government emphasizes the principles of local self-government, including a decentralization of public services, eligibility of local government authorities, and citizen consultation (Constitution of the Republic of Moldova, art. 109(1), chapter VIII, Public Administration).
9. The administrative structure of the Republic of Moldova is organized into villages, cities, districts, and the autonomous territorial unit, Gagauzia (Constitution of the Republic of Moldova, art. 110(1)).
10. The organic laws specify Chisinau as the capital of the Republic of Moldova. They also identify the position of the localities on the left side of Dniester or the declaration of certain cities as municipalities (Constitution of the Republic of Moldova, art. 110).

9.2 Historical Period of Public Administration: From Principality of Moldova to Republic of Moldova

The young Republic of Moldova (independent as of August 27, 1991) can be found in historical documents labeled “Moldova” dating back to the rule of Bogdan the First in 1359. This represents the establishment of the Principality of Moldova, a Moldovan feudal state. This time in the

* The organic laws are laws regulating the organization and assignment of state bodies, the electoral system, the regime of property, labor relationships, and administrative organization in general.

rich history of Moldova was marked by the development of a policy aimed at the maintenance and recognition of its independence, defense of its territory, and the preservation of its historical borders.

The medieval period was marked by the reign of Stephen the Great (1457–1504), when foreign invasions and battles with the Turkish, Tatar, Hungarian, and Polish people threatened the principalities in Central-Southern Europe. Both military and cultural victories contributed to the establishment of European cultural patrimony (churches and monasteries belonging to UNESCO patrimony). Moldova was an independent principality or unified with the Principalities of Transylvania and Walachia for a short period under Michael the Brave (1593–1601). It was under the Ottoman Empire's control for three centuries after Stephen the Great's death.

The Bessarabia region of Moldova (the eastern part of Moldova) joined the Russian Empire for the first time in 1812. Bessarabia was a Russian guberniya for almost a century until the collapse of the Russian Empire in 1917. At that time, the supreme body of the state in Bessarabia, the National Council (Sfatul Tarii), declared independence and decided to reunite with Romania (until 1940), which was officially recognized as a union by the United Kingdom, France, Japan, and Italy at the Paris Conference in 1920.

In 1924, the Soviet Union created the Moldovan Autonomous Soviet Socialist Republic (MASSR), and in 1940, Bessarabia joined the MASSR and the Moldovan Soviet Socialist Republic (MSSR) was established. The interwar period was marked by the organization of the two states, MASSR and MSSR, and was influenced by the Soviet model of territorial organization. MSSR was a territorial unit of the Soviet Union until the last decade of the twentieth century.

State modernization and the republic's independence were accelerated by "glasnost"—a radical policy promoted by Mikhail Gorbachov in 1986 aiming to ensure greater transparency of political life, leading to political developments that marked the final stages of the former Soviet Union. Consequently, on June 23, 1990, Moldova proclaimed its sovereignty and on August 27, 1991, it declared its independence. Romania was the first nation to recognize Moldova as a new independent state. The Republic of Moldova became an independent and sovereign state with a new identity. Over 180 states worldwide recognize Moldova's independence. It became a member of the United Nations on March 2, 1992, as well as the first state from the former Soviet Union to become a member of the Council of Europe, in 1995.

In 1993, Moldova joined the Charter of the Conference on Security and Cooperation in Europe (CSCE), which is now the Organization for Security and Cooperation in Europe (OSCE).

In 1994, Moldova joined the Partnership for Peace program of NATO and signed the Partnership and Cooperation Agreement with the European Union.

9.3 Political and Economic Reforms

Similar to other European or former Soviet states, the Republic of Moldova has experienced difficult economic periods marked by the global financial crisis and the transition to independence. Moldova's economic difficulties were also influenced by the country's transition from a centralized to a free market economy and from a communist political system to a democratic system. Considering the complex transformations (CSSR 1998, Osoian et al. 2010) and changes that began two decades ago, the Republic of Moldova has undergone a profound crisis of democracy, characterized by the insufficient functioning of democratic institutions on the following levels:

- Justice: low confidence of society in the justice system
- Fight against corruption
- Local self-government: weak representation and self-governance of local communities
- Civil society: low involvement in a genuine dialogue
- Freedom of media

For the Republic of Moldova, the year 1991 represented the beginning of the developmental process concerning the new constitution (1994), legal acts, and documents aimed at strengthening the state's role as initiator and promoter of reforms.

During Moldova's shift from a totalitarian state to a multiparty system, the country has undergone different stages influenced by specific factors such as history, traditions, religion, and ethnic composition of the population, as well as general factors, for example, socioeconomic, ideological, and technical. Transnistria represents an essential element in the promotion of the political stability and economic prosperity of the Republic of Moldova, as well as in the whole region.

Since the early 1990s, similar to other Central and Eastern European states, Moldova, a country with profound historical, cultural, and economic connections with European Union member states, has been involved in the development of a multiparty system, as well as in finding an appropriate model of democracy. The emergence of political parties was in conflict with the totalitarian system (Cernencu and Botan 2009, 12). The newly created legal framework eliminated the monopoly of a single political power and established conditions for the emergence of the core elements of participatory democracy.

The Republic of Moldova consists of democracy based on the "political elite" where "civil society and citizens are not involved in drafting and enforcing public policies, being less involved in the transformation of the state, economy, and society" (Gudim 2003). The political instability, frequent change of government (13 governments in the Republic of Moldova up to present), shift in the balance of power in Parliament, and lack of a national consensus resulted in the postponement of economic reforms. This led to worsening of the social situation and organizational and functional instability of state institutions.

The post-Soviet mentality of the population of Moldova is geared toward the communist system, the crisis of the economic system, and the Transnistrian conflict. The results of a 2001 survey (UNDP 2003) show that 93% of respondents consider that the living standard was higher before the declaration of independence; 69% believe they had more rights and freedoms at that time; and 80% believe social protection and the enforcement of laws were better then.

The institutional and economic performance of the government determines the quality of governance (Matei and Matei 2010, European Parliament 2010). It is also strongly influenced by sociopolitical factors. The political reconfiguration of local governance centralized before 1991 and under the control and leadership of the political center reveals changes in the relationship between the central and local levels. This is a fact illustrated by the indicator "local democratic governance" (Vitu 2010). For this indicator, Moldova received a value of 5.75 (in 2010), reflecting a low level for the democratic process despite its efforts to enforce the principles of the European Administrative Space, to adopt and transpose the laws and rules regarding the allocation of government's competences between the central and local levels, and to transfer more authority from the central to the local government. As shown above, the laws and rules in Moldova clarify and distribute the competences of local and central authorities. Yet, there are areas where both local and central authorities have overlapping control and areas where neither has a dominant presence.

The transition processes from a totalitarian to a democratic system and from a centralized to a market-based economic system are extremely complex. They require political, social, institutional, and cultural changes. Governance reforms undertaken in Moldova relate to the budgetary system, fiscal management, public administration, decentralization, and so on. The institutional transition refers to establishing institutions to support the market economy, the mechanism of control, and citizen participation. The economic transition represented “the logical consequence of the economic crisis, inherited from the socialist economic system, whose parameters could not anymore ensure a sustainable development” (Gudim 2003).

Most ministries in the Republic of Moldova have inherited structures, institutional affiliations, competences, and working styles from the Soviet Union (Prohntitchi 2003a). This has led to the delay of various reforms. Reforms in the public sector have slowed improvements and included frequent changes in the executive structures, powerful centralization, top-bottom hierarchical organization, and the postponing of the transfer of the changes toward the lower level.

Important changes emerged in the institutional structure. Organizational restructuring was sometimes determined by political rather than economic interests, as in the April 2001 restructuring of the Ministry of Energy. Rivalry among ministries and their divisions also influenced the restructuring of government institutions such as the Ministry of Finance and Ministry of Economy in 2001. Taking into consideration the general political and economic instability as well as the regional crisis, Moldova’s economic and social reform policies represent the priorities of Moldovan governments. They are determined mainly by the low level of economic and social development, inherited by Moldova during the previous period, when it belonged to the former Soviet Union. Temporary interests or narrow corporatist interests have also influenced economic policy.

During the early 1990s, the economy was characterized by a sharp economic recession. It originated from the Soviet economic system, low levels of urbanization, underdevelopment of rural areas, a lack of natural resources, and other factors. In 1994, Moldova experienced a period of relative stability, followed by structural reforms and economic growth.

Economic growth was divided into four periods (Popa and Prohntitchi 2009) and could be characterized as follows:

1. Economic collapse (1994–1999): property reform, introducing the national currency, restructuring and consolidating the banking system, operation of the capital market, the beginning of agricultural reform
2. Maintaining economic and financial stability (2000–2005): economic expansion, annual increase in the gross domestic product of 7% (2001–2005), gradual economic recovery
3. Economic shocks (2006–2008)
4. Economic decline (since 2009): due to the effects of the worldwide economic and financial crisis

It is worth noting the support of international financial institutions in Moldova’s structural adjustments, institutional development, and the country’s decision to embrace European integration. Moldova receives EU assistance for development according to the Partnership and Cooperation Agreement between the EU and the Republic of Moldova. The agreement went into effect on July 1, 1998. Moldova signed the Republic of Moldova, European Union Action Plan within the framework of the European Neighbourhood Policy, on February 22, 2005, in Brussels. Moldova began negotiations with the European Union regarding the Association Agreement on January 12, 2010. Moldova’s efforts support the revival of economic and social growth. Becoming a full member state of the European Union is an unlikely prospect despite the major efforts of the Moldovan authorities.

9.4 Civil Society and Its Development

In the Republic of Moldova, civil society is a strategic partner of the public authorities on both the central and local levels. Civil society plays an important role as a mediator for citizens' interests. In the Republic of Moldova, "the abusive communist practices were excluded, and the state institutions are no more used to act as a guardian against inconvenient non-governmental organisations or political parties," as mentioned in the report of the government on implementing its activity program for 2009–2013 (Government of the Republic of Moldova 2010).

The transition to another way of life—to a democratic society—involves new citizen behavior. Citizens are now active participants in the creation and development of new democratic values in Moldova. Becoming a democratic society involves overcoming the following barriers, as emphasized in UNDP Report: "central and regional social traditional hierarchies, social inequalities, ethnical intolerance, exclusion of vulnerable groups, and centralization" (UNDP 2003, 53–56).

At the beginning of 1990s, there were no genuine forms of citizen participation in public life. Currently there are efficient modalities of cooperation between civil society and public authorities such as including civil society representatives in the social dialogue, supporting the development of nongovernmental organizations, and so forth. The development of the culture of communication, participation, and efficient interaction between civil society and public administration represents the government's priority of developing dialogue and strengthening forms of citizen involvement in problem solving.

The strategic partnership between civil society and public authorities evolved based on the values and principles of partnership, mutual respect, participation, civic activity, responsibility, accountability, political independence of civic initiatives, sustainable and balanced development, equal opportunities, and development at regional and local levels.

In the Republic of Moldova, the number of nongovernmental organizations has grown steadily from 53 in 1993 to nearly 8000 in 2009 (*Statistical Yearbook* 2009). Most NGOs exist in urban environments where higher numbers of citizens reside. NGOs cover a range of topics of national importance such as legislation, policies for monitoring and promoting public services, and strengthening the capacity of advocacy and lobby groups. Nongovernmental organizations contribute to the enhancement of governmental transparency.

The cooperation between Parliament and civil society is expressed in specific forms of discussion including ongoing consultation, *ad hoc* meetings on concrete topics included on the parliamentary agenda, and public hearings that are organized at least once a year by every standing parliamentary commission. More involvement of citizens is ensured through the representation of civil society in standing commissions, committees of experts, and working groups that draft legislation. Since 2009, consultation has been used in the making of public policies. In 2010, it had improved: civil society was consulted on 720 drafts, 83% of which were adopted, compared with 38% in 2009. Consultation takes many forms, ranging from the display of projects on the websites of authorities to the organization of public meetings. In 2010, the central government, authorities, and ministries organized 681 advisory meetings, public hearings, public debates, and various topical working group meetings.

Citizen participation in decision making involves the consultation of drafts of public documents posted on the websites of public authorities. A dedicated website was created: <http://www.particip.gov.md>. Recommendations were made (3800 in 2010, 1680 in 2009), which were included in the drafts of decisions (46% in 2010) or in debates for the drafts of legal deeds.

Moldova created the National Council for Participation (Government Decision [GD] no. 11/2010). Civil society participates in making, implementing, monitoring, evaluating, and reviewing public policies together with public authorities and the private sector. The institutional framework of consultation with central government authorities is sustained by legislative and regulatory support: GD no. 11/2010 on the Establishment of National Council for Participation; GD no. 267/2008 approving Strategy for Civil Society Development for 2009–2011; law no. 239/2008 on Transparency in Decision Making; and law no. 982/2000 on Access to Information. In 2010, there was a trend toward more consultation of civil society on drafts of legal and regulatory documents—82% of the drafts of legal and regulatory documents, in comparison to 39% in 2009.

The legislation concerning the conditions for the media is in accordance with European rules and standards, thus ensuring freedom of the media. There have been significant developments in the role of the media, supported by the diversification of media channels, transparency of decisions, and public life. The media took on the role of civic forum, facilitator of debates on topics of public interest, mobilizing agent, and watchdog. It plays a watchdog role by identifying governmental abuses of power, enhancing governmental transparency, and making governmental authorities accountable to the public. In 2010, the Moldovan government guaranteed conditions for journalists to exercise their profession freely without political pressures or working on behalf of the government or other structures of central government.

Constitutional and legal guarantees have created an environment favorable to a free media by supporting freedom of speech and information, competitiveness in the media market, and the promotion of ethical standards during debates with representatives of public authorities. A good testament to this new environment is the creation of two new television stations in the early part of 2010.

The formation of the National Council for Participation on January 19, 2010, is one example of the government working collaboratively with civil society. The council, which facilitates the involvement of civil society in policy making, consists of the civil society, public officials, and private sector organizations. The council approved the “Strategy for Civil Society Development” on October 25, 2010.

9.5 Human Resource Management

9.5.1 *Legal Foundation of Human Resource Management*

The civil service represents a major component of the national governance system. The quality of governance depends directly on the quality of services provided by civil servants. The principles of legality, impartiality, independence, and professionalism are reflected in Moldova’s laws specifically for the civil service and the public service, as well as in the scope of democratic governance. It is also evident in the separation between the political and administrative levels and in the mechanisms related to the connections between the state, civil society, and the private sector.

Actions taken to adjust the regulatory framework of public administration and service reflect the principles of the European Administrative Space as an area for the application of the principles of the European administrative law, as well as mechanisms and best practices. The principles of the European Administrative Space include rule of law, openness, transparency, responsibility, efficiency, and effectiveness in public administration. Moldova has a number of shortcomings in

human resource management within the central government including inadequate institutional organization, job instability, and lack of career development. Mechanisms and resources for performance evaluation, recruitment, selection, promotion, motivation, and development programs are inadequate as well.

Human resource management is a priority of the government of the Republic of Moldova, which is specified in GD no. 1402/2005 on “Strategy for Central Government Reform.” Decision no. 1402/2005 emphasizes the specific role of human resources in public administration, such as the categories of professional staff and civil servants. The improvement of human resource management is an important component of the Strategy for Central Government Reform of the Republic of Moldova, which aims to create a modern legal and regulatory framework for the public service and in accordance with the European law, as well as to develop and consolidate a corps of professional civil servants.

The legal and regulatory framework of human resource management was developed and adjusted according to the practices of good governance set forth by the EU. It was concerned with public administration and public services ranging from the adoption of the constitution in 1994 to documents under current public or parliamentary debate. The specific legal framework was gradually adopted.

The legal and regulatory framework, as shown in Table 9.1, contains special laws on the public service, the civil service, civil servants’ status, public dignity offices, public employees, and conflict of interests. It also includes Government Decisions for procedures related to competition-based employment for vacant civil service positions, personnel policy in the public service, single ranking classification of civil service positions, and secondary legislation.

Two key laws regulating the civil service were adopted in 2008: the Civil Servant’s Code of Conduct and the Law on the Civil Service and Civil Servants’ Status. The Civil Servants’ Code of Conduct stipulates the norms for civil servants’ conduct in performing their duties. The Law on the Civil Service and Civil Servants’ Status includes general provisions for the civil service and civil servants’ status, as well as legal relations between civil servants and public authorities. The provisions of the regulatory framework focus on the incompatibilities and constraints placed on individuals holding public offices and civil service positions. The secondary framework also concentrates on solving conflicts of interests, as well as the layout for statements on conflicts of interests. The development of institutional and functional capacities to enforce the laws and rules specific to the civil service, civil servant management, and the establishment of the tasks and responsibilities of central government authorities are expressed in actions undertaken in the past few years.

The Personnel Policy Division of the State Chancellery of the Republic of Moldova has the institutional responsibility of human resource management such as monitoring of the activities of the public administration for civil service development and the enforcement of the law on the public service. The Personnel Policy Division is also responsible for establishing personnel regulations and guidelines. The Personnel Policy Division of the State Chancellery collaborates with human resource departments and provides support to them in order to implement human resource management policies.

Since 2010, the State Chancellery has enforced procedures related to certifying the staffing schedule and stipulating the status for every position in the governmental sector. On October 1, 2010, 15 out of 16 ministries and 7 out of 8 central administrative authorities certified staffing schedules according to the above procedure, as established in the Government’s Activity Program for 2009–2013, “European Integration: Freedom, Democracy, Welfare.” That procedure was enforced at the local level in 2011.

Table 9.1 Legislation Concerning the Civil Service and Civil Servants

<i>Year</i>	<i>Type of Act</i>	<i>Contents</i>
Fundamental Law		
1994	Constitution of Republic of Moldova	
Laws		
1995	Law no. 443-XIII/1995	Public service
2008	Law no. 25-XVI/2008	Civil Servants' Code of Conduct
	Law no. 158-XVI/2008	Civil Service and Civil Servants' Status
	Law no. 16/2008	Conflict of interests
2010	Law no. 80/2010	Status of personnel in the cabinet of persons with public dignity offices
	Law no. 199/2010	Status of persons with public dignity offices
Government Decisions of Republic of Moldova		
2001	GD no. 151/2001	Approving the "single ranking classification of civil service positions"
2002	GD no. 1227-XV/2002	Approving "the design of personnel policy in the public service"
2004	GD no. 192/2004	Approving the "regulation on competition-based employment for vacant civil service positions"
	GD no. 845/2004	Professional development of civil servants
2005	GD no. 1402/2005	Strategy for Central Government Reform
2006	GD no. 1373/2006	Approving "the design of a computerized information system" and "registry of civil service positions and civil servants"

(continued)

Table 9.1 (Continued) Legislation Concerning the Civil Service and Civil Servants

<i>Year</i>	<i>Type of Act</i>	<i>Contents</i>
2009	GD no. 892/2009	Professional development of employees in public administration in 2010
	GD no. 201/2009	Regulation on competition-based employment in vacant civil service positions Regulation on probationary terms for junior civil servants
2010	GD no. 943/2010	Model of the individual work contract of personnel in the cabinet of persons holding public dignity offices

9.5.1.1 Selection

Hiring practices for civil service positions are handled according to the law (art. 14 on the public service) and through employment, appointment, selection, and competition. Types of employment are related to the assignments of the civil service position or specialization through employment and competition. For employment in management-level civil service positions hiring is done through appointment, selection, and competition.

The system does not fully ensure citizens' rights to employment in civil service positions or civil servants' rights to promotion. It also does not guarantee the enforcement of equal opportunity when it comes to appointments to civil service management positions.

The public service employment procedure was competition-based and represented a priority of the Strategy for Central Government Reform (2005). Employment determined by open competition accounted for "a third of the total number of employees in 2006," as reported in the implementation of the Strategy for Central Government Reform in 2006.

According to the Report on Implementation of the Strategy for Central Government Reform in 2006 (Government of the Republic of Moldova 2006), recruitment in the central government was done through the "transfer from other central government authorities and personal relations and less through open competition" (Government of the Republic of Moldova 2010).

Vacant civil service positions are filled through competition, promotion, or transfer (law no. 158/2008). This is regulated by secondary legislation, GD no. 201/2009, which stipulates the probation term for junior civil servants. Furthermore, the amendment on competition-based employment, contained in the law on public service no. 443/1995, has provided for the development of mechanisms for enforcing the laws on the public service, the civil service, and civil servants' status, as well as normative documents, since 2010. Competition is based on the principles of openness, transparency, competence, and professional merit, as well as equal access to civil service positions for every citizen.

Promotion to a higher position is possible if the civil servant has obtained the qualification "very good" for the last two annual evaluations or the qualification "good" for a minimum of three evaluations. A transfer may be inside the same unit/subdivision, between interior units/subdivisions of the public authority, or between two public authorities. In 2006, one-third of the new

hires were recruited through open competition; in 2010, this procedure was the primary method for hiring. Statistics show that, from January to July of 2010, recruitment through competition for vacant management and executive civil service positions was used for 38.7% of individuals employed in central specialized bodies, which led to a degree of turnover among the civil servants of 14.7%, higher than in 2009.

Consequently, in 2010, 23 out of 24 specialized central bodies enforced the procedure of competition-based employment for 308 vacant civil service positions. Those positions were made up of 25.3% management-level civil service positions and 74.7% executive civil service positions. In 2009, only 16% of those employed by the civil service obtained their jobs through a competitive process. A year of reorganization for the central government was 2009, when the transfer procedure was applied, resulting in the change of assignments corresponding to the civil service positions. Approximately 25% of civil servants obtained their position through a competitive process in 2008. In 2007, approximately 30% secured their jobs via competition according to the Report on Implementation of Central Government Reform 2010.

Employment by the three methods at the second tier of the local government amounts to 48.6% for competition-based employment, 13.7% for transfer, 4.8% for promotion, and 26.6% for issue of the administrative document (January–July 2010). A probationary term of 6 months for junior civil servants is applied to individuals employed in the public service for the first time. The 6-month probationary term aims to assess the knowledge, skills, attitudes, and practical training of junior civil servants, as well as their specific knowledge of public administration. At the end of the probationary term, 46.3% in the central government obtained a “satisfactory” qualification and therefore were eligible to continue working in the public service. Around 91.4% were employed by local governments. The remaining individuals were dismissed after receiving “unsatisfactory” qualifications.

The number of civil servants in Moldova has increased since 2001. In 2001 there were 14,309 civil servants while in 2010 that number was 21,253. That same year, 68.4% of employees in the public sector were civil servants. As of July 1, 2010, there were 31,068 employees in the public sector. By October 1, 2010, 89.6% of civil servants were employed in central specialized agencies. The number of employees in local governments on July 1, 2010, totaled 13,860, of which civil servants represented 57.7%.

9.5.2 Status of Civil Servants in Society

Civil servants participate in society as civilians expressing opinions in various public debates and actions. They belong to professional associations, organizations representing and protecting their professional interests, and trade unions. They are represented in social–political life according to the law. As in other Eastern European states, in Moldova there is little interest in civil service positions, due especially to the low salaries. However, the high-ranking civil service positions are attractive, providing an opportunity to influence social, economic, and political life.

9.5.3 Benefits and Compensation

According to law no. 158/2008, art. 14, the civil servant is entitled to a physically and psychologically safe work environment. The civil servant also benefits from compensation corresponding to the complexity of the assignments of the civil service position. He has a right to stable employment and to a promotion to a higher civil service position. Forms of financial and nonfinancial incentives are found in laws and rules specific to the civil service. Forms of motivation exist in the

classification and ranking of civil service positions, as well as in the allocation of awards, diplomas, and acknowledgment (law no. 158/2008, art. 40).

Before 2009, the professional development of civil servants and employees in central and local governments was achieved through continuous training, career promotion, and development. It impacted the turnover of human resource personnel in central government.

In the Republic of Moldova, the compensation system in public administration is characterized by inflexibility due to job conditions, constraints, lack of transparency, lack of attractiveness for youth, and the lack of financial and nonfinancial incentives. In this respect, civil servants consider their salary to be nonmotivating, basic income. In many situations the salary in the public sector is close to the minimum salary, being two times less than the salary in the private sector.

The introduction of a ranking system for civil service positions, based on the nature and complexity of tasks, ensures the existence of a pay system related to the complexity of the job. Such a system includes consistent observations of performance, as well as annual evaluations, which may lead to a bonus corresponding to every qualification rank.

A civil servant might also carry out the tasks and responsibilities of a temporary vacant position (law no. 158/2008, art. 25) or tasks in the educational system or associated with didactic activity. Civil servants' benefits include pensions, social insurance, up to 35 days of paid annual leave, up to 60 days of unpaid leave, and maternity leave, as well as other leaves stipulated by law and social insurance.

Civil servants' professional development is accomplished through annual training plans (Decision no. 845/2004 on civil servants' professional development). Civil servants participate in training activities organized in-house and at other institutions. On average a civil servant benefits from at least 40 hours of training annually.

9.5.4 Relationship between Civil Servants and Elected Officials

Civil servants should ensure free access to information on matters of public interest. They should respect the citizens' rights and freedoms. Civil servants consider public opinion, and examine proposals, requests, and complaints in their respective fields. The Moldovan government's concern for citizen problem-solving is institutionalized through the organization of hearings at the central and local government levels. GD no. 87/2011 stipulates the days for those public hearings.

9.5.4.1 Major Reforms in Recent Years

Public administration reform in the Republic of Moldova includes public service reform. In 2005, the Strategy for Central Government Reform was approved. The main component of the reform focuses on human resource management and development. In 2010, the adaptation of the legislation imposed the following:

- a. Amending the law on the civil service and civil servants' status (adopted in 2008) in May 2010; that is, shifting management positions in local government (vice-mayor of a district, vice-mayor of a municipality, village [commune], city) to public offices. Dismissing a civil servant from their position whenever they obtain an "unsatisfactory" score during a professional performance evaluation.
- b. Adopting the law on the status of persons holding public positions.

- c. Harmonizing the legislation with the law on the civil service and civil servants' status, and developing the corresponding regulatory framework.
- d. Adopting the law on the status of the employees in the cabinet or individuals holding public positions.
- e. Developing the normative framework for implementation.

The promotion and fulfillment of state policy in the public service, especially human resource management, is the responsibility of the State Chancellery of the Republic of Moldova. The Personnel Policy Division, within the structure of the State Chancellery, monitors activities related to the civil service and implementation of the laws on the public service. Institutional structures were set up and consolidated in the field of human resources in the public sector, such as human resource offices in ministries and other central government authorities. There is also the civil servants' training and development system (Academy of Public Administration affiliated to the Office of the President of Republic of Moldova [1993], State Chancellery).

Action for the reorganization of administrative mechanisms in the civil service, optimization of the number of civil servants, improvement of personnel selection, and evaluation, promotion, and motivation were insufficiently accomplished and failed "to comply with the objectives stated" (Government of the Republic of Moldova 2010, 16). Since 2010, competition-based employment has been enforced at both central and local levels. The principles for the organization of competitive employment include the following: open competition, competence, professional merit, free access, and transparency.

In summary, the human resource management reforms include:

- Completing, updating, and developing the secondary legal and regulatory framework
- Specifying political positions, civil service positions, and technical positions
- Reorganizing the central government by specifying competences, optimizing structures, and establishing maximum staffing specifications for central government
- Establishing the staffing schedule and certification by the State Chancellery
- Evaluating civil servants' individual professional performance

9.5.5 Performance Management

The procedure for annual evaluations of each civil servant's activity is based on performance criteria, which represent an efficient instrument of control and management. They guide human resource personnel in fulfilling the organizational objectives. The performance criteria are included in the "Regulation for evaluation of civil servants' professional performance" (State Chancellery of the Republic of Moldova 2010a). Evaluation of a civil servant's professional performance is conducted according to law no. 158/2008, art. 34, 35, and 36. The civil servant is given one of the following scores: "very good," "good," "satisfactory," or "unsatisfactory."

Performance evaluations were conducted on a large scale for the first time in 2009 for central government authorities, including 21 out of 24 specialized central bodies and 482 subordinated institutions. It was also mandated for local government, including 33 second-tier local government authorities and 836 first-tier local government authorities, including city hall. The process started on December 15, 2009, and was finalized during the first quarter of 2010. The annual professional performance evaluation identified the need for civil servants' professional development. At the same time in 2010, civil servants' individual objectives were established for 4742 persons in local government, which accounted for 67.4% of civil servants.

9.6 Financial and Budgetary Management

Budgetary revenues are comprised of taxes, charges, grants, and other revenues (law no. 847-XII/May 24, 1996, art. 8, on the budgetary system and budgeting). The revenues to the budgets of the territorial-administrative units are derived from taxes, charges, and other revenues, as stipulated by legislation (law no. 397-XV/2003, art. 4, on Local Public Finance, Fiscal Code 1163-XIII of April 24, 1997).

The executive authorities of the first tier comprise mayors of villages (communes) and cities (municipalities). The authorities of the second tier comprise the presidents of districts, governors or executive committees of autonomous territorial units with special legal status, the mayor of Balti Municipality, and the mayor of Chisinau Municipality. Revenues of the first-tier structures are derived from direct and integral cash amounts, a transfer from the state budget as stipulated by law (Law on Local Public Finance, art. 5), a transfer from the budget of the territorial-administrative unit of the second tier (art. 10 and 11), and special means and funds. Regarding the second tier, the structure of revenues is based on a general source valid to all budgets, taxes, charges, and other revenues, as well as a transfer from the state budget (art. 10 and 11).

At the local level, 12 local taxes are imposed (art. 289, Fiscal Code) on legal and individual persons registered as entrepreneurs. The decision-making authorities of local government can enforce all or only a part of the local taxes, and they are not entitled to impose other local taxes or to establish higher quotas. The local taxes are enforced, amended, or annulled by the deliberative authorities together with the Territorial Specialized Division and State Fiscal Inspectorate. Executive authorities monitor the decisions of the local councils.

Budgetary transfers are calculated according to the annual budgeting law approved by the Parliament. It is top-down from the central level, then from the state budget to the territorial-administrative units of the second tier. The Balti Municipality (Law on Local Public Finance, art. 9) has special designation when discussing the delegation of some functions of government or for the leveling of the financial possibilities of the territorial-administrative units in the second tier. Distribution of revenues and expenditures is executed on a monthly basis, according to the above-mentioned special laws, respecting the same procedure for each administrative tier, from the national public budget to the central level, from the Ministry of Finance to the second tier, for districts, autonomous territorial units with special status, and Balti and Chisinau Municipalities. The budgets of the territorial-administrative units are reflected in the national public budget. These serve as components for substantiating the budget that was approved by law in the annual state budget.

Several public institutions carry out fiscal management. The Specialized Department of the Ministry of Finance controls economic–financial activity and receives reports of budgetary institutions, enterprises, and organizations using public funds. The Court of Audit conducts an external public audit (law no. 847/1996, art. 13). The fiscal management authorities include the Center for the Fight against Economic Crimes and Corruption, customs authorities, and services for collecting taxes and local charges in city halls and other bodies assigned by law. According to the provisions of the fiscal code (Title V, Fiscal Management), there are procedures for fiscal sanctioning and for the enforcement of the fiscal authorities' decisions.

It is the responsibility of the government to execute the state budget. The central government authorities are responsible for reaching the milestones in the budgets of the subordinated institutions (law no. 847/1996, art. 32). The budgets corresponding to the territorial-administrative units are executed by the executive authorities of the first tier and the second tier. The Ministry

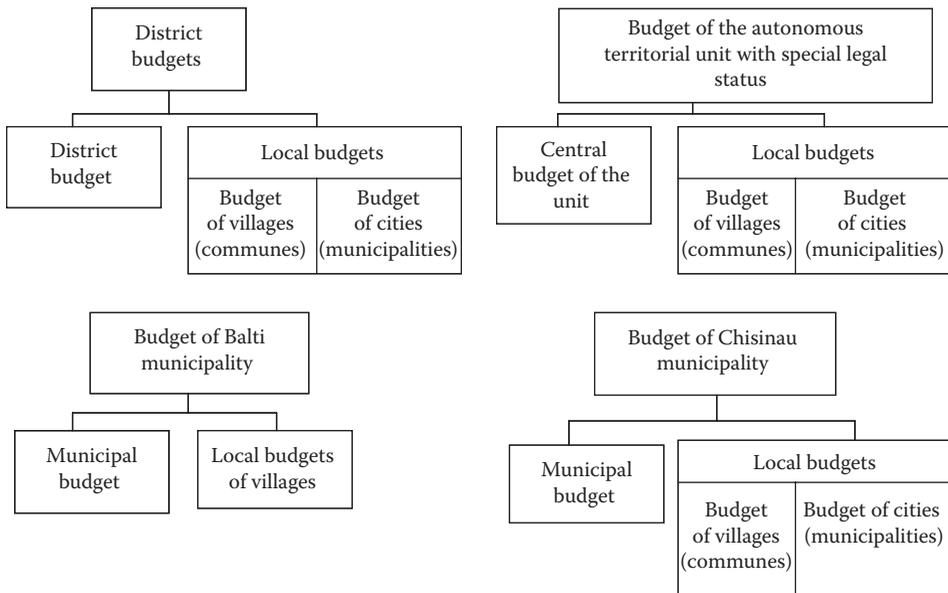


Figure 9.1 Structure of local public finance.

of Finance and/or Division of Finance exercises control over the budget of the territorial-administrative unit.

The following issues are apparent in local budget making and in the system of local public finance (Figure 9.1):

1. The specificity of local budget-making creates a dependency of local public authorities on the central authorities and to a smaller degree on the financial decision-making process.
2. Fiscal and financial decentralization is not operational; there is limited local financial autonomy on the first and second tiers (Chivriga and Furdui 2009), and practically no development of activities aimed at generating additional revenues for the local budget. Chivriga and Furdui (2009) state that approximately 75%–90% of local budgets represent revenue sources from the state or district budget earmarked for financing activities of national interest.
3. According to art. 9(2) of the European Charter of Local Self-Government, the financial resources of local communities should be proportional with obligations and responsibilities stipulated by the constitution and law; but the financial resources are insufficient for the economic and social development of the local communities as well as, for the local government authorities in exercising their own competences (law no. 436-XVI/2006). The delegated or shared mandates (law no. 435-XVI/2006) reveal a gap between delegated competences and expenditures, which results in some services of the public interest failing to meet local needs. For example, there are some areas of local public authority of the first tier that lack financial resources to adequately provide public services such as a water supply, sewage and purification systems, public lighting systems, infrastructure for the preeducation system, a system of networks for the distribution of gas and thermal energy, and social security (Chivriga and Furdui 2009).

The local government faces the following problems:

- Administrative burden, lack of financial autonomy, and lack of functional and organizational capacity.
- The need to continue the implementation of legislation and to adopt the regulatory framework.
- Resolution 1572 (October 2, 2007 of the Parliamentary Assembly of the Council of Europe on honoring the obligations and commitments by the Republic of Moldova) requires Moldovan authorities to continue the consolidation of local self-government and to strengthen the local tax system, as well as to have an objective, stable, predictable, and equitable system for the redistribution of revenues among all territorial-administrative units.
- Harmonization of the rules with the new laws in real time.

9.7 Accountability and Corruption

Today, corruption is considered both a cause and an effect of irregular or incomplete economic liberalization, a threat to development and democracy, and a threat to good governance. Corruption has negative effects on political, economic, and democratic development (Johnston 2005, Andrei et al. 2009).

At the end of the 1980s and in the beginning of the 1990s, a number of political and economic changes were carried out in Eastern Europe. After these changes occurred in the 1980s, there was an emergence of new factors that created corruption, as well as more refined mechanisms that impacted the whole social system, by the “adaptation” of a new legal and economic framework (Cojocaru 2009).

It is difficult to identify the causes responsible for the spread of corruption in the public sector due to the complexity of this sector’s organization and operation. However, the following factors affecting corruption are well known:

1. Political and legal factors. These include the political system and the maturity of the democratic system, the legal system by means of laws and institutions, the electoral system, the administrative system, decentralization, and the tradition of the public administration system.
2. Economic factors such as the level of economic openness, size of the public sector, economic competitiveness, level of remuneration in the public sector, and level of foreign investments.
3. Social and cultural factors relating to religion and individuals’ attitudes toward their families.
4. Historical factors.

The mechanisms intended to prevent and combat corruption are as diverse and complex as the enabling factors.

After more than two decades, the Republic of Moldova represents a state undergoing a complex and unprecedented political transition toward democracy and a market economy. According to Huntington’s assertion (1968), political modernization, defined as the transition from an autocratic to a democratic regime, is usually accompanied by the growth of corruption.

All (14) of Moldova’s central governments have made corruption prevention and the fight against corruption a priority for reform. All levels of government have adopted the National Strategy for Preventing and Combating Corruption (2005–2010), which was approved by

Parliament Decision no. 421/2006 and implemented by four consecutive Action Plans: 2005, 2006, 2007–2009, and 2010. Statistically, those Action Plans included 247 actions, of which 91% were achieved. However, as stated by Prohnychy (2003b), complementary actions to completely support the prevention of and fight against corruption were not accomplished. These included “adequate remuneration of civil servants, their education and motivation, decisional transparency, freedom of justice and media, etc.”

In order to combat corruption, the governments drafted and adopted legal and normative acts. These acts were concerned with anticorruption policies and related phenomena such as excessive bureaucracy, protectionism, influencing the opinions and attitudes of other civil servants, excessive regulations and state controls, unfair competition, and the consolidation of the National Integrity System* (governing program approved in September 2009), which involves both public institutions and the civil society. The laws on preventing and combating corruption address issues such as conflict of interests, transparency in decision making, the civil service and civil servants’ status, civil servants’ code of conduct, political parties, and compulsory moral and ethical conditions for civil service positions.

In 2008, several laws were passed as a result of Moldova’s commitments to foreign partners in the field of preventing and fighting corruption, “suggesting the sacrifice of the quality of regulations in favour of their quantity” (Cojocaru 2009). The importance assigned to this issue is also emphasized by the documents of cooperation with the Council of Europe, European Union, NATO, UN, and other international bodies, to which Moldova is a signatory party.

European Commission assessments of authorities’ actions for preventing and combating corruption conclude that the corruption phenomenon has spread (European Commission 2006, 2008, 2009) and that Moldova has registered limited progress (European Commission 2008), which should have been strengthened by allocating sufficient resources and drafting adequate secondary legislation. The European Commission (2009) made the following recommendations: “to continue to consolidate the mechanism in view of monitoring the National Anti-Corruption Strategy, larger involvement of stakeholders from Government and civil society, and to enhance the effectiveness of anti-corruption efforts.”

According to studies performed during the last decade by Transparency International, World Bank (2009), and Freedom House, Moldova is considered a country with a high level of corruption. The Corruption Perception Index reflects the deterioration or improvement of progress made regarding corruption. It is affected by the following issues:

1. *Governmental measures*: Priorities are focused on political dialogue and reforms, aimed at the most important aspects of the state, democracy and rule of law, fundamental human rights and freedoms, and cooperation in Common Foreign and Security Policy. Furthermore, agreements were made with the European Union. The Republic of Moldova’s programs: European Union Action Plan, PACO (2000),[†] and MOLICO,[‡] stipulate provisions on “ensuring the efficiency of the fight against corruption.” American assistance such as the preliminary plan in the framework of the “Millennium Challenge Account (MCA)” is sup-

* The National Integrity System is based on the concept of public integrity, developed by Jeremy Pope in the first half of the 1990s, representing the theoretical basis for the development of a global coalition against corruption (Transparency International 2010).

[†] Programme to Support the National Anti-Corruption Strategy of Moldova (PACO Moldova).

[‡] Project against Corruption, Money Laundering, and the Financing of Terrorism in the Republic of Moldova (MOLICO Moldova).

ported by the U.S. Agency for International Development (USAID). MOLICO fights corruption, money laundering, and the financing of terrorism with the support of the European Commission and the Council of Europe. At the same time, it is worth mentioning the national anticorruption programs such as the “Program of Stabilization and Economic Revival of the Republic of Moldova during 2009–2011” or “Moldova’s Revival Plan.” In this respect, during 2002–2005, the anticorruption indicator registered high values of 6.25 according to Freedom House and 2.1 according to Transparency International. After signing the agreement with the EU, the anticorruption index values increased from 2.9 in 2005 to 3.2 in 2006, which demonstrates the general public’s increasing confidence in the governmental measures intended to combat corruption.

2. Elections (2001, 2005, 2007, 2009—electoral years). During the electoral periods, there was an increase in citizens’ confidence in government efforts to combat corruption and consequently an increase in the Corruption Perceptions Index according to Transparency International (2.9 in 2005 to 3.2 in 2006). The impact of the electoral campaigns is a probable explanation for that increase, due to the possibility of influencing voters’ options.
3. The implementation of a National Anticorruption Strategy had a positive social and political impact, which influenced some international anticorruption indicators, as asserted by Cojocaru (2009). Cojocaru analyzed the conditional obligations set forth by the governing programs, as well as the mechanisms for monitoring the strategy and the donors’ contributions.

In the Republic of Moldova, citizens’ perceptions of corruption indicate that corruption is manifested by public institutions and political parties, as well as by the undermining of governance and the diminishing of state credibility. The most corrupt social systems are those with reports of frequent bribery cases. According to the report “Global Corruption Barometer 2010” (Transparency International 2010), Moldovan institutions affected by corruption include: police, 4.1; political parties, 3.8; public officials/civil servants, 3.8; judiciary, 3.9; Parliament/legislature, 3.7; business/private sector, 3.7; education system, 3.7; media, 3.0; military, 2.9; NGOs, 2.9; and religious bodies, 2.4. The ratings are based on a scale of 1–5, with 1 indicating the presence of no corruption at all and 5 denoting excessive corruption. Referring to the last 3 years, 53% of respondents believe the corruption level has increased, 35% of respondents consider the level to have remained the same, and only 12% of respondents perceive a decrease of this phenomenon (Transparency International 2010). However, in the last 12 months, according to the Global Corruption Barometer 2009, 28% of respondents reported engaging in bribery (28% represents the average for CIS states and 5% for EU states).

When the statistical data on corruption in Moldova are compared with those on corruption in other CIS states, they are similar (CCECC n.d.). This fact is supported by the assertion that “the impact of communism heritage on civil servants’ probity has been greater than expected” (Prohntichi 2009, 18). The average number of people paying bribes in Moldova is greater than the average in CIS states in education (20% in Moldova, 15% in CIS), health (29% in Moldova, 20% in CIS), justice (26% in Moldova, 14% in CIS), and taxation (13% in Moldova, 7% in CIS); 75% of citizens believe that all or most civil servants are involved in corruption and the most significant amounts are thought to be found in the social fields such as social security and development of working conditions.

In the Republic of Moldova, specialized structures for preventing and combating corruption include: the Center for Combating Economic Crimes and Corruption, Anticorruption Prosecution

Office, Control Commissions of the Statements of Incomes and Property, Control Commissions of Civil Servants, and the Main Ethics Commission. Their activities influence the citizens' perceptions of corruption and society's confidence in the government's ability to deal with corruption efficiently and effectively.

By examining the legal, regulatory, and institutional framework specific to the corruption phenomenon in the Republic of Moldova, we assert the following:

1. Although regulations, laws, and rules on preventing and combating corruption have been drafted and adopted, they are inconsistent with other laws, international standards, and even their own provisions (Civil Servants' Code of Conduct, Law on Preventing and Combating Corruption). They do not produce the expected effect (Law on Statement and Control of Income and Property) and they are often enforced with delay (Main Ethics Commission).
2. There is a need to continue the institutional development of specialized anticorruption structures without political and administrative interference. These structures should be staffed by a corps of professionals and civil servants who are motivated and have a high degree of morality, ethics, and professional expertise.

9.8 Conclusion

In the Republic of Moldova, public administration became modernized through the reorganization of central government, the optimization of decision making, human resource management, and public finance management.

The restructuring of central government based on an efficient, functional, and institutional framework (Popoviciu 2010) refers to the changing structure of central government, the assignment of policy-making responsibilities to ministries and policy implementation to subordinated public institutions, the setting up of the State Chancellery in order to coordinate public policies, and the separation of political positions from civil service positions (State Chancellery of the Republic of Moldova 2007, 2008, 2009, 2010a, 2010b, 2010c, 2010d).

Public administration is made legitimate as an efficiency-oriented and developing administration, including the public–private partnership and implementation of best practices from the private sector. Separation of central and local government public services, their decentralization, and the transfer of competence to the local authorities are not considered efficient. They are ongoing and based on public finance management reforms that aim to make the use of public money and the enforcement of the law on transparency in decision making more efficient.

In 2010, approximately 660 decisions made by central government authorities related to public policies. They had an economic, social, and financial–administrative impact. Civil society was consulted on 720 decisions. During that time, civil society organized 681 advisory meetings, public hearings, and public debates and made 3800 recommendations; 46% of these recommendations were included in the final drafts of decisions affecting public policies. The administration is open to discussions with civil society and the private sector. It is accessible to all citizens, and it promotes the values of the new public service and the quality standards it sets forth.

The government's accomplishments include strategic planning in public administration, the formation of plans for the institutional development of central government, and the creation of personnel policy in public administration. A number of activities led to the improvement of human resource management including the finalization of a legal framework containing regulations for

the activities of all categories of personnel, the separation of political positions from the civil service and technical positions, and a set of statistical indicators on the civil service.*

Financial support for central government reform through the Multidonor Fiduciary Fund (created according to the Grant Agreement on July 11, 2006, signed between the government of the Republic of Moldova and International Association for Development) was expressed by a contribution of 65% for the budgets in the period 2006–2010. The financial support was aimed at activities for goods and services, thus supporting public administration reform, including the training of human resource personnel and the development of civil servants' professional competences.

In the Republic of Moldova, the development of laws on the market economy and the creation of its functional conditions were gradually accomplished despite the challenges faced. Examples of these accomplishments include the elimination of legal and administrative constraints in businesses; the removal of anticompetition practices in economic transactions; and the improvement in credibility between the public and private sectors and guarantee of the right to property and private investments.

Public finance management reforms were conveyed through the development of a legal framework in the field of budgeting and public financial control. An example of this is a budgetary classification and single accounts plan for the public sector and a single methodological set for making budgets. Reforms included increasing the receipts in public revenues in order to make public expenditures more efficient. For example, public revenues increased by 17.1% in 2010 compared with 2009. In the Republic of Moldova, the implementation of democratic reforms reflects the actions that have contributed to the building of an institutional system, for the prevention of and fight against corruption in the public system. The Center for Combating Economic Crimes and Corruption drew up a specific legal and regulatory framework. The framework provides for the enforcement of an evaluation of the risks of corruption in public institutions and creates a mechanism for cooperation between public authorities, civil society, and partners in order to reduce the prevalence of corruption.

There has been an improvement of institutional discourse between central government authorities and the civil society regarding the consolidation of civil society, liberalization of the media, and the guarantee of freedom of expression. This includes a continuous, open, and efficient dialogue, with various forms of collaboration based on an adequate legal framework (such as the recently adopted law on transparency in decision making). The framework needs to be in accordance with European rules and standards on issues such as media activity and is intended for the integration of Moldova into the European information area.

