



# **Benchmark Report on the Organizational Scheme of Institutions Governing Legal and Judicial Sector in the Republic of Cyprus**



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## Executive Summary

This study analyses the civil service/public sector systems in four countries: the Republic of Cyprus, Republic of Malta, Isle of Man and the Republic of Iceland. That being said, small and island countries can serve as a reference group for the Turkish Republic of Northern Cyprus. All countries in the sample are democracies, with three of them republic, whilst one is in personal union with the monarchy.

The countries selected have been directly or indirectly influenced by the British civil service model, as two (Cyprus and Malta) are former British colonies; one is in personal union with the UK (Isle of Man), whilst Iceland has had close relations with the UK, especially in the post-independence (post-WWII) period. The study has presented the models of recruitment and retention of public servants. Each of the countries is attempting to move to the modern recruitment model, where recruitment is decentralised and the conditions of service for public officers are brought closer with conditions which can be found in the private sector. In Iceland, government employees are a new category and there is very little left of the traditional public servants' privileges, whilst the civil service categories are only those that would be regarded as senior civil servants in other countries. In three countries which have experienced a rather close relationship with the UK, the Public Service Commission (PSC) is in operation. The PSC is used for recruitment, conferment and promotion of public servants, and they are the epitomes of the centralised human resource management model. The PSC is a constitutional category and a remnant from the colonial past. However, in colonial times, they were assuming the role of an adviser to the colonial governor, whilst in post-colonial times they have exercised a life of their own and have really become the sole power in the appointment of public officers. Over time the practices have diverged somewhat, so that today there are (significant) differences in the status and role of the PSC (or Civil Service Commission – CSC). In the case of Malta, a significant reform of the PSC role and institutional position has occurred, although the constitutional position of the Maltese PSC has not been challenged. In contrast, in Cyprus, the PSC has kept all the power and very little change has been instituted. The PSCs are usually perceived as somewhat inefficient and representatives of the old personnel management model, but very little has been done (even internationally) to address the issues of PSC inefficiencies and historical limitations.

Conditions of service in the public sector have been on the decline, although a number of people would still choose a public servant's career due to (somewhat now ill-perceived) job security and a job for life. However, a job for life in the public service is a thing of the past and it is most unlikely that candidates appointed in the future will be able to secure this status. Although public officers are depoliticised, formally, it has become clear that politicisation in the public service has been strengthening and an increasing number of appointments seem to be politically coloured. The actions undertaken by the public sector can be challenged in both administrative and judicial procedures. When administrative remedies within the Government are ineffective, the client can ask for classical court protection. In all countries in the sample, the quality of judicial protection has been deemed to be appropriate.

The Governments are also increasingly focusing on the development of policies and to ensure that various aspects of the relationship between the public servant and the government (as an employer) are regulated and that many misunderstandings may be avoided. Modern governments have embarked upon the reform journey and there are many innovations introduced in the public sector, but this has not been cascaded down. All countries have embarked upon ambitious or less ambitious reform processes. Modern Public Sector reforms generally focus on three possible areas of activity: 1) sectoral approach – where focus is given to the core public administration and other sub-sectors within the public sector and sectoral and sub-sectoral public sector reforms are applied; 2) organisational realignment – where different approaches are exercised to various levels of government, decentralisation, new modes of public sector delivery (outsourcing, privatisation, etc.), and 3) public sector employee status reform – where the position and regime of public employees is brought closer to the private sector regime and experience. It is somewhat difficult to outline future reform developments in the four target countries, but Iceland and Malta may continue outperforming others.

## Introduction

Post-WWII development in the public sector and particularly the civil service has been faster than ever before. From the classical Weberian model of bureaucracy and bureaucratic state, public sector organisations have undergone a process of dramatic change that has especially accelerated at the end of the 20<sup>th</sup> century and continues well into the 21<sup>st</sup> century. However, although one can list the international trends (decentralisation, *managerialisation*, accountability, financial responsibility, productivity search, efficiency gains, etc.), it is also more obvious than before that some national characteristics have gained currency and have generally led to the adaptation, rather than mere adoption of the proposed 'international blueprints'.

Globalisation trends, which have accelerated in the last decade of the 20<sup>th</sup> century, have also influenced the design of reform and changes in the public sector. *Deterritorialisation* has been one of the features of globalisation, but has also influenced the way states think about their sovereignty and the prevalence of the 'universal values'. Traditional political institutions, such as nation-states to which we have been accustomed for the last 200 years, are, by definition, territorial and base their powers on the particular locality and jurisdiction held over citizens and their interactions. With the growth in influence of the third-sector and citizens (either as individuals or groups), *deterritorialisation* has become an issue – people move beyond the original jurisdiction and can perform the legal evasion exercise – opting to subject themselves to another jurisdiction. The infrastructure in a modern world allows this more and more. Following on from *deterritorialisation*, the next phenomenon emerges – interconnectivity, as now, societal players are more dependent on one another and a number of new players emerge on the social scene. The speed and intensity of social relationships have also contributed to the acceleration of the phenomenon and required new approaches to communication and reaction models used by the traditionally slow public sector. Also, the fact that all these phenomena/features go hand-in-hand does not make the situation and response simpler. Quite the contrary – the old public sector has been lagging behind and had to respond to the challenges of modernity.

Globalisation and interconnectedness have contributed significantly to the development of a shared reform agenda – but it is not an exclusive change driver. Many countries have realised that their existing public sector (civil service) structures were out-dated and required intervention in order to respond to the challenges coming from the grass-roots – citizens who may not be satisfied with governance results and overall societal progression. Most recently, the development in the North African and Arab countries have shown that the governance models that may have looked stable at one time may, in fact, disappear in flames in another. Stability may have historically been a desired and major feature of any system, but we are now looking more for the adaptability of the system as its main systemic/systematic feature.

In Europe, the situation may also be somewhat specific and complex – with the common reform Agenda of the European Union (EU). As it has been a main foreign policy aim for

almost all European (geographically) countries to join the EU, the latter has the upper hand in influencing the process of accession and future membership. The Copenhagen and Warsaw criteria require a full endorsement of the democratic governance model, and a demonstration of inner national capacities to ensure that the model can be applied effectively throughout a country. The EU has also, through *EuropeAid* and similar agencies, influenced the reform agenda in accession countries, putting forward the civil service (public service) model that may be the most desirable for the EU, rather than the recipient country.

The EU is conscientiously moving towards the creation of a common European Administrative Space (EAS). Within the EAS, national administrators are increasingly communicating outside their own jurisdictions and do increasingly create new social networks, primarily with the EU, whilst the national ministries, departments and other government and para-government organisations are becoming points of horizontal and vertical co-ordination, rather than the connecting points between national politics and international factors. The positive national experience in building a professional civil service is now shared within the EU, and European Commission staff are career officials and the prestige is built through professional success both at national and EU level. Also, EU governance models are emerging and permanently improving, forcing member-states to adjust and drive their own change reforms, in order to remain in the loop. Until now, EAS has been characterised with a relatively low level of politicisation, *per se*. The level of *political delegation* within the EU has been rather high, and probably higher than in the vast majority of member-states, where it has been generally acknowledged that it is in the best interests of all parties involved (politicians, civil servants, the public, third sector) that the civil service remains neutral and professional. The emerging EU model of civil service is to be based on common ideas, norms and practices that may encompass the best practices of national civil (public) services, but also have some features that have been indigenous and self-propelled.

Within the context, this study looks at the civil (public) service systems in primarily four small European countries, where all four are directly or indirectly EU member-states, or closely associated with the EU (being an EFTA<sup>1</sup> country). Cyprus (The Republic of Cyprus) and Malta are EU member-states, whilst the third jurisdiction – the Isle of Man – is a self-governing Crown dependency of the United Kingdom and is not officially part of the EU. However, the Isle of Man enjoys full freedom of movement of goods (through the nature of its relationship with the UK), but the other two aspects of freedom – the movement of people and the movement of capital are restricted.<sup>2</sup> Iceland is a small island state and is also listed as one of the economically most advanced countries, despite the serious problems

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<sup>1</sup> European Free Trade Association (EFTA)

<sup>2</sup> The Article 299(6)(c) of the Treaty establishing the European Community reads:

*‘this Treaty shall apply to the Channel Islands and the Isle of Man only to the extent necessary to ensure the implementation of the arrangements for those islands set out in the Treaty concerning the accession of new Member States to the European Economic Community and to the European Atomic Energy Community signed on 22 January 1972’.* Refer also to Protocol 3 of the Act of the Accession to the EU by the United Kingdom of Great Britain and Northern Ireland.



with the instability of the banking system experienced in 2008. These countries (territories) have been chosen primarily because they are island states and small countries and hence they can serve as a reference for comparison needs in the later stages to the Turkish Republic of Northern Cyprus (TRNC). The main purpose of this comparative paper is to provide a broad overview of the civil service (public service, where appropriate) systems in these three countries, enabling further comparisons to TRNC and detection of good practices that can be endorsed and applied in the target comparator country.

## Background

The target countries/territories (Cyprus, Iceland, Isle of Man, and Malta<sup>3</sup>) have been chosen for their status of small island states, and can serve as a good comparator for other countries and jurisdictions that are small island states. Comparative public administration as a mode of learning and discovery, studies the statics and dynamics of national public administrations in order to advance knowledge and enable the detection and distribution of good practices and hence the advancement of public administration in general. It helps in improving the reliability of general public administration knowledge and enhances the applicability of the models that have been earmarked as good. Comparative methods have been used for centuries and, to a large extent, are inherent to human nature – humans like to compare and be compared. With the growth of the number of states/jurisdictions in the world, the richness of experiences in the shared pool of practice has never been better. At the time when the United Nations (UN) were established there were only 45 states in the world, whilst today we are approaching 200 states and more than 200 (in total) states and territories (jurisdictions).

The majority of countries/territories in the named reference group (Cyprus, Iceland, Isle of Man and Malta) have also one other thing in common: all jurisdictions have been associated with the UK, whilst Iceland, although not associated with the UK, has been influenced by Anglo-Saxon practices in the public sector, and is considered a very modern country. However, it is somewhat difficult to contemplate the future development of Iceland, as it has been hit very hard by the 2008 World economic crisis and still does not demonstrate any signs of recovery. Cyprus and Malta were British colonies until the 1960s, whilst the Isle of Man has been in some kind of association with the British Crown from the 18<sup>th</sup> century and, due to its close proximity with the UK, the ethnic and cultural bias has been highly influenced by the British political system and practices.

Cyprus and Malta still entertain a common law legal system, although more European civil law tradition practices can be detected. The level of legislation through the acts (laws) have been steadily increasing and especially in the process of approximation towards the EU. Cyprus and Malta are now member-states of the EU, whilst Iceland is a member of EFTA and, to a large extent, in line with the EU legislative framework and practices. Over time, it may be contemplated that Iceland may consider joining the EU. However, all these countries may serve as a good reference point for the TRNC, as it has been a British colony, before emerging as a self-governing territory in 1974 (i.e. 1983).

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<sup>3</sup> Countries are listed in this study in alphabetical order, without prejudice.

## **Purpose, goals, aims and objectives, basic information on the countries/civil service, and the public sector as a whole (e.g. education, health, major public services)**

The purpose of this paper is to provide a broad comparative framework on civil service systems and public service in the target countries, with some reference to other similar small jurisdictions (states) where it may be useful for illustrative purposes. The aim is to provide sufficient information on the civil service systems in the target countries to enable the development of a platform that can be used for the re-design of the civil service system in TRNC. Each of the civil service systems have slightly different modalities and, despite the common traces of British influence, have, over time, diverged either directly or indirectly. However, it is necessary to establish a background on the country and its civil service system formation.

In all four countries, education and health are perceived as a public good, and they are accessed free, or with minimal payments. Still, public services perceived as the public good are provided in a public good manner, but it is also clear that in the near future these countries, as with others within the EU, will have to seriously re-examine the affordability of the model.

## **Brief historical background/context for the selected countries**

### **Cyprus (the Republic of)**

The Republic of Cyprus is an island country located in the Eastern Mediterranean, and a member-state of the European Union. The term is currently used to label the Greek controlled part of the geographical island – circa 59 per cent of the physical territory, whilst 36 per cent of the island is known as the Turkish Republic of Northern Cyprus (TRNC). The other 5 per cent of the territory is accounted for as British sovereign military bases and a UN demarcation line. The population of the territory effectively controlled by the Republic of Cyprus is slightly less than 840,000 citizens, whilst the estimates for the North territory are about 250,000 citizens. Per capita income is USD 28,237 (in 2010). Cyprus is a (presidential) republic, where the highest executive power rests with the president, who is elected to serve a term of five years. It gained independence from the UK in 1960 (following the Zurich and London agreements) and the new Constitution of the island was promulgated in 1960, trying to balance the interests of two main communities: Greek (circa 77 per cent) and Turkish (circa 18 per cent). Cyprus was formally a Crown colony of Britain from 1925 to 1960, although the British were effectively in control of the island from 1878, following the Congress of Berlin. Between 1878 and 1914, Cyprus was formally part of the weakened Ottoman Empire, but *de facto* a British protectorate.

Zurich and London agreements (1959) were tripartite agreements signed between the UK, Greece and Turkey and have paved the way for Cypriot independence. The agreements have recognised the non-homogenous situation on Cyprus and the 1960 Constitution was a

rather balanced act that provided the 'national key' model for the island, where certain public posts have been reserved for members of the respective national group. For instance, the Presidency has been reserved for a Greek Cypriot, whilst the Vice-Presidency was guaranteed a position for the Turkish Cypriot. A similar national key was applied to all other political posts and the proper representation of national groups was to happen in all other public services, including the judiciary. However, the effective boycott of the national (central) government by the Turkish national minority led to the situation that the majority of the 'Turkish reserved posts' have been vacant. In the 1970s, in order to deal with the reality of the situation, the Republic of Cyprus has amended the vast majority of its laws, where the collective bodies have been reduced in size, recognising that the Turkish representatives will not take part in them. For instance, this was the case with the Cyprus Public Service Commission. However, the Turkish places in Parliament (24 in total) remain unoccupied, whilst the Greek ones and the three reserved for other national minorities are filled through a general election every five years.

## **Iceland**

Iceland is an island state in the Atlantic Ocean, 970 km north-east of Norway. Although it is geographically closer to North America, Iceland has been regarded as a European country, primarily due to cultural and historical reasons. It covers 103,000 km<sup>2</sup>, and has a population of 318.5 thousand. It is a rather nationally homogenous country with 93 per cent of citizens being Icelanders, and 5 per cent of Scandinavian heritage. It is an economically advanced country, with GDP per head at USD 36,620 (in 2010). Iceland is a representative democracy with a classical bipolar, bi-party system. The head of state is the President of the Republic, who performs rather ceremonial duties, whilst the Prime Minister is the head of the executive arm of the government. Both parliament and President are elected by universal suffrage for a period of four years.

Iceland also boasts a Nordic-style and level social infrastructure (education, universal public health system, etc.) and has traditionally been a stable western democracy. In fact, there are claims that Iceland is, in fact, the oldest functioning parliamentary democracy in the World, dating back to the 10<sup>th</sup> century. It also has four different layers of sub-national government (regions, constituencies, counties and municipalities). Historically, the Icelandic Parliament (*Althing*) was set up as an advisory body to the Danish King in 1845, and it is claimed that it continues traditions of parliament set up in 930 AD and which were suspended in 1799. With the end of WWI came the creation of the personal union between Iceland and Denmark, where the Danish monarch was also the monarch of Iceland (by the Danish-Icelandic Act of Union concluded in 1918 for a period of 25 years). Following the expiration of the Act, the Icelanders overwhelmingly decided to become a republic (95 per cent of those who took part in the referendum held in 1944).

Iceland is an economically developed market economy, although largely dependent on fishing as its major industry. It was ranked 14<sup>th</sup> amongst Western countries, and despite this, the Icelandic banking system was near collapse during the period 2008-2011 and is still unstable. Social unrest has also ensued during this time. However, the government has been stable and the political system rather robust.

## Isle of Man

The Isle of Man is a British dependency based in the Irish Sea. This self-governing island has a total population of circa 85,000 citizens. The head of state is the British Queen, HM Elizabeth II, who is simultaneously the Lord of Man (as from 1764). The Lord is represented on the island by the Lieutenant Governor. Despite this personal union, the Isle of Man is not part of the European Union, where the UK Government is taking care of defence and foreign affairs, whilst all other matters are in the hands of the locally elected officials. Also, Manx civil servants are servants of the Crown, although technically not part of the UK Civil Service. However, HM Government is ultimately responsible for the functioning of the Manx government and has the power to intervene to prevent government failure and ensure 'good government' conduct.

