Organisation de Coopération et de Développement Économiques
Organisation for Economic Co-operation and Development

21-Nov-2008

English text only

PUBLIC GOVERNANCE AND TERRITORIAL DEVELOPMENT DIRECTORATE
PUBLIC GOVERNANCE COMMITTEE

GOV/PGC/PEM(2008)6
Unclassified

Public Employment and Management Working Party

ANNUAL MEETING

CHALLENGES OF HUMAN RESOURCES MANAGEMENT FOR MULTI-LEVEL GOVERNMENT -- FINAL DRAFT

OECD Conference Center, Paris
4-5 December 2008

This document has been written by Knut REXED.

For further information, please contact Elsa PILICHOWSKI at OECD Headquarters
Tel: +33 1 45 24 76 12; Email: elsa.pilichowski@oecd.org

JT03255821

English text only

FOREWORD

As an agreed part of the programme of work and budget for 2007-2008, the Directorate for Public Governance and Territorial Development of the OECD (GOV) has continued its programme of studies on public employment and human resources management in government. This programme of work includes topical studies on the key human resources management challenges that public services are facing.

Following recommendations made by the Public Employment and Management Working party at its 2006 meeting, in 2008 GOV developed a project on The challenges of human resource management across levels of government. In addition to addressing an urgent policy concern of OECD member countries, this project fits the larger OECD priority of developing policy responses to ageing societies.

The project was led by Elsa Pilichowski (OECD Secretariat). The paper was mostly written by Knut Rexed, consultant. Ms Pauline Greco and Mr Sanghyun Lee (both previous interns in the OECD Secretariat) participated greatly in the research for the paper. Ms Pauline Greco researched and wrote the case study for France.

The other country notes are amended versions of country reports provided by the following government officials from OECD member countries:

- **Belgium**: **Philippe Vermeulen**, former official in the Service Public Fédéral Personnel et Organisation (now at the OECD Secretariat)
- **Chile**: **Julio Valladares**, from the Ministry of Finance
- **Denmark**: **Elisabeth Hvas** and **Mikkel Plannthin**, from the Ministry of Finance
- **Germany**: **Stephan Kohn**, from the Federal Ministry of Interior
- **Iceland**: **Helga Jóhannesdóttir**, from the Ministry of Finance
- **Spain**: **Emilio Viciana Duro**, from the Ministry of Public Administration

TABLE OF CONTENTS

I. MAIN CONCLUSIONS

I.1. Executive introduction

What does it mean for a national government that important decisions about public employment and public employees are taken by other decision makers? Which are the risks that the national government runs as a result of the decentralisation[1] of responsibilities and competences, and which strategies and measure can a national government develop to manage these risks? These are the questions dealt with in this study.

The focus of this study is on the national governments' strategies and policies in respect to human resource management in subnational administrations, and on the challenges that an extensive delegation or devolution of the responsibilities for public services may create for national governments. It also covers some financial management issues due to the interchangeability between financial controls and direct controls over establishment, employment systems and remuneration.

The study is based on seven country notes covering Belgium, Chile, Denmark, France, Germany, Iceland and Spain. The selection is neither planned, nor unbiased. The sample consists of countries that either have experiences of a system with extensive decentralisation to sub-national governments, or that have recently been decentralising responsibilities to sub-national governments. The study also uses information from other countries, but this is not based on any systematic information retrieval.

The national context for these strategies and policies varies substantially across OECD countries. Any type of classification of this context would by necessity be an over-simplification. A key element in the description of the national contexts is however two archetypes of employment arrangements; the civil service or career system, and the public employment or position system. No country has a pure system, and the picture is that of a range of mixed or intermediary systems.

The final chapter contains the conclusions that can be drawn from the study. These should be seen as provisional, due to the limited set of country notes. There are two issues that seem to have been more predominant in the deliberations of national governments than others.

The first is that the national governments needs to be able to influence the remuneration and employment conditions at subnational level; either by formal means or by informal consultations. The main concern does not seen to have been the financial consequences but the need to prevent wage inflation through enhanced employer cooperation.

The second is that a prerequisite for the decentralisation of responsibilities is that the recipients have sufficient capacity for assuming these responsibilities and for delivering the expected results. This has been achieved through inter alia mergers of subnational governments and promoting subnational multi-government organisations.

I.2. About this study

The number of country notes made available for this study is limited, but they represent a spectrum of different administrative traditions and different stages in a political decentralisation process. It can be difficult to draw reliable conclusions from such a small sample, but the country notes can be used to underpin analyses and illustrate the existing spectrum of arrangements. The study has also made use of

[1] The term "decentralisation" covers both delegation and devolution.

material from other sources, including other OECD material, a comparative European study and various documents available from reliable internet sources.

The reasons for this scarcity of background notes can only be the subject of speculation. Among the possible hypotheses is that the central human resource management units within the national administration (which are the contact points for OECD in this policy area) are not handling relations to subnational governments. Another is that the issue may be too sensitive for civil servants in the national government administration to comment on. It is thus noticeable that the countries covered by the country notes are all countries where the national government either has a clearly stated policy for administrative decentralisation or a cooperative relation to subnational governments.

It is at the same time possible to draw an implicit conclusion from the scarcity of country notes; that human resource management in subnational government administrations has not created any noticeable problems for national governments.

The paper often uses the phrases "normally", "typically" or "reasonable hypothesis" when describing different features. This is done when it seems possible to draw a conclusion from the existing information, but when it cannot be excluded that more complete information would provide exceptions or even change the picture.

In this paper *State* is used for both federal and unitary countries. The *states* or *federated levels* are the entities that together form a federal country (states, provinces, regions, communities, lands). The *regional level* is the second (intermediary) tier in a unitary country, and the *local level* is the third tier in both federal and unitary countries (regions, counties, municipalities, communities, etc.). *Subnational* includes all other governments in a country than the national government.

The paper will make a distinction between responsibilities and competences. By *responsibilities* is meant the functions entrusted to subnational governments, such as the nature of the public authority exercised by them and of the services provided by them. By *competences* is meant the freedom of action of subnational governments in managing their own organisation, financial matters, investments and human resources.

It also uses *governance* as a very broad concept. In addition to the traditional command-and-control systems, it could also refer to other models for exercising a central influence on delegated or devolved decision making.

I.3. The issues involved

I.3.1. The public administration in OECD countries

The public administrations in OECD countries play an important role for the well-being of their societies. They serve the democratic system, and ensure that the will of people as expressed in free and transparent elections will also be faithfully implemented. They provide the basic security without which no society can survive. They also provide the institution that reduce transaction costs for both citizens and enterprises, and enable private enterprises to trust legally binding agreements and undertake long-term investments. They serve the citizens by managing urban centres, ensuring an adequate infrastructure for energy and communications, and providing important educational, social and medical services. If the public administration fails, then the whole society will suffer.

Government in OECD countries is as a rule composed of several layers, and each layer has its own administration. The theoretical basis for this structure is the so-called subsidiarity principle. It can be defined as the idea or principle that matters ought to be handled by the smallest, lowest or least centralized

competent public authority. The concept or principle is found in several constitutions around the world (see for example the Tenth Amendment to the United States Constitution). It is presently best known as a fundamental principle of European Union law established in the 1992 Treaty of Maastricht. According to this principle, the EU may only act (i.e. make laws) where member states agree that action of individual countries is insufficient.

Decentralisation is however not only a question of administrative rationality, but also of self-governance. This is clearly expressed in the European Charter of Local Self-Government adopted in 1985. The Charter commits the ratifying member states to guaranteeing the political, administrative and financial independence of local authorities. It states that the principle of local self-government shall be recognised in domestic legislation and, where practicable, in the constitution. Local authorities are to be elected by universal suffrage. Local authorities, acting within the limits of the law, are to be able to regulate and manage a substantial share of public affairs under their own responsibility in the interests of the local population.

I.3.2. The challenges of public human resource management

Multilevel government also means multilevel human resource management, especially in countries with legally or constitutionally guaranteed subnational self-government. National governments have, as is shown later in this document, a number of interests in the human resource management at subnational levels of government.

Decentralisation will inevitably create a potential for differences, since decisions will be taken by several separate decision-makers. This is not a side effect. Instead, the decentralisation of responsibilities and competences is intended to enable an adaptation of government arrangements to local needs, conditions and priorities, and this entails a certain level of differentiation and variation. There is however at the same time factors that will reduce the actual differences. All employers can for example be expected to act rationally on the basis of acknowledged good employer practices, and a well functioning labour market will tend to ensure that similar skills and efforts are rewarded similarly.

Work on public human resource management has so far mainly concerned the national level, and little attention has been given to the effect of an independently governed subnational level. Although there are parallels with independently managed government agencies, there is also a fundamental difference in that the subnational governments are independently elected and only responsible to their own electors.

This paper is intended to complement earlier studies by describing the challenges, practices and experiences of human resource management in multi-level government structures. It will focus on the potential tensions between national and subnational interests, and on the challenges that subnational decisions might create for the national government. The financial dimension is an unavoidable part of these features, and the document will therefore also cover related aspects of macroeconomic and financial policies. It will however not cover aspects related to national supervision of subnational adherence to the general labour laws of the country. Nor will it cover aspects related to bailouts of subnational governments that have failed; financially or otherwise.

Human resource management consists of a broad range of arrangements, covering the legal basis for the public employment, any variations in employment arrangements, the number of public employees, their remuneration and other employment conditions, efforts to recruit, train, develop and retain sufficiently skilled employees, and internal consultation arrangements including formal negotiations with organisations representing the employees.

I.3.3. National vs subnational government interests

The national governments are, in almost all countries[2], assumed to have residual responsibilities for the country's economic and social development and for the well-being of citizens, even if and when relevant functions are the responsibility of subnational governments. Decisions taken by subnational governments can also have a major influence on the national government's ability to handle its own responsibilities, including macro-economic and social stability, sustainable growth and social equity. The fragmentation of public investments and public service provision also entails important challenges in maintaining coherence, whole-of-government perspectives and aggregated efficiency in the public service.

Subnational governments are only accountable to the electors within their own geographic area, and these may have different priorities than the majority of the country's citizens. They typically have more limited responsibilities than national governments[3]. The extent of these varies across countries, but they never include monetary issues and macroeconomic developments.

Subnational governments promote economic growth within their own geographic area, and compete for employment-generating investments. They also compete for mobile qualified and skilled labour, and want to offer as attractive living conditions as possible for these persons and their families. The increasing mobility of both capital and labour intensifies this competition. Subnational governments also compete with the national government for labour for public employment, at the same time as all governments compete with private enterprises and non-profit organisations. The functions and services provided by subnational governments may affect such variables as growth and employment within their own territory, but the subnational governments can normally not be held to account for how these affect the national developments, except by their own electors.

Against this background, it is possible to identify five sets of national government interests in the human resource management in subnational administrations. The first three derive from the national government's responsibility for the macroeconomic developments, including price stability, economic growth, full employment and a high employment ratio. The remaining two derive from the national government's residual responsibility for the outcome of subnational government activities and includes the need to maintain propriety, trust, integrity and an acceptable value base for all public activities, whether decentralised or not.

Firstly, a national government typically has targets for the extent or volume of the country's total public activities. A national government may have a strong interest in restraining the growth of the aggregated public employment in national and subnational government administrations, since a too rapid expansion would crowd out private employment and reduce the growth of tax-generating activities. In countries that forecast a shrinking labour force due to demographic development, national governments may even have an imperative need to reduce the total public employment. Conversely, there may also exist governments that are anxious to maintain or even increase total public employment in order to avoid an extra strain on an already depressed labour market.

Secondly, a national government typically wants to ensure that the growth of total labour costs per hour is compatible with a maintained or strengthened international competitiveness and reasonably low inflation. This is especially important for small countries with open economies. The national governments

---

2 The known exception is Belgium, where the federal government does not have a primacy over governments at the federated level.

3 Belgium is again the known exception.

therefore have a strong interest in the evolution of remuneration in subnational administrations, just as they have an interest in promoting responsible wage setting within the private sector.

Thirdly, a national government typically wants to ensure that the country's labour market functions in an adequate and appropriate manner. It therefore normally pursues policies aimed at improving the labour supply, facilitating mobility, reducing job vacancy and unemployment durations, promoting a better match between demand and supply of different skills, and ensuring a relatively low level of industrial conflicts. They therefore have an interest in promoting human resource management practices in subnational administration that contribute to these efforts.

Fourthly, it is rare that public policies and services can be completely isolated from each other. The health service, for example, would have to interact and be coordinated with services for inter alia education, consumer protection, alcohol and drug use, social security, employment, immigration and integration. The responsibilities for these services would typically be divided between national and subnational government. The advent of e-government and e-services has also generated new demands and opportunities for cross-government coordination in service provision and information management.

Finally, the national government has an implicit residual responsibility for the outcome of subnational government activities, especially in non-federal countries. Citizens may expect public functions and services to be of relatively equal quality or accessibility across the country, even in cases where the responsibility is devolved, and the national government may find it difficult to dismiss such complaints without taking any action. The devolved functions may also be of importance for the country's macroeconomic development, social stability and/or international commitments. Subnational governments may also need national government interventions in crises that they are unable to cope with themselves.

The exact nature of such concerns varies across countries depending on what has been devolved or delegated to subnational governments. They typically focus on the quality and accessibility of the decentralised functions and services. The national government is also responsible for maintaining the rule of law, and may actively promote specific public service values such as openness, professionalism, correctness, responsiveness and non-partisanship in both national and subnational government administrations.

I.4. Context matters

I.4.1. The relations between national and subnational governments

The formal relations between national and subnational governments vary across OECD countries. The character of these relations determines the options available to national government in governing or influencing subnational government actions in different fields, including human resource management.

OECD-countries can be classified as federal, regionalised or unitary countries. The challenges facing a country would depend on which of these groups it belongs to, since the competences of a federal government would typically be curtailed by the country's constitution. They can also be grouped in two broad groups depending on the history and nature of the relation between their national and subnational governments.

The first group can be described as countries with a history of a centralised public administration; regional governors appointed by the national government and subordinated subnational governments. These countries are typically unitary countries, and often have a period of autocratic rule behind them. These countries have almost without exception entered a phase where they introduce directly elected regional governments, transfer competences and responsibilities to regional and local governments, and seek an appropriate balance between the centralised administrative tradition and the new elements of

subnational self-governance. Among the countries that have provided country notes, Chile, France and Spain belong to this group. The German federation can also be said to belong to this group. It was created during the reconstruction of Europe after 1945, and represents a combination of centralised administrative structures and regional and local self-government, but has like the previously mentioned countries began to transfer competences to the regions.

The second group can be described as countries where subnational government is based on an unbroken tradition and regarded as self-evident. These countries may instead have to deal with a need to strengthen the capacity of existing regional and/or local governments to manage existing responsibilities that are essential for the evolution of the country's economic competitiveness and social cohesion, and to find an appropriate balance between national standards and subnational self-governance. Among the countries that have provided country notes, Denmark and Iceland belong to this group. Federations that have been formed by already existing political entities such as Australia, Canada, Switzerland and the United States can also be said to belong to this group.

The classification of an individual country can of course always be discussed, and there are countries that don't fit easily into either of these countries. Belgium, where the federal structure has evolved out of controversies between the country's two main regions, is one example. The United Kingdom with its complex structure and specific legal-administrative tradition is another.

The number and structure of subnational governments vary across OECD-countries, not only between federal and unitary countries but also within each of these groups.

Table 1. Subnational governments in OECD countries

Federal States	Municipal tier	Second tier	Federated States
Australia	694 local governing bodies[1]		6 States and 2 Territories
Austria	2,359 municipalities		9 Länder
Belgium	589 municipalities	10 provinces	3 Regions and 3 Communities
Canada	ca. 4,000 local governing bodies[1]		10 Provinces and 3 Territories
Germany	13,854 municipalities	323 districts	16 Länder , including 3 "City-States"
Mexico	2,438 municipalities		31 States and 1 Federal District
Switzerland[2]	2,470 territorial communes		26 Cantons
United States[3]	35,992 local governing bodies	2,975 counties	50 States and 1 District

Notes:
1 The generic names of Australian and Canadian local governments vary across states/provinces/territories
2 Switzerland is formally a Confederation
3 The organisation and generic names of US local governments vary across states.

Unitary States	Municipal tier	Second tier	Third tier
Czech Republic	6,258 municipalities	14 regions	
Denmark	98 municipalities	5 counties	
Finland	432 municipalities	6 provinces	
France	36,684 municipalities (including 114 in the overseas departments)	100 departments, including: 1 city-department and 4 overseas departments	26 regions, including 1 special status authority and 4 overseas regions
Greece	1,031 municipalities including 901 towns and 130 rural municipalies	50 departments	
Hungary	3,158 municipalities	19 departments	
Iceland	79 municipalities	23 counties[1]	
Ireland	85 municipalities	29 counties	8 regions
Italy	8,100 municipalities	104 provinces	20 regions, including 5 "special status"
Japan	659 cities, 1,991 towns, 567 villages	47 prefectures	
Korea	72 cities, 94 counties and 69 districts	9 provinces and 7 metropolitan cities	
Luxembourg	118 municipalities		
Netherlands	467 municipalities	12 provinces	
Norway	434 municipalities	19 counties	
New Zealand	16 city councils and 57 district councils (4 of these are also regional councils)	16 regional councils and 1 territory	
Poland	2,489 municipalities	373 departments	16 regions
Portugal	278 municipalities (4,257 parishes[2])		
Slovakia	2,920 municipalities	8 regions	
Spain	8,106 municipalities	50 provinces	17 autonomous communities

Sweden	289 municipalities	21 counties, of which 2 are designated as "regions"	
Turkey	923 districts	81 provinces	
United Kingdom *England* *London* *Scotland* *Northern Ireland* *Wales*	36 metropolitan districts 238 districts 47 unitary authorities 1 Greater London Authority +32 London Boroughs 32 unitary authorities 26 districts 22 unitary authorities	34 counties Regional Parliament Regional Assembly *(suspended since 2002)* Regional Assembly	

Notes:
1 Iceland's 8 regions are merely used for statistical purposes
2 Portuguese parishes are infra-municipal authorities.
The data in this table has been collected from a number of different sources, and has not been checked for accuracy. The table is merely intended to provide an overview and information about individual countries should be verified before re-use.
Sources: Dexia (2006), CIA World Fact Book (internet), UNPAN Country Profiles (internet), Wikipedia (internet), US Census 2002 (internet),

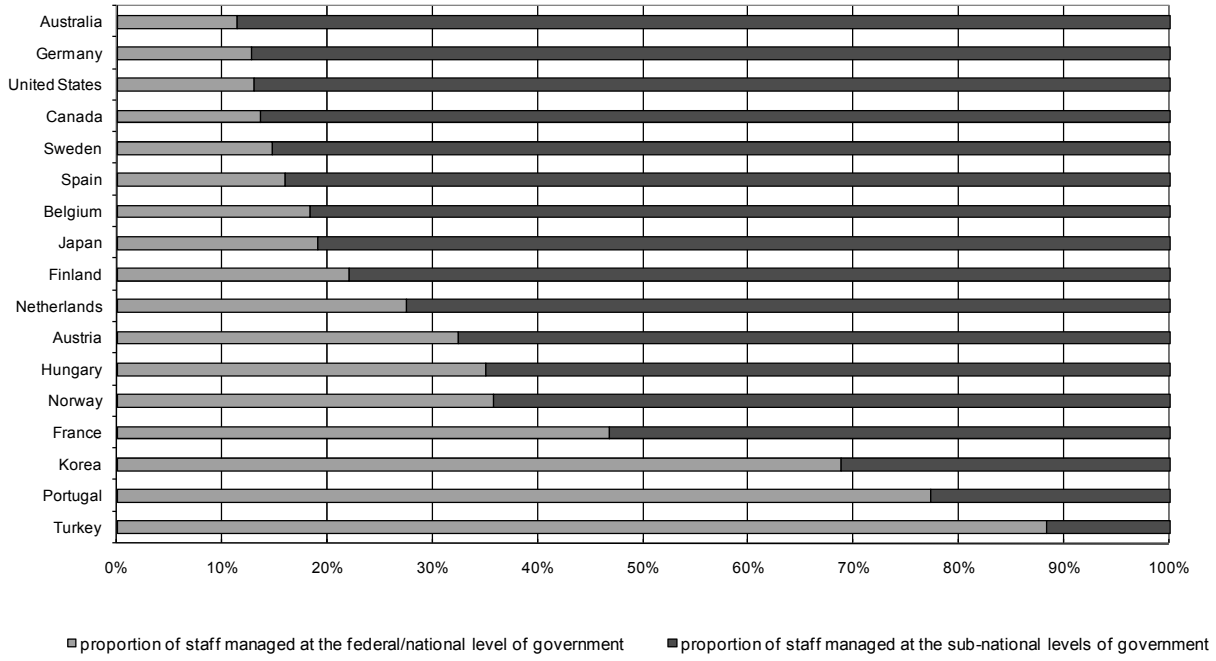
I.4.2. The responsibilities of subnational governments

The responsibilities of subnational governments also vary across different types of subnational governments in OECD countries. The extent of these responsibilities is important. A reasonable hypothesis would be that the need for a sufficient capacity and professionalism in subnational governments will grow as the responsibilities increase, and that the demands on the national governance system would increase accordingly.

There are no easily available sources detailing the distribution of responsibilities in different countries, and the country notes are too few to draw any meaningful conclusions from. As a minimum, local governments tend to be responsible for urban functions, but the extent to which other functions and/or responsibilities have been delegated or devolved to subnational governments vary. The most extensive devolution seems to exist in Belgium, where all six governments at federal and federated level are considered equal, and where there is no clear sphere reserved for the federal government.

One indication of the variations is each levels share of the public employment. Data on OECD countries indicate that the share of national government employees varies in federal countries between 12 % in Germany and 32 % in Austria. The corresponding spread for unitary countries is between 14 % in Sweden and close to 90 % in Turkey.

Figure 1. Employment in government (General Government) by level of government (2005)



Source: CEPD survey, OECD

Notes:

* Data are in number of employees, except for Austria, the Netherlands and Sweden.

** Employment in social security is not taken into account at the national level in Austria, Belgium, Finland, France, Hungary, Japan, Korea, Netherlands, Spain, Sweden, and Turkey. Employment in social security is not taken into account at other levels of government in Australia, Canada, Germany, Norway, Portugal (for 2005), and the United States. This concerns relatively small numbers of staff and thus has only minor consequences on the graph above.

Austria:	Data do not include private non-profit institutions financed by government
	Data for 2004 and 2005 have been mixed. Data for public corporations are partial and only include universities that have been reclassified.
Belgium:	Data are for 2004
Finland:	Data have been mixed for 2004 and 2005
France:	Data exclude some Public Establishments
	Data are for 2004
Korea:	Teachers and police officers are included at the national level and account for 75% of the workforce at national government level.

Finally, the Denmark country report points out that shared responsibilities can lead to difficulties in identifying the responsible part, for example when the service level guaranteed by the state to the citizens is not achieved. It might be the sub-national governments because they are not efficient enough, but it may also be the national government because it has not ensured that the subnational governments have sufficient resources to carry out their tasks in an adequate manner. One of the aims of the Quality Reform

launched by the Danish national government is thus to create coherence and a clearer distribution of responsibilities.

Box 1. The Quality Reform Initiative in Denmark

Apart from regulations affecting the labour market in general (include private companies), there is little regulation imposed by national government on regional and municipal governments on how they should manage their staff. Nor is there direct involvement of national government in establishment control, remuneration (apart from pensions for civil servants only, which are regulated at the national level), or management principles.

The system, however, maintains a high degeree of coherence across governments. First, the legal rules of employment conditions in the public service are broadly the same across governments in Denmark. Like in many other OECD countries, sub-national governments have built on traditional existing employment frameworks at national level to develop the basis of their employments regulations.

Second, a very high level of coherence is maintained through informal coordination and through the negotiation processes with unions in which national government is involved.

The Quality reform, promoted by national government, reinforces dialogue across levels of government on HRM. It was first presented in the summer of 2006, was then the object of exceptional negotiations with unions in 2008, and contains 180 initiatives. Its goal is to "ensure that the public sector will continue to be able to deliver high quality services to the citizens even though the future public sector workforce inevitably will decrease due to demographic changes in the population." National government will fund part of the initiatives for a total amount of around 10 billion Danish Crown, to be distributed to cities and regions until 2015 (shared funding of individual projects). While the initiatives are wider than HRM, and include themes such as improved regulation or the promotion of innovation and user centric organization, a large part of the initiatives concern HRM very directly. They include themes such as improving the image of the public employer, the provision of incentives for older workers to stay on, improving the management of competencies, leadership training, increased training in the social sectors.

I.4.3. The impact of public governance structures and reforms

A reasonable hypothesis is that the nature of the employment arrangements at the national government level strongly affects the governance of employment arrangements at subnational government. A country where statutory controls over employment arrangements in the national administration have not been relaxed is less likely to relax similar existing arrangements for the subnational administrations. A country, which has acquired experience of how to govern delegated employment arrangements in the national government administration, is on the other hand more likely to attempt to govern devolved employment arrangements in subnational government administrations in a similar way.

The public employment arrangements vary across OECD countries in a number of respects. There is a spectrum from career-based to position-based systems, and another from uniform statutes to differentiated contracts. The statutory systems cover all national government employees in some countries, but only core government employees in others. In some countries they cover public employees at all levels, but in others only national government employees. These different aspects of the public employment arrangements are not necessarily linked to another.

There are other elements in the human resource management context that are of importance for the choice or balance between centralised or decentralised arrangements. If the country has a benefit-defined system for pensions, then public servants would have vested interests in this system and want to retain it even after a decentralisation. A country with a contribution-defined system would however not have similar problems. The trade unions for public employees might also play a role, provided that they are sufficiently representative. A country with separate trade unions for national and subnational government employees would probably meet resistance to decentralisation and be less likely to change its employment arrangements at the same time. Centralised trade unions would oppose decentralisation, while decentralised trade unions would welcome it.

It is possible to identify three main areas of reform that are on the agenda in most countries at all levels of government, namely:

- the dissolution of previously centralised and standardised arrangements and structures, and the growth of spheres of decentralised managerial discretion within public administrations;
- an increased focus on performance (including result-oriented governance, use of internal market-type mechanisms, and performance-related pay elements) and the introduction of quality assessment systems
- the increased reliance on commercial and other non-governmental organisations for both input services and service provision.

The change process is however far from homogeneous across OECD countries. All three areas involve changes to the human resource management arrangements. The first one entails a transfer of competences and a need for adequate human resource management function at the recipient end. The second one implies a shift from uniform - often statutory - rewards to differentiated rewards based on performance assessments. The third entails a shift from hiring people to contracting suppliers, partners and service providers. It therefore also implies a reduction of the number of public employees, and a changed composition of the public work force.

I.5. How are countries responding to the different challenges of HRM across levels of government?

I.5.1. The Challenges to financial stability

Transferring responsibilities to subnational governments leads to them being responsible for a large share of the public activities, employment and expenditure. It also implies a weakening of the national government's control over public employment and expenditure. Concerns about the subnational governments' ability and willingness to subordinate themselves to the requirements of responsible finance policies may affect both the willingness to transfer responsibilities and competences to subnational government, and the regulatory framework surrounding such transfer. A recurring component in political discussions about transferring responsibilities and competences to subnational governments is thus that these might behave imprudently and, under pressure from their electors, be unable to hold back both employment numbers and remuneration levels, and to prevent a continuously growing debt burden.

The globalised financial markets have set new standards for the public financial management. When States have to turn to globally active investors for loans instead of to their own citizens, they are forced to give more attention to their public deficits and to the evolution of the public debt. The best example of this is the criteria used by the Stability Pact of the European Union for the total public budget deficit and the total public debt. These aggregate the deficit and debt of all public institutions in a country, including the subnational governments.

An IMF[4] working paper concludes that giving unconstrained borrowing authority to subnational governments is unlikely to be an optimal solution. At the same time it notes that fiscal rules may take a wide variety of forms. Some rules establish a debt ceiling or target fiscal deficit, while others cap expenditure. Coverage also differs. In addition, borrowing constraints may be enforced in different ways. In some countries, it is left to financial markets to sanction fiscally undisciplined subnational governments.

[4] IMF (2005) p 24 - 25

The IMF working paper classifies regulatory regimes for subnational government debt into the five categories Central rule, Administrative, Cooperative, Self-imposed rules and Unrestricted. The paper also lists 13 cases during 1992 – 2000 when a national government in an OECD country has intervened in some way to bailout one or more endebted subnational governments.[5] The regulatory regimes has however been classified as "Unrestricted" in only five of these cases. The paper concludes that no single institutional arrangement seems to be superior to all the others under all circumstances. Three of the countries covered by country notes have entered or are about to enter a decentralisation phase. Their handling of debt issues varies. Subnational government borrowing will continue to be controlled by the national government in Chile and Spain and was not regulated in France.

Subnational government borrowing is subject to central controls in Denmark, but not in Iceland. In Germany, borrowing by the federated level is only subject to administrative regulations, but the federated level controls borrowing at local level. At present there is a project to amend the constitution so as to create a new and stricter regulation governing public borrowing which would provide sufficient flexibility to cope with difficult situations, but at the same time also ensure sustainable public budgets.

There is no evidence that subnational governments have contributed in significant ways to a destabilization of public finances in OECD countries during recent years. This should however be seen against the attention given to these risks by the OECD and the World Bank under the last decades, and can be interpreted as an indications that national governments have maintained the structures and consensual relations necessary to manage or prevent imprudent subnational debt accumulation.

There are however indications that an increased decentralisation may lead to increased employment and expenditure. A possible reason might be that the country doesn't manage to reduce the national administration at the same pace in which the subnational governments increase theirs.

The data available is inconclusive about all countries, but may still provide some insights for some countries. The data show that in some cases the decentralisation of expenditures might not be followed immediately by similar decreases of compensation costs at central level, driving in some cases overall compensation costs in General Government spending up. The net effect might however be an increase in total public employment, as for example observed in the OECD review of human resources management in the different governments of Belgium.[6]

Figure 2 below indicates that there is probably a negative relation between the growth of subnational share of total general government expenditures and the real growth of total compensation costs for central government employees, but this is compatible with an assumed displacement of national employment by subnational employment, The indicated general real growth (a correlation line would pass above origo) could be interpreted as a reflection of a general growth of OECD economies during this time period.

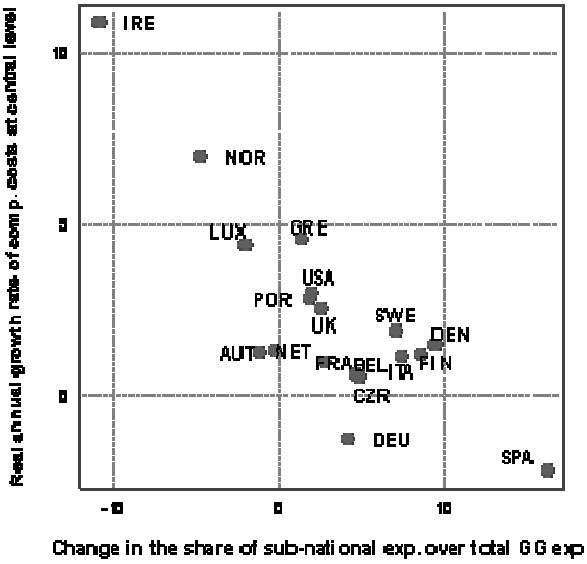
However, Figure 3 shows that in some countries, and particularly in Italy, Finland, Sweden and Denmark (and less clearly in countries such as Czech republic, Germany and Greece), the decentralisation of expenditures has been concomitant with increases in the share of compensation costs in government expenditures at central level. This could however be related to the nature of decentralised spending or to other factors affecting central government remuneration linked to economic growth.

---

[5] IMF (2005) Appendix 1

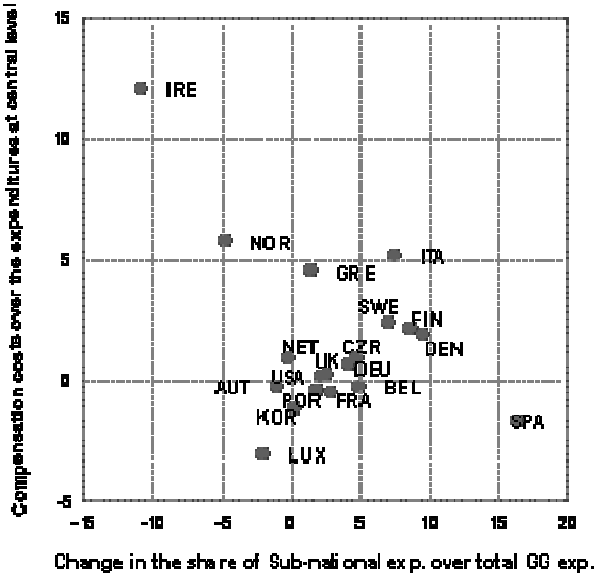
[6] OECD Reviews of Human Resources Management in Government—Belgium, OECD, 2007

Figure 2. Changes in the share of sub-national expenditures in total General Government expenditures and real annual growth rate of compensation costs of central government employees (1995-2006)



Source: OECD National Accounts Database; US Bureau of Economic Analysis

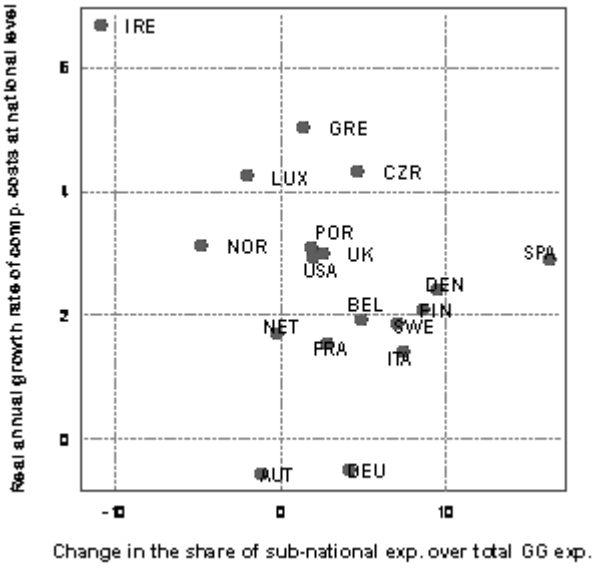
Figure 3. Changes in the share of sub-national expenditures in total General Government expenditures and changes in the share of compensation costs of central government employees (1995-2006) in central government expenditures



Source: OECD National Accounts Database; US Bureau of Economic Analysis.Source: OECD National Accounts Database; US Bureau of Economic Analysis

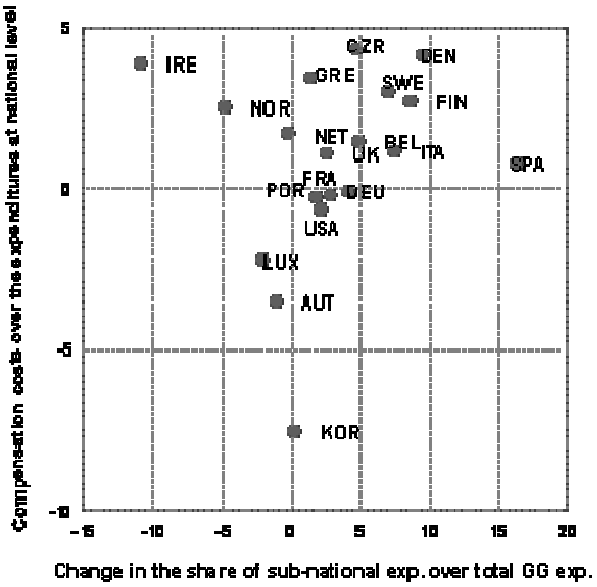
Figure 5 do not indicate a significant relation between the subnational share of total general government expenditures and the real growth of total compensation costs for all government employees in all countries. However, for some countries such as for example Denmark, Sweden and Finland, relatively large decentralisation is concomitant with increases in compensation costs in government spending at the level of the economy. Once again, this may be due to other factors than decentralisation.

Figure 4. Changes in the share of sub-national expenditures in total General Government expenditures and real annual growth rate of compensation costs of General Government employees (all levels of government) (1995-2006)



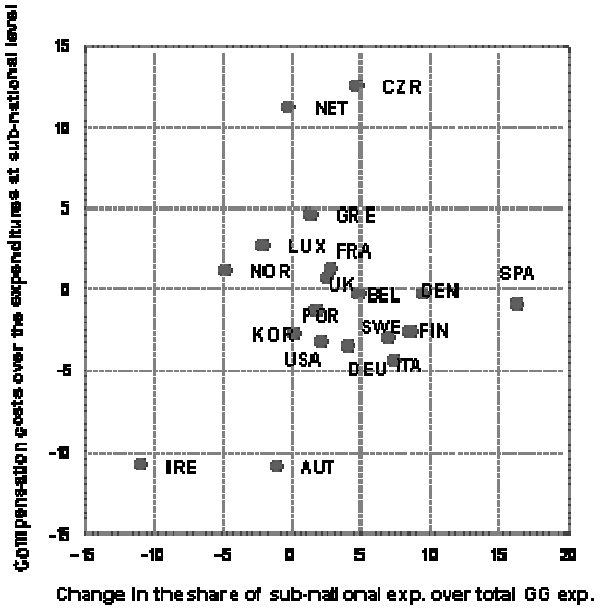
Source: OECD National Accounts Database; US Bureau of Economic Analysis

Figure 5. Changes in the share of sub-national expenditures in total General Government expenditures and changes in the share of compensation costs of all government employees (1995-2006) in all government expenditures



Source: OECD National Accounts Database; US Bureau of Economic Analysis

Figure 6. Changes in the share of sub-national expenditures in total General Government expenditures and changes in the share of compensation costs of sub-national government employees (1995-2006) in sub-national government expenditures



Source: OECD National Accounts Database; US Bureau of Economic Analysis

Comparing Figure 2 and Figure 6 the first and the fifth graph seems to show that only in the Czech republic we find significant decentralization of spending with increases in compensation costs in sub-national government spending. Overall, at least in the short run (10 years), it seems that, with decentralization, compensation costs at central level decrease less quickly than the decentralization of spending, and increase less quickly at sub-national level than decentralization of spending.

This can, as noted before, be the effect of other changes at national and/or subnational level. It does signal, however, a need for care and attention to compensation costs when decentralising spending, especially at central level of government.

I.5.2. Macro-economic challenges

The dramatic increases in overall public expenditure and public employment in OECD countries over the last half century reflect the very significant expansion of the role of government as States have assumed more active roles and broader responsibilities. A growing affluence has entailed a continuously increasing public demand for services in the form of both higher standards for established public services and calls for new types of services. These services are provided by subnational governments in many countries, and are in the process of being transferred to subnational government in other countries. In many OECD countries, subnational governments are thus responsible for a substantive part of the country's public expenditure and public employment.

OECD countries present a very varied picture when it comes to the scope of public activities and public employment. Available data for OECD countries show that subnational governments have more employees than the national government in 14 of the 17 countries. The share of subnational government employees varies from slightly above 10 percent in Turkey to more than 85 percent in Autralia percent in Ireland to almost 90 percent in Turkey.