As public administration in the Republic of Moldova becomes more modern, priorities include the adoption of a single legal framework for the central government and modification of the executive structure according to European practices. Other priorities include improving laws on the enhancement of administrative procedures, which concerns administrative decentralization, as well as financial autonomy of local government authorities. The government of Moldova is also seeking to develop an efficient, functional, and sustainable institutional framework dedicated to the rule of law and the provision of quality public services to citizens. The government is open to discussions with citizens and to the maintenance of an established partnership.

Other goals and objectives include increasing and enhancing anticorruption efforts and reducing factors contributing to corruption such as excessive bureaucracy, protectionism, traffic of influence, excessive regulations and controls, and unfair competition. These efforts include

* The statistical indicators provide annual information on the number and structure of civil servants related to the administrative level of their position.

developing specialized institutional structures and making them efficient, and updating the specific legal-regulatory framework.

The modernization of laws on central government and the adaptation of quality European practices will contribute to the development of efficient institutional structures, thus ensuring the conditions of a modern state in the Republic of Moldova.

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Chapter 10

Public Administration in Romania: Historical Milestones and Daily Realities

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10.1 General Overview of Public Administration

10.1.1 Context of Public Administration

During the last decade and a half, public administration in Romania has undergone important stages from its establishment, consolidation, modernization, subordination, and excessive politicization to, finally, Europeanization.

The social and political processes determining changes were expressed in the administrative–territorial organization of Romania in different hypostases, as administrative and functional support of the electoral processes, legitimizing central and local public powers.

The constitutions, the fundamental laws, are the pillars of those processes (Table 10.1). They acknowledge various political realities by triggering the construction of modern Romania chronologically. They also set the legal foundation for the establishment and operation of the Communist system, democratization, and the European integration of Romania.

Central and local public administrations act as a complex social system incorporating, transforming, and retransmitting to the social environment the necessary feedback on the social, political, and economic phenomena and processes.

Public administration is an expression of the state’s modernity and is in a state of continuous and profound transformation, which is closely connected to the political developments prevalent in society. Between 1881 and 1947, Romania was a constitutional monarchy. Since that period, the democratic processes in Romania have had a contradictory evolution. Initially, this was determined by the dictatorship of King Carol the Second (who ruled from 1930 to 1940). Eventually, the establishment and consolidation of the Communist system determined it.

In the last decade, the accession to and growth of the European Union (EU) determined profound reforms aimed at the transformation of national public administrations in accordance with the processes of dynamics and convergence from the EU global administrative system.

Reform is considered a fundamental part of a national effort to improve efficiency. It increases the competence and effectiveness of public administration by increasing expertise, professionalism, knowledge, and transparency. Romania is one of the countries that has redefined the role of

Table 10.1 Evolution of the Romanian Legislative Framework on Administrative–Territorial Organization

<i>Fundamental Law</i>	<i>Legislative Collection of Laws Complementary to the Fundamental Law</i>	<i>Administrative Structure</i>
1866 constitution represents the first proper constitution of Romania, adopted on the basis of the model of the Belgian constitution of 1831	Laws for administrative and communal organization in 1864, 1882, and 1884	42 counties, 320 wards, 1526 communes, 4325 villages and hamlets
1923 constitution: Romania was a constitutional monarchy, a national, unitary, indivisible state with inalienable territory	Laws of administrative organization in 1925, 1929, 1936	Counties and (rural and urban) communes
1938 constitution	Laws of administrative organization in 1938	Communes (urban, rural, and balneal-climate) and lands (10) Counties and communes (in 1940)
1948 constitution	Law no. 5/1950 (introduces the region as structure)	Communes, wards, counties, and regions
1952 constitution		Regions (<i>raions</i>), towns, and communes
1965 constitution, amended in 1968	Law no. 2/1968 is abrogated in 1989	Counties, towns, communes
	Law no. 2/1989 (improves the administrative organization of the territory)	The most important towns become municipalities; Bucharest Municipality is organized into sectors
	Decree-law no. 38/1990 abrogates law no. 2/1989 and reinforces law no. 2/1968	
1991 constitution, revised in 2003		Counties, towns, communes

central government as it relates to local government. It changed the functions and the political and administrative competences delegated to local government. It also further enhanced the process of decentralization and the consolidation of democratic local government.

Public administration in Romania is legitimized through the following:

1. The *territorial* dimension (depending on the area of territorial action) is the pillar for dividing public authorities into:
 - *Central authorities* (government of Romania, ministries, central bodies of public administration),

- *Territorial authorities* (decentralized public services of ministries and other central bodies), and
 - *Local authorities* (local councils—town, county, commune—and mayors/presidents of county councils),
- to which the *hierarchical structure* corresponds.
2. The *functional or material* dimension is a pillar for dividing the administrative authorities into:
 - authorities with general competence (government of Romania, local councils and mayors) and
 - specialized authorities (ministries and other specialized bodies of public administration, either subordinated to the government or autonomous, and their decentralized public services in territories),
 to which the *functional structure* corresponds.

The hierarchical structure of the public administration system in Romania is organized on two levels. The first level is the local council, and the second level is the upper central level.

Local government is organized on two levels: *communes* and *towns*. They are basic territorial units, while the *counties* and Bucharest Municipality are intermediary units between local communities and the state.

1. The local level comprises 2851 communes, 216 towns, and 103 municipalities. The communes, towns, and municipalities have their own local councils (deliberative authorities) and mayors (executive authorities), elected after polls organized every 4 years.
2. The county level is represented by the 42 counties of Romania including the Bucharest Municipality. At each county level, the local government authority is a county council—a deliberative authority, coordinating the activities of commune, town, and municipality councils. The president of the county council is the executive authority.

10.2 Administrative Culture

Similar to other countries, the emergence of administrative life has long preceded the emergence of the state in Romania. In fact, as stated by Teodorescu (1935), administrative life evolved from a bottom-up organization: “the commune with its own needs occurred before the state’s establishment with its great interests and problems.”

Since the state’s emergence, the need to maintain it and manage the general interests enables “the central power to keep all duties of governance and general administration, interfering even in local matters, thus leaving to the commune only the duties related to supervision of local interests to an extent according to the scope of the tutelage at the state level” (Guizot 1851, 59).

The general characteristics of the development of Romanian public administration may be synthesized as follows:

- Quasi-continuous, dominant existence in the political and administrative organization of the commune (village), town, and county, which represent the basis of the whole political and administrative organization of the state
- Long tradition of Romanian public administration, mainly of local government, having local autonomy, decentralization, and elected local authorities (bodies) as the main features.

10.2.1 Normative Origins of Romanian Public Administration

The idea of a new administrative–territorial organization of the Romanian Principalities was developed at the same time as the Organic Regulation. The “Organic Regulation” is a quasi-constitutional law promulgated in 1831–1832 by the Russian imperial authorities in Walachia and Moldavia,* providing the first governance system to the two principalities.

This law represents a transition from feudalism toward the modern age, preceding the modern organization of the Romanian state and its future structures (Negoiță 2009). Although essentially a conservative document, it initiated a period of reforms representing the pillar of a local society in Western Europe. The regulation provided the first joint governance system for the two Romanian Principalities.

Concerning the administrative–territorial organization, the Organic Regulations stipulate the following administrative territorial units: county, town, and village. In Walachia, counties were administered by rulers and the wards by vice-rulers. Meanwhile, in Moldavia, the lands and administrative–territorial units, similar to counties, were administered by steward rulers and nightingales administered the wards.

The administrative–territorial organization of the Transylvania Principality† was gradually defined, reaching its final form in the fourteenth century. The Transylvanian territory was divided into counties, districts, and chairs. A county chief, who was nominated by the king or by the Transylvanian ruler, ruled the county. The nobles of the county elected the county chief’s deputy, named vice-county chief, from 1435. The district represents the administrative–territorial form of organization specific to the Romanian population in Transylvania (Darinescu 2008).

Besides lands in Moldavia, “wards” were created comprising several villages around a borough. However, in Walachia, the villages were grouped around an administrative–territorial unit entitled “net.”

Towns, created in the twelfth and thirteenth centuries, had autonomous organization and management bodies while administering their own goods. The towns and fair sites had a management body elected from inhabitants called a council or *sfat*. In Transylvania, the council was made up of a specific number of members, usually 12 (Negoiță 2009).

10.3 Historical Periods of Public Administration

10.3.1 Affirmation of Romanian Public Administration

The affirmation and consolidation of Romanian public administration follow several stages related to the evolution of the constitutional law.

The first stage, 1866–1918, spans the time period between two important events in the national history of Romania: the Union of Moldavia with Walachia (1859) and the establishment of the Romanian unitary national state through the Union of Transylvania with Romania (1918).

* Walachia or “Tara Romaneasca” is a historical province, situated north of the Danube and south of the Carpathian Mountains. Walachia was a state in Europe between the fourteenth and nineteenth centuries, when it united with Moldavia (1859), forming the basis of modern Romania.

† The Transylvania Principality is another historical region of modern Romania, it was an independent state between 1526 and 1867. At the end of the seventeenth century, it belonged to the Austrian Empire, as an autonomous principality. In 1918, Transylvania joined Romania, forming the actual state, also called Romania.

As a unitary national state, Romania was divided into counties and communes. Special laws established their creation, organization, and operation. Thus, the first legislative instrument was issued on April 14, 1864: the law on creation of counties and law on communes. The 1864 law regulated the creation of counties and rural and urban villages. The law also removed differences between the villages and the towns and stipulated the organization of the counties, towns, and communes as legal entities with the right to form and administer their own patrimony, comprising their territory, institutions, households, and so forth. According to the provisions of the 1864 law, the communes were authorized to provide services needed by local communities, such as civil works, education, culture, social security, health, and public order.

The 1866 constitution also included regulations on the administrative–territorial organization. Article 4 provides: “the territory is divided into counties, the counties into wards, the wards into communes. These divisions and subdivisions can be changed or amended only by law.”

Concerning the bodies that operate in the framework of the administrative–territorial units, the literature highlights the following:

1. On the county level:
 - Executive bodies, represented by a prefect, as “the head” of county administration, representative of the government, assigned to ensure the policy of the governing party
 - Deliberative bodies, represented by the county council, assigned to rule upon and not to decide on “all local interests of the county” (Negoiță 2009, 316–317)
2. On the commune level
 - Executive bodies, represented by a mayor, leading together with a deputy mayor and a group of civil servants
 - Deliberative bodies, embodied by commune councils

In the beginning there were only urban and rural communes. Since 1908, the suburban communes emerged, with each form having its own law of organization.

On December 1, 1918, Transylvania joined Romania (the Great Union), resulting in a Romanian national unitary state. This marked the second stage of the affirmation of Romanian public administration.

After 1918, due to the creation of the unitary state, the issue of administrative–territorial organization drew the attention of specialists of that time. In 1918, the Romanian unified state had administrative laws specific for different regions so the administrative unification became a vital goal.

Analyzing the content of regulations during that period, two distinct periods of reform can be noted:

1. 1918–1925, period when the local, regional features maintained the management bodies until the law on administrative unification in 1925
2. 1925–1938, period reflecting the provisions of the administrative laws issued according to the 1923 constitution (Barițiu 1997)

The constitution of 1923 brought a reforming element into the field of the administrative–territorial organization with the cancellation of the intermediary territorial units between the counties and the communes, specifically the ward (Focșăneanu 1998).

In 1924, the law on administrative unification was issued, extending the organization from old Romania to the other provinces. The life cycle of that law was very short due to the different

interests of the political parties who championed the amendment. The 1924 law stipulates the creation of the Liberal Party, which in 1929 lost the elections, and the National Peasants' Party amended the law in 1929 (Negoiță 2009).

The July 1925 law on administrative unification organizes the Romanian territory into counties and communes with legal status. The regulation listed the mayor as the head of the communal administration and the prefect as the head of the county. The new regulations kept the county and the commune as territorial-administrative units with legal status and the "ward" as a simple unit of control.

The counties were divided into constituencies named "wards." The counties were administered by councils made up of elected councillors and appointed councillors. In each county there were specialized commissions and their rapporteurs formed the county standing delegation, which guided, supervised, and controlled the activity of the services in counties and communes.

The communes were rural and urban. The urban communes were divided into constituencies called districts. The ward was headed by a prime-praetor, appointed by ministerial decision, but assigned by the prefect in the county. Being subordinated to the prefect and assigned to supervise the state of mind of the commune, the prime-praetor had the task of informing the prefect about the events in the commune. The praetor was an officer of the judiciary police and the chief of the police in the ward (Firoiu 1976).

The activity of the counties and communes was under the management and control of the Minister of Internal Affairs and supported by the Superior Administrative Council. The mayor was elected by the commune council and the prefect was appointed by royal decree, proposed by the Minister of Internal Affairs (Cernea and Molcuț 2006).

In 1929, the law on the local government organization was adopted and published in the *Official Gazette* no. 170 of August 3. According to that law, the administrative division of the territory was organized into counties and communes.

The counties were subdivided into wards and the communes could be further subdivided into sectors. The counties, communes, and sectors had legal status. The boundaries of the communes and counties were established by law. The law stipulated territorial amendments of the counties or communes could only be done in accordance with the rules established by law.

10.3.2 Romanian Public Administration in Dictatorial Regimes

10.3.2.1 Royal Dictatorship

A coup d'état took place from February 11 to 12, 1938, marking the shift from parliamentary democracy to the beginning of the king's authoritarian dictatorship in Romania.

The new constitution did not reference the administrative-territorial units, even though the administrative decentralization principle and the principle of the eligibility of the local deliberative bodies were no longer constitutional. As a result, it was Parliament that stated the principles were supposed to substantiate the local government organization. The articles on the administrative-territorial organization were replaced by a single article, art. 79. This article asserts the administrative organization as the competence of ordinary laws, dividing the territory of the country into legal residencies and lands (Focșăneanu 1998).

The 1938 law determined a significant change for the features of the county. The number and scope of the counties remained the same, but the county was no longer an administrative unit with legal status. It was merely "an administrative and control constituency" (art. 96).

Specifically, all the articles of the law related to the division into counties were replaced by a single article stipulating the administrative division was the competence of the substantial laws. Instead of counties between state and communes, a new administrative unit was created. The new unit consisted of the land with legal status, incorporating several counties.

The lands were ruled by:

- Legal residents, appointed on 6-year terms by royal decree on the basis of the journal of the Council of Ministers, proposed by the minister of internal affairs
- The land's council, composed of elected members

The constitution included provisions on the administrative–territorial unit called a commune. The classification was done in urban, rural, and balneal-climate communes.

The commune was led by:

- Mayor: appointed on 6-year terms
- Commune council: comprising elected members (6-year terms) and appointed members (for the whole period awarding the position of councillor by law) (Negoiță 2009)

10.3.2.2 *Military Dictatorship*

On September 6, 1940, in the context of a profound crisis of the political regime of the king's dictatorship, General Antonescu instituted his personal military dictatorship. The legislation addressing this period concentrated on “state administrative deconcentration” and considers the traditional units as follows: county, ward, and commune. The provinces were dissolved by Decree-Law of September 21, 1940.

The county regained its legal status and the prefect once more became the head of the county administration. The county councils were dissolved and the prefects exercised their competences. Though stipulated by law, the communal councils were not established because of the war. Their powers were exercised by the mayors (Negoiță 2009).

10.3.2.3 *Communist Dictatorship*

The instauration of Communism in Romania started in 1944, when the Act of August 23, 1944 stipulated the liberation of the national territory and participation in the war against Nazi Germany. In that historical context, Romania developed in a direction contrary to its interests. This was due to a gradual overhaul of the political and economic regime, which was obedient to the former Soviet Union.

Since the application of the 1948 constitution, the territory of the Popular Republic of Romania was administratively divided into communes, wards, counties, and regions. According to the law as stated in art. 75, this division could be amended. This territorial and administrative organization was maintained until 1952, when a reorganization of the territory was achieved. Thus the new territorial and administrative units become the regions (*raions*) as intermediary territorial–administrative units, the towns, and the communes. Concerning the territorial and administrative organization, the 1965 constitution stipulated in art. 15 that the territory of the Socialist Republic of Romania is organized into territorial and administrative units identified as county, town, and commune. The capital of the Socialist Republic of Romania was the Bucharest

Municipality, which was organized into several sectors. The most important towns could be organized as municipalities.

Before the Revolution of December 1989,* the territorial and administrative organization of the state represented a highly important instrument for the Communist regime. It was used to achieve its interests and to dominate the inhabitants in a centralized pyramid-type system in which the interests of the residents of communes and towns were less significant (Preda 2007).

In light of those new conditions, new territorial and administrative organization was necessary.

Law no. 2 of 1968, republished in 1981, was enacted. Thus, according to art. 1, the territory of the Socialist Republic of Romania was organized into territorial and administrative units identified as county, town, and commune.

The county comprised towns and communes. These were units of the territorial and administrative organization and were based on geographical, economic, social–political, ethnic, and cultural conditions of the people.

The town is a center of population and is well developed both economically and socioculturally. Towns with a larger number of citizens, which have greater significance to the economic, social, cultural, and scientific life of the country, or those having the conditions to develop in those directions, may be organized as municipalities. Towns where the leading bodies of the county are located are called residence-towns.

The commune is the territorial and administrative unit that comprises the rural population and is united by common interests and traditions. It may include several villages depending on their economic, social, cultural, geographical, and demographical conditions. The villages where the local council is situated are named residence-villages (1968 constitution).

Law no. 2 of 1968 and republished in 1981 was not enforced until 1989 when Law no. 2 of 1989 was enacted. By 1968, there were 39 organized counties operating as territorial and administrative units. They were balanced in terms of territory and economic potential, and directly linked to the constitutive towns and communes.

The capital of the country, Bucharest, was organized into eight sectors with 12 suburban communes. Forty-five towns were declared municipalities and 49 communes were registered as towns, with a total of 189 towns at that time (Negoiță 2009).

The leaders of the country suggested that “the more effective enforcement of the democratic centralism principle” creates the conditions for the “enhancement of the entire activities of local bodies of the state’s power and administration on a qualitative superior stage, according to the competences of the counties, municipalities, towns and communes” (Negoiță 2009, 226).

Romania is a sovereign, independent, unitary, and indivisible national state.† The administrative structure comprises communes, towns, and counties. Some towns are declared municipalities, according to the provisions of the law (art. 3(3), Constitution of Romania [Matei 2010]).

* The Revolution of December 1989 comprised a series of protests, street fights, and demonstrations, marking the end of the Communist regime in Romania. Romania was the only country from Eastern Europe that passed through a violent revolution and the Communist leaders were executed.

† The form of government as established in art. 1(1) and (2), title I—General Principles, 2003 Constitution of Romania, the republished form of the 1991 Constitution of Romania, is a republic.

Characterized as a democratic and social state that embraces the rule of law, Romania is legitimized through the following constitutional features:

1. Organization of the state based on the principle of separation and balance of the legislative, executive, and judicial powers (art. 1(4)).
2. The Parliament of Romania has two chambers, comprising the Senate and chamber of deputies, “both chambers having direct popular legitimacy” and both chambers exercise the legislative power (art. 61(2)).
3. The executive power is represented by the government and its political responsibility is exclusively before the Parliament (ch. III, Government).
4. “The ordinary and exceptional legislative delegation” enables the government to adopt norms for primary regulation of social relations through ordinances and emergency ordinances (art. 108).
5. The judicial authority consists of courts of law, the Public Ministry, and the Superior Council of Magistrates (ch. VI, Judicial Authority).
6. The Constitutional Court of Romania is the guarantor of the supremacy of the constitution (title V, Constitution of Romania).
7. The development of public administration in the administrative and territorial units is based on the principles of decentralization, local autonomy, and reduced concentration of public services (art. 120). Public administration in Romania is built on a set of common principles existing in the European states. It is worth mentioning that the principle of local self-government, recognized in the constitution and law, is the source of local powers, functions, and powers of the local authorities—stipulated by law—and the procedures of local self-government.

10.4 Political and Economic Reforms

The two decades after the 1989 revolution were characterized by specific activities aimed at implementing the democratic principles and restructuring the political options of voters related to the development of society as a whole. They also characterized the maturation of the Romanian electorate and the political elite.

The year 1990 represented the beginning of the decentralized system, marked by political, legislative, institutional, and economic reforms. Romania started public administration reform, building new institutional “models” and “experiments,” which were personalized through the characteristics of structural, functional, and cultural elements. Romania holds its own administrative experience, affected both by the brutal interventions and changes from the Communist period and by the historical influences of the Ottoman, Russian, and Austro-Hungarian empires. They abided by the set of the principles of administrative law, as well as the principles on organization and operation of public administration. The normative and legislative fundamental issues of the reforms are based on constitutional provisions, laws, and relevant documents describing specific aspects of reforms. The pace and depth of reforms were differentiated in each stage and correlated with the overall development. Therefore, Romania has shifted from a closed to an open society, from Warsaw Pact membership to North Atlantic Treaty Organization (NATO) membership, from a centralized state economy to a market economy, from a single party to a pluralist society, and from an economy connected to the Soviet countries to an economy created in the EU area (UNDP 2005).

For Romania, the status of being a member state of the EU and NATO was obtained on the basis of “a powerful process with political levers, closely connected to the achievement of the

economic reforms” (OECD 2002, 8). It provided an image of an ascending road toward European democratic values, comprising ideals, and partially accomplished by Romanian society.

Romania joined the EU in January 2007 and has been involved in continued efforts to integrate the community legislation into the domestic legislation, to revise it, and to adapt it to specific European developments and requirements at the legislative level. On the other hand, it is also characterized by drafting legislative legal documents aimed at ensuring the legislative framework for the activity in the area of public policies.

The government has been engaged in efforts to systemize, unify, update, and coordinate the entire legislation comprising all areas of economic and social life. In this respect, Romania ratified the Treaty of Lisbon to amend the Treaty on European Union and the treaty establishing the European Community by Law no. 13/2008 in the beginning of 2008. Romania was the fourth EU member state, after Hungary, Slovenia, and Malta, to ratify the Treaty of Lisbon. Taking into consideration the complexity of the European issue in the new cycle of the 2008–2010 Lisbon Strategy, as well as the need to correlate public policies with Lisbon objectives, in May 2008, the government of Romania created the Lisbon Committee for the New Cycle 2008–2010 of the Lisbon Strategy. It was developed at the level of state secretaries in the main ministries, which is responsible for the implementation of the National Reform Program.

Sectoral aspects include synchronizing national legislation with the provisions of European regulations* and ensuring full compatibility of the national legislation with the *acquis communautaire*.†

A list of community normative legal documents adopted by the European Commission up to 2007 (inclusive) was drawn up. In order to identify the legislative and administrative responsibilities for the implementation of regulations in each act issued from 1958 to the present, a new methodology for reporting the commitments on community regulations was launched by the Department for European Affairs in 2008. This methodology aims to make the national competent authorities accountable.

Reconciling the *acquis communautaire* with the *fiscal area* improves the domestic fiscal legislation and correlates it to the EU legislation. The need to strengthen the Romanian *institutional mechanism* in order to respond efficiently to the economic and social challenges led to the initiation of draft laws in different domains.

The status of EU member state obtained by Romania on January 1, 2007, required the reconciliation of Romanian legislation with the *acquis communautaire* in all fields of activity including the electoral processes and the adoption of normative provisions. In this respect, the Directive of the Council 94/80/EC on December 19, 1994, is noteworthy. It lays down detailed arrangements on how citizens of the union residing in a member state of which they are not nationals can exercise their right to vote and stand as candidates in local elections, as amended.

The decentralization process highlights local self-government. The local level is represented by municipalities and communes. It may include the development of a level that does not belong to the administrative and territorial structure, but rather that of the development regions (eight regions). Local governance was centralized before 1990 and was controlled by the political center. In the last 20 years the institutional configuration of local governance as well as its relationship with central government has changed (Table 10.2).

* According to the results of the “Internal Market Scoreboard” of July 9, 2008, Romania holds first place for the application of community legislation on the internal market and third place, among the 27 member states, for transposition of the European legislation in this field. The “Internal Market Scoreboard” is an instrument developed by the European Commission to evaluate the transposition and application of community legislation on the internal market. For the time being, only 21 out of 1773 directives of national measures of transposition were not yet transmitted by institutions that have to be reported to the European Commission.

† Body of law accumulated by the EU.

Table 10.2 Typology and Characteristics of the Competences of Local Government Authorities in Romania

<i>Counties</i>	<i>Communes and Towns</i>
Exclusive Competences	
<ul style="list-style-type: none"> a. Airports of local interest b. Public and private domain of the county c. Cultural institutions of county interest d. Public sanitary units of county interest e. Primary and specialized social security services for the victims of family violence f. Specialized social security services for elder persons g. Other competences according to the law 	<ul style="list-style-type: none"> a. Public and private domain of the commune or town b. Road transport infrastructure of local interest c. Cultural institutions of local interest d. Public sanitary units of local interest e. Territory planning and urbanism f. Water supply g. Analyzing and filtering used waters h. Public lighting i. Sewerage j. Primary social security services for child protection and elder persons k. Primary and specialized social security services for the victims of family violence l. Local public transport of passengers m. Other competences according to the law
Shared Competences	
<ul style="list-style-type: none"> a. Road transport infrastructure of county interest b. Special education c. Medical–social security services addressed to people with social problems d. Primary and specialized social security services for child protection e. Specialized social security services for disabled persons f. Other competences according to the law 	<ul style="list-style-type: none"> a. Supply with centralized-system thermal energy b. Building social and youth houses c. State upper secondary education, except special education d. Order and public safety e. Social assistance to people in difficult situations f. Preventing and managing emergency situations at local level g. Medical–social security services addressed to people with social problems; h. Primary social security services for disabled persons i. Community public services for person evidence j. Managing the road transport infrastructure of local interest at commune level k. Other competences according to the law
Delegated Competences	
Local governance authorities exert competences delegated by central government authorities on payment of allowances and fees for children and adults with disabilities.	

10.5 Civil Society and Its Development

10.5.1 Civil Society Today

In Romania, civil society is represented by foundations, associations, political parties, trade unions, religious organizations, and the media. Today, more than 62,000 organizations are registered and more than 21,000 organizations are active in various fields: education, social fields, environmental protection, culture, provision of various goods and services, setting up partnerships with public organizations and businesses, mobilizing interests and abilities, defending rights, promoting new ideas, and reforming projects.

The associations and foundations are organized and operated according to special laws. The first law, Law no. 21, passed in 1924 and was considered, at that time, one of the most modern laws in Europe. It represented the pillar for nongovernmental organization (NGO) sector development in Romania after 1990. The legislative framework comprises Government Ordinance no. 26 of January 30, 2000, on associations and foundations.* It rephrases the definitions of associations and foundations but maintains the key features of Law no. 21. Law no. 14 of 2003[†] on political parties provides for the organization of political parties. Law no. 62 of 2011[‡] on social dialogue provides for trade unions and the media. Law no. 3 of 1974[§] involves the law of the press in Romania and was republished in 1978 and amended in 2002. Law no. 21 of 1924 included specific provisions on the definitions of association, foundation, management, administration, deliberative bodies, separation of the levels of decision, execution, and control, regulation of conflict of interests, and rules at the founders' discretion. Government Decision (GD) no. 26 of 2000 brings new provisions involving potential problems that could occur in the organization and operation of NGOs, clarifying the terms and operationalizing the concepts of management, public utility, object of the economic activity, typology of relations, and so forth.

A study of the Foundation for Civil Society Development (FCSD 2010) shows that the majority of NGOs registered as of January 20, 2010, are associations (71%), while foundations represent 27% and the remaining share includes federations, unions, and so on. According to the data from the same study, the index of association in Romania is quite high at 1 to 346 inhabitants (FCSD 2010), holding a better representation in the urban area (87%) and at the administrative tiers of the country.

The public image of NGOs in Romania underwent different stages of development (FCSD 2010). In the 1990s, NGOs were largely viewed as negative because they were used as a means of tax evasion. An example is the import of used cars that were exempted from custom tax. They were “import” products, an image sustained by the fact that the first organizations were set up with foreign funds. A positive image of NGOs developed due to their role as a genuine supporter of Romania in the process of establishing the rule of law and developing democracy, as well as accession to the EU. The Communist experience of over half a century especially marked the development of democracy. Therefore, the new organizations enjoyed special interest and appreciation. The first models of community development in Romania were provided by the Romanian Fund of Social Development with the support of the World Bank or the EU pre-accession programs leader. Their aim was enabling community processes so that the community members were supported and mobilized and could organize themselves to solve current matters

* Published in *Official Journal* no. 39 of January 31, 2000.

† Published in *Official Journal* no. 25 of January 17, 2003.

‡ Published in *Official Journal* no. 322 of May 10, 2011.

§ Republished in *Official Journal* no. 3 of January 19, 1978.

(FCSD 2010). The NGOs played an important role in the preparation of accession into the EU by influencing public policies, engaging in lobbying and advocacy, and providing specialized expertise for drafting or coordinating various studies. Even international programs with financial and technical assistance (U.S. Agency for International Development [USAID], Phare) were compelled to adopt the collection of laws on transparency, to consult civil society on negotiation of chapters of acquis with the European Commission, and to work toward opening the decision system up to the citizen.

The areas of intervention were child protection, democratization, social services and information to citizens, the fight against corruption, environmental protection and education, fulfilling the EU accession criteria, economic reforms, health, and justice.

10.5.2 Participation of Citizens in Decision Making

Romania has relatively little experience regarding civil society and the participation of citizens in decision making on matters of public policy. The new status of being a democratic state and building a citizen-oriented administration closer to the citizens has led, in the last decade, to an increasing concern for political stakeholders in the development of social and civil dialogue and mechanisms of public participation. Thus the legislative framework was developed and the following laws were passed: Law no. 544/2001* on free access to information of public interest, Law no. 52/2003† on decisional transparency in public administration, and laws that provide citizens with working instruments and key indices for the analysis of public authorities' activity at central and local levels. Citizens may participate actively in decision making; control and monitoring of the public authorities' activity; and evaluation of the decisions of public institutions. At the same time, citizens may contribute to the development of local community by improving the information, collaboration, and consultation with the representatives of local public authorities by participating in a bidirectional dialogue.

The law on decisional transparency in public administration stipulates certain modalities for citizens' involvement in decision making within public administration, with discussions about the normative legal documents initiated by the public authorities. As stated by Lambrou (2006), public consultation has a confined and formal character, expressed in proposals of legislative drafts, and it does not aim to establish possible objectives and strategies for NGOs' involvement in implementation. The best-represented year for legislative drafts was 2007, with 11,761 proposals; 6,587 of them were included in draft laws.

The mechanisms for public participation include the following: public hearings, public meetings, journals for suggestions, citizen forums, consultative groups, various types of surveys, focus groups, use of information by electronic means, and publications on public administration.

However, today, in Romania, citizen involvement in decision making is quite low, both quantitatively and qualitatively, due to inadequate availability of information of public interest, as well as the lack of an organizational culture.

10.5.3 Institutionalization of Civil Society in Romania

The relatively young participative democracy has promoted various forms of involvement for citizens directly or by NGOs, as individuals or organizations in formal or informal structures, in

* Published in *Official Journal* no. 663 of October 23, 2001.

† Published in *Official Journal* no. 70 of February 3, 2003.

public policy decision making in Romania. Participants in the civic groups of proposed community organizations include support groups, coalitions, networks or think tanks, and the citizens as actors in the decision-making process. Together with the state, citizens affect public policy in the field of education, environment, local development, culture, and consumer protection.

According to GD no. 775 of 2005 for approval of the regulation on the procedures for public policy making, monitoring, and evaluating at the central level,* the civil society represents an actor who is consulted about identifying alternatives. This is a stage of the public policy process, consisting of generation of the technical possibilities for a certain matter of public policy by special teams with the consultation of civil society. Each proposal of public policy is submitted only if it “contains a record of consultations and their outcomes,” consultations with governmental institutions, NGOs, social partners, and the private sector during the process related to identification of alternatives. In this respect, according to statistics, the number of consultations and meetings organized at NGOs’ request increased during 2003–2007. This is shown by the 2,058 proposals on laws drafted in 2003 and 11,761 in 2007, or in the 227 meetings in 2003 and 3,315 in 2007 (FCSD 2010).

In 2009, the Department for Governmental Strategies in the General Secretariat of the Government assumed the assignments of the Agency for Governmental Strategies in the framework of government associations, including the secretariat of the College for the Consultation of Associations and Foundations. This was provided for in Decision 1371 on November 18, 2009, and amended GD no. 405 of 2007 on the operation of the General Secretariat of the Government.

Meanwhile, NGOs participate as full members in several management or advisory boards such as the National Agency of Integrity, Superior Council of Magistrates, National Council for Equal Opportunities, National Council for the Fight against Discrimination, National Council of Elder Persons, Monitoring Committees of Operational Programmes, and bodies playing important roles in shaping the decisions of public policies in specific areas.

The participation of NGO leaders in the debates of the European Economic and Social Committee (EESC) comprises five representatives of civil society who were elected in 2006. Four of them were appointed as EESC rapporteurs for notifications required by the European Commission, Parliament, or Council in fields such as EU youth policy, European volunteers service, trafficking of human beings, renewable energy, and EU asylum policy.

10.5.4 Civil Society and Governmental Effectiveness

The role of the media in civil society is to inform citizens, in a timely and fair manner, on the activities of the state. This includes political, legal, and administrative institutions in an effort to promote and preserve the interests of all the citizens.

The media, “the fourth power in the state” or “the watchdog of democracy,” has an ambivalent relationship with NGOs by supporting the campaigns of *advocacy* and mobilizing the public for very important topics. Examples include the fight against corruption and environmental protection. The civic *watchdog* organizations are generally more visible. The media assumes the NGOs’ message whenever it has political reverberations (Berceanu and Burada 2006). Beyond *advocacy*, the media is important for NGOs in campaigns of information and awareness of public opinion.

In Romania, according to the Constitution of Romania, the press is free and any form of censure is forbidden. In 2010, Romania was classified as 52nd in the world for press freedom (Reporters Without Borders 2010). The ranking was compiled by the organization “Reporters Without Borders” and demonstrated Romania’s regress by two position points in comparison with

* Published in *Official Journal* no. 685 of July 29, 2005.

2009. In 2011, the same organization compiled “A Map of Press Freedom in the World”; Romania has a problematic position on that map. The main causes triggering Romania’s position focus on legislative initiatives that limit press freedom, attacks and threats against journalists, and repressive actions of authorities.

Law 52/2003 on decisional transparency was promoted and supported by the NGOs. The main objectives of the law aimed at the participation of NGOs are as follows:

- Increasing the responsibility of public administration before the citizens
- Stimulating the citizens’ active participation in decision making and development of draft laws
- Increasing the level of transparency in public administration as a whole

Recently, NGOs expressed an increasing interest in participating in public policy decision making, participating in public consultations, and submitting observations related to normative legal documents under public debate. The number of observations submitted by NGOs to various public authorities within the consultative processes increased five times from 2003 to 2007. Recently though, there has been a decrease in NGO participation in these types of debates, due to the limited effect of NGO interventions.

According to a study of the FCSD (2010), Barometer of NGO Leaders, 48.9% respondents consider the nongovernmental sector in Romania to have played an important or a very important role in the accession of Romania into the EU, while only 6.4% believe it had no contribution. More than 50% of NGO leaders responding to the Barometer of NGO Leaders consider the nongovernmental sector as playing an important and a very important role.

Meanwhile, as a result of the perseverance of the European Commission delegation, the start of negotiations for accession of several structures at the central and the local level was set up in order to facilitate and organize the dialogue between the civil society and government on the topics of the chapters of accession into the EU. At the central level, every ministry set up an office in order to interact with the NGOs and to coordinate consultation concerning negotiation for accession. However, not all of the offices were effective. The dialogue was infrequent or it was based on narrow, particular matters. After accession, most structures were dissolved.

10.6 Human Resource Management

10.6.1 Legal Foundation of Human Resource Management

The accession of Romania into the EU and its status as an EU member state on January 1, 2007, were accompanied by public administration reform and civil service reform. They were considered complex processes of change and transformation furthering the stages of preaccession, accession, and European integration.

The Constitution of Romania of 1991 (revised in 2003) represents the main normative legal document of the civil service and, in addition, Law no. 188 of 1999* on the status of civil servants constitutes the foundation for creating the civil service management system. The core changes and amendments occurred in 2003 and 2006 and were followed by its second republication in 2007.

* Republished in *Official Journal* no. 365 of May 29, 2007.

At the primary legislation level, it should be mentioned that Law no. 7/2004* on the Code of Conduct of Civil Servants, which lists the principles and general rules of professional conduct for civil servants and sets up the institutional and legal mechanisms, coordinates, monitors, and controls the enforcement of the conduct rules (republished in 2007).

Other normative legal documents regulating the civil service in Romania are as follows:

- Law no. 452 of 2004† concerning the approval of Emergency Ordinance no. 56/2004 on creating the special status of civil servants called public managers
- Decision no. 611 of 2008 on approving the rules for the organization and development of civil servants' careers‡
- Law no. 340 of 2004§ on the prefect and institution of the prefect
- GD no. 432 of 2004 on the professional file of civil servants¶

The secondary legislation regulating the civil service includes the following normative documents:

- GD no. 341/2007 on access to the category of top civil servants, career management, and mobility of top civil servants
- GD no. 833/2007 concerning the rules for organization and operation of joint commissions and collective agreements
- GD no. 1344/2007 concerning the rules for organizations and operation of disciplinary commissions
- GD no. 611/2008 on approving the rules for organization and development of a civil servant's career, amended by GD no. 1173/2008

The above-mentioned legislation refers to the category of civil servants, representing those persons appointed in a permanent civil service position at the central, county, municipality, or commune level. The structure and hierarchy of civil service positions is complex, comprising differences related to the grades, categories, ranks, and junior or permanent civil servants.

In 2010, there were 126,857 civil servants in Romania, of which 61,909 were in local government, 47,103 in territorial government, and 17,845 in central government.

The Law on the Status of Civil Servants stipulates the professional and ethical conditions that have to be met by any person desiring a civil service position, setting up visible mechanisms to establish the civil servants' relationship with the public institutions and authorities; it creates institutions and establishes instruments for the management of civil servants. At the same time, the law stipulates the civil servants' rights and duties, as well as the sanctioning mechanisms, the applicable sanctions, and the procedures for selection, evaluation, and promotion. A special chapter is dedicated to change and end of employment relations.

The general, legal framework including the civil service is shaped by Law no. 554/2001 on administrative litigation. Government Ordinance no. 6/2007 relates to some measures for the regulation of pay rights and other rights for civil servants. This occurs until the issue of the law on a unitary payment system and other rights for civil servants. Law no. 161/2003 addresses the

* Republished in *Official Journal* no. 525 of August 2, 2007.

† Published in *Official Journal* no. 1034 of November 9, 2004.

‡ Published in *Official Journal* no. 530 of July 14, 2008.

§ Republished in *Official Journal* no. 225 of March 24, 2008.

¶ Published in *Official Journal* no. 341 of April 19, 2004.

definition of incompatibilities between civil service positions and other public or private positions and significantly amended Law no. 188/1999. Law no. 251/2006 also amended Law no. 188/1999, specifically regarding the decentralization of assignments in the civil service, regulation of the category of top civil servants, and promotion in civil service positions.

There are public agencies with special regulations for the status of civil servants such as the specialized structures of the Parliament of Romania, presidential administration, legislative council, diplomatic and consular offices, customs authority, police, and other structures of the Ministry of Administration and Interior.

In 2004, civil service positions were extended and the position of public manager was introduced by Law no. 452 of 2004 for the approval of Emergency Ordinance no. 56/2004 to create the special status of a civil servant called a public manager, who benefits from individual career and promotion plans (Matei 2007).

Also in the Romanian framework of public institutions and authorities, contract-based employees are used. They do not hold a civil service position and their status is regulated by Law no. 34 of 2003* on the Labor Code. It is also regulated by Law no. 477/2004† concerning the code of conduct of contract-based employees in public authorities and institutions.

Institutionally, the National Agency of Civil Servants holds the responsibility for human resource management, based on GD no. 1000/2006 on the organization and operation of the National Agency of Civil Servants.

The roles and responsibilities in the field of human resource management stipulated in Law 188/1999 and republished in art. 24 are divided among the specialized departments of the central and local authorities and institutions, which have direct relationships with the National Agency of Civil Servants.

10.6.2 Selection of Workers and Managers

In Romania, recruitment is based on a career system. This means a civil servant will typically hold successive positions in the administrative hierarchy of the civil service for the duration of his career. This model was chosen in order to reduce the influence of political factors on a professional career in the public system and create a clear premise of introducing the permanent evaluation system of civil servants where promotion is based on performance and merit (Matei 2006).

The main participants in human resource management (recruitment, probation term, development, mobility, promotion, and other related activities) are as follows:

- The public authorities and institutions, by means of drafting the internal policies and instruments for human resource management and planning; enforcement of the principles on equal opportunities, motivation, and transparency
- The civil servant, by improving professional performance and involvement in ongoing training aimed at individual professional development
- National Agency of Civil Servants, by means of drafting the legal framework and the policies and instruments for career planning, organization, and development in the civil service, as well as monitoring and control of their implementation, according to the law

* Republished in *Official Journal* no. 0345 of May 18, 2011.

† Published in *Official Journal* no. 1105 of November 26, 2004.

In practice, the two systems of civil service cannot be found in a “pure” form. They are subject to reforms of “contractual flexibility, mobility in the middle of career between the public and the private sector, open competition for the top positions, reform of recruitment procedures, harmonization of pension systems, introducing a performance management system and remuneration reform” (Matei and Matei 2010). *Promotion* represents the main method for career development and ensuring promotion to executive civil service positions of a higher grade or a superior professional rank corresponding to a management civil service position.

The relevant tertiary legislation for the organization of competitions of recruitment includes the orders issued by the president of the National Agency of Civil Servants.

The status of civil servants in Chapter 6, Section 2 stipulates the conditions of recruitment for civil servants. The general requirements refer to nationality, minimum age, proficiency in the Romanian language, education, and others. In order to participate in the competition of recruitment for management civil service positions, the candidates should hold a master’s degree or have completed postgraduate studies in the field of public administration, management, or the specialization required to exercise the civil service position.

Civil servants are selected by the commission in competition for senior civil servants; National Agency of Civil Servants for management positions (except the positions of office director or department director); and, based on decentralization, by each government for the executive positions, office director and department director. The recruitment involves an open and transparent procedure for competition and is based on the candidates’ competences. All vacant positions are published in the *Official Journal*,* at least 30 days before the date of recruitment.

10.6.3 Status of Civil Servants in Society

A special chapter in the Status of Civil Servants defines the rights and duties of the employees in the public sector. Section 1 refers to the civil servants’ rights. Civil servants have the right to freedom of expression, to join a trade union (except some categories, including senior civil servants), to strike (according to certain requirements related to assurance of continuity and effectiveness of public services), and to lifelong training.†

Section 2 refers to civil servants’ duties. Civil servants should complete their tasks in a professional and impartial manner, according to the law. Employees should observe neutrality during their activity. Moreover, they are forbidden to accept leading positions in political parties. Civil servants should decide responsibly and respect hierarchical obedience. Hierarchical obedience, specific for the civil servants in the Balkan area, represents a manner of behavior including the nonconditioned acceptance of hierarchical leaders’ opinions.

The Code of Conduct for civil servants, together with the Law on the Status of Civil Servants, defines the general principles governing the conduct of civil servants. These include the supremacy

* The *Official Journal* represents the main instrument of the Romanian Government, publishing laws, decisions, and other official documents.

† Access to nonreimbursable EU funds enables the reduction of costs related to training of employees in public institutions and authorities. In this respect it is worth mentioning a few programs: *European standards in using information technology in public administration—National Program for Certification of Civil Servants*, during September 2009 to February 2012; *Enhancing civil servants’ capability in the Ministry of Administration and Interior and National Agency of Civil Servants in strategic and project management, in the context of developing and strengthening the role of the civil service*, during January 2011 to July 2012; *Implementing in e-learning systems the training programmes in the field of public administration in view to support the development of an informational society*, during March 2010 to February 2012.

of the constitution and law; ensuring quality public service; priority of public interest; ensuring equal treatment of citizens before public institutions and authorities; professionalism; impartiality and independence; moral integrity; freedom of thinking and expression; honesty and fairness; openness and transparency.

Chapter 8 of Law 188/1999 is dedicated to disciplinary sanctions and the accountability of civil servants. It stipulates that a civil servant's failure to accomplish their duties may lead to disciplinary sanctions.

At the same time, the Code of Conduct defines the role of the National Agency of Civil Servants in coordinating and controlling the conduct rules, and it stipulates the obligation to appoint an ethics councillor in each public institution or authority. Order 4500/2008 of the president of the National Agency of Civil Servants specifies the instruments and reporting procedure for the ethics councillors.

10.6.4 Benefits and Compensation

According to Law 188/1999, civil servants are protected, by law, in performing their duties. Public authorities and institutions must ensure normal conditions of work and hygiene to protect civil servants' health, physical condition, and psychological well-being.

Remuneration of civil servants is carried out according to the provisions of the law for the unitary payment system of civil servants, GD no. 6/2007 and GD no. 9/2008. It awards basic wage, bonuses (length in service, up to 25% from the basic wage, bonus for overtime, bonus for scientific title, other bonuses), merit wage, funds for awards and other benefits (e.g., paid holiday leave, etc.), medical leave, and other leave. *Civil servants' mobility* by means of training programs, transfer, secondment, and delegation represents an instrument providing the opportunity to develop knowledge and professional skills. The law also provides civil servant pension benefits and other rights related to state social security, according to the law.

10.6.5 Relationship between Civil Servants and Elected Officials

According to their status, civil servants are forbidden from holding management positions in elected or appointed management structures (committees, boards) or in political parties. Top civil servants are forbidden from joining political parties, organizations with similar legal status, foundations, or associations belonging to the political parties. In exercising their assignments, civil servants should refrain from expressing their political beliefs or preferences and should not favor any political party or organization with similar legal status.

There is a relationship of cooperation between civil servants and elected officials. An example is the relationship of cooperation between the mayor of a community (elected) and the secretary of the community (civil servant).

10.6.6 Major Human Resource Reforms in Recent Years

In the last two decades, Romania has undergone profound reforms aimed at changing the national administration in accordance with the requirements of accession into the EU, European integration, and the development of administrations in the EU member states.

Table 10.3 illustrates a set of common principles of administrative law, which are key features for the European Administrative Space and can also be found in the Romanian system. Despite the lack of *acquis communautaire* for public administration, the reform process is characterized by a set of measures for the civil service, local government, and decentralization.