The Isle of Man Parliament – *Tynwald* – can serve as a bi-cameral or three-cameral body, mimicking, to a large extent, the current UK model. One house is directly elected by general suffrage, whilst the other comprises (indirectly) appointed members and those who occupy the seats, *ex officio*. It is also possible that both chambers meet and work in one session hence it can be claimed that the Manx Parliament is, in fact, designed as a three-cameral body. Manx civil servants are servants of the Crown, in the same way as British civil servants are servants of the Crown, but serving the Government of the day. The responsibility of ensuring 'good government' that rests with HM Government is very important, as in the final instance it would be possible to contemplate intervention should the Manx authorities fail in executing governing duties, either in full or partially.

Although the Isle of Man has two major political parties, politicians usually run for office representing themselves personally, rather than the political parties whose members they may be. The overall influence of the political parties on the political processes is somewhat limited and personality politics do prevail. There are also some civil pressure groups, usually associated with the promotion of greater independence for the island and the support of the republic as a model of political regime. In terms of local government organisation, the Isle of Man follows the system of ancient parishes and has not reformed local government for a fair number of years, with the distinction between urban and rural local governments. As in the UK, the government department in charge of regional affairs does supervise local authorities and is ultimately responsible for their proper functioning.

The Isle of Man benefits economically from its association with Britain and currently, the financial services sector contributes significantly to the island's GDP. Other traditional industries (fisheries and agriculture) are contributing ever decreasingly to the national GDP. The Isle of Man employs the model of very low, limited taxes, where corporation tax is zero per cent. Similarly, income tax is capped both in monetary terms and in percentages. During the last financial crisis, the Isle of Man did not suffer major setbacks, despite being largely a banking/financial services enclave, similar to the Channel Islands.

## Malta (Republic of)

The Republic of Malta is a South-European island country in the Mediterranean. Malta covers 316 square kilometres, and has circa 420,000 citizens. In fact, three islands make up the Republic of Malta.

Although small in size, and in fact one of the smallest countries in the world, Malta is currently one of the most densely populated countries. Malta is a parliamentary democracy, where the public administration is organised following the Westminster model. This is a somewhat natural choice as Malta was under British rule from 1800 to 1964. The highest democratically elected body is the Parliament, which is selected every five years, by universal suffrage. Malta has traditionally had the highest turn out of voters amongst the countries that did not have compulsory voting regulations. The Maltese parliament is unicameral with 69 members, as one would expect in a centralist state.

The government is formed by the party that has the absolute majority in parliament. As Malta's politics are bipolar, there are two major parliamentary parties: the Maltese Labour Party and Nationalist Party. Other smaller parties traditionally fail to secure parliamentary representation. However, should the largest party in Parliament miss obtaining an absolute majority to form a government, it will be given additional seats, in order to be able to form a government and ensure political stability. The President offers the mandate to form the cabinet to the majority leader. The Prime Minister holds all the executive powers in the country and he/she is a leader of the democratically elected majority. The president is appointed by a resolution of Parliament and the post is largely ceremonial. One of the major prerogatives of the President is to disband Parliament should it fail to discharge its duties, but he can do that only upon the advice of the Prime Minister.

During a good part of its older history, Malta has been controlled by the Knight Hospitallers, i.e. Knights of Malta, who still exist as the Sovereign Order of Malta (*The Sovereign Military Hospitaller Order of Saint John of Jerusalem of Rhodes and of Malta*). The Order arrived in Malta in 1530 and has remained there until Malta was occupied by Napoleon I, on his way to Egypt in 1798. However, the British and some Italian kingdoms supported the Maltese struggle with the French, and in 1800, the French surrendered to the British, who from then until Maltese independence in 1964, effectively controlled the island. Malta first was a British protectorate, but after 1814 and the Treaty of Paris, Malta was integrated into the British Empire. In 1964, Malta became an independent country, initially within the British Commonwealth, where the British Monarch was head of state, represented by the Governor-General. However, in 1974, Malta declared itself a Republic and the link with Britain was severed. The defence agreement, signed in 1964, and extensively revised in 1972, was left to expire in 1979. In 2004, Malta joined the EU as a member-state, and later, in 2008, joined the Euro zone. During the serious public sector financial crisis in Europe, Malta has exhibited very good results and a higher level of fiscal discipline.

Although a small country, Malta has a two-tier government structure. Local governments take the form of local councils and there are currently 68 (with 14 on the Island of Gozo). Some of the councils will have less than 50 residents. However, as a signatory to the

European Charter on Self-government, Malta is committed to promote decentralisation and the principle of subsidiarity. Although there are formally six districts and three regions, these are used primarily for statistical purposes without any political power/significance.

## Status of the Civil Service (Public Administration)

### Definition, status of a *civil servant* vis-à-vis *public servant* ('public officer')

The professional model of civil service assumes that a civil servant serves the government of the day. In the context of the British civil service, which has influenced, more or less, directly and indirectly, the public administration organisation and model in all four target countries, civil servants are servants of the Crown who serve the government of the day. It is clear that professional loyalty to democratically elected political masters is of ultimate importance. A civil servant is, in fact, an employee of the government and is tasked with performing duties in the different government bodies and agencies. In a number of countries, civil servants as a category, relates to both central and sub-national governments, whilst in others (such as the UK) civil servants are only those employed by the central (national) government, whereas those employed by local government are not ('local servants' is usually the best comparative term used). Equally, the term "civil servants" excludes those who professionally or voluntarily (national service) serve in the armed forces, as a different legal regime is applied to them. Also, in some countries, police officers may also be considered under a different legal regime, and hence not regarded as civil servants.

The term 'civil servant' is usually narrower than that of 'public servant'. Whilst the civil servant is employed by the government, or government department, the public servant is usually employed by the public service provider, but not necessarily the government (directly). Both civil and public servants operate under the supervision of the government. The civil service usually performs duties that are derived from the sovereignty of the state (for instance, *law enforcement*, even by coercion), whilst public servants are, as a rule, providing primarily and/or exclusively the public service. Civil servants are always present in smaller numbers compared to the public servant category, which includes, for instance, teachers, doctors, nurses, etc. Military personnel, who are usually rather narrowly defined as those in uniform, are not civil servants. In contrast, civilian staff in the Ministry of Defence and other military agencies are usually classified as civil servants. Police officers are usually considered to be civil servants, although it is not a universal practice. As per World Bank classification – police officers do not constitute the civil servants' contingent – civil servants are only those serving in the central (national) government department, ministries and agencies.

In the former British colonies the term 'public officer' is usually used, instead of the term public servant, whilst the category of civil servants is usually absent. Public officer encompasses those employed by the national government, local governments and public organisations (education, health, culture, etc.). However, informally, the more precise classification such as government employees and others can be found in practice. However, *de jure*, there is no separate category of civil servant.



Most recently in some countries, the term “civil servant” is used for the Senior Civil Service, i.e. top public servants who are heading a government department, and are put in a separate legal regime (Cf. Iceland). Article 22 of the Government Employment Act, 70/1996 stipulates those jobs that will be occupied by civil servants. It is important to note that civil servants will be appointed for a defined period of time, whilst other government employees will be appointed indefinitely. The Isle of Man, following the British model very closely, defines civil servants as “statutory officers of the Crown and public servants”, who ... “subject to the provisions of this Code” [The Civil Service Code]... owe their loyalty to the Government which they serve”. Similarly, the Civil Service Act 1990 (Isle of Man) stipulates that “a civil servant when carrying out his duties shall be an officer of the Crown and a public servant” (Cf. 1(3) The Civil Service Act 1990).

Malta, in line with the said practice of former British colonies, defines “public officer” in line with the constitution. Article 124 of the Constitution of the Republic of Malta states that – *“public officer” means the holder of any public office or of a person appointed to act in any such office;* and other regulations usually just cross-reference to this article (which provides all the other contextual definitions). In the case of Cyprus, The Public Services Law 1990 to 2006 states that *“public officer” means the holder of a public post on a permanent or temporary basis or a substitute.*

This difference in classification of government employees may, to some extent, create problems in comparing the results. However, despite these initial challenges, it would be possible to establish a link between public officials in all these target countries. It is clear that Cyprus and Malta have kept, more or less intact, the old (and largely trusted) British public services model that operated in the colonies (protected territories), whilst Iceland and the Isle of Man have embarked on a series of reforms and have built a modern framework for the civil/public services to operate. The Isle of Man has kept a relatively close watch on what the UK has been doing with its Civil Service, and has more or less followed its reform model. However, in all models, a civil servant and/or its equivalent is more or less apolitical and serves the government of the day to the best of his/her own ability and political associations should not influence the behaviour of the other side.

## **General Overview and Size, Societal Costs**

Although the modern transparency expectations put before modern governments require them to publish information on the civil service and public sector employment, it is still something that is, in many countries, voluntary, or is not required at all. Usually the numbers provided from different sources are not precise and even more interestingly, often it seems to be difficult for many governments to provide an exact number of employees. The usual excuses are linked to different classifications, variety of salary scales, different models of reporting, differences between financial and personal management systems (programmes) used, different types of contracts, and different models of converting part-time servants into full-time equivalents, etc. However, as a rule, countries with longer traditions in stable governments/public administration are usually much better in securing and using public sector statistical information.

The Republic of Cyprus has had 70,429 public officers in 2010 - an increase of 1.7 per cent compared to the previous year, and despite the promises of the Minister of Finance, the total public sector labour force will be reduced by 600 staff between 2009 and 2010. In 2010 there were 17,697 public officers at the central government level. The established public service, as defined above, includes some 16,554 officers (posts), of which at the end of 2004, 69.12 per cent were occupied and 30 per cent vacant. The maximum number of offices is specified by the yearly Budget Law enacted by Parliament. All offices are referred to under each Ministry or Department in which they exist. Some posts are specified by law as interchangeable, i.e. transferable between departments. In Cyprus, it is rather difficult to establish the correct number of political officers and public sector employees, partly due to a rather large public sector, which accounts for almost 50 per cent of national employment, and the changing definitions of those who are reported. However, there is also a problem in defining the number of public officers, as different sources have produced different numbers, based on classifications. For instance, it is possible to find that some 53,000 officers were providing public services and this again provides a rather blurred picture, as was the case in 2000, and some 15,000 public servants were working in health and education. However, the total cost of the public service is some 30 per cent of government spending, which is a significant increase from 26.5 per cent in 1996-2000, drawing closer to the trends exhibited in the late 1980s and 1990s.

Iceland has State personnel of 18,261 (although some other sources would say 18,300 FTE) in 2008. Interestingly, the largest single state employer has been the national hospital, employing circa 21 per cent of the public labour force. One-third of government agencies and offices employ less than 10 government employees, whilst there are only three employing more than 500 officers. The largest 15 agencies employ over 50 per cent of government employees. Two per cent of the population work in education and slightly less than one per cent in health. In terms of the total wage bill, in the early 2000s over a quarter of government expenditure has been directed to the salaries of government servants. Although Iceland's government claims that human resources reform has been lagging behind other reform attempts in the public sector, the total government wage bill in relation to the total government expenditure has been decreasing over the last two decades.

The Isle of Man, being a small country, has 2,237.68 FTE<sup>4</sup> government employees (including the numerated civil service), working in government offices and agencies, which is around 30 per cent of the total government workforce. There are a further 9,000 working in the public sector providing a range of public services. The total cost of government in 2012 will be 993 million, which should also yield an 8.3 million surplus. The Government has steadily reduced the number of employees over the last three years, averaging about 120 posts lost per year. Also, measures to virtualise some of the public service provision have been taken, with a further reduction in post envisaged. As it stands at the moment, slightly more than 10

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<sup>4</sup> Full-time equivalent

per cent of the population works for the public sector, and a quarter of the Island's labour force (circa 23 per cent).

Malta has kept the number of public officers rather steady, with the numbers averaging about 31,000 in the last decade. It does include public officers assigned to the central ministries and also those working in a number of hived-out agencies. However, it does not include about 17,000 employees of state-owned enterprises (SOE), as they are, technically speaking, not public officers. Central government employs circa 22,000 public officers, representing around 6.1 per cent of the population. The total cost of public service employment has been over 30 per cent of government expenditure, which is in line with developing countries, but significantly higher than the leading western democracies (usually slightly over 20 per cent). In the case of Malta, there was some realignment within the service, where staff have been deployed to the agencies which are at the forefront of public services delivery, hence putting them in a situation of increasing their productive contribution (see, for instance, annual reports of the Public Administration Human Resources Office in the Prime Minister's Office).

In the case of the selected countries, the relative size of the public sector has been larger than in other advanced economies, and above the EU average. However, islands and small states do exhibit some specifics due to their size. Their economies (except for a few notable exceptions) are not diversified and generally rely on one or two industries (where fishery is usually one); hence leading to the need to use government initiatives and incentives to spur economic development. In challenging situations – history has recorded a growth in public sector spending and size in order to ease the supposed tensions and avoid major societal conflict. It has been well documented that once the public sector expands, it is rather difficult to execute the retraction in size. As the opportunities in the small countries are, by virtue of their size, limited, it is difficult to justify the retraction in the public sector, which traditionally has been (seen as) a driver of change.

## **Legal framework (of a public governance model)**

All countries in the sample are democracies, with three of them being republic, whilst one is in personal union with the monarchy. In the case of republics, all of them have the Constitution as the highest legal act, whilst in the case of the Isle of Man the UK is a constitutional monarchy, although the country does not have a single act labelled constitution, but rather a series of acts from *Magna Charta Libertatum* (1215) onwards, regulating constitutional matters. Constitutions in Cyprus, Iceland and Malta do regulate the civil service/public service as a constitutional category and often, other legal acts do refer to the Constitution for the definition of many institutions that have subsequently been developed in other laws.

In the case of the three countries, historically or *de facto* currently linked with the UK, the practice of having a Public Service (or Civil Service) Commission is present. Both Cyprus and Malta have a Public Service Commission, whilst the Isle of Man has a Civil Service Commission. Commissions are constitutional categories, which are charged with the

appointment, promotion, transfer, disciplining and retirement of public officers. Although Commissions are working in collaboration with the appointment boards (panels) appointed by individual departments and confirmed by the Commission – they are, in the final instance, confirming the public officer's appointment and are acting on behalf of the government as an employer. Public officers do not enter into employment with a particular ministry or other government organisation, but with the Government as a whole. In the case of the Civil Service Commission on the Isle of Man, it is more perceived as a strategic body, rather than an operational one. Hence, the serving MP (i.e. politician) is serving as a Chair and it is more of an honorary position.

In the case of Cyprus, the position of the public service and a public officer is defined in the Constitution (1960), probably most extensively compared to all other countries. This has been developed in The Public Service Laws 1990 to 2006. The Law was promulgated in 1990, and has had 18 changes and amendments since then. It is very extensive and does cover material that in some other jurisdictions may have been covered in the bylaws.

In Iceland, the government sector is also a constitutional category and has been regulated in the Constitution (1944, with subsequent amendments). However, the main sources of law are The Government Employees Act, No. 70/1996, The Government Employee Pension Act, No. 1/1997, Administrative Procedure Act No. 37/1993, and a set of collective agreements concluded between the Island Government and the major trade unions. However, a number of other laws are applied to government employees, as they are of a generic nature, such as: the Act of Obligatory 40 Hours Working Week, the Holiday Act, the Wage Earners' Terms of Service and Obligatory Pension Rights Act, the Equal Treatment Act, the Equal Pay Act, the Working Environment Act and the legislation regarding maternity leave. There a number of policies applicable to government employees, but these are not very extensive compared to some other countries.

The Isle of Man regulates the state sector through the Civil Service Act (1990), but in line with British tradition there are number of well-developed policies and other guidance documents which really serve the function that in other countries would perform by-laws. For instance, The Civil Service Code develops a number of regulations that have not been explored in detail in other legal documents. Lengths of the policy documents vary significantly from one or two pages to those that have more than 20-30 pages. Some of the major policies are: Policy for Determining Salary and Annual Leave on Appointment; Guidance for Public Servants (i) Participating in Political Activities and (ii) Standing for Election; Industrial Relations Policy; Code of Conduct for Public Servants, and Public Services Learning and Development Strategy.

In the case of Malta, the Constitution of 1964, chapter X is devoted to the Public Services, whilst Article 124 provides a definition of all the categories associated with public services. However, as expected on Malta, a significant part of chapter X has been devoted to the Public Service Commission, as an important player in recruiting and retaining public officers. However, the operational aspects of the public service have been regulated by the Public Administration Act, 2009, that encompasses a number of schedules. The first schedule is the Code of Ethics; the second is the listing of government departments; the third schedule –

grades; and the fourth schedule – agencies. The legislator has also provided subsidiary legislation on ‘Public Service Commission Regulation’. In 2011, the Government instituted the Public Service Management Code. The Code defines rather well the relationship between the Maltese government and its civil service, and rights and duties of an individual public officer. One can find a rather strong influence of the British colonial administration on the processes and procedures in the civil service of Malta. The Maltese government pays attention to the development and implementation of various policies, as this is common with a country where the Anglo-Saxon influence is rather strong.