A national government typically has targets for the extent or volume of the country's total public activities. These can be expressed in terms of the tax quote (the share of the gross national product that is collected as taxes and compulsory fees), the expenditure quote (the public expenditure as a share of the gross national product) or of the employment quote (the share of the available labour force that is employed in the production of public goods and services).

The reason is normally a concern that a public expansion might crowd out private sector activities and private employment, but could also be a desire to expand public services to meet urgent needs or to avoid an unduly high unemployment, either globally or for a specific group of job seekers. It should be underlined that the issue at hand is not the actually evolution of subnational government employment, but its relation to the national government's expectations.

The country notes indicate that controls, if any, tend to be on the expenditure side. There are no national controls or limits on subnational staff establishments in Belgium, Denmark, France, Germany, Iceland or Spain. In Chile, all decisions relating to the creation or elimination of public posts including those at subnational level still require national legislation. The Constitution was however modified in 1997 so as to allow local governments to modify their own administrative structure and staff establishment.[7]

A discussion of the reasons behind the absence of direct establishment controls is of course only speculative, but they seem to include the following:

---

[7] The new powers have to be defined in an enabling law, which is still being processed in the Parliament.

1. A first observation is that central establishment controls are considered to be incompatible with both local self-government and efficiency. The Chile country note for example states the following:

   "It will clearly not be possible to modernise municipal management and increase its efficiency if this process is not accompanied by more appropriate mechanisms for the administration of human resources, an area in which Chile's municipal governments have historically had a total lack of autonomy. … sought to remedy this inefficient situation by transforming the creation and elimination of municipal posts into an administrative decision to be taken by the respective municipal authorities … These new powers for municipal governments seek to increase their efficiency and ensure better provision of services for the community while, through their proper exercise, guaranteeing improved working conditions and remunerations for municipal employees."

2. A second observation is that the growth of procurements of input services and of out-contracting of public services to non-public service providers[8] weakens the effectiveness of direct controls. The main effect of central establishment controls might thus be to increase the incentives for outsourcing as a way of circumventing the controls.

3. The regulatory regime for debt accumulation covered in the previous section is an important element in expenditure controls. Another important element is the subnational governments' own tax resources and authority to set tax rates. The tax issues are both complex and technical, and will not be covered in detail in this paper. One should however note that subnational governments that receive their main revenues from national government transfers or from taxes set by the national government are more easily controlled by the national government than subnational governments have access to broad tax bases, and that can set their own taxes.

   At one end of the spectrum is Chile, where all taxes are set at national level, even if the revenue is destined for the local governments. At the other end is Denmark, where the municipalities have the right to collect taxes from citizens, and receive the major part of their revenues from this source.

   In Sweden, the Law Council has found that permanent restrictions on subnational taxes are incompatible with the right to self-governance guaranteed by the Constitution.

A key issue in expenditure and/or establishment controls is who decides on the extent and/or quality of the services provided by subnational governments. Many countries pursue policies for equal access to and an adequate quality in such public services as education and heath services across the country, even if the responsibility for the actual provision is delegated or devolved to subnational governments.

A decentralisation of substantial responsibilities to subnational government presumes that the subnational governments have a sufficient capacity for managing these responsibilities. Later we will discuss the occurrence of mergers of subnational government and the creation of multi-government cooperative structures. Many countries also take action to ensure that all subnational governments have the financial resources available that are needed for hiring the staff that will provide the decentralised services.

In France, the national government is responsible for ensuring that local governments have adequate resources to provide the expected levels of services, and thus indirectly for the volume and quality of services provided. France also has a constitutional rule that states that each transfer of responsibilities to subnational governments has to be accompanied by equivalent resources. Iceland has many local

[8] Voucher programmes – that is tied financial transfers to households that then select the provider – can be regarded as a form of outsourcing.

governments with varying numbers of inhabitants and differing potential for raising revenue, and there is therefore a great need for financial equalization schemes. These are managed by the national government.

In Denmark, an agreement is negotiated each year between the national government and the subnational governments concerning their budgets. The agreement covers both the size and distribution of the government's block grant to subnational governments as well as how much the local governments[9] can collect in taxes. The system entails that every time a new law is signed or an administrative change is undertaken, the national government and the municipalities negotiate about how the municipalities' budget should be changed accordingly.

Germany has several types of financial equalisation. The horizontal financial equalisation seeks to ensure an equalisation of the disparate financial capacities of the states at the federated level. The vertical financial equalisation regulates the apportionment of tax revenues between the three governmental tiers, i.e. the federation, the states and the local level. The municipal financial equalisation is regulated in laws adopted at the federated level, and provides for the distribution among municipalities within a state. It is designed to provide the municipalities with a financial basis for their self-government and entails a vertical equalisation between a state and its municipalities.

I.5.3. The challenges to cohesion in the public service

National governments may have an interest in preserving and promoting cohesion across all levels of government, defined as (a) shared culture and core values, and (b) coherent remuneration and employment conditions. These two dimensions of cohesion will be explored in the following subchapters.

The strength of this interest varies however across OECD countries, and a reasonable hypothesis would be that the interest is stronger in countries where responsibilities and competences have recently been transferred from the national to subnational governments than in countries with a tradition of local self-government. Asian, continental European[10] and Latin-American countries would typically belong to the first group, while Anglo-Saxon and Nordic countries would typically belong to the second group. The interest would also be stronger in large and culturally diverse countries than in small and more coherent countries. It would also depend on the role of government in maintaining cohesion in society, in relation to civil service organisations such as religious and other non-profit organisations.

Mobility between the different public administrations in a country is generally regarded as positive, since it would tend to strengthen the cultural cohesion. One can at the same time note that the increased heterogeneity of the public administrations and the increased professional specialisation within their staffs would entail unavoidable restrictions on mobility. It might thus be easier to achieve a significant mobility between different sub-national administrations with similar responsibilities and competences, than between the national and the subnational administrations. One should also note that an increased mobility would not always be regarded as positive by operational managers desiring stability within their own organisations.

Furthermore, governments may desire a horizontal mobility of senior managers across their administration in order to promote cohesion and the sharing of experiences.

---

[9] Danish regional governments no longer have own taxation.

[10] Switzerland would be an exception, having more in common in this respect with the Nordic countries than with other continental European countries.

I.5.3.a. The employment systems

There seems to be a fair consensus across OECD countries about the value and merits of cultural consensus across the whole of government, although the views on the optimal level might vary. There are however very diverging opinions about how to achieve that end, and one might even speak about two different archetype cultures or models, a civil service model and a public employment model. These could also be called statute-based and contract-based arrangements. The pure models are theoretical, and the employment systems within OECD countries represent a spectrum of mixed or intermediary systems. The description in the table below is also by necessity schematic.

Table 2. The civil service and the public employment models

The civil service model or "career based model"	**The public employment model or "position based model"**
Employment based on public law ("service")	Employment based on private law ("employment")
Employment for life	No guaranteed employment for life
Recruitment for starting points in careers, promotions reserved for insiders	Recruitment for specific positions, all positions open for external competition
Emphasis on formal diplomas and certificates	All experiences and qualifications can be taken into account
Remuneration governed by statutes, seniority elements	Remuneration governed by contracts, performance and market orientation, no seniority elements
Focus on loyalty, objectivity and due processes	Focus on achievements and performances
Special retirement schemes	Same retirement schemes as for private employees

The argument for the civil service model and for statutory governance would typically be that it is necessary in order to preserve the service nature of the relation between the employer and the employee, and to prevent differences that would be perceived as inequitable and that would hamper internal mobility across the different public administrations in the country. The argument for the public employment model and for contract governance would typically be that it enables a continuous adaptation to developments on the labour market and to the specific needs and conditions in different parts of the public administration. This would facilitate mobility and enable the public organisations to be a competitive employer for scarce skills.

One advantage of the civil service model seems to be the way ethics and core values are preserved and protected by these systems. The service nature of the relation between the employer and the employee would typically be well established in the administrative and political culture, and embodied in the civil service statutes and in career systems. These would often include statutory codes of ethics and integrity. Countries that use public employment systems also for the core government functions would have to find other adequate ways of preserving and promoting the core public service values.

The public service was of old normally the exclusive preserve of civil servants in all countries. The existence of public employment models is thus typically either the result of employing labour outside the civil service or of system changes. These systems are not always recent, and may have coincided with the growth in public responsibilities during the 20th century.

Chile has a civil service system covering both national and sub-national government employees. It has initiated reforms intended to decentralise human resource management for the sub-national government administrations. It is still too early to say how this will affect the evolution of the employment systems at the subnational government levels. The country note indicates however that it intends to retain a legislated national framework defining the decentralised competences.

Belgium, France and Spain have dual employment systems, with a civil service system for permanent government employees at both national at subnational level, and a public employment system for contracted staff. They seem intent on retaining and merely modernising these systems.

The public employment systems in these countries are primarily intended for temporary employees. There are however indications that the increased professional specialisation has led to the appearance of specialists that move freely between public and private employment, and that it is more rational to use a public employment system for this staff. The recent OECD review of human resource management in Belgium shows that rigidities in the determination of the civil service establishment and in the shared recruitment service for all national and subnational civil servants have caused subnational administrations to use contract employment as a substitute for civil service employment.

Germany has a more pronounced dual system, with a civil service system for core public employees in both national and subnational governments, and a public employment system for other public employees. Germany also extensively uses non-profit private organisations for the provision of public services.

About two-thirds, or 3 million of the 4.8 million public employees are employed under the public employment system. The Germany country note states that this large share reflects the fundamental change in the State's perceived role and in its responsibilities. It is no longer seen exclusively as the custodian of public order, but is also considered responsible for the growth and well-being of the community. The latter types of tasks have been assigned to a great extent to public employees, while civil servants are mostly allocated to the classic sovereign functions (police, inland revenue, customs administration and ministries).

Denmark also has a dual employment system, but its civil service is very limited and mainly used for uniformed staff such as the police forces. The situation is more or less the same in Iceland and in the other Nordic countries.

The dominance of the public employment systems in the Nordic countries is not an ancient feature. Half a century ago, most national and subnational government employees in the Nordic countries were employed under civil service systems. The transitions to public employment systems have typically been driven by desires to decentralise human resource management competences, and gradual as the national and sub-national government employers acquired experience and competences in human resource management. It was also typically accepted or even promoted by the trade unions representing public employees.

Table 3. Employment systems in OECD countries

Chile	Civil service systems Has initiated decentralisation of competences
Belgium, France, Spain	Dual systems, with dominating civil service systems Intends to modernise the civil service system
Germany	Dual system Has initiated decentralisation of competences in the civil service system Full devolution in the public employment system
Denmark, Iceland	Dual systems, with dominating public employment system Full devolution in the public employment system

It is not possible to draw any conclusions about the relative merits of two alternative models from the information available for this study, and it isn't even certain that there is a general answer to that issue. One plausible hypothesis is that traditional arrangements may be better suited for some countries and market-oriented arrangements for others, due to differences in the historical and cultural context.

One can for example note that Belgium with its strong drive towards devolution still has a Royal Statute[11] on the general principles of the administrative and remunerative statutes for public servants that cover both the federal and the federated levels. This would not be possible unless the traditional model was seen to be appropriate, given the specific Belgian context. One can also note that countries, which have special employment arrangements for public employees, tend to retain these when responsibilities are transferred from national to subnational government.

None of the countries covered by the country notes seem to have structural differences between national and subnational government employment systems. This should not be surprising. Even if there are no formal restrictions, one should not expect any immediate differences if and when human resource management competences are delegated or devolved. The recipients of the transferred competencies normally lack experiences of designing employment arrangements, and may even lack the necessary professional competence. In these cases, it would be rational for them to merely copy the national government arrangements.

Still, it is possible to make a number of interesting observations. A first one is that the Denmark country note describes an alternative model for achieving cohesion in employment arrangement and remuneration levels across the national and subnational governments, relying on the fact that most Danish public employees are members of a trade union. Denmark has reduced the special employment arrangements to a minimum. Both the employers and the trade unions in the national and subnational administrations co-ordinate their negotiations in order to ensure equal pay for equal tasks and competences. The employment arrangements and remuneration levels in the very decentralised Danish public sector are thus as least as cohesive as those in countries with extensive statutory governance.

The traditional systems are obviously exposed to increased strains at both national and subnational level. There are several reasons for this. One is the increased heterogeneity of the public activities. As

[11] The label 'Royal Statute' implies in the special Belgian context that is a common legislation and not an act of the federal government.

public administrations took on new functions in addition to the core tasks related to the governance of the country and the exercise of public authority, new specialised professional groups entered public employment. These perform similar tasks as in the private sector, and they often identify themselves with their profession and not with the public service. An increased use of private organisations for the delivery of public services would have a similar effect. An increased focus on performance and efficiency would probably also be more evident in service production, and this might be difficult to correlate with the traditional employment arrangements.

The incidence of these strains is related to the type of activity and not to the level of government. A possible hypothesis is however that subnational governments would be more exposed to these strains, since the new functions often involve service production than the traditional sovereignty functions. More information is however needed on the distribution of responsibilities and on the effects of the attempts to modernise civil service systems in order to get a clearer picture.

France has retained traditional arrangements and an all-encompassing civil service system covering both national and subnational government administrations. It has instead met the strains by dividing the civil service system into a very large number of specialized corps. The result is a complex and fragmented system with a number of internal barriers and insider groups. The France country note highlights a number of problems and weaknesses in this system:[12]

> *"There are many informal restrictions on internal mobility within the public service. An employee can only advance to a new grade or a new corps though an internal competition or a promotion. There are a large number of models for mobility and recruitment and they vary from one part of the public service to another (590 competitions annually, 2000 different procedures). It is thus not easy for an employee to find the competitions in which he could participate, and the contents of the tests can be questioned; the subjects are often very scolastic and without a connection to the actual tasks. Furthermore, the practice of detachment is not yet widespread; it is difficult to get information on vacant posts within another corps or another part of the public service.*
>
> *The internal mobility is hampered by the strong corps culture. Before an employee can be detached, he must appear before a joint administrative committee of the relevant organisation, but this commission only meets once each time per annum, and priority is often given to the persons that come from the same corps, which disadvantages persons from other corps."*

Germany's dual model is a seemingly successful way of combining a civil service system for core government employees with a public employment system for other employees. In this way, they continue to stress cohesion, internal mobility and whole-of-government perspectives among the staff engaged in the machinery of government and the exercise of public authority, and at the same time facilitate a performance orientation and adaptation to market conditions in other parts of the public services.

A final observation is that the attitudes and values of the citizens change with rising affluence, and this in a coherent pattern across countries. Scientific studies[13] show that citizens become more interested in job content and personal development than in the status and job security traditionally associated with civil service employment, and that they want to make their own judgments instead of relying on traditional and established authorities They also show distinct cultural patterns, and that these changes are the most far-reaching in the Nordic countries.

---

[12] This text is an informal and somewhat abridged translation of the French original.

[13] See www.worldvaluessurvey.org for more information on the value changes.

These value shifts are an important part of the context for the evolution of employment arrangements. It is possible to hypothesize that the attractiveness of a civil service system is less affected at the national level than at subnational levels due to the proximity to the political arena, but there is so far little to substantiate such a hypothesis.

I.5.3.b. Employment conditions

i. Pay

There are several reasons why a national government may seek to influence or control remuneration and other employment conditions for staff in the subnational administrations. One is that differences in employment conditions might hamper a desired mobility across public administrations and government levels. Another is that the national government might want to limit or cap the growth of public expenditure. The most important reason would however probably be an urge for coherence in public employment conditions. Cost-increasing improvements at the subnational government level is likely to drive similar demands at the national level, especially when the labour market is tightly integrated.

A national government therefore typically wants to ensure that the growth of total labour costs per hour is compatible with a maintained or strengthened international competitiveness and low inflation. This is especially important for small countries with open economies. Both subnational governments and private enterprises are however prone to sub-optimisation. They typically regard the macroeconomic developments as exogenously generated, and assume that their own decisions will not affect these variables. Their actions therefore tend to be more affected by the expected behaviour of other employers than by macroeconomic concerns.

There is a substantial literature about the political governance of pay setting activities in market economies, although this is more oriented towards restraining the growth of the average total labour costs in the private sector than in subnational governments. The problems are however relatively similar in both cases.

The constitutional arrangements governing the relations between the national government and subnational administrations varies across OECD countries. One can, without assessing their practical, legal or political feasibility, point to a range of options available for a national government that wants to influence subnational remuneration.

- Entities that are under direct government control (that is the government can issue binding directives) can be governed through an appropriate centralised control,
- The government could, when appropriate, propose laws and other generally applicable statutes that would establish coherent remuneration conditions in entire public sector, and even on the entire labour market.
- Any entity that receives a state subsidy or grant can be governed by making these subsidies or grants, wholly or in part, conditional on adherence to an appropriate set of bargaining or remuneration parameters.
- The government could ensure that there are adequate consultative and cooperative arrangements enabling national and subnational government employers to act in concert.

In Spain, the law that regulates the Civil Service also regulates the structure of the pay system for civil servants at both national and subnational level. The annual increment of the wages is contained in the general State Budget. Contracted staff are employed under normal labour market conditions. In Chile, all decisions relating to the setting or modification of pay or other economic benefits for public employees, including those at subnational level, require national legislation. These competences are to be transferred to

the subnational governments, but the new powers have to be defined in an enabling law, which is still being processed in the Parliament.

Each local government in France can determine remuneration and other employment conditions for its employees, but their actions are regulated by law and by the fairly complex regulations for the French corps (or career) systems.

Subnational governments in Denmark set their own wages. However, the State Employers Authority has an informal, ongoing dialogue with the associations of the municipalities and the regions that function as central employers for the subnational administration. The State Employers Authority is also represented on the municipal and regional Boards of Wages and Tariffs that function as employer representatives in negotiations with the unions in these sectors, and has veto powers in the regional Board.

The local governments in Iceland determine the remuneration and other employment conditions for their employee's within the legal framework set for the local authorities in Iceland. Most of the local authorities have the same remuneration system and other employment conditions as they have delegated to the Association of Local Authorities to manage the wage and employment system for them

Subnational governments in Belgium also set their own wages. The national government has no possibility or even legal capacity to introduce or strengthen a framework for controlling or capping overall compensation costs. There are mechanisms for consultation and cooperation, but these seem to be less formalised than in Denmark

Measures to control subnational government remuneration are, as noted previously, largely interchangeable with measures to control or discipline subnational government spending due to the dominance of labour costs in subnational government expenditure. National controls on subnational remuneration seem however to be much more common than establishment controls. One should also note that informal employer co-operation may generate similar outcomes. Trade unions also typically strive for coherent remuneration structures when negotiating pay contracts.

It is possible to argue that there is a correlation between decentralisation and differentiation; either because the goal of decentralisation is adaptation to different needs and contexts, or merely because single decisions are replaced by multiple decisions. If this results in multiple civil service systems, then cross-administration mobility would be hampered. If it on the other hand results in an increased market orientation of remuneration decisions, then one can presume that the market forces will limit incoherences.

ii. Pension

Retirement benefit schemes present special challenges for national government due to their long time frames. What is most worrying is that the full economic consequences of a rule change may not be fully visible until after a considerable time. Changes in pension schemes are also politically very sensitive due to the substantial vested interests. The systems described in the next paragraphs can serve as an illustration of the options and potential complexities.

France has a traditional defined benefit scheme. National civil servants are covered by a State pension scheme, while subnational civil servants are covered by a pension scheme for subnational government employees. The benefit level is linked to the period of service and typically reaches its maximum when the civil servant is between 50 and 60 years old. The gradual ageing of the public work force necessitates a gradual increase in contributions, and the government has been concerned about the sustainability of the system. The government has therefore initiated reforms intended to slow the evolution of the costs for retirement benefits including an increase in the number of years that a civil servant has to serve in order to

reach the maximum benefit level. These reforms are controversial and have been the subject of protest manifestations.

Chile has a defined contribution scheme. Since 1982, public employees in Chile (at both the central and subnational levels) and private sector employees have shared the same pension system.[14] This is based on individual savings accounts into which the employees are obliged to pay a monthly contribution. The savings accumulated in these accounts during an individual's working life, plus the yield on their investment in the financial market, determines a retiree's pension. This type of system is inherently more stable, but the final retirement benefit level is more uncertain, since it depends on the soundness of the investments.

The vast majority of public employees in Denmark are covered by a statutory labour market pension scheme or a labour market pension scheme under a collective agreement. Pensions for the relatively small number of civil servants are regulated under the Civil Servants' Pension Act, and are financed over the national budget. Other public employees are covered by collectively agreed pension schemes managed by special pension funds or insurance companies. These pensions are financed by pay-related fees paid by both the employee and the employer. That retirement benefits are based on collective agreements, which mean that the same parties negotiate the expected benefits, fees and net salaries. They are thus able to balance these three aspects while taking the evolution of the total labour costs into account.

Belgium has a traditional defined benefit pension system for both national and subnational civil servants. The entire pension system is financed over the federal budget. This entails an awkward imbalance, since the federal government has no influence over the establishment and remuneration levels in the regions' and communities' administrations.

Previously all German national and subnational civil servants were covered by a similar system, and received pensions calculated on the basis of the pensionable length of service and the pensionable pay of the last pay grade held. In 2006, the competence to determine retirement benefits for subnational civil servants was transferred from the federal to the federated level. This will probably in the future lead to differences in retirement benefits between national and subnational civil servants in Germany. In Iceland, all public employees are insured by the general Social Security system.

I.5.5. The challenges of capacity building and innovation

I.5.5.a. Capacity building

It was noted initially that the national governments could be assumed to have residual responsibilities, even if and when relevant functions are the responsibility of subnational governments. One prerequisite for transferring responsibilities and competences to subnational governments – or for allowing them to retain their functions - is therefore obviously that they are capable of handling them. Historical developments have however, as can be seen in table 1, left many OECD countries with a large number of subnational governments. Some of these are quite large, but many are small, have limited resources, and can be assumed to be unable to assume any more demanding responsibilities.

The political, cultural and historical context can make it difficult to reduce the responsibilities and competences of sub-national governments, and might even make it difficult to resist demands for decentralisation. The most common solution to this problem seems to be mergers of several small subnational governments into economically viable units better able to provide adequate local services.

[14] The Chilean armed forces and police service have their own pension system that is different from the general system.

Historical data also indicate that transfers of responsibilities to subnational government levels are often combined with a reduction in the number of subnational governments.

Denmark thus reduced its number from about 1400 to 275 in 1970, and then in 2007 to 79. The number of Danish regional governments has also been reduced at the same times, first from 25 to 14 and then to 5. The last reduction was achieved by voluntary decisions in the concerned local governments. The national government had however set at deadline for achievement of a sufficient concentration and had indicated that it might consider forced mergers if the result was not acceptable. Sweden similarly reduced the number of municipal governments in 1952 from 2 498 to 1 337, and then during 1962 -74 to 278[15]. These mergers were decided by the national Parliament.

In 1831, Belgium was divided into 2 739 municipalities. The number of municipalities was reduced to 2 508 when the Belgian borders were redrawn in 1839 as 124 municipalities were ceded to the Netherlands and another 119 municipalities became the Grand Duchy of Luxembourg. New municipalities were created until 1928 and in 1929 there were 2 675. In 1961, the executive branch was authorised by the Parliament to abolish municipalities. Municipalities could be merged on financial grounds or on grounds of a geographical, linguistic, economic, social or cultural nature. When this authority expired in 1971, Belgium still had 2 359 municipalities. In 1975, a new law reduced the number to 596.

In 1982, France set up 26 regions in addition to the already existing 100 *départements* and 36 773 *communes*. The creation of these regions was motivated by a desire to devolve the responsibility for territorial development and therefore also by a need to create a government level capable of handling these responsibilities. The future of the French *départements* is now under discussion. Denmark's recent decision to reduce its number of regions to five was motivated in the same way as the French decision to create regions. .

Similar mergers of sub-national governments have taken place in several OECD countries. They are usually carried out with the consent of the communities involved and within a legal framework, but there are also examples of enforced mergers. This amalgamation process is very protracted in some countries, and does not exist at all in others. The ability of the municipalities concerned to resist mergers depends on the extent of their autonomy. Where there is a strong tradition of municipal independence, it has bred opposition to any kind of imposed merger, as in Finland where a large number of small municipalities survive despite government efforts to achieve a more rational structure. Other countries with an old tradition of self-governing local communities, such as France, Germany, Italy, Switzerland and the United States, also have a very diverse subnational government structure with many small entities.

Another way of strengthen the capacity of local governments is to establish associations of neighbouring local governments. The Iceland country report notes that in many cases, two or more municipalities will join forces to deal with particular services, mostly in connection with join projects that entail greater efficiency and lower costs. Examples of such co-operation include homes and services for elderly, waste management and pollution prevention, co-operation in the fields of culture, sports, public transport, fire services, environmental health, sewage, water and electricity works and central heat.

This is also the case in France. In order to mitigate the disadvantages of small municipalities, inter-municipal co-operation has been substantially enhanced. In 2005, there were 20 500 groups of municipalities, of which 2 525 had their own tax-raising power. Legislation in 1999 on the enhancement

[15] 12 new municipal governments have since then been created in Sweden, mainly in the urbanized areas, by splitting existing government areas. All such splits have been conditional on both parts maintaining a sufficient financial capacity for handling their responsibilities.

and simplification of inter-municipal co-operation brought an increased transfer of powers and employees from the municipalities to public establishments for inter-municipal co-operation (EPCI) with their own tax-raising powers (urban communities, municipal communities, urban communities), an increased supply of services and a rise in the number of officials in management positions.

Also in Germany is it common that municipalities pool their resources to discharge specific tasks jointly. They also to an increasing extent cooperate in management and administration. The latest trend is the joint provision of services in what is called back offices, which are organised jointly by several municipalities. German municipalities often form what is known as joint authorities (*Zweckverband*) to cooperate. Some Länder also allow their municipalities to form administrative communities which discharge all or some tasks jointly. In Finland, the national government has launched a structural reform which charges subnational governments with developing structural plans for extending and deepening organisational co-operation with neighbouring local governments.

Similar groupings of municipalities occur in most countries. Inter-municipal co-operation of this nature is often voluntary, based on shared interests, arranged within a legal framework, and allows each municipality to retain its own identity. The type and degree of autonomy of these associations or inter-community organisations vary across countries, and they may in some countries constitute an additional administrative tier. In most countries, metropolitan areas have also emerged, which require an extended cooperation between the local governments within the area.

A few countries have also started to experiment with an asymmetric distribution of responsibilities. A few Icelandic municipalities have for example, on an experimental basis, signed service contracts with the state about services, mainly for health-care and services for the handicapped and the elderly. Sweden is also discussing an asymmetric distribution of responsibilities as an option when mergers are not realistic, that is for small isolated local governments in the inland northern parts of the country.

Yet another structural development in some countries is the creation of a large number of non-territorial specific purpose bodies. These may be set up at all government levels. Their freedom of action varies, but is often limited to a particular field. This type of organisations is especially common in the United States and Canada.

I.5.5.b. Innovation

It is difficult to find comparative information on the incidence of innovation, especially in the human resource management field. It seems plausible to assume that devolved human resource management competences will lead to more experimentation with new and innovative arrangements and/or practices, merely because of the existence of a number of independent decision-makers. The fact that the scope of the systems tends to be smaller might also contribute (assuming that smaller systems are more agile). On the other hand, smaller system may have less capacity for innovation and thus tend to imitate instead of innovate. The jury is thus still out on this issue.

Some indications are however available. The France country note notes that subnational governments have pushed the national government to establish a more managerial attitude to human resource management, and states the most of the subnational governments have a more dynamic approach to public employment. A scientific study[16] of HRM innovation in the United States public administration notes that

> "… Multiple examples of HRM innovations targeted at each of these goals can readily be found. … Every conceivable nook and cranny of the HRM function is being probed, dissected, sliced, and

[16] Hays (2004)

diced by someone, somewhere in state or local agencies. Space limitations preclude even a superficial analysis of the variety of activities that are taking place daily across the nation. …"

Finally, one should note that the most important factor behind innovation is probably not the devolution of competences per se, but the creation of pluralism in public human resource management and decision-making, since this would facilitate the testing of alternative solutions. Thus, one might speculate about the potentially restraining effects of efficient coordination systems, such as the one in the Danish delegated employment system.

I.6. Consultations between national and subnational governments

The national governance of subnational arrangements is not necessarily in the forms of legislation, by-laws and commands. One of the major trends in management arrangement is thus the increased dominance for dialogues and consultations, and of formal and informal agreements. The actual consultation arrangements vary however across countries due to the different administrative, political and cultural context.

Spain has a very formal system. The Basic Statute of the Public Employee imposes compulsory cooperation between public administrations at the three government levels. The main cooperation body is the Sectoral Conference, which groups representatives from the State, the Autonomous Communities, Ceuta and Melilla, and the Spanish Federation of Municipalities and Provinces and works with the highest representatives from each area. Below the Conference, there are other bodies that work from a technical approach. These bodies reach their agreements on public administration issues by consensus.

One of the subsidiary groups is the Coordination Commission of Public Employment with frequent meetings in different Autonomous Communities in order to coordinate the development of the Basic Statute of the Public Employee as well as other issues that may need its attention. Last year, its composition was broadened to include a representation for the local governments. The Monitoring Commission for the Acts and Rules of the Autonomous Communities is charged with reacting against all the acts and rules of the Autonomous Communities that threaten the balance in the distribution of jurisdiction between the State and the Autonomous Communities.

Belgium has probably the most advanced and therefore complicated system for consultations between the levels of government. This reflects Belgium's constitutional arrangements with no primacy for the federal level, and the high level of conflicts between the different federated entities. The collaboration between the levels of government has been institutionalized by creating a Consultation Committee and Inter-ministerial Conferences. The first is composed of members from each government and treats ad hoc cases; the latter is used to for the preparation and development of joint policies for a certain policy field. There are also Collaboration Protocols for situations when competencies are shared and when the proper execution of competencies necessitates cross-government collaboration.

In Chile, the Undersecretariat for Regional Development consults with the National Association of Regional Councillors and the Association of Chilean Municipalities on matters of a more political nature, such as the transfer of responsibilities and the dynamics of regional government. A National System of Municipal Information provides a comprehensive source of information about the management of the country's 345 municipalities and includes data on budgets, human resources and services that have been transferred to municipal administration as well as a number of management indicators.

Denmark has no national government organisation charged with relations to subnational governments or with evaluating their activities and HRM practices. Consultations on political issues are handled by the national government and the association of Danish municipalities. Coordination of human resource management is informal and not entirely systematic The State Employers Authority as the central

employer in the State sector has an informal, ongoing dialogue with the associations of the municipalities and the regions. An interesting feature is the Forum for Top Executive Management set up a few years ago. Together with Danish and international researchers, chief executives in the Danish state and local authorities have provided the ingredients for Denmark's first code for chief executive excellence.

The situation is similar in Germany. There is no national government organisation charged with assessing and/or evaluating government practices and experimentations conducted by the federal Länder or the municipalities on their own responsibility. There are conferences of heads of government and of special ministers at the Länder level, and an intensive exchange of experience among the Länder as part of these conferences. They have a large number of working groups, which meet regularly and on the basis of long-term agendas. They also serve to prepare the agreements between the federation and the federal Länder. Federal employees take part in the special conferences of ministers as guests. The employers are represented jointly by the Federal Interior Minister, the Employers' Association of the German Länder and the Association of Local Authorities Employers' in order to speak with one voice vis-à-vis the trade unions and to conclude collective agreements.

The relationship between national government and subnational governments in France is particularly complex due to the wide diversity of local government bodies and the difficulty in determining their respective jurisdictions and degree of financial and political autonomy vis-à-vis national government. Relations between national and subnational governments are still strongly marked by the principles of autonomy and free administration enshrined by decentralisation. The relations are still problematic and often characterized by mistrust. National government still has problems in seeing territorial authorities as fully fledged partners since local authorities have only limited financial autonomy.

There are no formal forums in Iceland where national and local authorities discuss and exchange experience and best practice in the field of human resource management. The municipalities in Iceland co-operate through the Association of Local Authorities in Iceland. It serves in an advisory capacity, and disseminates information about particular aspects of local government affairs through education, conferences and various specialised publications. There is a formal co-operation between national government and the Association of Local Authorities in Iceland concerning pay setting and bargaining.

I. 7. Conclusions

It is difficult to draw any firm conclusions from the results of this study, except the most obvious; that context matters and that employment arrangement, human resource management practices and reform strategies vary across OECD countries.

The selection of the available country notes has not been at random. One can assume that they represent countries with an interest in or experience from transferring responsibilities to subnational governments and from governing delegated and/or devolved competences. There are other OECD countries such as Ireland and New Zealand, where local governments have more limited responsibilities and are more subordinated to the national government. When the following paragraphs speak about 'countries', they only refer to the seven countries covered by the country notes.

A first implicit conclusion from the scarcity of country notes is that human resource management in subnational government administrations has not created any noticeable problems for the national governments.

The countries that have a history of delegated and/or devolved responsibilities have found models for managing the relations between national and subnational governments in a way that is appropriate, given the national context. The case for this is implicit and rests on the observation that none of country notes

refer to significant problems. The only exception might be France, where the traditional corps system seems to generate some problems.

One can also note that the countries that recently have begun to transfer responsibilities and competences to subnational governments do so carefully and within the confines of the existing employment arrangements. This seems sage, since it will allow both the national and the subnational government to adjust gradually. It does not exclude the possibility of continued transfers as the national and subnational administrations gain experience.

Formal establishment controls on sub-national government hiring seem to be rare. Most national governments rely instead on different types of financial controls to prevent local governments from building up debt, and thus to establish and affordability restriction.

National governments seem more concerned about determination of remuneration and other employment conditions, and there is a range of different coordination measures ranging from very formal to very informal. One can deduce from the conclusion in the preceding paragraph that the main concern is not the financial costs but the need to prevent a wage-driven inflation. A key aspect is here the need for cooperation between and coordination across a country's local governments, since these compete for the same type of skills.

The countries tend to have the same type of employment arrangements at national and sub-national level. This means that if countries have civil service systems (career-based systems), then these systems cover both national and subnational administrations. One argument in favour of such systems is often the need to enable mobility between public administrations. One can however note that the countries that have extensive public employment systems (position-based system) do not seem to have any mobility problems. A reasonable conclusion is therefore that the potential for problems lies in having parallel but different civil service systems.

Local government capacity has evidently been a major concern for the countries that that have a history of delegated and/or devolved responsibilities. Several of these countries have undergone a process of forced or voluntary mergers of local government. Other countries have enabled and promoted formal cooperation between neighbouring local governments leading to joint organisation and joint services. A more recent and experimental feature is an asymmetric distribution of responsibilities between the national and the subnational governments.

Finally, there are some indications that local governments might be more innovative than national governments, for example in modernising services and developing new human resource management practices. The information is very limited, and one cannot exclude the possibility that the key issue is the provisions of managerial freedom rather than decentralisation to subnational governments.

Further work in this field would either require more precise survey questions and a broader coverage of different OECD countries, or in-depth studies in selected countries. It is thus possible that the study might be of use in preparing for and implementing future OECD country reviews of public administrations and of public human resource management.

Bibliography

Bach, Stephen, Editor (1999): Public service employment relations in Europe: Transformation, modernization or inertia? Studies in employment relations, Routledge;

Bache, Ian (2004): Multi-level Governance. University Press;

Barlow, I.M., Wastl-Walter, D. and Barlow, M.., Editors (2004): New Challenges in Local and Regional Administration. Ashgate Publishing;

Battaglio, R. P. and Condrey, S. E. (2006): Civil Service Reform: Examining State and Local Government Cases. Review of Public Personnel Administration 2006; 26: 118-138;

Breuss, F. and Eller, M. (2003): On the Optimal Assignment of Competences in a Multi-Level Governed European Union. European Integration online Papers (EIoP) Vol. 7 (2003) N° 8;

Centre National de la fonction publique territoriale (CNFPT) and Dexia (2006): Les fonctions Publiques Locales dans les 25 Pays de l'Union Européenne. Dexia;

Council of Europe (1985): European Charter of Local Self-Government;

Council of Europe (2008): Draft European Charter of Regional Democracy;

Elling, R. C. and Thompson, T. L. (2006): Human Resource Problems and State Management Performance Across Two Decades: The Implications for Civil Service Reform. Review of Public Personnel Administration 2006; 26; 302;

Green, Amanda E. (2005) Managing Human Resources in a Decentralized Context. In 'East Asia Decentralizes'. World Bank;

Haynes, Robert J. (1980): Organisation theory and local government. Allen & Unwin;

Hays, Steven W. (2004): Trends and Best Practices in State and Local Human Resource Management: Lessons to Be Learned? Review of Public Personnel Administration 2004; 24; 256;

John, Peter (2001): Local Governance in Western Europe. SAGE Politics Texts;

Lane, Timothy D. (1992): Market Discipline. IMF Working Paper 92/42;

Loughlin, John (2007): Subnational Government The French Experience. MacMillan Palgrace;

McEwen, N. and Moreno, L. Editors, (2005): The territorial politics of welfare. Studies in European Political Science, Routledge;

OECD (1996): Managing across Levels of Government. OECD Document PUMA/RD(96)7;

OECD (1999): Taxing Powers of State and Local Government, OECD Tax Policy Studies 1;

OECD (2002): Fiscal Design Surveys across Levels of Government. OECD Tax Policy Studies 7;

OECD (2004): Recent Tax Policy Trends and Reforms in OECD Countries. OECD Tax Policy Studies 9;

OECD (2005): Modernising Government. GOV/PGC/RD(2005)2;

Rexed, K. et al. (2007): Governance of Decentralised Pay Setting in Selected OECD Countries, OECD Working Papers on Public Governance, 2007/3, OECD;

Shah, A. (ed.) (2006) Local governance in developing countries. World Bank;

Singh, R. and Plekhanov, A. (2005): How Should Subnational Government Borrowing Be Regulated? IMF WP/05/54;

Treisman, Daniel (2007): The Architecture of Government: Rethinking Political Decentralization. Cambridge University Press;

Weatherill, S. and Bernitz, U., Editors (2005):The Role Of Regions And Subnational Actors In Europe. Essays in European Law, Hart Publishing;

Waters, N. (1985): The role of local government authorities in economic and employment development. Programme for Local Employment Initiatives (ILE), OECD;

Qu'est-ce que la décentralisation? Sourcebook en Ligne sur la Décentralisation et Local Développement. Downloaded from www.ciesin.org.

Annex 1:
Transferring competences and responsibilities to sub-national government administrations

Belgium

Belgium is a country, which in modern times has evolved from a unitary state into a federal State. It's been a long evolutionary process that has been going on from the 1970's, and this process is still going on, taking into account the regional differences and aspirations. The tendency is an enhanced federalism, in that sense that more and more responsibilities are devolved to the Regions and Communities. The final outcome or goal of the federalisation process is still indefinite, and is subject to discussion and negotiations.

Previous devolution waves have led to civil servants being moved from the federal to the regional and community levels. Transfers between the entities were always a direct result of a devolution of responsibilities from the federal level to the regional and community levels.

Previously, staff in regions and communities were employed under the so-called Camu statute. This statute had established a career-based civil service that was applied across regions and communities. A revised Camu statute is still in force in the Federal Government. Although regions and communities have constitutional autonomy, they are still required to comply with the Royal Decree on the general principles of the administrative and remunerative statutes for national public servants.