Table 10.3 Principles of Civil Service in Romania Related to the Principles of the European Administrative Space

<i>Principles of Civil Service</i>	<i>Principles of European Administrative Space</i>
Legality, impartiality, and objectivity Transparency Efficiency and effectiveness Responsibility, in accordance with the laws Citizen oriented Stability in the exercise of civil service positions Hierarchical subordination	Rule of law Openness and transparency Responsibility Efficiency and effectiveness in public administration

According to the requirements imposed by the modernization of public administration and European integration, the following priorities for public administration reform have been taken into consideration:

1. *Civil service reform*, aimed at ensuring a professional, politically stable, and neutral civil service corps, by creating a comprehensive legislative framework. Other mechanisms include developing cohesive strategies for human resource management and training, as well as the commitment of ministries, agencies, and other governmental bodies. The political changes in the electoral cycles have led to repeated reshuffling of civil servants. This is especially true of those holding civil service management positions. The influence of the political system on political positions is also expressed in public administration. The most frequent examples refer to influencing public decisions, interfering in favor of certain public procurement, and so forth.
2. *Local government reform by means of continuing the decentralization and deconcentration processes of public services*. This is done through improving public service management at the local level, increasing the quality of public services, coherent allocation of responsibilities, financial resources, and rights related to the services provided.
3. *Improving the public policy-making process* by creating coordination systems and improving the management capacity of the governmental structures.

The civil service in Romania faces several problems, including the lack of a motivating and transparent compensation system, weak human resource departments in public authorities and institutions, insufficient administrative capacity of the National Agency of Civil Servants, and an unfavorable image of civil servants inside the public administration. Due to these problems, measures were taken to modernize the civil service such as planning civil servants' careers, developing tools and policies of motivation, and identifying training needs. Therefore, the organization of training programs for civil servants was provided by the Sectoral Operational Program "Development of the Administrative Capacity."

In this respect, a series of guidelines was drawn up to create and implement a merit-based system of recruitment, evaluation, and promotion including guidelines for the evaluation of individual professional performance and motivation of civil servants, guidelines on career development in the civil service, guidelines on analysis of training needs, and guidelines on methods for human

resource planning. The public policy “Ethics and integrity in the civil service system in Romania” intends to amend Law no. 7/2004 on the Code of Conduct of Civil Servants republished. The measures of Law no. 161/2003 are meant to ensure transparency in exercising public duties, civil service positions or businesses, and the prevention of and fight against corruption.

Since January 1, 2006, the civil service positions of prefect and vice-prefect have been politically neutral and included in the category of top civil servants.

At the same time, general rules provided for the conditions of employment in the above positions and competitive recruitment, evaluation, professional development, and mobility of those civil servants. The National Agency of Civil Servants, a main actor in civil service reform, established favorable changes in the regulation of the civil service. This was done by drafting normative documents in the specific field of the civil service and civil servants, by developing a single, unitary compensation system, and by providing mechanisms for civil service management. These efforts ensure a standard framework for the professional development of civil servants.

The transfer of responsibilities from central to local level required an increase in the local government authorities’ capacity to exercise them more efficiently. Further, the experience gained from the decentralization process made it clear that it was imperative to *ensure a higher degree of professionalism in the operation of local government authorities* at all levels. Law no. 286/2006,* which amended and augmented the law on local government, no. 215/2001, introduced the position of “public administrator.”

10.6.7 Individual Performance Management

The evaluation of a civil servant’s performance is carried out regularly to establish the extent to which the civil servant has achieved the professional objectives relating to the assignments in the job description. The evaluation also establishes the extent to which they have achieved the performance criteria, which is important because the outcomes of the evaluation represent an important element for career development (GD no. 611 of 2008, art. 13). The evaluation of a civil servant’s performance is a cyclical process, from January 1 to December 31.

For executive civil servants, the following performance criteria are promoted: adaptability, commitment to responsibilities, problem solving, implementing capacity, self-development, ability to valorize the experience, ability to analyze and synthesize, creativity and initiative-taking, capacity for planning and strategic action, communication skills, ability to work independently, team work, strong writing skills, ability to advise and guide, computer and IT skills, respect for the law and loyalty to the interests of the institution, and professional conduct during work.

Performance criteria for civil servant managers consist of the following: the capacity to organize, leadership skills, capacity of coordination, capacity of control, capacity to obtain the best results, decision-making competence, ability to delegate, skills in human resource management, capacity to develop staff skills, competence in local resource management, skills in training, skills of mediation and negotiation, objectivity in evaluation, adaptability, commitment of responsibilities, capacity of problem solving, capacity of analysis and synthesis, creativity and spirit of initiative, capacity of planning and strategic action, skills of communication, capacity to work independently, capacity to work in a team, capacity of counseling, capacity of guiding, computer and IT skills, respect for the law and loyalty to the interests of the institution, and professional conduct during work.

* Law no. 286 of 2006 on amending Law on local government, published in Official Journal, no. 621 of July 18, 2006.

The evaluation of a civil servant's performance provides the basis for reward for good performance or sanction for poor performance. The evaluation enables a certain degree of objectivity in cases of dismissal or reallocation to other positions.

10.7 Financial and Budgetary Management

10.7.1 Sources of Revenue for Central and Local Government

Financial management aims to achieve institutional objectives by creating and using public financial resources efficiently and in accordance with the law. At the beginning of the 1990s, the public financial system in Romania underwent a new organizational process appropriate for the market economy. It was regulated by a new law of public finance in Romania, Law no. 10/1991* on public finance. The current version of the public finance law was adopted in 2002 (Law no. 500/2002).† This law specifies the principles and general framework and procedures for the generation, administration, commitment, and use of the public funds. It also details the responsibilities of the public institutions involved in budgeting (art. 1(1)). Generally, public institutions have limited freedom to obtain additional financial resources or to distribute or reallocate the funds aimed at supporting service delivery.

The budget represents a mechanism expressing financial relations and functions to supply and distribute financial funds (Georgescu 2011). The Parliament of Romania adopts the annual budgetary law in order to authorize public expenditures and revenues according to the objectives of the economic and social development of Romania and the financial policy specific to that year. The state budget is drawn up and administrated by the government. It is adopted by the Parliament through law and comprises the revenues and expenditures approved by the annual budgetary law. A significant number of stakeholders, central institutions, and ministries participate in the process of drawing up and executing the state budget. The Ministry of Public Finance plays a key role. The state budget includes the budget of the Senate, chamber of deputies, presidency of Romania, government, and other public institutions, which do not have superior hierarchical bodies.

The revenues of the state budget are grouped as follows: current revenues, fiscal revenues, social security contributions, nonfiscal revenues, capital revenues, and financial operations.

For example, in 2011, fiscal revenues made up 84% of total revenues. Within fiscal revenues, indirect taxes, value-added tax, and excise duties represented the highest share. In the same year, 79% in total revenues and 94% of fiscal revenues were derived from these taxes. The increase in the value-added tax in the total revenues of the state budget is due, to a large extent, to the increase in its rate from 19% to 24% on July 1, 2010. The nonfiscal revenues in the state budget represent only 8.5% in total revenues in 2011 compared with 13% in 2010. They represent revenues from state properties, revenues from the sale of goods and services, and the inflows of European funds. The capital revenues reflect 8% in total revenues in 2011, which is double its share compared with 2010.

Besides the state budget, there are other budgets including the *state social security budget* and the *budget of special funds*. The *state social security budget* is drawn up separately from the state budget and is approved by Parliament through a distinct law and then administered and managed by

* Published in *Official Journal*, part I, no. 23 of January 30, 1991.

† Published in *Official Journal*, part I, no. 597 of August 13, 2002, with further amendments.

the Ministry of Labor, Family, and Social Protection. The ministry authorizes public expenditures and the collection of revenues, based on contributions and other payments collected from individuals and legal entities (and for the distribution of revenues by destination). The revenues of the state social security budget are divided into six main resources, four of which are fiscal revenues. Fiscal revenues are contributions for social security from employers, employees, other insured persons, and unemployed persons. Two are nonfiscal revenues: the contribution for cost of medical treatment and holidays, and receipts from other sources.

Budgets of special funds are drawn up in order to finance certain objectives and activities. Therefore, these funds are financed through compulsory levies set up on the basis of special laws. For example, the National Single Fund of Health Insurance and the Unemployment Insurance are funded by special funds. Those budgets are approved as an annex to the law on the state budget and the law on state social security budget respectively.

Besides the above budgets, the system of central public finance includes other budgets. These budgets supply and distribute the public funds, such as the budget of state treasury; budgets of autonomous public institutions; and budgets of public institutions financed entirely or partially by the state. Additionally, there are other budgets that distribute funding such as the state social security budget and budgets of special funds, as appropriate; budgets of the public institutions financed entirely from own revenues; budgets of the funds derived from foreign credits contracted or guaranteed by the state; and the budget of foreign grants.

The development, approval, execution, and reporting of all the above budgets is regulated by the law on public finance, Law no. 500/2002.

Applying the principles of decentralization and deconcentration influences public finance. The first law on *local public finance* was adopted in 1998 (Law no. 189/1998*). The law amended the proposal of the associative structures of local government with the Emergency Ordinance of the Government of Romania no. 45/2003 on local public finance.†

The practice demonstrated lack of continuity in the system of local public finance related to the increase in local stakeholders' responsibility. These stakeholders are involved in the management of public money and the enforcement of the principle on the separation of decision-makers' assignments from those of executive factors. Taking into consideration the above trends, a new version of the law on local public finance (Law no. 273/2006‡) was drafted and its provisions were enforced on January 1, 2007 (with a few exceptions). The new elements of the law relate to completing the budgetary principles and rules with a series of other principles recognized at an international level in the field of local public finance. This includes the principle of solidarity, the principle of financial local autonomy, the principle of proportionality, and the principle of consultation. It defines the concepts of the financial crisis, the insolvency of the administrative-territorial units, and the course of action for such situations. The law introduces certain institutional provisions and sets up a committee for local public finance as the body with the consultative role in drafting financial regulations about local budgets and their balance. It provides important amendments in the system for balancing the local budgets ranging from criteria to the breakdown of the responsibilities.

According to the principle of local autonomy stipulated in the law on local public administration (Law 215/2001), the administrative and territorial units are entitled to their own resources, which are managed by the local government authorities according to the law. Those financial

* Published in *Official Journal*, part I, no. 404 of October 22, 1998.

† Published in *Official Journal*, part I, no. 431 of June 19, 2003.

‡ Published in *Official Journal*, part I, no. 618 of July 18, 2006, with further amendments.

resources should be proportional to the competences and responsibilities of local government authorities.

Local government authorities establish the amounts of the local taxes and fees. They also draft and approve the local budgets of the communes, towns, municipalities, and counties according to the provisions of the law on local public finance (Law no. 273/2006).

Based on the principle of local autonomy and the legal provisions on local revenues (Law no. 571/2003* on the Fiscal Code and the law on local public finance), the following categories of revenues are stipulated for the local budgets:

1. General revenues.
2. Local revenues comprising taxes, fees, other revenues, and deductible amounts from the income tax.
3. Transfers from some revenues of the state budget; they may reach up to 35% of the local budget.
4. Donations and sponsorships.

Local revenues represent the revenues collected at the local level by the authorities. Naturally, they should constitute the major part of the total revenues of local budgets. Generally the local authorities have the freedom to decide how to spend them. In Romania, the share of local revenues in the total revenues of the local budgets has increased during the most recent years. This is a result of amendments to legislation that enabled the decentralization of several sources of revenues. The degree of autonomy for a local community depends, to a large extent, on the share of the revenues received at a local level related to other resources of revenues. Ideally, local revenues could cover the expenditures to meet local needs. In this context, the objectives of development of the local authorities should correlate to the revenues of the local budgets. In reality, this is seldom achieved. According to the budgetary classification, the revenues are derived from current fiscal and nonfiscal revenues, capital revenues, and deductions from income tax.

Generally, fiscal revenues represent the main source of the local revenues for the budgets of the municipalities, towns, and communes. Only for county councils do they not represent the main source of the local revenues (Dascălu 2006). The main source of revenues for the local budgets consists of taxes on property such as the tax on buildings and lands from individuals and legal entities. Prior to 2000, it was the tax on incomes from rents, copyrights, and rights of inventors and innovators. Another source of the amounts deriving from deductions in income tax and profit tax are provided by autonomous regies,[†] trading companies, and capital gains. Taxes on goods and services, such as tax on transportation owned by individual and legal entities, tax on shows, and charges for the issue of permits and authorizations, represent fiscal sources for the revenues of the administrative and territorial units.

The nonfiscal revenues represent budgetary revenues obtained from state-owned autonomous regies consisting in payments from their net profits, payments from the public institutions, and various revenues from concessions, rents, dividends, refunds from previous years, and other receipts. In those revenues, local authorities hold a share of around 15%. The revenues from economic

* Published in *Official Journal*, part I, no. 927 of December 23, 2003, with further amendments.

[†] The autonomous regies represent economic units, under public property, in the economic areas of national strategic interest (industry of weapons, energy, mines and natural gas, postal services and railway transport, and other areas established by the government).

activities and properties such as the payments from public institutions and various local revenues and special charges instituted by local government authorities for public services are considered nonfiscal revenues of the local government authorities.

Capital revenues represent revenues from the sale of assets belonging to public institutions such as revenues from the sale of houses built by the state, revenues from privatization, and revenues from the sale of assets belonging to the private domain. Capital revenues are quite low and not a routine occurrence.

10.7.1.1 Taxes, Fees, and Social Contributions Are Regulated by the Fiscal Code

The following taxes and fees are regulated (art. 2 – (1)): (a) profit tax; (b) income tax; (c) tax on the income of microenterprises; (d) tax on incomes obtained from Romania by nonresidents; (e) tax on representative offices; (f) value-added tax; (g) excises; and (h) local taxes and fees.

Social contributions regulated by the Fiscal Code (art. 2 – (2)) are as follows:

1. Individual social security contribution and the contribution due by the employer to the state social security budget
2. Individual contribution for health insurance and the contribution by the employer to the budget of the National Single Fund of Health Insurance
3. Contribution for medical leaves and indemnities for health insurance by the employer to the budget of the National Single Fund of Health Insurance
4. Individual contribution to the budget of unemployment insurance and the contribution by the employer to the budget of unemployment insurance
5. Contribution regarding insurance for work accidents and professional diseases (workers' compensation fund) by the employer to the state social security budget
6. Contribution to the fund for guaranteeing the payment of wage claims, by individual and legal persons who are employers, according to Law no. 200/2006 on the creation and use of the fund for guaranteeing the payment of wage claims, with further amendments.

In 2011, *the income and wage tax* from individuals made up 23% of total revenues and 27% of fiscal revenues, while the profit (business) tax made up 12% of total revenues and 15% of fiscal revenues. In Romania, a proportional quota of 16% is enforced both for wage tax and profit tax.

The rates for contributions for health insurance are established according to the law on the state budget for 2011 (Law no. 286/2010, art. 8(3)). Relevant figures for 2011:

1. 5.2% due by employers
2. 10.7% due by the persons insured additionally
3. 5.5% for other persons who have an obligation to pay the contribution directly to the National Single Fund of Health Insurance (pensioners, unemployed persons) or from other sources

Rates of contributions for unemployment insurance are established according to the Law on state social security budget on 2011 (Law no. 287/2010,* art. 18(1)):

* Published in *Official Journal*, part I, no. 880 of December 28, 2010.

1. The contribution due by employers to the unemployment insurance fund represents 0.5%
2. The individual contribution to the unemployment insurance fund represents 0.5%
3. The contribution due to the budget of unemployment insurance by persons insured on the basis of the contract for unemployment insurance represents 1%
4. The contribution due by employers to the fund for guaranteeing the payment of wage claims represents 0.25%

In 2011, rates for contributions for social security were established according to Law no. 287/2010 on state social security budget for 2011, art. 17(1), as follows:

1. 31.3% for normal work conditions, required by employer and employees, of which 10.5% is owed by employees and 20.8% is owed by employers
2. 36.3% for particular work conditions (work at home, work in the short term) is expected of employer and employees, of which 10.5% is due by employees and 25.8% is due by employers
3. 41.3% for special work conditions (heavy, dangerous work conditions) is expected of the employer and employees, 10.5% of which is due by employees and 30.8% by employers

The rate of individual contributions to social security also includes the quota of 3% for the funds of private pensions. (These are funds of alternative pensions, which develop in parallel with the government pension funds in Romania. The latter are traditional and the most powerful ones.)

10.7.1.2 Quotas Deducted from Income Tax on Local Level

An important part in the revenues of the local budgets consists of the quotas deducted from income tax. The deduction quota is 77% from income tax and represents differentiated quotas from income tax collected by the state budget at the level of each administrative and territorial unit. It is allocated to the local budgets of communes, towns, and municipalities (44%), to the budget of the county (12%), and to a distinct account of the local council to balance the local budgets of communes, towns, municipalities, and county (21%).

10.7.2 Allocation of Resources

Resources of the state budget are distributed mainly to finance the expenditures of education, health care, culture, social protection, allowances and aids for children, other social-cultural activities, and environmental protection. Analysis of expenditures in the state budget emphasizes their ranking. Expenditures that support general public services were 38.8% in 2011, while social-cultural expenditures were 24.1% in 2011, and expenditures for economic activities were 21% in 2011. In social-cultural expenditures, the expenditures for social security held the greatest share, of 16.3% in 2011, while the expenditures for education register 3.8% in total expenditures and those for health care hold a share of 2.2%.

It is worth mentioning that there are transfers of resources from the state budget to the local budgets whenever local resources are insufficient. In the framework of general public services in 2011, the transfers with general character among different levels of government increased by 127% compared with 2010.

10.7.2.1 Revenues to Local Budgets Derived from Central Level

Revenues derived from the central level aim to correct the imbalances that occur on local levels both vertically and horizontally. Vertically, the level of the local taxes and charges does not cover the expenditures for public service delivery. Horizontally, the local communities do not have the same financial outcomes even though they are required to provide equivalent services in terms of quantity and quality. An efficient system of transfers should meet the following conditions: local authorities must be stimulated to generate their own revenues, and balance must be found between local authorities' competences and decentralized resources (Dascălu 2006, Matei and Matei 2007). According to the legislation, revenues for local budgets derived from the central level make up amounts deducted from some revenues of the state budget and subsidies from the state budget and other administrations.

10.7.2.2 Transfers from State Budget

Those transfers represent the sharing system of taxes and charges among different levels of government. The system for distribution of resources is established on the central level so the local authorities do not have control of the amounts and modality of spending. Usually there are clear criteria for distribution, but they are often negotiated. The Ministry of Public Finance through the County Financial Divisions collects taxes and fees at the national level. Some of them are divided among different levels of state authorities. The local authorities receive a share of revenues from income tax and value-added tax. The amounts to be transferred to local authorities and to balance the local budgets are approved annually by the law on the state budget. Presently, a share of the value-added tax transferred to local governments is allocated to subsidize energy (such as Heat Assistance Payments) provided to the population (this has not been in force since 2007) and to finance the expenditures decentralized to counties and the Bucharest Municipality. These expenditures include a child protection system and social centers for persons with disabilities; provision of dairy and baked products to pupils in state education, grades 1–8, and children in state kindergartens; expenditures for special education and cultural institutions; and payment of contributions for nonclergy staff from religious establishments. Other allocations finance functions decentralized to communes, towns, municipalities, and sectors of the Bucharest Municipality. This includes staff expenses, scholarships, and inventory assets of high school state education; compensation to personal assistants of persons with severe disabilities, social assistance, and assistance for home heating with wood, coal, and petroleum fuels; expenditures for the public services related to the registry of persons and services under the authority of local councils of communes, towns, and municipalities and the General Council of Bucharest; and regional state aids for the administration of areas without custom duties under the authority of local councils. Additional allocations finance the centralized systems for production and distribution of heating, expenditures for county and commune roads, development of infrastructure and sports facilities in rural areas, and to balance the local budgets.

Distribution of allocations from the special fund of the state budget aimed at balancing local budgets is accomplished at the county level according to the following rule: 70% of the amount takes into consideration the financial capacity, determined on the basis of the income tax collected per inhabitant, and 30% of the amount depends on the area of the county (Law no. 273/2006, art. 33, para. 2).

In accordance with the law on state budget, central government transfers 21% of revenues generated from the income tax to local governments to balance local budgets. Twenty-seven percent of these funds are allocated to the local budget of the county and the rest is distributed to the localities inside the county. Aiming for a balanced distribution, criteria were established on

the basis of the following elements, which influence the expenditures of a local public authority: population, territory, and financial capacity of the administrative and territorial unit. Based on those criteria, 80% of the amount is allocated. The remaining 20% is distributed by the county council to support local development programs and to sustain the infrastructure projects that require local cofinancing.

10.7.2.3 Subsidies

Subsidies received by local budgets may be subsidies from the state budget or subsidies from other governments. The subsidies have a specific purpose. The most important subsidies are those received from the state budget for road maintenance and water supply to villages; multiannual programs of environment and water management; funding assistance for persons with disabilities; unpredictable increases in fuel prices; capital expenditures of pre-higher state education institutions; investments in tourism; thermal protection of buildings; and health care. Local budgets receive subsidies from the budget of unemployment insurance to finance temporary employment programs.

Decentralization of public services has a decisive influence on the evolution of local public expenditure and the principle of local accountability, thus resulting in significant expenditures, both as a percentage of total spending and as a percentage of Gross Domestic Product (GDP). The degree of decentralization of public services varies from country to country and is measured by the share of local public expenditure in the GDP. Economic development and existing national priorities affect decentralization and local expenditure developments.

The consumption of local public resources has become a constant concern for local authorities. They are faced with a broad process of reform determined by public service decentralization and often accompanied by an improper transfer of resources.

This results in pressures on the budgetary balance. Therefore, local communities resort to borrowing in order to cover budget deficits even though such borrowing is intended to finance capital expenditures only. The public financial system was and continues to be closely related to the political, economic, and financial conceptions, as well as the organization of the country.

10.8 Accountability and Corruption

10.8.1 Ethics Laws, Compliance, and Enforcement

In Romania, the legislative framework for the prevention of and fight against corruption is aimed at the objectives and general guidelines stipulated in European and international law. After 1990, the Romanian legislature determined there was an increase in the level of social perceptions of corruption.

In art. 254–257, the Criminal Code outlines the offenses of corruption: giving and receiving bribes, and receiving undue benefits and trafficking of influence; while Law no. 78/2000 amended by Law no. 161/2003 extends and harmonizes the definition of corruption as follows: offences of corruption and offences in direct connection with the offences of corruption. The law introduces a new category of offences of corruption relating to offences against the financial interests of the European Communities.

The normative and institutional framework on preventing, combating, and sanctioning corruption was created and completed over the last two decades. Today it comprises legislation, specific

institutions, and public policies aimed at preventing, combating, and sanctioning corruption (Transparency International 2010). The recent legislative developments refer to the amendment of the law on decisional transparency. These developments introduce the obligation for public administration authorities to justify, in writing, why the recommendations drawn up and submitted by citizens were not taken into consideration.

At the same time, debates on the Administrative Code of Romania were launched and the procedure on tacit approval* was amended to confine bureaucracy as the source of corruption.

In 2006, the Romanian authorities initiated a great reform in justice by amending the four fundamental legal codes of Romania: Criminal Code, Civil Code, Code of Criminal Procedure, and Code of Civil Procedure. The codes were approved by Parliament in 2009 and 2010, but there was a delay in bringing them into effect.

Similar to other countries, the causes of corruption in Romania have yet to be the subject of an extensive analysis, according to Transparency International Romania (2010). Research on this phenomenon has been descriptive rather than analytical. However, recent studies pioneered in the sociological investigation of corruption focused on the perception of this phenomenon in different social groups. It was relevant in terms of incidence and impact, but did not claim to be representative or exhaustive: politics, law, police, media, civil society, and economy.

From 1997 to 2010, the Corruption Perceptions Index in Romania, calculated by Transparency International, had a range between 3.4 and 3.8[†] in 2009 and recorded high variations related to national social and political developments. In 2010, the index slightly decreased to 2.7 (Transparency International 2011a). The lowest value was registered in 2002 at 2.6.

10.8.2 Nature of Corruption

Social perception of the effectiveness of anticorruption measures remains low. The share of respondents who consider the anticorruption measures as ineffective is on the rise. For example, in 2006, the ratio between efficient and inefficient measures was 53% and in 2008 it became 28.8% (Transparency International 2010).

Figure 10.1 presents the evolution of the Corruption Perceptions Index during 2005–2010.

The Global Corruption Barometer provides interesting information about corruption: the political parties and Parliament are considered most corrupt (4.5), followed by the judiciary (4.0), police (3.9), and civil servants (3.8). See Table 10.4 for more details.

10.8.3 Inspiring Ethical Behavior

In Romania, efforts to inspire ethical behavior were made according to the European best practices in this field. The national legislative framework became compatible with the European one, thereby meeting the needs to fight corruption in the most vulnerable sectors.

The National Anticorruption Strategies (NAS) from 2005 to 2007 and from 2008 to 2010 identified the most vulnerable sectors. A major objective of the NAS focuses on the increase in transparency and integrity in public administration, especially at the National Customs Authority, Financial Guard, police, and gendarmerie.

* The tacit approval represents a procedure where a certain requirement is considered approved if the public authority does not respond to the applicant within the deadline specified by law.

† Corruption is measured on a scale of 0–10, where 0 means that a country is perceived as highly corrupt and 10 means that a country is perceived as very clean.

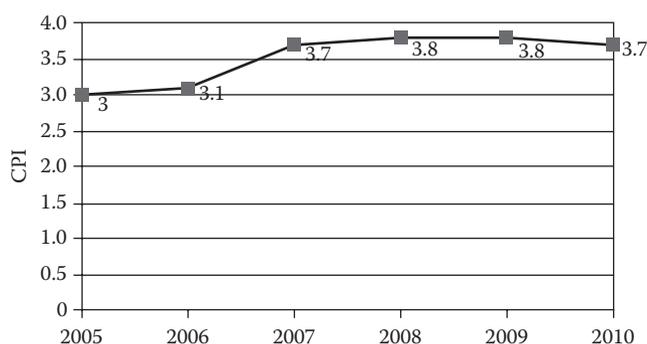


Figure 10.1 Corruption Perceptions Index during 2005–2010. (Based on data from Transparency International, <http://www.transparency.org/>, accessed June 25, 2012.)

The main measures of those two strategies highlight the following issues:

- Preventing and combating corruption in the field of security and public order: operationalizing the General Anticorruption Division, initiating and carrying out educational–preventive activities, and establishing channels of communication with the public authorities especially at the level of the Romanian police, border police, prosecution, and so forth.
- Strengthening cooperation among institutions in the financial sector. Romania started to enforce the Common Customs Tariff and Integrated Tariff (TARIC), the Integrated Customs Information System was extended, and the provisions of the Customs Code and related regulations were harmonized.

Table 10.4 Evolution of the Nature of Corruption in Romania

Year	Political Parties	Parliament	Police	Justice System/ Judiciary	Tax Institutions	Public Sector/ Businesses	Customs	Medical Services	Media	Educational System	Utilities	Registers and Services Issuing Permits	Army	NGOs	Religious Bodies	Public Officials/Civil Servants
2005	3.8	3.6	3.6	3.7	2.4	3.4	3.8	3.6	2.7	2.9	2.5	2.9	2.4	2.5	2.1	
2006	4.1	4.0	3.6	3.9	2.2	4.0	2.2	3.8	2.9	3.2	2.3	2.8	2.5	2.9	2.3	
2007	3.9	3.9	3.7	3.8	2.6	3.9	—	3.7	2.8	3.0	2.4	2.9	2.4	2.6	2.2	
2009	4.3	4.3	—	4.2	—	3.4	—	—	—	—	—	—	—	—	—	3.8
2010	4.5	4.5	3.9	4.0	—	3.6	—	—	3.1	3.1	—	—	2.4	2.9	2.3	3.8

Source: UNDP, Evaluation Report on implementing the National Anticorruption Strategy 2005–2007 and the National Anticorruption Strategy on vulnerable sectors and local government, 2008–2010, in Romania (unpublished report).

- Strengthening measures to fight fraud, money laundering, and tax evasion. The Financial Guard, a specialized body in this field, has drawn up its own plan of anticorruption measures, focused on ensuring transparency and mobility in oversight, and training and involvement of all the employees at the agencies with oversight functions.

For public administration, and especially for local government, the Code of Conduct of Civil Servants (Law no. 7/2004), the amendments to the Law on the Status of Civil Servants, new regulations on public procurement, and contracts of concession for public works and services (GEO no. 34/2006) are noteworthy.

For the time being, the National Anticorruption Strategy (Government of Romania 2008a), which is under public debate, states the following: “despite of all efforts, the perception of corruption holds comparable positive and negative oscillations, there is no general obvious impact and the requirement to fight against corruption has not been assumed as an objective necessity in the framework of the social life” (Matei 2006).

10.9 Conclusion

Public administration in Romania has had contradictory historical trends. This was the result of political changes, which radically transformed the scope and institutional forms of central and local governments, similar to other states from the former Communist system.

The democratic heritage and fundamental values of a performing administrative culture survived five decades of Communist dictatorship.

The French model represents the European model that has inspired the Romanian administration for more than a century. Belonging to the southeastern European area, values related to administrative efficiency and effectiveness were influenced by the pan-Balkan administrative culture.

The Communist regime influenced profound changes, as evident in the administrative and territorial reorganizations and the influence of the Soviet administrative systems.

In 1965, at the beginning of the Ceausescu dictatorship, Romania moved away from the former Soviet system, thereby marking the return to the old administrative and territorial organization, which also included excessive centralization and political subordination.

Romanian public administration recovered at the beginning of the last decade of the twentieth century, when the Communist system fell and there was a return to democracy. The last two decades brought visible changes to administration. The most relevant changes refer to democratic forms for creating central and local management structures, decreasing political influences, supporting meritocratic practices for civil servants, public employees’ recruitment and promotion, and administrative decentralization.

In Romania, the principles of the European Administrative Space (rule of law, predictability, openness and transparency, accountability, efficiency, effectiveness) are widespread and hold significant recognition. The expression of those principles in the daily administrative activity reflects a visible difference compared with other European national administrations concerning the efficiency of public decisions, their democratic support, and so forth.

The areas that need to be improved include efficiency of the administrative acts: cutting red tape and eliminating ideological influences.

The integral operationalization of the normative framework specific for public administration remains a goal. Lacking an administrative culture and an attractive environment, especially in

local government, the civil service is still characterized by a low level of specialized studies, which makes it impossible to ensure lifelong training.

The prospects for future development of Romanian public administration may be found in the pillars of the European integration process. The administrative cooperation and promotion of good local governance represent European rules and values, instituted even by the treaties of the EU. The European environment for developing the Romanian administration will determine its evolution toward a better integration into the European Administrative Space and universal adoption of the best administrative practices.

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Chapter 11

Public Administration in Bulgaria

Margarita Shivergueva

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11.1 Context of Public Administration

Bulgaria's 1991 constitution, which established a parliamentary republic, provides for a multiparty parliamentary system and free elections with universal adult suffrage. Bulgaria's head of state is an elected president, and the head of government is a prime minister determined by the largest parliamentary group. To enter the National Assembly, parties and electoral coalitions must receive

at least 4% of the popular vote. The Council of Ministers (CoM), chaired by the prime minister, is the main body of the executive branch of government. Mayors and council members of local municipalities are elected, while regional governors are appointed by the CoM. There is also an independent judiciary.

The prime minister is head of the CoM, which is the primary component of the executive branch. In addition to the prime minister and deputy prime ministers, the council is composed of ministers who head the various ministries within the government and usually come from the majority/ruling party or from a member party of the ruling coalition in Parliament. The council is responsible for carrying out state policy, managing the state budget, and maintaining law and order. The council must resign if the National Assembly passes a vote of no confidence in the council or by way of the prime minister.

Administration of executive power in Bulgaria is performed at central and territorial levels.

The central government has authority in local districts through district governors appointed by the cabinet. Other local officials, including mayors and local assemblies, are elected by voters for a period of 4 years. The level of fiscal decentralization is relatively low and municipalities are heavily dependent on the central government.

The central administration includes the administration of CoM, the ministries, executive agencies, state commissions, and administrative structures established by a regulatory instrument. The territorial administration includes regional, municipal administrations and specialized territorial administrations established as legal entities by a normative instrument. The total number of administrative structures in the central administration is 113 (including the administration of the CoM).

By the end of 2008, the total number of administrative entities in the central administration was 107 (16 ministries, 24 entities subordinated to the CoM, 61 entities under ministers, and 6 state institutions reporting to the National Assembly). There are 28 regional administrations, 264 municipal administrations, 35 district municipal administrations, and 113 specialized territorial administrations.

Data for 2009 show that there are 86,877 established positions in the central State administration; 47.5% of the employees work under civil service contracts and 52.5% under labor contracts.

Twenty-eight regional administrations support the activities of the governors. The governor is the sole executive body in the region. He/she is appointed by a decision of the CoM to which he/she reports. He/she exercises state power over the territory of the region, coordinates the work of the executive bodies and their administrations, and coordinates their interaction with the local authorities, ensuring compatibility between national and local interests in regional policy making. The activities, structure, composition, and organization of the work of the regional administration are defined in the Rules of Procedure adopted by the CoM. However, mechanisms have not yet been created for the effective performance of the governor's coordinating role regarding the deconcentrated administration (the territorial units) of the central executive power.

Bulgaria's 264 municipalities are the basic administrative-territorial units carrying out local self-government. They are established by the CoM according to a procedure specified in the Law on Administrative and Territorial Structure of the Republic of Bulgaria (LATSRB). Mayoralties and districts are composite administrative-territorial units of municipalities.

The municipal administration supports the activities of the municipal councils and the mayors of municipalities, districts, and mayoralties. The mayor is the executive body in the municipality. He/she manages all municipal executive activities; organizes the disbursement of the municipal budget, the implementation of long-term programs, and the implementation of the municipal council's acts; participates in the municipal council's sessions, with the right to an advisory vote; and approves the Rules of Procedure of the municipal administration.

The territorial units of the central executive power, which are deconcentrated units of the separate ministries, form part of the central administration and are quite different in territorial scope, status, and internal structure. Even though they employ around 60% of the total state administration, until now the deconcentrated units have remained outside the scope of the reforms implemented in the country. Since 1998, administrative reform has focused more on the civil service and the management of human resources.

The Law on Administration was amended in March 2006. It introduces a distinction between the political and administrative levels in the state administration. The aim of this law is to clarify roles and responsibilities. The law also regulates involvement of public officials in the management of private companies and strengthens the role of the inspectorates.

Amendments to the Civil Servant Act were also passed in March 2006. This act provides for a competitive recruitment procedure, introduces the mobility principle in the state administration, and promotes training for civil servants. The Code of Administrative Procedure was adopted in March 2006. Following this code, administrative courts were established and judges were appointed by December 2006.

An updated strategy for the training of civil servants and a relevant action plan were adopted in March 2006. The strategy focuses on strengthening the Bulgarian administrative capacity in implementing the *acquis*, involving all stakeholders in the administrative reform process, and enhancing professional capacity and qualification.

However, certain outstanding issues remain to be addressed. For example, the decentralization strategy aiming at further decentralizing powers and financial resources from the central to regional and municipal levels has not been adopted.

Overall, Bulgaria has made progress in the field of public administration and is on the way to having an efficient state administration, provided that reform is maintained.

11.1.1 Administrative Culture

Every country, whether it is underdeveloped, developing, or developed, has its own administrative culture. The overall socioeconomic and political environment in which the administration works has a direct bearing upon its functionaries and helps to mold their manner, style, and behavior pattern; their aspirations, ethos, and values are shaped by it. These, in combination, constitute what many call “administrative culture.” The administrative culture is a complex phenomenon. Today it is not easy to identify the parameters and dimensions that constitute administrative culture. It is difficult even to say whether administrative culture is something distinct or if it is only a subsystem of the culture of a country. Nevertheless, it is realized that administrators and their outlook or world view, their perception of the natural goals and functional purposes, the politicoadministrative environment, the sociocultural norms and ideals of the society, and the response of citizens help in understanding as well as determining the administrative culture of any society.

The administrative culture of Bulgaria is a product of three factors:

- *Individual value system* (cultural norms, education, experience, religion): Bulgaria is a Southern European country that did not know democracy for the greater part of its modern history. The majority of the population is Christian Orthodox, with Muslim, Catholic, Protestant, and Jewish minorities composing up to 10% of the population. About 28% of the population has a college education. However, the education system in Bulgaria is facing the big challenge of reform to face the requirements of Europe 2020.

- *Political system:* During the whole 22-year period of Bulgaria's transition, the "political class" of Bulgaria could not reach the necessary consensus to make the very much-needed administrative reform to permit the country to participate in the Common Administrative Space of the European Union (EU). The result is that the state and local administration of Bulgaria (the civil service) is totally politicized, and this is a policy that essentially is maintained by all political parties that come to power in the country.
- *Economic dimension:* Due to the nonregulated and regularized "relationship" between the state and business in Bulgaria and the disproportionate administrative burden on business, Bulgarian entrepreneurs find themselves forced to resort to "other" ways and means to achieve their business targets and even to simply function in what is considered to be a normal market economy. There is particular public concern with regard to public procurement and state acquisition tenders and orders, which continue to be of great importance to the majority of small and medium-sized enterprises in Bulgaria, that is, more than 90% of them. It should be mentioned that a series of Bulgarian governments publicly proclaimed and attempted limited administrative burden reduction measures without any real impact.

Mass media, such as radio, films, television, newspapers, books, and digital media, play an important role in the administrative system. The transformations after 1989 radically changed the media situation in the country. The liberalization of the market and free competition came into the media sphere very quickly. However, in recent years processes that restrict media pluralism and the freedom of speech have been outlined. Besides that, the global economic crisis of 2008 affected both major industries and the media sector.

Bulgaria is moving toward a sustainable and professional media sector, but economic and political interests still have direct or indirect influence over the media. The pluralism of the media environment has evolved steadily over the last several years and continued evolution in this respect was the most notable aspect of the country's media development during the period of transition. Currently there are 446 newspapers, 95 radio stations, and 102 television stations in Bulgaria. The intensive media consolidation and intense economic competition call into question the ability of outlets to maintain their independence from the economic interests behind them. At the same time, big media groups are putting enormous competitive pressure on small independent outlets. Bulgaria's rank in the Press Freedom Index decreased from 35th place in 2006 to 59th in 2008.

11.2 Political and Economic Reforms

11.2.1 *Political Transition in Bulgaria*

On November 10, 1989, after 35 years as the undisputed leader, Todor Zhivkov resigned his positions as head of the Bulgarian Communist Party (BCP) and head of the state of Bulgaria. This act was a symbolic watershed between two very different eras in Bulgarian governance. A year after Zhivkov's resignation, Bulgaria had already acquired at least some of the primary building blocks for a democratic state: a freely elected Parliament, a coalition cabinet, independent newspapers, and vigorous, independent trade unions.

In April 1990, the old National Assembly dissolved itself to make way for the national election of a Grand National Assembly, charged with writing and ratifying a new constitution; that was the first voluntary adjournment of that body since World War II.

In accordance with the provisions under which the 1990 parliamentary elections were held, after passing the new constitution in July 1991, the Grand National Assembly voted to dissolve itself and continue working as a normal Parliament until the election of a new body. Thus, in the second half of 1991, work continued on critical legislation covering issues such as privatization, election procedures, and local government reform.

All Bulgarian citizens enjoy the same civil and political rights. The Bulgarian constitution defines Bulgaria as a one-nation state, respecting the differences existing among Bulgarian citizens with regard to ethnicity, mother tongue, and religion. The constitution bans the formation of political parties along ethnic lines. Major groups in society accept and support the official concept of the nation-state. National authorities insist that Bulgaria's model of interethnic relations, based on civil society and pluralist democracy values, is successful.

Bulgaria's democratic institutions, including the judiciary and administration, perform their functions with moderate effectiveness and are free from extensive, counterproductive friction.

Bulgaria is a parliamentary republic. The unicameral National Assembly, or *Narodno Subranie*, consists of 240 deputies who are elected for 4-year terms through a mixed electoral system. Parliament elects and dismisses government ministers, including the prime minister, exercises control over the government, and sanctions the deployment of troops abroad. It is responsible for enactment of laws, approval of the budget, scheduling of presidential elections, declaration of war, and ratification of international treaties and agreements.

The president has a limited role, mainly exerting influence on foreign and defense policy and through his veto powers on legislation. However, second-term President Gueorgui Parvanov, a former BSP leader, has managed to position himself in the political process in such a way as to exert informal influence on decision making. The president is the wartime commander in chief, has the right to convoke the Consultative Council on National Security (a representative body including all major parliamentary parties), appoints part of the central bank board, and serves as the media regulator. The president may return legislation for reconsideration to Parliament, but the veto can be overruled by a simple majority.

The central government has authority in local districts through district governors appointed by the cabinet. Other local officials, including mayors and local assemblies, are elected in proportional votes for a period of 4 years. The level of fiscal decentralization is relatively low and municipalities are heavily dependent on the central government.

In the parliamentary democracy, political parties and interest groups also play an important role in expressing public opinion and they check the arbitrary use of powers and actions of the executive along with the administrative executive. The press also plays an important role in enforcing administrative accountability through editorials, and news regarding administrative irregularities, mismanagement, inefficiency, delays, and corrupt practices of civil servants. Even the public are able to vent their grievances through newspapers columns.

The period under review was marked by continuing fragmentation and organizational instability in the party system. In 2007 and 2008, discussions about early elections, changes to the constitution, amendments to the Political Parties Act, and changes to the political model were high on the political agenda. In the intermediate turbulent period before and following EU accession, the Bulgarian party system's ability to articulate and aggregate societal interests and mediate between society and the state was put to the test. Of those citizens eligible to vote, 45% say they have changed their party allegiance in recent years. Populism has entered the political scene due to the continued erosion of traditional parties' credibility. As a consequence, dividing lines between left and right, and also between nationalist and, paradoxically, pro-European sentiments, have become blurred.

Before 2007, the EU accession consensus agenda dominated the political discourse. As a result, ideological differences were overshadowed by the emerging EU agenda. The country's EU membership, commencing January 1, 2007, and the new types of challenges associated with it, reinforced the reshuffling of the Bulgarian party system.

11.2.2 Economic Transition in Bulgaria: The Facts

In 1990–1997, the monetary sector was instrumental in propagating instability throughout the system and in deepening the extent of economic collapse. With lax supervision and inconsistent monetary policy, the central bank contributed significantly to the acceleration of the banking and financial crises. The continuous refinancing of insolvent commercial banks and the attempt to stop inflation by increasing interest rates created a vicious circle by deteriorating both the health of the banking sector and the state of government balances (Avramov 1999).

Fiscal policy was more restrictive at first glance. One of the trademarks of Bulgarian governments, however, was the ability to redress primary deficits as bad loans of state-owned commercial banks. Indeed, the books of the government suggested that subsidies had declined from over 20% at the start of the transition to less than 2% of GDP in 2 years. Even more common were substantial changes both on the revenue side and the expenditure side over 10 years. Total revenue declined rapidly from about 58.9% in 1989 to less than 32% of GDP in 1997, with a similar decline in expenditures. The only item on the expenditure side that was increasing steadily until 1997 was interest expenditures, which reached 19.7% of GDP in 1996 (IMF 1999). The government was caught in its own trap. High interest rates imposed by the central bank meant further deterioration of the budget. Low interest rates led to inflation and rapid depreciation of the currency. The deterioration of the value of the lev translated in an increase in the foreign debt burden. The inconsistency was further complicated by the involvement of the banking sector in the process of implicit subsidizing of loss makers.

After the introduction of the comprehensive stabilization package in July 1997, the fiscal situation in Bulgaria improved dramatically. Although by the end of 1997 the overall balance was still in deficit, the trend toward improvement was clear. For the first 4 months of 1998, the overall balance was in surplus, with the first-quarter revenues reaching 33% of the annual figure, while expenditures reached only 21%. The key factors for this turnaround were the sharp decline in interest rates and the increase in tax collection. Under a 3-year agreement with the International Monetary Fund (IMF), the government proposed a long list of fiscal policy measures targeted at further improving collection of taxes, restricting expenses, and reforming the overall tax policy.

The inconsistency of fiscal and monetary policies in the period between 1993 and 1996 was an immediate result of the slow structural reform. The process of economic restructuring was driven primarily by the change of the ownership structure in the economy via restitution, privatization, and the emergence of private enterprises. Restitution was a transfer of ownership from the state to private citizens of commercial real estate, land, and housing. This transfer was, in effect, a reversal of the nationalization process that took place in the late 1940s and early 1950s. Ten years after the start of the transition in 1989, there were still unresolved issues with the housing restitution and, to a lesser degree, with land restitution. The relatively undisputed denationalization of commercial real estate led to the initial boom in the retail and other service sectors. Against the background of the slow process of privatization of state-owned enterprises, the restitution was the initial spark for the creation of an entrepreneurial culture in the country and, at some point,

the single driving factor for the growth of small private firms. The restitution, together with the creation of new private firms, was the primary factor for the increase in the share of the private services sector from 20% in 1991 to over 50% in 1995. Privatization of state-owned enterprises, however, lagged behind.

The process of privatization in Bulgaria followed complicated rules, with successive Parliaments introducing 15 new amendments to the 1992 Law on Privatization. Three types of entities were in charge of privatization: (1) the branch ministries; (2) the municipalities; and (3) the privatization agency. The latter dealt primarily with large enterprises, while the other two were in charge of small and medium-size ones. There was a range of methods of privatization: (1) direct sales (via auctions, tenders, negotiations, with or without the assistance of privatization consultants, sales of pools of enterprises or parts of one enterprise, debt-equity swaps); (2) the sale of a package of shares on the Bulgarian Stock Exchange; (3) management and employee buy-outs (MEBOs); and (4) mass privatization via vouchers. When assessing the progress of privatization, however, it should be taken into account that there was an inconsistency in the treatment of ownership by the Commercial Code and privatization agencies (IMF 2009).

The inability of successive governments to achieve macroeconomic stability showed that the country needed some drastic measures. The IMF suggested replacing the central bank with a currency board arrangement as early as the fall of 1996. That step was justified by two simple arguments. First, governments intervened continuously in the work of the central bank and, second, the central bank itself was pouring funds endlessly into completely insolvent banks. Two years after the start of the July 1997 stabilization, the reform seemed to be very successful in bringing down inflation and restoring prospects for a robust economic recovery. The most important condition for the success of the program was the dramatic change in economic behavior. Whether that change was the result of the new stabilization package or a legacy of the hyperinflationary chaos of January and February 1997 was difficult to tell. Most likely the success was due to both factors and one could only speculate what would have happened to the currency board if it were not preceded by the economic and financial collapse. The introduction of the currency board led immediately to positive developments in the economy. The long-term success of the July 1997 stabilization depended on the extent of the structural reform, on fiscal discipline, and on the health of the banking sector. The economy was still quite susceptible to internal and external shocks and in particular to financial crises.

The Bulgarian currency, the lev, is not part of the European Exchange Rate Mechanism (ERM) II. From 1997, Bulgaria pursued a currency board regime anchored to the Deutschmark and later to the euro. The currency board arrangement has been instrumental in macroeconomic stabilization and has been functioning smoothly since its introduction. Additional indicators do not point to pressures on the exchange rate during the assessment period, though investor risk perceptions seem to have heightened somewhat in the context of the recent global financial market turbulences, as indicated by a widening of short-term interest rate spreads vis-à-vis the euro area since late 2007. The currency board remains well supported by official reserves, which have increased robustly in recent years (Republic of Bulgaria 2008).