The civil/public service in the target countries has as a rule of being mentioned in the constitutional documents, and then defined in a separate legal act, usually labelled the Public Service Law. Due to Anglo-Saxon influence, almost all countries have developed a Civil Service (Public Service) Code, which operationalises issues touched upon in the public services law. Then the specific issues have been considered in a range of policy documents developed to ensure better functioning of the public service.

## **Institutional framework**

After considering the legal framework for the civil/public service, one should focus on the institutions that shape civil service recruitment and retention, in a centralised manner, providing both leadership and technical advice in the recruitment and career management process. Although two countries have the previously mentioned Public Service Commissions (Cyprus and Malta), the Isle of Man has a Civil Service Commission, whilst in the case of Iceland there is no centralised appointment procedure and, in a broad sense, public service cannot be considered a career, *stricto sensu*, outside education, health provision, police and the fire service.

Public Services Commissions (PSCs) are in the tradition of the Anglo-Saxon public administration/civil service model. They were generally created in the British colonies to ensure a fair and effective process of appointing public officers, their transfers and career progression to the retirement. They represent epitomes of a centralised human resource management model in the public sector, as all public officers (public servants) are appointed and promoted by the Public Services Commission (PSC). In some countries (two in our samples are good examples) PSC will make the final decision, whilst in the others it will confirm the junior civil servants, and in the case of a senior appointment, the decision of PSC will be a mere recommendation to the President (Head of State) to make an appointment. In the latter cases the Head of State is not bound by the PSC’s recommendation.

PSC are, in fact, a colonial and post-colonial version of the British Civil Service Commission. Following the publication of the Report on the Organisation of the Permanent Civil Service (1854), now known as the Northcote-Trevelyan Report, the Civil Service Commission was established in 1855 to oversee open recruitment and to end patronage. The Report recommendations have been gradually implemented and the last touches were carried out as late as the 1930s. One should bear in mind the historical setting in which the Report was

produced. It was published in 1854, just after the bad experience of the British undertakings during the Crimea war, mainly due to the bureaucratic inefficiency and chaos. Nepotism and patronage have been listed as the main reasons for the failures and it was necessary to establish a body that would champion professionalism and performance. This has contributed to creating a Civil Service that is professional, rather independent (civil servants are formally employed by the Crown and not Parliament or the Government), meritocratic and, above all, professional. One can choose the civil service as a career and stay in it until retirement, not worrying about a change in government and realignment in Parliament.

The Report recommended the creation of the Civil Service as permanent and politically neutral. The appointments should be on merit and a clear distinction had to be made between staff responsible for routine ('mechanical') work, and those engaged in policy formulation and implementation in an 'administrative' class. Under the influence of the Chinese Imperial Servant Examination, the Report recommended the introduction of entry examinations, which should promote appointments on merit and capabilities. All appointed civil servants are on the Civil Service list, and it generally includes only those who work for the national government. Local servants, police officers, members of the armed service, the Royal Household, employees in education, health and social sectors are not, in fact, civil servants. The creation of a professional and meritocratic system means that the damages and dangers of the spoil systems are avoided. In the UK, the Civil Service Commission is now overseeing the process, and ensures the fairness of the system, whilst the operational part is delivered by the departments. In Northern Ireland there is a Public Services Commission, which may be, to some extent, compared to the Public Service Commission model developed in the colonies, but it should not be forgotten that the Northern Irish one was developed as a result of devolution and a return to local rule in Northern Ireland.

PSCs in the colonies were established in the post-WWII years, primarily to advise respective British Governors on matters of recruitment, appointment and promotion of civil servants. This also included the appointment, confirmation, and promotion of public officers working in the public services such as health, education, local government, etc. Over time, in some of the jurisdictions (primarily in Africa), separate Local Public Service Commission(s) were established to perform the same duties as PSC at a national level. Prior to the establishment of the PSC, the Governor appointed the colonial servants in his jurisdictions, whereas senior staff were appointed by the department in charge of colonial affairs in London. The department also served in the second instance, when civil servants complained/had grievances against the Governor decision. For the appointment of senior colonial servants, the Governor was usually consulted or could initiate the appointment of a particular civil servant.

For instance, in Cyprus, it was the Governor who recommended a Greek Cypriot as Solicitor General in the 1930s. He remained so adamant in requesting the appointment that finally the Department succumbed to his requests and made the appointment. The candidate himself would have been appointable based on qualifications and professional experience if he was English. Over time, especially during post-colonial times in more advanced/developed countries, the centralised recruitment and promotion model that PSCs embody has been subjected to gradual decentralisation. For instance, in Singapore, the

model is highly decentralised now, where PSC assumes the duties more of a strategic adviser, than an operational agent. In the near future it will be stripped of all hiring/recruitment powers and those will be devolved fully to the individual agencies, with a view that it is better to have a decision on recruitment made by those who are closer to the place where the services are actually delivered (the 'customer front line').

## **Cyprus (The Republic of)**

The Cyprus Public Service Commission is authorised by Article 125 of the Cypriot Constitution (1964) "to appoint, confirm, emplace on the permanent or personable establishment, promote, transfer, retire and exercise disciplinary control over, including dismissal or removal from office of, public officers". In other words, the Commission has all the powers to appoint, promote and perform other administrative responsibilities as far as the public service is concerned, including disciplinary control over public officers. The Public Service Commission is legally responsible for filling the vacancies (initial appointments and promotions) on the basis of objective criteria. However, they do not make judicial, military or security appointments, which remain outside the mainstream appointment model. Although the primary duty is to appoint public officers, the Commission also looks at transfers, resignations, duties, conditions of work, and labour freedom in the public sector, etc. It is very important to note that although it is appointed by the President of the Republic, the Commission submits regular annual reports to the Council of Ministers. Although the initial constitution has introduced national quotas, it was later changed, after the withdrawal of Turkish representatives. Interestingly, this is one of the rare acts where the 'national quotas' have been suspended, in contrast to many vacancies currently unfilled as they are still reserved for representatives of the Turkish minority.

Initially, the Commission was to be composed of ten members – the President and nine members (Commissioners). Out of the ten sets, seven were reserved for Greek Cypriots and three for Turkish Cypriots. However, the changes in Law promulgated in 1967, took into consideration the reality of the situation that Turkish Cypriots had abandoned institutions in 1964, and hence the 'new' Commission consisted of the President and another four members (Commissioners), all appointed by the President of the Republic for a term of six years. Interestingly, even the UN, who proposed laws for a unified Cyprus, toyed with the Public Service Commission idea. Interestingly, the mandate of the Commission is longer by a year than the mandate of the appointing authority – the President of the Republic. Also, the Commissioners are administratively given the same treatment extended to the Supreme Court Justices.

The Cypriot Constitution (Art. 124/6-1) stipulates that a member of the Public Service Commission must meet the following criteria: 1) citizen of the Republic, 2) high moral character and 3) has the qualifications for election as a member of the House of Representatives. The Constitution states further that (Art 124/6-2): No person shall be appointed as, or be, a member of the Commission who is, or within the preceding twelve months in the case of the Chairman or six months in the case of any other member, has been - (a) a Minister; (b) a member of the House of Representatives or of any Communal

Chamber; (c) a public officer or a member of any of the armed forces; (d) an officer or employee of any local authority or of a body corporate or authority established by law for public purposes; (e) a member of a trade union or of a body or association affiliated to a trade union. All these criteria have been confirmed (almost word-for-word) in the Public Service Act 1990-2006 (Art. 4 and 5). The Commissioners are perceived to be state appointees and, as such, the appointment is formally solely in the hands of the President. However, the president seeks advice from the Prime Minister, who may consult with the PSC (as would be expected in the Westminster-style democratic model). In order to safeguard neutrality and impartiality against the executive branch and other political environment, legislation provides that (a) the term of Office of the Public Service Commission shall be six years (unlike the tenure of presidential office which has a five-year duration); (b) the remuneration and other conditions of service of a member of the Commission shall be provided by law and shall not be altered to his disadvantage after his appointment, and (c) A member of the Commission shall not be removed from office except on grounds as in the manner of a judge of the Supreme Court of Cyprus.

In the case of Cyprus, in line with the British tradition, the MoF has strong input into manpower planning. Hence, within the MoF there is a separate department which oversees Government personnel policy. Formally, the Department of Public Administration and Personnel is responsible for formulating and implementing human resources management policy in the civil service and broader public sector, with the aim of creating a modern, efficient public service, based on the principles of efficiency, transparency and accountability, by placing the focus on the citizen and providing the best service possible.

The Department's strategic goals are: 1) improving the operation of the public sector by reducing the bureaucratic burden, as a result of the simplification of procedures, utilisation of technology, streamlining organisational structures and strengthening the administrative capacity of the public service entities; 2) developing human resources and ensuring their effectiveness and efficiency; 3) providing quality services to citizens and society as a whole, in a timely and effective manner, with greater transparency, and 4) contributing to the economic, cultural and social development of the state. The Department has a long history, dating back to British colonial times, and has changed its name on a number of occasions, but the very functions remained more or less the same: taking care of the manpower planning for the Cypriot government. The Department is still referred to, informally, as the 'Personnel Department'. Development and training functions of the Department are performed by the Cyprus Academy of Public Administration.

The Department is a body responsible for the formulation and implementation of appropriate personnel management policy within the civil service and the broader public sector ('public sector and broader public sector' in Greek public sector terminology). The Department has direct responsibility for roughly 58,500 public sector employees (civil



servants, policemen, firemen, soldiers, teachers and craftsmen) and has an advisory role for around another 12,000 employees in semi-governmental organisations and local authorities (as of 2010). The Department is also in charge of providing guidance on structure and function (organisation, processes, methods, and so on). There are some 16,000 staff who can be labelled as civil servants (in the international comparative sense), amongst whom 3,000 are so-called interchangeable staff – i.e. general managers and technical staff who can change the ministries, as their profession does not have a ‘home ministry/department’ (or in old British Colonial tradition – the Personnel Department is their home department).

The Department takes responsibility for hourly and technical staff – i.e. those who are not regarded as public officers in the sense of the Law on Public Services, 1990-2006. The Department Director, also *ex officio*, sits on a number of consultative committees, such as the Joint Staff Committee, Joint Labour Committee, etc. The Joint Staff Committee considers the following issues: 1) general principles relating to: hiring, promotions, hours of work, leave, holidays, health care, discipline, pay and retirement benefits, and other issues affecting the terms of service; 2) training and education of public servants; 3) considers the proposed legislation or proposes amending existing legislation regarding what affects their conditions of service of civil servants, and 4) issues related to the welfare of civil servants. There are separate bodies which look at the position and welfare of education staff and police officers, which work along similar lines as the Joint Staff Committee. The Department participates in the Joint Labour Committee, which is charged with collective bargaining between the Government and the recognised public sector trade unions, although the leadership is taken over by the senior MoF officials outside the Department.

In the case of the Isle of Man Civil Service Commission, members are appointed by the Chief Minister, following a public advertisement, short-listing and interviewing of applicants. However, this procedure applied only to the three ‘public members’, whilst the chair and vice-chair are politicians, members of the Manx Parliament and are appointed following internal consultations. In fact, the Manx appointment procedure is fully in line with the practice for Civil Service Commission appointments in the UK.

In the case of Malta, the Commission is appointed by the President upon the advice rendered by the Prime Minister. The appointment process is internal and usually assumes consultations between the Prime Minister and Leader of the Opposition, before the Prime Minister puts the names forward to the President. Maltese politics are very consultative, so even if the legislation/regulation does not require consultation, it is most likely that the two major parties will consult, i.e. the sitting Prime Minister and the Leader of the Opposition.

## **Malta (Republic of)**

Malta, being another former British Crown colony in our sample of countries, also has established a Public Service Commission. The Commission is an independent constitutional

body that has been established to supervise the public service. The Commission is a collective body of seven members, who are appointed by the President of the Republic, acting upon advice given by the Prime Minister, who in turn had to consult the Leader of the Parliamentary Opposition. Although it hails from colonial times, the Commission in its current form was established in 1964, with the Public Service Law. In the Maltese model, the Commission is more of an advisory body, as it makes recommendations (and provides advice, as appropriate) to the Prime Minister on the appointment, promotion and removal of civil servants.

The Maltese Civil Service has traditionally been well-organised, and there are clear recruitment, career and salary structures, where the law guarantees a fair, open and competitive selection of all public servants. To some extent, this has been changing in recent years as due to *agencification* of the civil service, newly created agencies have somewhat different salary structures and could depart (to some extent) from the classical human resource procedures endorsed for the public service. Malta has a fairly strong public sector, marked with a significant number of (still) state-owned enterprises (SOEs), but the employees of these entities are not public officers. Public officers are staff recruited under the authority of PSC, who serve in the government ministries and departments.

Maltese PSC states that it is “guided by the principles of merit, equality of opportunity, impartiality, non-discrimination, transparency, the exclusion of patronage (political and otherwise), and fair and open competition; the latter within the parameters of agreements that exist between the government and the trade unions”. Public Service Commission Regulations (1960) and the Public Service Commission (Disciplinary Procedure) Regulation (1990) are the main legal sources regulating the work of the Commission. Malta, to large extent, has endorsed the tradition of the 1939 PSC, as it was established to advise the Governor on matters related to recruitment, including regulations governing conditions of entry; principles to be followed in the making of appointments, promotions and the transfer and the suitability of candidates for such appointments; scales below a maximum £150<sup>5</sup> a year were to be excluded; discipline in cases with which it was not within the authority of the Head of Department to deal, and appeals to the Governor on disciplinary matters” and any questions affecting the Public Service, or any division of the Service, which could be referred by the Governor to the Commission for advice (Sec. 54(1) of the Letters of Patent, 1939).

Interestingly, the Letter of Patent, 1947 did not mention the Commission, but it continued functioning on an administrative basis. The Maltese Constitution, drafted in 1959 in preparation for independence, did, however, make a provision for PSC as an independent body, external to the government, with clear and binding powers of decision. The Commission was formally established in August 1960 by Legal Notice 62. The position of PSC has remained largely unchanged in the Constitution (1961) and the Independence Constitution (1964). The Commission has a standing meeting on Thursdays, although it is possible to fulfil duties through the circulation of files. Increasingly, the Commission is also

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<sup>5</sup> The sum of money mentioned in the law should be seen in a historical context. However, it does not have any importance for today’s jurisdiction.

entertaining the option of oral hearings, in order to provide fairer access to its services. The Commission also works closely with the Principal Permanent Secretary, as the Head of the Public Service. Recently, the Public Administration HR Office has been established in the Prime Minister's Office, but this is more of an internal policy body and does not really affect the position and operations of PSC. The Office focuses on: workforce planning; change management; the implementation and monitoring of HR management policies and processes in line departments, and the promotion of leadership development. So, the focus is more on macro, rather than micro-issues.

## **Isle of Man**

The Isle of Man has a Civil Service Commission, chaired by a politician and the members are a mixture of politicians and other appointees. The Commission is composed of the Chair and Vice-Chair, who are members of the Manx Parliament, and another three members. Also, it is mandatory that the Chief Secretary is in attendance, although he/she is no longer a member of the Commission. According to the Public Service Act (1990, as amended in 2007) the Civil Service Commission's functions include: 1) fixing the establishment (that is the number and grades of all Civil Service posts) required by each Department, Board or Office (staffed by members of the Civil Service); 2) arranging for the recruitment, training and development of all civil servants; 3) appointing, promoting and transferring all civil servants in and between departments as necessary; 4) negotiating pay and other terms and conditions of service for all civil servants; 5) making arrangements for the welfare of civil servants; 6) dismissing civil servants for good cause, and 7) making regulations as to the conditions of service of civil servants. The Commission meets monthly (in contrast to Cyprus and Malta) and a meeting usually takes place on every first Monday of the month, although it is common to have extraordinary meetings when required.

The Isle of Man Government summarises the duties of the Civil Service Commission as such: 1) Strategy – Set the Commission's strategic aims to assure a high calibre, appropriately skilled, well-motivated and rewarded Civil Service; 2) Terms and Conditions of Service – Determine the scales and rates of salary and other terms and conditions of service; 3) Establishment – Fix the Civil Service establishment required by each Department, Board and Office (staffed by members of the Civil Service), i.e. the numbers and grades of posts; 4) Performance Management - Ensure there is in place effective performance assessment and appraisal arrangements which focus on personal development and the delivery of objectives; 5) Corporate Governance – Ensure that high standards of corporate governance are in place and observed; 6) Values and Standards – Set the values and standards ensuring that the Civil Service know what standards of conduct are expected, and 7) Communications – Ensure the Civil Service Commission's strategic objectives and obligations are clearly understood by the Civil Service, pension schemes' members and recognised representative trade unions and staff associations.