Chile

The key direction of reforms in Chile has been towards devolving competencies and strengthening regional and local self-government. A constitutional reform of regional administration, currently before Congress, would mean the election of regional councillors by universal suffrage and would also facilitate the transfer of powers from the central government to regional governments.

In 1997, the Constitution was changed to authorise municipal governments to modify their administrative, staffing and pay structures. A bill to regulate these new powers is currently before the Senate in the first stage of its passage. It would regulate of a number of issues in order to permit the practical implementation of the constitutional change, including

a) The internal organisation of municipal government: Within a general framework, municipal governments would be able to establish their own organisational structure in line with the particular characteristics of the municipality.

b) The creation and elimination of posts: Municipal governments would be allowed to eliminate posts and create new ones providing they respect the restrictions and the conditions it would impose and, particularly, those designed to adequately safeguard employee rights.

c) Wage setting: Municipal governments would be allowed to set employees' pay, including fixed and variable components and redundancy compensation, within an upper limit on their total wage costs.

d) Local and supra-local collective bargaining. A regulated process of negotiation of working conditions and wages between municipal governments and their employees is envisaged.

e) Probity and transparency: The transparency and accountability of municipal administration and the exercise of the authority of mayors and councillors will be increased.

A number of other laws include norms promoting the modernisation and transparency of municipal management by, for example, authorising municipal governments to receive taxes and other levies via internet or other electronic means. It also stipulated that the administration and finance department of municipal governments must provide public access to a monthly register of expenditure.

Denmark

In 2007 a structural reform reduced the number of regions and municipalities substantially and made the regions completely dependent on financial transfers from the national level. The reform was intended to make the subnational governments larger and thus capable of carrying out more service tasks more efficiently.

At the same time more service tasks were transferred to the subnational governments, while other tasks were transferred to the national government. Some of the regions' tasks were also transferred to the municipalities. In all 15,000 employees were transferred from the subnational governments to the national government, while a smaller number of employees was transferred from the national government to the sub-national level. The major areas affected were taxation authorities and post-secondary colleges.

The governing system was refined so that the national government now determines the general goals, while the subnational governments are free to decide how organise their activities and use their resources to attain these goals.

It can be difficult to determine who is responsible when the service level guaranteed by the state to the citizens is not achieved; whether it is the subnational governments because they are not efficient enough in carrying out their tasks, or the national government because it has not ensured that the municipalities have sufficient funds to carry out the tasks they are responsible for. To meet this challenge, the national government in 2006 launched the 'Quality Reform', intended to ensure that the public sector will continue to be able to deliver high quality services to the citizens. The reform is also expected to promote coherence and a clearer distribution of responsibilities.

A large part of the initiatives in the Quality Reform programme concern human resource management. There has also been a concerted effort by all the public employers over the last 10 years to modernise and reform wage systems, making them more flexible, individualised and performance oriented. The wage reforms implies

1. that pay setting is more decentralised to the level where the employer has knowledge of the actual working conditions, qualifications and efforts of the individual employees;
2. that the pay development of employees is to reflect the performance and qualifications of the individual employee to a greater extent than previously; and
3. that pay is seen as a management instrument to help motivate employees and achieve better a more efficient public sector.

France

France has undergone a steady decentralisation process during the last quarter century. In 1982, legislation on the rights and freedoms of municipalities, départements and regions set the starting point for changes in the relationship between national government and sub-national governments. The administrative control of national government over local government bodies were loosened by changing

the Prefects' right of a priori control over the legality of the actions of local authorities to that of a posteriori control. Executive power was transferred from the Prefect to the département and the region, with the latter acquiring the status of local authority.

In 1984, legislation on the status of the public employees established a common status for employees of the three public civil services. Co-operation between territorial authorities was regulated in 1992 with legislation on inter-municipal relations in response to the isolation of municipalities. In 2003, a constitutional act laid down the principle of the financial autonomy of local authorities and proclaimed the right of the latter to formulate and implement their own public policies on a trial basis.

In 2004, legislation on the freedoms and responsibilities of local governments approved the transfer of responsibilities to local authorities and provided that transfers should be funded by the revenue from taxes transferred to local authorities. Many responsibilities were transferred to local governments: the management and provision of minimum guaranteed income benefit; individual economic aid for firms; management of social funds; roads; social housing; regional public health programmes; management of technical staff, manual and administrative workers in the national education system. This legislation provided for the transfer of 130 000 national civil servants, including 95 000 technicians, service workers and 35 000 public works employees to local governments.

The decentralisation encouraged outsourcing of functions to the private sector to allow local governments to concentrate their resources on essential missions. Consequently, one of the paradoxical effects of decentralisation, which had been designed to bolster local responsibilities, was to accelerate the transfer of service provision to the private sector.

Local governments were the first to introduce a managerial approach to the management of their staff. By as early as 1993, they started to introduce a skills and job-family based approach which initially led to the design of job classifications that central government later adopted for its own use, as noted above. Local governments thus pursue a more dynamic approach to the management of their public sector jobs.

In 2008, the government's White Book on the future of the Civil Service drew attention to the major role played by fixed-term contract employees in the civil service. It proposed a civil service in which established employees would work alongside others employed on fixed-term contracts.

Germany

In 2006, the constitution was amended in order to revise the distribution of responsibilities between the federation and the Länder. The most important amendments relate to a new allocation of responsibilities to the Länder with regard to higher education, prison services, law of assembly, law governing shop opening hours and restaurants, as well as the payment and pensions for the Lands' civil servants and judges, including civil service career legislation. The federation has been given more responsibilities with regard to weapons and explosives law, and regarding the production and use of nuclear energy for non-military purposes. In a second step, the apportionment of tax revenue is to be reformed.

Major amendments to the legislation on civil servants law have been introduced in the course of the reform of the German federalism. In the future, only the law concerning civil servant status will apply uniformly across Germany. Responsibility for the law governing careers, remuneration and old age provisions now rests exclusively with the Länder. Their regulations are also binding for the municipalities within the Land's boundaries.

The future strains on public budgets by pension payments have been discussed since the 1990s, and reforms have been initiated to ensure that in the long run the overall pension level remains affordable and

unaffected by demographic changes. Civil servants' pensions have also been complemented by elements of capital cover to create pension reserves from reduced pay and pension adjustments, which are to limit the increase in pension costs. In addition, a pension fund has been created and in the long run, the federal pension system for civil servants will thus become a system of capital cover. Several Länder have also introduced pension funds in addition to their pension reserves. It is not possible to predict whether differences will arise among the Länder due to the reform of Germany's federal structure.

Iceland

Iceland already has a very decentralised public sector, and recent changes have been limited. In 1996, the local authorities became responsible in law for all running costs of the country's primary schools. Previously, the state was responsible for paying part of these costs. A few municipalities have, as a test, signed service contracts with the national government about services mainly or health-care and services for the handicapped and the elderly.

Japan

A Decentralisation Promotion Law, aimed at promoting systematic and general advances in government decentralisation, was approved in 1995. A special Committee then examined specific guidelines for a decentralisation plan and submitted five recommendations, including the abolition of the delegated administrative service system. The national government adopted a Decentralisation Promotion Plan and the Omnibus Decentralisation Law was approved in 1999. This law marked the transition from the centralised government administration system that was developed in the Meiji Period to a decentralised scheme, and holds great significance in promoting the transfer of power to local governments.

The national government is now discussing the introduction of a new administrative system of government that involves moving from a centralised to a decentralised, or central to local, government system. In this new system, autonomous or self-sufficient prefecture and local government units will have a much wider authority to act and a greater responsibility for providing for services to Japan's citizens.

In order to continue decentralising power from the central to local government, it is considered desirable to reduce the local governments' reliance on central government and to enhance their capacity to become fiscally self-sufficient. This means that legislation will have be passed creating more options for own local revenues and less direction or control by the national government of local government expenditures. This increased fiscal capacity for local governments should come mainly through local taxation. These changes would enable local governments to clarify for their residents the relationship between revenues and expenditures in their communities. Such a change in the fiscal relationship between the central and local governments will also entail a more transparent administrative system.

There has been no transfer of employees between the levels of government as a result of this decentralisation of competences.

Spain

Spain has undergone a gradual decentralisation process since the creation of the Autonomous Communities, and the both the size and scope of the national government administration has decreased in the last 20 years, while the size and scope of the administrations of the Autonomous Communities has grown.

This significant territorial decentralisation of public service employment is due fundamentally to the following:

- the transfer to the Autonomous Communities of all educational, university and non university services, accounting for a large employment volume (almost 50% of the total figure for the Autonomous Communities), and
- the transfer to the Autonomous Communities of most healthcare services (about 36% of their personnel) likewise accounting for a large number of posts.

In 2005, a reform process started leading to modifications of statutes of the Autonomous Communes. A number of statutes have already been modified, and these modifications entail a wider range of autonomy for the Autonomous Communities. A main challenge is now adapting the financial arrangements to the reform of the Statutes of Autonomy being held nowadays, and also to revise the resources of the Local Government.

A Basic Statute of the Public Employees was legislated in 2007. It defines the essential system regulating such personnel, both public servants and contracted employees, leaving a wide margin in which the Autonomous Communities can develop their employment arrangements.

Annex 2
Employment arrangements in sub-national government administrations

Belgium

Belgian federal civil service regulations are issued in the form of by-laws (called "royal decrees"), and the number of Parliamentary acts on the civil service is very limited. There is no general civil service act.

The Belgian federal service is subject to the Camu statute, a royal decree dating from 1937 that has been amended over the years on several occasions. Previously, staff in all regions and communities were employed under this statute, originally passed in 1937. It had established a career-based civil service that was applied across regions and communities. A revised Camus statute is still in force in the Federal Government.

Although regions and communities have constitutional autonomy, they are still required to comply with a Royal Decree on the applicability of the general principles of the administrative and remunerative statutes for national public servants to staff of regional and community authorities and services. This Decree aims at maintaining a distinctive balance between Belgian governments' autonomy and consistency, promoting the convergence of HRM regulations to preserve what is essential and common. It regulates (a) statutory and contractual employment; (b) the rights and duties of public servants, including freedom of speech, of information, duty of loyalty, integrity, etc.; and (c) key human resource management arrangements, including an objective recruitment process, disciplinary arrangements, annual and other types of leave, redeployment, and pay-scale minima and maxima. There is also a legal requirement that all statutory public servants at all government level have to be recruited through the services of the federal recruitment office.

Compared to previous settlement, the federal employment system is relatively open. It remains in essence a career based system but where entries in the past were only possible at junior level and advancement slow, heavily regulated and following fixed quotas, entries can now be at more senior levels and advancement is subject to personnel planning and financial means and of course the presence of required competencies.

The Flemish government early set up its own employment system, but stayed within the boundaries set by the Royal Degree. The Flemish employment system remains a career based system. The movement away from the traditional career-based system has been similar to that at the federal level, with a mandate system coupled with some opening up of posts for lateral entry at senior grades.

The same goes for the Brussels Capital Region and the Walloon Region. In principle statutory recruitment is the main way to enter the administration –- and entry into the administration is only possible at the level of recruiting grades. Some exceptions do exist through recruitment on a contract basis.

Every federated government has introduced a position based management corps of senior civil servants. In Flanders six-year mandates have been introduced for senior managers. In Brussels Capital Region the managers will be appointed for a 5 year-term through an open selection procedure to which are admitted internal candidates, candidates from other administrations and from the private sector. In the Walloon Region, the Senior Civil Servants are appointed for a 5-year term.

Chile

The municipal governments' system of employment is governed by a number of different laws. Although most municipal employees are subject to special statutes, there is also a group subject to the country's general Labour Code, either because they provide services or hold administrative posts in education or healthcare services.

The statute governing municipal employees applies to the staff of municipal governments as well as to employees on temporary contracts in all matters intrinsic to their jobs. The statute applying to healthcare services regulates personnel hired on long-term and indefinite-duration contracts. As in the case of municipal employees, it permits the hiring of staff, temporary employees and professional services. The statute applying to education regulates the professionals who work in primary and secondary municipal schools and in technical-professional education.

Employment in regional governments is also governed by a law which is very similar to that for municipal governments. The law applies to staff of regional governments and temporary employees are also subject to this statute in all areas intrinsic to their posts.

Flexibility in municipal and regional governments is provided mostly through the hiring of temporary employees and professional services. However, this flexibility is limited by norms on temporary employees, who may not exceed 20% of wage costs, and on the type of work that can be undertaken in the form of professional services as well as by the availability of financing In addition, the statute permits the hiring of professionals who bill for their services..

Denmark

Sub-national governments have almost complete freedom with regard to designing and setting up their employment systems. However, there are a number of labour market laws that covers the labour market as a hole, thus also limiting local government degrees of freedoms in these areas. The State Employers Authority is also represented on the municipal and regional Boards of Wages and Tariffs. These boards act as employer-boards in the municipal and regional labour markets, thus giving mandate to the negotiations with the unions in these sectors. As regards the board in the regional sector, the State Employer has a veto position.

The employment system used by national sub-national governments is open and recruitment are for specific posts. There is almost no variance across tiers of government with regard to this openness.

France

Established civil servants are recruited by competition. There are three types of entrance competition to the civil service: external competitions open to candidates with a given qualification or level of education; internal competitions open to civil servants meeting certain conditions in terms of length of service; and a "third competition" open to elected officials, managers of associations and the private sector. Unlike the national civil service, successful candidates from a local government civil service competition are not automatically assigned a post. I; instead, they are allowed to conduct job searches, based on a list of skills, for posts that may be located anywhere in France.

In the course of his or her professional career, a local government civil servant may perform different duties depending upon the post to which he or she is assigned, pursue a career path by rising to a higher step or grade, according to seniority or through a professional examination, or advance to a higher level job through an internal competition or promotion.

Local government civil servants are divided into two categories: local government employees appointed to a permanent post; and non-established employees governed by a special decree not by the General Civil Service Regulations. This latter category also includes public employees employed on a seasonal basis or to replace officials assigned to a permanent post.

Between 1994 and 2005, the number of employees on fixed-term contracts rose at the same rate as the number of established civil servants. There are now more employees on fixed-term contracts than established civil servants in the local government civil service due to the specific way in which public sector employment is managed at this level of government.

Germany

Germany has a dual employment system composed of civil servants and public employees.

The exercise of State authority on a regular basis shall, as a rule, be entrusted to members of the public service who stand in a relationship of service and loyalty governed by public law that is to civil servants. The rights and duties of civil servants are governed by federal law, which means that the parliament determines the rights and duties as well as the remuneration and pensions of civil servants. The service of judges and military personnel, like that of civil servants, is governed by public law. In addition there are public employees hired on normal labour contracts.

Originally the public service was the exclusive preserve of civil servants. Wage earners were employed in the public service as support staff for the first time at the start of the 19th century. Today about two-thirds, or 3 million, of the 4.8 million staff in the public service have the status of public employee (salary earners and wage earners). The high percentage of employees in the public service reflects the fundamental change in the state's perceived role. The state is no longer seen exclusively as the custodian of public order, but is also considered responsible for the growth and well-being of the community. These tasks have been assigned to a great extent to public employees, while civil servants are mostly allocated to the classic sovereign functions (police, inland revenue, customs administration and ministries).

Civil servant law used to be uniformly regulated. In the future, only the law concerning civil servant status will apply uniformly across Germany. The Länder will be given far-reaching scope of action to accommodate the differing organisation and staff structures. Stikll, the uniformity of the civil servant law and the mobility of civil servants throughout Germany is intended to be safeguarded. Details will be arranged by the federal Länder on their own responsibility. Responsibility for the law governing careers, remuneration and old age provisions rests exclusively with the Länder. Their regulations are also binding for the municipalities within the Land boundaries.

The civil servant system is essentially a closed employment system. Non-civil servants may however enter the career system for the higher executive civil servant functions.

Other public employees are employed on the basis of a contract under private law and subject to the general labour law. Specific working conditions are set out in collective agreements negotiated between the public employers and the responsible unions. These collective agreements specify almost all the major working conditions in the public service. The public service employee system is essentially open (a system of positions); however, access to the system is increasingly de facto restricted (staff surplus, scarce resources, for this reason vacancies are frequently announced internally).

Iceland

The local governments in Iceland can design and use their own employment systems. The only limit for the local authorities for designing and setting up their employment systems, is the legal framework for the local authorities, and the law for the primary school and for specific professions.

Most of the local authorities have however the same employment system since they have mandated the Association of Local Authorities in Iceland to work on wage and employment systems for them. The association's role in wage affairs has also increased in recent years, and the local authorities mandate the association's Wage Committee to negotiate on their behalf.

Japan

The major framework for the employment systems in local governments is the Local Public Service Law. Local governments can legislate local ordinances which stipulate residual terms as far as they do not violate national laws.

The employment system used by the national government administration has traditionally been closed, but recently the national government introduced some measures to open up its public service. There is little significant differences in employment system between national government and local government administrations.

Spain

The homogeneity of the foundation and the diversity in other matters is a characteristic of the Spanish Public Service. In giving the State the power to regulate the basic statutory regime for public servants and applicable to all Public Administration, the Constitution provides the Public Service system with the necessary consistency in its fundamental aspects. On the other hand, the Constitution´s recognition of the specific mandate of the Autonomous Communities to regulate their public services opens the way to a large diversity of regulations on those aspects of the Public Service which are not basic in nature.

The Public Service Reform Act states that "each Autonomous Communities shall pass legislation in its Legislative Assembly to organise its Public Services". In use of these powers, the Autonomous Communities have each drafted their Public Service legislation. In general they follow the State Public Service model, without significant differences, for example maintaining the mixed system of public servants corps and contracted employment.

The model for employment in the public service in Spain is complex, containing highly varied realities and diverse elements which may sometimes introduce a degree of confusion Specifically, public service employment in Spain combines the following:

- dual basic legal systems and a variety of special ones,
- a diversity of public service employment relations, particularly the upshot of the large number of employers,
- a wide range of types of personnel,
- a dual model for labour relations (those created by the Public Administrations with their staff representatives) combining elements of the statutory system and that involving collective bargaining.

However, in spite of this variety of legal frameworks and employment relations, there are a number of principles and guidelines of conduct which are common to all employment in the public service, irrespective of the legal regime applied to them:

- equality of access to all citizens, as a guarantee of access to employment in the public service,
- the professionalisation of all public service employment relation because, save limited exceptions, this must rely on merit and ability,
- the impartiality of public service personnel, sought in a system of incompatibilities applicable to all such personnel.

The employment relations of public sector staff personnel are governed by two legal regimes, one under Administrative Law and other under Labour Law. Then there is a variety of special legal frameworks within these two basic systems. However, despite this duality of systems, lawmakers have sought to deal with the main aspects of their regulations in a single framework. Thus the Basic Statute of the Public Employee regulates the public servant and contracted personnel system jointly, in the latter case referring to the Labour Statute and in others to their Labour Agreements.

These twin legal systems for job relations between the Public Administrations and their employees (individual relations) also affect the relations with their representatives. Thus there are two different regulatory frameworks defining the relations for the representation and collective bargaining of public service personnel and, as a result, two systems for representation and collective bargaining for public servants and other applying to contracted employees.

The Constitutional Court has ruled that the Constitution opts for the statutory regime for public service personnel, albeit without excluding contracted employment. This means that the Public Administration must fill their vacancies chiefly with public servants. The possibility allowing Public Administration to hire their personnel under contract is seen legally as an exception.

Annex 3
Determining staff establishment in sub-national government administrations

Belgium

Regions and communities have freedom to establish their staff establishments as they see fit. Municipalities may be subject to varying regional legislations.

Chile

The staff establishments of regional governments are regulated by law and determined annually. However, the statutes governing public sector employees permit different hiring mechanisms, including *contrata* (temporary contract) and *honorarios* (billing for professional services) that provide some degree of flexibility in an institution's technical staff. The staff establishments of municipal governments are also regulated by law.

In 1997 the Constitution was modified so as to allow municipal governments to modify inter alia thies staff establishment without legislative changes. The required enabling law is currently before the Senate and in the first stage of its passage through Congress. Until it is approved, municipal governments will not be able to exercise these new competences.

Denmark

Sub-national governments have freedom to determine their own staff establishment. However, in the health care sector the National Board of Health – a central government agency within the Ministry of Health and Prevention – defines the levels of formal competence to have acquired to perform certain functions (e.g. in surgery).

France

Local governments enjoy a constitutionally guaranteed administrative freedom, which allows to choose the way in which they manage their affairs and staff establishment, within the limits of the assigned budget envelope.

Germany

The Länder and the municipalities are free to lay down their own staffing plans. Municipalities that are subject to supervision by the Land due to a formal budget consolidation process are also subjected to financial restrictions.

Iceland

The municipalities' autonomy in dealing with their own affairs extends to the appointment and assignment of staff. The national government does not control or influence the staff establishment in the municipalities.

Japan

There is no restriction on local governments' capacity to determine staff except remaining requirements to establish some specific positions. The national government can influence only through non-compulsory technical guidance stipulated in the Local Autonomy Law.

Spain

The Constitution gives the Autonomous Communities financial autonomy as well as administrative. The annual State Budget Law establishes the number of jobs required for the State and the Autonomous Region’s Budget Laws do the same with the different regions. Municipalites are effectively under the tutelage of the regions.

Annex 4
Relations between national and sub-national governments

Belgium

The competencies of the Belgian State are devolved between the federal level, the Regions and the Communities. Each entity is sovereign and exclusively competent for the competencies – partially or completely - devolved to her. Some competencies are shared which arouses sometimes questions and various interpretations about final responsibilities or lawful exercise of powers.

This leads sometimes to conflicts and/or legal proceedings if the way one entity exercises its competency harms, seems to harm or is bound to harm the competence of another entity. Decisions by the legislative and/or executive body of a Region or Community cannot be overruled by the federal level. Opposition and/or judicial appeal is still possible.

The unusual construction of splitting up competencies on individual related or territory related affinities through the structures of Regions and has been combined with a special framework for the bilingual Region of Brussels Capital City.

Collaboration between the entities has been institutionalized in the Consultation Committee and the Inter-ministerial Conferences. Whilst the first is composed of members from each government and treats ad hoc cases, the latter is used to (try to) prepare and develop cross-entity policies for a certain policy field.

In the case of conflicts over competencies, these are settled by legal proceedings before the Constitutional Court. It's the only institution that can annul legal bills passed by a/the parliament(s). Conflicts over interests - when one authority fully & lawful executes its competencies but where this execution harms or is believed to harm the interests of another entity (or entities) - are political problems and are settled through political dialogue at parliamentary or government level.

There's no national government organisation charged with assessing and/or evaluating the sub-national government practices and experimentations at the central level and ways of diffusing good practices and processes.

Chile

The Undersecretariat for Regional Development serves as the national counterpart of sub-national governments at both regional and local level..

Under the Concertación coalition, which has held office since 1990, it has become the practice for the government to negotiate a general annual wage adjustment with representatives of associations of public employees, including the National Confederation of Municipal Employees of Chile), the most representative organisation of municipal employees. It should be noted that, on different occasions, the government has also negotiated improved labour practices in the sector.

In addition, the Undersecretariat for Regional Development has made available a National System of Municipal Information (www.sinim.cl). This is currently the most comprehensive source of information about the management of the country's 345 municipalities and includes data on budgets, human resources and services that have been transferred to municipal administration as well as a number of management indicators.

Relations at the regional level are channelled through the Federation of Regional Government Employees, which groups together different associations of regional government employees. On matters of a more political nature, such as the transfer of responsibilities and the dynamics of regional government, the National Association of Regional Councillors is the regional equivalent of the Association of Chilean Municipalities.

Denmark

There is no central government organisation charged with assessing or evaluating the sub-national government HRM practices. Coordination of human resource is informal and not entirely systematic . The State Employers Authority – being part of the Ministry of Finance and the central employer in the State sector – has an informal, ongoing dialogue with the associations of the municipalities and the regions. They act – among other things – as central employers in the municipal labour market and the regional labour market. For example, there has been a parallel effort over the last 10 years to modernise wage systems by the employers in all of the three public labour markets – making the wage system more flexible and performance oriented.

The State Employers Authority is also represented on the municipal and regional Boards of Wages and Tariffs. These boards act as employer-boards in the municipal and regional labour markets, thus giving mandate to the negotiations with the unions in these sectors. As regards the board in the regional sector, the State Employer has a veto position since the recent structural reform.

Although the relationship between the employer and the individual employee is mainly regulated by collective agreement, there are a number of labour market laws which regulate the terms that apply to special groups of employees or apply to special situations. Examples of the former are the Civil Servants Act and the Civil Servants Pension Act. Examples of the latter are the Holiday Act, the Equal Pay act, the Working Environment Act, and legislation on maternity leave. These laws cover the labour market as a hole (including the private sector). Thus, sub-national governments are to abide these regulations too.

Even though the overall picture is one of limited direct central government controlling of sub-national governments action, this does not mean that we find very different conditions and practices in human resource management across tiers of government. Similarities are far greater than differences. This might also be due to the fact, that unions restrain how large differences can become. Unions are knit together in different associations and committees and – like the employers – have a number of informal mechanisms acting to ensure coordination.

A few years ago a Forum for Top Executive Management was set up. Together with Danish and international researchers, chief executives in the Danish state and local authorities have provided the ingredients for Denmark's first code for chief executive excellence. The completed Code is the fruit of an ambitious and coherent process of intense debate and strong commitment among the chief executive community.

France

The relationship between central government and local government in France is particularly complex due to the wide diversity of local government bodies and the difficulty in determining their respective jurisdictions and degree of financial and political autonomy vis-à-vis national government. Relations between central government and local government are still strongly marked by the supervisory power that central government exercises over local authorities, despite the principles of autonomy and free administration enshrined by decentralisation.

Despite the considerable efforts made under decentralisation to increase the power of local government authorities, the relations are still problematic and often characterized by mistrust. National government still has problems in seeing territorial authorities as fully fledged partners since local authorities have only limited financial autonomy. Central government is still responsible for setting rates of local tax, and the overall appropriations for operating costs devolved by central government to local governments are onlu index-linked to inflation and not to growth.

To mitigate the disadvantages of the isolation of municipalities, inter-municipal co-operation has been substantially enhanced. In 2005, there were 20 500 groups of municipalities, of which 2 525 had their own tax-raising power. Legislation in 1999 on the enhancement and simplification of inter-municipal co-operation brought an increased transfer of powers and employees from the municipalities to public establishments for inter-municipal co-operation (EPCI) with own tax-raising powers (urban communities, municipal communities, urban communities).

Germany

There is no national government organisation charged with assessing and/or evaluating government practices and experimentations conducted by the federal Länder or the municipalities on their own responsibility. Information on experiments are accessible to federal employees by taking part as guests in the special conferences of ministers.

One example of cooperation at the Länder level is the Broadcasting Treaty signed by all the 16 Länder, and the Association of Public Broadcasting Stations in Germany. The Länder may also conclude administrative agreements, which are limited to the definition and coordination of formal administrative competences. Another form of cooperation throughout Germany is the conferences of heads of government and of special ministers at Land level. There is an intensive exchange of experience among the federal Länder as part of these conferences. They have a large number of working groups which meet regularly and on the basis of long-term agendas. They also serve to prepare the agreements between the federation and the federal Länder.

The Länder are represented by the Employers' Association of the German Länder in order to speak with one voice vis-à-vis the trade unions and to conclude collective agreements. The employers are represented jointly by the Federal Interior Minister and the Association of Local Authorities Employers' in negotiations on collective agreements for public service employees at the federal and local level.

Several municipalities or local associations pool their resources to jointly discharge individual tasks. Municipalities may also pool their resources to provide local services such as fire brigades, rescue services, social assistance associations and nurseries. They also cooperate to an increasing extent in management and administration. The latest trend is the joint provision of services in what is called back offices, which are organised jointly by several municipalities. These services can be accessed by the citizens at various interfaces in the individual municipalities taking part, e. g. citizens' offices; some of them can also be accessed via the Internet.

Municipalities often form what is known as joint authorities (*Zweckverband*) to cooperate. Some federal Länder also allow their municipalities to form administrative communities which discharge all or some tasks jointly.

Iceland

There are no formal forums where national and local authorities discuss and exchange experience and best practice in the field of human resource management.

The municipalities in Iceland co-operate through the Association of Local Authorities in Iceland. All local authorities belong to the association which promotes increased relations between aldermen. It serves in an advisory capacity, dissemination and information about particular aspects of local governments affairs through education, conferences and the issue of various specialised publications.

The Association of Local Authorities in Iceland organizes meeting about human resource management for the leading person in the field in municipalities. There is a formal co-operation between national government (the state) and the Association of Local Authorities in Iceland concerning pay setting and bargaining.

Japan

There are a number of national laws governing the activities of sub-national government but no formalised cooperation or consultation structures. There are however a number of opportunities for consultations and coordination through the daily exchange of views and opinions between the national government and local governments or their associations. Almost all of local governments have for example published concentrated administrative reform plans, following the guidelines of Ministry of Internal Affairs and Communications, and including strategic workforce plans.

Spain

The Basic Statute of the Public Employee sets out compulsory cooperation relations between ublic administrations at the three government levels.

The main cooperation body is the Sectoral Conference which groups representatives from the State, the Autonomous Communities, Ceuta and Melilla, and the Spanish Federation of Municipalities and Provinces and works with the highest representatives from each area. Below the Conference, there are other bodies that work from a technical approach. These bodies reach their agreements on public administration issues by consensus.

One of the subsidiary groups is the Coordination Commission of Public Employment with frequent meetings in different Autonomous Communities in order to coordinate the development of the Basic Statute of the Public Employee as well as other issues that may need its attention. Last year, its composition was broadened to include a representation for the local governments.

The Monitoring Commission for the Acts and Rules of the Autonomous Communities is charged with reacting against all the acts and rules of the Autonomous Communities that threaten the balance in the distribution of jurisdiction between the State and the Autonomous Communities. Its reactions are embodied in Warning Letters to the Autonomous Communities or, if necessary, a Constitutional Court case.

Annex 5
Distribution of responsibilities across national and sub-national governments

Belgium

The competencies of the Belgian State are devolved between the federal level, the Regions and the Communities. The 3 levels of power are equivalent. Each entity is sovereign and exclusively competent for the competencies – partially or completely - devolved to her and in relation to the territory it manages. Some competencies are however shared. The distribution of responsibilities is still evolving as part of an internal political process.

Generally speaking the federal level ensures the institutional, economic, financial and social unity and public security. What is not explicitly devolved to the Regions and Communities, still remains the prerogative of the Federal level.

Competencies linked to individuals are generally the responsibility of the Communities. These include cultural matters (including tourism, sports, and media); education (including the juridical position of the teachers and other staff); social services (including family policies and child care, disabled persons, senior citizens, and integration of migrants) and language policies in the fields of education, public administration & social relations (with certain exceptions).

Competencies linked to territory are generally the responsibility of the Regions. These include regional and urban planning, housing, the environment, agriculture and fisheries, water policies (purification, production and distribution of drinking water), employment, enterprises, energy, public transport and public infrastructure.

Communities and Regions also have competences in international matters and scientific policy linked to their other competences.

The Regions have custody over provinces, municipalities & inter-communal organisations (including financing, organization, and functioning). They can amend or replace the existing legislation on the municipalities. As a result, there are differences between the municipal institutions in the three Regions..

Chile

The main responsibility of the regions is the region's social, cultural and economic development. Their competences include land-use (including co-ordination of investment programmes and infrastructure projects and environment protection), promotion of economic development, a rational exploitation of natural resources and promote scientific and technological research; and social and cultural development (including promoting the eradication of poverty and facilitating the access of poor people in remote areas to public services and legal assistance programmes.

The municipal level is responsible for the needs of the local community and for ensuring its participation in economic, social and cultural progress. They have exclusive responsibility for the municipal development plan and zoning plan; the promotion of community development; d) the enforcement of public transport and traffic regulation; e) the enforcement of norms on construction and the corresponding public services (such as electricity and water supply); and other urban functions.

They also share the responsibility for education and culture; public health and the protection of the environment; social and legal assistance; training services and the promotion of job creation and economic

development; tourism, sports and recreation; public services and urban and rural roads; construction of social housing and water-services infrastructure; public transport and traffic; rescue services and the promotion of equal opportunities.

Denmark

Subnational governments are responsible for most of the provision of public services to the Danish citizens. The regions are responsible for most of the healthcare services including hospitals and doctors. The municipalities are responsible for among other things urban functions, social service (which includes child care, residential homes for elderly people, primary and lower secondary school), most of the employment efforts, rehabilitation centers, special education for adults, some of the infrastructure (such as local roads), local cultural activities and attending citizens in so called citizen centers.

France

The distribution of responsibilities across the levels of government are characterised by an increased transfers from national to local level. Local governments are covered by a general competence clause which allows them to manage local affairs within their jurisdiction without there being any limiting definition of such activities. They can therefore intervene in any area, under the oversight of a judge, on the grounds of local public interest provided that jurisdiction has not been devolved under existing legislation to another public entity.

The municipalities have jurisdiction over the management of infrastructure, local services, land use, parks and gardens, housing and town planning, social services and education (construction of nursery schools, schools and leisure centres), culture, sport and the municipal police. To mitigate the disadvantages of the isolation of municipalities, inter-municipal co-operation has been substantially enhanced.

The *départements* are responsible for the management of secondary schools and non-teaching staff, school transport, health and hygiene and social services, as well as the management of basic social benefits such as the guaranteed minimum income (RMI). They are competent to approve certain mandatory expenditures (social aid, health, roads and highways), to create and organise public services provided by the *département*, manage the road network and participate in economic initiatives.

Germany

The *Länder* are responsible for internal school affairs (includes the training and recruitment of teachers, curricula and teaching concepts, and school supervision) and for higher education. The police, the prison service and the tax administration also come within the remit of the federal *Länder*.

The municipalities are responsible for urban planning, road construction, provision of housing for those needing housing assistance), social services, health services and public facilities (e. g. public swimming baths, nurseries, sports facilities). They are also responsible for external school affairs (includes the construction of schools, equipping schools with furniture and books etc. and other staff than teachers). The municipalities are also responsible for local public transport, waste disposal and supplying the citizens with water, gas, electricity and long-distance heating.

Iceland

The national government is responsible judicial matters, the police force, secondary schools and further education, the health sector, both primary health care and hospitals, public insurance, service to the handicapped and to the elderly (divided responsibilities), unemployment compensation and job centers, highways, customs and tax administration and regional development.

The main task of the municipalities is providing services for the local people including basic social and financial assistance, home assistance to the disabled and elderly, child welfare, pre-schools, primary schools, culture, sports and recreation, after school and summer holiday arrangements for children, leisure activities especially for young people and the elderly, music schools, sport facilities, culture centers, museums and libraries support to local free organizations. The primary schools are by far the largest task of the Icelandic municipalities, 40 – 70% of the municipal budget goes to the running of primary schools. (depending on the size of the municipality)

The municipalities also provide their inhabitants with infrastructure and technical, maintenance and operation of municipal streets, sewage, water and electricity works, as well as district heating municipal planning and building inspection surveillance of public and environmental health, public transport, fire services, waste management, waste collection and harbors. [17]

Japan

The Prefectures are responsible for territorial functions such as drafting comprehensive local development plans, forest conservancy and river improvements; for functions whose scale of operation is deemed inappropriate for municipalities, for example the establishment and management of upper secondary schools and hospitals, and for functions involving communication between the central government and municipalities or advice and guidance for municipalities.

Municipalities are responsible for the citizen registry, functions concerned with public health and safety and environmental conservation, for example fire services, refuse and sewage disposal, water supply, and public parks; functions connected with urban development, for example city planning, construction and maintenance of roads, rivers and other public facilities; and functions concerning the establishment and management of various municipal facilities, including public halls, nurseries, primary and lower secondary schools, and libraries.

Major cities with large populations have a wider range of responsibilities than others. The Special Wards in Tokyo have functions are similar to municipalities. There are some exceptions; for example, fire services which ordinarily is municipal responsibility, are provided by the Tokyo prefecture.

Spain

The distribution of responsibilities in regulated in detail in Spain´s Constitution and in the Autonomy Statutes of each Autonomous Community and Autonomous City.

The national level has exclusive authority over inter alia citizenship and immigration, international relations, armed forces, judicial system, civil, commercial, criminal and labour codes, customs service and foreign trade, monetary and financial systems, media, fishery, shipping and major ports, airspace and major airports, railroads, roads and waters that pass more than one Autonomous Community, post services and telecommunications, environment protection, coordination of scientific research, legislation for and financing of social security, and public administration statutes.

The Autonomous Communities are responsible for territorial and urban management, housing, public works in its own territory including water projects, railroads and roads that serve the Community and related transports, minor ports and airports, agriculture, forestry, fresh water fishing, hunting, tourism, culture, sports, health services, the implementation of social security and of environment protection. The

[17] The Association of Local Authorities in Iceland

Autonomous Communities are also responsible for the economic development within its territory, within the objectives set by the national economic policy.

There is no similar list of issues for the exclusive responsibility of the municipalities. These are subordinated to Autonomous Communities and carry out basic functions such as water supply, refuse collection and the building and maintenance of local roads.

II. COUNTRY NOTES

BELGIUM

PART I - THE CONTEXT

I. A Which are the sub-national governments?

Belgium is a federal country which has been federalized from a unitary state into a federal State. It's been a long evolutionary process that has been going on from the 1970's and is still going on, taking into account the regional differences and aspirations.

Belgian federalism cannot be understood without reference to the origins of it: linguistic-cultural emancipation on the one hand (Flanders) and proper economic policy development on the other hand (Wallonia). It's no coincidence that Regions and Communities follow exactly the territories of the linguistic regions as set by the linguistic laws and confirmed by the Constitution.

- Belgian federalism is a special kind of federalism. Unlike in traditional federal states, the horizontal structure of power devolution and equal balance of power has put all 6 central governments on the same level so that we cannot speak of sub-national governments as in other hierarchal systems:
- The competencies of the Belgian State are devolved between the federal level, the Regions and the Communities. The 3 levels of power are equivalent. Each federated entity (federal level, regional or community level) develops its own policies for which it has the necessary tools: its very own legislative ("Parliament") and executive body ("Government") and its very own central administration . Only the federal level has a bi-cameral system (Parliament, Senate)
- Each entity is sovereign and exclusively competent for the competencies – partially or completely - devolved to her and in relation to the territory it manages. Not all the competency packages are homogeneous or clear cut. Some competencies are shared which arouses sometimes questions and various interpretations about final responsibilities or lawful exercise of powers.
- This leads sometimes to conflicts and/or legal proceedings if the way one entity exercises its competency harms, seems to harm or is bound to harm the competence of another entity. Unlike in Germany where the federal level has to possibility to overrule decisions made by the sub-national governments (*Bundesrecht bricht Landesrecht*), decisions by the legislative and/or executive body of a Region or Community cannot be overruled by the federal level. Opposition and/or judicial appeal is still possible.
- Federalism is based on a 2-track system: on the one hand there are competencies that are territorial linked – the competencies of the Regions - and competencies that are linked to the individual, the competencies of the Communities..