In the period 2008–2011, the unfolding financial crisis reinforced the need for adjustment in Bulgaria. The financial crisis and its consequences—tighter financing conditions and increased uncertainty—have brought investment-led growth to an end, making the adjustment to a more balanced growth even more urgent. The Bulgarian economy was hit hard by the global crisis and economic growth figures moved into negative territory in the first half of 2009, when real GDP fell by 4.25%. The deterioration stemmed from the sharp contraction in both external demand

and the influx of foreign investment. Reflecting the fall in investment and private consumption, domestic demand declined even further by the end of 2009.

After the projected contraction of slightly less than 6% in 2009, real GDP continued to decline in 2010 (Eurostat 2010), albeit at a decelerating pace of around 1%. The economy started to recover, under the impact of the international cycle, in the second half of 2010; real GDP was expected to grow by around 3% in 2011. While the magnitude of the recovery might be higher than in other EU countries, growth in 2011 was expected to remain well below the precrisis average over the past 5 years, thus temporarily slowing the catching-up process. Stronger economic prospects, accompanied by improved lending conditions and credit easing, were expected to lead to smaller declines in both gross fixed capital formation and private consumption in 2010 and to bring about positive growth rates in 2011. The increase in infrastructure investment, mainly due to the absorption of EU funds, is expected to have a stabilizing role, but this may not be sufficient to compensate for the slowdown in corporate investment and construction. The envisaged government infrastructure projects should contribute to the rebound of fixed investment in 2011. The projected increase in private consumption is expected to be supported by improving economic prospects and higher employment (Republic of Bulgaria 2010).

In 1995 the Madrid European Council clarified that an EU candidate country must also be able to put the EU rules and procedures into effect. EU accession requires the candidate country to have created the conditions for its integration by adapting its administrative structures. While it is important for EU legislation to be transposed into national legislation, it is even more important for the legislation to be implemented and enforced effectively through the appropriate administrative and judicial structures. This is a prerequisite for the mutual trust needed for EU membership.

11.3 Brief History of Bulgaria's EU Accession

In July 1991, the European Commission (EC) invited Bulgaria to begin negotiations for the signing of an Association Agreement. In a letter to then Prime Minister Popov, EC Commission President Jacques Dellors said that the time had come for Bulgaria "to take its place in the new architecture of the European continent" (see Engelbrekt 1991, p. 6). Bulgaria was the fourth Eastern European country, following Poland, Hungary, and Czechoslovakia, to be invited to negotiate an Association Agreement with the EC. In the meantime, Bulgaria was gaining diplomatic support in the development of its relations with the EC. In October 1991, Bulgaria and Germany signed a Protocol on Friendly Cooperation and Partnership in Europe. Under the terms of the protocol, Germany promised to assist Bulgaria in becoming a full member of the EC. Other EC member states were also voicing support. At a meeting between the Greek and Italian foreign ministers in August 1991, it was said that Bulgaria's entry into the EC "should be accelerated" (see Engelbrekt 1991, p. 7).

Bulgaria's Association Agreement, also known as the Europe Agreement, was signed by the Berov government in March 1993. The objectives of the association were to establish a free trade area; to provide a basis for economic, cultural, and social cooperation as well as for EC assistance to Bulgaria; to support Bulgaria's efforts to develop its economy and to complete its transition to a market economy; and to provide an appropriate framework for the gradual integration of Bulgaria into the EC and the development of political dialogue between those parties and institutions capable of making association effective. The agreement not only recognized the "fundamental character of the democratic changes in Bulgaria, taking place in a peaceful manner," but also emphasized

that “political and economic freedoms constitute the very basis of association”^{*} and are the most important common values shared by Bulgaria and the EC. These values, together with the actual implementation of political, economic, and legislative reforms in Bulgaria, were viewed as a prerequisite for Bulgaria’s full integration into the EC (PHARE 2000, World Bank 2008).

The years 1993–1994 did not witness any essential progress in Bulgaria–EU relations, despite the signing of the Association Agreement and the fact that in April 1994 the Berov government adopted a declaration confirming the willingness of the country to become a member of the EU. A variety of reasons have been suggested for the then “stagnation” in Bulgaria’s relations with the EU:

1. While Bulgaria’s trade relations with the EU increased considerably, they actually increased at the expense of Bulgaria’s trade balance, with an important rise in EU exports to Bulgaria.
2. The EU’s perceived indifference to the damage caused to Bulgaria’s economy by the UN embargo on Yugoslavia.
3. Statements by leaders of certain member states of the EU, who tended to separate Bulgaria from the so-called Visegrad countries (Poland, Hungary, the Czech Republic, and Slovakia) using cultural and religious criteria, putting Bulgaria in a different group of states with an “uncertain future” concerning joining the EU.

The EC’s reply to Bulgaria’s application for joining the EU was issued in July 1997, and it was not positive. The commission argued that although Bulgaria was “on track in meeting the political criteria... [the country] had made only slow progress on the economic front” (European Commission n.d., p. 4/6). Thus, Bulgaria was assessed as a candidate country that was not sufficiently prepared to start negotiations for accession. The commission’s recommendation was accepted by the European Council, which in December 1997 decided not to include Bulgaria in the group of countries that started negotiations with the EU in March 1998.

The reformist drive of the Kostov government (May 1997) was a necessary, but not sufficient, condition for Bulgaria to be invited to begin accession negotiations with EU, as doubts persisted, notably within the EC. The crisis in Kosovo in 1999 and the decision of the Kostov government to provide support to North Atlantic Treaty Organization (NATO) during its military operations against the Federal Republic of Yugoslavia opened the way for a positive decision by the EU concerning the opening of accession negotiations with Bulgaria. In spite of a deeply divided public opinion, the Kostov government granted NATO access to Bulgaria’s air space and aided its operations within the limits of its resources. It was thus able to demonstrate Bulgaria’s importance as a factor of stability in the Balkans. The European Summit in Helsinki in December 1999 decided to invite Bulgaria to open accession negotiations with the EU in February 2000.

In the aftermath of the Laeken Council, the Saxe-Coburg-Gotha government, which was established following the June 2001 elections and described membership to the EU as a “vital national goal,” intensified its efforts. The negotiations with the EU catalyzed further reforms,

^{*} Europe Agreement, establishing an association between the European Communities and their member states, of the one part, and the Republic of Bulgaria, on the other part. Protocol 1, textile and clothing products; Protocol 2, on ECSC products; Protocol 3, trade between Bulgaria and the community in processed agricultural products not covered by Annex II to the EEC Treaty; Protocol 4, the definition of the concept of originating products and methods of administrative cooperation; Protocol 5, specific provisions relating to trade between Bulgaria, on the one part, and Spain and Portugal, on the other part; Protocol 6, mutual assistance in customs matters; Protocol 7, concessions with annual limits; Protocol 8, transboundary watercourses; Final Act; Joint Declarations. OJ L 358, 31.12.1994, p. 4, at <http://eur-lex.europa.eu>.

transforming standards in a number of policy areas such as telecommunications, competition policy, capital markets, commercial law, customer protection, environment, and agriculture. Coordination with Brussels became an increasingly common practice, while European integration units were established in the ministries benefiting from EC assistance. Progress took place even in the problematic area of justice reform: under EU pressure the Parliament amended the 1991 constitution, limiting the magistrates' immunity and expanding the powers of the Supreme Judicial Council to dismiss in cases of professional misconduct and corruption.

By June 2004, Bulgaria had provisionally closed all 31 chapters of negotiation, and in December 2004, the European Council confirmed the conclusion of accession negotiations with Bulgaria, "looking forward" to welcoming her, together with Romania, as a member from January 1, 2007. The conclusion of the negotiations opened the way for the signing by Bulgaria of its Accession Treaty to the EU in April 2005.

Bulgaria joined the EU on January 1, 2007. Bulgaria's political leaders welcomed accession with clear enthusiasm and satisfaction.

11.4 Civil Society and Its Development in Bulgaria

11.4.1 *Civil Society Today*

There are two major reasons for the increasing significance of civil society. The first is the weakening of the representative capacity of classic democracy. Under classic representative democracy, political parties codify into programs the various demands of the public; and the state then implements them through what was understood to be an objective and detached Weberian-style bureaucracy.

The second reason why civil society is so important is to do with changing collective identities. People and groups of people are evolving new kinds of identities: community identity, regional identity, cultural, religious, and so forth. These new identities bring forward new agendas. These agendas, in turn, are not very well handled by political parties and the state for the reasons already outlined.

But the redefining of identities needs some kind of democratic framework, that is, a framework of representation, debate, participation, and compromise. Without such a framework, collective identities may close up, become fundamentalist, and lead to cruelty and poverty—the very things that democracy was designed to prevent.

Democracy cannot function without democrats, and democratic institutions need, as their basis, the kind of culture that grows out of participation. The values of democracy are the same: representation, dignity, rights, freedom, justice, and solidarity. How they are attained and maintained is what is changing.

One of the early contributions of nongovernmental organizations (NGOs) was to set up arenas where people and government talked rather than shouted. In the early 1990s, when there was a nationalist protest wave against the ethnic Turks, the institutions of government and politics failed to handle the crisis. They had no culture of negotiation and democratic process. It was NGOs who set up an *ad hoc* body called the Committee for National Reconciliation and convinced all sides to the problem to participate: politicians, government, nationalists, and ethnic Turks. The process of structured debate, mediated by nongovernment groups (they were seen as objective and not parties to the conflict), placed the discipline of negotiations over the nationalist–ethnic passions and defused the situation.

Later, in the mid-1990s, NGOs mediated between central government and local communities in several acute conflicts, two of which had led to violence between armed police and local citizens. Again, the sides were brought to negotiate and formulate their agendas to each other. The government realized that it was acting not for the common good, but rather—as a bully; and that the communities had legitimate grievances that were not being heard. Later a coalition of NGOs went further and introduced into Bulgaria the institution of the ombudsman—a representative of citizens to government. Piloted by NGOs and municipalities at the local level for 3 years, the ombudsman experience was codified into the Law on the National Ombudsman.

Out of the conflicts of the mid-1990s came the realization that the government cannot handle everything: it does not have the expertise, the corporate culture, the good will, the experience, or the sensitivity and the openness needed to be able to find representation to all national agendas, communities, and groups.

Citizens became aware that they are best represented not through individual effort, or periodic mass protest, but through civic groups and NGOs engaged in dialogue with government at various levels.

The government realized that it can profit from the situation in two ways: First, the structured dialogue with civic groups means that the government knows what is going on, and that the citizens become involved in decision making, which means they are less discontented and less likely to protest or complain. Second, the government realized that the NGOs have expertise that, if used, can improve the performance of government structures (and help win elections).

Social and Economic Partners (SEPs) are national-level representative organizations of employers, workers and employees (Labor Code, art. 33–49). There are nine nationally recognized SEP organizations in Bulgaria.

NGOs are nonprofit legal entities registered under the Law on Nonprofit Legal Entities. They are very diverse and can be classified provisionally in several main categories: representation; provision of services; provision of training and conducting research; promoting gender equality; working on the problems of children and young people; defending the interests of disadvantaged people; professional organizations; community-level organizations; working on ethnic issues; sports and tourism; donors; economic interests; environmental; related to art, culture, and traditions; networks, federations, and coalitions; social movements; applied research, innovation, and information.

With the entry of the Law on Nonprofit Legal Entities into effect (promulgated in the *State Gazette* no. 81/October 6, 2000), a new legislative framework is in place, regulating the establishment, registration, structure, activities, and termination of nonprofit legal entities—associations and foundations.

The government introduced new rules on licensing and monitoring that concern organizations delivering social and education services. Most of the organizations benefited from the legislative amendments, which allowed them to take part in public procurement.

A legal framework was set up permitting civil society structures (CSS) to take part in the decision-making processes at national and local levels and to develop alliances and unions to better protect public interests in dialogue with the administration.

Out of that early period came the structure of the Bulgarian NGO community, which consists of the following:

- *NGOs that deal with human rights and citizen control over government:* These groups monitor the human rights situation, bring problems to the attention of the public and the government, and propose solutions. Control over government has increasingly concentrated in the area of right to information. It was NGOs who started and developed the information

legislation, and the same NGOs now control its implementation, bring the government to court for failing to provide information, and so forth. Increasingly, activities here move to rule of law and the fight against corruption (e.g., Coalition 2000, an NGO federation against corruption).

- *Representation and advocacy NGOs*: These are of two main kinds. Some come from a human rights background and have moved from individual rights to representation of vulnerable groups and underrepresented minorities, not only ethnic. We also have a powerful cluster of NGOs dealing with the rights of the disabled, such as the Centre for Independent Living. There are many ethnic minority-focused NGOs operating, such as the S.E.G.A. Association, Access Association, Drom Dromedar (Roma activists), and various Turkish Cultural Centers. Other representation NGOs come from a background of citizen empowerment and citizen control over government. These NGOs pursue the agendas of vulnerable and underrepresented groups. They train such groups in skills of self-representation, agenda making, negotiation, partnership, and so on.
- *Policy institutes and think tanks*: These NGOs represent the expertise of civil society. They conduct research and write programs and present them to the government; work with government departments to implement policies and reforms; or evaluate policies and recommend alternatives. There are also NGOs that work with political parties on political programs, training in political and communication skills (e.g., Centre for Liberal Strategies); but this is a delicate job and not always fulfilling. Politicians are not a very good long-term investment, for various reasons.
- *NGOs with regional and international focus*: These organizations help involve the public in major processes, such as integration into the EU and NATO. They also help the government with expertise and monitor progress. For example, the long road of public opinion (and of the state) to the idea of NATO membership was due to a very great extent to the work of the Atlantic Club.

This structure of the Bulgarian NGO world tells us something very important: this society has found a way to compensate for the deficits of the government and politics by bringing into the process of decision making additional expertise, good will, and the capacity to represent agendas and groups that official structures find difficult to represent and incorporate into thinking and action. This means that the framework of democracy has been widened and the important things happen inside it, rather than outside it.

Several kinds of partnerships emerge:

- *Ad hoc partnerships*: They usually deal with specific problem situations (e.g., a ramp for the disabled and the infirm at a local hospital) or with the prospect of producing a project for financing. These projects are usually small scale and concentrated on a local problem that everyone agrees must be solved. There are also much larger projects under way, mostly centered on development. What usually happens is that NGOs or independent experts become aware that funding (increasingly EU funding) is available for a big initiative. They take it to a municipality that has a good track record in dealing with problems or is in dialogue with NGOs.
- *Large partnerships for development, usually called development forums*, at the municipal level. What usually happens is that these forums attempt to attract everyone with an agenda and are structured around sections (or “tables”): small business, leisure industry, young people, education, and so forth. These sections can be in number anywhere from a handful to dozens, depending on the local interest. Such forums collect all viewpoints and experiences

and usually produce specific development ideas that are, sometimes, placed into a larger development strategy.

- *Partnerships for development at the level of the central state:* The first levels of government to form partnerships with NGOs were the municipalities, followed later by some of the regional governors. Then, over the past 3–4 years, central government and Parliament also became involved. They formed a kind of network of NGOs with whom they regularly consult on policy and legislation. Most parliamentary commissions try to consult NGOs on upcoming legislation or, like ministers, include NGOs in the design and write-up of the legislation.

11.4.2 Future

- NGOs should critically rethink their experience and clearly formulate their role in and contribution to the partnership. In particular, they should find ways to deal with the tendency of their leaders to become a closed elitist club and to begin imitating the worst aspects of the administrators and politicians that they come into contact with during the various partnerships.
- *Public education:* This cannot be done on an *ad hoc* basis, as it has been since 1990. Reform of the structure and content of the education system is needed in order to prepare the young for active citizenship. All governments since 1992 have been promising this, but nothing has been done; the World Bank has recently declared education reform (which it attempted to part-fund) a failure in Bulgaria. Reform of education should be complemented by sustained *training* for the major actors, officials, NGOs, business, and the media, in the skills and proficiencies needed to maintain effective and sustained partnerships for development.
- Reform of the administration is needed so as to significantly change the prevailing administrative and government culture: from the position “we know best, we are strongest and can make everybody obey” to an open, service-orientated, and customer-friendly culture of partnership and synergy.
- Funding should be determined and sustained. It should be composed of government and of outside sources in order to avoid suspicions of NGO subservience to a single donor. A significant rethinking (above all by the EU, but also by other international donors) is needed: a movement away from the idea that civil society is a stopgap in early democracy, until democratic institutions are embedded, later to be neglected, to a profound understanding that civil society is only now beginning. There should be an understanding that civil society will be an increasingly important actor, both politically as a guarantor of democratic culture and functionally as the originator of fresh ideas, experience, expertise, and representation. More progressively minded international donors should, apart from financing projects, begin to influence international institutions politically: that is, help them understand that empowerment of civil society is not dangerous. At a recent Organization for Security and Co-operation in Europe (OSCE) meeting, an official representative and leader of the European Parliament called civic participation in policy “semi-anarchical stuff.” It should also help them understand that it is a very important value, which adds to development, general well-being, and the common good.

11.4.3 Cooperation with State Administration

The cooperation of CSS with the administration takes place in the form of involvement in various councils and commissions at national, regional, and municipal levels. Thus, they take part in the decision-making process and in the formulation and enforcement of national and local policies.

The central and local authorities assess the consultations and partnerships with CSS in an increasingly positive manner, especially in the area of strategic planning and national, regional, and local policy making and implementation. This illustrates that the local authorities are beginning to seek cooperation in exchange for experience and finding common solutions.

The national-level cooperation and consultations take place through the National Council for Tripartite Cooperation (NCTC) and at local level by branches and fields through the Field, Branch and Municipal Councils for Tripartite Cooperation. The council discusses and gives opinions on draft-laws and CoM decisions and drafts subordinate legislation.

The Economic and Social Council (ESC) is another national-level advisory body. It expresses the will of CSS on economic and social development.

SEPs participate through their representatives also in the following bodies:

- Coordination Council on the National Development Plan at the Council of Ministers of the Republic of Bulgaria
- National Council on Working Conditions
- Field and branch councils on working conditions
- Regional and municipal councils on working conditions
- National Council for Promotion of Employment
- Regional development councils

Despite the good results of the joint work of the local authorities and CSS, there are some deficiencies in the relations: lack of regulated forms and procedures for cooperation and consultation; ineffective use by the local authorities of CSS potential, such as information, experts and consultants, volunteers, and opportunities for attracting donors; centralized decision making; gaps in the knowledge of the civil organizations and of the local authorities concerning the mission, legislative basis, and philosophy of the counterpart; poor dialogue and conflict resolution skills; and lack of motivation.

A clear definition of the problems is a basis for optimizing the relations between partners. To achieve effective partnership between the local authorities and CSS, a sustainable mechanism must be developed for the following: regular discussion of common problems and coordination of common activities; participation of CSS with their initiatives and according to their goals in the public activities of the local authority; use by the municipal council and the municipal administration of the expert and advisory support of CSS in the decision-making process on important public issues; participation of CSS representatives in the permanent and *ad hoc* bodies of the municipal council; common research on important public issues; and active partnership for informing the population in the municipality regarding their civil rights and the functions and powers of the local authorities.

SEPs take part in the European Economic and Social Committee, which represents the interests of civil society before the EC, the Council of the EU and the European Parliament. The committee consults the European institutions on issues in the field of economic and social policy and has the power to undertake its own initiatives also in other areas.

Few of the CSS employees are prepared for effective collaboration with the state administration. Additional knowledge and skills in negotiating and dialogue, conflict resolution, and putting together and managing teams are needed. It is important to further develop the capacity for establishing partnerships between the various organizations and for the formation of networks between them. Practical training, in partnership with more modern and effective training methods, should

be delivered. Participation in the CSS at EU level also requires better knowledge of the national and European policies, the institutions, and the EU decision-making mechanisms.

11.5 Human Resource Management

Improving the effectiveness of human resource management is an important part of the successful implementation of administrative reform in Bulgaria. The management of human resources is a continuous process specifically targeted toward the planning, recruitment, and selection of the most qualified staff, and their training, motivation, and development, in order to ensure the effective implementation of the organization's goals.

In the last few years, Bulgarian governments have made efforts to introduce effective rules and mechanisms for human resource management within the state administration. Their purpose was to enhance transparency in the employment of new staff and their career development on the basis of professional qualities.

Article 116, item 1, of the constitution stipulates that civil servants carry out the will and interests of the nation. When discharging their duties, they are to be guided solely by law and to be politically neutral. In accordance with item 2 of the same article, the regulation of appointment to office, dismissal, and political party or trade union affiliation is to be settled by law. The aforementioned constitutional norm constitutes the legal rationale for the Civil Servant Act.

Over the past few years, the Bulgarian government has adopted and improved key legal acts on the structure and functions of the administration and the necessary secondary legislation for their implementation. In 2006, important amendments were made to the two basic acts in this sphere: the Law on Administration (LA) and the Law on Civil Servants (LCS)—the Civil Servant Act.

The LA amendments were related to the implementation of the administrative reform: distinguishing the political from the administrative level in the state administration, regulating the policy-making process, and creating effective internal control. The LCS amendments continue the process of modernization of the Bulgarian state administration in the area of human resource management and aim at improving the status of civil servants and increasing their motivation.

An Administrative Procedure Code (APC) was also adopted in 2006. It constitutes an important step in the establishment of a responsible and transparent state administration. The APC will help to improve administrative service delivery and also responds to the need to create a systematic and unified legal framework regulating the procedures for issuing and appealing against administrative acts. The principles of accessibility, publicity, and transparency of administrative proceedings were introduced.

A Law on e-Government was adopted at the end of May 2007. It laid the ground for a substantial reform in the administration's work thanks to the introduction of new information technologies and the parallel use of paper and electronic documents. The law envisages the automation of administrative procedures, the introduction of transparency in administrative processes, and a reduction in the opportunities for corrupt practices, as well as a reduction in administrative costs.

The improvement of the legal framework is a necessary step toward increasing the efficiency of the central and territorial administrations, improving administrative services, reducing the costs of working with the administration for the business sector and citizens, and optimizing feedback mechanisms.

However, this transformation cannot be achieved by legislative measures alone. What is also needed is a common understanding of the essence of the changes, the development of an

administrative culture, and adequate political support. In addition, the effective and efficient implementation of legislation is a process that requires well-planned activities and coordination between all stakeholders.

11.5.1 Rights and Duties of Public Servants

Civil servants' rights and duties outline their status within the public administration. In carrying out their duties, civil servants are under state protection. The state assumes the responsibility to provide them with the necessary working conditions. The state is bound to indemnify them or their families for damages resulting from carrying out their duties in a duly professional manner. The CSA defines the status of civil servants based on two sets of rules:

- Norms related to his activity
- Functional regulations that are specific to each administration

The specific duties of civil servants are defined in the respective administration's job descriptions and no other duties can be assigned. In addition, the civil servant has to

- Collaborate with representatives of state authority in discharging his/her duties.
- Observe the working hours.
- Respect the hierarchy.
- Keep official secrets (of the body responsible for his/her being appointed to office).
- Define the scope of confidentiality.
- Refrain from commenting on the administration's behalf except in cases when he/she is explicitly authorized to do so.
- Keep his/her superiors informed of any circumstances of inadmissibility having evolved that imply his/her incapacity to fulfill duties.
- Respect the civil service's prestige.
- Report his/her property status on an annual basis. This is basically a new obligation, unknown previously in state administration practice; its obvious purpose is to ensure transparency with regard to the civil servant's activities.

The above-mentioned duties are not just an expression of wishful thinking by the legislature. There is a specific operative mechanism for their enforcement and a system of responsibilities regulated by the CSA. Civil servants' responsibilities are disciplinary and property based. Disciplinary responsibility is to be assumed by a civil servant who has been found guilty of violating his/her duties. The law foresees that this responsibility could be assumed in parallel with other sorts of responsibilities:

- The civil servant is liable with respect to both intentional and incautious acts.
- Disciplinary responsibility is to be admitted independently and, eventually, in parallel with another responsibility—property-based, penal, and so forth.

The civil servant assumes a property-based responsibility in the case of being found guilty of having caused damages resulting from his/her unlawful acts. The civil servant could be held responsible on these terms simply on the grounds of general legal practice, which constitutes an effective solution, ensuring legal protection to both the servant and the state.

Civil servants' rights can be grouped as follows:

- *Economic rights*: Remuneration; indemnification; official apparel.
- *Social rights*: Annual leave, which could be paid or unpaid. After having worked more than 8 months, the annual leave is a minimum of 30 days. Up to 30 days per year of unpaid leave are considered as worked time. Social rights also include fixed working hours and breaks; open expression of opinions in terms of the expediency and lawfulness of orders received; inviolability of personal mail; and fringe benefits on the state budget's expenses.
- *Political rights*: Civil servants have the right to freely affiliate to political parties unless a specific law rules otherwise. However, civil servants are not allowed to hold leading or controlling posts in political parties. Article 42, item 2 of the CSA imperatively stipulates that when carrying out their duties, civil servants must not be guided by a political party's interests.
- *Official rights*: Promotion in terms of rank and position; and professional training and improvement of qualifications. Training is provided by the recruiting body and in some cases is carried out at its expense. Improvement of qualifications can be the basis for a pre-term promotion.

The quality of work of each employee is closely related to his/her qualification and professional experience. "At the entrance" of the state administration an open competition is introduced, which aims at matching the specific qualifications and professional experience of a given candidate with the needs of the respective administration.

The increase in the number of employees who have a higher educational degree is a continuing trend. In 2009, 69.6% of the total number of employees in the state administration had a university degree, while the year before it was 64.6% and in 2004, 63%.

In 2009, 75.5% of university graduates who worked in the state administration had a master's degree and 12.4% had a bachelor's degree. Less than 1% of the employees with a university degree had a PhD and 11.2% were specialists.

Data show that the educational structure of the state administration is generally improving, especially in the central and regional administrations. The relatively small number of university graduates working in the municipal administrations shows that targeted measures are required to improve their educational and qualification levels.

Implementing the gender equality principle and preventing discrimination are an integral mandatory part of all policies and practices. Currently, most civil servants at all administrative levels are women and they hold the majority of management positions.

According to data from the 2009 Report on the State of the Administration, 59.8% of civil servants are women and 32.6% men. The relative number of men has increased by 3.12 percentage points compared with 2005. There are more women in management positions in the administration than men. Until December 31, 2006, 5730 women (51.8%) in management positions were appointed compared with 5341 men (48.2%).

As a whole, there are more women than men in the state administration as well as in management positions. In order to uphold the principle of gender equality within the administration, the process of improving the conditions for career and professional development needs to continue, both for women and men.

The human resource management policy within the state administration is an important element in strengthening the administrative capacity. The legislative framework regulating the work of the state administration was improved in 2006 to match the conditions of the Single European Administrative Area with the Civil Servant Act.

The secondary legislation on the civil service was improved. With these changes the competitive procedure for the employment of civil servants was brought in line with the amendments to the Civil Servant Act, thus providing for the top-ranked candidate to be appointed for the respective position.

The driving forces of administrative reform are the management levels. However, the human resource management units have a key role to play in improving the management of human resources, as well as in providing correct interpretation and implementation of the legislation.

The human resource management units, within the administration, plan and forecast the human resource development plans. They participate in staff selection and recruitment procedures: They introduce and implement performance evaluation systems, as well as systems of remuneration and career development; organize and control the training and development of staff; conduct surveys among administration staff on organizational and working conditions improvements; and so forth.

In spite of the changes and the achieved improvements, targeted actions are needed, as well as financial resources and knowledge to implement the experience of the European and international human resource management systems within the state administration.

The human resource management units play a key role in carrying out reform of the state administration. Further improvement of their capacity is needed for the efficient implementation of their functions and to turn them into a strategic partner in the management of the administration.

11.6 Financial and Budgetary Management

Bulgaria's budget management has benefited from a long-term relationship with the IMF, the Organization for Economic Cooperation and Development (OECD) SIGMA program (Support for Improvement in Governance and Management), and the EU. Overall this has been a positive experience that has led to a series of structural and procedural reforms in budget execution, treasury functions, internal audit, and program and medium-term budgeting. The assessment of the Ministry of Finance is that these reforms have resulted in stronger controls of budget aggregates and less attention to budget details. Budget control, evaluation, and program assessment and auditing still require attention.

The annual budget process in Bulgaria is based on the development of macroeconomic assumptions and the introduction of program budget structure, as well as the initiatives to secure long-term fiscal sustainability.

The Consolidated Fiscal Program (CFP) covers the state budget, local authority budgets, the budgets of the two social funds, and a number of extra budgetary funds and accounts and is similar to the Government Finance Statistics concept of general government.

In addition to the state budget, there are several autonomous budgets, which accounted for 8.8% of GDP in 2009. The budgets of the 264 municipalities constitute most of the expenditures in this category (7.5% of the 8.8%). The remainder is made up of spending in other autonomous budgets, which cover the Bulgarian Academy of Science, state universities, Bulgarian National Radio, and Bulgarian National Television. Local government plays a relatively minor role in the overall fiscal structure.

The government of Bulgaria is divided among the first- and second-level spending units and lower-level organizations.

The first-level spending units include the ministries, establishments, and other budget organizations: 16 ministries, 1 minister without a portfolio (for the management of EU funds), 31 other establishments, and 264 municipalities. The 16 ministries are responsible for the great majority of

the central government functions of Bulgaria and are divided along programmatic lines, such as defense, health, agriculture and food supply, interior, transport, and so on. Examples of the other establishments are the National Assembly and the Council of Ministers. Each of the first-level spending units receives funds from the central budget and bears the responsibility for management of its budget.

Second-level spending units are a broad array of organizations that receive their budgets through allocations from the first-level units. State-owned schools are second-level spending units of the Ministry of Education, which allocates them budgetary resources; municipal schools are second-level spending units of municipalities.

The 2010 State Budget Act of Bulgaria identifies the extra budgetary funds operating during 2010, a substantial reduction from earlier years. The authorizing legislation for each of these activities provides for its extra budgetary status. These activities include: the fund for covering privatization costs of the privatization agency; the State Agricultural Fund; the extra budgetary account of the National Fund for EU Resources under the Minister of Finance; the special account for municipal revenues from privatization and postprivatization control; the special fund for municipal councils' investments and fixed assets; and the Teachers' Pension Fund. Expenditures for these funds totaled BGN 3.1 billion in 2009 or EUR 1.6 billion. All extra budgetary funds are included in the consolidated budget and subsidies from the state budget are recorded in the State Budget Act (Anderson 2008).

Social security funds: The budgets of the Social Security Fund and Health Insurance Fund are approved by the National Assembly separately from the annual state budget law. Transfers from the republican budget to the two funds are included in the state budget.

Autonomous budgets: Public universities, the Bulgarian Academy of Science, Bulgarian National TV, and Bulgarian National Radio have autonomous budgets. Since 1998, their budgets have been executed outside of the state budget. Parliament approves only transfers from the central government, while separate laws govern their revenues, expenditures, transfers, and financing.

11.6.1 Relationship between State Budget, Social Security Fund, Health Insurance Fund, and Autonomous Budgets

Bulgarian public salaries are among the lowest in the EU. Until 2009, control of personnel compensation was quite rigid in Bulgaria. The Council of Ministers annually approved the average gross salary for each category of public employee. In the beginning of 2009, the average gross salary constraint was eliminated; managers were given some flexibility to reduce the number of employees so as to free up resources and allow an increase in salaries for the remainder of their employees. Compared with the private sector, the public sector has higher average salaries, but the numbers are misleading due to the size of the "gray" sector of unreported income in Bulgaria, which results in understating the compensation of private employees. Salaries for groups of specialized employees may show larger differences between public and private sectors. For example, salaries of public internal auditors are substantially less than comparable private sector salaries. Base salaries in government are augmented by "fringe" payments for longevity, education, and performance. Performance is only one criterion for determining compensation, not the major determinant.

The positions in the administration are defined at various levels according to the type of contract, the professional experience, and the educational requirements, as stipulated in the Unified Classification of Positions in the Administration (UCPA). Salaries of employees in the state administration are defined according to the Council of Ministers' decree on salaries in public

sector organizations and functions. An annex to the decree sets forth a table on the amount of minimum and maximum monthly salaries by position levels.

Bulgaria's budget management has seen a series of structural and procedural reforms in budget execution, treasury functions, internal audit, and program and medium-term budgeting. The assessment of the Ministry of Finance is that these reforms have resulted in stronger controls of budget aggregates and more delegation of budget details. Budget control, evaluation, program assessment, and auditing still require attention:

- Budget execution in Bulgaria remains focused primarily on the legality and propriety of budget inputs. The culture of bureaucracy has not embraced a management focus on program performance and results. As the program budget is implemented, steps should be taken to shift greater responsibility for budgets to program managers and to reduce centralized control. Budget reporting will need to highlight program results to a greater extent.
- Strengthening the management culture within the line ministries is essential to greater accountability for program performance. More planning is needed to tie personnel to performance. The changes in personnel compensation providing more discretion to spending units appear to be a step in the right direction, but there should be more emphasis on performance-related compensation.

The Bulgarian tax system is based on the "declaration" principle. Companies and persons declare facts about their economic activity in the terms specified by the law. They also calculate the taxes owed and transfer the amounts. The National Revenue Agency has the right to check at any time if the factual activity matches the declaration submitted. The different laws require different types of declarations with different deadlines.

The companies not mentioned in the Law on Personal Income Taxation as obliged to pay fixed tax are under the regulation of the Corporate Law. These are all companies operating in Bulgaria—local, foreign, offshore, and branches of foreign companies. The tax rate is 10% on base of the net profit. It is calculated annually for the period from 1 January to 31 December. Companies are due to make an advance payment based on the profit declared for the previous year. All companies registered in Bulgaria are obliged to submit an annual declaration with an annual balance sheet from 31 March of the previous year, regardless of whether they had activity or not.

In some cases companies should pay taxes for expenses incurred. As such, expenses are considered those not related to the basic activity of the company and/or used for personal needs of shareholders, managers, and employees. The tax rate is 10% for expenses for representative events; celebrations; social expenses, such as food, clothes, and transport for employees and managers; and car expenses, if the car is not used for basic activity of the company, an additional 5% dividend tax is levied. Sharing dividends, the company should deduct a percentage from the profits and transfer to the state 10% tax levied on the dividend. A company paying interest to individuals is able to deduct and transfer percentage to the state.

All individuals—resident or nonresident, local or foreign citizens—are under the regulation of this law. The following incomes are not under the regulation of this law:

- Dividends received from shares or as shareholders
- Interest received from bank deposits and loans given to companies
- Profit from selling one property regardless of the time of acquisition
- Profit of selling two properties (lands or buildings) if they were owned for more than 5 years

- Profit of selling transport machines (cars, busses, airplanes, yachts) if they were bought more than 1 year before the sale
- Pensions and all other state social payments
- Profit of trade with shares
- Incomes from business trips
- Incomes from agricultural activity and renting agricultural land

All other incomes are subject to this law. The tax rate is flat—10%.

Individuals are obliged to submit an annual declaration by 30 April for incomes received in the previous year. The declaration is not necessary if the person has no income or only has income from labor contracts or has income stated as free of taxation.

11.7 Accountability and Corruption

The main trends in the development of the state administration are related to strengthening the principles of transparency and accountability as a condition for good governance. Measures for improving the transparency, accountability, and integrity of the activity of the state administration have been provided for in the 2006–2008 Strategy for Transparent Management and for Preventing and Counteracting Corruption, as well as in the 2006 Program for Transparency in the Activities of the State Administration and High-Level Officials (Senior Civil Servants).

The means and tools for achieving greater transparency and better accountability of the administration are many and from different spheres. Those, such as the administrative register and the annual reports on *The State of the Administration*, have already been mentioned, while others are related to the area of service delivery, e-governance, or human resource management in the administration.

The publication of the declarations on the property and income of senior-level officials on the Internet is another tool for achieving greater transparency and accountability. Since January 2007, senior-level officials have been required to submit their declarations by April 30 of each calendar year, with an additional term of 1 month for correcting mistakes. Stricter sanctions for those refusing to submit declarations or submit incorrect information have been introduced.

The Law on Access to Public Information (LAPI) contributes to greater transparency and accountability. The administrative capacity for implementing LAPI has been gradually developing. Internal rules for working under LAPI have been established within almost half of all administrations and explanatory information for citizens has been developed.

The basic measure to fight corruption is the index prepared annually by Transparency International. For the period 1998–2011, studies in Bulgaria show slow and wavering but steady worsening of its values.

For example, out of 10 possible points of the global Corruption Perceptions Index, where the smaller the number, the greater the corruption perception, Bulgaria was marked 3.3 in 2011, 3.6 in 2010, 3.8 in 2009, 4.1 in 2007, 4.0 in 2005, and 3.9 in 2001 (Transparency International).

The accession of Bulgaria to the EU has been accompanied by a series of specific complementary measures for preventing or rectifying shortcomings in several problem areas. A Control and Verification Mechanism in the field of judiciary reform and the fight against corruption and organized crime is in place. This is an indicator of the exceptional importance of the measures undertaken and those that should be taken to prevent and counter corruption.

Most of the objectives of the 2001 National Strategy for Counteracting Corruption were also achieved with the help of PHARE Program resources—institutions for counteracting corruption in the country have been created, legislative measures have been or are to be adopted, and the work of the state administration has been improved. The new 2006–2008 Strategy for Transparent Management, Prevention of and Counteracting Corruption builds on the experience gained and specifies priority areas for counteracting and preventing corruption at senior management levels.

With respect to popularizing the Ethical Code for Civil Servants' Conduct in 2006, Standards for Administrative Ethics have been disseminated in all administrative structures. An Ethical Code for Senior Civil Servants in the Executive Branch is also available.

Civil society is an active participant in the assessment of the government's anticorruption policy. This activity became a priority for a number of Bulgarian NGOs. Many public anticorruption debates were initiated with the cooperation of the media. Monitoring of the administration was performed through partnerships between civil associations, the business sector, and NGOs on the one hand, and, on the other, the state institutions. An example of such an initiative is Coalition 2000. Its activities include the development of an Action Plan for combating corruption, a monitoring system, the organization of anticorruption information and education campaigns, and the production of annual reports assessing corruption in the country.

The control of the administration's activities is exceptionally important for ensuring its effectiveness as well as for counteracting and preventing corruption. Regarding internal control, all ministries created inspectorates, which are directly subordinated to the respective minister. Their independence is regulated by law. The inspectorates' functions include analysis of the effectiveness of the activity of the administration that should be used for streamlining the structure of the administrations; control of compliance with the internal rules for the organization of the administrative work; and control of the signals, appeals, and claims of illegal or inappropriate activities or inactivity of the administrative officials. The inspectorates within the ministries also perform administrative control on the activities of the secondary budget spenders. Inspectorates can be created in those administrations that are not covered by this control, as well as in those that have territorial units.

Internal audit is another method of internal control of the activity of the administration. It plays an important role for the achievement of transparency and accountability through evaluation and improvement of the effectiveness of the processes for risk management, control, and general management. Internal audit is performed by a specialized unit in each administration. It audits all structures, programs, activities, and processes including the spenders of EU funds and the lower-level budget spenders in the organization.

The National Audit Office was established as an institution by the constitution of 1991. It began operations in 1995 and was formally authorized by the National Audit Office Act of 2001. The office was created as the external audit body for all budget funds and state authorities; it was not given judicial powers. It is a collective body with a president and 10 members.

External control is performed by the National Audit Office of the Republic of Bulgaria with the support of regional and local branches (6 territorial units and 28 offices all over Bulgaria). The National Audit Office performs financial control on all public bodies, including the local authorities, the resources from EU funds and programs; it also checks all public procurement procedures and performs follow-up supervision. The audits are performed in accordance with the annual audit program adopted by the National Audit Office. The results are regularly published on the Internet. Bulgaria has reported that since January 2007, six audits have started and eight audits should be completed by December 2007.

Another body for exercising external control is the Public Financial Inspection Agency (PFIA). Its function is to protect public financial interests through performing financial inspections on legislative compliance; and revealing damages inflicted on property and starting administrative criminal proceedings against the culpable official upon legal grounds.

The ombudsman of the Republic of Bulgaria is a supreme and independent constitutional body protecting the rights and freedoms of citizens. His activity is regulated by law. A key priority of the overall policy of the institution of the ombudsman is the strengthening and the application of the right to good governance as well as the establishment of clear rules in the administrative practices of state and municipal bodies and administrations. The ombudsman also pays special attention to the rights of citizens in the health-care system; human rights in the penal system; children's rights protection; equal opportunities for disabled people, and so forth. The constitutional changes of March 2006 granted the ombudsman the right to address the Constitutional Court in case he deems that any legal regulations infringe upon citizens' rights and freedoms. It is also important to provide additional possibilities and mechanisms that can guarantee the efficient intervention of the ombudsman in cases of violations of citizens' rights. An essential element for guaranteeing the positive effect of the ombudsman's activity is the good will of other organizations and the joint efforts to eliminate poor performance in the administration.

11.8 Conclusion

The reform of state administration started some time before Bulgaria's accession to the EU, with the strong support of the EC. In 2000, one of the key recommendations of the commission to Bulgaria as a candidate country, made in the PHARE 2000 review, was that the country should revise and fundamentally reconsider its public administration reform.

Since 2003, following the adoption of key legislation, reforms in various spheres of the administration were undertaken following the general European trends and good practices, given that at the European level there is no single strategy for strengthening the capacity of the state administration nor is there a unified model for its most effective functioning.

The opportunities for improving the quality of human resource management provided by the EU Cohesion Policy, and in particular by the European Social Fund, will be used for the successful continuation of the administrative reform. This will help improve the business environment and strengthen the competitiveness of the Bulgarian economy.

The administration cannot function effectively without a clear vision of the institutional building of the administrative structures. At this stage the main priority of administrative reform is its optimization at central, regional, and municipal levels through modernization and organizational development. The creation of new administrations; the restructuring, optimization, and organizational development of existing ones; and the closing down of ineffective structures and units are aimed at achieving not a larger, but rather a better organized, more effective, and politically neutral, administration.

The administration of executive power in Bulgaria is performed at central and territorial levels. The main challenges in the reform of administrative structures at the various levels of the executive power are related to:

- Binding the modernization of the state administration with the decentralization process
- Improving the functions and structure of the territorial units of the central executive power

- Supporting the activities of the governor in ensuring compatibility between national and local interests
- Serving in the role of coordinator of the actions and activities of the heads of territorial units of the central executive power
- Improving the links between the territorial units of the central executive power and the municipal administrations in the region

Over the past few years, the Bulgarian government has adopted and improved the key legal acts on the structure and functions of the administration and the necessary secondary legislation for their implementation. In 2006, important amendments were made to the two basic acts in this sphere: the Law on Administration (LA) and the Law on Civil Servants (LCS). The LA amendments were related to the implementation of the administrative reform: distinguishing the political from the administrative level in the state administration, regulating the policy-making process, and creating effective internal control. The LCS amendments continue the process of modernization of the Bulgarian state administration in the area of human resource management and aim at improving the status of civil servants and increasing their motivation.

The Administrative Procedure Code (APC) was also adopted in 2006. It constitutes an important step in the establishment of a responsible and transparent state administration. The APC will help to improve administrative service delivery and also respond to the need by creating a systematic and unified legal framework regulating the procedures for issuing and appealing administrative acts. The principles of accessibility, publicity, and transparency of administrative proceedings were introduced.

The Law on e-Government was adopted at the end of May 2007. It lays the groundwork for substantial reform in the administration thanks to the introduction of new information technologies and the parallel use of paper and electronic documents. The law envisages the automation of administrative procedures, the introduction of transparency in administrative processes, and a reduction in the opportunities for corrupt practices, as well as a reduction in administrative costs.

Bulgaria faced significant difficulties within its first 2 years of EU membership, which were then exacerbated by the global financial crisis. Together, these factors increased the significance of politics and policy formulation addressing the vulnerability of the Bulgarian economy, the fragile social security system, deficiencies in the implementation of the rule of law, and good financial management principles. Although the EU has continued to exert tremendous influence on the reform process even after accession, successful democratic consolidation and the realization of a socially responsible market economy cannot be achieved without the political will of the national political leadership. Bulgaria must continue its process of economic restructuring, improve the basis for social inclusion and development of human capital, and make its economy more resistant to external shocks. The country's main transformation problems lie in the realm of good governance and social consolidation.

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Chapter 12

Hungarian Public Administration: From Transition to Consolidation

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12.1 General Overview of Public Administration

Hungary is a parliamentary democracy. From the point of view of the territorial dimension of governance, it is a unitary state with a two-tier local government system (municipal- and county-level elected self-governments; hereinafter local governments). The constitutional–legal status, that is, the arrangement guaranteeing the broad autonomy of local governments, is exceptionally strong, as are their functions in the provision of public services and in the administration/implementation of central government policies.

The electoral system is a mixed one, involving elements of both the majority and the proportional systems; the mechanism, however, strongly favors large parties over small ones.

Representatives of the single-chamber Parliament are elected either in individual constituencies or on party lists. In 2008, there were four parties in the House of Representatives. During the five election periods that have taken place since the transition, all governments have been (either two- or three-party) coalition governments.

The president, elected indirectly by Parliament, has a formal, rather than substantive, role; however, in times of political crises, the president has important functions as an arbitrator between political parties and as the supreme commander of the armed forces.

There is a constitutional court with broad and powerful competences including the review and cancellation of legal acts, including laws adopted by Parliament, as well as those adopted by the cabinet or elected local government councils. The court system has an unusually strong constitutional and institutional independency too; the judiciary enjoys an almost unlimited autonomy from the other two main branches of government, which have little means, if at all, to check/balance court decisions. This situation is peculiar since, on the other hand, almost any decisions/acts can be brought to the court.

A peculiar aspect of the Hungarian political system is the large number of two-third majority laws that are supposed to maintain stability in governing the country in a multiparty democracy where there are frequent changes in power. This was a result of the so-called “MDF-SzDSz Pact,” concluded between the winner of the first election and the largest opposition party back in 1990. These laws can be modified only by a qualified, two-thirds majority. The spectrum of “two-thirds laws” ranges from the Law on Local Governments to the Law on Mass Media. The importance of this body of laws lies in the balanced nature of party politics: three out of the four government coalitions that have been in power since 1990 have had a majority of less than two-thirds. As a consequence of this and the minimal ability of parliamentary parties to coordinate their political ends and means and to build consensus/compromise, all institutions and processes defined by the broad set of two-thirds laws became deeply entrenched—practically unchangeable. This situation has changed, however, as a result of the last parliamentary elections in spring 2010. The new ruling party achieved more than two-thirds of the votes and at the time of this writing, the new government has already changed some of the two-third laws and is in the process of changing more of them. It remains to be seen what the political and administrative consequences of this departure from the pact will be.