The Office of Human Resources acts as an agent for the Commission. The Office of Human Resources is part of the Government and operates through four main departments, focusing on the major "product lines": 1) Employee Relations and Policy; 2) Employment Services; 3) Health, Safety and Welfare, 4) Learning and Organisational Development, and 5) Pensions.

The Office provides “leadership for the Government’s HR community and supply to managers and individual job holders a range of support and management information and advice services, both individually and collectively, covering all aspects of employment”. Most recently (April 2011) the Government of the Isle of Man has put forward for consultation a Proposal to establish a Public Services Employment Authority, and the proposal, although it has not attracted full support, was not rejected outright either.

## **Iceland**

In the case of Iceland, the recruitment, promotion and retention system is highly decentralised, and the recruitment agencies are individual government departments. Iceland, in fact, is very proud of the system, where there is very little centralised control and where the overall system promotes equally both appointments within and outside the public sector. In fact, the term Civil Service is reserved for the top of the civil service (the echelon that would be labelled ‘Senior Civil Service’ in most other jurisdictions). All government employee affairs at the central level are co-ordinated and led by the Department of Personnel Policy, operating within the Ministry of Finance. The Department is charged with the care for employees at the central government level, whilst the Association of Municipalities is doing the same for local government employees. The reforms implemented in the late 1990s had, as their aim, the simplification of the legal regime for public servants and bringing closer employment relations within the public and private sectors. In terms of the operationalisation of ideas, full decentralisation was instituted, where collective bargaining, present in the private sector, has now been endorsed in the public sector.

The attempts to bring closer the public and private sectors culminated in the adoption of the Government Employees Act, where the responsibility for human resource management, together with the day-to-day responsibilities of people management, was devolved to the Director Generals of agencies. Under the 1996 law, a Director General can appoint, promote and dismiss personnel in accordance with the needs of the agency, taking into account the budget and general guidelines (collective agreements being one example) provided by the Ministry of Finance. This had a consequence on the institutional framework. The Department of Personnel Policy was set up in 1998 to facilitate the HRM process within the government, but to act more as an adviser and the guardian of right, than an employment agency acting on behalf of the Government.

The Department works on developing and promoting personnel policies for the state sector as a whole, prescribing and interpreting rules in the area of personnel, concluding collective agreements and other agreements regarding pay and employment conditions, and maintaining a close relationship with the recognised trade unions. It also provides ministries and government agencies with general, as well as specific advice, on personnel-related matters. The Department also provides the necessary technical and professional advice in situations it deems appropriate, and also responding to the requests of the individual ministries (administrative organisations). Senior management is centrally appointed, in contrast to all other government employees, who are employed by the heads of individual departments.

As we can see from these cross-country comparisons, the sample consists of countries that although they may have been influenced by the British experience, have opted to introduce models that are somewhat different. For instance, Cyprus has endorsed the PSC as a major operational body, whilst in the case of Malta, the role is more advisory than operational (although in the last instance PSC is responsible for recruitment and the hiring of public officers). In the case of the Manx Civil Service Commission, the traditions have been preserved, but the essence of the Commission activities has again – somewhat – changed. Iceland has gone the furthest in the reform of human resource relationships in the government, and its model looks most at odds with current practices in the neighbouring countries.

# Civil Service: Organisational Aspects

## Conditions of service

Conditions (or terms and conditions) stipulate the basic rights and duties of the civil servants/public servants. In principle, this includes basic rights and duties, pay, statutory and other (allowed) leave of absence (holiday and leave entitlements), hours of work, opportunities for development, promotion, etc. In principle, these are outlined in an individual contract of employment and/or collective bargaining contract for the public sector. In the countries that follow Continental European legal traditions, most of these rights and duties will be included in the Public Service/Civil Service Law (Public Service/Civil Service Act) and relatively very little will remain to be stipulated in the individual contracts and collective bargaining contracts are predominantly focused on pay issues (defining the base that may be used for calculating individual salaries in the public sector). In contrast, in the countries of Anglo-Saxon legal provenance, contracts do 'legislate' and hence are longer and do stipulate much more than those applied in Continental Europe (the countries that follow Continental European traditions).

In the British tradition, the appointment is usually made by an appointment letter, to which terms and conditions of service may be attached, and the letter refers to these explicitly. The contractual relationship is established after an appointee signs the letter and returns it to the employer. Similarly, after the probation period, the confirmation letter is sent, confirming the permanency of the appointment. The same may also apply when a civil (public) servant (officer) is promoted and this may mean changes in the contractual relationship, or on the other hand, it is confirmed that the terms and conditions of service of the prior contract remain in place.

It should be noted that in Anglo-Saxon legal tradition terms and conditions of employment/service are not the contract of employment, but rather an indicator that such relation are in place. In the case of the Isle of Man it is stipulated that the statement of terms and conditions should include: 1) identities of the parties; 2) period of employment; 3) job title; 4) place of work; 5) pay (date of pay, method of payment, overtime rates, allowances, conditions in which reduction in pay may occur); 6) hours of work; 7) annual leave and public holidays; 8) sickness absence; 9) pension and retirement (age); 10) termination of contract; 11) disciplinary rules and procedures; 12) grievance; and 13) collective agreement. The statement (of terms and conditions of service) can also include cross-references to different policies that are in existence, or these can also be explicitly repeated in the statement. Currently, the Isle of Man Government has seventeen policies that relate to employment in the Manx public sector.

In the case of Cyprus, Article 37(2) as amended in 2006 in the process of modernising appointment practices, stipulates that the successful candidate will be issued an offer of employment that will "state the remuneration and the other terms and conditions of service of the post and shall specify the date from which the appointment or promotion takes

effect". Interestingly, amendments to the Law effectuated in 2006, have also stipulated (implicitly) that if the successful candidate fails to accept the offer, the PSC will then re-examine the first offer and make a new offer of appointment. However, the terms and conditions of service as a separate document is not prepared, but rather the offer itself stipulates the basics, along the same lines as stipulated in the case of the Isle of Man.

Similarly, stipulating the rights of the employee, Iceland's Government Employees Act No. 70/1996 stipulated (Article 8/1) that the employee 'shall receive information on his terms of appointment or employment when he is appointed or hired.' Further on (Article 8/2) it is stipulated that "anyone appointing or hiring staff may issue a letter specifying the duties of the employee; such instructions shall generally be issued to an employee; should he so wish, whether it applies to his job in general or to a particular aspect or aspects of it". From chapter III's focus on the rights of an employee, it transpires that the main rights should be included in the terms and conditions of employment – pay, holiday, sick leave, and flexible working hours. Amongst the duties of an employee are to obey (lawful) instructions, punctuality, confidentiality, acceptance of reallocation, and the right to inform the employer of any intention to accept some other work with another employer, public body, private or state-owned enterprise, etc.

In the case of Malta, there is no direct requirement in the Public Administration Act, 2009 but it may be assumed from the general text that the successful candidate who is to be appointed as a public officer, will be given the terms and conditions of employment. The Law stipulates that the senior public officer may determine specific terms and conditions of appointment for a particular post. Hence, it is to be assumed that the successful candidate should be made aware of these before he is installed in the position/post.

Terms and conditions of service, as we have seen, usually accompany the offer of appointment. Only in the case of Malta is there a more rigid method of appointing by issuing a traditional appointment letter and this is still in place, whilst in other jurisdictions changes have been made to bring general employment practices in the public sector in line with those practices now dominant in the private sector ('inter-sectoral convergence').

## **Employee relations**

Employee relations usually relate to activities undertaken with a view to establishing and maintaining employer-employee relationships that contribute to satisfactory productivity, motivation, and morale. Employee relations should pre-empt a conflict between the employer and employee and ensure that there is the necessary level of communication which can defuse any eventual tensions and prevent conflict. Often, employee relations are perceived as a modern term replacing industrial relations. However, in this work, we will consider employee relations as the relationship between the employer and employee in a more individual (individualised) manner (although organisationally and socially contextualised), whilst industrial relations (in this paper) will focus on collective bargaining and the relationship between employers and their organisations and recognised trade unions.

The issues which employer and employee may consider, include, but do not restrain the following: Discussions between employers and employees typically cover the following areas: 1) pay; 2) bonuses; 3) the work environment; 4) disputes; 5) work schedules; 6) grievances; 7) health and safety; 8) hours of work, and 9) production targets.

Public sector pay has been increasingly under public scrutiny and the public requires the knowledge of why and how much public officers are paid. Pay is usually defined in the by-laws enacted by the Cabinet (government). The pay scales are unified and should be applied to the entire civil service, although increasingly, the pay and terms and conditions of appointment in the agencies are somewhat different and often significantly higher than in the 'mainstream' public/civil service. All countries in the sample considered in this paper have rather complicated pay and remuneration scales. In the case of Cyprus, the State Budget Law sets the salary scales in the civil service. Pensions, remuneration and allowances received by public sector employees are set by regulations. In the case of Iceland, the pay is determined by the State Salaries Commission or the State Salaries Arbitration Court or through the process of collective bargaining between the state and the Unions. The head of the individual agencies may decide on special pay emoluments with respect to the specifics of the job/post, stress associated with the post and/or performance in the post. However, the Ministry of Finance ensures that the equality principle has been observed. Salaries are usually paid on the first day of the following month.

The Isle of Man Civil Service has a few different salary scales, one for general grades with 55 points, departmental grades, senior civil service (Corporate Leadership Grades) and others for more specialised service (airport security) and trainees. Similar to the British Civil Service, the grades are decided by the Government, following completion of the process of pay negotiations with the recognised trade unions. In the case of Malta, pay is determined through collective bargaining with trade unions. The collective agreement is signed for a term of five years between the Government and the five leading national trade unions. The Maltese pay scale has 20 grades (although the agreement itself labels them as "scales"), and is fairly egalitarian with a range of 1:4.5 times between the 1<sup>st</sup> and 20<sup>th</sup> grades.

However, it should be noted that all the countries studies in this sample have fairly elaborate allowances in their public services. Often, these allowances were unknown and consequently, it was difficult to establish the total remuneration for a public officer. Many of them would even make more from allowances than from the primary salary. Following the crisis and significant fiscal imbalances, all the countries have attempted to mainstream a total civil service/public sector pay, but the task has proven, until now, formidably difficult to achieve. All the targeted countries have experienced one form of hardship or another, and hence it may be difficult to install trust that the situation might improve any time soon. For instance, on Malta, the previous (2005-2010) Collective Agreement is used for the calculation of salaries with some minimal adjustments, as the new Collective Agreement has not been concluded, as yet. Similarly, in Cyprus, there has been a public campaign reigning in the public sector pay, with the claim that public salaries are comparatively higher compared to the private sector. The structure of salary bands has been made publicly available, clearly showing that the distribution curve has been skewed to the left.



The practice of bonuses seems to be present in most countries. In Cyprus, the culture of thirteen months' salary has been well imbedded into both the private and public sectors. It is perceived almost as an entitlement and, as such, is perceived to be part of the total remuneration package. It seems that this will be one of the issues to be addressed imminently by the Government. In the case of Iceland, the Government Employees Act No. 70/1996 does not stipulate the bonus, but this does not mean that there is no possibility to pay out the bonus. As financial management decentralisation has been implemented, every individual government agency allows individual heads to have some leeway in rewarding their staff. However, within this culture, a bonus is not an entitlement, but rather performance-related pay. Similar practices are applied in the Isle of Man. In Malta, the Performance Management Programme, instituted in the late 1990s, has opened the door for some performance-related rewards – such as performance-related pay. A bonus as such, split between institutional and individual performance contribution, does not exist.

In all jurisdictions the new appointees are to be given a clear indication of place of work and what they would be expected to be given in order to execute their duties successfully. Health and Safety (Occupational Health) considerations are mentioned in two northern jurisdictions (Iceland and the Isle of Man), whilst there is no explicit mention of the case of two “southern” countries (Cyprus and Malta). However, this is most likely to be addressed through the application of EU standards and regulations, where the focus on health and safety is central to a Community's perception of the labour law.

All public service legislation does focus on disputes and addressing the grievances that public servants may have with their employer. Disciplinary issues have also been addressed in the law, as well as stipulation of the rights of the employee to fair treatment. As there is clearly an EU influence on these, it can be seen that these norms have been introduced around or after the entry of a particular country into the EU. In the case of the Isle of Man, as a British related territory, the standards that can be found in the UK are applied. As the British labour laws are very strict regarding disputes and grievance rights, the same practice is applied in the Isle of Man.

As for hours of work, civil servants are treated as professionals, so that they have to work reasonable hours to discharge their duties. Civil servants are usually not paid overtime, whilst in the case of public servants there is the option to pay them for overtime. This is generally the practice across the countries without exception.

In the case of former British colonies, the generic term ‘public officer’ is usually used, and it denotes a civil servant and public servant (employee in the wider public sector). Hence, it is usually difficult to distinguish in constitutional terms between those who work for the core government and those rendering public services perceived as public goods. However, in practice, although all are members of the unified group of public officers, there is no mobility within the core and broader public sector. Or, if mobility occurs, it is the exception rather than the rule. When these governments report numbers, quite often they will be using terms that *stricto lege* are non-existent, but enable outsiders to understand the

differences and nuances between different staff. The historical connotation of these differences has been dealt with in section 3.1 of this study.

In definition of terms and conditions of employment, the laws differ primarily due to the difference in the culture where the service operates. For instance, in the Isle of Man it is stated that the civil servant shall hold office at the pleasure of the Crown. In other countries, civil servants are servants of the state. However, it seems that despite a somewhat obsolete definition of the position of civil servants, they are still systematically the most protected in the Isle of Man.

## **Industrial relations**

As we have already stipulated, for the purpose of this paper, Industrial Relations will focus on the relationship between the Government as an employer and the organisations representing government employees – civil and/or public servants (officers).

All the countries recognise the right of government employees to be organised into (recognised) trade unions. In Cyprus the right to bargain collectively is a basic labour right and hence applies to those employed in the public sector. Public officers, regardless of whether they are serving the government or are employed in the security forces, have the right to organise themselves, but there is a limitation to their right to strike. However, public officers in Cyprus have enjoyed permanent employment, although the Law also allows the contractual appointment of a public officer. *Stricto lege*, there is no provision in the Law and other accompanying regulations stating that a public officer enjoys lifetime employment.

However, it can be concluded “indirectly” from Article 46 - Public Service Laws regulating the abolishment of the post – ‘... *in the event that a job is abolished, its holder is dement to continue to hold it together with all its privileges and benefits until the holder of the job that was thus abolished retires or is appointed or promoted either to a job that was created or to another job*’. Even in the case of an offence the main punishment is compulsory retirement, and dismissal is imposed as an exception (usually a penal offence).

Collective bargaining has a long history in Cyprus, as it was established during colonial times, in 1947, with the establishment of the Joint Consultative Committee (MEP). The operative principles of MEP have remained much the same during all this time, although some adjustments have been made to move the process with the times. MEP is the official agency for collective bargaining between the government and employer and all public servants (i.e. their collective bodies - PASYDY), for the regulation of the general terms and conditions of employment in the public services. It should be noted that to a large extent, the conditions of service in the Cypriot public sector are governed more by collective bargaining than the law and government by-laws. Departmental Joint Staff Committees (MITEPs) are set up in all the ministries (except the Ministry of Defence) to address the local problems and local issues and they are de facto sub-committees of MEP, as only the latter can make a compulsory decision. So, in understanding fully the relationships within the Cypriot public

services one should consider not only the Public Service Laws 1990 to 2006, but also the Educational Services Law, The Police Law and finally the National Guard Law.

In Iceland, Article 47, The Government Employee Law, No. 70/1996 clearly stipulates that Labour Unions and their associations bargain collectively with the government on the pay and emolument terms of their members, in line with the law. However, it should be noted that the salaries are, in fact, effectively decided by the State Salary Commission and/or State Salary Arbitration Court (Article 37), but the general framework is negotiated by the trade unions and the government. The Manx Civil Service Commission recognises the Isle of Man Government Officers' Association Branch of PROSPECT, as a partner trade union, and negotiates with it. Also, the Union can represent its members before the Civil Service Commission, Government or any other public body, and can also take part in disciplinary and other grievance hearings. The Isle of Man Government has a very concise Industrial Relation policy, which in two articles explains the Government's position. The policy clearly states: *"It is Government policy that industrial relations activities across the public sector should be managed and co-ordinated in order to achieve a consistency of approach which strikes a fair but realistic balance between the operational requirements of employing authorities in the provision of public services and the reasonable needs and aspirations of staff"*.