This unusual construction of splitting up competencies on individual related or territory related affinities through the structures of Regions and Communities allows to set a workable framework for the bilingual Region of Brussels Capital City. In this construction both the Flemish Community as well as the French Community can exercise their competencies on the territory of Region of Brussels Capital City. This system allows too that German speaking Community resides within the Walloon Region and is solely competent for individual related competencies, all territorial linked competencies remain with the Walloon Region.

In Flanders the Region and the Community have merged into one body. In Wallonia and the French speaking Community the 2 bodies remain separated although for the moment there's only one Minister-

President for both bodies. In Brussels Capital City Region, some French Community competencies have been taken over by the COCOF.

Belgian federalism is knit together with complex checks and balances in order to uphold the unity of the country and the cohabitation of the different communities (*federal solidarity* and *federal loyalty*). Federal loyalty is the backbone in order to avoid conflicts of interests: each entity should refrain from stepping on another entity's competencies.

For that purpose, tools have been created to enhance collaboration and to avoid emerging conflicts:

- Collaboration between the entities has been institutionalized in creating the *Consultation Committee* and the *Inter-ministerial Conferences*. Whilst the first is composed of members from each government and treats ad hoc cases, the latter is used to (try to) prepare and develop cross-entity policies for a certain policy field (e.g. Civil Service policies);
- *Collaboration protocols* are another tool which is useful if competencies are shared or if the proper execution of competencies necessitates cross-entity conference or collaboration:
- In some cases there's the duty to inform other entities of the envisaged policies, in other cases the advice of the other entities is compulsory;

What if conflicts do emerge?

In the case of *conflicts over competencies*, these are settled by legal proceedings before the *Constitutional Court*. It's the only institution that can annul legal bills passed by a/the parliament(s).

Conflicts over interests - when one authority fully and lawful executes its competencies but where this execution harms or is believed to harm the interests of another entity (or entities) - are political problems and are settled through political dialogue at parliamentary or government level.

At parliamentary level, a parliament can evoke such conflict by accepting a motion – to be approved by ¾ of its members – stating that a law, decree or ordinance harms its interests. This motion suspends the litigious legal act for 60 days. If within this period of 60 days no solution is found, it's up to the Senate to examine the problem and pass a motivated advice on to the Consultation Committee which is to de decide within 30 days (60 days if the motion originates from the federal parliament).

At government level, the Prime Minister or the Minister-President of the Regions/Communities can evoke before the Consultation Committee any decision or project of decision. This Committee is charged to try to find a solution within 60 days. Meanwhile, the (project of) decision is suspended.

TABLE: Facts and figures on the structure of the Belgian Institutions

	Territory + n° inhabitants	**Executive Power**	**Legislative Power / legal norm**
Federal State	The whole territory (10,5 million)	Federal Government – Prime Minister – ministers and secretaries of State : max.15 ministers and undetermined number of secretaries of State	Bicameral system: ▪ House of Representatives - 150 members, 88 Dutch speaking and 62 French speaking ▪ Senat - 70 members, 41 Dutch speaking and 29 French speaking - of the 41, 25 are directly elected, 10 are designated by Flemish Parliament and 6 are co-optated - of the 29, 15 are directly elected, 10 are designated by Valloon Parliament and 4 are co-optated
Communities (3)	▪ Flemish Community (6,1 million) ▪ French speaking Community (3,4 million) ▪ German speaking Community (70.000)	▪ Flemish government: max. 11 (1 from Brussels) ▪ Walloon government: 9 members ▪ French Community government: 6 members (1 from Brussels) ▪ German speaking Community government: 4 members ▪ Brussels Capital : 8 members: 1 MP + 2 Dutch speaking + 2 French speaking ministers and 3 secretaries of State o College of the Flemish Community Commission o College of the French speaking Community Commission	Parliament (monocameral) ▪ Flemish Parliament: 124 members (6 from Brussels) ▪ Walloon Parliament: 75 members from Walloon Region ▪ French Community Parliament: 94 members (75 from Walloom Region, 19 from Brussels) ▪ Parliament of the German speaking Community: 25 members ▪ Brussels Capital Parliament: 89 members (72 French speaking and 17 Dutch speaking) o Flemish Community Commission (VGC) o French speaking Community Commission (COCOF) o Common Communitarian Commission
Regions (3)	▪ Flemish Region ▪ Walloon Region ▪ Region of Brussels Capital City (1,0 million)		
Provinces	10	Governor – Permanent Deputation	Provincial Council
Towns and Cities	589	Mayor – College of Eldermen	Town or City Council

I. B The distribution of responsibilities

Generally speaking the federal level ensures the institutional, economic, financial and social unity and public security.

The competencies of the non-federal entities are divided on basis of individual linked competencies (Communities) and on basis of territory linked competencies (Regions). This repartition is organized by the

Constitution and by Special Laws which have been adopted by a special majority in the Federal Parliament (2/3 of its members and 50% of each linguistic group).

These competencies are allocated and are to be understood in a strict way: what is not explicitly devolved to the Regions/Communities, remains the prerogative of the Federal level. In the future it should be the other way round: the Federal level will have explicitly allocated competencies and the Regions and Communities full competencies if the domain is not allocated to the Community or the Region.

As stated above, some parts of these competencies are shared. The definition of these competencies, and who does what, is the actual situation. The tendency is to redefine the content of the packages and to arrive at homogenous competency packages, which is the ultimate goal.

Competencies devolved to the Communities (actual situation)

- cultural matters (tourism, sports, museums, libraries, public broadcasting and TV, aid to the press, professional training and retraining, protection of the language);
- education[18], including the juridical position of the teachers and other staff;
- person related matters (child protection, family policies and child care, disabled persons, senior citizens, integration of migrants)[19]
- language policies in the field of education, public administration and social relations (except in the 18 municipalities who have special arrangements for the other linguistic community, the bilingual region of Brussels Capital and the German speaking Community ; this remains the prerogative of the federal level)
- international relations in the fields mentioned above
- scientific policy in relation to the fields mentioned above

The responsibility for the *practical execution* of some of the of competencies has somewhat been altered as far as the French Community is concerned. Whilst the constitutional competency remains with the French Community, by decree of the 19th of July 1993, the French Community has transferred the execution of some of its' competencies to the COCOF (*French Community Commission*) as far as the territory of Brussels Capital Region is concerned and to the Walloon Region as far as the French speaking territory is concerned.

As a matter of fact, in the following domains both the COCOF and the Walloon Region have the same competencies as those devolved to the French Community

- communal, provincial, intercommunal and private infrastructure destined to sustain and enhance physical capacity building
- tourism
- social promotion[20]
- professional reconversion and recycling
- school transport
- health care policy
- aid and supportive actions towards citizens

---

18 The federal level remains competent for the duration of the compulsory scolarisation period, the minimal conditions for the scolarisation certicicates and the retirement schemes for teachers.

19 But the federal level remains competent for some partial matters like the guaranteed revenue for the pensioners, the allocations for the disabled,

20 Social promotion embraces the faculty of offering continued (basic or advanced, specialized) education for those workers who didn't have the opportunity to start or to further higher education.

Competencies devolved to the Regions

- organization of the land within the territory of the Regions (planning, building permits, urban renovation, protection of landscapes and sites, industrial zones, green area policies)
- housing policy
- the environment and environmental protection[21]
- agriculture and fisheries[22]
- water policies (purification, production and distribution of drinking water)
- economic policies (general economic policy, aid to the enterprises)[23]
- employment
- energy policies (distribution of electricity and natural gas)
- custody over provinces, municipalities and inter-communal organisations (financing, organization, functioning of these institutions as well as the election and investiture of their councils and representatives)
- public transport and public infrastructure (roads, ports, regional airports, regional public transport)[24]
- international in the fields mentioned above
- scientific policy in relation to the fields mentioned above

If the tendency is to be towards (more) homogenous packages in favour of the Regions and Communities, and hence the enhancement of the powers and competencies of those Regions and Communities, one must not forget that this devolution of competencies is strongly influenced by the supranational level: in most domains the European Union has taken the lead. Any rearrangement of competency packages has to take into account this evolution and be assured that the *acquis communautaire* is executed and respected[25].

I. C The financial arrangements

The financing of the competences of the entities is set on one hand by the Special Law of the 16th of January 1989 concerning the financing of the Communities and Regions (as modified during subsequent state reforms), and on the other hand by the articles 170 and following of the federal constitution.

The fiscal autonomy descends on one hand from a limited amount of regionalised taxes to the Regions, often still collected by the federal state. On the other hand the Regions and Communities have the constitutional right to impose new taxes (original regional taxes), provided there exists no similar federal tax on the same basis and the federal state doesn't deem it necessary to abolish the new tax. It's possible that some taxes exist in one Region and not in the other: or that the tax continues to exist in theory in some Regions but isn't collected anymore nor put on the budget.

---

21 The federal level remains competent for e.g. the general norms on pollution, the protection against radiation, radioactive waist, workers' protection in high risk enterprises,...

22 The federal level remains competent for the food chain security

23 On the condition that regional economic policy stays within the limits set by the federal economic and monetary union. In this framework the federal level remains competent for social security, trade and corporate law, monetary policy, competition regulations,...

24 The federal level remains competent for the national railroads and Brussels National Airport

25 E.g. the monetary Union at federal level: monetary policy is now the exclusive domain of the European Central Bank so that if the regional economic policy is to stay within the federal policy Lines, as a matter of fact it has to take into account directives from the EU. The same goes, and even more, for environmental policy.

A part from those 'own' taxes, the entities enjoy a partial transfer of revenues of the (federal) income tax and (federal) VAT. The Regions are also allowed to levy increments of grant rebounds on the (federal) income tax.

At last, the entities also enjoy non-fiscal revenues in the form of loans, legacies and donations.

Regionalised taxes (former federal taxes):

- Traffic circulation tax
- Registration tax on vehicles
- European road charge vignette for trucks
- Taxes on games and betting
- Taxes on automatic gambling machines
- Advance levy on income derived from real estate
- Taxes on serving alcoholic beverages
- Radio and television tax[26]
- Registration rights on the sale of real estate
- Registration rights on mortgage openings
- Registration rights on the division of real estate between owners
- Registration rights on donations
- Succession rights
- Interest and levy on regional taxes[27]

Original regional taxes.

- Tax on robots[28]
- Tax on vacant or neglected houses and buildings[29]
- Tax on vacant or neglected business sites
- Tax on waste[30]
- Tax on the pollution of water
- Tax on the capture of (surface) water
- Tax on the capture of water out of underground water layers
- Eco Malus[31]
- Tax and royalties for environmental licences[32]
- Tax on the usage of manure
- Tax on the mining of grit
- Tax on printed advertising
- Tax on the value-increase of land due to the relocation of the land for construction purposes

---

26 Set to zero in Flanders and Brussels Capital City Region but not in Wallonia

27 Only in Wallonia

28 Wallonia, ATM ² Oil distribution

29 Suppressed in Wallonia since 2005

30 Wallonia: suppressed for domestic garbage since 2003

31 Wallonia, tax on CO^2 - since 2008

32 Wallonia

Combined federal/regional taxes

- federal income tax (regional increments or rebounds and partial transfer of revenues)

Divided federal/community taxes

- federal VAT (partial transfer of revenues)
- federal income tax (partial transfer of revenues)

The Regions are responsible for the collection of the original regional taxes and since 1999, the Flemish Region takes care itself of the collection of the (regionalised) indirect levy on income from real estate

The Special Law of the 13th of July 2001 concerning the financing of the Communities and Regions and the enlargement of fiscal competencies for Regions has been implemented in Wallonia in 2002. This transfer of means has increased the number of taxes received by the regional level.

There's a steady increase in the means transferred to the Regions and the Communities (approx. 6,1% per year). The proper Regional taxes have increased with 11,1 % per year. Between 2002 and 2007, the Regional taxes revenues of the Walloon Region for instance have increased with an average of 8,44 % per year: The regional tax revenues in the Flemish Region have increased also as from 2002

The Flemish Tax administration[33] is the competent administration for the advance levy on income derived from real estate. This is the major regional tax when looking at the (most recent) gross figures (2,239 billion Euro) but the net revenue for the region is only 76 million euro as the municipalities get the biggest share of this revenue (1,627 billion euro) and the provinces too (400 million Euro).

Overall figures of specific (original) regional taxes are not available, but regarding the tax on vacant or neglected houses and buildings in Flanders, the monitoring information of March 2008 indicated that more than 70 million Euro was received whilst more than 30 million was yet not paid.

Flanders also develops a dynamic tax policy that focuses on enhancing compliance. Reducing tariffs has generated higher tax revenues (e.g. on gifts during lifetime). The share of regional taxes in the overall means of the Flemish government became 20% in 2007.

PART II – HUMAN RESOURCE MANAGEMENT ARRANGEMENTS

II.A. Establishment

All entities have the freedom to establish the staff as they seem fit.

Belgian federal civil service regulations are issued in the form of by-laws (called "royal decrees"), whereas the number of Parliamentary acts on the civil service is very limited. No general civil service act exists.

The Belgian federal service is subject to the *Camu statute*, a royal decree dating from 1937 that has been amended over the years on several occasions.

Previously, staff in all regions and communities were employed under the so-called Camu statute, originally passed in 1937. The Camu statute had established a career-based civil service that was applied across regions and communities. A revised Camus statute is still in force in the Federal Government.

Although regions and communities have constitutional autonomy, they are still required to comply with the Royal Decree (RD) (by-law) of 22 December 2000 on the applicability of the general principles of the administrative and remunerative statutes for national public servants to staff of regional and community authorities and services (replacing a previous RD of 26 September 1994). This Royal Decree on General

[33] The Walloon Region is now creating its own tax administration. This wil involve the transfer of some 400 civil servants from the federal level to the Walloon Regional level.

Principles aims at maintaining a distinctive balance between Belgian governments' autonomy and consistency, promoting the convergence of HRM regulations to preserve what is essential and common.

This Royal Decree has played an important role in constraining how governments organise:

- statutory and contractual employment;
- the rights and duties of public servants, including freedom of speech, of information, duty of loyalty, integrity, etc.;
- key human resource management arrangements, including an objective recruitment process, disciplinary arrangements, annual and other types of leave, redeployment, and pay-scale minima and maxima.

In addition, the Special Law (SL) of 8 August 1980 on the reform of the institutions, amended by the SL of 8 August 1988, establishes the recruitment of statutory public servants through the services of the federal recruitment office (SELOR).

A 9 December 1974 law provides legal provisions regarding trade unions and organises the relationship between governments and unions.

Compared with many OECD federal countries, the legal and para-legal requirements (by-laws) in the intergovernmental legislation concerning the civil service are thus quite extensive.

Unlike in many other OECD-countries, although tools are available for cross-entity consultation and co-ordination and common action[34], promoting and establishing common goals (or even principles) of HR-reforms remain an exception and reforms are being carried out at very different paces across governments.

Yet, there are many common challenges

- Staff numbers and compensation costs
- A highly regulated HRM environment
- Heavy reliance on statutory controls
- Managerial informality
- Blurred responsibilities at the political/administrative interface
- Consistency and flexibility of HRM rules across governments
- Ageing
- How to recruit and to retain talent

And many of the human resources reforms have been relatively similar in two key areas:

- *Flexibility:* Reform of regulation with a view to simplifying rules (new codes, new classification, rationalization of ranks and grades, new pay scales, etc.) and implementation of competency based and performance-based management;

---

[34] The so-called inter-ministerial conferences, composed of ministers of the Federal Government, regions and communities; cooperation agreements (voluntary or mandatory) can be proposed by different governments and adopted by the respective parliaments to develop common initiatives, to create and manage services collectively and to implement collectively some competences that would otherwise be held by individual governments. Overall, there are few cooperation agreements in public administration matters. One was reached in September 2006 to establish principles and services for integrated e-government; mandatory consultation procedures, where governments share competence for a specific area of responsibility. Overall, in terms of the management of the public service, constitutionally based consultations and agreements have been strikingly limited. It is of course a delicate balance, as in a federal country, imposing consistency through intergovernmental regulations can create another set of rigidities and governance difficulties. The issue at root is about how the different HRM policies can help decrease transaction costs through improved voluntary cooperation.

- *Leadership:* Reform of senior management

These reforms have been implemented within the framework of wider management reforms in the fields of organizational reform and organizational performance management (balanced scorecards, satisfaction survey, indicators of performance measures, etc.).

While some of the reform paths seen in governments in Belgium reflect broadly similar developments across OECD member countries, others are distinctive to Belgium and stem from the particular institutional features of the HR systems. In particular, the central role in the reforms played by the mandate systems for senior managers, which is essentially a position-based overlay to an essentially career-based system, and by the development of competency-oriented workforce planning and management, offering the potential for maximising internal capacity in the context of continuing rigidity in recruitment, is not so common. Some challenges also are distinctive to Belgium, including a continuing difficulty in restructuring cabinets, and an increasing reliance on contractual staff.

II. B Employment systems

As stated before the governments have complete freedom in designing and setting up their employment systems as far as they stay within the General Principles.

Compared to previous settlement, the **federal employment system** is rather open. It remains in essence a career based system – except for the Senior Civil Servants on a mandate basis and except for those urgent and exceptional tasks where contract based employment is allowed - but where as in the past, entries were only possible at junior level, and advancement was slow and heavily regulated (seniority and preferential measures) and following fixed quotas, entries can now be at more senior levels and advancement is subject to personnel planning and financial means and of course the presence of required competencies.

The Flemish government has always been a spearhead in setting up its own employment system, but stayed within the boundaries set by the General Principles by-law. The Flemish employment system remains a career based system. The movement away from the traditional career-based system has been similar to that at the federal level, with a mandate system coupled with some opening up of posts for lateral entry at senior grades.

The same goes for the Brussels Capital Region and the Walloon Region. In principle statutory recruitment is the main way to enter the administration –- and entry into the administration is only possible at the level of recruiting grades. Some exceptions do exist through recruitment on a contract basis.

Next to classic career system, every federated authority has introduced a *position based management corps of senior civil servants*.

- In Flanders six-year mandates have been introduced for senior managers, whose roles have been redefined to provide an interface between the political level and the administration, partly through the introduction of management contracts between ministers and managers..
- In Brussels Capital Region the managers will be appointed for a 5 year-term through an open selection procedure to which are admitted internal candidates, candidates from other administrations and from the private sector.
- At Walloon Regional level, the Senior Civil Servants are appointed for a 5-year term, the goal being here also to give more autonomy and hence more responsibility in the field of HRM and decision making.

Every government is constantly thinking of ways, tools and procedures to modernize their civil service. The example of the Flemish government is mentioned above, the federal level has known its' Copernic revolution and now the Walloon government is catching up: a governmental decision of the 15th of

February 2007 has installed a special evaluation cycle and is working on a remake of the Walloon Civil Service Code aiming at reforming recruitment, career possibilities, promotion, functions, mobility, leave of absence, personnel planning, etc.

Special attention is given to mobility between the federated entities belonging to the French speaking territory/Community (COCOF, Walloon Region) or bilingual territory (Brussels Capital Region)

Key features of the Belgian civil service

- Public employment is essentially a career-based system and governed by a special regime, the federal civil service by the so-called Statut Camu, the administrations of the federated entities by their own statute. There are specific special regimes for magistrates, police and army, but the basic rules refer to the general special regime;
- As a rule, the employment is on a life-long statutory basis, employment on a labour contract basis is the exception and only applicable to certain categories of employment
- The career-system is classically based on the preliminary possession of the required diplomas and graduations determining the level and the grade. Seniority, merit and training play a decisive role in advancement in career;
- The administrative statute, together with its specific components on social protection and remuneration principles, govern the juridical position of each civil servant, statutory or temporary, engaged on a labour contract basis;
- The access to public employment, the remuneration, the career, administrative positions, rights and obligations and the terms of termination for statutory employment are fixed by by-laws; contract labour is subject to a mix of statutory regulation applicable to them completed with private labour law settlements where the specific public rules remain silent;
- HR-policies are developed, monitored and updated by a central HR-body; departmental freedom is limited to organization of the workforce, career planning, recruitment, evaluation and termination, all within the rules fixed at central level.

II. C Remuneration and other employment conditions

The constitutional autonomy within the guidelines of the General Principles gives also the freedom to determine the remuneration and the working conditions for the employees. This gives the entities the possibility to remunerate and to give other advantages according to market demands. The only limit is the budgetary bearing capacity of each entity.

The national government has no possibility or even the legal capacity to introduce or strengthen a framework for controlling or capping overall compensation costs within the entities since it is there own responsibility. This freedom of setting remuneration is a thing to be reckoned with in the future: as long as the federal level is taking care of and financing the pensions of all civil servants of every federated entity[35];

[35] It was one of the recommendations of the Peer Review that clarity is needed on ownership, on freedom of use and capacity to uphold the system. It's inconceivable that the federal authority bears the quasi total financing of public pensions [and social employment programmes] which benefit disproportinaly the other entities (page...)

At *federal level* the remuneration system has the following general characteristics:

- The career structure is divided into levels (A, B, C and D) and in the case of level A again in classes and scales. B, C and D have only scales to differentiate. Each scale has its fixed minimum and maximum
- This division is based, on the one hand, on the nature of the work, and can be explained, on the other hand, on the basis of the existing system of education;
- The level, class or scale is the basis of the salary;
- In the past the technique of specific grades was a way to obtain superior pay scales in comparison to the general grades. Recent reforms have limited the cases in which specific grades are allowed (technical functions, IT, financial functions); in all other cases specific careers have been abolished and merged with the general grades;
- The advancement is remuneration is twofold: each scale has its automatic annuities or bi-annuities within the same scale on basis of seniority and between scales one can evolve from one scale to another, higher scale when certain conditions have been met;
- The salary one gets is not performance related, only working scheme related: working full time, half time or within another regime has its impact on the salary and other working conditions;
- Remuneration is composed of the salary, the hearth and station allowance (if applicable), the holiday allowance, the end-of-year bonus and other allowances (e.g. the competence allowance which is only for certain scales and of which the amount differs according to the scale)
- All amounts are linked to the index, this means that the applicable base salary is *automaticly* multiplied by a factor each time the pivot index is exceeded. In times of progressing inflation this helps to keep up with the evolution of prices, but of course this is a supplementary burden for the budget;

At the *Flemish level* the remuneration system has the following general characteristics:

- The career structure is divided into levels (A, B, C and D) and the different levels are divided in grades. Grades are divided in different salary scales. Each salary scale has its fixed minimum and maximum
- This division is based, on the one hand, on the nature of the work, and can be explained, on the other hand, on the basis of the existing system of education;
- The level, class or scale is the basis of the salary;
- In the past the technique of specific grades was a way to obtain superior pay scales in comparison to the general grades. Recent reforms have limited the cases in which specific grades are allowed (technical functions, IT, financial functions); in all other cases specific careers have been abolished and merged with the general grades;
- The advancement is remuneration is twofold: each scale has its automatic annuities or bi-annuities within the same scale on basis of seniority and between scales one can evolve from one scale to another, higher scale when certain conditions have been met;
- The salary one gets is not performance related, only working scheme related: working full time, half time or within another regime has its impact on the salary and other working conditions;
- Remuneration is composed of the salary, the hearth and station allowance (if applicable), the holiday allowance, the end-of-year bonus and other allowances (e.g. the competence allowance which is only for certain scales and of which the amount differs according to the scale)
- All amounts are linked to the index, this means that the applicable base salary is *automaticly* multiplied by a factor (now: * 1,4568) each time the pivot index is exceeded. In times of progressing inflation this helps to keep up with the evolution of prices, but of course this is a supplementary burden for the budget;

- Functional promotion to a higher salary scale is mostly seniority based, but with increasing managerial discretion depending on taking performance appraisals. Functional promotion now requires the absence of a negative performance evaluation. The Flemish Community is the only government which has introduced performance-related pay with bonuses, but bonuses are relatively minor. However civil servants whose performance was evaluated as outstanding may receive a bonus of maximum 20 % of their annual salary. Performance bonuses exist for senior management. The Flemish Government intends to implement reforms that better link performance assessment to career progression.

At *Brussels Capital Regional* level the career systeem is also based on the classic 5 levels (A till E).

- Within each level, with exception for level A, exist 2 grades: an entry, selection grade (code 1) and a promotion garde (code 2).
- In level A there are 7 grades, from A1 till A7
- Each grade corresponds to a salary scale and one can jump from one scale to another after 9 and 18 years. This can be done quicker to 6 and 12 years when the civil servant follows a professional training of his choice.
- Unlike the federal system, there are no classes here
- There's no competence allowance, but the linguistic premium is much more consistent.

At *Walloon Region* level present day[36] remuneration system is based on the following principles:

- There are 4 levels divided in ranks; to each rank corresponds a grade with its particular salary scale (2 for the 1st rank; the second and 3rd rank of level 1).
- Each salary scale has its' minimum and maximum and intermediate steps (annual, bi-annual and sex-annual) given in function of seniority. Changing for one scale to another within the same level or from one level to another is also possible when certain conditions are met;
- The remuneration is not related to the quality of the work done but to the labour regime: working full-time of half-time has a direct impact on the remuneration and other working conditions;
- The remuneration is composed of the actual salary, hearth or residence allowance (if certain limits have not been transgressed), holiday allowance, end of the year bonus and other forthcoming allowances and bonuses related to the nature of the work done;
- All scales evolve in function of the index;
- There's no performance related pay. Nevertheless, some public bodies of general interest give productivity bonuses in function of how the individual and organisation related targets are met;
- Careers evolve in a well-defined way: Promotion by way of *advancement in grade* within the same function is conditioned by several criteria like seniority, favourable evaluation and passing a competence validation test. Furthermore, quotas have been set. Promotion by way of advancement in grade within a staff function is merit based and a vacancy has to exist;*Promotion by passing to a superior level* is given to the laureate of a comparative test for a function which has been declared vacant.

II. D Retirement benefits

The retirement benefits schemes are the same for all civil servants at central administration[37] level of all entities. The regime is fixed at federal level. This ensures a maximum coherence and ensures also an follow-up of the career determining the pension.

---

[36] The Walloon Region aims to change its code in 2008.

The disadvantage of such a system is that higher wages at federated level lead to higher pensions, a burden to be carried quasi exclusively by the federal level indebting in this way even further the federal budget

A main cross-entity challenge remains the pension benefits for employees engaged on a contract basis. They continue to fall under the private employees benefits scheme which has a less advantageous regime: statutory employees have a pay-as-you-go pension based on the earnings of the last 5 years in active service and provides a basic maximum pension that is in most cases than the equivalent in the private sector which is calculated on the entire career of 45 years. Plans do exist to foresee a second pillar pension scheme (as in the private sector) for those contract based public employees.

Another cross-entity challenge which will affect the cost of pensions is the ageing factor which means that in a relatively short period of time (10 – 15 years from now), more employees than the normal % will be retired[38]. If one takes into the account the age pyramid – which is no longer a pyramid – this means that fewer young civil servants will have to pay for the pension benefits which of course is impossible and will shift the burden to the (federal) Treasury.

II. E Relations

As stated before, an Inter-Ministerial Conference between ministers of the 6 central governments who were given equivalent competencies is the forum where discussions and exchange of experiences happen. For the rest there's no formal co-operation or consultation between national government and sub-national government administrations concerning pay setting and pay bargaining.

There's no national government organisation charged with assessing and/or evaluating the sub-national government practices and experimentations at the central level and ways of diffusing good practices and processes.

However, there's formal bargaining with trade unions, and it takes place at central level and at sub-central levels. In Flanders, the head of the Agency for Government Personnel is at present times also the official negotiator with the trade unions on behalf of the Flemish government.

PART III - THE EFFECTS AND CHALLENGES

III. A Status quo and recent changes

A value-based assessment of the effects of decentralised functions and services is hard to make since it has been the political choice to give constitutional autonomy to each entity and to keep cross-entity coherence or "national" interference limited to what is provided for in the Special Laws and other laws and by-laws.

Furthermore the tendency is to enhance the federalisation process in that sense that more and more responsibilities are devolved to the Regions and Communities whereas the final outcome or goal of it is still undecided and is now subject to discussion and negotiations.

---

37 This is not always the case. At Flemish level for instance, the pensions of all civil servants from agencies and autonomous bodies – statutory and on contract basis – are managed by the "Pool of Para - Public Bodies" where the entitlement is also composed of employers' contributions.

38 For the federal level this means that nearly 39% of its effectives will leave within 10 till 15 years time

III. B Aggregated volume of public budgets and/or activities

There are no Flemish data available that could give a reasonable estimation of the impact of decentralised functions and services on the aggregated costs of public activities and the overall size of the public employment. Yet, there is a perception and some indications that there is enough staff on the whole, but that it is not well distributed. Some entities really need more staff, others could do with less.

The Brussels Capital Region has over 7,000 civil servants employed at the Ministry of Brussels Capital Region and several public bodies of general interest. The Brussels Metropolitan Network has more than 6,000 staff.

The transition of competencies to the Region has lead to an increase in staff numbers within Brussels Capital Region. The Ministry had 200 civil servants in 1990, today it counts 1,700 staff. Of course the number of missions and assignments have increased. The ultimate consequence however is that staff cost and resources for functioning have increased as well considerably since 1989.

III. C Structural issues

As a result of the several devolution "waves", civil servants were moved from the federal to the regional and community levels. At these levels new civil servants were recruited to supplement the older ones as well as, inter alia to work on new tasks. Both developments should be reasonably deductible from the demographic features of the personnel figures. The OECD Peer Review on the HRM of governments in Belgium, stated that more than 40 % of the federal workforce is older than 40 years. An almost similar age profile can be found within the Flemish authority (46% is 45 years or older; 17 % is 55 years or older). The increasing participation of women in the labour market during the past two decennia has resulted in a growing recruitment of women. At present 52 % of the workforce of the Flemish authority is female.

As stated earlier, regions and communities have constitutional autonomy, but they are still required to comply with the Royal Decree (RD) (by-law) of 22 December 2000 on the applicability of the general principles of the administrative and remunerative statutes for national public servants to staff of regional and community authorities and services (replacing a previous RD of 26 September 1994). This RD restricts the operational flexibility for regions. The standard of the RD remains the (in principle lifelong) statutory employment but in Flanders only 60 % of the civil servants have a statutory employment. The RD stipulates also that the functional remuneration is linked to the function level and the diploma requirement. As also stated earlier, the Flemish authority has started with a limit performance remuneration approach which allows managers to grant employees a bonus.

The organisation structure of the *Flemish authority* grew in accordance with the addition of new competencies due to the institutional reforms. The above-mentioned BBB-reform aimed at improving the internal consistency. The structural changes are now followed by a phase that focuses on cultural improvements (more internal cooperation, more continuous improvement). The ageing of society is challenging the Flemish authority due to the increase of retirements and the labour shortage. One way to address this challenge includes the assessment of the current governmental services and the way these services could be provided in the future at an appropriate qualitative and qualitative level.

Since June 2007 the further clustering of related competences at the same policy level is subject of ongoing negotiations. As the outcome of the negotiations remains a black box, it is hard to predict any future challenges.

The *Ministry of Brussels Capital Region* is composed of members of staff coming from different backgrounds: from federal public services, from the province of Brabant[39] and the former Greater Brussels Agglomeration.

The age pyramid causes problems, but although Brussels Capital Region has probably the youngest corps of civil servants, ageing remains by far the most important challenge. In order to avoid structural problems lon term planning is necessary. One of the questions that arises is what kind of employment is to be put forward: statutory or contract based. It's to be noted that Brussels Capital region has already a very high %of contract based labour (50 % of the staff).

On gender issues, women are well represented at all 5 levels (more than 50%) but as a whole men are in the majority. This can be explained through the fact that specific regional tasks – like waste disposal and removal (more than 2,000 staff) and the Fire Brigade (more than 1,000 staff) – are more men-orientated.

The remuneration system is a traditional system: the salary depends on the level, the grade and seniority. Within the salary scale, annual or biannual raises are foreseen. There's no performance related pay.

In the *Walloon Region*, employment is in majority male and statutory: In the Ministry of the Walloon Region 53% of the functions are occupied by men and 47% by women and 68% is statutory employment versus 32% on contract basis; In the Ministry of Equipment and Transport 62% are occupied by men and 38% by women and 61% is statutory versus 16% on contract basus and contractuels et 23% auxilliary workers.

Ageing is also one of the challenges of the Walloon civil service. It's a difficulty (knowledge transfer, war on talent) and an opportunity (reflexion on the effectiveness and efficiency of public servicing, outsourcing, work volume, attractiveness of the civil service). These elements are being integrated gradually in the modernization reforms and the statute of the civil servants: fusion of ministries, more power to the managers, replacement policies, career reforms.

III. D Labour costs

III. E Human Resource Management

In *Flanders* the recruitment and retention of good staff, especially at policy levels, is increasingly problematic. The whole career and reward system should be revised. Blueprints have been developed since a long time, but the implementation hardly started up. In the blueprints the increasing impact of management was not acceptable for the labour unions. The underlying lack of confidence makes it a tricky issue that however needs to be handled soon. Furthermore, There is a large diversity between the entities and sectors of the Flemish government services, both in capacity and competencies. Central capacity is not yet sufficient to compensate for this.

For some entities budgetary an regulatory restraints make it very difficult to optimize their workforce. Furthermore, Flemish and local public services do not work within the same framework so that the variety in performance is even larger in the local authorities than in the Flemish services.

A recent PhD research has revealed that the political interference in the public management remains a huge challenge, even after the administrative reform in Flanders (BBB).

Brussels Capital region organises itself in an autonomous way its contract based entries or recruitment. Statutory recruitment remains the prerogative of SELOR. SELOR organises the general selection, and then

[39] Which was split up in a Flemish part and a Walloon part in 1995.

the Brussels Capital Region Ministry organises an supplementary test. Collaboration with SELOR is seen as not so adequate.

Through the years, the Ministry and the public bodies of general interest within the Brussels Capital Region Construction have elaborated a proper HR-experience.

In the *Walloon Region* the nature of administrative professions has considerably evolved the last few years: there's an evolution from Weberian bureaucratic civil service focused on procedures towards a dynamic civil service, focused on servicing and results. This creates a greater need for specialized functions instead of generalist functions and at the end it puts into the spotlights the added value of the civil service career based system as designed by the Camu statute. Traditional recruiting by comparative selection tests are being put to the test in that way that the Region backed by SELOR is now adding additional tests aiming at selecting people that are matching better with the needs of the administration.

Nevertheless, this awareness has to put up with obstacles: the possibility to recruit engineers, architects, lawyers, IT-professionals,… are limited. Reflexions on the attractiveness of the civil service and how to tie personnel to the organisation are being organized and have already led to concrete measures (career reforms, communication strategies, HRM etc.) At present days, performance related pay remains inexistent.

III. F Relations between national and sub-national government administrations

Transfers between the entities was always a direct result of a devolution of competencies from the federal level towards the Regions and Communities: if the competencies are transferred so are the resources (see also footnote [xix]).

Voluntary mobility between administrations not related to the devolution of competencies is rare and was more like a individual settlement. However, a recent by-law of the 15th of January 2007 installs an intra-federal mobility system. Such a mobility is only possible if certain statutory conditions are met, but it does not confere a right to be transferred to another federated entity since it's the prerogative of the administration of destination to decide wether or not to confere the vacancy to that agent who applied for this job by intra-federal mobility. Furthermore, the different entities on their side have to prepare executing by-laws.

At present, the Flemish Government has approved the intra-federal mobility opportunity and made it operational for its employees.

In the mean time, the federal recruiting agency SELOR is preparing an IT- platform so that different databases can communicate on vacancies. Later this year, there will be an information campaign towards all services and the civil servants.

In the *Walloon Region*, mobility represents an important part of the reform of the civil service code which is being prepared. The goal of this reform is to facilitate alls forms of mobility between services of the different regional, community and federal governments. Mobility within the ministry needs also to be tackled, the goal being to clarify and to rationalize rules related to the assignment of civil servants without hindering the possibilities for mobility for the statutory personnel.

Such increase in possibilities for mobility should indeed contribute to a more rational management of HR.

Discussions on economic policies and employer strategies between the federal level and the other entities are (to be) organized within the Inter-Ministerial Conferences (see also end-of-page note n° [xx])..

CHILE

PART I - THE CONTEXT

I. A Which are the sub-national governments?

The State of Chile is a unitary republic with a presidential regime and a democratic, multi-party political system in which unipersonal and collective authorities are periodically renewed. The republican nature of the State of Chile is reflected in the autonomous and balanced functioning of the three main powers: executive, legislature and judiciary.

Executive power is vested in the President of the Republic, who performs the functions of head of state and, as head of government, also sets policy with the support of an elected political majority. The government, headed by the President, comprises ministries, regional governments (*Intendencias*) and municipal governments and national and decentralised public services. Ministers are the President's direct and immediate collaborators in governing and administering the state while public services are responsible for meeting the collective needs of the public on a regular, continuous basis. These services report to or are supervised by the President through the corresponding ministry whose policies, plans and programmes they implement.

Chile is divided into 15 regions of which 13 were created in the 1970s and two at the beginning of 2007. These regions are subdivided into 51 provinces which are, in turn, subdivided into comunas or municipalities, of which there are 346.

Within the structure of Chile's public institutions, there are two types of bodies are recognised as sub-national governments. These are *Regional Governments* **(**GOREs**)** (of which there are 15) and *Municipal Governments* (345).

A GORE is the senior administrative body in a region and its main purpose is to promote the region's social, cultural and economic development. It comprises essentially an *Intendente* (regional governor) and a *Consejo Regional*, CORE (Regional Council).

The GOREs are responsible for land-use planning and the promotion of the region's economic, social and cultural development. For these tasks, they have decision-making, regulatory, supervisory and executive powers.

- Their decision-making powers include the approval of the region's development plan, its urban development plans and its metropolitan, inter-municipal, municipal and neighbourhood zoning plans. In addition, it is responsible for managing the region's operating and investment budget received through the *Fondo Nacional de Desarrollo Regiona*l, FNDR (National Fund for Regional Development).
- By law, the GOREs have regulatory power and are allowed to issue regional norms on matters within their area of responsibility. However, this power is rarely exercised because its area of action has not been defined.
- The GOREs' executive powers include all those required to implement programmes and a region's budget and are vested in the *Intendente* as its executive authority. The implementation of programmes and projects financed by the regional government is delegated to municipalities and/or public services (technical units) through agreements between the parties.
- GORES are also responsible for drawing up policies, plans and programmes.

*Intendentes***,** who are appointed by the President of the Republic, are the executive authority of regional governments and chair its CORE. In other words, they are both the representative of the central

government in the region and, at the same time, responsible for co-ordinating and implementing the region's policies.

COREs are elected indirectly by the region's municipal councillors grouped by the provinces into which the region is divided. The CORE has decision-making, regulatory and supervisory powers and is responsible for approving the region's development plans and its budget, which must be in line with the country's national development policy and the national budget. In addition, on the basis of a budget drawn up by the *Intendente*, they have decision-making power over the investment of resources provided through the FNDR.

The different regions vary widely in terms of population size. The Santiago Metropolitan Region (the seat of the country's capital) is the largest with 40% of the country's population, while the smallest is the Aisén del General Carlos Ibáñez del Campo Region with 0,6%.