The Hungarian administrative system has, from a formal–institutional aspect, all the features characteristic of Continental European administrative systems. The central government subsystem is divided into ministries (currently, there are 15 of them). At the core of this subsystem is the Prime Minister’s Office, which is, contrary to its name, actually a large, chancellery-type organization. Ministries are chiefly responsible for policy making, while most of the implementation tasks—especially those having a territorial dimension—are carried out by centrally supervised administrative organizations (so-called deconcentrated organs). However, there are important exceptions to the above role, such as centralized public procurement, which is located in the Prime Minister’s Office.

The local governmental system is a two-tier one. The territory of Hungary is subdivided into 19 counties, while the capital city Budapest has a special administrative status. Counties, as well as Budapest, have elected councils and self-governments that have a broad task portfolio in public service provision. This upper tier of the self-government system is responsible for, among other things, the middle-level health and secondary education services.

The lower tier of the local government system includes the municipalities (in Budapest, district local governments). They are governed by elected councils. Local governments are responsible for another broad set of public service provision tasks, including kindergarten, primary school, basic health, and local physical infrastructure services.

12.2 Administrative Culture

Hajnal (2009) places the Hungarian administrative culture closer to the *Rechtsstaat* (legalist system) culture. In a *Rechtsstaat* culture the state is expected to fulfill a decisive integrative role in the society. Furthermore, such an administrative culture is characterized by the presence of a large and distinct body of administrative law with a dominant role of law and legalism in the way the government thinks and acts. There is some further empirical evidence that legal thinking is a central component of the Hungarian public administration.

The way law and public administration/public management relate to one another can be assessed on the basis of looking at how these subjects are studied and taught in academia. In this regard, Hungarian public administration seems to be extremely legalist. A statistical analysis of public administration-related academic programs in 23 European countries identified three distinct clusters of countries: one characterized by a predominantly legalistic, one by a management-oriented, and a third one by an interdisciplinary approach to teaching public administration. This analysis put Hungary, along with a number of Central/Eastern European and Mediterranean countries, into the group of countries characterized by an overwhelmingly (public) law-based approach to public administration (Hajnal 2003).

In analyzing Hungarian administrative culture, examining the educational background of civil servants is also instructive. Empirical analysis of the subject concludes that graduates of law still play a preeminent role in the Hungarian public administration. This claim is supported by two arguments.

First, law graduates are strongly (by about 100% in 2005) overrepresented in subsets of higher importance, such as (i) among civil servants in managerial positions and (ii) in ministries. It is particularly peculiar that 57% of civil servants in the senior civil service, which consists of the highest-ranking civil servants, have a degree in law (Gajduschek 2006). Second, legal regulations make it clear that, in practice, lawyers are definitely perceived as the most competent generalists of administration. Examples include the exemption rules on the so-called “specialized examination system” of civil servants, which are compulsory for a large majority of administrators; only lawyers are exempted from the obligations of passing this—mostly legal type—exam. The situation is similar to the General Basic Public Administration Examination scheme (Gajduschek and Hajnal 2000).

In sum, on the basis of available evidence, it can be concluded that Hungary lies much closer to the *Rechtsstaat* than to the public interest pole of the administrative tradition continuum. However, at the end of this brief analysis, a note of caution seems justified. A German, French, or North European *Rechtsstaat*, naturally, differs from a Hungarian (or, for that matter, a Romanian or Greek) one in many respects. There is, however, a crucial difference possibly hampering the meaningful usage of the “*Rechtsstaat* versus public interest” concept. Namely, deviations from the Weberian ideal of “law making—law enforcement” seem systematic and structural (as opposed to being chance errors or rare failures). In other words, the *Rechtsstaat* façade seems to cover a significantly different reality, whereby (i) legal norms are often trivially unable to serve any meaningful policy purpose as (ii) they were not intended to do so even by those having made them; but (iii) they serve latent purposes of small factions or of symbolic policy. Moreover, (iv) laws often are not implemented, as they were not even meant to be implemented—this would have often been clearly impossible anyway, but the real content of the law is decided in the implementation phase, in which factors such as state actors’ different interpretations of the law and conflicting micropolitical interests and selective/illegitimate law enforcement (or the lack thereof) play a central role.

12.3 Historical Period of Public Administration

Communist government is often seen as an omnipotent actor unilaterally superimposing its will on practically all segments of society with reckless effectiveness. This view dominated exclusively, and to a significant extent still characterizes, the way administrative transformation has been/is perceived by international actors. A logical consequence of this premise is that a strong rolling back of the state and the empowerment of individual (citizen and market) initiative is a primary element of the transformation (Gajduschek and Hajnal 2003; e.g., see also Hirschmann 2003; Jacoby 2001).

While this view indisputably has some merit, it does not fit well with the reality of many post-Communist countries of the 1970s and 1980s, including Hungary. Pretransition Hungarian government was not “large and strong,” but rather “large and weak” (Sotiropoulos 2002). Central policies were made and implemented, not by a remote and unquestionable authority but, rather, through complex and subtle bargaining and interest mediation processes involving many territorial, sectoral, and organizational players (Kovryga and Nickel 2004). Therefore, the governmental capacity—and especially the implementation/administrative capacity—was severely limited even before the transition.

12.4 Political and Economic Reforms

The first half of the 1990s was characterized by the simultaneous problems of (i) economic transformation (abrupt breakdown of huge state-owned enterprises and large-scale privatization of an often anarchistic character), (ii) constitutional/institutional transformation of the political system accompanied by a large extent of volatility, and (iii) acute fiscal crisis in all subsystems of the public household.

These problems—especially the economic/financial ones—culminated in radical shock therapy in 1996. This first period was characterized by extracting wealth from the population by means of high inflation, radical downsizing of the government’s role in providing public services, and efforts to create the institutional and policy prerequisites of a functioning market economy.

From the late 1990s, a process of slow but definite economic recovery started, first reaching mostly the middle and upper–middle strata but subsequently also some of the lower strata of society. This is to a significant extent attributable to successful development policies, both at the central level and at some regional centers, aimed at attracting foreign direct investment. (Hungary was, for about 10 years, the number one target country of foreign direct investment in the CEE region.)

In the past 2–3 years, the achievement of the economic and monetary criteria of European Monetary Union membership has become a central socioeconomic policy issue. This is partly because large-scale measures to improve the real income of households—such as a 50% across-the-table increase in public service salaries—have seriously exacerbated the fiscal burden on the public household, leading to an exceptionally high deficit in the balance of current payments.

Much of what happened in the Hungarian public sector under the banner of public management reform (PMR) has been the result of dispersed, uncoordinated/“spontaneous” or decentralized ways, not packed neatly in any “reform packages.” Since the primary focus of this report is the central government level, the difficulty is, to some extent, eased by the fact that a number of public management modernization/reform initiatives of the government have been, throughout the entire period, announced in specific government resolutions on “modernization/reform of public administration.” In order to give a comprehensive and well-documented view of the reform packages adopted during the posttransition period, a computer-aided qualitative analysis of these

government resolutions was carried out. Some rough and tentative results of this analysis are briefly summarized below.

In a temporal dimension, the overall level of “PMR activity,” as measured by the number of reform measures, has been constant and high throughout the 1990s. After 2001, this level decreased to less than 50% of previous levels. Within this general class of PMR measures, two broad classes can be identified.

- The first one has much in common with the well-known, major items of the new public management (NPM) agenda, such as downsizing of the state, or introducing elements of agencification, quality management, performance measurement/management, or performance-based compensation systems in the civil service.
- The second class of reform measures, coined “CEE specific,” consists of items falling outside the scope of NPM reforms, but having some sort of relatively distinct “local flavor” as they reflect more the specific needs and/or determination of transition countries. This class includes such elements as—often *l’art pour l’art*—legal fine-tuning or legal-structural retrenchment of existing institutions, improving the bureaucratic workflow and control in administrative organizations, or measures to achieve European Union (EU) conformity of certain institutions or policies.

When comparing the relative proportion of these two classes, one may conclude that the share of NPM-type measures within the overall set of reform measures has constantly been significantly rising.

When looking beyond the main labels of NPM- versus CEE-type reforms, it seems that the composition of NPM-type measures has been changing throughout. In the 1990s, the emphasis was on improving the quality of lawmaking and, more generally, of governmental decisions, by employing various techniques of *ex ante* policy assessment. In the past few years, however, increasing emphasis has been put on issues of quality and citizen satisfaction and, more recently, downsizing.

On the other hand, the composition of “CEE-specific” measures is relatively stable. It is interesting to note that only a very modest number of reform measures are justified by EU compatibility, although one should bear in mind that coding of the legal texts was based entirely on the explicit content, as opposed to the possible latent motifs of the policy makers.

The above analysis covers the government’s PMR agenda for the period of 1992–2005. From 2005/2006 on, however, the situation has sharply changed in several respects. First, key decisions are no longer collated in government resolutions summarizing the government’s PMR policy of the day. Rather, such decisions have become the subject of numerous pieces of various types of legal measures as well as of semipublic and nonpublic documents such as strategy documents, operational programs, and tender materials. Therefore, it became exceedingly more difficult to follow governmental decision making in this field.

Secondly, there were significant changes in the actual PMR policy too. Namely, the post-2006 period saw unprecedented radical changes. In the absence of reliable empirical sources, it is difficult to give an exhaustive overview of these changes, but—on the basis of mostly anecdotal evidence—two elements seem to be central to them:

- *Downsizing*: There are no reliable consistent data on the extent of the downsizing that has taken place since 2006 in the central, territorial, and local offices of central government administration. (It is emblematic that the very system of national HR data collection in the

civil service—on which earlier figures on the civil service are based—having existed since 1994, has stopped operations since it was not able to follow the structural and procedural changes.) One may, however, risk saying that the across-the-table decrease in civil service employment at the territorial and local levels was well into the two-digit range, in some cases possibly even reaching 30%–50%.

- *Reforming the human resource management system:* In 2006, a high-level official, responsible for preparing and implementing new HRM practices, was appointed in the Prime Minister's Office. Having arrived from the corporate world, his leading ideas were closely tied to radically breaking away from the “outmoded” career-type civil service characteristic thus far, and introducing corporate practices coupled with a harsh deregulation of civil service practices, an elimination of legal protection of civil servants' status, and a radical change in the ruling culture of the entire civil service. Although these and some other related measures managed to achieve a significant practical impact, at the end of 2007 he had to resign from his position, leaving much of the pending changes, as well as initiatives, already on track without political and professional leadership.

12.5 Civil Society and Its Development

Civil society has a long history in Hungary (and in most other countries in the region). In fact, there is a sociological concept—*kaláka*—that describes the mutual support of neighbors and relatives at different stages of life (houses built, crops gathered, children looked after, etc.) in rural Hungary. Furthermore, during the latter part of the socialist era, there was a large “second economy” tolerated by the state as a pragmatic solution to the problems of state planning and limited resources. *Kaláka* in the villages and the shadow economy somewhat lightened the burden of the failing state economic planning system (North 2006).

After the political changes in 1989, both the second economy and the tradition of *kaláka* have largely disappeared. State-owned factories were privatized and rural Hungary had to cope with a rapidly dwindling agricultural sector that could not compete with Western (often subsidized) mass production.

The weakness of postsocialist civil society allowed the governing politicians to run their governments in extremely partisan ways. As a consequence, the electorate has become polarized, where voters expect good treatment from the government if “their” party is in power (Rose-Ackerman 2007). Interestingly, partisan politics has been increasing in dominance over time. This phenomenon may be explained by the peculiar nature of the Hungarian political transition from a one-party system to democracy. During the late 1980s, in the so-called “round-table” process, members of the ruling Communist Party and the opposition agreed on a peaceful transition. The consensual approach, however, quickly dissipated once the different factions ran as individual parties for election. By the late 1990s, Hungarian politics was deeply polarized between the left (including the liberals) and the right.

Besides voting, there are other ways for citizens to participate in public policy making. A number of Hungarian laws, in areas such as education and the environment, mandate advisory councils. These are permanent bodies with shifting individual membership that have the right to review government proposals and sometimes initiate studies on their own. The recommendations of the advisory councils, however, are not binding for the government (Rose-Ackerman 2007). In theory, before major policy changes, the parties affected (labor unions, employers' associations, university student associations, etc.) are consulted, yet due to the highly partisan nature of the

government, most often the final outcome reflects the will of the political party in government rather than the preference of the affected parties.

The immediate postsocialist period witnessed a revival of the nongovernmental sector. The newly acquired freedom of association triggered an explosion in the number of nonprofit organizations. Initially, most of these organizations received support through international donors (foundations, international organizations, etc.). This support, however, dwindled as Hungary moved toward full market capitalism and became a member of the EU. Arguably, as foreign foundation support is phased out, most of the NGOs would have to rely on government support (or seek private donors). The heavy reliance on government support could make these organizations less willing to criticize government policies, which in turn further reduces civil society participation in public policy making.

According to Rose-Ackerman (2007), there is a need for some basic institutional framework that allows and facilitates public participation and democratic accountability. These institutions are a nonexecutive president, a constitutional court, an independent audit office, and an ombudsman “who not only takes individual complaints but can also initiate investigations,” an administrative court system, and an independent general prosecutor. At the time of this writing (December 2010), there are signs that some of these institutions are under pressure from the current ruling government party. For the first time since 1989, the president of the republic is a party politician and close ally of the prime minister (breaking with the unwritten tradition of electing someone with an independent political background). The Parliament (with a two-thirds governmental majority) limited the ability of the constitutional court to rule on fiscal matters. The country’s recently established Budget Office also faces pressures and possible loss of its professional independence due to less than rosy predictions of economic growth and deficit.

Figure 12.1 describes the relative freedom of the press in Hungary between 2002 and 2010. According to the data, the relative freedom of the press improved from 2002 till 2006, and then rapidly deteriorated, reaching a period high of 7.5 (the lower the score, the freer the press).

The relatively high score for 2010 may reflect the impact of the recently adopted highly controversial media law. The international reaction to the new media law was particularly fierce, forcing government officials to explain the content and purpose of the law (Reporters without Borders 2010). Despite these recent events, the government still enjoys relative popularity among the population. This could be attributed to the general disillusionment with the market-based democratic system (largely associated with the West) that has replaced the socialist state. Twenty years after the fall of Communism, one-third of the population still lives below the poverty line despite membership in the EU (Baetz et al. 2010).

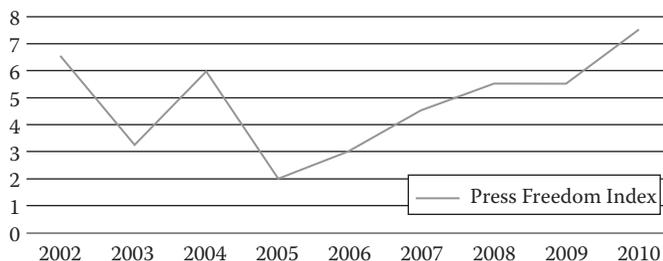


Figure 12.1 Freedom of the press in Hungary, 2002–2010. (Data from Reporters without Borders, <http://en.rsf.org>. Accessed January 30, 2011.)

12.6 Human Resource Management

After the Second World War, with the installation of Communist rule in Hungary, the earlier regulations on civil servants were abolished since the Communist government considered all employees as employees of the state (private companies were nonexistent). With the launch of the New Economic Mechanism (late 1960s), government decision makers gradually acknowledged the need for separate treatment of civil servants and other employees (working at state-owned companies).

After the fall of Communism, successive governments tried to define and regulate the status of public sector employees. Separate laws were created for each type of public sector occupation: state and local government public administrators, “public employees” (primarily individuals working in education, health care), the army, judges, and prosecutors. For public administrators, the original legislation prescribed a traditional Weberian bureaucracy model (i.e., promotion based on seniority, job stability, etc.). Since the mid-2000s, however, there has been an increased emphasis on market-based human resource management approaches characterized by the introduction of entry tests and reduction of job stability.

Thus, starting in 2009, civil service open competitions have been used to select candidates for the Hungarian public administration. The details of the exam are described in the Governmental Decision (*kormányrendelet*) of 126/2009. The new civil service exam—open to every citizen—replaces the old exam, which was available only to civil servants already in the system. The idea behind the new exam is to broaden the selection procedure and increase transparency in the selection process. However, there may be problems with the new selection procedure. The new system does not require hiring based on the results obtained in the exam (employers do not have to select the laureates with the highest scores). Furthermore, the type of material included in the test may in itself create a bias in the selection process; it may well be that the tests will have questions focusing on law (since the Hungarian public administration is overwhelmingly dominated by law-educated civil servants), which will give an unfair advantage to the already overrepresented lawyers (Linder 2008).

After successfully passing the open competition exam, candidates can apply for one of the positions advertised by any of the governmental agencies. Then, the candidate is subject to a competency test that assesses their suitability for the particular position. These competency tests evaluate the skills, experience, and knowledge of the particular applicant relevant to the position advertised. If the candidate is selected, then he/she is offered the position for a probationary period.

The change in government in the spring of 2010 also impacted the above-described civil service competitions. At the time of this writing, it is not clear what type of changes will be implemented as a result of the new government coming to power.

The performance evaluation of Hungarian civil servants has been addressed at three different times. First, in 1992, the Law on Public Servants (1992, XXIII) prescribed the evaluation of administrators at least every 4 years or whenever a promotion occurred. In 2002, the government introduced annual individual performance evaluation for every administrator. The goal of the new performance evaluation system was to increase the efficiency of the public administration system. The new performance evaluation was also linked to higher remuneration. Depending on individual performance, the immediate superior could recommend a change in the performance bonus of between -20% and $+30\%$. At the time of the introduction of the new performance-based evaluation system, the corps of Hungarian public administrators had positive expectations. It turned out, however, that there were no funds set aside for performance-based pay in the consecutive budget appropriations. Furthermore, some agencies used performance evaluation, while

others did not. In some cases, the limited amount of performance pay was distributed equally among the low-paid public administrators, leaving no funds for the true performance-based pay. In 2006, the government introduced a modified performance evaluation system (*teljesítményértékelési rendszer—TÉR*). While the earlier system was introduced immediately to the entire public administration, the new one would be introduced gradually and initially only for select categories of public servants. This latest effort, however, also contained elements that might create problems in the future. These elements (such as the individual level of competency or attitude toward work) might influence performance, but they are not part of the worker's performance per se. Thus, it could further distort the objective assessment of the job performance. Similar to the civil service exams, the future of the recently implemented public performance system is unclear as a result of the change in government in 2010.

A limited number of civil servants are politically appointed public administrators. They usually work at the central administration as consultants or advisers to elected politicians. Prior to the 2006 reform of the public administration, their number was limited to 5% of the total public servants working in the particular agency. The new law increased the limit to 8%. They are usually appointed for the same period as the respective politician is in power.

12.6.1 Status, Benefits, and Compensation of Civil Servants

Civil servants in Hungary are paid based on a unified salary schedule. There are separate salary schedules for public administrators (those working in central and local government administrations—*köztisztviselő*) and the rest of the public sector (teachers, doctors, nurses, etc.—*közalkalmazott*). Remuneration increases with education and seniority. For example, the basic salary for a public administrator with a college degree, working in the central government, with 0–2 years' experience, ranges between 179,000 and 185,000 HUF or US\$876 and 905* (*kozszolga.hu* 1992). A more senior administrator (with 30 years of experience and similar qualifications) earns around 330,000 HUF or US\$1615.† High-ranking public administrators, however, are paid separately, based on a different pay scale that is not affected by seniority. As such, it could happen—in extreme situations—that a recent graduate from college can earn more than someone who has spent decades in the system. In general, salary perspectives are more favorable in the public sector for non-college-educated personnel, while college-educated individuals can expect better remuneration in the private sector.

Besides the basic salary, public administrators may receive discounted housing loans, anniversary premiums (after 25, 30, 35, and 40 years of experience), limited lunch support (*cafeteria jegy*), and various other social, cultural, and educational support.‡

One of the most cherished benefits of public employment is job security. In fact, a 2003 survey among Hungarian civil servants conducted by Szonda-Ipsos reveals that 70% of the respondents considered job security as the most important aspect of the job. While public sector employment is relatively secure, public administrators are often exposed to layoffs due to budget cuts. In fact, not only the Parliament and the executive, but also local governments as well as the heads of the public agencies can initiate reductions in the labor force. Despite the decrease in job security, Hungarian public administrators still consider public employment more secure than private

* Exchange rate information (US\$1 = 204 HUF) is from <http://www.xe.com>, accessed January 20, 2011.

† All salary figures are gross figures. Salary schedules have been frozen since 2008.

‡ http://www.kozszolga.hu/koztiszviseloi_torveny, accessed January 20, 2011.

sector employment (Linder 2008). Furthermore (based on the previously mentioned Szonda-Ipsos survey), they consider serving the public as the most attractive element of their job.

The way the general public views the work of civil servants also provides some food for thought. According to a 2003 survey conducted by the Office of the Prime Minister, the public is the least satisfied with the performance of public administrators at central and local government levels. They are ranked behind firefighters, ambulance crews, nurses, physicians, librarians, teachers, soldiers, civil guards, customs, and police officers.

12.7 Financial and Budgetary Management

Hungarian public finances have experienced major difficulties ever since the early 1980s. Ten years later, the socialist state left behind a huge public debt; the first democratically elected government inherited the burdens of high interests besides the sudden collapse of the socialist economy. While the situation ameliorated with the economic growth of the late 1990s and the austerity programs introduced in the middle of the same decade (“Bokros package”—named after the finance minister in office at the time), starting from the new millennium, successive governments allowed lavish spending that ultimately led to serious indebtedness. The Great Recession found Hungary exposed and vulnerable; the country was among those that first needed the help of the International Monetary Fund and the EU.

The public sector plays a significant role in the Hungarian economy. General government expenditures account for 49.2% of the GDP (2008).^{*} The relatively large share of the government does not necessarily mean better and more public services. In fact, Hungary’s public administration is one of the least efficient among Organization for Economic Cooperation and Development (OECD) countries (OECD 2010). Total tax revenues account for 40.1% of the GDP (2008). The distribution of tax revenues among the major tax types is the following: 40% of the total tax revenues come from indirect taxes (consumption-based taxes such as sales or value-added tax [VAT]), around 25% comes from direct taxes (primarily income taxes), and the rest are revenues for social security and health care (Benedek et al. 2004). While the size of the direct taxes (expressed as a percentage of the total GDP) is lower than for most other EU countries (Benedek et al. 2004), the tax burden falls on a much smaller active workforce. The employment rate in the population aged 25–54 (arguably the most active cohort) is only around 74%. The tax rate on consumption is around 27% (the EU-15 average is around 20%), while the tax rate on labor is 42.4% (the EU-15 average is around 36%) (Benedek et al. 2004). In both cases the burden of taxation is higher than in most EU countries.

The structure of government expenditure is as follows: approximately 55% is spent on welfare (education, health care, social security, housing, and other welfare spending), around 10% is spent on interest payments (on public debt), and the rest is roughly equally split between general government expenses (such as administration, police, defense), and economic (energy, agriculture, transportation, etc.) and environmental expenses (Benedek et al. 2004). The large share of welfare spending suggests that the state plays an important role in income redistribution.

While illegal employment is sizeable (approximately 600,000–700,000), the size of the non-working, yet active labor force (2.5 million) is a much bigger problem. The latter group not only does not contribute to the state budgets, but it also takes away from it through social welfare benefits received (Scharle et al. 2010).

^{*} All data are from OECD (2010) unless otherwise stated.

The Hungarian tax administration has become increasingly complex since 1989 (Scharle et al. 2010). According to a recent study conducted by the OECD, the cost of Hungarian tax administration (for the tax-collecting authority) is 1.15% of the collected tax revenue (OECD 2009). This means that it costs 1.15 HUF to collect 100 HUF of tax revenue. This level is lower than in Poland (1.42%) or Japan (1.53%), but it is considerably higher than in the Scandinavian countries (i.e., Sweden 0.41%, Denmark 0.62%) and some other European countries such as Ireland (0.79%) or Romania (0.91%). The relatively high level of tax administration cost suggests that there is room for improvement. The cost of tax administration for Hungarian corporations is estimated to be around 2.6% of total tax revenues (Scharle et al. 2010).

There is some empirical evidence regarding the extent of tax evasion in Hungary. Krekó and Kiss (2007) estimate the rate of VAT avoidance to be 10%–15% of the total gross VAT revenues. Around 17% of the total number employed do not pay any payroll taxes, and around 8%–9% of them pay only minimal taxes by reporting minimum wages (Elek et al. 2009). Those avoiding taxes tend to be young, male, frequently unemployed, and unskilled (Czibik and Medgyesi 2007).

The Hungarian budget is administered based on the Public Finance Act of 1992. The budget is proposed by the government and the Parliament's role is limited to minor reshuffling of budgetary appropriations between the line ministries, without substantively modifying the headline figures or correcting unrealistic estimates. The State Audit Office (the state's independent financial monitoring institution established in 1989) assesses the draft budget in the course of the parliamentary debate, monitors the implementation of the budget, and signals risks in relation to optimistic budget projections. The government, however, is not required to follow the SAO's recommendations, and it can use its own fiscal projections. Within the government, besides (the traditionally relevant role of) the Ministry of Finance, the Office of the Prime Minister also has an important role in the budget process. The Office of the Prime Minister has become a potent player within the government over successive administrations. The budget bill is usually approved in the week before Christmas, after which local governments start discussing their budgets until the end of March—which is well beyond the start of the fiscal year (Jankovics 2008).

As mentioned earlier, by the second part of the 2000s, the Hungarian economy and specifically the public sector were in a highly vulnerable state. The high levels of spending by subsequent governments as well as liberal lending practices in the housing market have led to a rapid increase in public and private debt. Total external debt reached about 120% of GDP at the end of 2008, compared with less than 50% in Poland and 40% in the Czech Republic (OECD 2010). In fact, the revelation that the government had been lying about the actual debt levels led to street riots in the fall of 2006. Thus, in the fall of 2007, the government adopted a package of laws aimed to enhance fiscal sustainability of the country. The key elements of the reform package included the following: (1) fiscal sustainability defined as a new constitutional principle, (2) “no increase in real terms” rule for the gross central government debt, (3) limits on local government borrowings, (4) establishment of the Legislative Budget Office for independent macroeconomic and budgetary projections, and (5) 3-year nominal expenditure ceilings for budgetary chapters defined by the government (Jankovics 2008). The fiscal crisis of 2008 sped up the reform process and a new caretaker government (led by the appointed prime minister, Bajnai) implemented a series of painful fiscal reforms. In April 2010, however, as a result of the general elections, the center-right party of FIDESZ gained over two-thirds of the parliamentary seats and the right to form government. The newly formed government took additional steps to regain the country's fiscal sustainability, but some of these steps were highly controversial; the government imposed an additional tax on the banks' profits and merged the private pension funds into the public pension system.

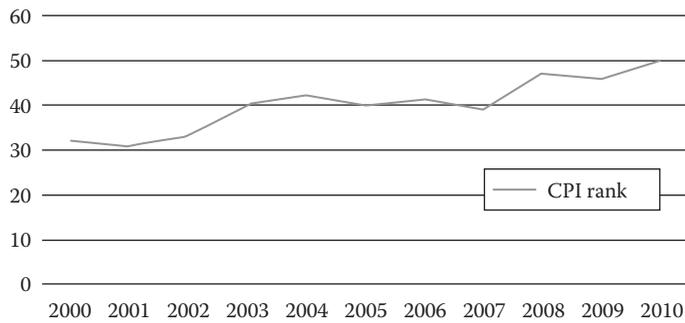


Figure 12.2 Corruption Perceptions Index for Hungary, 2000–2010. (Data from Transparency International, <http://www.transparency.org>. Accessed January 30, 2011.)

12.8 Accountability and Corruption

Different forms of corruption have been a constant issue on the public agenda since the transition. Figure 12.2 charts Transparency International’s country rankings given for Hungary in the past decade.

Unfortunately, there are very few encompassing and sound empirical results offering a descriptive insight into this field of phenomena. Therefore, it is not possible to say how different forms of corruption—maybe, most interestingly, political versus street-level corruption—figured in the period at hand. However, on the basis of intuitive judgment, it seems that the former has been gaining constant and significant space at the “expense” of the latter. That is, while petty corruption is present in everyday life, to a decreasing extent wholesale corruption—usually with party financing in the background—is strongly, or even increasingly, present (see the decline in the country’s ranking from 2002).

There are some famous cases of high-level political corruption, such as the use of residential heating oil as gasoline (*olajszökítés*),* the Postabank case (bank failure), the Tocsik case (involving massive fraud with governmental funds), the Kulcsár case (large-scale banking and loan fraud), and the more recent Zuschlag case (improper use of government grants).

Based on some estimates (from 2000) of the Hungarian Customs and Finance Guard (VPOP), the illegal distribution of heating oil as gasoline resulted in damages of 1000 billion HUF (Sipos 2007) for the state. At the root of this large-scale corruption case stood the differential treatment of heating oil from gasoline. Even though the two products are almost identical, due to social welfare considerations heating oil was heavily subsidized by the government, while regular gasoline was not. As a result of the significant price difference there was a strong incentive to import or buy fuel as heating oil (lower taxes and tariffs) and then sell it as regular gasoline.

At one point in the 1990s, Postabank was the second-largest retail bank in Hungary (*Economist* 2002). The well-connected bank has helped politicians and public figures from every spectrum of the political arena. According to the bank’s internal VIP list, the bank provided preferential loans (with 10% interest rate at a time when the market rate was 25%) to over 200 politicians, public figures, and even state agencies (such as the Hungarian Central Bank and the National Security Agency). By 1997, the bank was nearly bankrupt, requiring the government to intervene and bail it out.

* The word *olajszökítés* (“whitening the oil”) refers to the process of extracting the coloring from heating oil. Heating oil contains a red colorant to distinguish it from regular gasoline.

Another famous corruption case of the 1990s relates to the mass privatization of state property. Following the collapse of the socialist state, the government embarked on a process of transferring state-owned companies into private hands. According to the privatization law, lands that previously belonged to state-owned companies would be transferred to the respective local governments. As a result, many local governments claimed their share of state property. A cash-strapped central government decided to negotiate these transfers with the local governments. These negotiations were conducted by—among others—a lawyer named Márta Tocsik. It turned out that Tocsik received a very generous compensation for facilitating these negotiations (800 million HUF) and part of the money was allegedly transferred to the treasuries of the two ruling government parties (SZDSZ and MSZP) at that time. The case tarnished the image of those governing parties (Médián 1996).

In the early 2000s, another major corruption case rattled the political scene. A broker affiliated with one of the major Hungarian commercial banks was charged with embezzling vast amounts of funds (around 8 billion HUF) in a Ponzi-style scheme. As the case unfolded, it turned out that Kulcsár had connections with various political circles and used public funds (money from the National Highway Authority and one local government) in the scheme* (Origo 2008).

In the most recent high-profile corruption case, a high-level politician was accused of fraudulent use of public funds. János Zuschlag, a young socialist politician and member of the Parliament, was one of the main characters of a fraudulent scheme in which politicians and administrators from the central government would guarantee the success of individual grant proposals (usually from local governments or not-for-profit organizations) if a portion of the grant was “given back” to the ministry. The case stirred widespread indignation, not because of the size of fraud, but the close and direct link to politicians.†

In all these cases, high-level government officials and politicians became involved—either directly (i.e., Zuschlag case) or indirectly. It is important to mention that this list is far from being comprehensive. The ubiquitous presence of high-level governmental corruption does not bode well for society and gives little motivation to be a law-abiding citizen at an individual level. According to Transparency International, a comprehensive reform of campaign financing in Hungary is the most urgent and important step in the fight against corruption since there is evidence that political parties spend significantly more than the legally allowed amount (Vorák 2011).

Besides high-level political corruption, there is also petty corruption at various levels of everyday life. The most striking and widely discussed example of petty corruption is tips given to physicians. Because workers in the health-care sector (doctors, nurses, and all other medical and administrative staff) are paid as civil servants, their salaries are lower than those of health-care employees in Western countries. Furthermore, the basic salary of a physician working in the public sector is considered to be less than the average salaries of college graduates working in the private sector. According to data from the Central Statistical Office (Központi Statisztikai Hivatal), the average gross monthly salary of workers in the health-care sector was 169,863 HUF in 2008, below the level of average wages in education, public administration, or even transportation (Központi Statisztikai Hivatal 2009). Thus, it is a widespread practice to give tips (*paraszolvenzia*) to physicians, nurses, or other medical staff during routine medical office visits and especially at times of hospitalization and/or major surgery. The size of the under-the-table spending is significant. The share of private spending on health (including

* <http://www.origo.hu/itthon/20080828-elfokuziteletr-var-kulcsar-attila.html>, accessed January 31, 2011.

† http://index.hu/belfold/2010/03/31/zuschlag_nyolc_evett_kapott/, Zuschlag 8,5 évett kapott, March 31, 2010, accessed January 31, 2011.

the tips) is estimated to be the highest in the EU, at around 30% of total spending on health (OECD 2010).

12.9 Conclusion

In the last 20 years, Hungary has gone through a long process of economic, political, and administrative changes that have transformed the country from a socialist to a modern capitalist state. This process involved fundamental changes in both the economic and political systems. The socialist economy was based on the primacy of state property with inefficient allocation mechanisms that led to shortages in the goods and services provided (Kornai 1992). The political system was based on a single-party rule, with no tolerance toward differing views. In a matter of years, the Hungarian state reoriented itself—away from socialism and the Soviet Union and toward capitalism, democracy, and Western Europe.

The Hungarian state saw a radical decrease in size (due to privatization) and the public administration system also went through several changes. In fact, change has become the most characteristic aspect of the system; successive administrations have experimented with various forms of administrative reforms. The constant flux in the system has created a sense of disorientation and skepticism among public administrators (Linder 2008).

The change in the political and economic environment inevitably created a pool of people who missed out on the benefits of the transition. Disillusionment has been growing among the population, and politicians must find a way to expand the benefits of the free market economy and parliamentary democracy to include the most vulnerable: those living in chronic and deep poverty, those with no skills and job opportunities, and those who face institutional and individual discrimination. One way to achieve these goals is through modernization of the public administration system and the creation of a more efficient and effective state.

Scholars and international organizations (such as the OECD and the EU) have proposed various ways to tackle the problems of the current Hungarian state. Some of these proposals are unequivocal. Hungary should strengthen the tax and budgetary system. Both the OECD and the EU propose a reduction in the tax burden on labor (OECD 2010; Jankovics 2008). The reduction of the tax on labor should mainly be for lower-income earners. This would increase equity and efficiency, especially because over half of the Hungarian labor force does not have a baccalaureate and the demand for unskilled labor is more elastic than that for skilled labor (thus, a reduction in labor tax burden would trigger a larger increase in employment among the unskilled). The tax code should also become less complex and further steps should be taken to reduce tax evasion by simultaneously reducing the tax burden (as mentioned above) and strengthening fiscal control. The cost of tax administration should also be reduced, following in the footsteps of several European countries (Scandinavia, Spain, and Ireland). These countries used a straightforward methodology, with clear quantitative targets, followed by constant monitoring (Scharle et al. 2010).

Furthermore, the government “should continue targeted streamlining of public employment and strengthen public procurement” and “enhance the efficiency of the health system by seeking consensus for introducing co-payment for physician care” (OECD 2010, p. 1).

In terms of human resources, experts warn that the Hungarian public administration faces serious near- and long-term challenges (Linder 2008). The public sector, especially for the college-educated work force, has become less attractive than the private sector. In areas such as IT or information management, public sector organizations face increasing difficulties in recruiting qualified candidates. Some traditionally public sector professions such as physicians, nurses, and teachers

also face acute shortages. Employees in the health-care sector can find much better pay abroad. Another major challenge of the system is due to unfavorable demographic trends. In the next 10–15 years, large numbers of public sector employees will retire. The combination of unfavorable demographics and decrease in the attractiveness of public sector employment may cause a serious recruiting crisis in the public sector.

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Chapter 13

Public Administration in Poland

Jacek Czaputowicz and Marcin Sakowicz

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13.1 Overview of Public Administration

The fall of the Communist system at the end of the 1980s left a situation in which newly democratic states had no suitable administrative structure to deliver public services. In Poland, as elsewhere in the region, many institutions from the previous era (in this case the People's Republic of Poland) were little more than facades. In effect, the real authority was being exercised by the Communist committees of the Polish United Workers' Party (PZPR). This resulted in government officials being used as instruments to ensure that the interests of the Communists holding power were put into effect and pursued. The fundamental aim of all the activity was to ensure that all spheres of life were kept under the closest scrutiny, to the point where both citizens' privacy and dignity were violated. On the other side of the coin, despite the near omnipresence of the administration at the time, the most basic needs and expectations of society could not be met.

However, the last two decades have brought a transformation that includes the development of a new state system founded upon democratic principles, rather than a lack of respect for the rights of citizens, personal liberty, the rule of law, openness in public life, and the right to self-govern through the decentralization of power.

The Poland of today reflects the structure, interrelations, and divisions of responsibilities and tasks that were put into place by reforms. The most important reforms include local authorities at the municipal *gmina*—the basic unit of local government, dating back to 1990, the reform of the government's economic center in 1996, and the 1999 reform addressing tiers of administration and their roles. A particularly key moment came with the National Assembly's adoption on April 2, 1997, of a new Constitution of the Republic of Poland. The new constitution would go on to serve as the bedrock of the Third Republic. It defines the Republic of Poland as a unitary state with a parliamentary and cabinet-based form of government. Article 10 in turn stipulates that "1. The system of government for the Republic of Poland shall be based on the separation of and balance between the legislative, executive and judicial powers," and "2. Legislative power shall be vested in the Sejm and the Senate, executive power shall be vested in the president of the Republic of Poland and the Council of Ministers, and the judicial power shall be vested in courts and tribunals."

Poland's legislative branch is a bicameral Parliament whose upper chamber is the *Senat* (Senate) of 100 senators. The lower chamber is the *Sejm*, comprising 460 deputies elected directly by universal suffrage and secret ballot for 4-year terms of office. Elections to the *Senat* make use of the majority system; elections of the *Sejm* reflect proportional representation.

The dual nature of the executive entails joint action between the president of Poland and the Council of Ministers (cabinet government), headed by the prime minister. The president of the country is elected for a 5-year term and may only serve two terms in total. He or she enjoys the right to veto Acts of Parliament or to send them to the Constitutional Tribunal for its consideration. The presidential veto can only be overridden by a 3/5 majority of votes cast in the Sejm.

The Council of Ministers is politically accountable to the Sejm and is the central body of the state administration. The government enjoys decision-making powers with respect to all matters not reserved for the president or other bodies of the state administration by virtue of the constitution or Acts of Parliament. In particular, the Council of Ministers pursues domestic and foreign policies while leading the administration of government. The tasks of the Council of Ministers extend to all spheres of life for the Polish state, whether they are political, economic, social, or cultural. In accordance with the Act on Divisions of the Governmental Administration (*Ustawa o działach administracji rządowej*) of September 4, 1997, ministers have portfolios addressing specific segments of public life. In practice, the dual nature of the executive legislature can lead to rivalries vis-à-vis political leadership, principally between Poland's prime minister and president. This type of contentiousness is particularly evident when the leaders represent different political beliefs, as described by Osiński and Pytlik (2009).

Poland's model of public administration is based on a constitutional assumption that key components of government are the central and noncentral tiers of administration operating in line with the territorial division of the country. Within the whole public administration, there is a clear division of governmental and self-governmental administration. Detailed analysis reveals a separate state administration that is neither governmental nor self-governmental. It is true that the state administration is often considered to be the same as the governmental and *vice versa*. A separate state administration does in fact exist, and it is neither governmental nor self-governmental. At present, the members of the state administration may be taken to include the president of the Republic of Poland, the Supreme Chamber of Control, the National Radiophony and Television Board, the Commissioner for Citizens' Rights, the National Judiciary Board, elements of the National Bank of Poland (including the National Monetary Policy Council), and central administrative bodies subordinated to the Sejm (Boć 2003).

The governmental administration can be divided, according to the scope of its activity, into the central governmental administration and the central governmental administration as represented

in the voivodships or provinces. The central governmental administration is made up of a prime minister, council of ministers, ministers, and central bodies. The central governmental administration represented in the voivodships reflects local aspects rather than regional features.

As of March 2011, central governmental administration is executed by the ministries of the Chancellery of the Prime Minister (KPRM), as well as 17 central bodies of the governmental administration. The council of ministers uses regulations to establish, abolish, or transform a particular ministry. The detailed organizational structures of each ministry, including the numbers and names of departments, offices, or other units within it, are set out in a statute conferred by the prime minister by virtue of an ordinance. The central bodies of the governmental administration are in turn created by virtue of an act.

The voivod (*Wojewoda*) is the representative of the Council of Ministers in each voivodship who leads the governmental administration and acts as a supervisory body where local or regional government units are concerned. Voivods confer statutes upon the voivodship offices that serve them, by virtue of an ordinance approved by the prime minister. One of the objectives of the administrative reforms of 1998–1999 was to organize the structures of the provincial offices of central administration. Poland became aware of public administration because of the responsibility to territories that were being impacted by the activity of state systems. It is the voivod that coordinates the functions of the administrative bodies within regions. The voivod is also a superior of “unified” governmental administration. In 2011, 14 unified services, inspectorates, and guards were in operation within the voivodships. Among those acting under the leadership of the voivod within the voivodship are the voivodship commandants of the police and state fire service, the educational *Kurator*, and such voivodship inspectors relating to pharmaceuticals, trade, and building supervision. The extent of subordination in relation to competences, functions, organization, and finance results from the pieces of legislation concerning a given element of organization of governmental administration.

Beyond that, certain tasks of the government’s administration, within a given voivodship, are carried out under the leadership of the Starosta by the heads of the powiat-level services, inspectorates, and guards (i.e., the powiat commandants of the police and the state fire service, and the powiat sanitary inspectors and inspectors of building supervision).

In contrast, what is known as the nonconsolidated administration comprises field members of the government’s administration. They work under a particular minister or central body, as well as the directors of state legal personalities or other state organizational units, and carry out government administration tasks within a voivodship.* This category includes but is not limited to the directors of customs chambers, the leaders of customs offices, the directors of tax chambers, the leaders of tax offices, the directors at maritime offices, and the directors at statistical offices.

The success of the first decentralizing reform, with its attendant restoration of self-governing status to the local authorities at gmina level, encouraged further reform of local and regional administration. On January 1, 1999, a fundamental three-tier territorial division of Poland was introduced. The result was the shaping of noncentral administrations at the gmina, powiat, and voivodship levels. In other words, this occurred at the local, county/district, and regional levels, respectively. As of January 1, 2011, there were 16 Marshall’s Offices in operation. There was one Marshall Office connected with the regional administration in each voivodship. Additionally, there were 314 *Starostwo* offices, each led by the Starosta in the given powiat. There are 65 towns or cities enjoying powiat rights and 2479 gmina or local authority offices (see Figure 13.1).

* Legal personality entities with legal personality may sue and be sued, enter into contracts, incur debt, and own property.

Self-government		Governmental administration	
		General	Nonunified
Macroregional level		—	For example, Military division, appellate courts
Region level, province (<i>województwo</i>) 16		Voivod	For example, Treasury Chamber
“County” level (<i>powiat</i>) 65 + 314 = 379			Treasury Office
Local level (<i>gmina</i>) 2479		—	—

Figure 13.1 Structure of territorial administration in Poland (2011). Counties (*powiats*) are differentiated as urban (65 in number, formally larger towns endowed with *powiat* rights, they encompass only the area of one city) and those that include a municipality (the county seat) plus several urban–rural and rural municipalities (314 in number). (Adapted from Izdebski H., *Introduction to Public Administration and Administrative Law*, Warsaw, Liber, 2006.)

The members of each tier of administration pursue public tasks in their own area of responsibility. In doing so, they make use of powers not otherwise reserved by the constitution or an Act of Parliament for members of other public authorities. In order to meet the needs of individuals living within a given administrative unit, these members have legislative power (bylaw) and include the regional assembly in each voivodship, the powiat council, and the gmina council. While the executive members at the voivodship level are the marshal and voivodship board, the Starosta and Powiat Board are at the powiat level, and the wójt, *burmistrz*, or prezydent (mayor) is at the gmina level.

The primary direction of these changes had to fall within the systemic framework delimited by the constitution, hence the administrative reform process’s acceptance of the primary division of the state into units at different tiers of administration, notably—on tiers above the local—in the powiats and the (voivodship-level) regional assemblies. The *powiat* is responsible for local issues such as secondary schools, general hospitals, fire brigades, and sanitary inspectorates, which cannot be ascribed to *gmina* according to the principle of subsidiarity. These tasks include the so-called “provisioning administration” (i.e., education at high school level, health care, and social welfare), infrastructure-related works beyond the gmina capacity (e.g., maintaining powiat-level roads), and tasks entailing the administrative servicing of the public (e.g., via the awarding of building permits). However, the primary task of the regional authorities in each voivodship is to devise strategies for the development of voivodships, develop the policy, and maintain technical infrastructure of voivodships (including regional roads).

While the 1999 administrative reforms did indeed lead to further decentralization of public tasks, there was and has been criticism of some of the institutional solutions at the time such as an “excessive” number of powiats, or whether powiats should exist at all (Gonciarz 2004). Particularly in its first years of operation, the reform involving voivodships and powiats was

considered to exemplify the way in which fathers had given birth to a baby, but had not supplied it with sufficient means to go on developing and attain maturity. In the end, the reform maintained the Polish tradition of transforming administration by reference to legal and administrative concepts, but it overlooked the vital managerial and economic aspects.

Post-1999, the decentralization of public tasks was taken further. The legal basis for this was the “Competence Acts” becoming law in 2006 and then 2009. These acts conferred some of the powers previously held by the central governmental administration on other tiers, specifically on the voivodships. The acts thus strengthened the voivodships’ regional dimension rather than provincial when it came to the carrying out of public tasks. The main goal was to ensure a role for them as true hosts and managers of particular regions. This is essential for European Union (EU) membership and funding.

During this period, the shaping of a modern administration was influenced by the country’s aspiration to improve the quality of service and efficiency of public institutions. However, external factors, such as integration into the EU, were important as well. This process resulted in a modernization of public institutions. While administration remained a domain for member states, there was standardization in certain areas of functioning, including the civil service (Czaputowicz 2002). There was also greater cooperation and interactions with other entities involved in public management and governance from within the states, as well as across Europe (Szczerki 2005).

13.2 Political and Economic Reforms

The fall of the Communist system in the second half of the 1980s set in motion a process of transformation that led to both political and economic change. In 1988, the Communist authorities invited the democratic opposition, which was focused on the then-proscribed *Solidarność* (Solidarity) trade union, to participate in “Round Table” talks. These talks were meant to outline ways in which opposition circles would assume joint responsibility in determining the form and direction of an approaching economic collapse.

The talks resulted in the signing of an accord with a political aspect envisioning partly free parliamentary elections of the Sejm or lower house where the opposition might nominate candidates of its own for 35% of seats.* In turn, the upper house (*Senat*) would reactivate, after years of absence from the political scene, and all seats would be subject to free elections.