Further on, it has operationalised through the following activities:

- '(a) Employing authorities will be required to observe existing collective bargaining arrangements and corporate procedures designed to provide a joint mechanism for discussing matters requiring negotiation and for the settlement of disputes.*
- (b) Employing authorities will seek to establish and maintain a constructive relationship with registered trade unions recognised by them as representing the interests of their staff.*
- (c) The Personnel Office will endeavour to advise, assist, guide and support employing authorities as they seek to secure the maximum co-operation possible in the joint resolution of those industrial relations issues for which they are responsible and which are not for determination through other established collective bargaining arrangements.*
- (d) The Personnel Office will be responsible for co-ordinating industrial relations activities across the public sector on behalf of the Council of Ministers and for monitoring the effectiveness of the same by seeking appropriate information from and providing information to employing authorities in a timely fashion".<sup>6</sup>*

Malta has a well-developed collective bargaining practice whereby a contract is concluded for a period of five years between the Government and the five major public sector unions, representing public officers working for the central and local government and also those working in public services (education, health). The Collective Agreements are fairly detailed and regulate many different aspects of the job, but the focus is, understandably, mainly on pay, with emphasis on annual increases in salaries. However, for the last two-and-a-half years the Unions and government have been negotiating, but no results have been reported as yet. This is why the Collective Agreement 2005-2010 is still used and salaries are

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<sup>6</sup> See: *Industrial Relations Policy*, Isle of Man (Council of Ministers)

calculated using the principles set out in the document with some incremental increases in salaries.

The Public Service Laws generally stipulate the right of public servants to strike (undertake industrial action). At the same time, some public officers/servants are not given this right and these are mainly members of the armed and security services. Their disputes are resolved differently and usually within the system itself. However, Public Service Law (or more precisely the laws/acts that regulate public services/public administration) does not regulate the issue of strikes in any great detail. It is assumed, therefore, that the general labour laws regulating strike/industrial action should be applied. Hence, it is necessary to ensure that public/civil servants who are members of trade unions are given the opportunity to decide whether to go on strike or not. Public sector trade unions are required to hold a ballot and only if the majority of those balloting have decided to go on strike, can the Union call a strike. However, in most countries, a minimum service must be offered and, at the same time, no disruptive behaviour preventing an alternative delivery of services to the population will be tolerated.

The right to strike is now perceived as a universal right of employees, and hence is confirmed for those working in the public sector. The usual limitations are that security, rescue and armed services personnel's right to strike is limited – i.e. they are not allowed to strike while requesting improvements in their rights. All other public officers can strike like any other employee whilst, in some countries, the law requires maintenance of a minimum service to the public and the procedures to notify the government, as an employer, may be somewhat cumbersome and highly detailed.

Cyprus (Republic of) stipulates that public officers can strike, but employees of the security forces (Fire Service and Police) and the National Guard, do not have either the right of association or the right to strike. Their grievances have to be resolved internally, as the services are of ultimate importance to the nation. This limitation to rights was established by Article 27/2 of the Constitution of the Republic of Cyprus, 1960 and the Constitution has also given the foundation for the extension of limitations to the right to strike to other public services. However, no other laws have been enacted to limit this fundamental labour right. Public services have quite often resorted to this 'right-of-last-resort', with the most recent events taking place in 2011 regarding the announced public sector cuts and reforms of the salary system.

Iceland allows its government employees to strike, or in other words – allows the recognised trade unions to resort to strike to advance further their demands in a dispute with the Government, regarding the issues upon which they have collectively bargained. However, Article 56 provides an exhaustive list of those whose rights to strike are limited, and these are:

1. Those civil servants to whom the Act on the State Salaries Arbitration Court and the State Salaries Commission applies.

2. The employees of the Althing and its agencies, the staff of the office of the President of Iceland and the ministries, including the foreign service
3. The employees of the Supreme Court and district courts.
4. The employees of the State Prosecutor, the State Solicitor General, the State Arbitrator and the Ombudsman for Children.
5. The employees of essential security services and health services.
6. The managers of municipalities, city and municipal attorneys, city and municipal heads of staff, city and municipal engineers, the head of the Office of the City of Reykjavík and the employees of payroll departments.
7. The heads of larger municipal enterprises and their service agencies as well as their deputies.
8. Other employees who perform tasks largely equivalent to those under Clauses 6 and 7 above.

Interestingly, the Law (The Government Employee Act No. 70/1996) has stipulated twice (Article 40 and Article 56) that civil servants (senior civil service members in a comparative perspective) are not allowed to strike or 'take a similar action'. It is very unusual to see the same two prohibitive norms in the same legal act. It is not clear why the legislator has opted for this solution, especially if one looks at the history of striking behaviour amongst senior servants, and it seems that in no instance has their behaviour brought any disrepute. Or, it may be just an oversight in the process of consolidation of the act.

The Isle of Man allows its civil servants to express their dissatisfaction with the current situation and advance their claims through industrial action. As there is no Isle of Man armed forces (defence is entrusted to the UK), no limitation on the right to strike has been instituted. As the UK is responsible for the good governance in the Isle of Man, one assumes the same level of standards to be applied hence all civil/public servants can strike. The UK limits the right to strike to members of the armed forces, whilst all other services can exercise the right to strike, including the security forces (police, fire services, border agency...). The usual rules of a month for notification are liberally applied and the government has the right to organise a minimum service provision, and the strikers are not allowed to prevent this. So, in practice, the public sector picket line may be somewhat more flexible than those in the private sector, where the employer has the option to institute a lock-out to counter-measure unionist behaviour.

Malta does allow its public officers to strike, with the exception of the armed forces who are not allowed to exercise the right to strike. However, very good industrial relations in Malta have ensured that very rarely has this right been exercised, until now. The Government was successful in carefully considering what it could deliver and then delivered, so the terms and conditions agreed in the Collective Agreement with the five major public sector unions have been largely met. Industrial relations in Malta are usually regarded as exemplary and often cited as an example. Even in late 2011, when in almost all EU member-states public dissatisfaction has taken off, Malta has been somewhat calm. Some of the provisions for a general strike (Industrial Relations Act, 2002) do apply to the public sector, including compulsory arbitration in the case of a deadlock between the employer and striking employees and their trade unions.

To summarise, all the countries in the sample practise collective bargaining between the Government and recognised major public sector trade unions. The process of collective bargaining is inclusive and thorough, where both sides historically have tried to avoid conflict and the breakdown of the relationship and, to a large extent; they have been successful in doing so. The right to strike, as a means of advancing employees' claims when other means have proven to be defective, is allowed in all countries where trade unions have to announce the intention to strike, so that the Government may undertake corrective measures to organise a minimum service to the population. The limitation to strike, as a rule, extends only to members of the armed forces and in some countries, members of the security forces. Interestingly, the country with the most liberal employment law for government sector employees – Iceland – has been somewhat restrictive in provisioning for those who cannot strike (or 'undertake a similar action'), including senior civil servants (who are, in Iceland, called simply – "civil servants").

## **Recruitment and retention**

In principle, the countries in our sample apply two models of recruitment: centralised and decentralised. In the case of the centralised model the central government body is in charge of recruitment, and the transfer and retirement of civil/public servants, whilst in the case of a decentralised model, every individual ministry, department and organisation may decide on who they want and appoint a civil/public servant. Both models have their merits and their shortcomings. If the model is centralised, fairness across the service may be observed and it is easier to ensure that the treatment of candidates has been consistent and appropriate. However, the decentralised model empowers the recruitment organisation and supporters claim that the agency knows what profile of a servant it would like to recruit, rather than the decentralised government recruitment body – like PSCs. However, whatever model is applied, there are many similarities in terms of the procedures applied. In both models, governments are competing for the best and brightest, and it is increasingly becoming an onerous task. The top graduates opt to join the public sector and the former attractiveness of the public services appointment may not really be there, as terms and conditions are increasingly subjected to external scrutinies and the permanency of a civil service appointment is questioned.

In Cyprus, the responsibility for recruiting new public officers rests with the PSC. The PSC fills the vacancies of all the posts in the public service, regardless of rank – anyone from an apprentice to the director general (permanent secretary equivalent) will be processed by PSC. Whether the job is in the national public service or in the Foreign Service does not really matter – the procedure is the same. The same appointment processes and procedures are applied, in a consistent manner. In Cyprus the law makes a clear distinction between three different groups of jobs. The classification is as follows: 1) first entry posts – those where those who may be eligible for appointment have never served in the public service; 2) first entry and promotion posts – are those where the appointees may be either serving officers who are then promoted, or new entrants into the public service, and finally 3) promotion posts – which can be occupied only by those who are promoted within the

service, and it is usually a one-step appointment, although they may come from an outside the unit where the appointment may be made, but within the public service.

The law defines “appointment” as the “conferment of a post to a person who is not in the public service or the conferment to a public office of a post other than that which he holds on a permanent basis, and which does not constitute a promotion”, whilst “promotion” is seen as “a change in an officer’s permanent status which entails an increase in the officer’s remuneration or which entails his emplacement in a higher grade of the public service, or on a salary scale with a higher maximum ceiling, whether the officer’s remuneration is automatically increased by such a change or not” (Article 28 The Public Service Laws 1999-2006). All the posts, whether first entry or promotion have to be in the scheme of service, and first entry and first entry and promotion posts must be published in the Official Gazette, although the Government may decide to use other forms of vacancy promotion.

Recruiting institutions have to lodge a request with the PSC, requesting the appointment and proving that they have the right to request the said appointment and have the means to support the post. Posts are usually filled on a permanent basis, although temporary contracts are also possible. The Council of Ministers has to decide on how the post will be filled (permanent, temporary, monthly-rolling contract). Applicants should meet the following criteria: Nationality of the Republic (of Cyprus) or EU member-state; minimum age of 17 years and, if a Cypriot, completed military service (served in the forces or duly exempted/excused from this); minimum qualifications as stipulated for the post; clean criminal record; was not dismissed or his contract terminated from any public institution in Cyprus, or EU member-state, and in good health, as certified by a Government medical officer.

The advisory board will be established for the purpose of advising the Commission in connection with the filling of the vacant First Entry and First Entry and Promotion posts, but excluding the jobs of Head of Department (and presumably higher posts). The Advisory Board for the Ministry, Planning Bureau and Treasury level jobs should comprise the Director-General of the Ministry or Planning Bureau or the Accountant-General, as a chairperson and four other officers who are (immediately) below the Director-general/Accountant-General level, appointed by the Director-General/Accountant-General. For the vacancies in the departments, the Advisory Board will be created to include the Head of Department (HoD) as a chairperson and four other officers, where three will be immediately following the HoD in the hierarchy, and an officer appointed by the Director-General from outside the Department. In the case of the deputy heads of the department, the Board is chaired by the Director-General, who appoints the Board, ensuring that the HoD in each case is on the panel. For the posts in other government organisations a similar principle applies – the chair will be the head of the organisation, with four other members appointed by him/her. The main principle is that all people on the Advisory Boards should be of a higher grade or post than the vacant post that is to be filled. Decisions are made using majority voting.

The Board will make a list of appointable candidates and with their recommendation send it on to the PSC. In selecting candidates, the PSC takes into consideration the following

criteria: 1) written test results; 2) performance at interviews; 3) academic, professional and other qualifications; 4) experience; 5) annual appraisal reports; 6) recommendations of the Director and 7) seniority. The law is rigorous and excessively detailed here, as there are issues that can be challenged in a court of law, and hence the legality can be examined. This is why the practice requires emphasis on written examinations and other exercises that have a clear material trail and can be produced before the court, if challenged. Although the PSC will consider the recommendations of the Advisory Board, it is not bound by its recommendation – any name can be added to and removed from the candidate list by PSC.

All First Entry posts are subject to a two-year probation period. Upon expiration of the probationary period, the PSC will decide whether the candidate should be confirmed or not. However, from 1998, the process for applicants below point A7 (degree not required) has been simplified and Advisory Boards were abolished. The PSC appoints directly from the list of successful candidates/eligibility list.

Promotion posts are filled without public advertisement through the promotion of officers servicing in the grade or office immediately below, section or sub-section of the public service. Promotion is considered on the basis of merit, qualifications and seniority. The candidate will be interviewed, but the HoD, where the promotion vacancy is based, can influence the process.

In the case of the appointment of a Head of Department in the Republic of Cyprus, the recommendation for the appointment to the Public Services Commission is made by the Director General (the most senior civil servant at the Ministry). Although the Public Service Act 1990-2006 recognises political appointees as those who ultimately run the said public offices, it is clearly stated that they will act through the most senior public officer (Director-General and his/her equivalents). The final decision on the appointment/promotion of **any public servant** belongs to the Public Service Commission, which is the constitutionally assigned independent authority for the appointment of public servants (among other competencies).

The President of the Republic<sup>7</sup> exercise indirect control over the process, as he appoints the Chair and members of the PSC. Of the senior officials, only the Accountant General and Deputy Accountant General are officials where again, the President of the Republic makes a joint appointment. As there is no special appointment regime for senior civil servants in place on Cyprus, the regular Public Services Act 1990-2006 rules apply. It has to be said that Cyprus belongs to a now minority of EU countries which do not have special conditions for (nominal) members of the senior civil service (SCS). Although the model is classified to be career-based, it does allow appointments from the outside. However, the recruiting minister has to make the case that the senior post is advertised as a first entrance post,

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<sup>7</sup> The Cypriot constitution stipulates that the appointments are made jointly by the President and Vice-President of the Republic, a Cypriot Greek and a Cypriot Turk, respectively. However, as the post of the Vice-President has not been effectively occupied for the last fifty years or so, we have just listed the President as a single bearer of the authority.



rather than a promotional one, and then outside government recruitment can be carried out. Advisory boards, which are organised within the Ministries (as with all graduate level entrants), will be active in the process and will advise ‘the appointment authority’ which is, as we have stipulated – the PSC.

More recently, the Cypriot public service has moved towards recognising outside public service experience in the recruitment and promotion of public officers, regardless of the rank – hence it does apply to outside candidates to senior civil service posts. There is also a defined competence profile for a prospective senior public officer (civil servant). Senior civil servants should possess managerial abilities, at least eight years’ relevant postgraduate experience in the case of senior officers, and at least ten years’ relevant postgraduate experience in the case of chief officers (Director-Generals), a very good knowledge of the relevant field and a very good knowledge of Greek (the official language of Cyprus) and of at least one of the working languages of the EU (English, French, or German). In 2007, the Cypriot SCS had 914 members in total (12 Directors-General of the Ministries; 59 Directors of Departments and/or Services; 251 Internal Directors within the Ministries; 98 Chief Officers in the Ministries and/or Departments, and 494 Senior Officers in the Ministries and/or Departments).

In the case of Iceland – the Government Employee Act classifies all employees into two groups: civil servants and all other employees. As we have already said, “civil servant” is a term that refers to the upper echelons of the public service, and they are appointed for a fixed term of five years, but their contracts are renewable. All other employees are appointed on open-ended contracts or on temporary contracts. In either case, there is a three-month notice period. Lifetime appointments are no longer made in the Icelandic public sector. A Minister hires the head of the agency, whilst the director recruits other staff (Article 5, The Government Employee Act).

The government recruitment is completely decentralised, and the director of the agency/ministry has the right to set special rules for advertising vacancies in his organisations, as long as these rules are made public and confirmed by the Minister of Finance (see: Article 7). The human resource management function, within the public services, is performed by the Ministry of Finance. Public access to information on the candidates (names, occupation, education, etc.) is a statutory requirement once the deadline for submitting applications has passed. The criteria that every candidate should meet, are the following; 1) being 18 years of age; 2) having attained their majority; 3) being of sound mind and body to do the job at hand each and every time; 4) Icelandic citizenship or EEA nationality; 5) general education and, in addition, appropriate special education which is demanded by law or the specifics in the job description, and 6) being in charge of one’s own finances in cases where a financial responsibility is required (cashiers and bill collectors).

All vacancies are advertised in the Legal Gazette, and the deadline for applications will be at least two weeks from the date of publication. The Icelandic model presumes

decentralisation of pay, so that hiring managers may enjoy larger freedom in managing public resources. The age and seniority promotion model, which dominated a good part of the 20<sup>th</sup> century, is slowly being phased out and replaced by the performance recognition model. So, staff may be remunerated better, as there are local flexibilities.

In the Isle of Man, the Civil Service Commission appoints Civil Servants, to serve “at the pleasure of the Crown”. The Commission has absolute authority when it comes to appointing civil servants, and it can appoint a person full-time, whole-time (full-time) or fill the vacancy through secondment, which cannot last more than three years. The Commission is required by law to consult the department or board where the appointee will be working, or any other public officer who has a genuine interest in the issues that concern the Commission.

The Commission in public affairs acts on behalf of the Crown. However, the Commission does not appoint the CEO of a department or Board (regardless of formal title) and those who are senior civil servants (grade 7 and higher). The Commission also regulates civil servants’ pay.