The country's *municipal governments* are autonomous entities with legal status and their own assets. Their objective is to satisfy the needs of the local community and ensure its participation in economic, social and cultural progress. They comprise a Mayor as their senior authority and a *Concejo Comunal* (Municipal Council**)** as the decision-making, regulatory and supervisory body.

The decision-making powers of municipal governments include approval of the municipal budget, the municipality's zoning plan (which forms part of an inter-municipal zoning plan), its neighbourhood zoning plans and its development plan.

The Municipal Council exercises its regulatory powers at the request of the mayor and must approve the implementation of municipal norms and the regulation that establishes the municipal government's internal organisation.

The Council can supervise the actions of the mayor and of municipal officials and may request a mayor's removal in the case of a clear failure to comply with duties.

Executive powers are vested in the mayor and include all those required for the municipal government to operate and provide services efficiently.

The sizes of the municipalities vary from 698 732 (Maipú) to 276 (Ollagüe) and 102 (Antarctic).

I. B The distribution of responsibilities

The regional level

Each region has a Regional Government (GORE) whose main function is the region's administration and whose objective is the region's social, cultural and economic development. For this purpose, regional governments have legal status and their own assets. Its principal functions are:

- *Land-use*: to establish policies and objectives for the integrated and harmonious development of the region's system of human settlements and, along with the corresponding national and municipal authorities, to co-ordinate support for investment programmes and infrastructure projects in the region while, at the same time, to safeguard the protection, conservation and improvement of the environment, adopting measures appropriate for the situation existing in the region;
- *Promotion of economic development*: to contribute, from the perspective of the region, to the design of national economic development policies, establishing priorities for the promotion of different economic sectors and ensuring the rational exploitation of natural resources in co-ordination with public and private bodies; in addition, to promote scientific and technological research;
- *Social and cultural development*: to establish regional priorities for the eradication of poverty which are compatible with national policies; to participate with the corresponding authorities in

initiatives to facilitate the access of poor people in remote areas to healthcare, educational and cultural services, housing, social security, sports and recreation, and legal assistance programmes.

The important changes that have taken place over the last ten years include Law 20.035 (2005) which transformed the FNDR - regional governments' main source of financing - from a compensation fund into a development fund, allowing it to be used not only for investment in social infrastructure but also for programmes to promote innovation and economic development. The staffing structure of regional governments was also modified through the incorporation of a head of division (forming a new division)[40], thereby enabling regional governments to take on two new functions: regional planning[41] and land-use decisions[42].

A constitutional reform of regional administration, currently before Congress, would mean the election of regional councillors by universal suffrage and would also facilitate the transfer of powers from the central government to regional governments. A second bill, also before Congress, would introduce the administrative changes required by this reform such as: a) incorporation of new provisions on the procedure for transferring powers; b) re-design of the administrative structure of regional governments; and c) the definition of planning and land-use decisions as the exclusive responsibility of regional governments.

The municipal level

The purpose of a municipal government is to satisfy the needs of the local community and to ensure its participation in economic, social and cultural progress. To this end, municipal governments have legal status and their own assets.

Municipal governments have the following exclusive functions:

- the design, approval and modification of the municipal development plan;
- the municipality's planning and regulation and the preparation of its zoning plan;
- the promotion of community development;
- the enforcement of public transport and traffic regulation;
- the enforcement of norms on construction and the corresponding public services (such as electricity and water supply);
- street cleaning and embellishment.

They also have shared functions that include:

- education and culture;
- public health and the protection of the environment;
- social and legal assistance;
- training services and the promotion of job creation and economic development;
- tourism, sports and recreation;
- public services and urban and rural roads;
- construction of social housing and water-services infrastructure;
- public transport and traffic;
- risk prevention and assistance in emergencies or catastrophes;

[40] Structure of regional governments, Law 19.175, Article 68.

[41] Transfer of power from the Planning Ministry to regional governments.

[42] Transfer of power from the Housing and Urban Development Ministry to regional governments.

- support and promotion of prevention measures for the protection of public safety and collaboration in their implementation;
- promotion of equal opportunities for, among others, men and women.

The main political change that has occurred in the last ten years as regards municipal government is a result of Law 19.737 (2001) which modified Law 18.695[43] and established the separate election of mayors and municipal councillors.

An important financial change was introduced by Law 20.033[44] (2005) which modified a number of laws[45]. This included norms to promote the modernisation and transparency of municipal management by, for example, authorising municipal governments to receive taxes and other levies via Internet or other electronic means. It also stipulated that the administration and finance department of municipal governments must provide the Municipal Council with details of the liabilities of the municipal government and its corporations and provide public access to a monthly register of expenditure.

In addition, this law established the amount above which agreements and contracts must be approved by an absolute majority of the Municipal Council and that contracts with a duration exceeding a mayor's term of office require a larger majority. In addition, it introduced new norms for reviews of the taxable value of agricultural and non-agricultural real estate that would mean an increase in municipal revenues.

In the case of the fiscal funds received by municipal governments, this law also introduced a change by establishing a permanent annual contribution paid directly into the *Fondo Común Municipal*, FCM (Common Municipal Fund). In this area, it was complemented by Law 20.280 which corrected some unexpected effects of Law 20.033.

Law 20.037, which came into force in December 2007, modified the structure of the FCM while Law 20.247 (January 2008) increased fiscal funding for municipal education. A further norm affecting municipal finances authorised the payment of advances by the central government to cover liabilities resulting from the management of municipal education and redundancy compensation for teachers taking retirement.

In 1997, Chile's Political Constitution was changed to authorise municipal governments to modify their administrative, staffing and pay structures. A bill to regulate these new powers, contained in Article 121 of the Constitution, was presented to Congress at the end of 2004. Two important amendments have been proposed and the bill is currently before the Senate in the first stage of its passage.

This initiative would regulate of a number of issues in order to permit the practical implementation of Article 121:

- *Internal organisation of municipal government*: Within a general framework established in this bill, municipal governments would be able to establish their own organisational structure (divisions, departments, units) in line with the particular characteristics of the municipality.
- *Creation and elimination of posts*: The bill would also allow municipal governments to eliminate posts and create new ones providing they respect the restrictions and the conditions it would impose and, particularly, those designed to adequately safeguard employee rights.

---

[43] *Ley Orgánica Constitucional de Municipalidades* (Constitutional Law on Municipal Government).

[44] Law known as *Ley de Rentas Municipales II* (Law on Municipal Income II)

[45] Such as Law 17.235 on territorial taxation, Decree Law 3.063 on municipal income and Law 18.695 (Constitutional Law on Municipal Government).

- *Wage setting*: The bill would allow municipal governments to set employees' pay, including fixed and variable (performance incentive) components and redundancy compensation, within an upper limit on their total wage costs.
- *Local and supra-local collective bargaining*. The bill envisages a regulated process of negotiation of working conditions and wages between municipal governments and their employees.
- *Probity and transparency:* As a necessary complement to the new municipal government powers contained in Article 121, the bill includes provisions to increase the transparency and accountability of municipal administration and the exercise of the authority of mayors and councillors.

I. C The financial arrangements

Regional level

Fiscal decentralisation to regional governments is based on the transfer of resources from the central government to the regions through funding for specific purposes - known as provisions - and through the FNDR in which case their use is determined by the regional government. Other revenues, such as income from mining patents, which must be used for social development and public infrastructure, serve as a variable that allows regional governments to adjust their budgets.

The financing regime of regional governments is part of their so-called assets and budget system. To this end, Law 19.175 establishes that "the national budget law will assign each regional government the resources required for its financing" and specifies the nature of their annual budget: "their budget will represent, annually, the financial expression of the region's plans and programmes adjusted in line with national development policy and the national budget".

The *National Fund for Regional Development* (FNDR) is regional governments' main source of financing and its objective is regional development and, to a lesser extent, the counterbalancing of regional differences. It is used to finance initiatives in different areas of a region's social, economic and cultural development, with the aim of ensuring harmonious and equitable development throughout the country.

In determining the FNDR's distribution among the different regions, their rate of poverty and extreme poverty, measured in absolute and relative terms, has a 50% weight. The remainder is determined by one or more indicators of a region's geographic characteristics which affect the access of its inhabitants to services, and the differing costs of road paving and construction.

The fund's distribution and regulation is established by a Supreme Decree, issued by the Interior and Finance Ministries, and its expenditure requires a favourable report from the national or regional planning authority.

In addition to financing through the FNDR, regional governments receive transfers from the central government - provisions - that are tied to specific uses. These include, for example, the *Fondo de Infraestructura Educacional*, FIE (Educational Infrastructure Fund), *Programa de Electrificación Rural*, PER (Rural Electricity Supply Programme), *Programa de Fortalecimiento Institucional*, (Institutional Strengthening Programme) and the *Programa de Mejoramiento de Barrios*, PMB, (Neighbourhood Improvement Programme).

Most taxes, including real estate taxes and other levies, are paid to the central government even when they legally correspond to the respective regional and/or municipal governments and form part of their assets.

In the case of mining patents, for example, the corresponding law, which has only one article, indicates that an amount equal to their proceeds must be distributed among the country's regions and municipalities, with 70% being incorporated into the funding from the FNDR received annually by the region in which the mining operation is located, and the remaining 30% being paid to the corresponding municipal governments for investment in development infrastructure.

Similarly, the annual patent that aquaculture concession and permit holders pay under the *Ley General de Pesca y Acuicultura* (General Fishing and Aquaculture Law) is distributed to the corresponding regions and municipalities. Half of this amount is included in the annual funding received through the FNDR by the region where the concession is located while the other half goes to the corresponding municipality.

A new law on casinos (Law 19.995) also establishes that tax revenues from this activity will be distributed to municipal and regional governments. In this case, half of the proceeds go the corresponding municipality for use in financing development infrastructure and the other half to the respective regional government.

Other sources of finance from regional taxes are envisaged in Article 20, Nº19 of Chile's Political Constitution, but the enabling legislation needed to levy these taxes has not been established.

Municipal level

In municipalities, the budget is, by preference, drawn up by the municipal government and its different bodies. In this case, the budget is the sum of the municipal budget as such and of its budgets for education, healthcare and cemeteries. It must be approved by the Municipal Council.

Municipal income or revenues are regulated by Decree Law 3.063 (1979) and its subsequent modifications, and by the *Ley Orgánica de Municipalidades* (Law 18.695) and other special laws.

- Income from municipal assets. This corresponds to income from the rental, concession, sale or auction of the municipal government's real estate and other assets as well as income generated by municipal companies and public services. It includes refuse collection charges, income from drinking-water services, vehicle road tax, municipal patents, commercial patents, temporary patents, professional patents and patents for the sale of alcohol.
- Fiscal contribution. Under the annual fiscal budget, the country's municipal governments receive an allocation that is paid into the FCM.
- Real estate tax: The proceeds of this tax, established under Law 17.235, go entirely to the municipal government of the area in which the property is located.
- *Fondo Común Municipal*, FCM: Chile's Political Constitution defines the FCM as a "mechanism for redistributing the income of the country's municipal governments". Under Law 18.695 (Paragraph 3, Article 14), the FCM is designed to "guarantee the fulfilment of the objectives of municipal governments and their proper functioning". Out of the FCM, 90% is allocated on the basis of a distribution formula.
- Other income. This is generated by, for example, charges for the use of public property for advertising, for driving licences and the corresponding tests and for vehicle sale registration.

Sub-national government debt

Municipal governments are not authorised to borrow but, subject to Finance Ministry approval, may use two financing mechanisms - leasing and leaseback[46] - that imply the use of debt as an important financing mechanism.

- *Leasing*: This allows municipal governments to acquire equipment and property for which they lack immediate funding.
- *Leaseback*: Through this mechanism, they can obtain liquidity by selling a property to a financial institution with a fixed-term repurchase agreement.

[46] Deferred payments: Under Article 19 bis of Decree Law 1.263 (1975), which was replaced by Nº3 of Article 1 of Law Nº19.896, deferred payments cannot be used in contracts for public works or other contracts indicated in Article 10 bis.

As a general rule, regional governments are not permitted to raise debt.

Financial transfers against national taxes

Financial transfers from the central government to municipal governments are governed by laws that, as a general rule, permit the payment of advances against either the FCM or the fiscal budget for liabilities arising from educational services and related redundancy compensation.

Advances of this type are not used for regional governments because their budgets form part of the fiscal budget.

Principal challenges

The most important challenge at municipal level is to stabilise municipal finances and reduce the deficit on services, such as education and healthcare, whose management was transferred to municipal governments.

The challenge at regional level involves fiscal decentralisation and the achievement of greater progress in the transfer of resources to regional governments through an increase in funding not tied to specific uses while diminishing transfers for specified uses (provisions).

PART II – HUMAN RESOURCE MANAGEMENT ARRANGEMENTS

II. A Establishment

Municipal level

Traditionally under Chile's political constitution, all decisions relating to the creation or elimination of public posts, including those in municipal governments, require legislation which can only be proposed by the President. This is also the case for matters relating to the setting or modification of pay or other economic benefits for public employees and to the administrative structure of public services.

However, a radical change was introduced in this area in 1997 when Article 110, now Article 121[47], of the Constitution was modified as it affects municipal governments. Article 121 allows them to modify posts, pay and their administrative structure on their own decision without requiring legislation. As stipulated by Article 121, a new enabling law is now required to define the terms on which municipal governments may exercise these new powers, establishing limits, requirements and conditions, and, in other words, regulating the administrative implementation of Article 121 by municipal governments.

This enabling legislation is currently before the Senate's Government, Decentralisation and Regionalisation Commission in the first stage of its passage through Congress. Until it is approved, municipal governments will not be able to exercise these new powers.

The Comptroller General's Office supervises the legality of administrative procedures and legislation regulating contractual relations between municipal governments and their employees.

Reforms at municipal level: In this case, these are the legal modifications required for the implementation of Article 121 as discussed above.

---

[47] *"Article 121.- In compliance with their functions, municipal governments may create or eliminate posts and set remunerations as well as establishing the bodies or units permitted under the respective constitutional law. These powers will be exercised in accordance with the limits and requirements determined by the constitutional law on municipal government presented on the initiative of the President of the Republic."*

Regional level

The *planta* (staff) of regional governments are subject to Law 19.379 and the application of Law 18.834 as established in Article 27 of Law 19.175. However, the statutes governing public sector employees permit different hiring mechanisms, including *contrata* (temporary contract) and *honorarios* (billing for professional services) that provide some degree of flexibility in an institution's technical staff.

Since regional governments are permitted to modify their level of staffing, control is exercised principally through the budget law and the respective annual staffing law of each regional government. In addition, like municipal governments, regional governments are subject to supervision of the legality of their administrative procedures.

II. B Employment systems

Municipal level

Municipal governments' system of employment is governed by a number of different laws. Law 18.883, which was last modified in December 1999, applies in the case of municipal employees. However, municipal governments are also responsible for municipal education[48] and teachers are subject to Law 19.070 while, in the case of the primary healthcare services administered by municipal governments and their employees, the corresponding regulation is contained in Law 19.378.

Although most municipal employees are subject to special statutes, there is also a group subject to the country's general Labour Code, either because they provide services or hold administrative posts in education or healthcare services.

- The statute governing municipal employees applies to the staff[49] of municipal governments as well as to employees on temporary contracts[50] in all matters intrinsic to their jobs. The total remunerations of temporary employees cannot exceed 20% of a municipal government's total wage costs. In addition, the statute permits the hiring of professionals who bill for their services[51].
- The statute applying to healthcare services regulates personnel hired on long-term and indefinite-duration contracts. As in the case of municipal employees, it permits the hiring of staff, temporary employees and professional services.
- The statute applying to education regulates the professionals who work in primary and secondary municipal schools and in technical-professional education.

Regardless of whether the regulatory system is municipal or for healthcare or educational services, staff are hired through a competitive public process in accordance with the norms established by the corresponding statute while, in the case of short-term hires and professional services, this is at the discretion of the corresponding authority who, in these cases, is the mayor.

---

48 Primary, secondary scientific-humanistic and technical-professional schooling and adult education.

49 Staff (*planta*) correspond to those posts that make up the stable organisation of a municipal government and may only fulfil functions indicated in Law 18.695.

50 Temporary employees (*contrata*) correspond to posts fulfilling functions created by the municipal government; these contracts can last up to one year and only until December 31 of each year but can be extended thirty days before their expiry.

51 Professional services (*honorarios*) can be provided by professionals and technicians with a higher education qualification or experts in some areas when these services are of a temporary nature and not part of the habitual activities of the municipal government; they are hired through a decree issued by the mayor; foreigners may also be hired providing they possess a qualification in the required area. People providing professional services are governed by the terms of the respective contract and are not subject to the administrative statute for municipal employees.

Educational professionals who are hired competitively are preferred to as *titulares* while those on temporary contracts are referred to as *contratados*.

Although hiring is through a competitive public process, firing is the result of an internal investigation that establishes this as one of its sanctions.

The *training system* and its corresponding statutes ensure that employees receive training. This is divided into three types: a) training related to promotion and the needs of a new post; b) training to improve performance in an existing post; and c) voluntary training that reflects the interest of an employee and is not tied to a particular post.

The *evaluation system* is designed to evaluate an employee's performance and aptitudes from the perspective of the demands of his/her post and serves as the basis for promotions, incentives and firings. Evaluations are annual and fall into four categories: 1, distinction; 2, good; 3 conditional; and, 4 firing. They are carried out by an employee's immediate boss and an evaluation commission must exist.

Regional level

Employment in regional governments is regulated by Law 18.834, known as the *Estatuto Administrativo* (Administrative Statute), which is very similar to that for municipal governments. However, the Executive Secretary of the Regional Council CORE) is subject to the Labour Code.

The Administrative Statute applies to staff of regional governments and temporary employees are also subject to this statute in all areas intrinsic to their posts. Temporary employees may not represent more than 20% of a regional government's wage costs. The statute also permits the hiring of professional services.

The systems for hiring, firing, training and evaluation are the same as those for municipal governments.

Flexibility

Flexibility in municipal and regional governments is provided mostly through the hiring of temporary employees and professional services. However, this flexibility is limited by norms on temporary employees, who may not exceed 20% of wage costs, and on the type of work that can be undertaken in the form of professional services as well as by the availability of financing.

In the case of regional governments, flexibility is estimated at around 30% and, for municipal governments, 55%.

Significant differences: national and sub-national levels

Differences at the municipal level arise mainly from the labour regulation to which employees are subject, depending on whether they work in healthcare, education or some other municipal service. This means that the legal nature of their contracts is different.

Municipal employees are governed by Law 18.833 and, in this case, there are no significant differences and, when they occur, refer principally to staff employees and wage benefits.

Employees of regional governments are subject to the same administrative statute as central government employees and their pay scale, the Escala Única de Remuneraciones (EUR), in which there are not significant differences.

Transfer of responsibilities

This factor has had no impact on municipal governments in the last ten years since there has not been any transfer of responsibilities. In the case of regional governments, additional human resources have been incorporated under the budget law in line with new responsibilities.

Some regional and municipal governments are implementing the concepts of strategic planning and systems of skill management. A pilot plan for skill-based training was implemented in 15 municipal

governments in 2007 while, in the case of regional governments, the Interior Ministry's Undersecretariat for Regional Development (SUBDERE) is currently designing an accreditation system

Reform Challenges

The Constitution gives municipal governments the power to determine their own organisational structure (staffing) subject to enabling regulation for the implementation of this power (currently before Congress). Rulings issued by the Comptroller General's Office indicate that, until Article 121 is duly regulated, the staffing of municipal governments and its modification remain the prerogative of the President of the Republic. However, this has been applied only in the case of the new municipalities that have been created and of general restructurings.

The bill to regulate the new municipal powers envisaged in Article 121 of the Constitution (Message 223-352) was presented to Congress in late 2004 and two important amendments have been proposed. The bill is currently before the Senate in the first stage of its passage but which the Senate rejected in principle in August 2008.

It would regulate a number of issues required for the practical application of the powers granted to municipal governments under Article 121:

- *Norms on the internal organisation of municipal governments*: To regulate the power of municipal governments to determine their own organisational structure (divisions, departments, units) depending on the characteristics of the municipality, within the general framework proposed by the enabling law;
- *Norms on creation and elimination of posts*: to regulate the power of municipal governments to eliminate posts and create new ones providing they respect the restrictions and conditions that the enabling law would impose and, particularly, those designed to adequately safeguard employee rights;
- *Norms on wage setting*: to regulate their power to set employees' pay, including a fixed and variable (performance incentive) component and redundancy compensation, within an upper limit on total wage costs;
- *Norms on local and supra-local collective bargaining:* to regulate the process for negotiation of working conditions and wages between municipal governments and their employees;
- *Norms on probity and transparency*: provisions to increase the transparency and accountability of municipal administration and the exercise of the authority of mayors and councillors as a necessary complement to the new municipal government powers contained in Article 121.

No initiatives are currently envisaged at the regional level.

II. C Remuneration and other employment conditions

Degrees of freedom in determining working conditions

In both municipal and regional governments, wages are based on a scale of pay and associated benefits. All new hires must be fitted into this scale as well as the system for promotion.

When a person is hired either as staff or in another category, the functions that he/she will be expected to fulfil are stipulated in the corresponding appointment resolution and there are, therefore, no major differences between the national and sub-national systems, except as regards the resources assigned to each level of the administrative hierarchy.

The organisation of municipal governments is determined by their staff structure which, in turn, determines pay and working conditions, depending on position within the administrative hierarchy. This also permits the existence of a system of promotion, which is defined as an integrated system for the regulation of

employment at the municipal level that applies to all competitively-hired staff members. This is grounded in hierarchical, professional and technical principles that guarantee equality of entry opportunity, the dignity of municipal employees and their objective evaluation on the basis of merit and seniority.

The pay scale is based on administrative hierarchy, divided into division directors, professionals, heads of department, technicians, clerical staff and support staff. On this basis, staff members have a right to receive a basic wage[52] and remunerations[53]. Other benefits such as expenses for work trips, transport, overtime, seniority and family benefit, etc. also exist.

The arrangements at the regional level are similar to those at the municipal level.

The principal reform proposals are those described above in the modifications to Article 121 of the Constitution.

II. D Retirement benefits

Since 1982, public employees in Chile (at both the central and sub-national levels) and private sector employees have shared the same pension system. This is based on individual savings accounts into which they must pay a monthly amount equivalent to 10% of the part of their earnings liable for social security contributions up to 60 *Unidades de Fomento* (UFs)[54]. These assets are managed by private companies known as *Administradoras de Fondos de Pensiones*, AFPs (Pension Fund Administrators). The system is regulated by Decree Law 3.500 (1980) issued by the Ministry of Labour and Social Security.

The savings accumulated in these accounts during an individual's working life, plus the yield on their investment in the financial market, determines a retiree's pension.

Under Decree Law 3.500, people who were contributing or had contributed to one of the previous system's institutions were able to choose whether to remain in that system or switch to the new one. As a result, there are still some sub-national government employees covered by the old system (which is gradually disappearing) who are not subject to the norms of Decree Law 3.500.

Employees and members of the armed forces and the police services have their own pension system which is different to the general system.

II. E Relations

Public employees, including those in municipal governments and Congress, have a recognised right to create the employee associations they deem convenient, without prior authorisation and subject only to compliance with the law and the corresponding statutes (Law 19.296). The principal functions of these associations are to:

- promote the economic progress of their members and the improvement of their living and working conditions within the framework of the law;
- contribute to the material and spiritual improvement of their members as well as their recreation and leisure and that of their families;
- report to the corresponding authorities any failure to comply with norms;

---

[52] Basic wage: This is the part of remunerations paid as a fixed amount and for equal periods, allocated to a municipal post in accordance with the level in which it is classified.

[53] Remunerations: This concept includes all wage payments to which an employee is entitled as a result of his/her post or function such as wages, municipal allocation, allocation for geographic area, etc.

[54] An inflation-linked monetary unit.

- represent to the authorities their point of view on personnel policies and decisions that affect personnel, the promotion system, training and other matters of general interest to the association;
- represent employees before the organisations and entities in which the law grants them participation;
- provide welfare measures, guidance and training in the operation of employee associations and training of other types in order to contribute to employee betterment;
- provide assistance and technical advice to members and their families;
- establish, participate in the establishment of, or form partnerships with social security and healthcare institutions, whatever their legal status;
- establish shopping co-operatives.

Under the *Concertación* coalition, which has held office since 1990, it has become the practice for the government to negotiate a general annual wage adjustment with representatives of associations of public employees, including the *Confederación Nacional de Funcionarios Municipales de Chile*, ASEMUCH (National Confederation of Municipal Employees of Chile), the most representative organisation of municipal employees. It should be noted that, on different occasions, the government has also negotiated improved labour practices in the sector.

It is also important to note that the current Article 121 of the Constitution authorises municipal governments, as part of the fulfilment of their functions, to create and eliminate posts, set remunerations and establish their own organisational structure. These powers must be exercised in accordance with the limits and requirements established in the enabling legislation proposed to Congress by the President of the Republic.

This enabling legislation is currently being debated by Congress and an amendment on collective negotiation of wages and general working conditions in the municipal sector has been presented to the Senate's Government, Decentralisation and Regionalisation Commission.

In addition, the Undersecretariat for Regional Development has made available a National System of Municipal Information (www.sinim.cl). This is currently the most comprehensive source of information about the management of the country's 345 municipalities and includes data on budgets, human resources and services that have been transferred to municipal administration as well as a number of management indicators.

Regulation at the regional level is similar to that at the municipal level and relations are channelled through the *Federación Nacional de Funcionarios de los Gobiernos Regionales*, FENAFGORE (Federation of Regional Government Employees), which groups together different associations of regional government employees. On matters of a more political nature, such as the transfer of responsibilities and the dynamics of regional government, the *Asociación Nacional de Consejeros Regionales*, ANCORE (National Association of Regional Councillors) is the regional equivalent of the *Asociación Chilena de Municipalidades*, ACHM (Association of Chilean Municipalities).

In the case of both regional and municipal governments, the Undersecretariat for Regional Development serves as the national counterpart of sub-national governments.

PART III - THE EFFECTS AND CHALLENGES

III. A Status quo and recent changes

There have not been any significant changes related to the transfer of responsibilities to the sub-national level in terms of human resources, staffing levels, legal status, etc. In most cases, programmes are temporary and have financial resources in line with their temporary nature.

III. B Aggregated volume of public budgets and/or activities

In the past ten years, no functions or services have been transferred from the central government to the regional or municipal level.

III. C Structural issues

In the past ten years, no functions have been transferred from the central government to the regional or municipal level.

III. D Labour costs

In the past ten years, no functions have been transferred from the central government to the regional or municipal level.

III. E Human Resource Management

Since 1990, Congress has approved a number of bills presented by different Concertación governments that have improved regulation of the system of municipal government. Among these new laws, the most important include:

- Law 19.097 modifying the Constitution to permit the popular election of municipal authorities;
- Law 19.130 regulating the system of popular election of mayors and councillors;
- Law 19.280 on the staffing of municipal governments;
- Law 19.388 which increased the revenues of municipal governments by modifying the law on municipal income and the law on territorial taxes;
- Law 19.418 establishing new legislation on neighbourhood associations and other community organisations;
- Law 19.704 which again increased municipal revenues:
- Law 19.737 establishing the separate elections of mayors and councillors;
- Law 19.754 creating municipal government welfare services;
- Law 19.777 establishing 99 local courts in different municipalities;
- Law 19.803 which established a system of financial incentives for municipal employees.

The separate election of mayors and councillors as from 2004, together with the successive increases in municipal revenues and growing citizen involvement have created a situation that calls for new and more efficient measures to ensure the transparency and probity of public officials in the exercise of their duties. This makes it imperative for the executive and Congress to address the task of modernising municipal administration and of increasing transparency and supervision in order to render it more agile and efficient in its response to local demands

In Chile, regulation of municipal administration has not traditionally taken account of the diversity of the country's municipalities. There are certainly many challenges that are common to the country's 346 municipalities but there are others that are very different and dynamic and, while legislation on local issues has to some extent taken account of the former, few initiatives have been developed to address the latter.

In line with a constitutional mandate established in 1997 and, in particular, by Article 121 of the Constitution, the government presented a bill to Congress in 2004 that proposes a form of internal organisation for municipal governments that is more in line with present times and with the increased

responsibilities now borne by municipal authorities. This is based on the principle that some basic municipal government activities must necessarily have a corresponding formal structure, defined by the legislator as having to exist in every municipality, regardless of the municipality's administrative and geographic characteristics. These activities include, for example, those relating to internal control and municipal planning.

In all other areas, not considered by the legislator to be part of a municipal government's basic and indispensable organisation, each local authority would have the legal powers to establish the internal structure it considers most appropriate for the fulfilment of its objectives in terms of the public service of its citizens. Ideally, in other words, the particular characteristics of individual municipalities and their diversity would be reflected in the organisation of their government.

In this way, their internal organisation would include the basic minimum structure required by the legislator while, at the same time, reflecting the wide differences that exist as regards, for example, geography and social and economic conditions.

It will clearly not be possible to modernise municipal management and increase its efficiency if this process is not accompanied by more appropriate mechanisms for the administration of human resources, an area in which Chile's municipal governments have historically had a total lack of autonomy. At present, legislation - and all the formalities and debate in Congress that this implies - is required not only for substantial modifications of staffing arrangements across different municipalities but also for the creation of just one new post in the country's smallest and most remote municipality.

In 1997, Article 121 of the Constitution sought to remedy this inefficient situation by transforming the creation and elimination of municipal posts into an administrative decision to be taken by the respective municipal authorities within the limits imposed by the legislator. However, its implementation requires the prior approval of enabling legislation to establish the framework for the exercise of the powers it granted. This is contained in a bill presented to Congress in 2004 but which the Senate rejected in principle in August 2008.

For the same reason, Article 121 also established the setting of wages as an administrative decision to be taken by the municipal authorities. This power would also be exercised in accordance with conditions established by the legislator in the enabling legislation.

These new powers for municipal governments seek to increase their efficiency and ensure better provision of services for the community while, through their proper exercise, guaranteeing improved working conditions and remunerations for municipal employees. The necessary regulation of these powers requires the commitment of the executive to striking the right balance between ensuring that, on the one hand, they serve as an effective tool for improved municipal administration and, on the other, represent advances and consolidation in the working conditions of municipal employees and due respect for their legitimate rights.

In this sense, the logic of the constitutional reform introduced by Article 121 should serve as a guide in the design of a legal framework that enshrines the broad regulatory principles within which municipal governments exercise their new constitutional powers and correctly balances these powers and the pre-existing rights of municipal employees.

In other words, the required regulation should not be flexible and discretionary so as to permit the easy violation of employee rights but not so restrictive and bureaucratic as to render the exercise of these powers impractical and an illusion. In this context, amendments presented to the bill have introduced mechanisms for collective negotiation by municipal employees.

III. F Relations between national and sub-national government administrations

There have not been any significant changes.

DENMARK

PART I - THE CONTEXT

I. A Which are the sub-national governments?

In Denmark there are to kinds of different sub-national governments: the municipalities and the regions. There are 98 municipalities and they are responsible for most of the public service delivery, such as social service, public schools, eldercare, daycare and the employment effort etc. There are five regions that all cover a number of municipalities. The regions are responsible for service tasks related to healthcare. The average size of a municipality in Denmark is 55.880 inhabitants. The largest municipal (Københavns Kommune) has 502.360 inhabitants, whereas the smallest (Læsø Kommune) has 2.150 inhabitants. The largest region (Region Hovedstad) has 1.631.540 inhabitants whereas the smallest (Region Nordjylland) has 577.010 inhabitants. The sub-national governments are all governed by officials who are elected to sit in office for an election period of four years.

The relationship between the sub-national governments and the national government is organised in such a way that the national government through general laws decides the overall level of service that should be provided to the citizens, while the sub-national governments carry out the service. The sub-national governments are relatively free to decide the means they use to provide the service, as long as they live up to the service level the national government has decided. The sub-national governments are also free to decide the local service level as long as it is not in conflict with the general frames and the purposes of the laws coming from the national level. This kind of management is based on performance regulation rather than process regulation and is described in the "ten principles of decentralised management" that was agreed on by the national government and the municipalities in 2007.

Although Denmark is a unitary state, the country has a long tradition for strong local autonomy. This tradition has grown stronger the last decades since the municipalities have become larger and hence have become responsible for more and more service areas. Before 1970 there were a little less than 1.400 municipalities and 25 regions in Denmark. An infrastructure reform was carried through in 1970 primarily because the cities were growing in size, and so many of them grew across the municipalities' borders and spread to several municipalities. Also, the municipalities and the regions were often too small to carry out the service tasks they were supposed to. The number of sub-national governments were therefore with the reform reduced to 275 municipalities and 14 regions, and these governments became responsible for a number of tasks – among others social service (municipalities) and healthcare (regions) - that earlier were taken care of by the state. I 2007 a new reform was undertaken: "The Structural Reform". Again, the aim was to make the sub-national governments larger and thereby making them capable of carrying out more service tasks more efficiently. The number of municipalities and regions was thus reduced to 98 municipalities and five regions.

I. B The distribution of responsibilities

As mentioned above the sub-national governments are responsible for most of the public service delivery to the Danish citizens. The municipalities are today responsible for among other things social service (which includes kindergartens, residential homes for elderly people, primary and lower secondary school), most of the employment effort, rehabilitation centres, special education for adults, some of the infrastructure (such as local roads), local cultural activities and attending citizens in so called citizen centres. The Regions are responsible for most of the healthcare services including hospitals and doctors.

The Structural Reform that was carried out in 2007 had big implications for the way sub-national governments operate in Denmark. The number of sub-national governments was as mentioned before reduced significantly to 98 municipalities and five regions. The general idea behind the reform was to

improve the efficiency of the job solving in the sub-national governments by making them bigger. At the same time more service tasks were transferred to the sub-national governments. Furthermore some of the regions tasks were with the reform transferred to the municipalities. Among these are some of the healthcare tasks. The Structural Reform laid down the way of governing, where the national government decides the general goals and the sub-national governments are free to decide how they want to live up to these goals. It is estimated that the state after the reform carries out 43% of the overall public tasks measured in expenses, while the regions carry out 9% of the tasks and the municipalities carry out 48% of the tasks.

The Structural Reform was a way of increasing the use of shared services. By merging several municipalities into one, the former small municipalities were forced to cooperate in bigger units. Furthermore there are a number of areas where cooperation between municipalities is widespread. The areas include waste disposal, supply of heat and water, education guidance for young people and traffic planning.

Problems of responsibility sharing can occur when the service level guaranteed by the state to the citizens is not fulfilled. In these situations it can sometimes be difficult to determine who has the responsibility: Whether it is the sub-national governments because they are not efficient enough in their job solving, or the state/government because it has not given the municipalities the sufficient funds to carry out the tasks they are made responsible for. In the Quality Reform, which was presented last year by the national government, the continuous work on creating coherence and clearer responsibility distribution was emphasised.

I. C The financial arrangements

The municipalities and the regions are financed in two different ways, which will here be outlined. The municipalities have the right to collect taxes from the citizens. This is where the majority of their revenues come from. The municipalities also earn a considerable income from their own activities: running children day-care institutions, selling land etc. Furthermore the municipalities are given a block grant from the state each year as well as an activity-based grant that depends on how much service the municipalities deliver to the citizens. A part of the financial support the municipalities receive from the government is finally given as reimbursement of certain social expenses the municipalities have (unemployment support etc.).

As opposed to the municipalities the regions have no right to collect taxes. Their activities are instead financed by both the state and the municipalities, who support the regions with a block grant as well as an activity based grant. The main part of the financing comes from the state.

Every year an agreement is made between the national government and the municipalities and the regions concerning the sub-national governments' budget. In this agreement, the block grant is decided as well as a limit for how much money the municipalities can collect in taxes. Until this year the agreement between the sub-national government and the national government was not followed up with sanctions, if the municipalities and regions did not live up to the agreements. There were thus examples of municipalities and regions that broke their agreements with the state. It was therefore decided to sanction the municipalities and the regions if they do not live up to their part of the agreement this year.

The yearly agreements between the government and the municipalities are based on a so-called DUT-system. The system entails that every time a new law is signed or an administrative change is undertaken, the national government and the municipalities negotiate about how the municipalities' budget should be changed accordingly. If the municipalities get extra expenses due to some law, their budgets will be expanded, and vice versa if the municipalities get less tasks.

As a general rule the sub-national governments do not have free access to acquiring debt in order to cover their expenses. The municipalities and the regions can however in some certain cases acquire debt. The

yearly agreement between the national government and the municipalities and regions specify these areas where it is allowed for the sub-national governments to acquire debt. Furthermore as a general rule the municipalities are allowed to acquire debt to finance investments in supply companies (like renovation companies etc.) as long as the expenses and the revenues for these companies are neutral in the long run.

The employees in the sub-national governments are financed by the sub-national governments' incomes. This is also the case when it comes to pensions of the employees. In Denmark the pension system works in the way that an amount of money is transferred from the paycheck to the pension every month. This amount will then be paid back to the employees when they reach the retirement age. One could say though that the salary and the pensions of the employees of sub-national governments are in part financed indirectly by the state, since these expenses are taken into account when the national government and the sub-national governments negotiate their yearly agreement.

Since the income from taxes in the different municipalities varies significantly due to differences in the income of the citizens in different parts of the country, there exists a system to adjust the municipalities' budgets in order to equalize incomes in the different municipalities. In short terms this system transfers money from the rich municipalities to the poor municipalities in order to make sure, that the service level and the tax level is more or less the same for all municipalities.

There exist some challenges in connection to the national government's need for macroeconomic control versus the autonomy of the sub-national governments to decide over their own economy. Since the municipalities and regions have not always lived up to the agreements made with the national government, a reform which makes the agreements formally binding has as mentioned earlier been undertaken.

PART II – HUMAN RESOURCE MANAGEMENT ARRANGEMENTS

As mentioned before, Denmark has a strong tradition for local government autonomy. This tradition applies also to the area of HRM.

Basically, the public sector labour market is divided into three different tiers: State, regions and municipalities. Thus, the social dialogue and the entering of collective agreements on wages and other employment conditions mainly takes place and are negotiated within each of the public sector labour markets.

Accordingly, the overall picture is one of limited central government controlling of sub-national governments actions in the area of HRM. Five "control-mechanisms" deserve mention, though.

First, central government control local government funding and spending. As mentioned in the answers to Part I, this is mainly achieved by means of an annual – voluntary – agreement on the budget for the year to come between central government and the municipalities respectively the regions[55].

Second, informal coordination – albeit not entirely systematic – takes places. The State Employers Authority -- being part of the Ministry of Finance and the central employer in the State sector – has an informal, ongoing dialogue with the associations of the municipalities and the regions. They act – among other things – as central employers in the municipal labour market and the regional labour market.

[55] The association of the municipalities ("Local Government Denmark") negotiates with the Ministry of Finance on behalf of the municipalities to make one collective budget agreement for the municipalities (not to mixed with the collective agreements on wages and other working conditions municipalities make with the unions). Likewise, the association of the regions ("Danish Regions") negotiates collective budget agreements with the Ministry of Finance on behalf of the regions.