The elections held on June 4, 1989, gave rise to a “contractual” Sejm—the one agreed upon by the opposition and the then leadership—and began a transformation process that can be said to have had several stages. Systemic transformation took place in the years 1989–1997. There was a first stage of modernization plus consolidation in the 1998–2004 period, followed by a second period of the same overall nature post-2005.

The term “systemic transformation” describes the years 1989–1997, when there was a shift from a centralized political system under the ideology of the all-powerful Communist Party, to a democratic, free-market system.

* According to the Round Table agreements held from February 6 until April 5, 1989, between representatives of the opposition and representatives of the state and party authorities (the Polish United Workers’ Party), the Senate election would be free, whereas the Sejm election would be based on a political contract among parties, i.e., the party-and-government side would get 65% of the seats, whereas the opposition side (Solidarity) would get 35% of the seats. The Round Table agreements formed a foundation for implementing significant political changes in Poland.

The first major political and systemic reform involved the reactivation of broad autonomy at the *gmina* (local authority) level. The reinstatement of the *gminas* in 1990 put an end to five monopolistic aspects of the old Communist state (Regulski 2000). First, the political monopoly of the Communist state ended with the local elections of 1990 being the first fully democratic elections of any kind in postwar Poland. Second, the monopoly of the homogeneous state power ended, with local authorities obtaining a constitutional right to pursue many public functions in their own name. Third, the monopoly of state property ended, and *gminas* obtained legal status and received a sizeable share of state property conferred upon them by virtue of an act of Parliament. Fourth, the monopoly of public finances was brought to an end, with *gminas* receiving the right to engage in independent budgeting, which included the right to collect taxes. This is different from the situation in People's Poland, where *gmina* budgets constituted a component of the central budget fully under central administration rules for management and supervision. The fifth monopoly that ended was the state administration in 1990, transferring approximately 100,000 employees from the centralized government's administration to the local authorities.

The symbolic date for the end of Communism is 1997, when the Constitution of the Republic of Poland was adopted. In the view of some researchers, the transformation continued after that point, and was not complete by Poland's accession to the EU in 2004 (Regulski 2007). There are aspects evident of transformation before and after the EU accession date of May 1, 2004. Before March 1999, Poland was accepted into NATO, but it was the EU entry that was influential in setting the second phase of modernization and consolidation in motion.

The systemic transformation of the economy indicates a process where the old Communist system, based on state ownership, central steering, and central planning of the economy, was left behind in favor of a free-market system founded upon private ownership and freedom of establishment.

The legacy of the centralized system in operation until the early 1990s was an ineffective, inefficient economy. It was characterized by constant shortages, technological and organizational backwardness, and a flawed industrial structure. The ineffectiveness of the old central planning could only be hidden for so long. Eventually it became obvious and of enormous practical and personal significance to people. There were shortages and queues for any available goods. It was a motivation system that offered nothing to those who acted responsibly, efficiently, and with initiative. Meanwhile, it rewarded incapacity, collective egotism, and avoiding initiative-taking and standing out in any way (Golinowska 2001).

The reform process put a definitive and radical stop to all of that. Leszek Balcerowicz, the deputy prime minister and the minister of finance at the time, pursued reforms for public finances in the years 1990–1993. These reforms were known as the “Balcerowicz Plan”—a shock therapy primarily intended to rein in the hyperinflation of 1989. The result was a balancing of the market and the consequent ending of all shortages. Changes in the legal and institutional components followed. The most important changes involved privatization of existing state enterprises and the establishment of new private ones. This was a marked contrast from the People's Republic of Poland, where the state managed almost all economic activity and only a few nonstate firms existed.

To ensure that the banking system and capital markets developed in a proper way, rapid development of private initiatives and relaxed regulation helped promote competition in the market. One of the most important objectives of changing ownership, in an effort to raise the economy's competitiveness and efficiency, is to include the reorganization of ownership structure with an increased role for the private sector in the economy. This was achievable as a result of the dynamic development of small- and medium-size enterprises (SMEs) and privatization of state-owned enterprises.

Table 13.1 Breakdown of Employment by Ownership Sector

Date	Public Sector		Private Sector	
	No. Employed	Percentage of Total in Employment	No. Employed	Percentage of Total in Employment
1990	8,582,700	52.1	7,902,000	47.9
1995	5,979,700	38.6	9,506,000	61.4
2000	4,309,800	27.8	11,170,700	72.2
2005	3,354,100	26.4	9,373,400	73.6
2009	3,612,900	26.1	10,299,900	73.9

Source: GUS, *Prywatyzacja przedsiębiorstw państwowych w 2009 r.*, Central Statistical Office, Warsaw, 2010.

Across the entire period of systemic transformation, the businesses that developed most dynamically were small businesses—those employing five or fewer people (Karpińska-Mizelińska and Smuga 2000).

By the end of 1999, change of ownership occurred in 6438 state enterprises (or about three-quarters of the 8441 present in the economy at the start of privatization in 1990). Industrial enterprises were most prevalent, while a decisive role in the process was played by SMEs. The rate of change in ownership declined in later years. By the end of 2009, the process encompassed 7516 state enterprises; 1738 of these were commercialized, 2191 were subject to direct privatization, 1933 were put into liquidation for economic reasons, and 1654 were given the status of closed-down state farms (Central Statistical Office 2010).

Successes of the first years of transformation lie in the achievement of the expanded market system and the fact that an appropriate economic policy was pursued. Poland joined the group of countries departing rapidly and consistently from socialist mores by privatization of the state sector inherited from the Communists, provision for the development of new private firms, liberalization of the economy, reinforced development of new private firms, finances that were strengthened and consolidated, and a stronger currency. The states able to pursue such policies were the ones finding themselves most able to advance (Balcerowicz 2000).

The scale of the transformation is evident in the numbers of individuals employed in the public sector. They dominated at the outset, but went on to decline by 50% as the years passed. By 2009, three-quarters of all those in the workforce were in the private sector (Table 13.1).

By the end of 2009, 3,613,000 people were employed in Poland's public sector, that is, 26.1% of the country's workforce. Most of these employees were in education, health care, or public administration, in areas such as the justice system, the police, and national defense. In fact, the level of employment in the public sector has steadily declined since the early 1990s, although it still exceeds the EU average of 15.8%. However, state-owned enterprises continue to play a relatively greater role in the Polish economy than in those of other EU member states (Karpiński and Paradysz 2005).

13.3 Civil Society and Its Development

While any remodeling of a state system is a difficult process, it is clear that the possibilities democracy offers can only be taken full advantage of where citizens become active members of society,

that is, through the pursuit of the “civil society” ideal. The simplest measure of the latter is the degree to which society has become “associated” by calculating the proportion of citizens that now belong to voluntary sector organizations. As of 2009, 13.2% of survey respondents reported membership in organizations, associations, parties, committees, councils, religious groupings, unions, and clubs. This further breaks down to 10.1% of respondents who were in a single association and 3.1% who were in two or more associations. The great majority (86.8%) of Polish citizens did not belong to any organizations at all (Table 13.2).

Since 37.9% of those declaring themselves members of organizations also claimed to hold posts or carry out functions, this implies that only 5% of all Poles have any experience of holding an elected position. The 2009 research showed that approximately every fifth respondent (19.2% of those surveyed) attended a public meeting during the previous year. The proportion has remained quite constant—at around 19%—since 2003. The data make it clear that civil society’s activity in voluntary organizations remains at an early phase of development in Poland.

Citizen involvement in community or national voluntary organizations is shown to be closely correlated with the level of educational attainment (Czapiński and Panek 2009). The higher the level of education, the more likely it is that a person will found an organization, or join an existing one, as well as serve as an elected member within one. Also it is more likely that the individual will represent their community by organizing, speaking, and initiating a letter of protest or petition. Such people are less likely to show voter apathy and appear better organized in society, better able to articulate, and better able to exhibit their interests. Often they are more able to get the most out of the opportunities a democratic system has to offer.

There are many reasons, explanations, or excuses for Poles’ limited capacity to organize and work together effectively. The history of Poland’s partitioning may be referred to here. History reflects a 123-year lack of any statehood at all between the years of 1795 and 1918. Additionally, the period of monocentric communistic governments and the low level of confidence people displayed, in either those who govern them or in one another, have also played a part.

A low level of trust or confidence in politicians may reflect a lack of a professional approach to political activity in the country, as well as failures in management and governance. The *Human Beliefs and Values* study, carried out at the turn of the millennium, asked a group of citizens from 80 different societies to evaluate their current political system. Only 11% of the Poles studied described their country’s political system as “very good,” compared with 52% of Dutch respondents, 51% of Norwegians, and 22% of Belgians. In contrast, the opinion that decision making by experts, who were opposed to a government aligned with a particular political

Table 13.2 Percentage of Adults (age 18+) Associated with or Performing Functions in Organizations

	2003	2005	2007	2009
Members of organizations	12.2	12.1	15.1	13.2
Share of those who are members of organizations who also hold posts there	45.1	55.7	41.4	37.9
Post-holders in organizations as a percentage of all those surveyed	5.3	6.8	7.0	5.0

Source: Czapiński J. and Panek T. (eds), *Social diagnosis*, 2009, <http://www.diagnoza.com>, accessed February 28, 2011.

affiliation, represented the best solution for a country was subscribed to by no fewer than 88% of the interviewed Poles, as compared with 63% of Czech respondents, 51% in France, 40% in the Netherlands, 34% in Norway, and just 30% of Danish respondents (Inglehart et al. 2004).

Such a crisis of confidence has not been confined to Poland, but is rather a generalized, modern-day affliction (Sztompka 2007). Nevertheless, when, in the 2009 *Diagnoza Społecznam* (a survey of 12,381 household units, that is, 26,178 individuals, done each 2 years, representative of Polish society on the social and economic situation), just 13.4% of Polish respondents agreed that the majority of people can be trusted, the situation in this country would seem to have reached a particularly low ebb. The spread of distrust, cynicism, and disquiet is a reflection of authorities' abuses of power and corruption scandals, as well as endless signs that one-time idols and authority figures have feet of clay. These are very serious matters, because they may pave the way for populists or demagogues. They may even encourage strong-arm government tactics under slogans concerning the restoration of law and order.

Where the institutional development characteristic of civil society is concerned—and thus the number of NGOs in existence or operation—the data are as follows: as of 2009, the state register system of businesses (REGON) included 64,500 associations and 10,100 foundations. In 2007, around 3000 associations and 650 foundations came into existence. Compared with previous years, the numbers of new establishments have actually been going down since the years 2003–2005, when the averages reflected 4000 new associations and 900 new foundations appearing each year (Gumkowska et al. 2009).

When it came to the sources of funding of NGOs, there was a dramatic rise in the proportion taking advantage of public money, be it domestic or foreign—from 33% in 2003 to 56% in 2007. This of course reflects access to EU funds but also indicates increased availability of domestic funding (often matching funds). Furthermore, in 2003, the adoption of the Act on Publicly Beneficial Activity and on Volunteering provided the instrument by which rules and principles of the operation of Poland's third sector, and its public administration, could be set. The act obliges local authorities to cooperate with NGOs and lays down the forms that cooperation may take. Provisions make it clear that the cooperation will primarily involve the commissioned implementation of public tasks by NGOs, information exchange between the two parties, consultation, and the establishment of joint teams with advisory roles or the capacity to initiate activity. The basis for the cooperation is a jointly developed annual program.

To date, the experience shows that, in the absence of goodwill on the parts of both NGOs and the local authorities, cooperation will not be pursued even in the face of optimal legal foundation. After all, an act can be no more than an instrument. The key requirement is the commitment of the two parties. If commitment is lacking, then the possibilities available will at best be taken up only partly. The next provision of the act requires annual Cooperation Programs to be put into place. This requirement aims to encourage local government to cooperate with NGOs and is a means to achieve a steady generation and refinement of cooperative ventures.

The fact that the administrative institution has a Cooperation Program does not automatically mean effective cooperation. Partner relations depend very much on offices going to the trouble of consulting people. Research detailed in the "Cooperation Barometer" of 2006 shows that among the gminas and powiats taking part in the study, 81% and 89%, respectively, had adopted Cooperation Programs. At the same time, as of 2005 and 2006, only half of these programs had been made subject to consultation (between the two parties)! It was much more common for civil society dialogue to have taken place in urban gminas (in 75% of cases) or urban–rural gminas (64%) than in rural gminas (44%). The latter are the most widespread type of gmina in Poland (Gumkowska 2006).

It is worth noting how the most recent period brought a development of third-sector organizations linked with the social economy or “civil economy” movement. This connection was based on the potential for bottom-up initiatives to encourage self-organization in society (Małecka-Łyszczek and Wesołowski 2008). It is within this framework that the concept of civil-society partnership took shape, indicating an even and just division of rights, obligations, and commitments between the public sector and civil society. True partnership means joint decision making between the partners and joint responsibility for a given part of the public sphere. Under this conceptualization, citizens are not merely clients, consumers, or applicants, but are active participants who should be able to influence the content of the decisions that affect the communities they live in.

In social dialogue, as broadly conceived, there are institutionalized forays at which joint stances can be arrived at and decisions taken. Contributing to these activities are the executive authorities and organized groups in society. A well-defined example, though not perhaps truly typical of the genre, is the central-level social dialogue pursued by representatives of employers, workers, and the government. The regional/provincial level of dialogue in the voivodships in turn entails representatives of the center (i.e., the voivod), the regional authorities (i.e., the voivodship marshal), trades unions, and employers’ organizations.

The EU accession process exerted a major influence on social dialogue. As a result of solutions adopted by regulations of the European Commission, institutions that specialize in social dialogue have come into existence. These are monitoring committees within the European Structural Funds framework, of which there were more than 40 as of 2010. Over 100 representative of NGOs were sitting on them (Frączak 2010).

Forms of direct democracy are pursued at a local level, such as in village meetings, assemblies of housing-estate inhabitants, consultation fora involving gmina inhabitants, and local-level referenda. Once the second stage of the decentralization of state administration had taken place, with reactivation of county-level government in the powiats and regional assemblies in the voivodships, inhabitants at these levels also gained the right to participate at fora of the above types. Referenda are generally divided into the compulsory ones concerned with removing gmina or powiat councils or the regional assemblies (from 2002, also the *wójt*, *burmistrz*, or president holding the top office in a gmina, town, or city, respectively) and the elective kind. The effectiveness of these measures seems limited, however. In the first term of office for local authorities, only 3 out of 48 referenda calling for the dismissal of a gmina council were effective (denoting just a 14.4% success rate). Following the amendment of the Local Referendum Act regarding the dismissal of the member in a directly elected unit of local, county, or regional government, no fewer than 3/5 of those taking part in the election of the member up for dismissal was required. In the years 2006–2008, the aforementioned success rate for referenda rose to 21%.

There is a prevalent opinion that the inhabitants of Poland find it difficult to adopt methods well known in Europe and the United States where the general public is fully involved in procedures that help shape local development projects such as public hearings or public consultation processes (Michałowski 2010). Having said that, certain forms of public consultation are provided for in law and are required to take place when it comes to certain local laws, as well as local physical development plans.

In fact, however, the influence of citizens on the actions of authorities at local or central levels alike is seen to be limited. This fact is evident in the 2010 “Letter to the Prime Minister” written and signed by NGOs–activists and prominent people calling for public involvement in devising legal solutions that will facilitate effective and genuine public consultations over draft acts of law (Spółdzielnia Kooperatywa Pozarządowa Ogólnopolska Federacja Organizacji Pozarządowych 2010).

13.4 Human Resource Management

Effective management of a country requires professional, competent personnel. As of 2009, some 428,300 officials were employed in public administration. A majority, representing 57%, held positions on the three lower tiers outside of the central administration (Table 13.3). Following the breakthrough of June 1989, all political options and opinion-forming groups were of the view that one of the most important tasks for the new democratic Poland was to build a governmental administration based on civil service ideas and ideals.

Poland has a long civil service tradition extending back to the beginning of the independent Polish state. The Act of the State Civil Service of February 17, 1922, in fact offered the first-ever comprehensive regulation of a corps of officials (Górski 2002). Interestingly—and notwithstanding many amendments—this act remained in force until December 31, 1974, when it was replaced by a labor code similar to those used in all other states of the Communist Bloc. That change further weakened the position of civil servants vis-à-vis their superiors and made it much easier for the latter to exert political influence on the former.

Enacted in 1982, the Act on Employees of State Offices was supposed to raise the rank of officials and the public administration. In practice, however, the era of People's Poland was one in which civil servants were required to be loyal above all. The *nomenklatura* system of politically motivated appointments made promotions entirely dependent on such loyalty and being subservient. In such a situation, it was entirely unnecessary and unhelpful for there to be legible, cohesive, and legal regulation for the recruitment, promotion, training, and up skilling of public officials. Public administration was a rigidly formalized, low-efficiency, low-quality affair that played down the importance of relationships with citizen-applicants and was regularly associated with noncompliance with the law. In summary, the barriers to civil service development in the Communist era lay first and foremost

Table 13.3 Employment in Public Administration in Poland (in thousands)

	1999	2000	2004	2005	2006	2007	2008	2009
Public administration (overall)	307	315.3	358.2	367.7	371	379.8	387.7	428.3
Governmental and state administration	148	135.8	162.4	164.6	164.2	165.5	166.7	182.7
Administration on other tiers	159	178.7	194.9	202.2	206.0	213.5	220.1	244.7
<i>Gmina</i> (local)	132	132.8	142.3	145.6	148.5	154.3	156.4	167.7
<i>Powiat</i> ("county")	21	39.8	44.3	47.0	46.6	46.9	47.6	55.3
<i>Województwo</i> (province-region)	4.6	6.1	8.4	9.5	10.8	12.3	15.9	21.6
% share of total employment accounted for by administration on noncentral tiers	52	56	54	55	55	56	57	57

Source: Data from the Central Statistical Office (GUS), 2000–2010.

in the complete politics of public administration, the failure to heed political neutrality principles, pervasive corruption, a lack of mobility on the part of employees, and fragmentation of accountability for staffing policy (Bossaert and Demmke 2003).

Overall, the era of the People's Republic of Poland stressed officials' loyalty. It lacked rules that could have defined the system of public service in terms of either values or practice and had nothing sensible to say about the recruitment, promotion, training, or skills of staff. Political affiliations made it the norm for people to behave corruptly, that is, to use whatever authority they had for personal gain. More specific factors involved the vast, overarching influence that authoritative party members had: they could make capricious decisions on everything ranging from granting or releasing (or not) of passports to distribution of tokens allowing for the eventual purchase of a car to "arbitrary" (in fact influenced by personal connections) change up or down of one's position in the queue for a new flat in a housing cooperative. All of this was occurring in a situation where all types of consumer goods were either absent or in short supply. Small wonder that political loyalty could be counted on. It is no small wonder that those who had even a scrap of power opted to put that to work for personal gain.

After 1989, work began on the creation of a professional and politically neutral civil service in Poland. Among the most important tasks were strengthening a democratic state and creating a public sector founded upon the idea of a politically neutral civil service. Three distinct periods of this process can be identified as separated by transition periods. In the first, extending from 1989 to 1995, Poland resembled other countries in Central Europe by concentrating on economic and political reforms, while neglecting the public administration sector. However, an important task during this phase was bringing people from beyond the Communist Party's approved list or *Nomenklatura*, the individuals associated with the opposition in general and "Solidarity" in particular, and putting them into public administration.

The years of 1996–1997 brought the first of the aforementioned transition periods. The Civil Service Act, entering into force on July 5, 1996, categorized posts in public administration. It separated political positions such as the minister, deputy minister, ministerial adviser, and the voivod in the provincial part of the central government administration, and those that were subject to change with a change of government from less political positions. The remaining posts were to be politically neutral and expected to be held by the same individuals irrespective of political changes. However, at that point the procedures utilized for recruiting civil servants was unreliable. Exams open to those from one political ideology, held just before a change of government, were criticized and justifiably so. It proved possible to nominate just 115 officials in the period between October 1 and November 24, 1996, before the process was halted. The government of Jerzy Buzek then abandoned the exam system and introduced a new Civil Service Act.

It was in the wake of the 1997 elections that work got underway on a new Civil Service Act, which was passed on December 18, 1998, and came into force on July 1, 1999. The act provided for the Civil Service Corps to carry out tasks of the state in a professional, diligent, impartial, and politically neutral manner. It should also adhere to the democratic principles of Polish society. The Civil Service Corps was made up of civil service employees working on the basis of employment contracts. It also included civil service officials who were to be nominated and who worked in offices of the governmental administration, ministries, central offices, and the offices under them, such as the tax chambers and offices, maritime offices, state archives, voivodship offices, and various inspectorates at voivodship and powiat levels. Local, county-level, and regional governments and personnel were subject to separate regulations.

The post of head of the civil service, associated with a 5-year tenure, conferred upon its holder status as a member of the central governmental administration, but not the title of minister.

However, the ultimate leadership of the Civil Service Corps was in the hands of the prime minister. Each organization also came to have a director-general post, whose holder was to ensure functioning and continuity of operation, conditions of work, and general compliance with the labor law. Directors-general also directly supervised organizational units within the agency as a whole.

The 1998 act ushered in a period of the filling of managerial posts by way of competition, at least in theory. In practice, very few candidates participated in the competition, while the use of the title “acting” in reference to managerial posts became a typical way of circumventing laborious procedures.

While the competitions were supposed to guarantee the level of professionalism at directorial level, the role in practice was not about a successful search for the brightest and best, but more to “legalize” the status of those already holding the post by one means or another. Many civil servants opted not to participate in such competitions at all (Czaputowicz 2005). The widespread use of “acting” status and problems with the actual administration of competitions exemplified the weaknesses of this system. The second transition period was set in motion by the 2006 act introducing the National Personnel Reserve (NPR) (*Państwowy Zasób Kadrowy*) (Meyer-Sahling 2011). The NPR was supposed to be a group of individuals entitled to managerial posts in public administration as the positions became available. Already-nominated civil servants automatically joined, along with others holding high administrative office, at the moment the act entered into force. These ranks of NPR members were then augmented by new recruits achieving success in the series of examinations run by the National School of Public Administration (*Krajowa Szkoła Administracji Publicznej*) and later also by those with doctorates.

Naturally enough, this transitional period also came to an end. Enacted by the Sejm on November 21, 2008, the new Civil Service Act (see *Dziennik Ustaw* 2008, no. 227, item 1505) entered into force on March 24, 2009, and ushered in a third period of development for the civil service that was characterized by more pragmatic solutions. Higher posts in the public administration would now be filled by internal promotion or in some cases by competitions that given ministries or offices organize.

The act reinstated the position of head of the civil service. He or she falls into the framework of the KPRM and is supported by one of its units—the department of civil service.

As of December 31, 2009, the Civil Service Corps comprised 122,110 people as expressed in terms of full-time posts. The largest group within this was of the tax/revenue administration, with 47,252 of the posts or 39%. A majority of staff, 69.2%, within the corps were women. There was a marked prevalence of people over 30 years of age with longer professional experience. Those aged 30 or under accounted for 20.3% of the corps, while those aged 31–50 made up 53% (*Przegląd Służby Cywilnej* 2010).

Poland’s civil service system is a mixed one that nevertheless has a prevalence of features typical of the career system (OECD 2005; Bossaert and Demmke 2003). Attesting to this is the preparatory service, stability of employment for corps members, automatic adjustment of remuneration for inflation, and the *de facto* correlation between the number of years in post and compensation. The principles typical of the career system are in fact more visible in the case of civil service officials than employees (in the meaning of the act). As a result, elements of the position system will be seen in cases of open, competitive recruitment, the awarding of bonuses for competences appropriate to the given post, and the filling of higher positions by means of competitive entry.

A feature of the Polish remuneration system involves unjustified differences in pay levels between one place of work for civil servants and another, both in a geographical sense and for different ministries in Warsaw. Naturally enough, a system of this profile is regarded as unjust,

especially because it ensures different levels of remuneration in what are evidently analogous posts. Such pay differences, in some cases, are more than twofold (*Przegląd Służby Cywilnej* 2010).

The base sum in the Budget Act, such as the figure used as a basis for calculating employees' remuneration, is raised annually in line with inflation. It is then multiplied by the so-called individual multiplier to form the basis for the given member of staff's pay level. The salary may be increased by a special additional payment or a payment related to seniority that amounts to between 5% and 20% of the base sum. The multiplier system is designed to protect against excessive declines in real salaries brought about by price rises. However, at the same time, it serves to perpetuate differences in levels of pay between different ministries and offices that are rooted in the rather distant past. Assigning true value to work done is hindered and the resulting effect on the morale of civil servants must inevitably be a negative one.

Automatic pay increases take money that could otherwise be used in a more motivating manner and/or with the aim of curbing the disparities between different offices. The optimal compensation system would reflect the quality and quantity of work done.

The introduction of a process where performance is evaluated would obviously meet the expectations of the Civil Service Corps, whose members are understandably seeking fair treatment and who are struggling against all that is currently awry with management. This is especially true with regard to salaries, as well as ensuring merit alone would determine current and future pay (Rostkowski and Zieliński 2008). Such a transparent system, where the level of pay relates to the quantity and quality of work done, would enhance the sense of justice and morale of civil servants. This would result in motivation to produce good work and to work efficiently. In contrast, a system judged as unjust, such as the present one, serves as a disincentive.

13.5 Financial and Budgetary Management

The key instrument of concern to the management of public money is the central budget. However, Poland does not have a unified budget that would encompass all public revenue and all public expenditure. This *inter alia* reflects a budget adopted annually by Parliament, by its lower house or Sejm, and is supplemented by the budgets passed by authorities at each and every tier of administration. This means that the budget system actually comprises more than 2800 separate budgets from different entities. Specifically, as of 2009, there were 2983 units of local, *powiat*-level or regional administration, or unions. These organizations include 2413 *gminas*, Warsaw (as capital city and hence a city enjoying *powiat* rights), 64 other cities of the same status, 314 *powiatas* as such, 16 regional administrations in the voivodships, 174 unions of *gminas*, and 1 union between *powiatas*. The budget is a plan of revenue and expenditure for a closely defined period of time, following the calendar year in the case of Poland.

The tax generating the most revenue for public sector finances is that on goods and services, which was introduced in Poland in 1993. Value-added tax (VAT) is currently the most important source of revenue for the state budget. Combined with social insurance fund contributions, it is the most important source of income in the public finances sector. In 2005, VAT accounted for 41.9% of budget revenue, but as of 2009, this figure was down to 36.1% (*Sprawozdanie z wykonania budżetu państwa* 2010). In response to the world economic crisis, the basic rate of VAT applied in Poland (22% across the period 1993–2010 inclusive) was raised to 23%.

The corporate income tax (CIT) levied on businesses was introduced by the act on income tax from legal personalities of February 15, 1992. CIT is a linear tax whose present rate, in the wake of the many reductions made since 1992, is 19%. In 2009, the revenue from CIT was divided

between the treasury, the gminas, the powiats, and the voivodships at the following ratio: gmina level—6.71%, powiat level—1.40%, and voivodship level—14%. The amounts given to administrative units relate to the location of the payer's official registered address as recognized in law.

The tax rate for individuals in place at present in accordance with the act on income tax on natural persons is as presented in Table 13.4.

Revenue from income taxes levied on natural persons is divided between the treasury (central budget) and noncentral units of administration. As of 2009, the latter obtained 48.57% of revenue generated by personal income tax, the gminas receiving 36.72% of the total, the powiats 10.25%, and the voivodship regional administrations 1.6%.

The system by which public finances in Poland are managed attaches an important role to noncentral units on the different tiers of public administration. The significance of such units in given countries is evident by reference to the share of all administrative expenditure accounted for by such units in a given country, as then related to GDP. Table 13.5 depicts the index in question in the case of Poland and other European states in the period 1998–2009. The data allow for the identification of three groups of countries. The first group includes countries whose proportion of overall government spending accounted for by the above units as related to GDP exceeds 15%. Such countries are mainly Scandinavian, although the Netherlands and Italy are also included in the group. The second group of countries is characterized by indices in the range 10%–15% and includes the United Kingdom, France, and the countries of Central Europe (as led by Poland).

The third group of states, with index values below 10%, includes Romania, Bulgaria, and Portugal, as well as the federal states. Because of their specific features—notably the significance of their component parts, the countries of Austria, Belgium, Germany, Spain, and Switzerland are always characterized by more limited roles for local or regional government when compared with the sum total of governmental expenditure.

Poland is among the leaders in the second group and over the last 10 years there has been an upward trend in the share of overall administrative expenditure accounted for by noncentral administrative units. At 15%, the figure is the highest in any of the Central European countries.

The rational planning of expenditure is only possible where the latter is set against defined tasks that an executive body intends to implement according to the means allocated. The concept of the task budget comes from the idea of a budget as a plan for the funding of particular undertakings that seek to have effects determined in advance. When conceptualized in this way, a budget is treated as a plan for the financing of a precisely defined set of public tasks. Each of the

Table 13.4 Scale for Individual Income Tax as of 2011

<i>Level of Taxable Income (PLN)</i>	<i>Tax Levied at</i>	
<i>Above</i>	<i>Up to</i>	
	85,528	18% minus a threshold figure of 556 zł 02 gr
85,528		14,839 zł 02 gr+32% tax on income beyond 85,528 zł

Source: Ministry of Finance, Informator PIT, <http://www.mf.gov.pl/index.php?const=3&wysw=4&sgl=2&dzial=133>, accessed March 20, 2011.

Table 13.5 Local Government Expenditure as a Proportion of All Government Expenditure in EU Member States Plus Norway, Iceland, and Switzerland, against GDP (in Percentages)

Country	Year				
	1998	1999	2000	2008	2009
Denmark	31.8	31.8	31.2	33.6	37.5
Sweden	25.4	24.9	23.8	25.3	26.8
Finland	18.7	18.2	17.7	20.6	22.8
The Netherlands	15.7	15.8	15.7	15.8	17.8
Italy	13.7	14.0	14.1	15.5	16.6
Norway	18.4	18.3	16.0	13.3	15.0
Poland	9.8	14.5	13.4	14.1	15.0
UK	10.7	10.8	11.5	13.4	14.5
Iceland	11.9	11.8	12.0	14.0	14.1
Latvia	9.9	10.4	9.7	11.9	12.4
Czech Republic	9.8	9.2	9.6	11.4	12.3
France	9.5	9.6	9.7	11.4	11.9
Hungary	12.6	12.2	11.8	11.5	11.8
Estonia	9.8	9.5	8.5	11.0	11.5
Lithuania	9.1	9.4	10.5
Slovenia	7.8	8.4	8.4	9.1	10.3
Romania	3.8	4.0	4.4	9.6	10.0
Bulgaria	7.4	7.8	7.6	7.6	8.3
Ireland	11.7	11.9	12.2	7.6	8.2
Austria	9.5	9.5	9.1	7.6	8.1
Germany	7.4	7.3	7.3	7.2	7.8
Belgium	6.3	6.5	6.6	6.8	7.3
Spain	6.1	6.2	6.0	6.5	7.1
Slovakia	3.7	3.6	2.7	5.5	7.1
Portugal	5.5	5.7	6.0	6.3	6.7
Luxembourg	5.8	5.6	5.2	4.7	5.3
Greece	2.2	2.2	2.5	2.7	3.0
Cyprus	1.5	1.5	1.5	1.9	2.2
Malta	0.5	0.7	0.7	0.6	0.6
Switzerland	8.7	8.6	8.4	7.1	...

Source: Eurostat, Total general government expenditure % of GDP, Local government, <http://epp.eurostat.ec.europa.eu/tgm/table.do?tab=table&init=1&plugin=1&language=en&pcode=tec00>, October 20, 2010.

tasks is funded within a budget framework and has both subtasks and indicators of successful task implementation ascribed to it.

This was the reason Poland engaged in reforming public finances, involving a shift in the basis for spending from the traditional budget to the task budget. To that end, steps were taken to improve the efficiency of supply of public services and goods (Lubińska 2009). This should follow the traditional route of “from better policy to better politics.” In line with Polish task-budget methodology, task formulation is regarded as a starting point for the introduction of work on task budgeting. Ministries are becoming the creators of their own priority task lists that best meet their own needs in terms of generating supporting information. Structuring of the budget for a defined number of tasks and subtasks is a product of flexibility of allocation and spending of resources, stabilized classification, and clarity—between four and seven tasks are identified for each budget part. Each ministry has its own specific list of tasks.

From 2006 to 2008, the methodological and implementation work on the reform of public finances by virtue of task budgeting was carried out by the KPRM. After 2008, this responsibility was delegated to the Ministry of Finance. The deadline for introducing task budgeting was extended to 2015, even though 2011 will see an end to generating measurement based on previous estimates for all state activities, as well as work on the system of task-based reporting that will provide for better monitoring of public expenditure. A first draft of a task budget for 2013 will be extended to all government administration units in 2012 in parallel with a traditional budget. It is also planned to introduce methodologies aimed at the effective management of public finances at the central level by introducing multiannual task planning and an all-embracing measures base.

The leading institution supervising public finances is the Supreme Chamber of Control (NIK). It falls directly under the Sejm and is tasked with checking the activity of bodies within the governmental administration, as well as state organizational units, for legality, efficiency, purposefulness, and diligence or reliability. As a result, it may check upon the activity of units of administration at tiers other than the central, though only pertaining to legality, efficiency, and diligence/reliability.

In addition, inspections are carried out by regional clearing houses (RIOs) that exercise supervision over noncentral units of administration where financial matters are concerned. On August 27, 2009, the Sejm adopted a new Public Finances Act, ushering in major changes with respect to both the financing of noncentral tiers of administration and the tasks and powers granted to regional clearinghouses. Specifically, the latter was charged with monitoring the three separate, independent tiers of noncentral administration that deliver public services to local and regional communities, as well as unions or associations.

Among other things, the act brings about changes in the organizational forms of units within the public finance sector. It also introduces the Multiannual Financial Forecast (*Wieloletnia Prognoza Finansowa*) by expanding and fleshing out the financial planning perspective, designating new limits to indebtedness specific to given units of administration at local, county, or regional levels, and obliging the head of each unit in the public finance sector to introduce efficient and effective internal control by management.

13.6 Accountability and Corruption

The building of democratic institutions and a free-market economy was accompanied by such undesirable phenomena as nepotism or cronyism, and corruption. Therefore, in recent years, Poland took steps to curb these problems and raise the level of accountability of officials and politicians for their actions.

Table 13.6 Poland's Place in Corruption Perceptions Index Rankings, 2003–2011

	2003	2004	2005	2006	2007	2008	2009	2010	2011
Ranking	64	67	70	61	61	58	49	41	41
Index	3.6	3.5	3.4	3.7	4.2	4.6	5.0	5.3	5.5
No. of States	133	145	159	163	180	180	180	178	182

Source: Data from Transparency International, Corruption Perceptions Indexes 2003–2011, Transparency International, <http://www.transparency.org/research/cpi/overview>.

In 2006, Transparency International's Corruption Perceptions Index put Poland in 61st place (on 3.7 points), which is better than in 2005, when the country came 70th out of 159 countries, with 3.4 points (Table 13.6). This result was further improved upon in 2007 when Poland again placed 61st, but this time out of 180 states, and with an index value of 4.2. There was a 0.8-point improvement in just 2 years. Above all, the downward trend of the index was halted. The causes of the improvement require analysis of the government policy that led to the progress.

The action taken by the government was rather *ad hoc* in nature. This was unavoidable since no broader and longer-term strategy for anticorruption activity was drawn up and there was a lack of consistency to the statutory measures introduced. An example is the exclusion of whole groups of officials from the principle that declarations of assets be disclosed. A classic example of *ad hoc* activity, though ostensibly a promising step, is the establishment of the Central Anticorruption Bureau (CBA). To a lesser extent, anticorruption activity targeted conditions that might reduce corruption, such as simplification and streamlining of regulations, increased transparency of procedures, and the elimination of situations in which officials act on a discretionary basis. Furthermore, it was not uncommon to hear that a better and more effective idea than the CBA would involve the building of a civil society in Poland and instilling a general climate of trust and public accountability (Jarosz 2006).

When it comes to limiting corruption, it is the activity of NGOs such as Transparency International Polska that often stands out or the huge effort being made more widely in society under the slogan *Przejrzysta Polska* ("a Transparent Poland"). The number of gmina or powiat (local or county-level) authorities declaring their participation in the action to propagate transparency of public activity in local or county-level government was 775, or approximately one-third of the Polish total.

Greater transparency of activity by members and bodies of the public administration is assured by the Act of September 6, 2001, on Access to Public Information. Under that act, public authorities and other entities carrying out public tasks are required to make public information available. They must do so in the form of a unified system of pages in a teleinformatic network called the Bulletin of Public Information (*Biuletyn Informacji Publicznej*). While it was assumed that the BIP would provide access to information on the way in which the public finances sector operates, the content of the information available at different organizational units has proven to be very inconsistent (Demczuk et al. 2004).

The next step in extending the level of disclosure of public administration activity and the state of public finances should include an obligation for members of public authority to pursue a more active information policy through the introduction of a requirement that documentation of the activity and intentions of the authorities in question should be fully comprehensible to the public.

A key feature of civil servants is their political neutrality, that is, there can be neither public manifestation of political views nor any membership in political parties. They should also keep their distance from all political influences or pressures that might arouse suspicions of bias. There is thus an essential need to draw a line between the roles of politicians and civil servants and maintain it. The situation is complicated by the presence in politicians' offices of colleagues who have failed to win a seat in Parliament and are now bent on exerting an influence on civil servants. There are voices in favor of an increase in the numbers of politicians' bureaus, with these being staffed by specialists from different fields. Proponents maintain that expert advisors of this kind are an essential element of a healthy public administration since they help safeguard against the infiltration of the Civil Service Corps by the "political factor" mediated by cronyism.

The Civil Service Act of 1988 introduced provisions on civil service ethics. One of the primary duties of the civil service "official," a nominated corps member, is the impartial pursuit of assigned tasks. Moreover, such a civil servant may not be guided in his/her activities by individual or collective interests, but only by the public good and the national interest. An important element of the law is that there should be a transparent system where civil service employees are recruited, selected, promoted, and rewarded based on objective criteria that are the same for all employees, is intelligible, and is transparent to the public.

The Civil Service Code of Ethics introduced in 2002 serves as a standard of conduct developed from the civil service core values in Article 153 of the 1997 Constitution of the Republic of Poland denoting professionalism, diligence, impartiality, and political neutrality. According to the code's provisions, officials are to act in line with the rule of law, treat all recipients of public services impartially, and work diligently, reliably, and professionally. They should display loyalty to their office and to superiors, only declining to carry out instructions where that would result in a crime or unlawful activities. Furthermore, they should notify their superiors of cases where they receive instructions that are not in line with the law. They should extend equal treatment to all participants in Polish administrative affairs and not be subject to any influences arising out of personal commitments. They cannot require, expect, or accept, either directly or indirectly, any material benefits. Furthermore, after leaving the service, they may not take up employment with enterprises whose matters they have monitored or otherwise dealt with previously. Discussions over the need to amend the code culminated in the adoption of a new Code of Ethics by Donald Tusk, the prime minister of Poland (*Zarządzenie* 2011).

The code offers a precise definition of the principles underpinning the civil service. Those relating to legitimacy and legal basis are notable: the rule of law; an enhanced level of confidence on the part of the citizen vis-à-vis public administration, the protection of human and civil rights, objectivity, openness, and transparency; statutory confidentiality, professionalism; accountability as regards both activity and failure to act; the rational management of public means and assets; and openness and competitiveness in relation to recruitment on merit. Notwithstanding this more detailed approach taken in the code, it is clear that particular articles are in need of further and fuller interpretation, with at least case law for particular circumstances and situations being developed.

A division into spheres that are either political or bureaucratic (in the scientific sense of the latter term) was introduced into law by the 1996 Act on the Organization and Means of Operation of the Council of Ministers and on the Scope of Activity of Ministers. The starting point for this was a belief that the efficient operation of the administration requires the separation of political administrative functions from functions of the executive administration, while setting parameters for political and civil service spheres to work together on the professional implementation of government tasks. The act offers a legal basis for the establishment of politicians' offices and bureaus

within the Polish administrative framework. The remits of such offices are set by the internal regulations of each ministry, with the scope and level of detail varying. A specific role is played by the political office of the prime minister, which is also the prime minister's advisory and analytical team (Kulesza and Barbasiewicz 2002).

The way in which the civil service side of operations will be organized is set out in the Civil Service Act. It affirms the civil service's objective of safeguarding the professional, diligent, impartial, and politically neutral implementation of state tasks.

The systems of recruitment for members of politicians' offices and for civil servants are quite different. The staff at politicians' offices are recruited for the time their political superior, a minister or deputy minister at a ministry or a voivod heading up a provincial administration, remains in office. In contrast, civil servants are employed by an open recruitment process, usually for an indefinite period.

The desire to achieve savings in public administration led to a reduction in the numbers of political advisors (Derdziuk and Obłucki 2002; Czaputowicz 2007). The model involving politicians' offices gives "structure" to the cooperation between the political sphere and the civil service. It prevents the worlds of politics and the civil service from becoming isolated from each other. The civil service should have a place within the political system, help reinforce it, and ensure that it is less vulnerable to disruption. Officials' contacts with the political class help prevent the civil service from turning into a professional corporation intent on guarding its privileges.

An appropriate relationship between politicians and civil servants is one of the key issues of public administration. The method of filling higher administrative posts should ensure the appropriate level of professionalism of those in managerial posts. It should take into account the need for a subordinate and superior to enjoy the kind of confidence in one another that is essential if a government's manifesto is to be implemented. The politicization of public administration may encourage political party influence at the expense of civil service professionalism. At the same time, excessive depoliticization could weaken the electorally approved leadership of politicians that is necessary if reforms are to be brought in and pushed through.

Researchers are often of the opinion that the Central and Eastern European countries (CEECs) concentrated too much on economic and political reforms in the 1990s while neglecting reforms of public administration and the civil service sector. This allowed excessive politicization to take place. The appropriate function of the state requires organizing the relations between the political and civil service spheres so that civil servants remain objective, professional, loyal, and ready to implement the political program of the government. Such a desirable state of affairs can be encouraged by the establishment of politicians' bureaus and the legal regulation of their functioning.

The Polish constitution introduced a provision where ministers "direct a particular branch of government administration or perform tasks allocated to them by the Prime Minister" (Polish Constitutional Law 2000, 64, art. 149). This wording emphasizes the political responsibility of a minister for the state of affairs in a given sphere, but not for the carrying out of administrative tasks. The minister should influence program-related activity in his or her ministry, as well as activity connected with budgeting, legislation, and personnel. In pursuing these tasks, the minister is assisted by deputies, the political office, and members of the Civil Service Corps. Deputy ministers stand in for the minister when it comes to the management of spheres of public administration and at times in Parliament. In turn, political advisors take part in program-related work and assist ministers in their contacts with the electorate, parliamentary groupings, organization in society, trade unions, the media, and foreign partners.

The organization of the civil service sphere is detailed in the Civil Service Act. This provides for the achievement of a constitutional principle that the Civil Service ensures the professional,

diligent, impartial, and politically neutral implementation of tasks of the state. The civil service should carry out the orders of those holding power at the given time, but also should also serve the interests of the state and proceed in line with the principles of the democratic state. This includes loyalty toward the constitution and the government, impartiality, professional integrity, professionalism, and political neutrality.

The Polish system is characterized by a large number of regulations on conflicts of interest and the separate nature of regulations applying to different categories of public officials. This includes parliamentarians, councilors, judges and prosecutors, and officials of the central governmental or noncentral administrations. The many exceptions found in the regulations undoubtedly weaken it. For example, in the provisions dealing with delegation to supervisory councils, it is hard to identify the principles and separate them from exceptions or exemptions.

13.7 Conclusions

Since reform of the systems of governance and public management is incomplete, huge challenges await public administration in Poland. Unfortunately, EU accession did not prove enough of a stimulus for a further makeover and streamlining of the structure of public institutions to take place. The result is a perception that Poland is one of the most backward member states of the EU when it comes to the relevant reform process. Poland lacks effective strategic planning mechanisms. It needs simple procedures that would underpin the delivery of public services, provide efficient planning, and offer resource management such as budgetary means, human and material resources, the broad use of the newest ICT, and rapid and effective reaction to new challenges and international conditions.

The challenges facing Poland's public administration should promote efforts to guarantee its efficiency of action. The old model of an administration based on bureaucratic rationality was eliminated in most European countries and models of managerial public governance replaced it.

Coordination of the flow of information between different ministries or organizational units of given public institutions should be streamlined. When compared with other EU member states, the Polish system for information exchange and the circulation of documents between departments—based as it is on correspondence on paper—appears anachronistic, slow, environmentally unfriendly, and frequently prone to failures. Analysis of information and knowledge management systems from selected EU member states show interdepartmental systems that function in closed IT networks of the *extranet* type to circulate documents. Such systems are in operation in Finland, where the Ministry of Finance was responsible for its implementation, as well as in the Czech Republic. This served as a justification for installing a system in Poland that would allow for the efficient flow of information between departments, offices of the central members, and voivodship offices.

Another element worth considering in the next few years is the transparency of public administration. Citizens' confidence in government suffers when state officials have conflicts of interest as they make decisions in respect of public affairs. In order to enhance trust, most OECD countries have introduced procedures that require decision makers, notably presidents, prime ministers, members of government, and members of the legislature, to formally disclose their private interests and connections. OECD experts view the requirement to disclose situations capable of producing conflict of interest as a breakthrough in policy to prevent corruption in the public service.

Furthermore, units of public administration should be capable of shaping policy by introducing strategies and programs in a manner in line with a professional policy-making process. When a public problem is identified and needs to be solved, its limits are determined, alternative solutions

are considered, and options weighed. A choice of action is made, implementation follows, measures are pursued, and, perhaps most importantly, an evaluation takes place at the end. What is needed is not merely the skill to identify problems, but also an ability to plan appropriately and carry out an assessment of what has been done. It is also necessary to engage in *ex ante* and *ex post* evaluation, to prepare an implementation process professionally, and to be effective in managing that process through to its effective conclusion. So, how is public policy formed in Poland? It would be logical to follow the description of an optimal policy-making process with what happens in reality.

One of the foundational underpinnings of the professional policy-making process is a modern and flexible system for the preparation, enactment, implementation, and enforcement of optimal legal regulations. Poorly devised regulations that have not been thought through may prove too burdensome or costly, or may even have effects that are the opposite of what was intended. In addition, an effective regulatory system should allow for the systematic monitoring of compliance, and for the *ex post* estimation of costs and benefits with a view to the continuous and effective identification of regulations that need to be put in place, improved, or consolidated.

To improve the regulatory environment, a key aspect that must be addressed is the Regulatory Impact Assessment (RIA) process. A properly functioning RIA system provides for the identification of the main opportunities and threats that new regulation may offer. The impact assessment is done at an appropriately early stage of the legislative process, thereby assisting with decision making and ensuring that the potential effects of activity on the part of administration are also evaluated. It is the experience of most highly developed countries that the introduction of an RIA system improves both the quality of laws made and the efficiency and effectiveness of the operation of state institutions.