In the case of Malta, the PSC approves all vacancies and vets the advertising of these posts. In the case of jobs that are completed through public competition, the vacancy will be published in the Government Gazette and can also be advertised in other papers, locally/regionally. The Law also stipulates the option of having a call for applications within the Service itself, something like an internal circular, but this recruitment has to be allowed by law. The Management and Personnel Office within the Office of the Prime Minister will issue a circular, or this can be delegated to the Department where the appointment will be made. Applications are made for a particular post (not the list) and the process is a multi-state one, where there is an interview and written examination or practical test and an interview.

The PSC has the latitude to authorise any other process and methods it finds appropriate for a particular case. The Law and Civil Service Code state that the process is run on the merit principle, where the candidate’s abilities are assessed against the criteria that were published. The PSC current practice, in line with the other operational PSCs, is to appoint staff to a particular grade, and related grades are grouped within the career stream, and external entry requirements, as well as promotion routes from one grade to the next within each stream, are defined in a classification agreement between the Government and the relevant trade unions.

At present, there are more than sixty different career streams, and the promotion is usually made within the stream, and there are restrictions to the lateral movements. Malta is currently in the process of ‘managerial transition’. The management (and appointment) of staff should be further decentralised, so that HoDs will be managing staff in the first instance. The Principal Permanent Secretary (Cabinet Secretary) may give directives (compulsory instructions) regarding the definition of eligibility requirements for positions and the conditions under which heads may make appointments, as well as on other matters he/she sees fit. Also, there should be more latitude in lateral appointments – i.e. moving a

member of staff from one department to another, without changing the grade and terms and conditions of appointment.

All the grades are given in the schedule to the law and the Minister in charge of public administration may amend the schedule. Also, recent changes in the law have created a notion of a “surplus pool”, i.e. the pool of public officers who are not assigned to a particular post, primarily because their positions have been ‘lost’ in restructuring, and could not be transferred to another department. Options that the Law has given are that the Principal Permanent Secretary may simply assign the officer to duties of his/her grade, as he/she sees fit or send an officer for retraining.

The PSC is to serve as a merit commission, i.e. to ensure that the merit principle is applied across the service. The Commission monitors (and audits) appointments in government agencies, monitors implementation and suggests changes in directives and other acts enacted by the Principal Permanent Secretary and to intervene if the directives and other regulations enacted by the Principal Permanent Secretary have not been applied and adhered to (unless an exception has been established by Law or Order or any other instrument setting up an agency, entity, board or commission). The PSC is required to report to the Prime Minister, annually, on the investigative activities and the actions needed to redress the situation, together with the recommendations for further actions.

Malta has opted for a hybrid system, hence SCS positions are filled by those promoted within the service and those who join from outside. Positions are career positions, but exposed to open competition and candidates do come from different walks of life – both the public and private sectors. However, all members of SCS are appointed on fixed 3-year contracts. However, the employment contracts are rolling contracts hence the appointee can spend a number of years in the post.

The Maltese have also opted to have different appointment procedures for SCS. A selection process for the positions of Director-General and Director is undertaken by the Senior Appointments Advisory Committee (SAAC) chaired by the Principal Permanent Secretary (i.e. Cabinet Secretary). SAAC proposes candidates for the appointment to headships in terms of the Constitutional provisions – on the advice of the PSC and the approval of the Prime Minister. Assistant Directors are selected by a Ministry’s Selection Board chaired by the Permanent Secretary or the Director-General of the Ministry. The positions are advertised and follow the regular appointment rules, as stipulated by the PSC. The average age upon entering the senior civil service group is 40-50 years. SCS have to have particular experience in the position, but experience outside the public service is taken into account.

It should be noted that appointments to positions are the norm at senior management level. The President appoints Permanent Secretaries (the top civil servant in each ministry) on the advice of the Prime Minister and after consultation with the PSC. Directors-General and Directors are appointed by the Prime Minister after consultation with the PSC. Assistant Directors are appointed by the Prime Minister on the recommendation of the PSC. The SCS

is managed rather centrally and is the exclusive responsibility of the Principal Permanent Secretary as Head of the Public Service.

The Principal Permanent Secretary has overall responsibility for the management of all top civil servants as per general instructions given by the Prime Minister. The PSC, in its own right, gives advice or makes recommendations for the appointment of top civil servants. However, the management of top civil servants lies within the remit of the administration. All civil servants in a single ministry fall within the remit of the Permanent Secretary. In 2009, there were 302 senior civil servants in Malta – 1 Principal Permanent Secretary, 11 Permanent Secretaries, 31 Directors-General, 108 Directors and 151 Assistant Directors. However, only 21 per cent (or 63 in total) were women.

In summary, the recruitment in the majority of the target countries is still centralised, where it is carried out by a public appointed body (PSC or Civil Service Commission). Only in the case of one country, Iceland, has the modernisation led to a decentralised approach. However, it is clear that the trend in all countries, with the exception of the Republic of Cyprus (at the moment) is to move away from the centralised approach and empower individual departments to make appointments or have more say in appointing their staff. However, senior civil service appointments will remain centralised, for obvious reasons. In all countries vacancies have to be made publicly known, either through publication in the official government gazette or other publication.

The process of selection is usually a lengthy one and for all public officers' posts, the multi-stage selection process is instituted, usually in a rather formalised manner. The PSC, in some countries, have the power to make the process even more onerous or simplified in the case of the very bottom of the ladder (technical non-degree level positions, in Cyprus, for instance). Increasingly, the public sector employment regulation stipulates the options where the candidate may, in fact, decide not to take the position or negotiate terms and conditions. Traditionally, these offers were adhesive and there was very little, if anything, a successful candidate could negotiate. Finally, the trend of promoting merit and performance is becoming stronger, where all public service appointments are to be merit driven (merit being understood as a clear match between the candidate's own abilities and experience *vis-à-vis* the post vacancy description).

## **Performance management**

Performance Management and the increase in productivity of the public sector and public sector workers have been at the centre of attention of public sector reforms in the 1990s. Most legislation that target countries apply was made before the 2000s, and hence the focus on performance management, as such, has not been at the centre of attention. Amongst the rights and duties of public officers (civil servants), it is usually stipulated that they have to discharge their duties in a professional manner. For instance, the Manx Civil Service Code states that civil servants should conduct themselves with integrity, impartiality and honesty, and discharge their duties towards the public sympathetically, efficiently,

promptly and without bias or maladministration. Also, civil servants should not 'seek to frustrate the policies, decisions or actions of the Government by declining to take, or abstaining from, action which flows from decisions by Ministers. The Isle of Man requires annual performance reviews to be conducted and the issues discussed with each and every civil servant. Similar to Iceland it is a developmental tool, but also, it serves to document underperformance that may be happening for a prolonged period of time and hence can generate proof that can be used later if disciplinary actions are taken.

Article 14 of Iceland's Government Employee Act states clearly: *"An employee is obliged to perform his duties with diligence and care in every respect. He shall be polite, flexible and fair in performing his duties. He shall avoid anything in his work or outside the workplace which could sully his reputation or the job he performs or the profession to which he belongs."* It is also stated that the government employee must render assistance to those who have requested it for the purpose of receiving information or access to it. It also stipulates that the head of the government organisation may define salary emoluments for those who have performed well in doing their job, although there is no mention of a performance management formal assessment mechanism. The law stipulates that civil servants may be temporarily suspended if their performance is insufficient. However, in Iceland's model, performance management is understood more as a developmental tool, rather than a management tool. Hence, career development is the dual task of the agency and the employee. It is most often achieved through the development of his/her duties within the same job/position. Responsibilities are commonly broad and include considerable opportunity to improve both competence and salary levels. Evaluation dialogues are widely used to review performance and potential future training and possible promotion. In Iceland it is the government's commitment to link pay and performance, so that pay progression will reflect the performance and qualifications an individual member of staff may have. The move to full performance-related pay has been considered, but has not been acted upon it, as yet.

In Cyprus, tradition still prevails, where formal attendance is a major criterion of success and the process of annual review does formally exist, but is not applied consistently. It is, in fact, difficult to obtain information on completion rates and what percentage of public officers has been subjected to annual appraisal reviews. Malta has had performance management and development programme for more than 15 years and the appraisal form is well-developed. In 1994, the Performance Management Programme was introduced with the aim of assessing public officers against approved output and quality standards, rather than the old form completion exercise (called 'Performance Related Reports'). The process requires the development of agreed targets between a public officer and his/her immediate supervisor to prepare a jointly agreed work plan. It also gives an opportunity to public officers to receive feedback regarding their performance, on an interim basis, over the period for which it is valid, usually one-year. This reduces error and waste, increases productivity, improves quality and service for customers, as well as enhanced employee motivation, commitment, and a sense of ownership.

In the case of Iceland, the Isle of Man and Malta, the Government has developed a well-elaborated set of instructions for managers on how to handle different management

problems, including those that can be redefined as underperformance. For instance, managers can relate to documentation on how to deal with difficult employees, and those who are repeatedly late, etc. Appraisal documentation generally does pick up on all major aspects of an individual public officer's performance and the manager can link the behaviour with the outputs/outcomes and recommend remedial actions with the collaboration of the employee in question. Performance management and an increase in productivity will become major improvement issues in times to come with the further squeeze on public funding.

## **Depoliticisation and professionalism**

In all the target countries public administration is *de jure* depoliticised, where the appointments are made on merit, after the appropriate appointment procedure. The candidates have to meet general and specific criteria for appointment in terms of education, skills and, if required, specific experience. Political leanings of any kind should not play, *de jure*, any part in someone being appointed a civil servant. As all the countries are multi-party democracies, with the bi-party model usually being present, politicisation would prove to be rather difficult and would lead to an excessive spoils system in the country. It is very difficult in practice to establish whether party membership and political leanings may play a role, informally, in the appointment process. In transition and developing economies, politicisation has been a well-documented problem, whilst in the developed Western democracies, politicisation of the civil service is now on the increase. In the case of the UK, the increased number of political advisers to the ministers who are given authority to issue direct orders to civil servants has changed the balance of power and certainly politicised the system more than was the case previously.

In the Isle of Man, the Government has developed a separate policy on civil servants running for political office, their possible leave of absence if appointed and their return to the civil service. This is somewhat different to the UK, where a civil servant, if considering running for a political office, has to resign from his job to venture into political waters. In the case of Cyprus Article 71 of the Public Services Laws 1990-2006 it stipulates the rights of a public officer to request a leave of absence of 40 to 45 days prior to the election, and up to a month after the announcement of the results. The return to work is almost automatic and should not create any friction. In Malta, no direct provision has been given in the law as such, but it may be assumed that it would probably be possible to facilitate the transition to a political office and then back, utilising the leave of absence option.

It seems that the civil services in target countries are still rather apolitical, due to the traditions inherited from colonial time. Malta has been the most traditional to the British model, where the political participation of a public officer running for office or being a prominent member of a political party is not regulated, assuming that probably, conflict of interest of that kind cannot easily happen. In all other jurisdictions, specific legal and other guidance are provided regulating this area. One of the reasons why the clear-cut tradition has not been fully endorsed is that in small countries the opportunities are more limited and hence the public sector in one form or another is a major employer. Iceland has not

regulated the problem either, but due to their government employment law and lack of lifetime employment, the problem of transferring out would not really lead to a major loss of entitlements. However, it would be interesting to see what the future trends will be in depoliticisation, and whether these countries will also record an increase in the politicisation of public services, as has been the case with leading Western democracies (the UK, US, etc.).

## **Staff development and training**

In principle, the issues of staff development have not been an area of legislative intervention. It has been left to policies and other internal acts. However, it is clear that staff development goes more or less hand-in-hand with performance management and the enabling of public officers/civil servants to perform their duties to the best of their abilities. In the case of Malta, staff development and mentoring by senior staff in troubled situations is something that permeates from the Performance Management Programme. Annual appraisal events are used, not only to assess the success and results of the public officer, but also to point out where improvement is possible, and hence staff development should be undertaken. It can definitely be drawn from all the documents that staff development is one of the major initiatives in organisational development and that all public services are paying particular attention to this.

In Cyprus, the focus on staff development and training has been accelerated in the 1990s. The Cyprus Academy of Public Administration was set up in 1991 with a remit to provide continuous training for public sector employees. The idea was to centralise development and training policy at government level up until 2001. The Academy continued with its operations and has since been helping administrative entities to establish localised learning policy/units as part of the whole government learning initiative. Each public entity was asked to set up a separate learning Unit, which would assess the needs and organise an intra-agency training plan. By 2008, half of the Institutions set up their own training system, under the Academy's guidance and quality control insurance.

The Isle of Man Government has developed a very comprehensive Public Service Learning and Development Strategy, where the Government values people and develops their full potential by: 1) providing equality of opportunities for all; 2) promoting professionalism; 3) providing relevant learning and development; 4) supporting professional and career development; 5) implementing policies which encourage and recognise achievement; 6) openly exchanging information, and 7) encouraging innovation. Focus on leadership and management training is present, where the Government commits itself to providing access to leadership and management development based on the identified needs for the current roles and future career potential, specific goal setting, monitoring and evaluating processes for participants and line managers and centrally delivered programmes for each level of management that cover key competencies relevant to Public Servants, i.e. Leadership People/Performance management, Customer Focus, Delivering Results, Changing and Learning, Communication and Motivation/Resilience. It would be necessary to facilitate development opportunities for individuals who are seeking to develop their knowledge,

skills or experience prior to a career move. Staff development may take place centrally (at Manx government level) or through departments, organisations or entities. So, there is a clear mixture between the centralised and decentralised approach to staff development.

In Malta, staff development is a shared responsibility of the individual public officer on one side, and his/her supervisor and the Government as a whole on the other. Again, training can be in-house or using organisations outside Government. The University of Malta, the national and only public university in Malta, has played an important role in supporting staff development of public officers, whose alma mater it was, anyway.

Iceland, having adopted the decentralised employment model, does not have a government-wide policy as such, but this is left to each individual government ministry/department. And, as the performance management model is applied consistently, staff development (investment in human capital) does permeate the model rather naturally. And, it is difficult to estimate how much has been spent on staff development in all the target jurisdictions.

## **Ethical considerations**

Public service legislation and regulation in all the target countries clearly stipulate that public officers/civil servants should behave ethically in conducting their business. Codes of conduct that have been developed in Anglo-Saxon provenance jurisdictions (notably the Isle of Man and Malta) means that ethical behaviour is one of the focal points. A public officer is expected in the Isle of Man to behave ethically, in line with any professional and ethical codes of conduct that can be applied to him. So, if he/she is an accountant, these professional and ethical standards are to be observed. Similarly, ethical behaviour is part of the professional and personal integrity that the public officer is expected to adhere to.

Malta has developed a Public Service Management Code and Code of Ethics for Employees in the Public Sector, taking the lead in the area. The Code of Ethics establishes the standards of correct ethical behaviour expected of public officers and is a guide for solving ethical issues for all those working in the Maltese public sector. The Code provides a framework for understanding values and principles. It also sets the basic values to which the Public Sector adheres, such as: 1) integrity; 2) honesty; 3) loyalty to the public interest; 4) fairness; 5) consciousness, and 6) compassion. Principles on which the Code is based are: 1) Public confidence; 2) Responsibility to the Government of the day, and 3) Public Officers' rights. The Code pays particular attention to conflict of interest and acceptance of gifts. Impartiality and an ability to perform duties without much hassle are very important and the public officer is expected to ensure that there is no conflict of interest in whatever activities he or she may be engaged in. There may be some overlap between the Code of Ethics and Public Services Management Code, but in the introduction to the Code, the Prime Minister has admitted some areas of overlap, but this does confirm the commitment to the material covered in the Code and its importance for public services and its conduct.



Regulation of ethics in public services in Cyprus is lagging behind many EU member-states. In fact, only in Cyprus, Luxembourg and Portugal does there seem to be no statement of official ethics in the form of a separate value statement or code of ethics. However, Cyprus is still working on the Integrated Code of Ethics in the public services. This does not mean that the principles of ethical conduct are not present, but that they are rather scattered in a number of legislation and regulation and do require some effort to be able to put them together. However, this is also the case in a few of the EU member-states. Cyprus has instituted the Prevention of Corruption Act, which provides for punishment in the case of established corruption. The Act (section 5) stipulates that the public official who receives money, gifts or any other consideration from a person holding or seeking to obtain such a contract are presumed to be acting corruptly, unless proven otherwise. Further on, the Criminal Code does list the crimes that can be committed by public officers/officials, such as active and passive corruption, extortion committed by public officers, the receipt of property by public officers to demonstrate favour, the pursuit by public officers of private interests in certain circumstances, false claims by officials and abuse of office.

The EU, with its ethical framework, will certainly have an influence on EU member states to introduce a code of ethical behaviour, or rather, regulate ethical behaviour. This will be one of the priorities for future reforms. A number of 2004 and 2007 entrants into the EU have been working on improving ethics in the public sector and ensuring that corruption and other negative practices are curbed. Most of these projects are on-going.

