

Reply of the Republic of Latvia

The Role of the Public Service as an essential component of good governance in the promotion and protection of human rights¹

- 1) Good practices and your views regarding the organization, training and education of the public service;**
- 2) Activities developed to assist and support the public service at the national, regional and international levels, in particular where human rights aspects were taken into consideration and improved the public service**

The State Chancellery of the Republic of Latvia is a central public administration institution directly subordinated to the Prime Minister. The State Chancellery is headed by its director, who is a top-rank official appointed to and dismissed from the post by the Cabinet order and upon recommendation of the Prime Minister. The Director and other civil servants of the State Chancellery are appointed to the post in line with the State Civil Service Law of the Republic of Latvia.

The State Chancellery comprises Prime Minister's Office, departments, divisions and individual units set up by the Director of the State Chancellery. The State Chancellery has the following functions:

- to provide preparation and process of Cabinet sittings, to ensure preparation of Cabinet's documentation according to the procedure set forth in the relevant laws and regulations; to perform management of Cabinet's documentation;
- to participate in the policy planning processes pursuant to the Cabinet's guidelines and tasks assigned by the Cabinet;
- to coordinate planning and implementation of the national policy; in cooperation with ministries to present proposals on priorities for national development;
- to ensure elaboration of the development policy of public administration (including the state civil service) and coordinate and supervise its implementation;
- when assigned by the Prime Minister, to coordinate and to control enforcement of the decisions adopted by the Cabinet of Ministers and the Prime Minister;
- to inform the public about work and activities of the Cabinet of Ministers.

Subordinate institution of the State Chancellery is the Latvian School of Public Administration (since 1 January 2003). The School of Public Administration is a state administrative institution under the supervision of the State Chancellery, which implements State policy in the education for civil servants field in order to prepare highly professional civil servants. The functions of the School of Public Administration are as follows:

- 1) to formulate civil service training programmes in accordance with the State Chancellery remit for the current year;
- 2) to co-ordinate and ensure the process of the training of civil servants; and
- 3) to formulate drafts of regulatory enactments, conceptual issues, reports, programmes and other documents related to the training of civil servants.

¹ Information has been prepared in the cooperation with the State Chancellery

The reform on civil service system has been initiated to promote more open, client-oriented and effective government, as well as to facilitate professionalism and motivation of the public service. The issues concerning public service structure, recruitment, performance appraisal and motivation are on the agenda. Great attention is being paid to the development of human capital – The School of Public Administration is planning to provide training modules to several specific groups as policy planners, lawyers, human resources specialists. It is planned that special attention will be paid to the middle and top level managers as the key drivers of the reforms.

New regulations on evaluation of public service performance came into force on November, 2012, and the implementation process has started. To promote the results-oriented public service, the special system (e-tool) was created. The performance of employees will be evaluated by analyzing their individual goals and tasks, as well as the compliance of the performance of their duties with job requirements and standards. Also cooperation partners, members of non-governmental organizations and other institutions employees will take part in the evaluation process (360 degree evaluation). The system will improve strategic planning capabilities and will serve as an integral part in advancing public service delivery.

State Civil Service Law of the Republic of Latvia gives provisions to the lawful government, professional and politically neutral state civil service which ensures the legal, stable, efficient and transparent operation of the administration of the state. In recent years exclusive attention is being paid to the integrity and ethical behavior of the civil servants. All public service employees should demonstrate this competency in their everyday activities and it is included as the key competence in the performance evaluation system. Also an open competition is the precondition to enter the civil service at any level. To promote the transparency of public service it is planned to expand the provision of an open competition.

To support the public service at the national, regional and international levels, the mobility within those levels has been promoted. According to the amendments in the State Civil Service Law in 2010, civil servants (with their consents) can be transferred to any international organization in the interests of the state and their rights to return to the previous position or an equivalent position are retained.

3) Which categories of services you consider as public services and the rationale for providing human rights relevant services directly or indirectly through delegation of non- State actors or in mixed systems, in particular where human rights considerations were taken into account

The delegation system of public service is set in the State Administration Structure Law, which provides:

(1) A private individual must be entitled to perform the relevant administrative task. In deciding on the delegation of an administrative task to a private individual, the experience, reputation, his or her resources, qualification of the personnel and other criteria shall be taken into account;

(2) In deciding on the delegation of an administrative task to an association of persons, it shall be evaluated whether such association does not represent the interests of a specific group having financial or other interests. A public person may delegate administrative tasks, the performance of which is in the competence of such public person or the represented institution. When delegating administrative tasks, the relevant public person shall be responsible for the performance of the function as a whole.

The State Administration Structure Law also sets the limits of the delegation mandate and the following administrative tasks may not be delegated:

- (1) planning and approval of the policy and strategic development of the sector;
- (2) co-ordination of the activities of the sector;
- (3) supervision of institutions and administrative officials;
- (4) approval of the budget of public persons, distribution of financial resources at the level of programmes and sub-programmes, and control of financial resources.