Third, the State Employers Authority is represented on the municipal and regional Boards of Wages and Tariffs. These boards act as employer-boards in the municipal and regional labour markets, thus giving mandate to the negotiations with the unions in these sectors. As regards the board in the regional sector, the State Employer has a veto position. This position was given to the State Employers Authority (i.e. the Ministry of Finance) as part of the structural reform mentioned in the answers to Part I of the study. Apart from that, central government efforts to control or influence local governments affairs with regard to HRM was largely unaffected by the structural reform.

Fourth, in the health care sector the National Board of Health – a central government agency within the Ministry of Health and Prevention – defines the levels of formal competence to have acquired to perform certain functions (e.g. in surgery).

Fifth, although the relationship between the employer and the individual employee is mainly regulated by collective agreement, there are a number of labour market laws that regulate the terms that apply to special groups of employees or apply to special situations. Examples of the former are the Civil Servants Act and the Civil Servants Pension Act. Examples of the latter are the Holiday Act, the Equal Pay act, the Working Environment Act, and legislation on maternity leave. These laws cover the labour market as a hole (including the private sector). Thus, sub-national governments are to abide these regulations too.

Even though the overall picture is one of limited direct central government controlling of sub-national governments actions in the area of HRM, this does not mean that we find very different conditions and practices in HRM across tiers of government. Similarities are far greater than differences.

This might also be due to the – probably not surprising – fact, that unions put a check on how great the differences can develop. Not saying at all that greater differences are sought by employers in the first place. To the contrary, coordination is achieved by different mechanisms, cf. above. For example, there has been a parallel effort over the last 10 years to modernise wage systems by the employers in all of the three public labour markets – making the wage system more flexible and performance oriented. However, unions are knit together in different associations and committees and – like the employers – have a number of informal mechanisms acting to ensure coordination.

In the following, answers provided only focus on the relationship between central and local government and does not give mention to or try to take account of the any "checks" that local government employers might have agreed upon with the unions in these areas.

II. A Establishment

Sub-national governments have almost complete freedom (from central government) with regard to staff establishment.

However, in the health care sector the National Board of Health – a central government agency within the Ministry of Health and Prevention – defines the levels of formal competence to have acquired to perform certain functions (e.g. in surgery).

II. B Employment systems

Sub-national governments have almost complete freedom with regard to designing and setting up their employments systems. However, there are a number of labour market laws (e.g. the Holiday Act, the Equal Pay act, the Working Environment Act, and legislation on maternity leave) that covers the labour market as a hole, thus also limiting local government degrees of freedoms in these areas.

To that the State Employers Authority is represented on the municipal and regional Boards of Wages and Tariffs. These boards act as employer-boards in the municipal and regional labour markets, thus giving

mandate to the negotiations with the unions in these sectors. As regards the board in the regional sector, the State Employer has a veto position.

As regards the employment system used by national government – and by sub-national government too – it is one of openness. There is almost no variance across tiers of government with regard to this openness.

In terms of systematic competency management it is now part of a general, collective agreement covering each of the public labour markets that employees are entitled to a yearly staff development interview with their immediate superior (this "right" of the employee is not, however, backed by sanctions in case of non-compliance from the employer). These agreements are exactly to gain a more systematic and strategic approach to competence development that – in general – has a high priority.

However, with regard to strategic workforce planning the Ministry of Finance has no concrete knowledge of the state of affair in individual municipalities and regions. As regards the latter, it is however the impression that the shortage of health care professionals (doctors and nurses in particular) has elevated workforce planning high up on the agenda.

II. C Remuneration and other employment conditions

As regards the degrees of freedom local government have in determining remuneration and other employment conditions the degree is high. However, the agreed upon budget between central government and the municipalities respectively the regions sets the overall limit to this freedom.

In terms of wage systems, there has been a parallel effort over the last 10 years to modernise and reform wage systems by the employers in all of the three public labour markets – making the wage system more flexible, individualised and performance oriented. The wage reform (called "new wage") implies:

- That pay formation to a greater extent is decentralised to the level of the local employer where there is more knowledge of the actual working conditions, qualifications and efforts of the individual employee.
- That the pay development of employees is to reflect the performance and qualifications of the individual employee to a greater extent than previously
- That pay is seen as a management instrument to help motivate employees and achieve better a more efficient public sector

The most prevalent new pay system model is the basic pay rate system. It consists of a basic pay rate or a basic pay rate interval, which is agreed centrally (i.e. centrally within the State sector, the municipal sector and the regional sector), and an allowance component, which is agreed at the level of the local employer. The new basic pay rates hold typically no or only a small number of automatic seniority-related pay increases.

Employees on the "old wage system" are remunerated either according to the wage system of civil servants; the salary grade system or other centrally agreed pay scales. It is a common characteristic of these systems that they typically hold long pay intervals with many salary grades, and that employees move up automatically with increased seniority.

There are differences as to the level of progression, but by and large the new wage systems work the same way across all levels of government. Within the system, we still see groups with automatic progression, however, and in particular in the local government sector there are cases of the new and more flexible system not being embraced by the employers either.

In terms of maintaining coherence in employment conditions, informal coordination serves as a mechanism. To that comes that the State Employers Authority is represented on the municipal and regional Boards of Wages and Tariffs. These boards act as employer-boards in the municipal and regional labour

markets, thus giving mandate to the negotiations with the unions in these sectors. As regards the board in the regional sector, the State Employer has a veto position.

II. D Retirement benefits

The vast majority of government employees are covered by a statutory labour market pension scheme or a labour market pension scheme under a collective agreement[56].

Staff employed under a collective agreement is covered by collective pension schemes based on pension funds or insurance companies. These pensions are financed by pension payments made by the employee as well as the employer. The pension payment varies according to the collective agreement area. The employee typically pays from four per cent to six per cent of the pensionable salary, whereas the employer pays twice the amount.

Pensions for civil servants are regulated under the Civil Servants' Pension Act. Civil servants are entitled to a pension in connection with the termination of his/her employment due to age, infirmity or any other cause that is not attributable to the civil servant. The civil servant's spouse and children are also secured a pension if the civil servant dies. The pensions are financed by the Budget.

The pension is calculated on the basis of the civil servant's pensionable salary on the date of retirement and the accumulated pensionable service of the civil servant. The term of the pensionable service is calculated from the civil servant has attained the age of 25 at the earliest, and the maximum pensionable service is 37 years.

As regards civil servants, pension is set by law. As regards pensions for staff employed under a collective agreement, the mechanisms of coordination across government – for instance on the percent of the wage to be held for pensions – are the same as described previously, i.e. budget control, informal dialogue and the Boards on Wages and Tariffs etc.

II. E Relations

Apart from the municipal and regional Boards of Wages and Tariffs a few years ago there has been set up a Forum for Top Executive Management. It is the largest cheif executive workshop in Danish history. Together with Danish and international researchers, chief executives in the Danish state and local authorities have provided the ingredients for Denmark's first code for chief executive excellence. The completed Code is the fruit of an ambitious and coherent process of intense debate and strong commitment among the chief executive community. This forum, is however, more informal than the Board on wages and tariffs.

There is no central government organisation charged with assessing or evaluating the sub-national government HRM practices.

As regards forums for the municipalities only respectively the regions only, the associations of each of these tiers of government facilitate different forums for municipalities and regions.

---

[56] In addition, all employees receive the Danish Labour Market Supplementary Pension (ATP), which is a mandatory pension scheme for all wage earners in Denmark. Like all other citizens in Denmark, state sector employees are included in the social pension system. It means i.a. that they receive the flat-rate state pension when they reach the age of 65.

PART III - THE EFFECTS AND CHALLENGES

III. A Status quo and recent changes

III. B Aggregated volume of public budgets and/or activities

There is no evidence suggesting that the decentralised system of government in Denmark should have had a specific effect on aggregated costs of public activities, pension cost or the size of public employment. It should probably be seen in conjunction with the efforts of central government to control local governments overall expenditure.

With regard to the supply of staff with appropriate competencies, there is a shortage situation in the health care sector – and to some extent in the elder care sector. Regional differences apply to this situation, thus being more difficult getting health care professionals (doctors in particular) to apply for job-position in the regions and areas being far from university-cities.

The possible causes are not clear-cut. Local government would probably say, that central government over the last one or two decades has made schools and universities admit to few students into relevant studies and educations leading to jobs as nurses and doctors etc. However, patterns of application are also an issue and so is the growing demand from the health care sector. A more recent development of importance is the growth of the private health sector.

III. C Structural issues

There is no evidence suggesting that the decentralised system of government in Denmark should have had a specific effect on the structure of public employment. Also there is no evidence that the decentralised system of government should have affected the type and frequency of different employment contracts or pay systems. As mentioned, there has been a parallel effort across tiers of government to reform the pay system into a more flexible, decentralised and performance based system – called “new wage”.

III. D Labour costs

There is no evidence suggesting that the decentralised system of government in Denmark should have had a specific effect on the total labour cost per hour in the public sector. That applies to the pension system too.

III. E Human Resource Management

Overall, sub-national government administrations are able to recruit and retain the staff they need. However, as has been mentioned above, in the health care sector and in elder care there are some difficulties recruiting enough staff to meet the demand.

This not due to a lack of flexibility imposed on sub-national governments by central government.

There is no doubt that sub-national government administrations have the capacity to manage their workforce in an appropriate manner.

Overall, there are only small differences across tiers of governments with regard to arrangements and practices on transparency, equity, performance orientation, diversity and career opportunity. Also central and local governments are estimated to be about equally prone to reforming the HRM arrangements and system. With regard to the wage system, the State probably being a bit more progressive.

III. F Relations between national and sub-national government administrations

The Structure Reform carried out in 2007, cf. section I.B, included the transfer of certain tasks between the national government and the sub-national governments. The process included the transfer of employees between government levels. In all 15,000 employees were transferred from the sub-national governments to the national government, while a smaller number of employees was transferred from the national government to the sub-national level. The major areas affected were the taxation authorities and the high schools.

The national government reached an agreement with the professional organisations on job security for all employees affected. The agreement meant for instance that all employees had the opportunity to follow the task, even if this meant to move geographically. Other initiatives to oblige the employees' insecurity were carried out as well.

A notable barrier during the reform was the legally aspects in relation to the transfer of employees. The national government established a task force to plan the process and to handle the questions coming up. The task force also met regularly with a group of HR representatives of the ministries, to inform them about the process and how to deal with relevant issues.

The national government is satisfied with the present dialogue with the sub-national governments these issues.

FRANCE

PART I – THE CONTEXT

The relationship between central government and local government in France is particularly complex due to the wide diversity of local government bodies and the difficulty in determining their respective jurisdictions and degree of financial and political autonomy vis-à-vis national government. And yet the challenges relating to the future trend in employment in local government are enormous. Demographic changes brought about by the ageing of the population will see 46% of local government employees retiring by the year 2015. In addition, the division of power and responsibilities between central government and local government has radically changed since the 1982 Acts on decentralisation and has also had to contend with on-going budget restrictions. Furthermore, the need for an efficient public sector is all the more important in that the public sector is a determining factor in international investment and economic development.

I. A Which are the sub-national governments?

The organisation of the administration in France is a direct legacy of the French Revolution and the Second Empire which together enshrined the principle of administrative centralisation around a strong and unitary State, until the movement of deconcentration and decentralisation which was set in motion under the 3rd Republic and which reached its apogee in the two successive waves of decentralisation that followed enactment of the 1982-1983 and 2003 Acts.

As a result, administrative jurisdictions in France are organised on a decentralised basis (enshrined in the Acts of 1871 and 1884 on the *départements* and municipalities and subsequently enhanced in the 1982 and 1983 Acts on decentralisation). The Act of 13 July 1983 unified the civil service by establishing a single status for all civil servants while distinguishing between those employed by central government, local government and hospital authorities.

There are three territorial authorities in France. They were officially established under the constitutional amendment of 28 March 2003, whose section 72 states that France has 26 regions (of which 4 overseas), 100 *département*s (of which 96 in metropolitan France) and 36 773 municipalities (*communes*), most of which have fewer than 5 000 inhabitants, as well as 19 000 local public establishments.

The authorities are administrative structures that are distinct from the national administration and that are endowed with a legal personality which allows them to dispense justice, employ their own staff and administer their own budget. A local authority has regulatory power (enshrined in the General Local Government Code) and deliberative decision-making power exercised through a Council of representatives elected in accordance with the principle of administrative freedom for local authorities.

From a legislative standpoint, the breakdown of jurisdictions between municipalities, *département*s, regions and central government was modified by the Acts of 7 January and 22 July 1983 which defined the jurisdictions devolved to territorial levels of government and which transferred a share of the tax revenue of central government to local authorities. However, it was only with the implementation of Part II of the decentralisation process and enactment of the Constitutional Act of 28 March 2003 that the principle of decentralisation was written into the constitution and that the principle of subsidiarity between central government and local governments was enshrined, together with the removal of central government oversight over local governments.

The municipalities have a deliberative body, namely the Municipal Council, elected for a period of 6 years, as well as an executive body, the mayor and deputy mayors. The number of elected officials in Municipal Councils ranges from 9 (municipalities with fewer than 100 inhabitants) to 69 (municipalities with 300 000 inhabitants or more). The Municipal Council votes on the real budget balance (divided into an "operating section" and an "investment section), administers property owned by the municipality, decides on the creation of new municipal services and authorises the mayor to sign contracts and instigate legal action.

The *département*s were created in 1790 to organise the administrative districts of the Ancien Régime and subsequently acquired autonomy from central government in 1871 to become an administrative district of the State as well as a decentralised authority. The devolution and role of the executive of the *département*s changed radically with the passing of the Acts of 2 March and 22 July 1982 on the rights and freedoms of municipalities, *département*s and regions. The President of the General Council is the executive of the *département*s, in place of the Prefect, and it is the former who orders expenditure and prescribes the levying of taxes at the level of the *département*. The General Council, the deliberative body, is elected for a period of 6 years in the case of cantons. Since 1982, the Prefect is no longer the executive of the *département*, but has nonetheless retained his political powers since he advises the government about the local situation and remains vested with the authority of the State. As the person to whom all deconcentrated powers have been delegated, he is responsible for law enforcement and public order.

The status of regional public establishment acquired by the regions in 1972 changed to that of local authority in 1982. The Regional Council has decision-making power and is composed of members of parliament elected in the region and representatives of General Councils and Municipal Councils. There are wide disparities between different regions in France: the Ile-de-France region has almost 11 million inhabitants while Corsica has only 260 000; the Midi-Pyrenées region extends over 45 000 square kilometres while Alsace has a surface area of merely 8 290 square kilometres.

I. B Breakdown of responsibilities

The breakdown of responsibilities between central government and the three levels of sub-national government are characterised by an increased transfer of powers from central to local level. Local government authorities are covered by a general competence clause which allows them to settle local affairs within their jurisdiction without there being any limiting definition of such activities. They can therefore intervene in any area, under the oversight of a judge, on the grounds of local public interest provided that jurisdiction has not been devolved under existing legislation to another public person.

The municipalities have jurisdiction in the management of infrastructure, local services, land use, parks and gardens, housing and town planning, social services and education (construction of nursery schools, schools and leisure centres), culture, sport and the municipal police. To mitigate the disadvantages of the isolation of municipalities, inter-municipal co-operation has been substantially enhanced. In 2005, there were 20 500 groups of municipalities, of which 2 525 had their own tax-raising power. The Act of 12 July 1999 on the enhancement and simplification of inter-municipal co-operation brought an increased transfer of powers and employees from the municipalities to public establishments for inter-municipal co-operation (EPCI) with their own tax-raising powers (urban communities, municipal communities, urban communities), an increased supply of services and a rise in the number of officials in management positions.

The *département*s are responsible for the management of secondary schools and non-teaching staff, school transport, health and hygiene and social services, as well as the management of basic social benefits such as the guaranteed minimum income (*RMI*). The General Council is competent to approve certain mandatory expenditures (social aid, health, roads and highways), to create and organise public services provided by the *département*, manage the road network and participate in economic initiatives. Part I of the decentralisation process in 1983 consisted in major transfers of powers from central government to the *département*s in terms of social action and health, as confirmed in the Act of 13 August 2004.

Since the adoption of Decree of 1 July 1992 on deconcentration and its implementing charter, the region is the territorial level for the implementation of national and EU policies on economic, social and territorial development. The regions are responsible for pursuing and co-ordinating national government policies on culture, the environment, urban and rural areas as well as vocational training and secondary school management. They co-ordinate actions involving the *département*s by planning and assigning investment credits from national government and by putting in place contractual arrangements between central government and local authorities for annual programmes.

I. C The financial arrangements

The aim of decentralisation was to improve the efficiency of public spending and to increase the autonomy of local authorities. Against a background of closer control over public expenditure in view of the high level of debt, the budgetary and tax relationship between local authorities and central government is complex.

The changes brought about by decentralisation can be estimated from the share of local authority expenditure in total public spending. In 2006, public expenditure by local authorities amounted to 20% of domestic public spending (*i.e.* almost 10% of GDP) and 70% of public investment.

Expenditure by local authorities has been rising by 4.4% a year since 1970. Two thirds of the spending by local authorities is to cover operating costs (personnel costs) and a quarter of expenditure on investment is used to repay borrowings. Over the past 20 years, local expenditure has risen more rapidly than national wealth: operating costs have been sharply driven upwards by the increase in the wage bill and number of employees in municipalities and groups of municipalities.

Local authorities have three sources of income with which to finance their activities: own resources (tax revenues, income from charges and assets); financial support from the State (aggregated in 1982 into an overall appropriation for operating costs, the largest single component, and an overall appropriation for infrastructure); and lastly transfers from the European Union and other bodies. Since 1979, the legislator has taken care to comply with the principle whereby the overall appropriation for operating costs assigned by central government to individual authorities cannot be reduced.

The four local taxes are the local residence tax, property tax, land tax and business tax. Each municipality, group of municipalities, *département* or region sets its own rate of tax on the local tax bases for these four taxes. The professional tax is still the largest source of these tax revenues which are divided between levels of government. Revenues from the local residence tax are divided between the municipalities, groups of municipalities and *départements*, as are property and land taxes which, together with the business tax, also concern the regions. In addition, local authorities can borrow money and contract debts. In 2006 the debt owed by local public administrations amounted to 10% of the public debt. However, in accordance with the golden rule for local budgets, local authorities are allowed to offload 20.4% of public spending. In 2002, the level of indebtedness of local authorities fell to below 7% of GDP.

Transfers from central government account for a substantial share of the resources of local authorities and in 2008 amounted to 75.2 billion euros, *i.e.* over a third of local resources. Local taxes account for 40% of their resources. These transfers fall within an envelope that is indexed at a rate above inflation to a share of the increase in GDP. While the regions are the authorities that are the most dependent on these transfers, it is the responsibility of central government to establish the legislative regime for local taxes, to collect those taxes and to determine the rate of contributions and the rules for revenue-sharing between authorities. Accordingly, local authorities can receive all or part of the income from taxes of all types, and they are legally empowered to establish the basis and rate for such taxes.

Following the constitutional reform of 2003, Section 72-2 of the Constitution stipulates that local authorities must have sufficient resources to exercise their powers and that any transfer of powers to local

authorities must be accompanied by the assignment of equivalent resources (Decision CC2003 Decentralisation of the minimum guaranteed income benefit).

Moreover, most transfers from central government to local authorities are unassigned, which means that local decision-makers have considerable leeway with regard to the assignment of their spending. This freedom is nonetheless constrained by constitutional responsibilities with regard to the supply of local public services.

The resources available to local authorities have therefore risen substantially over the past ten years: the first wave of decentralisation gave priority to transfers from central government to the detriment of local resources, whereas the second wave of decentralisation resulted in greater appropriation of expenditure by local authorities. However, the share of own revenue in their total resources still remains low. As a result of the increase in resources, local expenditures have also grown due to increased operating costs (personnel costs). Moreover, regional budgets only account for 10% of the finances of local authorities, compared with 30% of the finances of *département*s and 60% of the finances of municipalities, although the expenditures of regions and *département*s have risen more sharply than those of municipalities due to transfers of jurisdiction for operating sections.

For example, the regions have their own tax revenues as a result of the transfer from central government of the revenues from taxes on vehicle log books and driving licences. They can levy taxes in addition to those levied by central government (property registration and notification taxes) or local taxes (property taxes, local residence taxes, business tax). These tax revenues cover over half of the expenditure of regions receiving subsidies from central government for specific infrastructure and the general decentralisation appropriation.

PART II – HUMAN RESOURCE MANAGEMENT ARRANGEMENTS

Local authorities enjoy greater autonomy than central government departments in the management of human resources due to the principle of administrative freedom that governs them and that has now been written into the constitution:

- The retirement of the "baby boomer" generation will create tensions in the labour market that will be exacerbated by the fact that there will be no further growth in the working population. Public employers will therefore have to contend with a relative shortage of human resources.

- The need to control growth in the public debt (65.3% of GDP in 2008). Since expenditure on staff accounts for 51% of the budget of national government, retirements will be used to control and then reduce growth in expenditure relating to the wage bill.

II. A Establishment

France has 3 civil services which in 2008 employed a total of 5.3 million public employees: the national civil service; local government civil service and the hospital administration. All three civil services are governed by the same regulations laying down the rights and obligations of public employees.

The work of civil servants is organised by grade and by area of activity. Civil servants are recruited into *corps* and job families in which they will subsequently work in several different posts. Each job family is divided into grades which distinguish between officials according to their experience, seniority, qualifications or responsibilities. Each grade is in turn divided into steps corresponding to a level of pay and representing different stages in the progression within a grade. Job families and grades are divided into three categories corresponding to the level of education of civil servants and their responsibilities (A, B, C).

The French civil service is a career-based system: anybody entering the civil service will remain there until the end of his or her professional life.

The number of persons employed by the three civil services rose by 26% between 1980 and 2002, taking the share of public employment in total employment from 17.8% to 19.4% over the same period. This increase was primarily attributable to the number of civil servants employed by local government authorities, which rose by 46.2% between 1984 and 2005 compared with an increase in of 11.6% in the number of civil servants employed by the national civil service. However, the municipalities are the largest employer in local government, accounting for 85% of all local government employees.

While the General Civil Service Regulations set out the rights and duties of all civil servants, specific provisions also apply to each of the three civil services.

The national civil service employees 2 543 112 civil servants (*i.e.* 49% of the total) divided between government departments (Ministries, Prefectures, etc.), public establishments run by the government, as well as a number of public enterprises (Post Office, etc.). The local government civil service employs 1 613 000 officials (*i.e.* 31% of the total) in local authorities, public establishments managed by local government (social housing offices, etc.) or inter-municipal public establishments. The local government civil service was established twenty years ago to provide a single set of regulations for local government employees working for authorities at the level of the municipality, *département* and region. This status allows local government civil servants to pursue their career in any of these authorities. The local government civil service is made up of 70% category C employees, 12% category B employees and 8% category A employees. The hospital administration has 850 000 employees working in public health and social establishments (hospitals, retirement homes, etc.).

Management Centres, local public administration establishments managed by local government employees, are responsible for overseeing the career of local government employees. Local government authorities employing fewer than 350 employees are directly attached to such Centres, others can make use of them if they so wish. The Management Centres organise entrance competitions for the local government civil service and help to manage the career of civil servants by overseeing the provision and operation of joint social institutions dealing with issues such as secondment, evaluation, promotion and discipline, as well as measures relating to working conditions. They also circulate job vacancies issued by local government authorities and process requests for posts from civil servants wishing to change job, successful applicants from competitions and employees on fixed-term contracts.

II. B Employment systems

Established civil servants are recruited by competition (Section 16 of the Act of 13 July 1983 on the rights and duties of civil servants). There are three types of entrance competition to the civil service: external competitions open to candidates with a given qualification or level of education; internal competitions open to civil servants meeting certain conditions in terms of length of service; and a "third competition" open to elected officials, managers of associations and the private sector.

Unlike the national civil service, successful candidates from a local government civil service competition are not automatically assigned a post; instead, they are allowed to conduct job searches, based n a list of skills, for posts that may be located anyway in France. Civil servants are divided into three grades: A, B and C. Grade A posts correspond to management and policy-making functions and typically include senior managers, engineers, doctors and administrators; grade B posts correspond to implementation and management function and typically include middle managers and technicians; and lastly grade C posts correspond to work execution functions (administrative assistants, maintenance staff, manual workers).

In the course of his or her professional career, a local government civil servant may perform different duties depending upon the post to which he or she is assigned, pursue a career path by rising to a higher

step or grade, according to seniority or through a professional examination, or advance to a higher level job through an internal competition or promotion.

Local government civil servants are divided into two categories: local government employees appointed to a permanent post; and non-established employees governed by the Decree of 15 February 1988 and not by the General Civil Service Regulations. This latter category also includes public employees employed on a seasonal basis or to replace officials assigned to a permanent post.

Between 1994 and 2005, the number of employees on fixed-term contracts rose at the same rate as the number of established civil servants. There are now more employees on fixed-term contracts than established civil servants in the local government civil service (1 092 000 employees, *i.e.* 20% of the total number of public employees in the administration) due to the specific way in which public sector employment is managed at this level of government. Employees are often initially recruited to the 8 administrative sectors of the local government civil service on fixed-term contracts because elected officials need staff to be recruited rapidly and therefore choose to recruit contract staff who are then asked to sit the examination corresponding to their post. This form of recruitment based on exceptions to the regulations is broadly covered by the European Directive of 28 June , transposed into French law in 2005, which requires Member States to limit the use of fixed-term contracts to no more than two, the third being mandatorily a permanent contract.

Despite a number of initiatives to promote greater mobility in the civil service, there are still many impediments to its full deployment. According to the 2006-2007 report on the state of the civil service, only 10.8% of civil servants benefited from socio-professional mobility between 1998 and 2003 (*i.e.* access to a higher job category) compared with 18.8% in the private sector.

There are indeed many impediments to mobility in the civil service. In order to advance, a civil servant can first change grade or job family by taking a competition or through promotion. However, there are an incalculable number of procedures governing mobility and recruitment (590 competitions a year, 2000 different procedures) which also vary from one administration to another. It is therefore not easy for civil servants to find the competitions for which they might be eligible and the nature of the examinations themselves is also open to question as they are often highly academic and unrelated to the actual duties required for the post.

Furthermore, the secondment procedure is still rarely used: it is hard for civil servants to find information on vacant posts in other job families or administrations. Mobility is also blocked by the specific cultures reigning within different job families. Before any secondment, a civil servant's file must be reviewed by the joint administrative commission of his or her administration. However, this commission only meets once a year and priority is often given to civil servants from the same job family, to the detriment of civil servants from other job families.

II. C Remuneration and other employment conditions

Although the salary of a national civil servant cannot exceed that of a local government civil servant, in accordance with the principle of parity between the local government and national civil services, local authorities nonetheless enjoy some leeway in the remuneration of their employees in accordance with the principle of administrative freedom. Since 1984, each local authority can freely set its own salary scales for its employees, provided that they do not exceed those of national civil service, and since the Act of 19 February 2007 on the local government civil service, local authorities are free to determine the rates of promotion to higher grades.

The remuneration of civil servants consists of a basic index-linked salary, whose gross amount is equal to the product of the new increased index (which depends on the position of the civil servant in the index-linked scale for his job family) multiplied by the value of the civil service point (set by the government); a living allowance designed to take account of the cost of living differences between regions; bonuses and

allowances relating to the post directly held and individual performance, which are set freely by the local government authorities; and, where applicable, an additional family allowance that will vary according to the number of children the civil servant may have**.**

A civil servant's remuneration depends on both general measures (changes in the value of the civil service point); measures aimed at specific job families; and positive "age and skill-based adjustments" resulting from the increase in the remuneration of a civil servant when he or she is promoted to another job family or a higher grade, when his or her position on the index-linked salary scale rises through seniority (age component) or when after passing a competition he or she progresses to a higher grade or job family (skill component).

Over the past twenty years, the average remuneration of a civil servant has risen twice as fast in the local government civil service than in the national civil service. This trend is due to the improvement in the average level of qualification of civil servants, the outsourcing of low-skilled work and the minimum qualification requirement introduced by the government for certain posts. It is also due in large part to the choices made by local executives and the way in which the funding envelope allocated by central government will be assigned to staff expenditure. Consequently, disparities between "wealthy" and "poor" authorities can affect salary scales. There is therefore competition between authorities over recruitment due to the differences that may exist between salary scales. However, increases in the civil service point and index-linked salary scales are set by central government, which remains responsible in the last instance for determining the remuneration of civil servants.

The average salary of civil servants working in local government increased by 2.3% between 2004 and 2005, the highest increase in salaries being for category A civil servants, those under 30 years of age and those who had been established or promoted.

However, the full-time salaries of national civil servants are higher than those of local government civil servants: in 2004, a civil servant working in the central government administration earned on average 2 170 euros a month compared with 1 578 euros a month for a civil servant working in local government. These differences in remuneration reflect structural differences: managers (including teachers) account for 51% of public employees working for the national civil service, compared with 8% in the local government civil service.

There are also disparities according to level of government and gender. According to the statistics, studies and evaluation office of the DGAFP, the average net salary of a male employee in the national civil service amounted to 2 291 euros compared with 1 698 euros in the local government civil service, and 1 974 euros for a female civil servant working for the national civil service compared with 1 473 euros in the local government civil service.

The issue at stake here is therefore the attractiveness of jobs in local government as well as the adjustments made by central government and the grants made with regard to public sector employment to recruit and inform public employees of the posts available.

II. D Retirement benefits

National civil servants (together with armed forces personnel and judges) are covered by the government joint pension scheme set out in the Code on civil and military pensions. Local government civil servants and those working in the health sector are covered by the National Pension Fund for local government employees. Civil service pensions are paid individually on a monthly basis for life. Pension rights are acquired after 15 years of service, and are paid as of right between the ages of 50 and 60, according to the job held, and are also payable in the event of resignation, removal from post or redundancy.

The demographic profile of the civil service has led to an increase in the pension bill. In the medium term, the amount paid out on civil and military pensions is growing at a rate of 5.0 to 5.5% a year. The Act of

21 August 2003 reforming the pension scheme had to be introduced to rein in growth in the cost of pensions, which it did by gradually extending the length of the contribution period required to obtain a full pension (which was increased from 37.5 years of contributions to 40 years over a period of 5 years); by reducing the value of pensions of employees who have not contributed for the length of time required (5% per missed year of contributions); and lastly by indexing pensions to increases in consumer prices and not, as before, the civil service point. To measure the budgetary impact of the government's wage policy on the factors in growth in remunerations, an "entry-departure" effect needs to be added to take account of the retirement of the oldest employees and their replacement by younger employees whose remuneration, despite their having the same qualifications, is nonetheless lower.

II. E Relations

Local government authorities were the first to introduce management planning of jobs and skills, primarily because of the proximity of the services delivered not only to users but also to elected representatives and their constituencies. A classification of jobs in local government was put in place by as early as 1993, subsequently modified in 2006, which allows local government employees to plan their choice of jobs and career. Large local authorities rapidly put in place human resource offices, adopting a specific mode of management dictated by local requirements. The government then copied the model created by local authorities to develop a system for managing its own staff, although the management modes used by national and local government exhibit significant differences in that local government authorities tend to recruit more on the basis of skills than academic prowess due to the closeness of the public to the services provided.

At the central level, conferences on job and skills management plans have been put in place. These conferences involve the budget directorate and the Ministry concerned and are designed to allow the Prime Minister to have a more accurate picture of the state of the civil service, to provide input for the joint planning of projects in progress (statutory reforms, etc.), and to encourage the sharing of best practices and solutions that managers have found to the problems they encounter. From this standpoint, each Ministry draws up a strategic plan for the future management of human resources which takes account of a planning framework (management plan and an approach based on skill families), the organisation of human resource functions and the role of the various actors involved (sharing of responsibilities for human resource management, performance of human resource functions, social dialogue) and human resource management policy (recruitment procedures, career management and remuneration). Once the conferences have been concluded, a letter signed by both parties formalises the reciprocal commitments entered into.

With regard to employment in local government, the National Centre for the Local Government Civil Service and Management Centres have undertaken a number of initiatives whereby job analysis tools have been consolidated through the introduction of a jobs directory, the drafting of "social reports" has been developed by introducing software to analyse the social data that have been shared between Management Centres. Furthermore, the procedures for sharing information and practices have been enhanced: the Higher Council for the Local Government Civil Service maintains a permanent watch at the local and regional level and produces studies on the organisation and improvement of human resource management in local government administrations. Regional conferences on employment and training have been held regularly since 2003. The Act of 19 February 2007 on the local government civil service states that the co-ordinating management centre must meet at least once a year in a conference composed of management centres and the representatives of authorities that are not members of those centres. The aim is to co-ordinate the performance of their missions with regard to local government employment and the organisation of recruitment competitions.

PART III - THE EFFECTS AND CHALLENGE

III. A Status quo and recent changes

France spends 13% of its GDP on public sector pay, in which respect it has consistently topped the table among G7 countries. Within a quarter of a century growth in the number of public sector employees (+25%) has outstripped that in the French population. Part of the reason for the growth in the number of public employees following decentralisation lies in the creation of additional structures and levels of national and sub-national administration. Personnel costs are the largest single item in the budget of local government operating accounts (+40% of day-to-day management) and national government devotes on average 20% of its budget to the financing of local government.

From 1980 to 2001, public sector employment grew at twice the rate of growth in total employment (23% compared to 13% for total employment), largely driven by growth in the local government civil service (38%). However, the largest employer in France is still the State which accounts for one out of every two public sector jobs, despite the move towards decentralisation set in train over 20 years ago.

The Act of 2 March 1982 on the rights and freedoms of municipalities, *département*s and regions was the starting point for the changes in the relationship between national government and sub-national governments. This initial Act on decentralisation significantly loosened the administrative control of national government over local government bodies by changing the Prefects' right of *a priori* control over the legality of the actions of local authorities to that of *a posteriori* control. Executive power was transferred from the Prefect to the *département* and the region, with the latter acquiring the status of local authority. Since then there have been three levels of local government.

The status of the employees given the task of implementing decentralisation was determined by the Act of 26 January 1984 which established a common status for employees of the three public civil services. However, the co-operation between territorial authorities was finally enshrined in the Act of 6 February 1992 with the creation and development of inter-municipal relations in response to the isolation of municipalities. The Constitutional Act of 28 March 2003 laid down the principle of the financial autonomy of local authorities (section 72) and proclaimed the right of the latter to formulate and implement their own public policies on a trial basis.

The Act of 13 August 2004 on local freedoms and responsibilities approved the transfer of powers to local authorities and provided that transfers should be funded by the revenue from taxes transferred to local authorities (*i.e.* 11 to 13 billion euros for over 130 000 civil servants). Many powers were transferred: the management and provision of minimum guaranteed income benefit; individual economic aid for firms; management of social funds; management of the road network by the *département*; social housing for the *départements*; regional public health programmes; management of technical staff, manual and administrative workers in the national education system by the *départements*.

III. B Aggregated volume of public budgets and/or activities

Local government authorities adhere to the principle of administrative freedom enshrined in the Constitution which leaves them free to choose the way in which they manage their affairs, within the limits of the budget envelope assigned. Accordingly, the territorial authorities are free to employ workers on fixed-term contracts on initial recruitment, provided that they comply with EU legislation which provides for a maximum of two fixed-term contracts, and therefore to vary their number of employees according to their requirements.

Decentralisation has indirectly affected the size of public sector employment given that the Act of 2004 on the freedoms and responsibilities of local authorities provided for the transfer of 130 000 national civil servants, including 95 000 technicians, service workers and 35 000 public works employees. However, decentralisation cannot be described in terms of reductions in the number of employees but simply in terms

of transfers and new hirings with the arrival of established employees or those just on fixed-term contracts. Furthermore, the division of departments is another effect of decentralisation which, against a background of budgetary reductions, offers an opportunity to restructure many central, deconcentrated or decentralised departments. The deconcentration of the *Direction départementale de l'Equipement* (DDE) to the *département*s, as well as the resultant division of departments, had a relatively small impact on the number of staff in the two respective civil services. Transfers of powers are not always accompanied by transfers of the public servants wielding those powers since the power transferred may only be exercised by an employee part of the time, and the duties of an employee can fall on the dividing line between the powers retained by central government retains and those that it transfers.

In fact decentralisation encouraged the outsourcing of performance functions to the private sector to allow local authorities to concentrate their resources on essential missions, thereby entrusting the performance of work to specialised operators. In the case of a public contract, the authority remains responsible for the service in respect of the users, whereas in the case of the delegation of a public service, it is the franchise operator who takes responsibility. Cases have been observed of local government authorities outsourcing services such as school catering, maintenance and building security.

Where public services are outsourced, the cost of the work represents a differentiation in that the private sector firm awarded the contract must pay for, and therefore include in the prices it proposes, charges that would not exist in the case of a public provider. The employment of national civil servants in local public teaching establishments makes it possible to make national government pay for all charges relating to those employees, without the establishment having to include them in its costs. This differentiation will therefore influence decisions on whether to outsource a school catering service or provide it through a public scheme.

Consequently, one of the paradoxical effects of decentralisation, which had been designed to bolster local powers, was to accelerate the transfer of power to the private sector, given that the outsourcing of public services was seen by local elected representatives as a means of reducing the charges normally incumbent upon them.

III. C Structural issues

Most of the structural effects relating to decentralisation have been discussed earlier

The female share of the workforce in the civil service rose from 1984 to 2004 from 45% to 50% in the Ministries and from 57% to 61% in the local government civil service. Largely specialised in tertiary job families, women are in the majority in the civil service: 59% of public employees are women compared with 42% in the private sector. Moreover, decentralisation was accompanied by an increase in the number of posts available through competition. The number of posts offered through the competition for local government administrators, for example, has been steadily rising (from 50 to 60 posts in 2005). The local government civil service recruited 2 560 local government officers in 2006, *i.e.* the same number as in 2005, reflecting a certain degree of stability in the recruitment of high-ranking local government civil servants.

The decentralisation of the minimum guaranteed income benefit (*RMI*) under the Act of 18 December 2003, which made the *départements* responsible for administering the scheme and which put an end to the sharing of the income support management programme by national government and the *départements*, put greater financial pressure on local authorities. While decentralisation did not affect the national status of the benefit, given that the amount and conditions of award of the *RMI* are still set at the national level, the Chairman of the General Council now has to draw up an insertion plan at the level of the *département* and must now assume responsibility for approving inclusion contracts. The *RMI* is therefore financed by the *départements*, with additional funding provided in the form of a share of the domestic tax on petroleum products (TIPP). However, there is no re-apportioning mechanism in place that might help *départements*

deal with any worsening in the economic situation or an increase in the number of applicants for minimum guaranteed income benefits.

Decentralisation was therefore aimed at clarifying public service missions and at revamping the management of the civil service. The increased number of powers shared between different levels of local government led to a sharp increase in costs, as shown by the 25% increase in public servant numbers within a period of twenty years. At the same time, however, the missions of central government, as well as its own organisation, were muddied. To remedy this growth in structural complexities, the General Review of Public Policy, in its report on the relations between central government and local authorities, proposed that each category of authority should specialise to a greater extent in the performance of certain missions and that the regulatory capacities of central government should be enhanced (in terms of strategy watch and forecasting; the formulation and evaluation of public policies; the drafting of legal and control standards and their implementation; the general supervision of services and bodies under central government control or supervision. The State would therefore have a primarily regulatory role to play since, as the direct supplier of mass services, it would also make sure that it checked that the public services it had delegated, either by law or under contract, to other public or private operators were properly performed.