# Supervision of the Civil Service

## Administrative control (Ombudsman)

Acts of public administrations can be challenged in the administrative or judicial procedure. In the case of the target countries, the institution of an ombudsman to protect the rights of the citizens (clients) is present in most of them. Most of the acts of administration can be appealed to within the system, where some hierarchically upper body will review a decision and decide on the appeal/complaint. Also, in most if not all legal systems, the so-called 'hierarchical complaint' can be used, where the citizen/client appeals to the head of administration (head of state) asking for wrongdoings to be addressed.

Cyprus, in its separate act called the Commission for Administration Laws 1994-2004, regulates the post of the Commissioner and his rights and duties. The Commissioner is mandated to: 1) investigate complaints against any service or officer exercising an executive or administrative function that an action of such service or officer violates human rights or was taken in violation of the law, or the rules of proper administration and correct behaviour towards the administered, provided that a person is directly and personally affected by such action; 2) investigate, upon order by the Council of Ministers, any matter which concerns the functioning of any service, in order to ascertain whether it functions efficiently and in accordance with the laws and the principles of proper administration, and 3) investigates *ex proprio motu* matters of general interest (see: Article 5/1). The Commissioner cannot investigate the acts of politically-elected heads of administrative offices (ministers) regarding the relationship between the Republic of Cyprus and any other state, international organisation or defence, security and foreign policy, and any action in relation to which proceedings are pending before a Court of Law or examination of a hierarchical resource before a competent administrative authority in accordance with the provision of any law.

The Commissioner decides on his action independently on what and how to investigate. Also, the investigative procedures are not legally defined, but the Commissioner decides on the appropriateness of various approaches to establishing a true and fair situation. The client (citizen) has twelve months to lodge a complaint, whilst the Commissioner is not time-constrained. If he needs more time, he may decide to publish a preliminary report on interim findings and then lodge a final report. The Commissioner can call upon any public officer, and he/she is required by law to comply with the requirements and ensure that the Commissioner is supplied with the right information. Annual reports are presented to the President of the Republic, with a copy sent to the Council of Ministers. Also, on every individual case investigated, the Commissioner has to prepare a report to close the matter. He may make individual and general recommendations to improve the overall quality of the public administration and its actions. The Commissioner has the undeniable right to communicate directly with any office holders in the Republic, as well as outside bodies.

The Law also stipulates a list of offences that officers can commit if not supporting the Commissioner fully in discharging his duties. The Commissioner is legally protected to the same level as a judge, so cannot be legally charged for exercising his functions and powers. Financially, the Commissioner is placed at the same level as the Auditor-General, and the pension is established in line with the package given to the Chairperson of the Public Service Commission.

Iceland has regulated the right of administrative review in its Administrative Procedure Act, No. 73 of 1993. The party to a case has the right of complaint to a higher authority about the administrative decision, and may request a variation or revocation of the decision. The clients can complain only about the complete decision, after the administrative procedure is fully completed. The client has three months to lodge a complaint, and the time will run from the first notification received. A review of the case, requested before the body which made the decision, interrupts the time for complaint. Should the review be rejected the time will start running again. An administrative complaint will not suspend the legal effect of the decision, although the higher authority may decide to defer the legal effect of a decision under the complaint. Procedure-wise, the general principles of administrative procedure will be applied to the complaint procedure. An oral hearing option is there for a higher body to resort to, should it wish to do so. The format and content of the decision of the higher authority is legally precisely defined, so it has to state clearly (inter alia) the following matters: 1) the parties' claims; 2) the matter at issue, including the decision complained about; 3) a brief account of the facts and the points in dispute; 4) the reasons for the decision, to the same standard as required in the first instance, and 5) a summing-up of the main conclusion at the end of the ruling.

In the Isle of Man, there is a Policy on Complaints received from the General Public, and the departments have to develop their own complaint and investigative procedures. In fact, the recommendation has been to have a specialised complaint officer to respond to requests from the public. There is a requirement to create a complaints register and report once a year to the Chief Secretary, at least once a year.

Malta does allow appeals and complaints against public sector organisations. The administrative complaint will be heard and dealt with within the service, where a higher, supervisory body may decide on the decision. However, there is an office of Ombudsman. The main aim of the Ombudsman is to contribute towards and promote an administrative culture across the full spectrum of the Maltese public service, based on good governance and quality service delivery in terms of best practice, good conduct, fair decision-making and accountability. The Ombudsman serves as a *Commissioner for Administrative Investigations* who is responsible for the investigation of complaints about any decision or action, or lack of action, by public authorities, such as government departments, statutory bodies, corporations, agencies and foundations as well as partnerships where the Government has an effective controlling interest in the exercise of their administrative functions on behalf of the Government. These complaints are submitted by members of the public who feel aggrieved and who believe that they have suffered an injustice, hardship or discrimination at the hands of government departments or other public bodies. The sufferer of injustice may complain to the Ombudsman within 6 months from the day the injustice

occurred. In judging the decision which was complained about, the Ombudsman forms his independent opinion as to whether the action or decision that was under scrutiny: 1) appears to be contrary to law; 2) was unreasonable, unjust, oppressive or improperly discriminatory; 3) was in accordance with a law or a practice that is or may be unreasonable, unjust, oppressive or improperly discriminatory; 4) was based wholly or partly on a mistake of law or fact, and 5) was wrong. When the Ombudsman concludes that a complaint was wholly or partly justified, he will submit his recommendations to the public body involved on the manner in which the grievance may be resolved and the redress that may be provided. And, to facilitate the complaint process, the form has been devised and the public can use it.

All the target countries allow citizens (clients) to exercise one form or another of administrative complaint and the duties of the government to exercise its duties dutifully have been observed.

## **Judiciary control**

All the target countries allow its citizens judiciary protection. This is one of the basic human rights, and it has an international/global reach. Increasingly, clients know that they can be protected by court and any mistake in material law and/or procedural law. The judicial review of the administrative decision can only focus on the breach of law and not necessarily entering into the decision itself. As this is usually a constitutionally guaranteed right, laws on public administration in the target countries do not look at these issues very closely.

# **Reform Agenda**

## **Background**

Work in the societal position of the Civil Service/Public Sector has been changing rapidly. Whilst during the past two centuries, the position in the Civil Service was greatly appreciated both socially and financially; this is no longer the case. The most talented graduates choose a career in industry, rather than a career in the public service, attracted by not only high financial rewards, but also better prospects for promotion. Also, many capable civil servants have left 'secure' state jobs to try out the marketplace and respond to the challenges that can be put to them in the commercial world. On the other hand, Governments are almost constantly under pressure to search for new efficiency gains, which is often achieved in the short-term through regular downsizing exercises. With the growth in population and expectation of the people, the modern civil service faced the problem that more had to be delivered with fewer resources. The 'peace' associated with civil service posts has long gone, never to return. The Government is more and more inclined to mimic the business world and produce measurable results that the people (voters, citizens) will appreciate. Anglo-Saxon countries, especially Australia and New Zealand, have taken the lead in pursuing outcome-driven public sector reforms.

The openness of the public policy process assumes that there is room for criticism of the government and its activities. But, how will it be possible to measure results if there is no comparable system to refer to, or the reporting requirements are such that they do not allow a layman to understand and relate to the report? Therefore, it was necessary to develop a general framework that would allow a comparison of the reports made in different countries and different government entities. In a democracy, people like to know how their money has been allocated and what society received in return, and this is where 'value-for-money' or 'best-value' concepts slot in. The classical political cycles of government turnover (every four to five years in general elections) are becoming obsolete, as the public requires more of a hearing and its opinions to be taken into consideration. Consequently, it is necessary to produce both quantitative and qualitative reports that will be accessible to people who are not professional, but are social advocates.

The New Public Management (NPM) paradigm was developed as a synonym for the wide application of business and/or business-like practices in the public sector, introducing outcome measures, improving accountability and ensuring efficiency, effectiveness and economy. The problem is that today it is difficult, if not almost impossible, to have a generally endorsed definition of NPM.

## **New Public Management influence**

The application of the New Public Management (NPM) doctrine changed irrevocably the way in which the public and civil servants look at themselves. It is generally agreed that the

very essence of NPM has been to replace the traditional hierarchical bureaucratic model of public service with an administration that is performance-oriented and that operates in quasi-market conditions, fostering competition amongst suppliers of government-sponsored goods and services. The basic idea was to introduce incentives for innovation and efficiency on the part of public servants, especially those occupying senior positions.

The change in the old administrative model was not only in the methodology applied, based upon 'borrowing' from the private sector, but also an introduction of strategic concepts and accountability models into public management. Decentralisation meant that each government unit was to be led by a manager who would be accountable and, therefore, his or her performance would be reported and he or she judged on that. Goals, aims and objectives are to be clearly stated, and made quantifiable, so that a mission-driven government can be imposed and the separation of strategic planning and operational execution can be made. The public sector re-focused from a focus on "the procedure" to "the results" ("management by results").

The monolith structure of the government was replaced by a decentralised organisation, based on the structure of holding. The delineation between 'core' and 'other' functions of the state opened the window of possibility to 'source out' some functions or 'source in' taking into consideration the market situation. The highly hierarchical, military-like structure was replaced by a business-like structure (salaries based on merit, replacing Senior Civil Servants with managers, etc.), which promoted a lean management model. However, NPM has evolved today far beyond these common characteristics. In different countries around the world, the term NPM has fairly diverse meanings and definitions. Probably, the vast mimicking of business practices by and within the public sector remained as the main (if not the only) common denominator.

The NPM is heavily concerned with the constant decrease in costs of a "product" and getting "the best value for money". The underlying feature of an NPM model is room for the implementation of a performance measurement/management system. All seven mentioned principles of public management are *performance centred*, and without performance management it would have been very difficult to justify the major change in the public sector. The difficulties of NPM can be focused on from two conflicting perspectives. These are namely that the performance measurement systems can be a logical consequence of NPM being implemented or, in fact, NPM can be a result of 'obsession' with performance measurement. In our view, it is possible that both explanations work. In a highly hierarchical organisation there is resistance to change. The formal introduction of a new model is necessary to ignite the change. In our view, this is the case with the continental European models of civil service, where the extent of the public sector is wide and the hierarchy is pre-dominant. But, anyway, introducing performance measurement/management initiates further changes.

One of the perceptions of NPM is given by the OECD, which states that "a greater focus on results and increased value for money, devolution of authority and enhanced flexibility, strengthened accountability and control, a client- and service orientation, strengthened capacity for developing strategy and policy, introduction of competition and other market

elements, and changed relationships with other levels of government” (OECD, 1995, p. 37) are the main features of the NPM model. Within this framework, citizens and politicians both serve the function as ‘customers’ of the government in the public policy process, and are the major players in evaluating the performance of public bodies (primarily agencies) on the basis of objective information concerning “value received”. Based on that assessment, resources will be deployed or withheld accordingly.

It was expected that under the new framework, bureaucratic cultures were to be replaced by more entrepreneurial cultures, and consequently the public will appreciate the government more. The public, as a stakeholder, will be firmer in its support of the government, and public policy processes will not only be cheaper but also more effective. The presence of business-like behaviour called for the establishment of ‘quasi-markets’ as an important, if not key, instrument in implementing NPM-based reforms. A “quasi-market” can be established for the entire country, or can be carried out on a segment-by-segment basis. It seems that allocation of resources based on a segmentation approach can give (and has given) generally better results. This had to be reflected in reporting practices as well. The private sector has applied accrual accounting, whilst the public sector resorted to cash accounting, mainly justifying that the government budget is largely cash dependent, being revenue driven (or in simple terms – what comes in as cash can only be disbursed).

In order to design a performance management system it is necessary to establish the organisation’s purpose, and its (long-term) goals, aims and objectives. These should enable the organisation to identify the key areas in which it must succeed, and will define a set of realistic and complementary objectives that will ensure ultimate success. Generally, it is expected that the organisation will establish a mission statement that should define the purpose of the organisation and describe what sets it apart from other governments (or government units). The statement should express the organisation’s general beliefs and values, and assist in identifying competencies, quasi-markets and products that the government unit will offer. A vision statement should tell the public where the organisation is going and should state clearly where the organisation will be in the future.

### **Major reform initiatives (human resource management, public finance/public financial management, streamlining/reorganisation, etc.)**

Major reform initiatives in developed countries in recent times have included a number of changes in financial/fiscal management and organisational aspects of government. As we have seen, the New Public Management has been central in making the government accountable and responsible to all societal stakeholders, ensuring that the services can be delivered in times of financial strain and society-wide tightening of the belt. Under those conditions, a number of innovations on both the revenue and expenditure sides have been reported. In terms of fiscal management, one of the main features has been the adoption of a longer-view and budgetary frame that would extend over a few years. This generally requires public organisations to exercise strategic planning and in doing so to plan only for what they can raise in finance and how this should be allocated. Allocations are made to

individual ministries and they can exercise better financial management and invest in their priorities that can ensure planned outputs and outcomes. Another step that was undertaken is expenditure monitoring, where the government looks at all the expenditures and analyses what has been done and why certain expenditures have been triggered.

Debt management is now given more attention. In the past, traditionally, the focus has been on the relationship between the central bank and the government, where the central bank would extend the credit and often monetise the public debt – which finally led to inflation and increased instability. Debt management requires the development of an internal credit market, which finally leads to better functioning of the financial system and opens many additional opportunities to the banks and other financial institutions for wider portfolio management. Government accounting reform is also on the list, as the government would like to know their financial situation better, and to include more in the reports than their mere financial position. The common denominator to all of these changes in the fiscal sphere is the adoption of a longer view on the issues. It is therefore of the utmost importance to ensure that the government is capable of envisaging its fiscal/financial positions in the years to come more easily and more accurately.

Human resources policies and procedures are high on the reform list of almost all governments worldwide. Civil service (public administration/public services) posts have been traditionally seen as jobs for life so that whatever may be happening with the public administration, the public service job is safe and secure. As we have seen in this paper, there are still jurisdictions that see public service jobs as jobs for life. The usual trade-off has been that the public sector salaries have been lower (usually significantly lower) than for comparable jobs in the private sector, but job security was second to none. Being dismissed from the public sector post has traditionally been almost impossible. Even if a job had been ‘lost’ in an organisational restructuring, one could have expected redeployment and appointment in a similar position or being in the “reserve pool”, keeping the same pay and conditions. Similarly, over time, the civil service has become increasingly uncompetitive and it was difficult to attract the best and the brightest. In fact, the quality of recruits has been falling steadily in the last two-three decades. So, the changes in the human resources management policy revolve around the abolishment of employment for life, but it is an open-end appointment with a notice period on both sides.

The focus on senior management in public services is growing. The Senior Civil Service is increasingly open to entrants from outside the civil service, and the training in leadership and management techniques is increasingly offered to both old and new appointees. Often, Governments decide to create special training institutions to focus on public sector leadership and management, which are, to some extent, at odds with the other practices of streamlining and looking at ways to eliminate non-core functions (outsourcing, privatisation, *et sim.*).

Privatisation and ‘corporatisation’ of the public sector has been a trend since the late 1980s and early 1990s. This is one of the NPM fads and has been largely endorsed by national governments across the world. Public enterprises which provide non-pure public services are disinvested and private sector entrants are covering a permanently growing section of



the (quasi-)market. Privatisations have been taking primarily two forms – search for a strategic partner to acquire the majority package in a state enterprise, or to transform a public enterprise into a public company and sell the shares on the capital market. In both situations, profitable enterprises will not have a problem to find investors. Those whose economic performance may not be that great, usually remained in state hands, or were forced into liquidation and the state opened the market to private entrants.

Decentralisation is another trend that has been going on for about two decades, both in developing and developed countries. Decentralisation may have different forms, but the common denominator is to have people as close as possible to the ground participating in the government and making decisions on their future and what the direction their communities may be taking. Looking at different aspects of “federalism”, states may rethink the way they are organised and look for alternatives. In the pursuance of those alternatives it is important to empower lower levels of government to be able to sustain themselves financially. Decentralisation – devolution - must be paid for, and hence the transfer of power has to be accompanied by the transfer of appropriate resources. Decentralisation requires a redefining of the performance relationship. Namely, there will be more contractual relationships between central and sub-national governments, where the sub-national governments will be expected to perform to a certain level before they are provided with resource incentives.

Modernisation of procurement policies and procedures is another management fad that has been the focus of attention in government improvement and reform. The EU influence here is significant, as the EU procurement rules are rather strict and the candidate countries have to meet the capacity expectations before they are accepted into EU membership. Public tendering is now becoming a norm and it is believed that the introduction of public bids has, in fact, saved resources and improved value-for-money in government.