In advance of Poland's 1996 accession to the OECD, the country committed itself to adopt and abide by the March 1995 recommendations of the organization's council of improved quality of regulation. However, a system of RIA only began to be introduced in 2001, when a requirement for an RIA was introduced into regulation by the work of the Council of Ministers. Unfortunately, the current RIA practice in Poland, particularly as presented in RIA statements, may not be treated as a valuable source of evidence-based policy and crucial elements of the policy process.

In post-1989 Poland, the civil service became an important element underpinning sociopolitical change in the country. The new challenges it faces are steadily increasing requirements for the public administration's professionalism and creativity, the accountability of state officials, and action in accordance with the law. Therefore, all of these values need to be introduced and instilled comprehensively. Then they can be the subject of ongoing monitoring. Most importantly of all, the values come directly from the Civil Service Corps's core principles, as outlined in the constitution. It requires state tasks to be implemented in a professional, diligent, impartial, and politically neutral manner.

On the one hand, politicians should manage the administrations under them efficiently, especially communicating the strategic direction of the work their officials do. They should be able to demonstrate the results of pledges from their victorious parties that have proven popular at the ballot box. On the other hand, civil servants should enjoy a guaranteed right to pursue their statutory task of delivering impartial and professional public service with the continuity of employment that it requires and access to professional training. They should maintain faithfulness to ethical principles and an appropriate distance from ongoing political rivalries.

Increased interactions between the public and private sectors of recent years present new challenges. While transparency in public life increases and citizens gain better and fuller access to public information, the increased interest from the media and NGOs is leading to modifications of policy on preventing conflicts of interest.

Over the last two decades, different governments have made more or less successful attempts to achieve personnel reform in the governmental administration. Those observing the process built and perfected by the Polish civil service may be forgiven for suggesting that the greatest challenge is the need for mechanisms to safeguard administrative employees from improper interpretations of the role they play in the operations of the country. They are not the political groupings heading up successive governments.

Completion of public finance reforms will be crucial to the achievement of modern governance of public tasks and public sector expenditures. It is important that mechanisms are introduced to facilitate a concentration of resources in selected spheres. This could be achieved by a cohesive combination of the system of long-term financial planning and the objectives and priorities designated at the level of overarching development strategies. In a system of this kind, the allocation of means should be subject to fuller evaluations than simply compliance with objectives and effectiveness of implementation. Indicators of efficiency and effectiveness for different goals and priorities detailed in the budget should be available. A system for monitoring and evaluating the use of public money should be put in place. It would examine budgeting tasks to ensure that objectives are met. At the same time, there would be a safeguarding of the cohesiveness of the system assessing the implementation of budgetary tasks. Values for the measurement indicators would be included in the strategic documents.

There is a particular field of irrationality and opacity in the system of public finances that must be considered. It is quite possible for different public investments and new developments to be funded without any determination of whether they would help achieve the broader objectives of the country as a whole. If the effectiveness of strategic management is to be raised, then it is important that all expenditures in the public finances sector be reviewed. It is also important that it is linked up with the purpose of an unequivocal way of funding objectives. Also needed is integration of rules for the development of programs, the settlement of accounts, and a concentration of resources in areas deemed of greatest importance to Poland's prospects for successful longer-term development.

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Chapter 14

Public Administration in Mongolia

Tsedev Damiran and Richard Pratt

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Mongolia represents a principle example of a “least likely” case of democratization due to its unfavorable economic, geographical, and historical preconditions (Fish 1998; Fritz 2002; Landman et al. 2005). At the same time, scholars consistently recognize Mongolia’s remarkable success in regard to democratization (Fish 1998, 2001; Severinghaus 2001; Fritz 2002; Landman et al. 2005; Promfret 2000; Sabloff 2002). How did this highly unlikely candidate for democratization turn into the most remarkable outlier in the post-Communist world? In this chapter we review

transitional processes relating to public administration and in the process shed some light on the “strange case” of democracy in Mongolia.

14.1 General Overview of Public Administration

14.1.1 Context of Contemporary State and Administration

The Mongolian constitution provides for a semipresidential parliamentary state. On the one hand, the president, who is the head of the state and a symbol of national unity, is directly elected by the people for a 4-year term. On the other hand, there is a nominated cabinet of ministers headed by the prime minister that is responsible to the Parliament. The president is eligible for reelection only once. He or she can be removed from office on the basis of the findings of the Constitutional Court for violation of the constitution or abuse of power in breach of the oath, or by an absolute majority of the Parliament. In this system a president is too weak to emerge as a dictator, but strong enough to check the power of the legislature and the government. This power-sharing semipresidential system is commonly considered by scholars as one of the reasons that democracy has been consolidated in Mongolia, despite the absence of preconditions for it (Fish 2001; Fritz 2002).

The one-chamber Parliament of Mongolia, the State Great Hural, is the highest organ of state and consists of 76 members. The electorate directly elects members of the Great Hural for 4-year terms without term limits.

The majority party in the Great Hural nominates the prime minister, who then forms the government for a 4-year term. The prime minister, in consultation with the president, submits to the Great Hural proposals on the structure and composition of the government. The government acts as the highest executive authority of the state and is accountable to the Great Hural. The government may step down by itself or may be dissolved by the Great Hural.

In 2011, the government consisted of 11 ministries, 12 regulating agencies with legislation-enforcing and standards-enforcing functions, and 30 implementing agencies with policy-implementing functions. In addition, there are seven independent agencies and commissions accountable to the Great Hural.

Mongolia is a unitary state and its territory is divided administratively into *aimags* and a capital city. The *aimags* are subdivided into *soums* and *soums* into *bags*. The capital city is divided into districts and its districts into *horoos*. Governance of these local units combines the principles of both self-government and central government. The self-governing bodies of the local units consist of representatives of the citizens or general meetings of citizens, and the state's power is exercised by the governor of the administrative and territorial units.

Judicial power is vested exclusively in courts. The judicial system consists of the Constitutional Court, Supreme Court, and courts of *aimags*, the capital city, districts, and *soums*.

14.1.2 History of Administration and Administrative Culture

14.1.2.1 Administrative Structure

Beginning as early as the Hun Empire (209 BC–AD 453), Mongolian states were structured as divided federations of states or territories—central, east, and west. Later, when the empire grew, Mongolia was divided among the sons and grandsons of Chingis Khan, and there were several states under one empire (AD 1300–1400). Each territory or state was divided into *Tumen*, or ten thousands, and then further subdivided into *Myangat*, *Zuut*, and *Aravt*, units of thousands,

hundreds, and tens, respectively (Tseveendorj 2004). This system reflected how many soldiers could be supplied by a given population in time of war (Dalai and Ishdorj 2004).

The Manchus, in order to reduce the Mongols' tendency toward individualism and independence, and thereby prevent them from organizing themselves and conspiring against the Chinese Empire, divided Mongolia into numerous small administrative units, without central governance. The *aimag* assemblies' chairmen and deputy chairmen were appointed by Beijing. Before 1691, the *Khalkh*, or outer, Mongolia, had only seven *khoshuu*. Manchu increased this number to 86 in 1760 (Ochir and Enkhtuvshin 2004).

During the Soviet regime, in order to effectively spread communist ideology, manage socialist enterprises and cooperatives, and deliver central government services to nomads, units of party and administration were established in every corner of the country. It also was common practice to establish administrative units within new government enterprises in order to reach the workers ideologically and deliver common services to them and their families. This overlap of party and administrative units and socialist enterprises and cooperatives was a defining characteristic of socialist Mongolia.

14.1.2.2 Policy-Making Processes

Customarily, the *Huraldai* (Assembly), a body of khans, princes, generals, and other high-ranking officials, made all the major decisions for the Mongols, including decisions about succession, international relations, and war and peace (Dalai and Ishdorj 2004). Succession was not automatically transferred to one of the sons of the khan. If the khan selected his son or brother as his successor, it had to be discussed by the *Huraldai*. Because states in Mongolia historically have been loose confederations of competing tribes, only commonly recognized and accepted decisions were able to unite them for shared goals. To keep tribes united, major decisions needed to be made by the *Huraldai*.

During the Manchu period important decisions were made by the Manchu Empire in Beijing, not by the *Huraldai*. A Beijing-based government agency called *Ikh jurgan* or Mongol jurgan, through its offices in Khuree, Uliastai, and Khovd, ran the affairs of Mongolia, appointed the leaders of provincial assemblies and military commanders, and awarded titles and ranks.

Under the Soviet regime, the Peoples' Great Hural was formally the highest power and legislative organ of the state. Governing bodies of administrative and territorial units were *Hurals* (Assemblies) of representatives of the citizens of respective territories. The members of the *Hurals* were selected by the party without the consent of electors and elected without competition. *Hurals* became ceremonial gatherings of selected people to approve documents already prepared by the Communist Party. The party structured its organization not only to parallel the state structure, but to be almost the same as the social and economic structure. It recruited permanent membership all over the country and organized divisions throughout society, including the police, army, intelligence, state enterprises, and cooperative entities. The party itself was guided and managed by the Soviet Communist Party.

14.1.2.3 Personnel Policy

Traditionally, leaders were chosen on merit and enjoyed the respect of those they led. Since historically Mongolian states were military in nature, "merit" was primarily military success. Mongols in turn would only follow leaders they respected, rather than obeying orders without question (Kennedy 2002). When command of units was based on heredity, commanders could be replaced

if they were not up to the job. Favors were distributed without attention to social origin or ethnic groups. The relationship between the leader and his comrades-in-arms was frank and informal (Ratchnevsky 1992).

The traditional Chinese way of dealing with the Mongols was to give them presents, bribes, and payments. The Manchu not only adopted this Chinese way, but they turned it into a system of rule. It included granting titles for payment and giving bribes to Mongolian princes and other loyal leaders. In this way loyalty and corruption became the method of governance under Manchu control.

Loyalty was critical during the Communist regime. The main characteristics of loyalty included faith in class struggle, anticapitalist views, rejecting the idea of private property, belief in a Communist future, membership in the Communist Party, acceptance of Soviet–Mongolian friendship, atheism, and the ability to place common interests above private. Although personal character, professional skills, and capability to perform job duties were taken into account in selection and promotion, they were secondary in relation to these overriding criteria.

14.1.2.4 Relations between State, Religion, and Ideology

Traditionally, Mongols recognized the supremacy of the state over the church and religion. They did not impose any single language, religion, or other form of lifestyle or cultural norm on the conquered. Peace and prosperity could be achieved only by placing all religions, languages, and cultures under the power of the state and then freely practicing them. In this respect, Mongols were unusually liberal minded and open to freedom (Weatherford 2004).

The Manchu Empire aimed to make the “unruly nomads” docile using religion and so facilitated the spread of Buddhism. Although Buddhism became the principle ideology of Mongols in this period, the power of the state, in the hands of the Manchu Empire, was still dominant.

Under the Soviet regime, communism became the only accepted ideology. All others, including religions, were not tolerated. The Communist regime established an antiliberal and intolerant state, but there was no other choice in separating from China and gaining independence. Independence, the Mongols’ highest priority, was paid for with a totalitarian and authoritarian regime under Soviet control.

14.1.2.5 Trade and Communication Policy

Historically, trade was the principal determinant of peace and war between the Mongols and the northern Chinese. The Mongol nomads needed a few key products from the Chinese, particularly grain and cloth. When they were able to obtain these goods peacefully through trade, stability along China’s frontier was possible. However, when they were denied ready access to these essential commodities, war was almost a certainty (Perdue 2005). The Mongol Empire maintained trade routes across the empire and stocked shelters with provisions interspersed every 20–30 miles. The stations provided transport animals as well as guides to lead the merchants through difficult terrain (Dalai and Ishdorj 2004; Weatherford 2004).

Manchu control turned Mongolia into one of the most commercially isolated and economically backward nations in the world, with virtually all trade connections and official relations with China. Under the Soviet regime, it became part of the Communist system, with predominant relations with the Soviets, limited connections with other members of the system, and isolated from the rest of the world. According to 1988 data, 96.6% of foreign trade was within the socialist

system, with 81.8% with the USSR. Trade with Western countries occupied only 3.3% of trade (Boldbaatar et al. 2004).

Administrative culture in contemporary Mongolia is diverse and mixed, reflecting the country's rich traditions and each of these historical periods—nomadic empire, Manchu vassal state, Communist satellite, and democratic post-1990. The long period of nomadism, which still is widely celebrated as a source of identity and cultural symbols, bestowed an emphasis on adaptability, flexibility, and pragmatism. The administrative culture of the nomadic empire was based on meritocracy and tolerance. The Manchu period widely practiced corruption and servility. The Communist era left an embrace of central authority, institutional rigidity, equality, and egalitarian values. The 20 years after 1990 added the liberal democratic principles of administration, including all of the *e*'s (economy, efficiency, effectiveness, ethics, equalities, and equity), as well as other civil service reform objectives such as transparency, accountability, and the power of citizens (Damiran and Pratt 2008).

These differing legacies coexist and compete with each other inside the country's administrative apparatus, a coexistence and competition that is made feasible by the pragmatism and capacity to blend that is so characteristic of historic and modern Mongols. Taken together, these differing impulses seem poised to take these institutions and the country in different, perhaps incompatible directions, directions that will be shaped by future internal and external challenges and opportunities.

14.2 Political and Economic Reforms

Perestroika and *glasnost* in the Soviet Union and other Eastern European countries at the end of the 1980s made major social and economic changes both obvious and possible in Mongolia. The Communist Party took positive steps such as openness to criticism and contracting out of cooperative livestock to herders, but these were too little and too late.

Although the Communist regime carried out many negative deeds in Mongolia, including political and religious repression, nationalization, limitations on liberty, and imposition of Soviet policy, it also has rightly been credited for some important achievements. Its most appreciated accomplishment is the role the Soviet regime played in the independence struggle against China. Furthermore, Mongolia not only experienced industrialization under Communism, but under the Communist regime a national economy, administration, and education and health systems were created. The Mongols had reasons to appreciate the Communist regime as they also had reasons to hate it.

While official communist doctrine included a theory of eventual demise of democratic capitalism, there was no established Western theory about the crisis and collapse of the socialist system (Elster et al. 1998). In Mongolia, ideas about the social transformation of a socialist regime did not provide any guidance regarding the transition from socialism to a free market. On the contrary, they were intended to reform and improve the socialist regime itself. Critics of the regime and leaders of the democratic movement were fighting for “releasing communism from deformation” and “building real socialism.” The main platform of the Mongolian democratic movement was democratization of the political system of the regime, honoring human rights and freedom, and the creation of a socialist market (Boldbaatar et al. 2004).

Democratization of the political system, however, led expectedly to liberalization of the economy. Thus the shock triggered by *perestroika* turned into “shock therapy” of the entire social system.

14.2.1 Transformation of Political System

In 1990, popular street demonstrations for democratization of the political regime generated the formation of new political parties, forced the resignation of the Politburo of the Mongolian People's Revolutionary Party (MPRP), and led to amendment of the constitution, establishing a transitional structure for the new state.

The first democratic election, in 1990, was more than just the experience of a new multiparty competitive election. All organizations, including government, enterprises, cooperatives, political parties, military organizations, and civil society had the authority to nominate candidates to the Great Hural. The new constitution drafted by the Baga Hural, under a commission headed by the president and adopted by the Great Hural, was a reflection of the popular will, not the result of ideological maneuverings of the political parties.

The process of drafting the new constitution continued from 1990 to 1992 and engaged almost the whole adult population. The draft was discussed in 7,000 organizations, involving 900,000 people from a voting age population of about 1 million. A total of 200,000 opinions on the draft were submitted (Boldbaatar et al. 2004). The Great Hural adopted the constitution on January 13, 1992, after 76 days of intense debate. No international consultants were actively involved until the end of the process and no single political party or figure dominated the process. This popular ownership of the new constitution is one of the reasons that Mongolians were supportive of a democratic transition, even in face of the prolonged and deep economic crisis that followed (Fritz 2002).

Mongolia, having a large number of reasonably developed political parties, established a multiparty competitive political system that has maintained peaceful transfers of power over six successive parliamentary elections (1990, 1992, 1996, 2000, 2004, 2008, 2012) and five presidential elections (1993, 1997, 2001, 2005, 2009). Despite overwhelming electoral victories in the 1990 and 2008 parliamentary elections, the MPRP organized a coalition government with the main opposition parties. This policy of accommodations and compromise, set up from the beginning of democratization, involved norms of tolerance on the part of the ruling party and patience on the part of opposition, and greatly contributed to the success of democracy (Fish 1998; Fritz 2002). This tolerance and patience reflected the fact that opposing parties had more common ground for compromises than differences for confrontations.

If the Communist system was a savior of national sovereignty, after collapse of the Soviet regime it became a potential threat to it. The remaining Communist regime was neighboring China, and if Mongolia continued its socialist and authoritarian regime then its closest ally and patron would be Communist China. Mongolians understood from their historical experience that backing from only one of two powerful neighbors would be dangerous for national independence. Western powers were not interested in Mongolia's sovereignty at the beginning of the twentieth century when Mongols had been struggling against China for their independence. By the 1990s, Mongolians had a chance to obtain Western support, if they promoted liberal democracy. While, in the beginning of the twentieth century, Mongolians had no choice except to endorse the socialist regime to retain independence, now, once again, they had no choice but to promote liberal democracy to ensure continued sovereignty. Almost everyone, including former Communists, understood this (Fritz 2002).

Liberal democratic principles come not only from Western influence but also from Mongolian history and political culture (Sabloff 2002). Therefore, in spite of giving some credit to former Communists for rescuing national sovereignty and to opposition groups for democratization, Mongolians do not identify any specific leaders, party, or government with national independence, statehood, and liberal democratic processes. The absence of a father figure or dominant party that might reinstate an authoritarian regime is another advantage for the country's democratization (Fish 2001).

14.2.2 Economic Transition

In 1990, Mongolia was completely integrated both politically and economically with the Soviet Union and with the Council of Mutual Economic Assistance (CMEA). Soviet aid accounted for as much as 30% of the country's GDP. With the collapse of the socialist system and CMEA, Mongolia's socialist economy also collapsed. Aid ceased, supply chains broke, and the favorable trade terms within the socialist system ended. This led to estimated losses equal to about half of the gross national expenditure (Promfret 2000). GDP in the period 1990–1993 shrank, declining almost 10 points in 1992 alone. The average inflation rate, which was negative in the 1980s, reached 325.5% in 1992 and 183% in 1993 (NSOM 1994).

A continued socialist economy may have been theoretically possible only in the case of substantial assistance that would substitute for Soviet aid. Even if that assistance was possible, for example from socialist China, there was no political condition that would support such assistance, or the continuation of a socialist economy. At the same time there were no economic, social, cultural, and political conditions for quickly creating a market economy. An abrupt shift to a market economy might have been attempted with extensive assistance from the West, but for almost 2 years, 1990 and 1991, no significant technical assistance supported the economic reform efforts. Moreover, economic transformations required far-reaching political and institutional reforms in order to change administrative and regulative structures and functions. Such reforms needed more time and resources to develop. Mongolia had a very isolated, extraordinarily small, exceptionally overstretched, and extremely poor market, which not only did not facilitate an immediate shift to a market economy, but did not facilitate any market development at all.

In this critical period, the breakdown of the economy created uncertainty. Former Communists, more concerned with social, economic realities and adversities in the transition, were leaning toward a step-by-step transition to a market economy, while the reformists, inspired by market economy textbooks and backed by international consultants, were promoting an immediate transition using a “shock therapy” approach. The accommodativeness of Mongolian politics created an approach to economic transition that combined both perspectives (Boldbaatar et al. 2004).

This mixed approach to economic development was later formalized in the new constitution as “an economy based on different forms of property (that) ... recognizes all forms of both public and private property” (The Constitution of Mongolia 1992, art. 5, Ch. 1 and 2). Public property was not seen as an evil that needed to be liquidated as soon as possible, and private property was not viewed as the only desirable form of property, to be established at any price. From the rubble of the socialist economy, the coalition government began to establish a mixed economy through liberalization of price and trade, introduction of unified floating exchange rates, abolition of subsidies, privatization of state sector assets, enterprise restructuring, and the reform of banking and financial systems.

Mongolia's price liberalization started in January 1991 and was declared completed in September 1996. At that time the government announced that it had freed the price of all remaining products and services, including utility prices (Boldbaatar et al. 2004).

In May 1991, the Mongolian government abolished the state monopoly on exports and imports, and allowed all economic entities, including individuals, to engage freely in independent foreign trade activities. In 1997, Mongolia joined the World Trade Organization and abolished 15% customs duties on all imported goods, but reintroduced a lower 5% uniform import tariff in 1999.

In January 1991, the government set privatization in motion by establishing the Government Privatization Commission (GPC) and stock exchange. In the initial stage a voucher system was adopted to facilitate privatization. All citizens received three red vouchers that could be used to

buy shares in small state and cooperative assets, and one blue voucher that could be used to bid for shares in the joint-stock enterprises formed out of large state enterprises. Privatization was carried out in separate phases, first with agriculture, then small enterprises, followed by large enterprises, then housing, and finally land.

In 1991, the government owned an estimated 75% of all property. As a result of privatization and the creation of new private assets, the private sector became the prevailing sector in the economy by 1995, and by 2004 produced 76% of GDP (NSOM 2005).

In 1990–1991, the Mongolian government dissolved the state bank and established a two-tier banking system, with the central bank implementing monetary policy and other banks providing commercial services. In July 1991, the exchange of national currency into foreign currency was freed and in May 1993, Mongolia switched to a floating exchange rate system.

Privatization and price and trade liberalization were undertaken without much analysis and consideration of long-term and short-term social impacts. Moreover, price and trade liberalization and privatization took place without even the most rudimentary institutions of a free market. Institutional arrangements that give substance to property rights lagged far behind the progress of private ownership. Privatization of state-owned assets and liberalization of the economy have contributed to greater unevenness in income distribution, increasing the polarization between rich and poor, and unemployment and poverty (Nixson and Walters 2006). The absence of free market experience and mechanisms for dealing with transitional social problems such as unemployment and poverty left a shortage of social services and caused public turmoil. As a result, despite impressive progress in privatization and liberalization, the government remained significantly involved in the economy.

Murrell and others observed that although Mongolians were committed to a market economy and free prices, dominant opinion, including most liberal political parties and the new private sector interest groups, was in agreement that some kind of price controls were desirable (Murrell 1995; Murrell et al. 1996). In 1991, the government required all economic enterprises, public and private, to comply with rigid price procedures, including registering prices with “price setting bodies” and establishing within enterprises price committees that would include representatives of buyers and of government agencies (GOM 1991).

Ad hoc flexible price controls existed not only during the initial stage of the transition to a market economy, but continued in regard to prices on some basic products and services. The prices of air passenger transportation; coal and coal transport; and utilities including electricity, water, and heating are to this day regulated by the government. Even the price of wheat is established every year as a result of negotiation between farmers, the flour industry, and an agency associated with the Ministry of Agriculture. Furthermore, whenever prices of consumer products such as milk, flour, bread, meat, sugar, and rice rise, public outcry pressures the government into *ad hoc* action, including investigations of monopoly, collusion, or “reasonability.”

A study conducted by Peter Murrell in 1993 concluded that private property rights were absolutely unclear and that detailed government intervention into affairs of privatized companies was appropriate (Murrell 1995). Even today, protection of private property rights in Mongolia is considered weak. In the 2010 Index of Economic Freedom, Mongolia’s property rights score is 30, which is 30 points lower than the overall economic freedom score for Mongolia (The Heritage Foundation).

Recently, Mongolia was discovered to possess extensive reserves of mineral resources. Many of these and other valuable assets remain in the hands of the state, including big mining companies, air and railway transportation, and utility companies. The 2009–2010 Parliament passed legislation that reinforces its involvement in strategic sectors such as mining. This is illustrated by the

Oyu Tolgoi investment agreement, in which the government of Mongolia will acquire a 34% interest in the Oyu Tolgai LLC, with the right to take 50% ownership within a year after the initial agreement expires (State Great Hural 2009). Located in the South Gobi region, Oyu Tolgoi is one of the world's largest copper–gold mining complexes and is expected upon completion to account for more than 30% of the country's GDP. The government also is planning to establish a state enterprise to own, control, and manage Tavan Tolgoi, one of the world's largest unexploited reserves of coking coal deposits, which has attracted the interest of global mining companies (State Great Hural 2010, 2012). According to the resolution, 50% of shares would belong to the enterprise, up to 20% would be distributed to all Mongolian citizens, up to 10% would be sold to Mongolian companies for the initial share price, and the remaining 20% would be sold on the international market. All these steps will significantly increase government involvement in the economy.

After undergoing a difficult period of transition, the country has slowly emerged from crisis to a smooth recovery. The negative GDP growth from 1990 to 1993 was reversed and there was 6.3% growth in 1995, 10.6% growth in 2005, and 9% growth in 2009. These changes were mainly due to world price increases in primary Mongolian exports, such as copper, gold, and cashmere, as well as infrastructure development, construction, and growth in the service sector. Inflation was reduced from 325% in 1992 to 53% in 1995 and remained in single digits between 1998 and 2003. Mongolia's economic freedom score is 60.0, making its economy the 88th freest in the 2010 Index of Economic Freedom (The Heritage Foundation).

For supporters of shock therapy, Mongolia's transitional economic policy was not always aggressive enough, which slowed down the transition to the market. But for supporters of the step-by-step approach, that same policy was too aggressive and caused too many negative social consequences. When there is no predetermined and predominant trajectory of economic development, it does not matter how well the policy matches with the ideals of "shock therapy" or a "step-by-step approach." What matters is whether the policy is democratically generated from economic conditions and political interests. Even if it is not the best policy, the advantage of accommodative democratic policy making is the support it creates from all parties involved. Too much resistance and harming the continuation of economic reform is the disadvantage of pushing through the supposedly best economic policy without making accommodations for opposing approaches. One of the reasons for the success of economic reform in Mongolia is the combined approach that accommodated the divergent ideas of opposing groups.

14.3 Civil Society and Its Development

"Civil society" in contemporary Mongolia refers broadly to "the arena outside of the family, the state and the market where people associate to advance common interests" (State of Civil Society in Mongolia 2004–2005, 14). It includes a variety of organizations and entities that work to shape social, political, and economic life, but, crucially, are expected to be independent of government. These range from political parties, indigenous and international nongovernmental organizations (NGOs), and the media to business and apartment owners' associations and community groups.

This idea of civil society is quite different from that of the period from 1924 to 1989, when a network of quasi-governmental organizations were used to further the political, economic, and cultural goals of the socialist regime. This began to change in the late 1980s as prodemocracy groups and voluntary organizations emerged. The first democratic civil organization, the Mongolian Democratic Union, was established on December 10, 1989, several months before the

formation of any democratic political party. Shortly after, at the beginning of 1990, two other democratic civil organizations—the Democratic Socialist Movement and New Progress Union—were established. These civic movements pushed for democratization in Mongolia and each of them created political parties in March 1990. Many organizations, such as youth and pensioner associations and chambers of commerce, continued over from the socialist period and maintained their connections with the state and/or the MPRP.

The development of NGOs in the 1990s was supported financially, technically, and ideologically by a variety of foreign and international organizations, such as the Asia Foundation (United States), Konrad Adenauer Foundation (Germany), U.S. Agency for International Development, United Nations Development Programme (UNDP), National Endowment for Democracy, AusAID, and Global Fund for Women. This support was essential for the adoption of the NGO Law in 1997, which further facilitated the formation of new NGOs (State of Civil Society in Mongolia 2004–2005). In 2000, there were over 1800 NGOs registered with the Ministry of Justice and Internal Affairs, and by 2007 this had grown to 5300 (Beck et al. 2007). Outside observers viewed the 1997 law as particularly enlightened and favorable to the development of civil society (Severinghaus 2001).

The expansion of civil society took place in the context of building “a civil and democratic society with full adherence to the principle of respect for human rights and the rule of law” (Davaadorji 2000, 4). This is underscored by language in the preamble of the 1992 constitution that committed the nation to “the supreme objective of building a humane and democratic civil society in the country.” This makes clear that civic life, and not government or economic activity, was given the highest priority as Mongolia entered its transition. To what extent, two decades later, does it appear that the hopes and ambitions for civil society and civic life have been realized?

A 2010 Freedom House study again placed Mongolia among the world’s free countries (Freedom House 2011). The 2009 Global Integrity Report, however, gives Mongolia an overall rating of “very weak,” with a score of 57 on a scale of 100. It is useful to break this down into civil society’s key components. It scores highest on voting and citizen participation, which gets a “strong” rating. This reflects continued high voter turnout, the relatively fraud-free elections since 1992, and the fact that close elections have resulted in shared governance rather than breakdown (for details on specific elections, see, e.g., Landman et al. 2005).

Citizen participation is uneven however. A 2010 UN study indicates that Mongolian women participate in decision making at a much lower rate, despite their high level of education and active participation in the labor market and civil society. Women’s share in the national unicameral Parliament dropped from an already low 11.8% in 2000 to 3.9% in 2008. Money plays a large role and here election rules come into play. In 2008, political parties required potential candidates to pay MNT 20 million (US\$14,630), even though that would not necessarily mean they would be nominated to run for office. This is difficult for most people, and especially for women, who usually do not control economic resources. While less involved in formal politics, women have played an active role in the development of civil society, leading the most prominent human rights and prodemocracy NGOs (United Nations Country Team 2010).

The 2009 Global Integrity Report gave civil society organizations (CSOs) a rating of “moderate.” A 2005 study compared the degrees of influence wielded by different segments of Mongolian society. Dominant political parties, the media, and the large Buddhist organizations were viewed as the most influential, followed by advocacy and public education NGOs; business associations and chambers of commerce; research analysis and training institutions; organizations that came out of the socialist period, such as trade unions; and social movements. Sports and leisure clubs, community groups, art and culture organizations, smaller political parties, and professional associations

were seen as the least influential (State of Civil Society 2004–2005). The report concluded, “civil society in Mongolia is still in a nascent stage of development and operating in a largely disabling environment, but is driven by rather strong positive values” (State of Civil Society 2004–2005, 8).

Another study, also undertaken in 2005, surveyed 600 randomly chosen respondents, half of whom lived in Ulaanbaatar and half in randomly selected *aimags*. Ninety-two percent indicated that they knew little to nothing about CSOs. The authors suggest that this may be why only 29% have confidence in CSOs, as compared with, for example, 69% having confidence in the president. Only 15% believed that all or most CSOs were independent of public officials and politicians, and only a small percentage felt they had been personally benefitted by the work of CSOs. On the other hand, 49% believed CSOs had some influence over public policy making and half felt CSOs were making a contribution to the country in areas ranging from engaging the public in discussion of common concerns to communicating government positions on important issues (Beck et al. 2007).

A 2007 study sponsored by the World Bank pointed out that although there are more than 5300 NGOs, only 50 to a few hundred are estimated to be active (Beck et al. 2007). In a survey conducted in the capital of Ulaanbaatar, more than half of the CSOs indicated that they did not have a vehicle to use and more than 10% operated without office space. These statistics likely would be more dramatic if the survey had included more organizations outside of Ulaanbaatar (Beck et al. 2007).

The media received a score of “moderate,” while access to information received was seen as “very weak.” As noted above, Freedom House included Mongolia among the world’s freest countries in 2009. Media censorship was banned by the 1998 media law. Between 1999 and 2002 it rated Mongolia’s press as free, after which it was judged to be partially free (Landman et al. 2005). A 2008 household socioeconomic survey showed that 63.6% of Mongolians believed they could express their views freely. However, the same survey showed that only 28.5% believed the media was independent of political, economic, and financial interests (United Nations Country Team 2010).

This brief survey suggests that the answers to the question of whether the hopes and ambitions for civil society and civic life have been realized are mixed. Mongolia’s laws are supportive of civil society activities, but laws in the areas of most concern for those activities are not well enforced. CSOs are plentiful, active, and diverse, but the public is not aware of their work and many have few resources. Civil society represents an important independent voice, but many CSOs are not sufficiently independent of government and politicians or of foreign donors.

A number of suggestions have been made for how its role might be strengthened. These include reforming the tax code to give tax breaks for donations; ensuring that more CSOs outside of Ulaanbaatar are funded; revising the media registration system to strengthen independence; revising the nation’s secrecy laws to create greater public access to information; supporting independent journalists; using diverse CSOs as sources of information or evaluators of information put out by the government; and in general looking for ways for civil society activists to cooperate with government officials in promoting a market-based economy, democratic practices, and an equitable distribution of societal resources.

14.4 Human Resource Management

The collapse of the Communist regime left Mongolia with a less-regulated (“deregulated”) and too “flexible” system of governance. To achieve some degree of stability and predictability, it developed a rule-bound traditional public administration system, drawing inspiration primarily

from countries such as Japan, Korea, and Germany. From 1990 to 1997, progress was made in establishing a career-based civil service system, a Weberian type of bureaucracy with central control over the classification of positions, remuneration and other personnel decisions, and relatively permanent positions. A number of official documents—the new constitution of 1992, the Management Development Programme and Law on Government Service of 1994, the State Policy on Reforming Government Processes and the General System Structure of 1996—became the basis for it (much of this and what follows is taken from Damiran and Pratt 2008).

The government adopted and implemented hundreds of rules and regulations to implement the traditional system. As an example, to establish and enhance the professionalism and stability of the public service, the Government Service Council adopted rules for entrance examinations for administrative posts in 1995. Administrative officials throughout the country have been selected according to those regulations since then. To strengthen professionalism and enhance the skills of civil servants, the Government Service Council organized centrally planned training.

Beginning in 1997, efforts to develop a traditional system of administration were overlaid with successive reform initiatives, drawing inspiration from countries such as New Zealand, Australia, and the United States. The initiatives sought to adopt practices more compatible with a market society. In 2000, the government initiated a participatory approach to governance through the UNDP's Good Governance Project. In June 2002, the Parliament passed the Public Sector Management and Finance Law (PSMFL) which reflected many of the features of New Zealand's financial management reform (Laking 2000). The new public management (NPM) reforms consisted mainly of legislated multiyear strategic business plans, negotiated performance agreements, output-based budgeting, reporting on the basis of performance indicators, full accrual accounting standards, managerial authority over inputs, capital charges on net assets, and annual audits of all government organizations.

The PSMFL devolved most control over inputs, including personnel decision making, to managers in line agencies, with comprehensive strategic planning processes and accountability for performance. The government created quantitative and qualitative guidelines for performance measurement. Every organization and employee is expected annually to have specific measures for every task they perform. Since different measurement criteria are needed for different times and conditions, there is a great need for training. This presents huge challenges.

The managers of government organizations contend that performance agreements are evaluated on the basis of measurable products and outcomes. However, as several studies discovered, the criteria they use are not well established. The reality is that job duties and day-to-day tasks are commonly defined as the measurable products that have been agreed to and measures are quantitative but do not give much attention to quality (Academy of Management 2003, 2007; HLSP 2004).

Government service is classified into four main categories by type of employment: political, administrative, special, and support, out of which administrative and special employees form the core civil service. The support service that consists of doctors and teachers accounts for the largest proportion of overall government employment. Females account for 61.9% of the government service jobs but hold only 20% of the elected and appointed positions. Diverging from the beginning of the transition from socialism from 1990 to 1995, today government sector employment appears to have become more competitive and the positions are viewed as prestigious and comparatively stable (c.f., Government Service Council 2010).

The remuneration of government administrative employees consists of the salary and supplementary payment for special working conditions, length of government service, rank, and scholarly titles or degrees. The scale and rate of salary and amount and procedure for supplementary payments due to government administrative employees are defined by the government. Bonus

pay was introduced to the government employees' remuneration system in order to achieve some relationship between pay and performance. The average compensation for government employees has been increasing gradually. By June 2007, their average monthly salary was three times higher than in 2000 and the average compensation in the public sector outpaced average private compensation (World Bank 2009, vol. II). However, by January 2010, the average monthly salary for a civil servant was about US\$190 (Government Service Council 2010). For that year, the National Statistical Office calculated that the minimum amount needed by one person living in the capital of Ulaanbaatar was US\$75 (NSOM 2010). (These figures are based on the average exchange rate for 2010.)

Officials interpreted NPM reforms as a performance-oriented improvement of the traditional system of public service, but not a replacement of it. Even though the government intended to sustain the main principles of traditional administration, elements such as professionalism, neutrality, protection and stability, and central coordination became very vague.

The politicization of core government services continued to increase during the transition period. Political parties and politicians exploited the civil service as their own resource, and many public officials, especially senior officials, worked for the narrower interests of a political party. Most, if not all, senior administrative officials were members of the governing body of the main political parties. In addition, it was common practice for core government officials to actively campaign for candidates in elections (Damiran and Pratt 2008).

Extensive political patronage has undermined the professionalism and stability of the public service. Patronage appointments to government positions, without an appropriate civil service selection process, became widespread in the year following an election. In 2005, following the 2004 general election, the number of appointments to senior-level positions more than tripled compared with the previous year (Government Service Council 2007). Illustrative of the problem, 32.5% of administrative officials believed that someone who had relatives and acquaintances in a senior position would be promoted, and 28% thought those who had a party affiliation would be promoted. Only 10% of administrative officials considered qualifications as a factor in promotion and only 7% assumed good performance would lead to promotion (Academy of Management 2005).

In order to eliminate these negative practices and strengthen political neutrality, professionalism, and stability in the civil service, in May 2008, the Parliament passed the Amendment Law to the Law on Government Service. The Amendment Law suspended party membership for core civil servants, prohibited their participation in election campaigns, banned temporary appointments, established requirements for senior post appointments, and increased the authority of the Government Service Commission by enhancing its independence and granting it the authority to overrule administrative decisions and appointments of senior managers that appear illegal.

These amendments are not likely to bring major change to the NPM-based initiatives. Overall, there is no indication that reinforcement of the principles of traditional administration will lead to the government stepping back from modern governance reforms. The combination of traditional and NPM approaches has led to a mixed model of administration (Damiran and Pratt 2008). Specifying the balance of elements from the different models is the biggest challenge in the ongoing evolution of Mongolia's public institutions.

14.5 Financial and Budgetary Management

Before 2003, Mongolia's public finance management system was fragmented and lacked any effective control over execution of the budget. The adoption of the PSMFL in 2002 changed

the legal and institutional environment for public finance, containing all the elements of a good public finance management system. Revenue and expenditure management were centralized and budget execution strengthened. The Ministry of Finance is responsible for collecting almost all revenue and providing approved budget appropriations directly to the service delivery units. Mongolia now has an internally consistent legal framework for public finance and budget, a medium-term and annual budget planning framework, a single treasury account for centralized cash management, an integrated debt management information system, and a countrywide government financial management information system for budget execution, monitoring, and reporting.

The Ministry of Finance is responsible for overall budget planning and execution, as well as revenue policy and administration, while the line ministries are responsible for policy planning and execution for their sectors. Local authorities are accountable for performing general administration. The fiscal year in Mongolia starts on January 1 and ends on December 31. The Parliament approves the budget by December 1. Under the performance budget framework, resources are no longer supposed to be allocated exclusively by inputs (such as salaries, operations, capital expenditure), but should be based on planned outputs (public goods and services). However, as studies show, this does not always happen and government agencies still use old methods for making their budget proposals using line item budgeting methods (Damiran and Pratt 2008).

Internal audits mainly focus on compliance with rules and regulations. Government organizations submit monthly financial reports to the portfolio minister and quarterly output delivery reports to the portfolio minister and the Ministry of Finance. External audits of financial statements of all government bodies are carried out by the Auditor General's Office.

A modern tax system was introduced from 1993 with adoption of the General Tax Law (GTL) and other tax laws, including corporate income tax (CIT), personal income tax (PIT), value-added tax (VAT), vehicle tax, immovable property tax (IPT), gasoline and diesel fuel tax, customs duties, stamp duties, and land fees. Tax system reforms took place from 1998 to 2003, mainly focusing on changes of tax rates. Radical tax reform was adopted in 2006, raising the threshold for the dual CIT structure to 3 billion MNT (approximately US\$2.3 million), with rates of 10% and 25%; reducing the VAT rate from 15% to 10%; and instituting a flat PIT rate of 10%. Consequently, Mongolia has become a low-tax country, creating a positive environment for investment.

Income taxes are the largest source of tax revenue in Mongolia. In 2007, income tax provided 43% (PIT 5%, CIT 15%, and windfall tax 23%) of total tax revenue, 35% of total revenue and about 14% of GDP. VAT is the second most important tax and generates about 18% of total tax revenue and 6% of GDP. Social security contributions are another substantial source of revenue and provide about 11% of total tax revenue. Excise duties create about 9% of total tax revenue, 7% of total revenue, and 3% of GDP. Customs taxes provide about 7% of total tax revenue and 2% of GDP. About 94% of total customs revenue comes from import duties. Nontax revenues constitute about 19% of the total revenue of Mongolia (NSOM 2008).

The General Department of National Taxation (GDNT) collects both national and local taxes, and deposits. Citizen tax compliance in Mongolia is not high and voluntary tax submission has been one of the challenges. Tax evasion and the underreporting of labor costs are widespread phenomena. According to one survey, over a third of firms appear to be underreporting their sales and on average firms report just over a quarter of their true labor costs in an effort to reduce the tax burden (World Bank 2007). In order to improve the level of tax compliance and increase the taxpayer base, the tax administration has been increasing its activities related to tax collection, establishing taxpayer service centers, organizing a taxpayer survey, conducting tax audits and investigations, and punishing tax defaulters.

Compared with the previous decade, Mongolia is experiencing dramatic economic expansion, higher revenue, lower public debt, and a fiscal surplus. The government debt fell to 40% of GDP by 2010, from 87.3% in 2003 (IMF 2010a). The budget changed from a deficit of 6.1% of GDP in 2000 to a surplus of 8.1% of GDP by 2006. Foreign funding contributions decreased from more than half of the budget before 2006 to 15% and 28% in 2007 and 2008, respectively (World Bank 2009). Mongolia's budget is extremely dependent on mining revenues. Driven by a boom in mining and high world mineral prices, public revenue has more than doubled in 5 years, reaching 40% of GDP in 2007 (World Bank 2009). Spending continues to increase at a rapid rate as well, however. The additional revenue earned from the mining boom has mostly been used for increasing spending on infrastructure, social welfare, and public wages. A relatively high level of spending in the social sectors, including in education, health, social security, and social welfare, differentiates Mongolia from other countries with similar level of GDPs. In 2010, according to the International Monetary Fund, Mongolia's GDP per capita was about US\$2200, which was equivalent to US\$3720 in purchasing power parity terms (IMF 2010b).

Mongolia's financial and budgetary management is overly centralized and relies heavily on revenue from mining and the prices of gold, copper, and coal in international markets. On the other hand, there is a need to address extreme poverty and provide traditional social sector benefits including education, health, and social securities. The government has taken steps to balance the budget since 2009. One approach is to disconnect each year's public spending decisions from that year's revenue from the mining sector and directly transfer all revenues from the mining sector to a special fund for stabilization and saving purposes. Measures that increase budget execution flexibility, such as carrying over savings and budget planning at the local level, are another option.

14.6 Accountability and Corruption

As noted above, Manchu rulers used bribery and loyalty as the main mechanisms of governance of provincial Mongolia. Although patronage was believed to be practiced commonly during the Communist period, corruption was not a major issue. A democratic structure of governance and a relatively high degree of electoral accountability were established during the transition, which was presumed to provide accountability and contain corruption.

Corruption became a reality at the end of the 1990s and caused enormous challenges for the democratic development of the country. In 1999, Transparency International scored Mongolia's corruption index 4.3 on a scale from 1 to 10, ranking it 43rd on the country list, equal to Poland, Uruguay, and Jordan. In 2004, it scored 3.0, equaling Senegal, and moved down to 82nd. In 2007, the score was 3.0, with a rank of 99th, then in 2009 it scored 2.7 and was placed at 120th, equal to Armenia, Kazakhstan, Bolivia, Ethiopia, and Vietnam (Transparency International CPI 2009). According to Asia Foundation surveys since 2006, Mongolians have constantly listed corruption as one of the most critical problems facing the country and more than 80% of the population believe corruption is commonplace. The land, mining, and customs authority, judicial sector (judges, prosecutors, and police), and political parties were perceived as the most corrupt institutions, and doctors, teachers, administrators, and police were seen as the most frequent bribe recipients (Asia Foundation 2009, 2010). It is revealing that Global Integrity gives the Anti-Corruption Law a perfect score of 100 ("very strong") at the same time that the Rule of Law and Law Enforcement is "very weak" (56 and 54) (Global Integrity Report 2009).

One of the main reasons for the increase in corruption in the period of transition was the loss of old moral values and ethics, replaced by an emphasis on money and material wealth.

The collapse of the regime also brought the collapse of egalitarian living conditions and social protections. Since no one had accumulated material wealth, there was a rush to obtain it in any way possible. In a small society with a nomadic culture, where customs of mutual obligation to family and friends are highly prized, corruption became intermingled with clientelistic and nepotistic practices.

Another reason for the flourishing of corruption during transition was rents from the redistribution of the shared assets of the Communist regime. All the wealth, resources, and services of the regime were common, including state assets, public land, mineral deposits, education, health care, and social security. All of these needed reregulation, redistribution, and privatization. The privatization of state assets and redistribution of common resources was regulated and executed by public authorities, which gave them enormous but barely regulated and nearly unaccountable power. Redistribution took place mostly on a “first come first served” basis and officials used it for private gain. This included privatizing or licensing to themselves or their relatives, artificially lowering prices, and rent seeking. As a consequence, the main sources of potential rents, such as privatization, exploitation of natural resources, and foreign aid were perceived to be the most corrupted (Fritz 2007). In addition to this stable and consistent corruption in susceptible sectors such as customs, judiciary, and administration, corruption evolved along with the development of sectors with the most potential financial gain. Thus, after 1990, corruption first flourished with the privatization of state assets and distribution of foreign aid, followed by privatization of public lands, mining, and the banking sector in later years (Casals & Associates Inc. 2005).

Since the distribution of wealth not only depends on market mechanisms but also is heavily influenced by the regulations and the decisions of authorities, the desire for unaccountable power became strong at the end of the 1990s. The controversial constitutional amendments of 2000, widely viewed as a political deal, significantly limited horizontal accountability between branches of government. The amendments permitted members of Parliament to simultaneously serve in the government cabinet, reduced the president’s power to block a party’s nomination for prime minister, and significantly lowered the required minimum number of Parliament members needed to consider a session valid. The amendments enabled a few party leaders and special interest elites to control legislative and executive authorities simultaneously and substantially decreased executive accountability to the Parliament.

The politicization of society, especially the judicial and administrative systems, is another reason for the expansion of corruption. Political parties became one of the least trusted public institutions in Mongolia, ranking in the top three for degree of corruption in a 2010 survey (Asia Foundation 2010). Politicians “buy” an election nomination by making a contribution to the party fund and then spending substantial amounts of money in the run for office. The only way to recoup their “investment” is by seeking private benefits from the public office they attain. Politics and business become increasingly merged, and it is a widely accepted fact that most members of Parliament and the government have business interests in the sectors they are supposed to oversee.