The transfer of services also raises the question of the choice of status made by transferred civil servants once the transitional period of two years during which they are placed at the disposal of the receiving authorities has elapsed. After this period they can exercise an option whereby they can choose between being incorporated into a local government civil service framework of employment or maintaining their earlier status (with unlimited secondment to the authority benefiting from the transfer).

III. D Labour costs

The wages bill in the public administration sector accounted for 13% of GDP in 2005, *i.e.* 25% of public sector spending. According to an OECD study, the wage costs per public sector employee reported in France are relatively similar to those in the private sector, as is the case in all countries posting high levels of public sector employment. In France, the share of staff remuneration costs paid for at the national level rose from 51% in 1995 to 54% in 2005 for general public services. It is above 60% for the salaries of employees in the defence and public order sectors, 2% for health sector employees, 5% for social protection employees and 80% for education sector employees.

III. E Human Resource Management

Local government authorities were the first to introduce a managerial approach to the management of their staff. By as early as 1993, they started to introduce a skills and job-family based approach which initially led to the design of job classifications that central government later adopted for its own use, as noted above. Local government authorities therefore pursue a more dynamic approach to the management of their public sector jobs.

The White Book on the future of the Civil Service drew attention to the major, although poorly defined, role played by fixed-term contract employees in the civil service, who met a genuine need on the part of administrations but who by the same token did not enjoy any satisfactory professional prospects. The White Book therefore proposed that "the use of fixed-term contract employees should be placed on a professional footing" by promoting a civil service in which established employees would work alongside others employed on fixed-term contracts. Each administration, as part of its recruitment policy, would assess the number of fixed-term contract employees it might need in the medium and long term. This assessment would then be submitted, together with proposed recruitment actions, to the social partners in order to reach a collective bargaining agreement. The Act should then permit subsequent recruitment, as an additional measure, of employees on fixed-term contracts, regardless of the posts to be filled, having

already recalled that local government posts should primarily be held by established civil servants. Indeed it was proposed to "modernise the regime for fixed-term contract employees in local government" by ensuring that posts in which the prerogatives of public power are to be exercised are held by established civil servants, and also when needed by civil servants working under contract with the authority; and similarly other posts should primarily be held by established civil servants, and supplemented when needed by civil servants working under contract with the authority. Lastly, a major proposal was to "facilitate the reciprocal movement between the status of established civil servant and that of civil servant on a fixed-term contract" through secondment.

To put in place a job family based civil service in order to move from a "segregated civil service that is not managed on a sufficiently personal basis and that is not sufficiently empowering" to an "attractive, mobile and efficient" civil service is one of the major proposals set out in the White Book on the future of the civil service. The main dysfunctions in the French civil service lie in the large number of bodies and job statuses (in 1946 there were plans for 100, there are currently 700) which has led to the rigidification of careers, slowed mobility and increased management costs.

Accordingly, the White Book on the future of the Civil Service proposes in its 5th strategic line of approach to "make the career of civil servants in the three types of civil service more attractive and mobile and permit genuine management of local government human resources". The employment policy of the administration has for many years restricted itself to the use of competitions and promotion tables based on set recruitment percentages in each branch, without any analysis of functional requirements. The gradual introduction of management planning of staff numbers, jobs and skills has made it possible to think in terms of matching the profiles and skills of civil servants to posts and functional requirements.

The need to increase the mobility of public sector employees has led to the formulation of a number of proposals in the White Book. Recruitment is no longer viewed in the civil service as a logistical and legal process, but rather as a stage in the management of human resources. The aim now is therefore to identify beforehand potential nurseries for recruitment, to modernise the organisation of the civil service by developing, for example, competitions common to two or three types of civil service for established managers and similar posts.

Assignments to specific posts are often poorly organised in that employees sometimes do not have job descriptions and heads of department in many cases analyse their needs in terms of *corps* and not posts to be filled. The White Book therefore proposes that a "genuine public sector job market" should be created in which each vacant post would be published in a public employment exchange common to all three civil services, and that each civil servant should be assigned under an "agreement established between the civil servant and his employer" in order to organise transfers and ensure that a change of job assignment does not mean secondment. Making the assessment of civil servants a central aspect of career progression is another area of reform, while providing more stringent oversight of promotion procedures by giving each employer unit joint administrative commissions that can rule on the promotions of any employee within that unit.

The entry into force of the Consolidated Finance Act of 1 January 2006 aimed at improving the control and use of public spending called for a re-think of public sector job management. This Act profoundly modified public employment management by providing for payroll-based management subject to job capping and an asymmetrical fungibility of personnel funding. Henceforth, managers can assign unused staff funding to another type of expenditure, but in contrast cannot use funding to cover operating costs or investment to increase the amount of funding for staff costs during the year. This fungibililty of staff funding therefore offers new room for manoeuvre in adjusting bonus levels and opens the way to the introduction of individual levels of pay for civil servants.

Greater weight has been placed on performance-based remuneration and the Act clearly states that it is important for the State to improve its management of the skills of civil servants and to match training initiatives to future skill needs. The evaluation of civil servants is part of this new approach to skills

management. This procedure consists in a discussion between each civil servant and his or her immediate supervisor to review the results achieved by the civil servant with regard to the objectives set.

Since 2006, local employment exchange systems which allow various national government administrations present in the region, as well as local government authorities, to place their job vacancies on line have been used to organise secondments. Indeed, the status-based approach has gradually been giving way to a job-based approach: the national civil service had 1 500 *corps* in the late 1990s but today has no more than 700.

Modernising human resource management in the civil service requires the principle of equality, continuity and transferability to be transposed into the organisation and functioning of the civil service. Competitions remain one of the main means of implementing the principle of equality and the distinction between grades and jobs allows jobs to be matched to the needs of the service in accordance with the principle of transferability. This also presupposes that civil servants are guaranteed career advancement.

Recruitment is therefore a long-term investment and the aim is to recruit taking account of both immediate needs and the ability of future recruits to adapt to their future posts. On-going training and mobility are determining elements of public employment management. The management of civil servants' careers must meet the needs of public services, which calls for management of jobs and skills as well as management planning of staff numbers and mutual enrichment of good practices (e.g. an Interministerial directory of civil service professions has been set up based on the model of the two other civil services). Local government authorities have developed personnel management systems in order to retain the loyalty of their civil servants. Some of the General Councils that have found it increasingly difficult to recruit social workers or nurses have introduced a contract-based system of education grants for students in exchange for guaranteed recruitment and a commitment to work for the authority in question for a specific period of time.

III. F Relations between national and sub-national government administrations

Despite the considerable efforts made under decentralisation to increase the power of local government authorities, mistrust still lingers between the central administration and local authorities. National government still has problems in seeing territorial authorities as fully fledged partners in that, as noted earlier, local authorities have only limited financial autonomy. Moreover, central government is still responsible for setting rates of local tax and the overall appropriations for operating costs devolved by central government to local governments are index-linked to inflation, whereas the rule should be to link them to growth.

Central government is still slow to involve local government when Acts or EU Directives have a direct impact at the local level. Consequently, local authorities are often the victims of the prescriptive inflation of central government and, as a result, it has been proposed (Lambert Report on the impact of the general review of public policies) to set up a National Commission on Standards Assessment to study the impact of legislation and directives that would have an impact at the local level. Unlike certain foreign local government authorities (in Germany or Italy), French local governments have no prescriptive powers other than the power to formulate and implement their own public policies on a trial basis; the aim for the State would therefore be to think of local government authorities as genuine partners.

The issue of mobility between the national civil service and the local government civil service as a means of encouraging the development of a partnership-based approach remains highly circumscribed. In terms of statutory, cultural or financial obstacles, the sense of belonging to a given professional category or Ministry is far more developed in the national civil service than in local government where the feeling is one of belonging to a more homogeneous single family.

Relations between central government and local government in France are still strongly marked by the supervisory power that central government exercises over local authorities, despite the principles of autonomy and free administration enshrined by decentralisation.

The management of public sector employment is heavily influenced by the model adopted by local government authorities, which have been genuinely innovatory in managerial terms. The proximity of elected officials to users requires the development of coherent, effective and reactive local initiatives formulated by mobile local government employees. In this way the relationship between central government and local government should in future tend towards the forging of a genuine partnership. The aim of central government in this will be to draw its inspiration from the dynamic approach of local government to the management of public sector jobs in order to overcome the mistrust and suspicion that may reign between these two levels of government.

GERMANY

PART I - THE CONTEXT

I. A Which are the sub-national governments?

The Federal Republic of Germany is a two-tier federated state. The state authority established by the Basic Law is divided among the State as a whole - *i.e.* the federal level, or Federation, in German: *Bund* - and its constituent states, *i.e.* the *Länder*. The Länder are states with *Land* constitutions, parliaments and administrative structures of their own. In terms of state structure, municipalities are part of the *Länder*, but they are not a "third level" of the federal state structure. This system is based on the Basic Law (GG, *Grundgesetz*) of 23 May 1949 and has its roots in the 1871 Constitution of the German Reich which already laid down the federal structure.

Of the 16 federal states, North-Rhine Westphalia with its 34.068km² and 18.01m inhabitants is the largest and Bremen with 404km² and 0.66m inhabitants the smallest federal state.

I. B The distribution of responsibilities

According to the Basic Law (*Grundgesetz*), competences are divided between the federation and the federal *Länder*. With regard to legislation, more competences lie with the federation; in terms of administration, the federal *Länder* have greater competences. The federal *Länder* execute most of the legislation at *Land* level and most of the federal laws. The federation has the right to supervise the *Länder* and give them instructions, which enables it to influence the execution of federal legislation.

The municipalities discharge local affairs on their own responsibility. The right to local self-government is enshrined in the German constitution (Article 28 of the Basic Law). The municipalities are subject to specific supervision by the federal *Länder* (cf. question 6) and are bound by instructions by the *Land* authorities where they discharge public tasks.

The competences are divided as follows:

Federal Länder: The *Länder* are responsible for internal school administration. This includes the training and recruitment of teachers, curricula and teaching concepts, and school supervision. School administration, however, comes in the remit of the municipalities. Higher education is assigned to the scientific administration of the federal *Länder*. This covers scientific, artistic and administrative staff. The police and the tax administration also come within the remit of the federal *Länder*.

Municipalities: The municipalities are in particular responsible for construction administration in the broadest sense (i. a. urban planning, road construction, provision of housing for those needing housing assistance), social services, health services and public facilities (e. g. public swimming baths, nurseries, sports facilities). They are also responsible for external school affairs. This includes the construction of schools, equipping schools with furniture and books etc. and school staff management (excluding teachers). Also, the municipalities are responsible for local public transport, waste disposal and supplying the citizens with water, gas, electricity and long-distance heating. The utilities are primarily run as enterprises under private law; some of them compete with purely commercial providers.

On 1 September 2006, the Basic Law was amended (reform of federalism), leading to a new distribution of a great number of competences between the federation and the federal *Länder*. The most important amendments relate to a new allocation of responsibilities to the *Länder* with regard to higher education, prison services, law of assembly, law governing shop opening hours and restaurants, as well as the payment and pensions for *Land* civil servants and judges, including civil service career law. The federation has been given more responsibilities with regard to weapons and explosives law, and regarding the production and use of nuclear energy for non-military purposes.

In a second step, the apportionment of tax revenue is to be reformed as a priority measure in what will be the second part of the reform of federalism.

The *municipalities* make use of the cooperation between municipalities to a great deal; this means that several municipalities or local associations pool their resources to jointly discharge individual tasks. This concerns e. g. regional development cooperation, tourism, supra-regional industrial estates and infrastructure facilities in the field of local public transport, leisure and recreational facilities, hospitals, waste disposal, water supply and sewage disposal. Municipalities may also pool their resources to provide local services such as fire brigades, rescue services, social assistance associations and nurseries. Municipalities also cooperate to an increasing extent in management and administration (procurement, basic and further training, facility management, IT infrastructure). The latest trend is the joint provision of services in what is called back offices, which are organised jointly by several municipalities. These services can be accessed by the citizens at various interfaces in the individual municipalities taking part, e. g. citizens' offices; some of them can also be accessed via the Internet.

Municipalities often form what is known as joint authorities (*Zweckverband*) to cooperate. Some federal *Länder* also allow their municipalities to form administrative communities which discharge all or some tasks jointly. Those joint authorities and administrative communities have several sub-categories. The legal framework is set by the federal *Länder*, which also discharge the supervision.

The federal *Länder* may cooperate, too, one example being the broadcasting law, where there is a Broadcasting Treaty between the 16 federal *Länder*, and the Association of Public Broadcasting Stations in Germany (*Arbeitsgemeinschaft der öffentlich-rechtlichen Rundfunkanstalten der Bundesrepublik Deutschland, ARD*) which provides television programmes across Germany.

Treaties concluded by the federal *Länder* are below the level of international treaties, because the *Länder* are only entitled to conclude such treaties within their competences.

Below the level of treaties, the *Länder* may conclude administrative agreements, which are limited to the definition and coordination of formal administrative competences. Another form of cooperation throughout Germany is the conferences of special ministers at *Land* level.

Generally speaking, the federal system in the Federal Republic of Germany has proved its worth. Its main features are the clear delimitation of competences between the federation and the *Länder*, accompanied by some joint competences which are the exception. The number of exceptions, however, had risen constantly in the past, so that there were lengthy and complicated decision-making processes in some policy fields; it was therefore argued by some that the competences between the federation and the *Länder* should be more clearly cut. The above-mentioned 2006 reform of federalism has made a major contribution to solve this problem. The responsibilities have been clearly cut between the federation and the federal *Länder*, striking a balance between cooperation and competition.

The major aim was to give the federation and the *Länder* more autonomy in order to strengthen their capabilities to act and take decisions in a sustained manner, also on the part of municipalities.

I. C The financial arrangements

Article 106 of the Basic Law regulates the distribution of revenues in a detailed manner, making reference to the federation and the federal *Länder*, but also to the level of the municipalities, thus addressing all three tiers of the federal state. Article 106 of the Basic Law provides that tax revenue is apportioned to the federation, the federal *Länder* and the municipalities.

Revenue from the following taxes accrues exclusively to the federation:

- Fiscal monopolies and customs duties
- Taxes on sweet flavoured alcoholic beverages, spirits, coffee, mineral oil, champagne, electricity and on tobacco, insurance tax and intermediate products duty
- Income and corporation tax surcharges (solidarity surcharge)
- Duties in the framework of the European Community

The revenue from the following taxes accrues to the federal *Länder* and, partly, to their municipalities:

- Heritage and real property acquisition tax
- Vehicle tax
- Duty on beer, fire protection tax, betting tax and lottery tax
- Gaming casinos levy
- Revenue from the following taxes accrues exclusively to the municipalities:
- Real estate tax (accrues exclusively to the municipalities; municipalities have the right to establish the rates at which taxes on real property are levied)
- Trade tax (accrues exclusively to the municipalities; municipalities have the right to establish the rates at which trade taxes are levied)
- Duty on drinks, dogs, duty on the sale of intoxicants, entertainment tax and secondary home tax

Revenue from the following taxes accrues jointly to the federation and the federal *Länder*:

- Corporation tax
- Income tax and turnover tax

Revenue from these taxes needs to be handed down to the municipalities in part.

This revenue distribution is adjusted by what is called horizontal financial equalisation between federal *Länder* which are highly financially capable and those with a low financial capability (cf. Article 107 (2) of the Basic Law).

Article 109 (1) of the Basic Law provides that the federation and the *Länder* are autonomous and independent of one another in the management of their respective budgets. Under the German constitution, the municipalities form part of the respective *Land*. They, however, are also independent under the principle of local self-government, which is also enshrined in the constitution. Restrictions derive from the law prevailing in the *Länder*, for instance the law governing cases where communities have accrued great debts (cf. question 7).

Supervision of municipalities

All local action comes under the supervision of the federal *Land* in question. A distinction is made here between legal supervision and expert supervision.

This distinction mirrors the distinction of tasks discharged by municipalities: With regard to self-government tasks, municipalities are free as to the way they discharge their tasks; for this reason supervision is restricted to the compliance with applicable law. Where tasks are delegated to a municipality, the municipality acts on behalf of the public administration. For this reason, the supervisory authority in question exercises expert supervision, which entails an extended right to exercise control and issue instructions.

The federal *Länder* as well as the municipalities are entitled to borrow funds.

There are restrictions under budget law as to the amount of funds the three governmental tiers may borrow. Generally speaking, debts freshly incurred by either the federation, the federal *Länder* or the municipalities may not exceed capital spending. However, the compliance of these rules is only monitored with regard to the municipalities, and non-compliance is sanctioned. In contrast to the federation and the federal *Länder* the municipalities are thus not able to balance their budgets by borrowing fresh money, invoking rules governing exceptions. Where the municipalities are not able to balance their budget, they are required to draft a budgetary consolidation plan setting out a balanced budget within a given period. The supervisory *Land* authorities need to approve the budgetary consolidation plan, until what time the municipality is subject to far-reaching financial restrictions. This means in particular that any expenditure item needs to be approved by the supervisory authority. Furthermore the supervisory authority is entitled to lay down conditions, e. g. to force the municipality to raise taxes and duties.

There are several types of financial equalisation:

- The *horizontal financial equalisation* seeks to insure an equalisation of the disparate financial capacities of the *Länder* at the horizontal level (for this reason it is also called financial equalisation among the federal *Länder*).
- The *vertical financial equalisation* regulates the apportionment of tax revenues between the three governmental tiers, i. e. the federation, *Länder* and municipalities (for further details cf. question 6).
- The *municipal financial equalisation* is regulated in the *Land* laws and provides for the distribution among municipalities within a *Land*. It is designed to provide the municipalities with a financial basis for their self-government in line with Article 28 (2) of the Basic Law. It amounts to a vertical equalisation between the *Land* and its municipalities.

To identify the equalisation amount, the tax revenue per capita is calculated for each municipality. The taxable capacity is then compared with the financial need per capita. In a next step, the difference between the taxable capacity and the financial needs can be calculated for each municipality. In most municipalities, the financial need exceeds the taxable capacity, so that they are entitled to equalisation. The need is equalised to 60 to 90%, varying from *Land* to *Land*.

As a last stage of the distribution system the federation is entitled to grant additional allocations to federal *Länder* with a low financial capacity, amounting to a redistribution among the federal *Länder*.

As regards the old-age pensions and other benefits for public service employees, the general principle of Article 104a (1) of the Basic Law applies with regard to the relationship of the federation and the federal *Länder*, whereby the federation and the *Länder* shall separately finance the expenditures resulting from the discharge of their respective responsibilities. This means that the federation covers the provision of pension and benefits for federal civil servants and employees, the *Länder* cover those of their civil servants and employees.

The financial system has generally proved its worth. The system is highly complex and the framework conditions are subject to constant changes, for which reasons adaptations tend to be necessary from time to time.

At present there is a project to take a second step to reform federalism (cf. above); the idea is to amend the Basic Law to create a new and stricter regulation governing borrowing which the governmental tiers are able to comply with and which provides at the same time sufficient flexibility to cope with difficult situations, thus insuring sustainable public budgets.

Municipality funding is highly dependent on the economic situation, which makes it hard to forecast tax revenues and to calculate the money available for public spending. Furthermore, some criticise the effects that the taxing mechanism has on enterprises liable to pay taxes, which make the greatest contribution to

local tax revenues. In this respect, too, the second step of the reform of federalism is expected to identify solutions.

PART II – HUMAN RESOURCE MANAGEMENT ARRANGEMENTS

II. A Establishment

Generally speaking, the federal *Länder* and municipalities are free to lay down their staffing plans.

The municipalities are subject to restrictions to the extent that their budgets are subject to supervision by the *Land* in question when their budgets are undergoing consolidation measures, which come to bear if and when the local budget cannot be balanced within their possibilities to borrow fresh money. The federal *Länder* are not subject to such restrictions.

Until the recent past, civil service law was relatively uniform. The recent amendments to civil service law as part of the reform of federalism have not been sufficiently valuated so that repercussions for staff management are not yet clear. In various fields some *Länder* have announced, or even decreed, that they are going to deviate from the regulations which used to apply across Germany. On the whole the development in the federal *Länder* is not expected to divert to a large extent.

II. B Employment systems

Civil servant law used to be uniformly regulated until 2006. Major amendments have been introduced in the course of the reform of federalism.

In the future, only the law concerning civil servant status will apply uniformly across Germany. In April 2009, the new Act on the Status of Civil Servants which has been adopted by parliament will take effect. The federal *Länder* will be given far-reaching scope of action with regard to their staff to accommodate the differing organisation and staff structures. This means that the uniformity of the civil servant law and the mobility of civil servants throughout Germany will be safeguarded. Details will be arranged by the federal *Länder* on their own responsibility. The new act creates the prerequisites for modern staff management by creating clear structures and reducing red tape. This applies e. g. for the requirements to create or terminate a civil servant relationship or for secondments or transfers between several employers. It has been made easier to second civil servants also to private institutions outside the public service; this means that experiences from other fields can be tapped for the discharge of public tasks. Responsibility for the law governing careers, remuneration and old age provisions rests exclusively with the federal *Länder*. Their regulations are also binding for the municipalities within the *Land* boundaries.

In the Federal Republic of Germany, civil servants, judges and military personnel, as well as public employees (salary earners and wage earners in the public service) are employed to perform state tasks.

In accordance with Art. 33 (2) Basic Law every German shall be eligible for any public office according to his aptitude, qualifications, and professional achievements.

The exercise of State authority on a regular basis shall, as a rule, be entrusted to members of the public service who stand in a relationship of service and loyalty governed by public law (Art. 33 (4) of the Basic Law), that is to civil servants. The rights and duties of civil servants are governed by federal law, which means that the parliament determines the rights and duties as well as the

In contrast, public employees are employed on the basis of a contract under private law. General labour law applies to them - as to all employees in Germany. Specific working conditions, however, are set out in collective agreements negotiated between the public employers (Federation/the Länder/loco' authorities) and the responsible trade and labour unions.

Career paths

The complex career system which is based on specific training should enable civil servants to assume not only individual tasks but all tasks linked to a particular career. The fact that a civil servant can be assigned a great variety of roles within the framework of his/her specific career qualification also ensures greater flexibility in human resources management.

The training for careers that are rather untypical for the public administration is provided as in-service t raining in the course of a preparatory service. For the performance of particular tasks the public administration also needs specialists who - thanks to their education -have obtained expertise which cannot be conveyed by the public service and which need not be improved in a preparatory service (e. g. doctors). For these specialists, service careers for specific disciplines have been established. Admission of specialists to the public service is conditional on a certain length of full-time occupational experience, instead of completion of preparatory service and the career examination.

Even if an applicant does not have the necessary specific career qualification, he/she may be admitted to the public service under certain conditions. In the case of these "other applicants", the ability to perform the duties of an office must be acquired by experience in life and at work inside or outside the public service, as established by a special independent body, the Federal or Land Personnel Commission.

In view of the different tasks in the public administration on the federal and regional levels, certain career paths are offered only by the Federation and the *Länder*. For example, career paths in the Foreign Service or the military administration are offered only at the federal level, while the preparatory service for teachers at primary and secondary schools is subject to *Land* legislation.

The preconditions for admission to the preparatory service are

- in the ordinary service, successful completion of secondary school education or a recognised equivalent,
- in the intermediate service, successful completion of general school education (10 years) or attendance of a secondary modern school as well as follow-up professional training or a recognised equivalent,
- in the higher intermediate service, successful completion of a polytechnic education (*Fachhochschule*) or other school education qualifying for admission to a university or a recognised equivalent,
- in the higher service, successful completion of university studies in an appropriate subject area. Here, studies in law are regarded as being equal to economics, finance and social sciences for the general administrative service.
- The preparatory service provides practical and theoretical training and ends with a career examination. Civil servants are employed subject to revocation during the preparatory service, which lasts between 6 months and 2 ½ years.
- In most cases, the preparatory service for careers in the higher intermediate non-technical service is carried out at polytechnics *(Fachhochschule)* inside the administration. Training consists of specific studies at a *Fachhochschule* and professional practical study periods of 18 months each in training authorities.

The Länder operate their own polytechnics for administration with, in most cases, the following subjects: general administration, policing, fiscal administration, and administration in the judiciary.

After the successful completion of the career examination, civil servants are to prove themselves during a probationary period. As a rule, the probationary period stretches over a period of one year in the ordinary service, over two years in the intermediate service, over two years and six months in the higher

intermediate service and over three years in the higher service. After successful completion of the probationary service, civil servants, if they are at least 27 years of age, are appointed for life.

Termination of the employment relationship between public employer and civil servant

Effective employment of civil servants can only be terminated, other than by death, in the cases permitted by law.

As a rule, the active employment of civil servants ends on retirement. By law, civil servants must retire on reaching the age of 65. Exemptions from that rule apply to certain groups of civil servants, for example to police and prison staff and to fire-fighters, who generally retire at the age of 60. The age limits apply to women and men equally.

Civil servants may also apply for retirement at the age of 63, or at 60 in case of serious disability. Furthermore, a civil servant must retire if he/she is permanently unable to perform his/her official duties for health reasons and is no longer able to fully perform other work, even after re-training ("rehabilitation before retirement"). The pension is reduced in cases of early retirement.

The foundations of the relationship between public employer and employee

Originally the public service was the exclusive preserve of civil servants. Wage earners were employed in the public service as support staff for the first time at the start of the 19th century. Today about two-thirds, or 3 million, of the 4.8 million staff in the public service have the status of public employee (salary earners and wage earners).

The high percentage of employees in the public service first of all reflects the fundamental change in the state's perceived role. In contrast to the 19th century the state is no longer seen exclusively as the custodian of public order, but is also considered responsible for the growth and well-being of the community. These tasks have been assigned to a great extent to public employees, while civil servants are mostly allocated to the classic sovereign functions (police, tax collection, customs administration and ministries).

These collective agreements specify almost all the major working conditions in the public service.

Generally, public employees have the same rights and duties resulting from their employment relationship as private-sector employees. In addition to the main duty of working, a series of additional duties exists for each employee. In general, for instance, each employee is obliged to work towards the best interests of the employer in accordance with his/her abilities.

A public employer can punish a public employee's breach of duty set down in the employment contract in the same way as a private employer: He/she can reproach the employee for a certain behaviour, express disapproval of a certain behaviour, warn or reprimand the employee. A reprimand consists of an employer's complaint that makes clear to the employee his/her performance shortcomings indicating that the terms and existence of the employment relationship would be placed in danger unless such shortcoming are remedied.

The severest punishment is, finally, termination of employment by dismissal. No provision comparable to the disciplinary law of civil servants applies to employees in the public service. Since employees in the public service are employed on the basis of an employment contract under public law, the labour courts are responsible for resolving legal disputes.

Employees can defend themselves before a labour court by means of a dismissal protection action. They may also enforce claims emerging from employment - e.g. for a higher pay grade because work performed meets a pay grade characteristic set out in the collective agreement - by legal action before the labour court.

Like employees in the private sector, public employees have the right to strike in order to enforce their demands in the framework of collective negotiations. Strikes must be organised by the trade and labour

unions and may not have any other purpose than reshaping the working conditions or enforcing demands in collective bargaining. They are only permissible as a last resort after all available means of reaching an agreement have been exhausted. Political strikes are prohibited in Germany.

In contrast to civil servants, public employees are not recruited to a particular career, but for a specific occupation. The activity is assessed in accordance with criteria set out in the collective agreement and forms the sole basis of placing the employee in a specific pay grades. Promotion to the next-higher pay grade is on principle conditional on the employer assigning the employee to a different higher-ranking function. Similar to the practice followed in promoting civil servants, however, in most cases the collective agreements allow for public employees to advance to the next pay grade if they have performed their duties satisfactorily over time (so-called advancement on grounds of proven abilities). The length of time required for such advancement varies according to pay grade; it ranges from two years in the lowest pay grade to 15 years in one of the highest pay grades.

Employees may be transferred, seconded or allocated under the existing employment contract. Furthermore, an employee may be temporarily seconded with his/her consent to another public institution which is not one of the German employers (e.g. international and intergovernmental organisations), or also assigned to a non-public institution. A transfer to another public employer is not possible. In such a case a new employment contract must be concluded. Public employees may also take unpaid leave, like civil servants.

An alteration of the conditions of employment to the disadvantage of the employee, e.g. assignment to a lower-paid job, may not be ordered unilaterally by the employer. Doing so requires that the employment contract be changed by mutual agreement or by way of termination of contract with the option of altered conditions of employment.

Public employees are by law generally obligated to be insured in the statutory social insurance, i.e. they are members of the statutory health, long-term care, accident, pensions and unemployment insurance schemes. The public employer and employee share the costs of social insurance in accordance with the applicable contribution rate which is a defined percentage of the gross income.

Termination of employment

The employment relationship between public employer and employee may be ended by terminating the employment contract. To terminate the employment contract the staff council must be involved, otherwise the termination is invalid. A distinction is made between termination with due notice (routine dismissal) and exceptional termination. They differ with regard to the notice period and the grounds for termination.

Routine dismissals are subject to a defined notice period. This period is two weeks to the end of the month during the six-month probationary period. After six months, the notice period increases to one month and rises - depending on the length of employment - up to six months. After 15 years of employment, but not before the employee has reached the age of 40, employment of public employees subject to the Federal Collective Agreement for Public Employees/Framework Collective Agreement for Wage Earners in the Public Service can no longer be terminated with due notice.

Such routine termination of the contract by the employer requires a cause justifying this from a social point of view. Termination is only socially justified if it is brought about by reasons inherent in the character or conduct of the employee, or because of urgent operational requirements standing in the way of the continued employment of the employee in this operation.

Exceptional termination for serious reasons is permissible without adhering to a notice period. There must be circumstances making continued employment until expiry of the notice period unacceptable for the employer. Even employees whose contract in fact may not be terminated with due notice can be dismissed without notice on grounds of their personal behaviour.

Other grounds for termination are for example contract of annulment by mutual consent, reaching the retirement age at 65, expiry of temporary employment or termination of contract during the probationary period that lasts between three and six months.

Number of civil service employees by types of employment

In 2007 there were approximately 4.5 million civil service employees in Germany, of those 1.9 million in a relationship under public law as civil servants, judges or soldiers. 2.7 million were public service employees.

At federal level, there are 130,000 civil servants as opposed to 158,000 public service employees. In the higher executive service, however, there are more civil servants than public service employees. The federal *Länder* have the greatest share of civil servants – there are 1,246,000 civil servants and approximately 700,000 public service employees. The municipalities have only a low share of civil servants, namely 183,000, whereas the great majority is public service employees, namely 1,107,000.

Open or closed employment system

With regard to civil servants, there is generally a closed employment system in place (what is known as a career system). It is however particularly for higher executive civil servant functions (the highest remuneration grades in Germany, which would be equivalent to an A-grade in international organisations) that non-civil servants may enter the career system.

With regard to public service employees, the system is generally open (a system of positions); however, access to the system is increasingly restricted in actual fact (staff surplus, scarce resources, for this reason vacancies are frequently announced internally).

The ratio of civil servants and public service employees, based on the figures stated above is as follows: For the federation: 55% public service employees and 45% civil servants; federal *Länder*: 36% public service employees and 64% civil servants; municipalities: 86% public service employees contrasting with 14% civil servants. These ratios reflect the degree of openness of the employment system.

The federal *Länder* and all major municipalities have an active and modern staff management in place. At the core are systematic human resources and executive staff development schemes, further training programmes including in the use of new technologies. The federal *Länder* exchange experience with regard to these issues on an ongoing basis. This corresponds with the far-reaching competences of the subnational territorial communities for all major human resources management affairs.

II. C Remuneration and other employment conditions

The federal *Länder* are not bound by federal instructions and are absolutely free in their decisions with regard to their remuneration systems. The federal *Länder* define the framework conditions in place for the municipalities within their boundaries.

In the course of the amendment of the Basic Law on 1 September 2006 the legislative power for defining the remuneration and pensions as well as for legislation governing careers of Land public officials has been transferred from the Federation to the Länder. Accordingly, the Länder can decide themselves about the working conditions and remuneration of their public officials. This transfer in the responsibility for making laws has not however led to the emergence of essential differences in the remuneration schemes and other employment conditions between the Federation and the Länder as yet. Minor differences however exist with regard to weekly working hours (between 40 and 42 hours) as well as for increases in the remuneration for the years 2007 to 2009.

The remuneration of public employees is determined by collective bargaining agreements concluded between regional and local authorities and the trade unions as is also the case with the general working

conditions. The Federation, the Länder and local authorities are each independent employers and parties to the collective agreement for their sphere of responsibility in the public service. The negotiations which on the part of employers have invariably been concluded jointly so far have thus led to largely identical arrangements for public employees in the public service of the Federal Republic of Germany. This negotiation community is however based on a voluntary unwritten agreement.

In the course of the reform of collective bargaining agreements in 2005, the Federal Government and the Local Authorities Employers' Association (VKA) concluded the "Collective Agreement for the Public Service" (TVöD). Irrespective of that, the "Association of Employers of the German Länder in the Public Service" (TdL) concluded the Collective Agreement for the Public Service of the Länder (TV-L) with the trade unions. The arrangements governing collective agreements continue to be largely identical; minor differences exist, amongst other things, in terms of weekly working hours and with respect to scheduled pay adjustments.

Remuneration of civil servants

The remuneration of civil servants, judges and military personnel (i.e. professional and fixed-term military personnel) on federal level is governed by the Civil Servants' Remuneration *Act (Bundesbesoldungsgesetz - BBesG).* The *Länder* are responsible for the regulations on the remuneration of civil servants of the *Länder* and local authorities.

The basis for remuneration is the so-called maintenance principle, which is one of the principles of the professional civil service guaranteed by the Constitution (Art. 33 (5) of the Basic Law). According to this, the employer is obliged to provide suitable maintenance commensurate to the office assigned (but not the specific function) to active civil servants, also if they become disabled or reach retirement age. Remuneration is intended to ensure that civil servants are able to devote themselves entirely to their jobs; only a financially independent civil service is able to fulfil the functions assigned to it by the Constitution. Unlike that of public employees, the remuneration of civil servants is not a direct payment for individual work done, but compensation for their service as a whole, in other words for civil servants making their entire working capacity available to the general public and carrying out their duties to the best of their ability (civil servants with life tenure).

Remuneration, which is paid monthly in advance, consists primarily of the basic salary. This is supplemented by the family allowance, as well as allowances in specific cases. Performance bonuses or performance allowances, as well as special allowances in accordance with labour market conditions may also be paid. Special expatriation allowances apply to assignments abroad.

The basic salary is the main element of remuneration; it is determined in accordance with the pay grade of the office held. It is therefore not a matter of which function the civil servant actually performs, but solely of the pay grade of the office assigned to him/her. The offices and their pay grades are governed by the Federal Remuneration Schemes *(Bundesbesoldungsordnungen)* and Remuneration Schemes of the *Länder (Landesbesoldungsordnungen).* There are four remuneration schemes. Schemes A and B govern the remuneration of civil servants and military personnel, scheme C that of professors and lecturers at higher education institutions, and scheme R governs the remuneration of judges and public prosecutors.

The basic salary increases within the respective pay grade up to the fifth step at intervals of two years, up to the ninth step at intervals of three years, and beyond this at intervals of four years. In the higher pay grades of the higher intermediate and higher services, the final basic salary can be reached at the earliest at the age of 49 and 53.

Explicitly standardized mechanisms for the harmonization of the working conditions of public officials between the Federation and the Länder are neither provided for in the Constitution nor in legislation which does not require the consent of the *Bundesrat*. However, the Federation and the Länder inform each other about forthcoming amendments to the employment conditions of public officials in the framework of conferences of specialised ministers and other expert commissions.

With the shift of the legislative power in the field of public officials to the Länder, no instruments have been introduced for the control or curbing of overall payments for wage groups.

The most important aim of the reform efforts is to make employment and wage conditions in the public service attractive so as to ensure that the public service is competitive with the private sector regarding its need to recruit qualified junior staff.

II. D Retirement benefits

Until 30 August 2006 pensions (full provision) for federal and *Länder* civil servants and judges were paid uniformly on the basis of the Act Governing Civil Servants' Pensions and Allowances. According to this law retired civil servants receive pensions calculated on the basis of the pensionable length of service and the pensionable pay of the last pay grade. According to current law, each full year of full-time employment increases the individual civil servant's pension by a factor of 1.79375, i.e. after 40 years the highest rate of pensionable pay is 71.75%. Pensions of civil servants have two functions. Whereas the statutory pension is a regular insurance (1st pillar) which is often complemented by an occupational pension (2nd pillar), which all public employees receive, the pension of civil servants already includes both benefits and thus serves both as a regular and a supplementary pension. The reform of Germany's federal structure extensively reorganized the division of powers between the Federation and the *Länder*. On 1 September 2006 the *Länder* were granted the legislative power over the pay and pensions of their civil servants. Since then federal civil servants and federal judges receive benefits pursuant to the Federal Act Governing Civil Servants' Pensions and Allowances. The 16 *Länder* provide for their civil servants' and judges' benefits on their own.

This ended the uniform approach to civil servants' benefits. The Federation and each *Land* can adopt provisions on pensions individually. This inevitably results in differences. However, these differences cannot yet be determined.

The working group of the *Länder* on pension issues, which the Federation regularly attends as a guest, discusses problems and questions regarding pensions and seeks solutions for achieving a certain degree of coherence among the *Länder* to facilitate staff exchange.

Already since the 1990s future strains on public budgets by pensions have been discussed and reforms have been initiated to ensure that in the long run the overall pension level, also in adjusting to measures of the statutory pension insurance, remains affordable and unaffected by demographic changes. Since the late 1990s civil servants' pensions have also been complemented by elements of capital cover to create pension reserves from reduced pay and pension adjustments which are to limit the increase in pension costs. In addition, a pension fund has been created. Since 1 January 2007 the Federation has been running such a fund. Since then, payments have been made into the fund for each new civil servant. This ensures that in future the pensions for these civil servants will no longer be paid from general tax revenue but from savings in this fund. In the long run, the federal pension system for civil servants thus becomes a system of capital cover. Several *Länder* have also introduced pension funds in addition to pension reserves. They partly or fully cover future pension expenditures. Due to the uniform pension law, there are no differences within the Federation. It is impossible to predict whether differences will arise among the *Länder* due to the reform of Germany's federal structure.

The reforms of civil servants pensions aim at establishing a sustainable basis for funding this independent pension system. The reforms of the German pension systems since the early 1990s in line with this aim have been applied to all systems equally. The rules applying to the statutory pension insurance must accordingly apply also to civil servants' pensions, unless there are fundamental differences between both systems. All Federal Governments have consistently followed this policy. Against this background, the following reforms to reduce costs have been carried out.

The Act amending the Act Governing Civil Servants' Pensions and Allowances of 18 December 1989 introduced a pension reduction for civil servants who wish to retire before reaching the required pension age. At the same time, rules for including income from the private sector were tightened.

The 1997 Act to Amend the Public Service Law tightened the procedure to retire due to invalidity, and various allowances were taken out of pension calculations.