Modern reforms are also looking to improve the overall accountability mechanism and ensure that holders of public offices are held accountable for their actions and behaviour as custodians of public resources. The trend that emphasises accountability will certainly continue, especially in the years to come, when public resources will be in decline.

## **Major achievements/results/deliverables**

Out of our sample of four countries (Cyprus, Iceland, the Isle of Man and Malta), two are very much reform driven (Iceland and Malta), one has been exposed to continuous change being in association with the UK (Isle of Man), whilst the fourth is somewhat lagging in the reform process, where many initiatives take far too much time to come to fruition (Republic of Cyprus).

Iceland embarked on the reform path in the early-mid 1990s. The focus of reform has been more or less scholastic, with the focus on the reform of labour relations and pension systems on one side, and fiscal management on the other. Iceland has been amongst the first – social market economies – to abolish the principle of public sector jobs for life. In fact,

they have totally shifted from the old model of administration and introduced open-ended contracts, where both sides have a notice period to observe. Civil servant status has been reserved for the senior civil service, and these are the people who are appointed on fixed-term contracts, and have the right to be reappointed. There is an increased focus on performance and abilities of the organisation to deliver savings. Similarly, Iceland has addressed the issue of aging population and the problems that will emerge with servicing public sector pensions. Hence, the pension funds under old conditions have been closed to new entrants. A number of former state enterprises have been privatised and many activities outsourced to organisations from the private sector (for instance, motor vehicle inspection has been privatised). Price controls have been abolished and generally most of the (economic) activities fully liberalised. Overall, the system has been deregulated and the red tape significantly cut.

The Isle of Man has been exposed, to some extent, to the same (or similar) reform as the UK, as HM Government is responsible for good governance on the island. Although the old civil service model has been retained, the essence of the system has changed, so there is more flexibility in labour relations. In fact, it can be said that the employment contract will be more liberal and ensure that the stakeholder supports it. Sets of strategies and policies have generally already provided a flexible employment environment, and there is more shift between the public and public sectors, where people will not refuse the idea of continuing their professional life in another organisation. Although the Isle of Man has kept the model of Civil Service Commission alive, it has been looking for alternatives and is currently considering the idea of creating an HR authority that would continue with the recruitment and retention of government employees. After the necessary consultation with all the stakeholders, the revised document is expected to be presented soon and the government will most likely continue with the idea.

Malta has been a relatively good performer when it comes to public sector reform. It was an early starter and has addressed many issues well before other countries were forced by the economic situation to address them. Although it has kept the model of Public Service Commission appointments, it has modernised the labour force, introduced a performance management system, which has been attractive whilst it was in use. All the mentioned aspects of public sector reform have been addressed by Malta and their performance has been exemplary...

Malta initiated its first reforms in the 1980s with the return of the nationalist government to power, after 16 years in opposition. They wanted to leave their mark and build on the traditionally good position of public administration (public services) in Maltese society. The late 1980s were marked by preparations for the reform. The first five years of the 1990s saw three newly-created "Central Agencies for Change" under the responsibility of the Office of the Prime Minister: the Management System Unit (MSU); the Management and Personnel Office (MPO) and the Staff Development Organisation (SDO). They took the lead and have conceptualised and technically supported the changes (HR reform, technical advancement and productivity enhancement through a reorganisation). Even now, in retrospect, the results of this first phase are controversial, and public opinion did not support the reforms (HR, technology and the organisation). This led to decreased public support for the

government, which culminated in the defeat of the Nationalist Party to the hands of the Labour Party in the 1996 elections, which closed the first phase of administrative reforms.

The second phase therefore began in 1996 as flavour of the day. The Management Systems Unit (MSU) was divided into two: the consultancy and planning unit was drastically reduced and incorporated into the Prime Minister's Office as the Management Efficiency Unit (MEU), while the ICT unit was transformed into the Malta Information Technology and Training Services, Ltd. The Staff Development Organisation (SDO), responsible for training, was integrated into the Management and Personnel Office (MPO), responsible for human resource management strategies. The Head of Public Service was again put in charge of the reform process and the three Central Agencies for Change answer directly to him. More recently, the ministries have been tasked with some aspects of the reform (in parallel or in addition to specialised agencies), and the Cabinet maintains an interest in the progress of the reform on a regular basis.

Public sector reforms and alignment in Cyprus has been primarily linked with legislative changes, most notably in 2001 and 2006, which liberalised the appointment of public officers in Cyprus and opened the door for the appointment of non-Cypriot citizens to the positions, introduced a more merit-based appointment system, and a more timely filling of vacancies in the public sector. One of the key aspects of the reform has been decentralisation. Although Cyprus is a small island country, it has a two-tier government but the reform is empowering State District Offices. So, in contrast to the experience elsewhere in Europe (or OECD countries), in Cyprus, deconcentration is the main form of decentralisation, rather than devolution. It is also claimed that human resources play an important role in the process of reform, but one of the conclusions has been that the overall human resource situation in Cyprus is good, as the public sector offers a comparatively good, if not a better overall package than the private sector.

The focus on ICT development and e-government has been present in the last decade or so, with the focus on: 1) Infrastructure development; 2) creation of web sites for every Ministry, Department and Service; 3) web-Interfaces that will offer various services on-line, and 4) introduction of a citizens' Smart Card, which will be valid as a driver's licence, ID card, and health care card, and which will allow citizens to access a wide variety of services. Cyprus has traditionally been over-bureaucratized hence a proliferation of rules and regulations was widely present. One of the key reform features has been the simplification and further de-bureaucratization of government. The commitment to simplification has been present, but the results, despite the self-promoting claims of the (Greek) Cypriot government, were not so impressive.

As we can see, all our target countries have been largely focused on the 1990s and 2000s, on organisational reforms that have spanned from human resource realignment, via e-government to decentralisation and de-bureaucratization. However, the extent of success and depth of changes has been varied, whilst Iceland and Malta have done rather well, the Isle of Man has followed good/best British practices, and Cyprus has been struggling to deliver a systematic and meaningful public sector reform. In the latter case, some results have been shown, but certainly not enough to be put in the same class as the other three.

However, the fact remains that the first accession process and later, full membership of the EU have spurred and accelerated many reforms in the public sector. One of the criteria that the EU applies in the process of accession is the administrative and technical capacity of the national public (civil) service to meet the criteria of membership and deliver in a wider Europe. Certainly, in the case of Cyprus, some of the rather rigid limitations imposed in the public service laws have been softened and eliminated in the process of approximation. Some of the articles that have been modified recently in the Public Services Laws 1990-2006 are not yet in force, but will certainly improve the overall legislative competitiveness of the Cypriot public sector in the wider European arena.

## **New initiatives and directions**

Modern Public Sector reforms generally focus on three possible areas of activity: 1) sectoral approach – where focus is given to the core public administration and other sub-sectors within the public sector and sectoral and sub-sectoral public sector reforms are applied; 2) organisational realignment – where different approaches are exercised to various levels of government, decentralisation, new modes of public sector delivery (outsourcing, privatisation, etc.), and 3) public sector employee status reform – where the position and regime of public employees is brought closer to the private sector regime and experience.

Public sector reform, within the context of sectoral changes, focuses on the civil service on one side and each of the sub-sectors on the other: education, health, culture, security, etc. In fact, the reformists usually classify sectors as: 1) public administration: territorial government (at national, regional and local level) or functional government (ministries, armed services, police, legal system); 2) education: primary/secondary/tertiary, universities, research institutes; 3) health: hospitals, care; 4) public utilities: energy, water, waste disposal, etc.; 5) transport: railways, regional/local transport (such as bus or metro), airports, docks, and 6) communications: telecommunications, postal services. Or, another classification that is used is: 1) social sector: care, welfare; 2) infrastructure: telecommunications, transport, and 3) production of services: government. Of course, it is possible to see the public sector as a service sector where certain services are provided for the benefit of the public, and although it mixes with organisational and HR aspects of the reforms, can offer alternative forms and delivery channels.

Organisational reforms have been traditionally linked with the different forms of decentralisation and the empowerment of the lower levels of government (sub-national and local). This also meant and means improving fiscal decentralisation and empowerment of the local communities to deal with the new mandates and ensure that they have sufficient financial resources to deliver. Another important feature is the separation between policy formulation and execution, where policy formulation remains the core business of government, whilst the execution can be contracted out or even fully privatised. Agencification is a consequence of this separation, and certainly the mushrooming of agencies has been a characteristic of the late 1990s and 2000s. Also, it is possible to see a regulatory and implementation feature of the process, in parallel with the separation on the executive and policy formulation arms of the government.

Privatisation is another important feature of modern reforms. Privatisation can be internal and external. Internal privatisation usually means the creation of the market or a quasi-market, where a simulation of market forces is executed. The possible forms of internal privatisation are: 1) contracting out: a system whereby private companies can bid against each other for the delivery of a certain service; 2) consumer tagged financing (or even the use of vouchers), linking budgets to clients (customers) instead of assigning budgets directly to providing organisations; 3) product market liberalisation and deregulation, especially in sectors supported by substantial public subsidies, and 4) purchaser/provider relations within government, with the purchasing role remaining a specific public sector function, while the providing function can turn into an area of competition.

The external privatisation means disinvestment and sale of the former government entity to private investors, whilst providing an initial service contract to the privatised entity. After some time the privatised entity will be just one of many players on the market. If the monopoly is preserved after some prolonged time, it usually means that there are problems with that particular privatisation. With the tightening of the public purse, more and more public services will be privatised and most likely – externally. Political delegation and privatisation are the main features of modern reforms, which ensure that public spending is kept under control and in constant decline, which, in the current financial conditions, is a rather sensible approach.

The third component of public services (civil service) reforms is the redefinition of the position of the civil/public servant. As we have already noted on a few occasions, public sector employment has traditionally been seen as permanent and for life. There is more emphasis on values and ethical behaviour of public servants. Values such as independence, hierarchy and loyalty have been linked with the traditional, old administration. New values are now more linked with responsibility, accountability and responsiveness to the public (not necessarily only protecting the public interest). Increasingly, due to the reforms undertaken, employees who are not technically speaking public servants are delivering public services to the public. Adjustments in the law make the employment of civil servants closer to the terms and conditions of those employed in similar positions in the private sector. This also includes the re-defining of public sector pensions, as increasingly, even well-developed countries do have a problem with servicing pensions efficiently.

Our target countries have been on a path of public sector reforms for a number of years now. We have presented the major results and challenges of the processes and uncertainties that they may be facing. E-government or use of ICT in executing government functions is still an issue for a number of countries, trying to see that the interface between the citizens as clients and the state as a provider has multifaceted channels and not only face-to-face interactions. This certainly reduces the costs of providing the services, but at the same time it does stimulate both sides to try to cut time and provide a more effective and efficient service, at no extra cost.

Human resource management agenda is also a burning topic. Many countries have either instituted human resource management agencies, or are looking at them. The Isle of Man is

looking at creating one agency that would cut across the entire public sector and appoint officials centrally. Public consultations have revealed a number of issues that the public may be concerned with, ranging from the loss of control to being too strong and difficult to control when asked to do so. Creation and re-creation of a number of HR functions will certainly play an important role in further reform attempts.

## Summary and Conclusions

Small and island states have traditionally exhibited many features that have made their public administrations/public service specific. The main discrepancies are mainly triggered by size. Small may be beautiful, but at the same time it is more expensive, as population growth was initially grossly exaggerated. The size of the population and traditional lack of mobility has made it easier and socially more acceptable to institute jobs for life. The lack of opportunities elsewhere has made public sector jobs exponentially attractive. In order to look at the capacity, many departments have been created, in line with the larger countries, but often lacked the human and organisational capacity to deliver. On the other hand, there has always been significant size difference between the largest and smallest department in the jurisdiction. The size of population may also influence the objectivity of the public/civil service. The probability that the citizen (as a customer/client) will know a public officer is higher, or due to the close knit structure of the society, will know someone related to him (by blood, marriage, tribal/clan membership, etc.), so undue influence may be exercised. Public sector unions have also been exceedingly strong – as one might expect in small, relatively closed communities with a strong public sector.

The colonial influence (widely defined) is clear in three jurisdictions (Cyprus, Isle of Man and Malta), although even in the case of Iceland, the Danish influence (European social economic model) is evident. British colonial influence is clearly seen in the retention of the classical Public Service Commission model, where appointment, conferment and promotion of all public servants are in the hands of this centralised body. In the initial advisory model, where the Commission was to advise the colonial governor, this was replaced by a compulsory model, where the Commission independently operates an appointment system and provides advice on systemic issues to the Government (although being appointed by the President). The Westminster democracy model (tending to be two-party, bi-polar) is instituted in countries and the presidential (governor) position is somewhat ceremonial, rather than an office with operational capabilities. In all these countries, human resource reform has played a role as part of the overall public sector reform, and the process has been somewhat simplified; the merit principle strengthened further and, finally – decentralised. Localised appointment panels have more rights to recommend, although the Commission still holds the ultimate power of appointment.

The Isle of Man is moving in the direction of creating a centralised human resources agency, in order to monitor the capacities in the jurisdiction and facilitate the meritocratic process of appointment. This generally is a somewhat natural move, as the Civil Service Commission is more a strategic oversight body than an operational entity, in line with developments in the UK, as the British government has the ultimate responsibility for governance of the Isle of Man. Staff development policy has been the focus of the Cyprus change management programme for a good part of the 1990s and 2000s, with the current focus moving towards the organisation of one-stop government service points. This is an extension of government efforts to de-bureaucratise the system and ensure simplification of the processes and procedures. The Maltese main reform focus is currently on the development of e-government portals. Close to 100 per cent of general government documents are now on-

line and accessible to the public. The Maltese government is exploring partnerships with other public and non-public organisations to enhance public services delivery, and utilise the talents available nationally to the best possible extent. Iceland has been focusing on the simplification of procedures and access to service, together with a reduction in the costs of services provision.

It is difficult to envisage the future public reform steps that the countries in this sample will take, since despite the small size that they have in common, in their post-colonial development they were all working to create an environment and social infrastructure which is more national-specific. However, it seems that the reform of human resource management and policies will continue, with the decentralisation of appointments to the departmental level. Similarly, staff development and enhancement strategy and policy will focus on on-the-job training and continuous life-long learning, with the development being made to accommodate this at central government and departmental levels. E-government and direct access to the government and public services will also feature high in the reform agendas for some time to come. Increasing fiscal pressures might, however, dictate the dynamics and scope of changes, as small countries have been disproportionately hit with fiscal squeezes and the public revenue collection drop. Small countries have a problem to diversify and hence the problems do appear more burdensome. Also, the relatively large participation of the public sector in the national economy may mean that any necessary rationalisation measures will be faced with strong public opposition and hence may be more difficult to implement and political rationales may rule when the economic one falls on deaf ears.

What can be learned from the experience of small island states regarding good governance? First, it is necessary to pursue the process of decentralisation, through different models in parallel – from national government deconcentration to full devolution. Second, the public sector has to be rationalised to a manageable level, where all the non-core services should be privatised, internally or externally. Third, human resource management has to further the merit appointment system, and although technical support for appointments may be better performing if they are centralised, these should be made at the lower, preferably departmental level. Fourth, e-government is an important project as the size of the country may prove to be an incentive to create an excellent ICT infrastructure and ensure that citizens use it to their best advantage. Fifth, the small jurisdictions in our cases have all inherited a fairly robust colonial regulatory infrastructure and have done rather little to simplify it. Hence it is necessary to review the wider legislative and regulatory framework, with a view to ensuring better access to service to citizens, residents and other interested parties, through the process of deregulation, legislative rationalisation and the provision of responsive government service policy – through, for instance, one-stop government service points. Sixth - the study and adaptation (rather than mere adoption) of good practices elsewhere, regardless of the size of the countries.

Small and island states have traditionally been looking at one another for inspiration and experience. It may be useful to broaden the interest horizon and see whether some other jurisdictions (regardless of size) can be a source of inspiration and advice. And, finally, seventh, work on all its comparative advantages in both economic and political terms. At



present, all these jurisdictions are known tourist destinations and maybe focusing on the promotion of that industry and ensuring that the whole of society stands behind it may also be an inspiration for public services reform attempts.

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## NOTES:

*Bu rapor KKTC Devleti hde Fonksiyonel ve Kurumsal Gözden Geçirme Projesi" (KKTC-FOKUS) kapsamında hazırlanmıştır.*

*Proje 2010 yılında KKTC ve TC tarafından imzalanan protokol kapsamında hazırlanan "2010-2012 Kamunun Etkinliğinin ve Özel Sektörün Rekabet Gücünün Artırılması Programı"nda yer alan araştırma çalışmalarından biridir. Çalışmayı Türkiye Ekonomi Politikaları Araştırma Vakfı (TEPAV) Nisan 2011-Haziran 2012 tarihleri arasında yürüterek tamamlamıştır.*



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