In addition to the tasks specified above also some tasks may not be delegated to private individuals, like, (1) issuance of administrative acts, except in a case, when such is provided by law; (2) tasks related to the performance of the functions of the external and internal security of the State, except the cases, when such is provided for by law or Cabinet regulations; (3) tasks related to the representation of the Republic of Latvia in economic, political and military unions and institutions except in a case, when such is provided by law; (4) tasks related to the execution and supervision of human rights stated in the Constitution and to which the responsible institution and the execution procedure is set by the legislator; (5) other tasks, which by their nature may be performed only by institutions. To give an example – the rehabilitation of abused children is delegated to the NGO – Latvian Children’s Fund.

6) Good practices of public service reform in a post- conflict context or after major transitions which ensured improved delivery of human rights relevant services

In twenty-two years after the restoration of independence (1990) Latvia has developed modern comprehensive legislation and institutional system for the protection of human rights and fundamental freedoms. Effective public service system has been established. Latvia has acceded to more than 50 international human rights instruments, including the core human rights treaties.

Public service in Latvia has faced many challenges during the period of economic downturn (since 2009), including salary cuts, layoffs, revision of functions. Nevertheless this situation created the ground towards more open, client-oriented and effective government. In addition also resources provided by foreign financial instruments, for example, the European Social Fund, have been useful.

7) Good practices supporting equal access to public service positions, including conditions for access to public service positions, any restrictions which apply and the processes of appointment, promotion, suspension and dismissal or removal from office as well as the judicial or other review mechanism which apply to these processes

Civil service of Latvia is position-based system (contrary to career system) and any citizen is given a possibility to enter civil service at any level (via an open competition). The mandatory requirements are set in the State Civil Service Law. A person may be a candidate for a civil service position who:

- 1) is a citizen of the Republic of Latvia;
- 2) is fluent in the Latvian language;
- 3) has a higher education;
- 4) has not reached the age of retirement determined by law;

- 5) has not been convicted of deliberate criminal offences, or has been rehabilitated, or for whom the conviction has been set aside or extinguished;
- 6) has not been dismissed from a civil service position by a court judgment in a criminal matter;
- 7) has not been found as lacking capacity to act in accordance with the procedures prescribed by law;
- 8) is not or has not been in a permanent staff position in the State security service, intelligence or counter-intelligence service of the U.S.S.R., the Latvian SSR or some foreign state;
- 9) is not or has not been a participant in organisations prohibited by law or by an adjudication of a court;
- 10) is not a relative (a person who is married to, or in kinship or affinity of the first degree with, or a brother or sister of, a civil servant) of the head of an institution or a direct supervisor. The Cabinet may determine exceptional cases if a relevant institution cannot otherwise ensure the fulfilling of prescribed functions; and
- 11) for whom have not been retained such consequences of the activities of the disciplinary sanction, which for a specified period prevents him or her to hold a civil service position.

Additional criteria – professional and general competencies – are set by the institution.

In order to ensure good administration, especially the efficient performance of the tasks of the civil service, the public trust of the civil service, as well as to promote improvement in the qualifications of a civil servant, a civil servant may, without the announcement of open candidate competition and justifying the admissibility and usefulness of the transfer, be transferred to any other civil service position for a definite or an indefinite term, in the same or another institution. The decision of transfer is made by the head of the institution or the minister or the Prime Minister and it is an internal legal act of the public administration. However the civil servant has right to judicial review in case his/her human rights are encroached substantially and four conditions can be judged:

- the civil servant's attitude towards the transfer ;
- the compliance of the position with the education;
- qualification and professional skills of the civil servant;
- the maintenance of salary and social guaranties;
- the approachability of working place.

Within the economic downturn measures were taken to decrease the number of employees and to cut the salary. According to the legislation employees who have better work results and higher qualification have a priority to retain a position or remain in work in case of reduction of the number of employees or liquidation of a position. If work results and qualification of employees do not differ significantly, a priority to retain a position or remain in work have those employees who do not have another permanent source of income. If employees do not have another permanent source of income, a priority to retain a position or remain in work shall be determined in accordance with the Labour Law of the Republic of Latvia.

The following shall be considered as a permanent source of income:

- a) performance of the duties of work or office at another employer, if the monthly salary (monthly post salary, wages) determined for him or her is equal to the minimum monthly salary or larger and the term for performance of the duties of work or office determined in the order or agreement is longer than three months;
- b) old age pension or long service pension, if a person in accordance with the Law has the right to such pension regardless whether a pension is being received.

In addition the salary of the civil servant is seen as belonging to the rights to the property and person has right to judicial review in case his/her human rights are encroached.