In 1996, the Parliament passed the country’s first anticorruption law. Unfortunately, the law was never enforced properly but instead was treated as an empty declaration. As a result, corruption became a risk-free “business” and continued to flourish. In 2002, the government adopted the National Anticorruption Program and established an Anticorruption Commission in every government organization, each having specific action plans for tackling corruption. Parliament ratified the United Nations Convention against Corruption (UNCAC) in late 2005. In 2006, Parliament adopted a new Anticorruption Law and established the Independent Authority against Corruption (IAAC). In August 2007, the Criminal Procedures Code was amended, and the IAAC was added to the list of state bodies authorized to conduct investigations. Since then, the IAAC

has made a visible effort to investigate corruption and has incarcerated a number of middle- and senior-ranking officials on corruption charges. The IAAC introduced a “zero tolerance policy” in order to encourage public intolerance and strengthen personal responsibility. It also established a corruption telephone hotline to receive information and complaints from citizens. In 2009, the IAAC collected the third cycle of Asset and Income Disclosure forms, and 99.8% of public officials submitted those forms on time (IAACM 2011).

Although Mongolia’s score on Transparency International’s Corruption Perceptions Index has continuously declined, government efforts to fight corruption are showing some signs of a positive impact. As a result of seven surveys over a 3½-year period, the Asia Foundation concluded that public perceptions of corruption as a major problem for the country fell from 28% of the population in 2006 to 8.5% in 2009. The percentage of households paying a bribe fell by nearly half over the same period, from 28% to 15%. Public intolerance of corruption is increasing, with more than 51% of respondents saying that they would not pay a bribe, up from 34% in 2006 (Asia Foundation 2009).

Despite this positive trend, corruption remains one of the major problems, and the government must make a special commitment to actually implement laws and regulations and discourage corrupt behavior at all levels, as well as to increase intragovernmental checks and balances, and promote transparency, accountability, and effective citizen oversight.

14.7 Conclusion

The transition from socialism to liberal democracy and a developing free market economy is not always an evolutionary process predetermined by certain preconditions, as advanced by some scholars. Transitions are full of uncertainty (Buyandelgeriin 2008), and their trajectories depend on contingent conditions, leadership, and choices made in specific situations. Mongolians had the political will and collaborative leadership, made the choices, and managed to use the contingencies in favor of democratic consolidation. They remained loyal to democratic procedures and free market ideology despite conditions not favoring them, even when the result did not match expectations.

In addition to this, ethnic homogeneity, the Buddhist religion, and nomadic culture all were favorable, or at least were not obstacles (Fritz 2002; Sabloff 2002). This is supported by Sabloff’s comparative analyses of modern-day political culture and the liberal democratic principles of the Great Mongolian Empire of the thirteenth century. He argues that Mongolians’ inspiration for liberal democracy comes not only from Western influences, but also from their history and political culture. In that sense some important preconditions were favorable for Mongolia’s democratic development.

One of the striking features of the transitional period that began after departure of the Soviet Union was the high degree of consensus, despite having heated differences (Fish 1998). In 1990, consensus was based on a deep commitment to maintaining the country’s independence, as well as a shared hope of building a rich, prosperous, and fair society. Both of these goals forged levels of agreement among different groups. Equally important, the agreement to, at all costs, protect what seemed a fragile independence acted to restrain and downplay conflicts that could have made the country appear weak. This consensus, coupled with the absence of a market environment or abundant natural resources to attract aggressive outside interests, contributed to a stable and relatively open transition (Fish 2001).

Mongolia’s circumstances had changed substantially by 2011. First, national independence seems assured. Neither Russia nor China had shown any interest in threatening it and, moreover,

relationships had been established with other nations, including the United States, Japan, and Korea. Second, the country now was widely known to possess extensive reserves in coal, gold, copper, uranium, and other resources of great interest to industrial or industrializing economies. Third, the hope of building an ideal democratic society encountered the realities of free market and democratic processes. Each produced significant unexpected and disappointing consequences, including unemployment, poverty, corruption, and even unfair and unjust practices.

The sense of security about national independence, dissatisfaction with new social realities, distrust of leaders and of political parties, and the prospect of attaining great wealth have created a situation unfamiliar to Mongolia while raising questions about what path the country will follow. On the one hand, there is less need to play down conflicts and to peacefully reconcile different values and interests. On the other, the pursuit of potentially enormous wealth by interested foreigners and influential business groups, well prepared to lobby for what they want, increases the stakes for conflict.

New circumstances raise questions of whether consensus and consolidation of democracy will continue into the future or conflicts will develop in the context of greater differences in wealth and power. Possibly foretelling this, in 2008 the MPRP formed a coalition government, despite its overwhelming electoral victory. This was done to facilitate joint efforts to create and implement policies so that big mining projects would more broadly benefit the people of Mongolia. The MPRP's decision to form a coalition suggests there will be consensus in some form. Today the critical issue is whether that consensus will echo the emphasis on cooperation and stability that characterized the post-1990 period or turn into collusions of wealthy and powerful party elites from both sides.

In this context, Mongolia's public administration to date must be viewed as successful in its transition. At different points in the transition different administrative models have been emphasized: a traditional careerist system, NPM, participatory models, and good governance—with none providing a final solution. The result has been a mixed model of public administration. This mixed model has been successful because of the ability to keep different models in balance with one another, coupled with the pragmatism to use this balanced approach to address real-world issues. Significant challenges remain however. One of them is the continuing high degree of centralization, especially in financial and budgetary management. The question here is when, how, and to what extent decentralization will occur. Another challenge is public sector corruption. Corruption in administration is fueled by the combination of low salaries and ample opportunities generated by political and economic conditions. Here the question is what mechanism can be used to increase accountability in these circumstances. The third challenge is how public administration deals with the growing poverty and inequalities in wealth that have accompanied the transition. Today a large portion of the population is below the poverty line. The ability to implement policies and programs that reduce poverty and the worst effects of inequality will be a critical measure of long-term success. The inability to do this will undermine successes in other areas and is likely to raise basic questions about the political and economic systems. The question here is how wide is the window of opportunity and how long will it stay open.

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Chapter 15

Conclusion: Public Administration in Former Soviet States—Two Decades of Different Ways

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The chapters in this book examined 13 different post-Communist countries and illuminated their development in key public administration areas such as administrative culture, corruption and ethics management, civil service and human resource management, and civil society since the demise of the Soviet Union in 1991. These countries are diverse in terms of their pre-Soviet administrative and historic legacy, culture, democratization, and economic and political development, but share a common legacy of decades of Soviet rule. All countries pursued

different paths in building a modern administrative state and reached different outcomes. In what follows, we juxtapose the contemporary, distinct public administration systems these countries have built and note governance trends and patterns that have emerged in the last two decades.

15.1 Administrative Culture

The case studies that make up this book demonstrate that there are two trends in the administrative culture guiding the conduct of public administrators in the countries discussed: on the one hand, the administrative culture is legalistic in that bureaucrats tend to follow the letter (but not always the intent) of the law; on the other hand, they also subvert laws when deemed necessary (for instance, if a superior explicitly or implicitly orders them to do so or for personal gain). Such duality can be explained by the Soviet system of *nomenklatura*—the power of the Communist party to appoint individuals to key governmental positions. Members of the *nomenklatura* were beholden to their “patrons”—party leaders who appointed them—and were expected to loyally serve them (Gregory and Stuart 1986). In return, members of the *nomenklatura* were granted privileges and access to consumer goods beyond the reach of the rest of Soviet society. As a result of what were often long-term relationships between patrons (the appointers) and clients (appointees) in the *nomenklatura* system, and in order to sustain these relationships and further advance (or maintain) their careers, clients had to subvert the rules if doing so achieved the results desired by the patron. At the same time, the Soviet system required law abidance from “the masses” and average *apparatchiks*.^{*} Tolerance of (or active participation in) this double standard seems to have been retained by civil servants in some of the societies discussed in this book.

A legalistic mind-set is common among bureaucrats in the European post-Communist countries that were influenced by Germanic legal tradition. Ványolós and Hajnal clarify that this type of administrative culture is characterized by “the presence of a large and distinct body of administrative law with a dominant role of law and legalism in the way the government thinks and acts.” In Chapter 12, they report that such “legal thinking is a central component of the Hungarian public administration.” Similarly, Sootla and Lääne explain, “Estonians are rather negatively predisposed toward strong central authority (that which is more characteristic of Anglo-American cultures), but at the same time they prefer the structure and codification of everyday rules of conduct (i.e., working tasks and routines) as conferred by a central governing body, which is more characteristic of Continental European–Germanic culture” (Chapter 8).

Paradoxically, the European Union (EU) requirements for accession strengthened the legalistic culture among public administrators in the EU countries discussed in this book. Pivoras (Chapter 7), for instance, argues that strengthening legalistic public administration in Lithuania was necessary because

during the accession and integration process a significant amount of EU legislation (*acquis*) was transposed and adapted to the national legal basis of Lithuania. Many new regulatory agencies were created in Lithuania to ensure the enforcement of the

^{*} *Apparatchiks* were members of the Communist Party in midlevel positions of bureaucratic or political responsibility. They did not enjoy the same lavish benefits as members of the *nomenklatura*.

transposed legislation (Nakrošis 2003). When stressing the importance of “the rule of law,” the EU did not consider the impact or side effects of introducing and enforcing EU law in a country (or countries) that had developed mechanisms of legal formalism and manipulative legal behavior during the Soviet period.

He continues, “Several years after entry into the EU, the attitude that prevailed among Lithuania’s civil servants was that knowledge of legal regulations and legal control is the foundation of public administration.”

Despite the legalistic administrative culture prevalent in the countries in the region, there is widespread practice of undermining or selective enforcement of laws when deemed necessary or beneficial for public administrators or their superiors. Ványolós and Hajnal report that in Hungary laws are often “not implemented, as they were not even meant to be implemented . . . but the real content of the law is decided in the implementation phase, in which, factors such as state actors’ different interpretations of the law and conflicting micropolitical interests and selective/illegitimate law enforcement (or the lack thereof) play a central role” (Chapter 12). Thus, it appears that there is some residual influence or hybridization of Soviet administrative culture.

Moreover, in Central Asia, and to some extent in Mongolia and Georgia, clans and tribes play an important role in political and social life. As Ibrayeva and Nezhina (Chapter 4) report, “in Kazakhstan during pre-Soviet times, power was based on traditional nomadic norms of seniority and values of loyalty passed from one generation to another. Politics was the art of family connections and loyalties. . . . During the Soviet era, tribal connection did not disappear and continued to play an important role in political and social developments outside the party-state system.” Similarly, in Kyrgyzstan, former Presidents Akayev and Bakiyev, eventually overthrown by popular revolutions, were accused of handing out high-level governmental positions and benefits to their immediate and extended family members, as well as members of their clans from their home provinces. As an analyst of Kyrgyz politics noted, “since informal relations within the government still prevailed over the legal ones, Akayev’s administration and members of his family were able to impose an informal control over distribution of official governmental positions” (Marat 2006, cited in Chapter 5). This type of clientelistic behavior is typical of public officials and politicians in Kyrgyzstan.

Ibrayeva and Nezhina aptly summarize what could be said of several countries discussed in the book,

Since the collapse of the Soviet Union, Kazakhstan has implemented many political, ideological, and economic reforms, but even these profound changes have not resulted in radical change of national and bureaucratic culture. According to Ardichvili and Gasparishvili (2001), the current administrative culture in Kazakhstan is characterized by a high degree of paternalism. The role of the supervisor in paternalist cultures is to guide, educate, and protect the subordinates; in return the employees demonstrate loyalty and commitment to the supervisor’s policy. Low (2007) defines these relationships as “father-style leadership.” From Low’s perspective, such relationships have a number of benefits such as good team spirit, motivation, loyalty among employees, transfer of skills and knowledge, and increased employee input and feedback. However, the shortcomings are autocratic decision making, full discretion of a supervisor over a subordinate, lack of critical feedback, and lack of initiative on the part of a subordinate.

The Russian administrative culture that developed from the beginning of Vladimir Putin's presidency (2000–2008 and a third term starting in 2012) presents an interesting case. Goncharov and Shirikov explain in Chapter 3,

Putin's rise to power was marked by important changes in the social structure of the Russian elite and bureaucracy. Being himself a KGB officer, he formed his political and administrative team by promoting *siloviki* (people with military or special services backgrounds), trusting them much more than businessmen, academics, and professional bureaucrats. The percentage of *siloviki* at the top level of the Russian political and administrative elite rose up to 77% in 2004 (Kryshtanovskaya 2005a). Though later it fell to 55%, and under Medvedev it fell further to 20%, this did not mean that this group lost its influence.

Siloviki brought into Russian public administration a mentality that stressed the values of strong hierarchy and distrust, imperial nostalgia, and antiliberal and anti-Western (particularly anti-American) sentiments. These values became a part of the authoritarian backlash in Putin's Russia, which brought back the tradition of the Russian autocracy.

15.2 Corruption

Corruption is a significant problem in all of the countries discussed in this book. Damiran and Pratt write in Chapter 14 that Mongolians “have constantly listed corruption as one of the most critical problems facing the country and more than 80% of the population believe corruption is commonplace.” Similarly, the population of Kyrgyzstan perceives corruption to be “the major inhibitor of economic growth and reform” (United Nations Development Programme 2010 cited in Chapter 5). Goncharov and Shirikov (Chapter 3) note that “Corruption in Russia is endemic and is probably the biggest problem for the country. As estimated by leading experts in the field, it accounts for at least 20% of the Russian economy (Russia's GDP in 2011 = US\$1.85 trillion) and penetrates into all societal segments, causing dramatic degradation of the Russian state and society.”

However, the prevalence of corruption varies significantly among the countries discussed in this book. Transparency International, an international corruption watchdog, publishes annual reports assessing corruption in most countries in the world. The indicator of perceived level of public sector corruption is the Corruption Perceptions Index, which ranks countries on a scale of 0–10, where 0 denotes a highly corrupt country and 10 is an indicator of a very clean state. The “cleanest” (the highest-ranked) country among the case studies discussed in this book is Estonia, with a score of 6.4 in 2011, which places it in 29th position in the world. (For comparison, the United States ranks 24th in the world.) The most corrupt country among those discussed in the book is Kyrgyzstan; its Corruption Perceptions Index was 2.1 in 2011, ranking the country 164th among the 183 countries assessed (see Table 15.1).

The types of corruption in this region include:

- Political corruption where favors, money, and/or influence are traded in exchange for votes, appointments, access to bank loans on favorable terms, or simply a “green light” to proceed with projects.

Table 15.1 Corruption Perceptions Index (CPI) and Rank of Selected Countries

Country	CPI/Rank					
	2006	2007	2008	2009	2010	2011
Bulgaria	4.0/57	4.1/64	3.6/72	3.8/71	3.6/73	3.3/86
Estonia	6.7/24	6.5/28	6.6/27	6.6/27	6.5/26	6.4/29
Georgia	2.8/99	3.4/79	3.9/67	4.1/66	3.8/68	4.1/64
Hungary	5.2/41	5.3/39	5.1/47	5.1/46	4.7/50	4.6/54
Kazakhstan	2.6/111	2.1/150	2.2/145	2.7/120	2.9/105	2.7/120
Kyrgyzstan	2.2/142	2.1/150	1.8/166	1.9/162	2.0/164	2.1/164
Lithuania	4.8/46	4.8/51	4.6/58	4.9/52	5.0/46	4.8/50
Moldova	3.2/79	2.8/111	2.9/109	3.3/89	2.9/105	2.9/112
Mongolia	2.8/99	3.0/99	3.0/102	2.7/120	2.7/116	2.7/120
Poland	3.7/61	4.2/61	4.6/58	5.0/49	5.3/41	5.5/41
Romania	3.1/84	3.7/69	3.8/70	3.8/71	3.7/69	3.6/75
Russia	2.5/121	2.3/143	2.1/147	2.2/146	2.1/154	2.4/143
Ukraine	2.8/99	2.7/118	2.5/134	2.2/146	2.4/134	2.3/152

Source: Data from the website of Transparency International. Corruption Perceptions Index (2006–2011). Berlin: Transparency International.

- Privatization-related corruption that took place (and is still ongoing in some countries) after the collapse of the Socialist system when state property was transferred into private ownership en masse.
- Administrative corruption ranging from paying bribes to traffic police to avoid a traffic infraction fine to bribes paid to expedite an administrative bureaucratic process, such as issuing a driver's license or a passport.
- Judicial corruption where judges are bribed to issue a verdict favorable to a bribe-giver and/or can be influenced by the executive branch.
- Corruption in education involves paying bribes to teachers, college professors, and administrators to receive better grades and/or to gain admission to university.
- Corruption in health care where direct payments are made to doctors, nurses, and other medical and administrative staff to receive better treatment (or any treatment in some cases), be assigned private rooms during hospitalization, receive the right amount of anesthesia during surgery, be seen without waiting in line during outpatient visits, and other services.
- Embezzlement and misuse of public funds, usually committed by individuals with access to such funds, both in political and administrative posts.

Political corruption is a reality in much of the former Soviet bloc but varies in its severity from country to country. Questionable party and campaign finance practices are at the core of political

corruption. In Mongolia, “politicians ‘buy’ an election nomination by making a contribution to the party fund and then spending substantial amounts of money in the run for office. The only way to recoup their ‘investment’ is by seeking private benefits from the public office they attain. Politics and business become increasingly merged, and it is a widely accepted fact that most members of Parliament and the government have business interests in the sectors they are supposed to oversee” (Pratt and Damiran, Chapter 14). In Kazakhstan, according to Ibrayeva and Nezhina, political corruption is characterized by the “formation of political elite groups, which consist of nation’s titular ethnic group with family or clan connections. . . . The members of elite groups benefit from their positions in a number of ways: some benefits are connected to oil production, abuse of position, and direct bribe extortions. The groups also enjoy immunity from any of their actions unless they engage in political and economic activities that challenge the president’s power” (Chapter 4). Even in Estonia, the least corrupt of the countries in the region, “There is much concern regarding the unlawful financing of parties as well as the abuse of power to influence and buy votes” (Sootla and Lääne, Chapter 8).

Privatization of state-owned assets, beginning in the 1990s, served as a catalyst for large-scale corruption that spread in many countries discussed in the book and is considered a key step in the development of the new class of oligarchs. Damiran and Pratt (Chapter 14) report that in Mongolia “The privatization of state assets and redistribution of common resources was regulated and executed by public authorities, which gave them enormous but barely regulated and nearly unaccountable power. Redistribution took place mostly on a ‘first come first served’ basis and officials used it for private gain. This included privatizing or licensing to themselves or their relatives, artificially lowering prices, and rent seeking.” In Lithuania, “during the ex-Communist ruling period (1992–1996), ‘*nomenklatura* privatization’ spread its roots when political figures appropriated companies for themselves and their supporters” (Pivoras, Chapter 7).

Perhaps the most widespread type of corruption is administrative, where bribes are paid to public employees who are in positions to exercise discretion. Examples of such petty corruption include informally paying traffic police to avoid a traffic infraction fine or a more severe sanction such as revocation of a driver’s license; bribes paid to expedite and/or streamline an administrative bureaucratic process, such as issuing a passport or clearing imported merchandise through customs; bribing teachers or professors in exchange for high grades or college admission; and numerous others. Overall, administrative corruption is the highest in the police, customs, tax, and judiciary systems in most of the countries discussed in this book, while some countries also list health care, education, and registration/permit issuing services among the most corrupt sectors (Moldova, Kyrgyzstan, Hungary, and Mongolia, for instance).

Corruption in the health-care sector is common partly “because workers in the health-care sector (doctors, nurses, and all other medical and administrative staff) are paid as civil servants, [so] their salaries are lower than those of health-care employees in Western countries” (Ványolós and Hajnal, Chapter 12). Due to such low pay, countless physicians quit their jobs and find alternative ways to make a living. Many physicians and other medical personnel who remain in the practice of medicine supplement their official income through informal payments from patients. Ványolós and Hajnal further write that in Hungary “it is a widespread practice to give tips (*paraszolvencia*) to physicians, nurses, or other medical staff during routine medical office visits and especially at times of hospitalization and/or major surgery. The size of the under-the-table spending is significant. The share of private spending on health (including the tips) is estimated to be the highest in the EU, at around 30% of total spending on health.” Estonian citizens reported in a survey that there has been an increase in instances of doctors requesting bribes (Sootla and Lääne, Chapter 8). Similarly, corruption is thought to be so ingrained in politics, health care, and

education in Kyrgyzstan that a large share of the population believes “corruption would take a long time to eradicate or would be impossible to eradicate all together . . .” (Liebert and Tiulegenov, Chapter 5).

Misuse and embezzlement of public funds is, sadly, not an uncommon occurrence. Ványolós and Hajnal report a high-profile case in Hungary in which “a high-level politician was accused of fraudulent use of public funds. János Zuschlag, a young socialist politician and member of the Parliament, was one of the main characters of a fraudulent scheme in which politicians and administrators from the central government would guarantee the success of individual grant proposals (usually from local governments or not-for-profit organizations) if a portion of the grant was ‘given back’ to the ministry.” Such demands for kickbacks take place in Kyrgyzstan as well, according to Liebert and Tiulegenov (Chapter 5), where a high-level politician allegedly attempted to extort from an international organization a percentage of the overall budget for a new project “to be approved” (i.e., receive support of the lawmakers and/or potential government counterpart organizations).

15.2.1 Root Causes of Corruption

The root causes of corruption in the former Soviet bloc are diverse and are not all unique to this region. One of the key reasons is low compensation of public employees, which may force them to seek alternative ways to supplement their income. Excessive bureaucratization of the economy and red tape is another reason why administrative corruption flourishes. Clientelistic relationships and structures—a legacy of the Soviet administrative culture—also determine the extent of corrupt practices in post-Soviet societies. The U.S. Agency for International Development (USAID) report describes several factors contributing to corruption in Ukraine. Many of these factors cause corruption in other countries in the region as well:

- An incomplete and inadequate legal framework.
- Selective enforcement of existing laws and regulations and the exercise of excessive discretion by public and elected officials at all levels.
- Excessive regulation of the economy by the state.
- Excessive executive control and influence over the judicial branch and the civil service, and at the same time, inadequate oversight of the executive branch by the Verkhovna Rada [the legislative branch].
- Collusive ties between the political and economic elite, where the former use the state to enhance their wealth and the latter use their wealth to enhance their power.
- Low capacity for advocacy in civil society.
- Weak accountability mechanisms within government and in civil society to control potential abuses.
- Uneven public access to information of government decisions and operations.
- Resistance to decentralizing authority and resources to the regional and local levels which could break corruptive networks.
- High tolerance for corrupt practices among the population and the general belief that corruptive abuses and misconduct for public officials are low-risk events and can be conducted with impunity. (Spector et al. 2006 cited in Chapter 2)

The collapse of the Soviet ideology and the resulting ideological vacuum are also said to have contributed to the rise of corruption. In Mongolia, as Damiran and Pratt (Chapter 14) report,

“One of the main reasons for the increase in corruption in the period of transition was the loss of old moral values and ethics, replaced by an emphasis on money and material wealth. The collapse of the regime also brought the collapse of egalitarian living conditions and social protections. Since no one had accumulated material wealth, there was a rush to obtain it any possible way. In a small society with nomadic culture, where customs of mutual obligation to family and friends are highly prized, corruption became intermingled with clientelistic and nepotistic practices.” Familial and clan loyalties significantly contribute to corruption in Kyrgyzstan and Kazakhstan as well. In Kyrgyzstan, former Presidents Akayev and Bakiyev both appointed close family members and relatives to high-level government positions—a fact that fueled popular revolts leading to the ousting of both presidents.

15.2.2 Combating Corruption and Ethics Management

Many countries in the region have introduced various anticorruption measures ranging from specific anticorruption laws to concept papers and presidential or governmental strategies. In addition, codes of ethics have been adopted by entire civil service corps (Estonia, for instance) or individual government agencies (Kyrgyzstan). Adherence to anticorruption laws and their implementation vary widely from country to country.

Successful anticorruption measures include one-stop shop points—walk-in government offices where residents can access multiple public services—created in Kazakhstan. As Ibrayeva and Nezhina (Chapter 4) describe, “All employees are located in a large operation room, overlooked by video cameras and separated by glass walls to facilitate effective management.” According to these authors, e-government initiatives have also helped reduce corruption in Kazakhstan. In Georgia, the government took drastic measures to curb corruption in the notoriously corrupt law enforcement agency, the Ministry of Internal Affairs. An entire cohort of patrol police—16,000 officers—were sacked overnight, replaced by a completely new corps of patrol police: “young, specially trained employees who were accustomed to a new set of values, norms, and regulations” (Dolidze et al., Chapter 6). Dolidze et al. further report, “An effective tool used to combat bribery was the guarantee of a high salary.” A special Salary Supplement Fund (financed initially by philanthropist George Soros’s Open Society Institute, the United Nations Development Programme, and Swedish International Development Cooperation Agency) was created to pay qualified civil servants compensation high enough to remove incentives for corruption (United Nations Development Programme n.d.). This initiative resulted in a significant reduction in corruption. According to Transparency International’s Global Corruption Barometer, 78% of Georgians felt their government’s actions to fight corruption had been “effective” or “extremely effective.” The same agency concluded that Georgia now has one of the world’s cleanest police forces, second only to Finland. Georgia has also managed to significantly reduce corruption in its tax service through “arrests and harsh sentences for corrupt tax collectors and inspectors” (World Bank 2012, 28).

Unfortunately, examples of successful anticorruption measures are few and far between. In most countries discussed, progress has been either limited or nonexistent. In Moldova, for example, numerous anticorruption laws, regulations, and strategies have been adopted. However, commensurate actions that would reduce corruption, such as “adequate remuneration of civil servants, their education and motivation, decisional transparency, freedom of justice and media,” have not been implemented (Matei, Chapter 9). Even though a universal Code of Ethics for the Civil Service was adopted in Estonia in 1999, “civil servants do not actively use the Code, as is demonstrated by the fact that only 16% have drawn on the code in their work, 19% have read it carefully,

and 35% of civil servants either do not know about the code at all or know but have not read it” (Sootla and Lääne, Chapter 8).

In fact, corruption is so institutionalized and “convenient” for the ruling elite that it is likely that many anticorruption initiatives only paid lip service to the citizenry and the donors and were never intended to work. Goncharov and Shirikov (Chapter 3) aptly explain why corruption persists in Russia,

Russia’s Communist past proved decisive in the early formation of corruption but its further persistence is a result of authoritarian political choices made by the Russian ruling elite at the end of the 1990s. The key part of this regime strategy was the creation of electoral machines at all levels of the Russian political system. The spread of political corruption became an inevitable consequence of such a strategy and should be seen as a major social and institutional determinant as well as a model for other forms of corruption activities in post-Soviet Russia. We may consider corruption as a kind of social contract made between the authoritarian leadership, on the one part, and bureaucracy and some other segments of Russian society, on the other part. The main goal of the contract is to secure regime stability.

Anticorruption measures have also been used by the ruling regime to persecute (and prosecute) as well as discredit opposition members and keep them in check. In Kazakhstan, for instance, “anticorruption measures are the part of intentional managed tension created by President Nazarbayev. On one hand, he gained public attention and increased his popularity. On the other hand, he made the elite groups understand that the president had full control over the situation. Moreover, it seems that the conflict between elite groups was initiated by and controlled from the top” (Ibrayeva and Nezhina, Chapter 4).

It is not really possible to build a truly democratic system of public administration that is efficient, effective, responsive, and accountable to its citizens without reigning in corrupt practices and making a culture of corruption unacceptable. Some countries studied in this book have made noteworthy efforts in this arena and have achieved tangible results, but there is still a lot to be done. Effectively combating corruption is not an easy undertaking and takes joint efforts of the governments involved, civil society, and international donor organizations. The cases discussed in the book demonstrate that perhaps the most important element in this endeavor is political will.

15.3 Civil Service and Human Resource Management

The chapters in this book present different cases concerning the evolution and professionalization of the civil service and human resource management in the 13 countries under study. As Shivergueva points out in her chapter on Bulgaria: “Human resource management units play a key role in carrying out reform of the state administration. Further improvement of their capacity is needed for the efficient implementation of their functions and to turn them into a strategic partner...” (Chapter 11).

Indeed, human resource laws, structures, and practices underpin the administrative infrastructure of public administration systems and practices. As such, they can either support or inhibit sound administrative practices.

Czaputowicz and Sakowicz, in their chapter covering the Polish experience (Chapter 13), note that:

Following the breakthrough of June 1989, all political options and opinion-forming groups were of the view that one of the most important tasks for the new democratic Poland was to build a government administration based on civil service ideas and ideals.

However, the path to effective civil service and human resource management systems has not always been a clear one. Pivoras (Chapter 7) notes that, in Lithuania, the “moment of bliss” surrounding the realization of independence from the Soviet Union soon was moderated by the weighty reality of the task of building effective administrative systems.

Forces for professionalization of administrative and human resource management systems vary from country to country. In many instances, organizations and institutions external to the country had an influence on reform activities. For example, the World Bank, the United Kingdom, and the United States funded numerous administrative reform projects, particularly during the first decade of independence. For several of our cases, aspiration to join the EU led human resource management systems to become more transparent and modernized (Romania, for example).

Internal pressures for reform were also present. Georgia (Chapter 6), with its “Rose Revolution,” Kyrgyzstan (Chapter 5) with its “Tulip Revolution,” and Ukraine (Chapter 2), with its “Orange Revolution,” highlighted demands by ordinary citizens for transparent and honest administrative systems and practices. Conversely, other countries, particularly Russia (Chapter 3), have been in a period of retrenchment over the past decade and have eschewed major administrative reform efforts.

15.3.1 Recruitment and Selection

A vital key to an effective civil service and human resource management system is recruitment and selection. Who enters and remains in the bureaucracy profoundly effects the functions and functioning of government. Additionally, opaque recruitment and selection systems help fuel distrust in government. Conversely, systems that are open and transparent can facilitate trust and confidence in bureaucratic activities. This transparency must not just be statutory; it must be apparent in everyday government operations. As Liebert and Tiulegenov explain (Chapter 5, Kyrgyzstan), beautifully written laws have little or no positive effect if they are not implemented properly. The authors note that Kyrgyzstan’s Public Service Law requires that a “Personnel Reserve” be created to “provide candidates for civil service positions. . . . In practice, however, the Personnel Reserve is rarely used. Most mid- and high-level civil service positions are filled through personal connections that may involve bribes.” Additionally, Damiran and Pratt (Mongolia, Chapter 14) report that: “Extensive political patronage has undermined the professionalism . . . of the public service.”

Effective recruitment and selection practices have had to take root in an environment of economic retrenchment and also during the shrinking of public employment rolls. For example, Poland’s public sector employment shrunk from 8,582,700 in 1990 to 3,612,900 in 2009 (Chapter 13). On a positive note, Sootla and Lääne (Estonia, Chapter 8) report that “continuous improvement of personnel management tools by ministerial and agency personnel services have developed human resource management of rather high quality.” Additionally, the Estonian civil service has been able to attract younger employees to work for government; about a quarter of the workforce is under 30 years of age.

Transparent recruitment and selection practices may be encouraged through changes in technology. Shivergueva (Bulgaria, Chapter 11) argues that a 2007 law on e-government “envisages the automation of administrative procedures, the introduction of transparency in administrative processes, and a reduction in the opportunities for corrupt practices.”

As the reader can see, basic struggles with recruitment and selection revolve around whether a series of open or closed examinations will be utilized as the standard for entry into the civil service, the extent that professional practices such as merit-based and job-related examinations are utilized, and whether or not political patronage and/or cronyism play a significant role in recruitment and selection activities.

15.3.2 Pay and Performance

Without adequate compensation for its civil servants, governments will be hard pressed to recruit “the best and brightest” to its ranks. Additionally, salary progression for civil servants in these countries has been increasingly influenced by new public management and its call to more closely link pay with performance. As the chapters demonstrate, low compensation continues to be a problem for all countries under study and true pay-for-performance systems continue to remain an elusive goal.

Ványolós and Hajnal (Chapter 12, Hungary) note the influence of new public management through the introduction of “quality management, performance measurement/management, [and] performance-based compensation systems in the civil service.” However, the authors note that inadequate funds were set aside to fund performance bonuses and that: “In some cases, the limited amount of performance pay was distributed equally among the low-paid public administrators, leaving no funds for the true performance-based pay.”

Damiran and Pratt (Mongolia, Chapter 14) also report on the creation of qualitative and quantitative performance guidelines: “Every organization and employee is expected annually to have specific measures for every task they perform.” The authors continue, lamenting the lack of training available to implement such a sophisticated system and the lack of funding available to link employee performance appraisal results with employee remuneration. Lithuania (Chapter 6) reports more positive results with its performance management system, with performance bonuses and promotions being based on appraisal results.

Low overall compensation coupled with inadequate or nonexistent appraisal mechanisms detract from employee performance but also fuel the opportunity for corruptive activity. Damiran and Pratt (Chapter 14, Mongolia) note that: “corruption in administration is fueled by the combination of low salaries and ample opportunities generated by political and economic conditions.” Additionally, Liebert and Tiulegenov (Chapter 5) point to low pay and corruptive activity as being largely responsible for the “decline” in Kyrgyzstan’s administrative culture and morale over the past several decades.

Matei (Moldova, Chapter 9) observes that low salaries are “nonmotivating.” The author continues, stating that: “in many situations the salary in the public sector is close to the minimum salary, being two times less than the salary in the private sector.” Condrey et al. (Chapter 2) report that in Ukraine:

The head of personnel for the Transcarpathian Oblast reports problems with retaining skilled college graduates, who are attracted to better-paying private sector positions. Interviewees report that the pay gap at entry level may be more than four times the

average (May 2007) entry-level government pay... the pay gap expands at the upper levels for more experienced employees with salaries of ten times the public sector average reportedly being garnered.

15.3.3 Training and Development

Low pay coupled with an administrative environment under constant pressure increases the importance of training and development activities in these respective civil service and human resource management systems.

Matei (Chapter 10) reports that in Romania increased pressures for professionalization of its bureaucratic corps resulted in a special program aimed at the “Development of Administrative Capacity.” Similar programs are reported by the other countries under study, with many of these programs being funded by outside agencies such as the World Bank and USAID. The influence of the EU also played a significant role in the increased emphasis on training and development activities. However, given the nature of the financial and bureaucratic problems facing many of these countries, reflective, comprehensive, and responsive training and development appear to be elusive.

15.3.4 Common Themes in Human Resource Management

There appear to be common threads related to human resource management that run through the 13 chapters that follow:

- The debilitating effects of prior Communist administrative structures on human resource management systems remain to some extent in all of the countries under study.
- Low compensation levels have deleterious effects in attracting and retaining well-qualified public servants and exacerbate corruptive activities in many of the countries under study.
- Influence from outside sources such as the World Bank and others may have only transient effects on actual administrative practice.
- The influence of the EU is a positive force for the modernization and development of public human resource management systems.

The overall trend is that public human resource management systems in the majority of the countries are on the path toward modernization. While problems remain in all of the countries under study, the overall trend is a positive one. A significant influence in human resource management modernization appears to be membership in the EU. While EU membership in and of itself is not the sole determining factor, it does indicate that modern human resource management systems are necessary to support financial and societal pressures for good governance.

15.4 Civil Society

It is a time-tested axiom that a vibrant civil society is a key ingredient of democracy and plays a vital role both as a watchdog of corruption and by providing a platform for the citizenry to influence government policies. By definition, autocratic and totalitarian governments have a strong interest in a weak or nonexistent civil society and actively suppress it. The Soviet government was no exception to this trend. The Communist Party repressed and squashed any signs of civic

activism and self-organization that did not support its goals. While some formal professional and intellectual associations, such as unions of writers, artists, and cinematographers, were permitted, the fear of retribution prevented them from playing an active civic role in the Soviet era. Soviet citizens organized themselves into informal networks to access supply channels for consumer goods and services typically unavailable to an average citizen. These informal networks sprung up all over the Soviet and Soviet-ruled countries in the region in response to chronic shortages of basic consumer goods. In some countries, these informal networks played a critical role later, “mobilizing citizens to support democratization at the end of the 1980s and in surviving the deepest economic and social crisis at the beginning of the 1990s” (Sootla and Lääne, Chapter 8).

Some countries in Central and Eastern Europe, such as Poland and Hungary, were able to preserve some elements of their rather vibrant pre-Communist tradition of civic engagement, while any trace of prerevolutionary Russia’s social solidarity and self-organization, which was more fragmented and weak, was virtually destroyed. In other countries, such as Mongolia, Kyrgyzstan, and Kazakhstan, formal institutions of civil society did not exist at all prior to Soviet rule. Accordingly, upon demise of the USSR, the countries in Central and Eastern Europe and in the former Soviet Union had a difficult task ahead of reviving or building their civil society from scratch.

In the post-Communist region, the state of civil societies today and their development since the lifting of the Iron Curtain cannot be easily classified into neat categories; one can only note trends. On the one hand, there are former socialist countries that have built both a democratic regime and a successful civil society (Bulgaria, Estonia, and Romania, for instance). The example of Estonia, which has been able to consolidate a well-functioning democratic system, is particularly instructive (Chapter 8). Estonia has a vibrant and plentiful NGO sector, which might in part explain the exceptionally low level of corruption by post-Communist standards. As Sootla and Lääne report, according to the USAID NGO Sustainability Index, Estonia has the most sustainable civil society among 29 countries in Central and Eastern Europe and Eurasia. It scored very high in almost all NGO dimensions: organizational capacity and financial viability, public image and channels of advocacy (Chapter 8). The success was a result of its pre-Communist societal legacy, strong and virtually unanimous opposition of Estonians to the Soviet rule, and active integration into the EU. Membership of the EU, or the aspiration to join, has played a critical role in reforming institutions and transforming society and has facilitated the democratization of many of the Eastern European countries.

On the other hand, there are cases where civil societies failed to thrive in countries that have otherwise successfully democratized themselves (Poland and Georgia, for example). Poland’s experience is particularly interesting because the country had some forms of civil society both before and even during the Soviet rule. The high level of national and cultural identity, tradition of struggle against the Russian imperialism, and the institutional capacities of the Polish Catholic Church allowed Polish society to create an effective structure of social resistance to totalitarian tyranny. It gave birth to a far-reaching and well-organized social and political movement (“Solidarity”) that eventually forced the Communist government to cede its power. But in the post-Communist period, Poland faced what could be called stagnation of civil society—a relatively low level of civil participation and lack of trust toward NGOs. Czaputowicz and Sakowicz (Chapter 13) note that, “There are many reasons, explanations, or excuses for Poles’ limited capacity to organize and work together effectively. The history of Poland’s partitioning may be referred to here. History reflects a 123-year lack of any statehood at all between the years of 1795 and 1918. Additionally, the period of monocentric communist governments and the low level of confidence people displayed, in either those who govern them or in one another, have also played a part.” A low level of trust and confidence in NGOs is also a result of unscrupulous

practices that some organizations have engaged in, tarnishing the name of the NGO community as a whole. For instance, Matei (Chapter 10) reports that in Romania in the 1990s, leaders of some NGOs used their organizations' nonprofit status to evade taxes and import foreign cars duty-free. Similarly, Ibrayeva and Nezhina (Chapter 4) report that in Kazakhstan there are categories of NGOs whose leaders "are concerned with personal promotion and the mission is viewed as an instrument to receive grants. NGO leaders often use their organizations as a platform to build their political careers, to find a government job, or to work as experts." Given the public's predisposition to distrust, even one such bad apple is sufficient to trigger cynicism among the citizenry vis-à-vis the entire third sector.

Another cohort of countries in the former Soviet Union (Uzbekistan, Turkmenistan, and Belarus, for instance) has virtually no civil society, with the exception of some token unions and associations. These countries lack any tangible sort of civic life because they are governed by dictators who, following the Soviet tradition, routinely and ruthlessly squash any semblance of civic activism, which could lead to an organized and empowered opposition movement.

Yet another category of countries includes hybrid regimes that are characterized by electoral authoritarianism, but in which some degree of competition in political institutional arenas, such as an electoral process, party systems, and legislatures, has been allowed (Russia and Kazakhstan). An illustrative example of such a hybrid regime is Russia (Chapter 3). Due to a number of internal and external factors, the Russian government prefers slowly suffocating the civil society (rather than crushing it openly) by the use of "low-intensity coercion" instruments: legal and bureaucratic barriers to independent civil and political activities (as well as independent media), a state-controlled system of quasi-civil activism ("government-organized nongovernmental organizations" or GONGOs), a system of patronage and corruption, rigged elections, and cooptation of activists into the ranks of loyal political functionaries and bureaucrats. As Goncharov and Shirikov (Chapter 3) note, "The crucial conditions for survival of civil groups in Russia . . . is that they stay out of politics, avoid any serious conflicts with governmental structures, and concentrate on providing civil services, education and entertainment." Given such severe restrictions, civil society in Russia is seriously impeded from achieving its full potential and having a meaningful impact on the democratization process.

Mongolia and Kyrgyzstan are examples of countries that have had virtually no civic activism prior to the Soviet rule; yet, they developed vibrant and active civil societies upon its demise. Endowed by a wealth of natural resources, Mongolia has attained a significant level of economic growth since the collapse of the Soviet Union and built a stable democratic regime. Kyrgyzstan was on the path to democratic governance during the first decade of its independence but wavered from that course due to corrupt and increasingly autocratic leadership. What both of these countries have in common is significant and continuous foreign funding of the third sector. This is especially critical in the absence of the tradition of civil society, which translates into a lack of domestic sources of funding and technical know-how to develop and sustain it.

However, civil societies in both of these countries have not yet realized their full potential. That is because, as Damiran and Pratt (Chapter 14) explain, "Mongolia's laws are supportive of civil society activities, but laws in the areas of most concern for those activities are not well enforced. [Civil society organizations] are plentiful, active, and diverse, but the public is not aware of their work and many have few resources. Civil society represents an important independent voice, but many [civil society organizations] are not sufficiently independent of government and politicians or of foreign donors."

Foreign funding of civil society has been a double-edged sword: on the one hand, it enabled creation, development, and dynamism of civil society organizations in post-Communist countries.

On the other hand, it created a culture of dependency among the nonprofit organizations it supported. Ibrayeva and Nezhdina (Chapter 4) note that “foreign organizations helped establish, support, and finance activities of many nongovernmental organizations in Kazakhstan. Ironically, the effect of massive financial assistance from foreign groups has proved detrimental to the sector in the long run. Many nongovernmental organizations developed dependency on foreign donors and learned to ‘adapt’ their agendas to the needs of donors by stepping back from their original grassroots missions.” When the flow of donor funding comes to an end, as it did in Kazakhstan after 1999, many weaker NGOs closed and the stronger ones resorted to “profit-making activities such as education, consultancy, and research. Such activities were subject to taxation and complicated the work of many NGOs” (Chapter 4).

In many instances, governments and nationalist politicians targeted internationally funded NGOs as being agents of foreign governments, which weakened these organizations’ altruistic mandate and credibility with the citizenry.

While the emergence of a strong civil society following the collapse of the Soviet Union in some of the countries studied is a strong indicator of the success of democratization, there are no clear conclusions to be drawn on what preconditions must be present to enable civil society to flourish. In the case of Hungary, Estonia, and Bulgaria, the tradition of civil society preceding the Soviet occupation seems to have been a major factor in accelerating the development of new civil society organizations following independence. On the other hand, a comparable Eastern European country and fellow EU member, Poland, has a more tenuous civil society track record in the post-Soviet era despite a reasonably strong history of civic activism prior to and during the Soviet rule. At the same time, three of the Central Asian countries examined—Kazakhstan, Kyrgyzstan, and Mongolia—were largely nomadic before the Soviet rule and had virtually no civil society. They have had diverging experiences with civil society despite their shared nomadic traditions: Mongolia and Kyrgyzstan enjoy a vibrant and plentiful civil society, while Kazakhstan’s civil society organizations weakened once donor support was withdrawn and are largely dormant. Each of these post-Soviet countries experienced dramatic political and economic upheaval following their independence. Some of them were able to develop an environment to support a strong civil society that has the necessary tools to counter authoritarian government and ensure sustainable and democratic governance.

15.5 Conclusion

The preceding overview of this book has demonstrated that while there are many commonalities among the former Communist countries resulting from their Soviet past, there are also significant differences that have shaped their trajectories that began with the demise of the Soviet empire. The administrative culture that determines how public administrators approach their responsibilities and view their customers—the citizens—is dualistic in nature: legalistic on one hand, yet susceptible to subversion or selective enforcement of rules. Such tolerance of rule breaking is one of the factors explaining the widespread corruption in the region. The case studies in this book highlight that corruption (fueled by low compensation of civil servants, lack of an independent judiciary and an effective legal system, red tape, and its tolerance by the population) remains a considerable problem impeding development of effective, efficient, and accountable public administration systems in nearly all of the countries discussed. While all governments have adopted anticorruption measures at least on paper, only a few of the countries studied can boast effective and systemic rooting out of corrupt practices. Ethics Codes, perceived in the West

as necessary tools to promote ethical behavior, have been largely ineffectual in post-Communist countries. In part this is due to the foreignness of Codes of Ethics and their declarative nature. Civil society, a critical stakeholder ensuring democratic governance and a traditional corruption watchdog, is vibrant in a few of the countries discussed but is largely stagnant or repressed in others. Even in the countries where civil society is dynamic, it is not yet a full-fledged participant in political and social processes.

In light of the complexity and dynamic nature of the countries in the former Soviet bloc, more research of public administration and related subjects is vital. Avenues for further research include an empirical study of the countries that have managed to root out corruption in almost all aspects of public administration (such as Estonia) or in some (Georgia and Bulgaria, for instance), which includes an analysis of what can be learned from their experiences by countries aspiring to more effectively combat corrupt practices. A related topic of research that would add value is an examination of how one can inspire and promote ethical behavior utilizing formal and informal institutions already in place. Many of the countries under study have scarce resources and limited capacity to raise more revenues. Practical studies of how to develop effective public–private partnerships that take into account local conditions would be particularly instructive for these countries. Nuanced research analyzing the most appropriate design and strategic sequencing of public administration reforms is likely to have much utility. And finally, a study of the countries not covered in this book would allow for a comprehensive, cross-sectional analysis.

As the reader has seen, what has generally been viewed from the outside as a monolithic world of post-Communist countries was in fact an ill-fitting mosaic held together by the iron fist of the Soviet Communist Party. Once this artificial force was removed, the true diversity of the countries in the region became apparent to the rest of the world. Liberated from the Soviet yoke, the former Communist countries forged ahead, choosing individual and unique paths. Their choices have been shaped by a variety of diverse cultural, historic, and societal factors as well as by their respective contemporary political regimes. This book has provided an opportunity for the authors from this region to share where these journeys have taken their countries thus far and what the future might hold. It is hoped the reader has a better appreciation of the complexity of this region and the enormity of the governance challenge that lies ahead for these countries in transition.

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