II. E Relations

There is an intensive exchange of experience among the federal *Länder* as part of conferences of heads of government and special conferences to which the Federal Government is as a rule invited. This practice has proved its worth and safeguards that *Land* laws are dovetailed to the extent necessary and that administrative practice is well coordinated across Germany. The conferences have a great number of working groups in place which meet regularly and on the basis of long-term agendas. They also serve to prepare the agreements between the federation and the federal *Länder*. Cooperation at *Land* level in the German *Bundesrat* (the chamber of the federal *Länder* at the federal level) and in its committees is much more formalised. It is in the nature of things that the focus of this cooperation is on legislative initiatives.

The *Länder* are represented in collective agreements by their employers' association, namely the Employers' Association of the German *Länder* (*Tarifgemeinschaft deutscher Länder, TdL*) in order to speak with one voice vis-à-vis the trade unions and to conclude collective agreements. The employers are represented jointly by the Federal Interior Minister and the Association of Local Authorities Employers' (*Vereinigung der kommunalen Arbeitgeberverbände, VKA*) in negotiations on collective agreements for public service employees at the federal and local level.

There is no national government organisation charged with assessing and/or evaluating government practices and experimentations conducted by the federal *Länder* or the municipalities on their own responsibility. Information on experiments is accessible to federal employees by taking part as guests in the special conferences of ministers.

PART III - THE EFFECTS AND CHALLENGES

III. A Status quo and recent changes

-

III. B Aggregated volume of public budgets and/or activities

In Germany, the decentralized discharge of tasks, accompanied by a high degree of own decision-making and responsibilities of the subnational territorial communities, has a long tradition and has proved its worth when it comes to the efficient discharge of public tasks. This concerns staff expenditure as well as the burden arising from old age pensions (which are directly related to staff expenditure). Add to that the added legitimacy for the public system and the body politic as such, which is hard to quantify but particularly valuable for Germany.

On the other hand, it is safe to assume that the decentralized discharge of public tasks may sometimes cause additional expenditure. Social cohesion and far-reaching participation (democracy) and thus also the acceptance and legitimacy of the public system always come at a cost; this includes for instance also the necessary tool of controlling municipal budgets. The additional expenditure is hard to estimate, though. At any rate, the above-mentioned added value more than makes up for the additional expenditure.

The conflict of targets between the subnational territorial communities seeking maximum responsibility and the uniformity of living standards throughout Germany look set to continue.

The local territories are responsible for supplying a sufficient number of staff members. The above-mentioned vertical and horizontal financial equalization measures are designed to ensure that sufficient financial means are available at all tiers and throughout Germany. Experience has shown that these mechanisms work in a satisfactory manner and that the subnational territories have enough staff members at their disposal.

III. C Structural issues

The legal framework which used to apply uniformly throughout Germany has so far prevented diverging developments:

The Act Defining the Scope of Civil Servants' Rights and Duties (*Beamtentrechtsrahmengesetzt*, BRRG) is a framework act containing civil service law provisions to be complied with by the Federation and the federal *Länder* when adopting their corresponding acts governing civil servants. The framework provisions to be complied with in line with Chapter 1 of the Act refer to the civil servant relationship, the legal status of civil servants, and to particular groups of civil servants. Chapter 2 contains provisions which apply directly and in a uniform manner. The Federation and the federal Länder have adopted their own acts governing civil servants. Now that the reform of federalism has been adopted, the framework legislation under Article 75 of the Basic Law ceases to apply. While the Federation has legislative powers to govern its civil servants, the federal Länder have the right to legislate with regard to matters concerning their civil servants. The Act Defining the Scope of Civil Servants' Rights and Duties will cease to apply on 1 April 2009 to be replaced by the Act Governing the Status of Civil Servants, which was promulgated on 19 June 2008.

The Federal Civil Servants' Remuneration Act (*Bundesbesoldungsgesetz*, BBesG) governs the remuneration for all civil servants, judges and soldiers in the Federal Republic of Germany, covering thus not only federal employees, but also those in the federal *Länder*, municipalities and other self-governing bodies. In addition, there are regulations governing remuneration.

As a result of the reform of federalism, since mid-2006, the federal *Länder* have been entitled to legislate with regard to the remuneration law governing civil servants and judges of the federal *Länder* (and municipalities). For this group of persons the Federal Civil Servants' Remuneration Act continues to apply only until *Land* laws governing remuneration have been adopted.

The Federal Act Governing Civil Servants' Pensions and Allowances **(***Beamtenversorgungsgesetz*, BeamtVG) regulates details with regard to pensions for civil servants at federal and (as yet) *Land* level. The entry into force of the reform of federalism in 2006 gave the federal *Länder* legislative powers for their civil servants. The Federal Act Governing Civil Servants' Pensions and Allowances continues to apply only until *Land* laws governing pensions and allowances for their civil servants have been adopted.

The basis of the federal system and the decentralized discharge of tasks at the three tiers of public administration in Germany have seen major changes in the course of the reform of federalism in 2007. The background and measures of this reform can be summed up as follows for the purposes of this questionnaire:

The federal system in the Federal Republic of Germany has generally proved its worth in Germany; however, decision-making processes were lengthy and protracted and the responsibilities of the Federation and the federal *Länder* were not clearly cut.

On the other hand, the legislative powers of the federal *Länder* had been more and more reduced over the decades.

Undesirable developments also included mixed financing, resulting from an increased trend to consolidate task-related financial transfers from the Federation to the federal *Länder*. Mixed funding tends to blur

responsibilities for tasks and expenditures, and at the same time leaves the administrative tiers involved less and less room for manoeuvre.

For these reasons, the responsibilities between the Federation and the federal *Länder* were redistributed in a move to improve the decision-making processes of the two tiers involved and give them more scope to act, and in order to cut political responsibilities more clearly, and to make the discharge of public tasks more expedient and efficient.

The newly agreed reform is to reduce the grey area of responsibilities between the Federation and the federal *Länder* and to strike a new balance between solidarity and co-operation on the one hand and competition on the other. On the whole, the reform aims to improve the decision-making processes of the Federation and the federal *Länder* (including the municipalities) and give them more scope to act.

The most important objectives of the reform are as follows:

- Strengthen the legislative powers of the Federation and the federal *Länder* by allocating legislative powers more clearly
- Reduce mixed funding and give the Federation new possibilities to grant the federal *Länder* financial aid, while reaffirming the promises made to the new federal *Länder* under the second Solidarity Pact.

The changes regarding the fiscal order also aim to put responsibilities more clearly, and give the administrative tiers autonomy to act. It is against this background that

- mixed funding has been reduced,
- the requirements for financial aid have been put more strictly,
- and fiscal autonomy has been strengthened.

As a result, the federal *Länder* now have exclusive legislative powers in the following areas:

- careers of civil servants
- remuneration of civil servants
- pensions and allowances for civil servants

The new Act on the Status of Civil Servants is designed to implement a major part of the reform of federalism; it will take effect on 2 April 2009. The Federation used to have overall responsibility in this field, which meant that the federal *Länder* had to gear their *Land* laws to the conditions laid down by the Federation. The reform of federalism has abolished the Federation's overall responsibility in this field. It has been replaced by the concurring legislative power of the Federation, which is restricted to the status law, but excludes the law governing careers, remuneration and pension benefits. The draft act makes use of this new competence and contains uniformly applicable provisions for civil servants throughout Germany.

The act aims to define basic structures for the nationwide application of the law governing the status of civil servants. The federal *Länder* will be given far-reaching scope of action with regard to their staff to accommodate the differing organisation and staff structures. This means that the uniformity of the civil servant law and the mobility of civil servants throughout Germany will be safeguarded. Details will be arranged by the federal *Länder* on their own responsibility.

The new act creates the prerequisites for modern staff management by creating clear structures and reducing red tape. This applies e. g. for the requirements to create or terminate a civil servant relationship or for secondments or transfers between several employers. It has been made easier to second civil servants also to private institutions outside the public service; this means that experiences from other fields can be tapped for the discharge of public tasks.

III. D Labour costs

In spite of the uniform legislative framework governing major issues, diverging regulations governing details are not precluded. For this reason, there have been special regulations for some time, for instance governing working hours per week, which obviously affects overall working hours. However, these only amount to minor divergences.

The legal framework which used to apply uniformly throughout Germany has so far prevented diverging developments. It is hard to forecast future developments.

III. E Human Resource Management

The subnational territorial communities are fully responsible for all matters concerning human resources planning and management (principle of HRM sovereignty). This guarantees maximum flexibility.

The practice of many decades shows that sub-national government administrations have the human resource management capacity and competences required to manage their workforce in an appropriate manner. As the federal *Länder* and the municipalities are highly autonomous when it comes to human resources, they have put in place sophisticated further training tools – also to promote the necessary human resources management skills.

Furthermore, the bodies and directorates dealing with human resources planning and management are highly autonomous, even within the respective administrative tiers. This for instance holds good for staff recruitment with the federal administration.

Recruitment for the civil service is marked by the disparity between a detailed and uniform legal framework, on the one hand, and a great deal of decentralization and inter-ministerial variation in the handling of personnel matters on the other.[57] The law stipulates who may, in principle, be recruited for the higher civil service, at what level, and under which conditions; but it leaves broad discretion to the individual ministries when it comes to the question of how the recruitment process is to be organized and how the substantive qualifications of candidates are to be assessed

Some federal *Länder* are bound to be more prone to modernization than others – one of the federal Länder, for instance, North-Rhine/Westphalia, tried to replace all civil servants by salaried employees.

So far, there have been uniform framework conditions. Nevertheless, there used to be some differences with regard to operational staff management (recruitment, promotion) due to the diverging financial capacities of the *Länder*. This trend might become much more pronounced – with repercussions on the attractiveness as an employer.

III. F Relations between national and sub-national government administrations

It is hard to forecast future developments.

The most important Federation-*Land* interface in the field of economic policy is what is known as promotion of the regions, where the Federation and the federal *Länder* co-operate closely. In this respect, the Federation continues to provide half of the financial funds for economic assistance in the regions (which contrasts with the abolition of mixed funding under the reform of federalism). The central state is

---

[57] K.H.Goetz, "Senior Officials in the German Federal Administration: Institutional Change and Position Differentiation" in E.C.Page, V.Wright "Bureaucratic Elites in Western European States – A Comparative Analysis of Top Officials"; New York: Oxford University Press, 1999.

very satisfied with the communication and co-operation mechanism this requires. All major decisions (such as defining assistance regulations and interpreting the promotion tools) are taken by a co-ordinating committee set up by the conference of economic and finance ministers. The rules cannot be laid down if the Federation or the majority of the federal *Länder* vote against it.

The Federation is satisfied with the dialogue in this respect. Due to the allocation of competences, the dialogue is restricted to an exchange of experiences which is voluntary and non-binding in legal terms.

It is hard to forecast future developments.

ICELAND

PART I - THE CONTEXT

I. A Which are the sub-national governments?

Iceland has two administrative levels of government; the State (central government) and the Local Authorities (municipalities).

The Icelandic governmental system builds on the separation of the judicial, legislative and executive powers. The structure of local government in Iceland is of Nordic origin and in many fundamental ways similar to the present structure in the Nordic countries; however, in Iceland there are no regional authorities. The special statue of the local authorities derives from their legal authority of self-government regarding their own affairs, and their right is protected under Article 78 of the Constitution of Iceland. This article states that he local authorities shall determine their own affairs in accordance with the law.

The municipalities are 79 today, but in the last 15 years the number has decreased from 204 to 79, through voluntary amalgamations. The municipalities are very disparate in size. Inhabitants in Iceland is today about 313.000. Reykjavik is the largest municipalities with 119 thousand inhabitants, or 63% of the total population. The second largest has 29 thousand inhabitants and 30 municipalities have fewer than 500 inhabitants. Only 32 municipalities have more than 1.000 inhabitants. [58]

I. B The distribution of responsibilities

The State has today responsibility for following: judicial matters, the police force, secondary schools and further education, the health sector, both primary health care and hospitals, public insurance, service to the handicapped and to the elderly (divided responsibilities), unemployment compensation and job centers, highways, customs and tax administration and regional development.

Each municipal manage their affairs independently as laid down by law and the same legal framework and responsibilities apply to all municipalities regardless of their size

The local governments have a local democratic role, which is connected with their constitutional right to self government. In 1996 the local authorities became responsible in law for all running costs of the country's primary schools. Previously, the state was responsible for paying part of these costs."[59]

Providing following services for the local people is the main task of the municipalities; basic social and financial assistance, home assistance to the disabled and elderly, child welfare, pre-schools (kindergarten 2-5 years), primary schools (6–16 years), culture, sports and recreation, after school and summer holiday arrangements for children, leisure activities especially for young people and the elderly, music schools, sport facilities, culture centers, museums and libraries support to local free organizations. The primary schools are by far the largest task of the Icelandic municipalities, in average about 50% of the municipal budget goes to the running of primary schools. (40-70% depending on the size of the municipality)

The municipalities also provide their inhabitants with infrastructure and technical, maintenance and operation of municipal streets, sewage, water and electricity works, as well as district heating municipal

[58] The Association of Local Authorities in Iceland

[59] Structure and operation of local and regional democracy, page 22.

planning and building inspection surveillance of public and environmental health, public transport, fire services, waste management, waste collection and harbors." [60]

In many cases, two or more municipalities will join forces to deal with particular services, mostly in connection with join projects. Joint projects are popular because they lead to greater efficiency and lower costs. Examples of such co-operation include homes and services for elderly, waste management and pollution prevention, co-operation in the fields of culture, sports, public transport, fire services, environmental health, sewage, water and electricity works and central heat.

A few municipalities have as experiment done at several service contracts with the state about services mainly or health-care and services for the handicapped and the elderly. In August 2004 a pilot project agreement originally made in 2002 was extended for two more years. Under the project central government bills and regulation which exclusively or substantially affect municipalities are evaluated regarding the overall effect they have on the municipality's financial standing.[61]

I. C The financial arrangements

By national law, the local authorities have some leeway in determining taxes. There are two types of income taxes in Iceland. One is paid to the state and the other to the municipalities. Both are collected by central government, but different laws apply to the two taxes. Income tax is levied on the actual or presumptive income of individuals. The local income tax is a fixed rate of the tax base. The income tax percentage can vary from one municipality to another- the minimum percentage is 11.24% and the maximum is 13.03 %. The municipalities also have some flexibility in levying property taxes on residential and commercial buildings**.**

Local income tax is about 63% of the municipalities' income. About 17% of their income is services fee but the service fee are subject to the limitation that they may not exceed the cost incurred in providing the services. Real estate tax is about 11% and rest is from so called Municipal Equalizations Fund and miscellaneous."[62]

Local government can run a deficit on their balance statement. To managing this debt they, can for example sell land, property, decrease the services stage or raise funds. "Local government in Iceland does not require authorization from supervisory authorities in order to raise funds."[63] A Local Government Audit Commission, appointed by the Minister of Social Affairs, is entrusted with the role of observing municipalities finances.

Each year, the national government pays 2.12% of its collected tax income to the Local Authorities Fund, as well as an amount equivalent to 0.264% of the previous year's local income tax base."[64] The State also contributes direct financial transfers to municipalities for road and harbors maintenance. Those transfers are decided each year in the national government budget.

Because Iceland has so many municipalities, with varying numbers of inhabitants and differing potential for raising revenue, there is a great need for financial equalization. Regulations on the Local Authorities

---

[60] The Association of Local Authorities in Iceland

[61] Structure and operation of local and regional democracy, page 16

[62] The Association of Local Authorities in Iceland

[63] Structure and operation of local and regional democracy, page 26

[64] Structure and operation of local and regional democracy, page 25

Equalization Fund prescribe the basis for contributions to individual municipalities. The fund makes four types contributions to the municipalities; fixed contributions, special contributions, equalization contributions and equalization contributions to primary schools.

The municipalities can vary the tax percent rate from 11.24% to 13.03 % levied on individual personal income of the inhabitants residing in the municipality in question. Likewise, the municipalities have the freedom to change the property taxes on residential and commercial buildings**.**

The main challenge is to provide a service stage for inhabitants they are satisfy with and at the same time not increase taxes.

PART II – HUMAN RESOURCE MANAGEMENT ARRANGEMENTS

II. A Establishment

Municipalities' autonomy in dealing with their own affairs extends to the appointment and assignment of staff.

The national government does not control or influence the staff establishment in the municipalities.

II. B Employment systems

The authorities in Iceland can design and use their own employment system within the legal framework set for the authorities. Most of the local authorities have the same employment system and they entrust the Association of Local Authorities in Iceland in order to work on wage and employment system for them.

The association's role in wage affairs has increased in recent years. The Salaries and Wages division of the association is to work on wage agreements that the local authorities entrust the Wage Committee to negotiate on their behalf.

The only limit for the local authorities for designing and setting up their employment systems, is the legal framework for the local authorities, and the law for the primary school and for singular profession.

II. C Remuneration and other employment conditions

The municipalities in Iceland can determine the remuneration and other employment conditions for their employee's within the legal framework set for the local authorities in Iceland. Most of the local authorities have the same remuneration system and other employment conditions as they entrust the Association of Local Authorities in Iceland, which was founded in 1945, to work on wage and employment system for them.

II. D Retirement benefits

The legal retirement age in Iceland is 67 years age. Persons 67 years of age or older are entitled to an old age pension paid by the Icelandic Social security. The old age pension is a flat-rate benefit; consist of a basic pension and a pension supplement. The basic pension and the pension supplement are calculated according to other income.

There is no significant difference in the system between national and local authorities.

II. E Relations

There are no formal forums where national and local authorities discuss and exchange experience and best practice in the field of human resource management.

The Association of Local Authorities in Iceland organizes meeting about human resource management for the leading person in the field in municipalities.

There is a formal co-operation between national government (the state) and the Association of Local Authorities in Iceland concerning pay setting and bargaining.

The municipalities in Iceland co-operate through the Association of Local Authorities in Iceland. All local authorities belong to the association which promotes increased relations between aldermen. It serves in an advisory capacity, dissemination and information about particular aspects of local governments affairs through education, conferences and the issue of various specialised publications.

PART III - THE EFFECTS AND CHALLENGES

III. A Status quo and recent changes

III.B Aggregated volume of public budgets and/or activities

III.C. Structural issues

III.D. Labour costs

III.E. Human Resource Management

III.F Relations between national and sub-national government admin.

Bibliography

The Association of Local Authorities in Iceland: *Structure and operation of local and regional democracy - Situation in 2005***.** Strasbourg 2005.

www.samband.is

Ministry of Health: *Heilbrigðisáætlun til ársins 2010. (Health strategy to the year 2010***).** Langtímamarkmið í heilbrigðismálum, Reykjavík 2001

http://www.heilbrigdisraduneyti.is/media/Skyrslur/Stada_og_endurskodun_meginmarkmida_heilbrigdisaatlunar_til_arsins_2010.pdf

Ministry of Health: *Spá um þörf fyrir mannafla í heilbrigðiskerfinu*. (*Estimation for the workforce in the health sector*). Reykjavík 2006

www.ioes.hi.is

Nordic Medico-Statistical Committee: Health Statistics in the Nordic Countries 2005

www.nom-nos.dk

Iceland Statistics: *Health care expenditure in Iceland***.** April 2005

www.hagstofa.is

The Icelandic National Audit Office: *Þjónusta við aldraða, stjórnsýsluúttekt* (*Service to elderly*)**.** Reykjavík, 2005

www.rikisendurskodun.is

Home pages

The Association of Local Authorities in Iceland, www.samband.is
Ministry of Finance, www.stjr.fjr.is
Ministry of Health, www.heilbrigdisraduneytid.is
Ministry of Social Affairs, www.felagsmalaraduneytid.is
Iceland Statistics, www.hagstofa.is
Social Insurance, www.tr.is

SPAIN

PART I – THE CONTEXT

I. A Which are the sub-national governments?

Perhaps the greatest contrast in Spain's current form, compared with other times, is its organisation into Autonomous Communities.

This new territorial arrangement, described as the State of The Autonomous Communities, has meant a radical transformation, from the previous regimes uniform and highly centralised State, to one which is plural and extensively decentralised.

The new organisation appearing in Title VIII of the Constitution is structured into three differentiated levels of autonomy: the State, the Autonomous Communities, and the Provinces and Municipalities making up the Local Administration. The Autonomous Cities of Ceuta and Melilla must be added to these three levels.

Spain is at this time organised territorially into 17 Autonomous Communities, 2 Autonomous Cities, 50 Provinces and 8.111 Municipalities.

The map of the Autonomies has been built up gradually as Spain's regions have taken up their autonomous rights.

All the Autonomous Communities were constituted between 1979 and 1983, and the Autonomy Map was completed in 1995 with the approval of the Special Statutes for Ceuta and Melilla.

The Autonomous Communities´ organisation is based in a similar structure to the one in the State. Therefore they have the following institutions:

- A Legislative Assembly elected by universal suffrage under a system of proportional representation.
- A Community Premier elected by the Assembly from among its number and appointed by the King. The Premier heads the Community's Government and is its senior representative, as well as the ordinary representative of the State within the Community.
- The Council of Government, chaired by the Premier, which exercises executive and administrative functions.

The Autonomous Communities take on the powers assigned to them in each of their Statutes of Autonomy, which form their basic institutional norm and which distribute power between them and the State as provided for in the Constitution.

The Constitutional distribution of powers between the State and the Autonomous Communities

The Constitution distinguishes three types of power according to subject-matter:

- Matters falling exclusively within State jurisdiction.
- Matters exclusively within the jurisdiction of the Communities.
- Matters for which jurisdiction may be shared between the State and the Autonomous Communities.

In any event, the State reserves the power to hand down basic provisions guaranteeing the equality of all Spaniards nationwide, and a degree of cohesion between all regions.

The Autonomous Communities have now taken up virtually all the powers assigned to them in their Statutes of Autonomy.

The institutional organisation of provinces and municipalities

Town Councils are bodies which govern the Municipalities. Town Councils are headed by the Mayor, and are made up of directly-elected Councillors. The Councillors, in Municipal Plenum, elect the Mayor by absolute majority. If such majority is not possible, the candidate heading the most-voted list is proclaimed Mayor.

The Provincial Authorities known as the Provincial *Diputaciones* govern the Provinces, elected by town Councils and designed to ensure the co-operation among Municipalities. These Provincial Authorities are chaired by a President and made up of Deputies. There are no *Diputaciones* in the single-province Autonomous Communities.

I. B Breakdown of responsibilities

The distribution of responsibilities in Spain's Administration lies on the Spanish Constitution and the Autonomy Statutes of all of the seventeen Autonomous Communities and the two Autonomous Cities (Ceuta and Melilla).

The Spanish Constitution, in article 148 contains a list of issues which the Autonomous Communities may be responsible for. When all the Autonomous Communities passed their Statutes of Autonomy they included all the issues related in article 148 of the Constitution.

On the other hand, article 149 of the Constitution contains a list of issues whose responsibility belongs exclusively to the State. Moreover, there is another list of issues whose responsibility may be shared between the State and the Autonomous Regions.

When it comes to the Local Level the system is slightly different. There is no list of issues for the exclusive responsibility of the Local Administration.

Since 2005, a movement has begun to reform the Regime of the Autonomies, leading to a process in which these Regions´ Statutes have been modified; this already happened in a number of Communities such as Andalusia, Aragon, the Balearic Islands, Catalonia and the Community of Valencia.

These modifications of the Statutes of Autonomy implies a wider range of autonomy for the Autonomous Communities including changes in denomination,

I. C The financial arrangements

The financial arrangements related to the three government levels in Spain are also defined in the Spanish Constitution.

First of all there is a double financial regime system, the common one and the foral one, the first one for all the Autonomous Communities and the second one for the so called Historical Regions (The Basque Country and Navarra).

Article 156 gives the Autonomous Communities financial autonomy as well as administrative. This autonomy is limited by two main principles: coordination with the State Treasury and solidarity among all Spaniards.

When it comes to the financial resources of the Autonomous Communities, article 157 of the Constitution establishes the list of economic resources including taxes yield by the state, participation in State Taxes,

their own taxes, transfers from the Inter-territorial Fund of Compensation, yields from their resources and other private incomes and credit operations.

Autonomous Communities shall never tax possessions located out of their territory.

Article 158 of the Constitution is related to transfers from the State Budget. It establishes the possibility of to create an economic assignation to the Autonomous Communities depending on how much functions and tasks from the State they have assumed and to guarantee a minimum level of public services nationwide.

Autonomous Communities can run a deficit and thus acquire debt. They need and authorisation from the State in order to run a credit operation abroad or when it means to release public debt and also when the credit operation means not to fulfil the objective of budget stability.

This way the authorisation from the State is used as a monitoring instrument of the Autonomous Communities deficit.

Regarding Local Government, the financial resources are their own taxes incomes. Local Entities have two kinds of taxes: compulsory for all local entities and not compulsory.

They can also take part in the taxes of the State and the Autonomous Communities and receive transfers from them.

The main challenges in the Financial Arrangements are now to adapt the system to the reform of the Statutes of Autonomy being held nowadays and also to revise the resources of the Local Government.

Local Entities face a big part of the services the citizens have and they do not have enough resources to satisfy their needs.

PART II – HUMAN RESOURCE MANAGEMENT ARRANGEMENTS

The Public Service enshrined in the Constitution has a homogeneous base but is otherwise diverse.

The homogeneity of the foundation and the diversity in other matters is a characteristic of the Spanish Public Service.

In assigning the State power to regulate the basic statutory regime for public servants and applicable to all Public Administration, the Constitution provides the Public Service system with the necessary consistency in its fundamental aspects.

On the other hands, the Constitution ´s recognition of specific power for the Autonomous Communities to regulate their public services opens the way to great diversity of regulations on those aspects of the Public Service which are not basic in nature.

Thus the Basic Statute of the Public Employee passed in Act No. 7/2007 of 12 April defines the essential system regulating such personnel, both public servants and contracted employees, leaving a wide margin in which the Autonomous Communities can develop matter.

In territorial terms, public service employment is highly decentralised, most of it in the Territorial Administrations (Autonomous Communities and Local Administration). Half of all public jobs are in those Public Administrations.

This significant territorial decentralisation of public service employment is due fundamentally to the following:

- the transfer to the Autonomous Communities of all educational, university and non university services, accounting for a great deal of employment (almost 50% of the total figure for the Autonomous Communities), and

- the transfer to the Autonomous Communities of most healthcare services (about 36% of their personnel) likewise accounting for a large number of jobs.

II. A Establishment

Each year the Annual State Budget Law establishes the number of jobs required for the State and the Autonomous Regions Budget Laws do the same with the different regions.

There are different recruitment processes for the State and the Autonomous Regions.

The National Institute of Public Administration is responsible for the recruitment of those public employees who belongs to general categories in the Central Administration. On the other hand, each Ministry is responsible for the recruitment of those public employees who belong to special categories.

II. B Employment systems

The model for employment in the public service in Spain is complex, containing highly varied realities and diverse elements which may sometimes introduce a degree of confusion it might prove difficult to reconcile. Specifically, public service employment in Spain combines the following:

- dual basic legal systems and a variety of special ones,
- a diversity of public service employment relations, particularly the upshot of the large number of employers,
- a wide range of types of personnel,
- a dual model for labour relations (those created by the Public Administrations with their staff representatives) combining elements of the statutory system and that involving collective bargaining.

However, notwithstanding this variety of legal frameworks and employment relations, there are a number of principles and guidelines of conduct which are common to all employment in the public service, irrespective of the legal regime applied to them:

- equality of access to all citizens, as a guarantee of access to employment in the public service,
- the professionalisation of all public service employment relation because, save limited exceptions, this must rely on merit and ability,
- the impartiality of public service personnel, sought in a system of incompatibilities applicable to all such personnel.

The legal framework for the Public Service in the Autonomous Communities

Constitutionally speaking, the Autonomous Communities hold legislative powers in the matter of the Public Service, with the sole limitation that they must respect the bases of the statutory regime created by the State.

Article 11 of the Public Service Reform Act states that "*each Autonomous Community shall pass legislation in its Legislative Assembly to organise its Public Services*". In use of these powers, the Autonomous Communities have each drafted their Public Service legislation.

In general they follow the State Public Service model, without significant differences in non-basic materials, for example maintaining the mixed system of public servants corps and contracted employment.

The Autonomous Communities´ Public Service legislation also applies to public servants transferred from the State Administration, who continue to belong to their original corps and scales, and remain in the

Administration of origin in the category of Services in other Public Administrations (article 88.1 of the Basic Statute).

The dual nature of the Basic Legal Systems

The job relations of personnel rendering service in the sector public are governed by two legal regimes, one under Administrative Law and other under Labour Law. Then there is a variety of special legal frameworks within these two basic systems.

As a consequence of this duality, there are two sorts of employment relations in the Public Administrations: the statutory or public service relation and the contractual relation, and two categories of staff-public servants and contracted employees.

However, despite this duality of systems, lawmakers have sought to deal with the main aspects of their regulations in a single framework. Thus the Basic Statute of the Public Employee, passed in Act Nº. 7/2007 OF 12 April, regulates the public servant and contracted personnel system jointly, in the latter case referring to the Labour Statute and in others to their Labour Agreements. In some aspects, it defines basic criteria which must be observed by the Public Administrations responsible for implementing them.

These twin legal systems for job relations between the Public Administrations and their employees (individual relations) also exist in their relations with their staff representatives (collective or labour relations, union relations). Thus there are two different regulatory frameworks defining the relations for the representation and collective bargaining of public service personnel and, as a result, two systems for representation and collective bargaining for public servants and other applying to contracted employees.

The Statutory Public Service Employment system is the General Rule

The Constitutional Court has ruled that the Constitution opts for the statutory regime for public service personnel, albeit without excluding contracted employment. This means that the Public Administration must fill their vacancies chiefly with public servants.

This has been the traditional solution in Spain; most Public Administration personnel has always been subject to a regulatory statute different from that for private sector employees, and this has always been justified by the fact servants were involved in the exercise of authority or public power.

The choice of the statutory system is set out in article 15 of Act Nº. 30/1984 of 2 August, the Public Service Reform Act (not repealed by the Basic Statute of the Public Employee) according to which "in general, posts in the General State Administration, in the Autonomous Bodies and the Entities managing the social security system will be held by public servants".

Contracted personnel is the exception

The possibility allowing Public Administration to hire their personnel under contract is seen legally as an exception, and only those specifically included on the closed list in article 15 of the Public Service Reform Act may do so, for certain jobs. Article 9.2 of the Basic Statute of the Public Employee includes the following limitation: *" In any event, use of functions involving direct participation in the exercise of public powers to safeguard the general interest of the State and the Public Administrations are assigned exclusively to public servants…"* . Bearing this in mind, Transitional Provision Two makes it possible, in certain cases, for full time contracted employees holding jobs classified as reserved for public servants to participate in selective internal promotion procedures, for entry to the associated public service Corps or Scales.

II. C Remuneration and other employment conditions

The main law related to the wage is the General Budget of the State where the increment of the wages and the way they are distributed appear. It is contained in a special part of the law dedicated to Personnel Expenses and named Chapter One.

Anyway, this General Budget of the State defines the quantum but the organisation of the wage is reserved to the law that regulates the Civil Service.

Therefore, the Basic Statute of the Public Employee establishes a new structure in the wages system focused on performance appraisal but it will not start working until further development of the law.

In the meantime, the working payment system is the one in the Law 30/1984.

There are three kinds of wages: basic, supplementary and extra pay checks.

Basic remunerations are composed by salary and triennial bonuses.

The salary remunerates for the knowledge required, equivalent to an academic degree. The triennial bonuses reward the official for length of service. They are raisings the official gets on his salary every three years.

Supplementary remuneration, linked to the position, are composed by: the post supplement to pay for the difficulty and the responsibility attached to the job; the specific supplement to pay for the special conditions of the job; appraisal supplement, designed to pay for the productivity, although it does not really work like that.

According to the multiple administration system applying in Spain, some of these wages are the same for all the three levels of government (central, regional and local). Thus basic remuneration is necessarily equal for all administrations. However, when it comes to the post supplement, the specific supplement and the appraisal supplement, the different administrations may set out different amounts.

In order to maintain a certain level of coherence in the remunerations the General Budget of the State limits the top of the raisings for all administration and in case of breaking this top there are special procedures designed to solve the situation.

Regarding other employment conditions, sub national level governments are free also to define working hours of their public employees with respect to the minimum established by the state.

II. D Retirement benefits

Public Servants are covered by one of the two social protection systems:

- the pension system and the administrative welfare system,
- the general Social Security system, common to private sector employees.

The State Pension System guarantees old-age, disability, death and survival cover to public servants who come within its scope.

II. E Relations

Article 99 of the Basic Statute of the Public Employee sets out the Cooperation Relations between Public Administrations as an obligation for the three government levels.

Article 100, respectively describes the different cooperation bodies starting with the Sectoral Conference of Public Administration as the main cooperation body in Public Administration.

This Sectoral Conference groups representatives from the State, the Autonomous Communities, Ceuta and Melilla, and the Spanish Federation of Municipalities and Provinces and works at the higher level with the highest representatives from each area.

In a lower level there are other bodies that work from a technical approach.

One of these bodies is the Coordination Commission of Public Employment with frequent meetings in different Autonomous Communities in order to coordinate the development of the Basic Statute of the Public Employee as well as the different issues that may need its attention. On the last year, its composition has changed into a bigger one including now a representation of the Local Entities.

These bodies reach their agreements on public administration issues by consensus. Thus in order to limit the capacity to break the distribution of jurisdictions arranged by the Spanish Constitution and the Autonomy Statutes from each Autonomous Community there is another body called the Monitoring Commission for the Acts and Rules of the Autonomous Communities.

This Commission is in charge of reacting against all the acts and rules of the Autonomous Communities that threaten the balance in the distribution of jurisdiction between the State and the Autonomous Communities. Its reactions embody in Warning Letters to the Autonomous Communities or, if necessary, a Constitutional Court requirement.

PART III - THE EFFECTS AND CHALLENGES

III. A Status quo and recent changes

As said before, the map of the Autonomies has been built up gradually as Spain's regions have taken up their autonomous rights.

Since the 1978´s Spanish Constitution there was a decentralisation process in Spain that turned the Spanish Unitary State into a sort of unitary decentralised one. Nowadays, Spain is divided in seventeen Autonomous Regions and two Autonomous Cities.

Spain is not exactly a federal state such as Germany or the United States but a unitary one with autonomous regions with capacity to legislate.

This capacity is exclusive when it comes to a certain amount of issues and shared with the State when it comes to others.

All the Autonomous Communities were constituted between 1979 and 1983, and the Autonomy Map was completed in 1995 with the approval of the Special Statutes for Ceuta and Melilla. Thus the Autonomic Process seems to have finished by 1995. However, since 2005, a movement has begun to reform the Regime of Autonomies, leading to a process in which these Region's Statutes have been modified; this has already happened in a number of Communities such as Andalusia, Aragon, the Balearic Islands, Catalonia and the Community of Valencia.

The main point of this decentralisation process is that the size of the State Public Sector as a whole (human resources, jurisdictions, budget, etc…) has dropped in the last 20 years while the size of the Public Sector in the Autonomous Regions has grown.

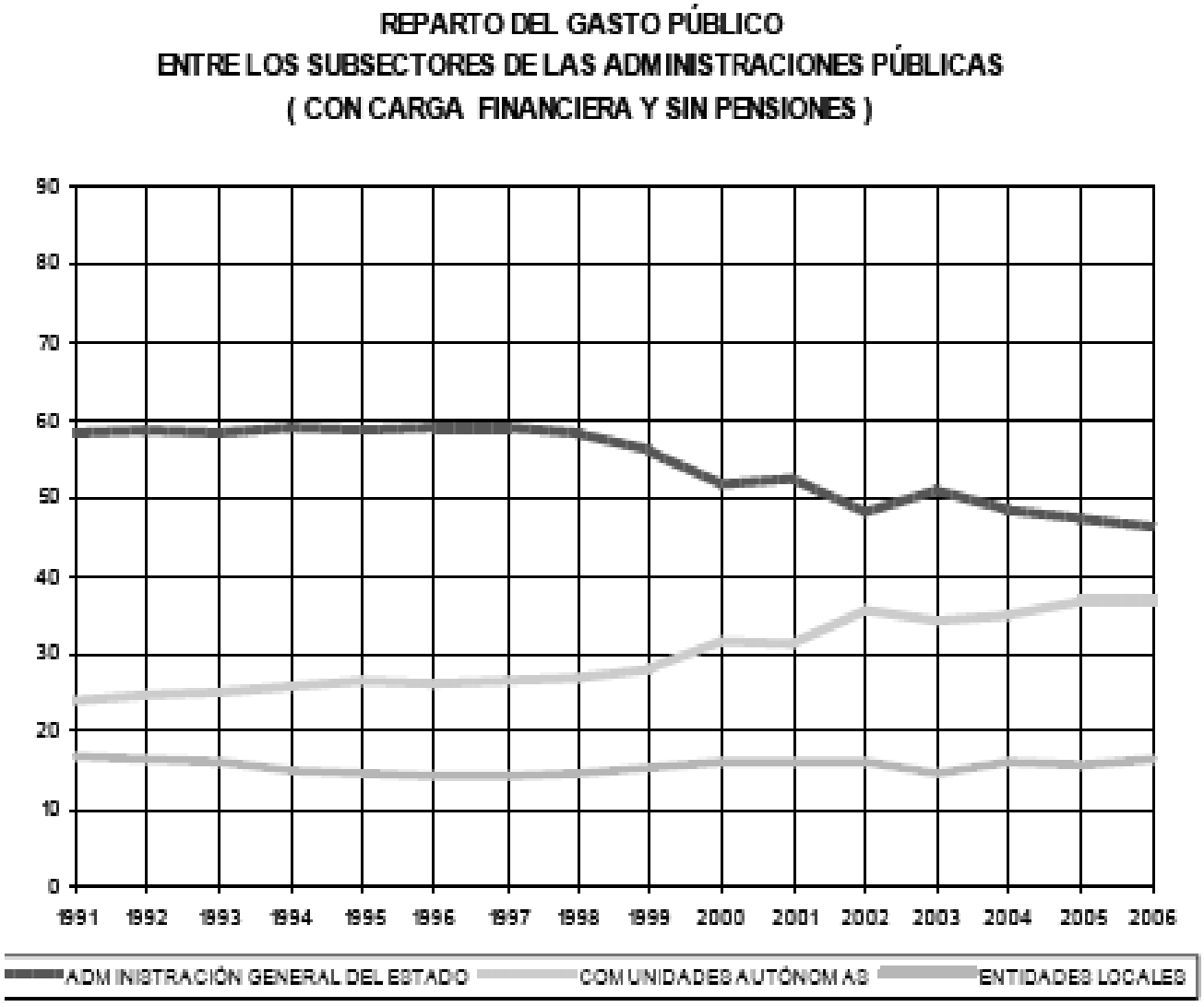
III. B Aggregated volume of public budgets and/or activities

This way, when it comes to Public Sector Personnel, some figures can show us the evolution in the different levels of government.

In Spain there are 2.519.801 public agents. 555.755 work for the state and 1.260.575 work for the Autonomous Regions. There are also 607.293 public agents working for the Local Entities and 97.178 working for the universities.

This significant territorial decentralisation of public service employment is due fundamentally to the transfer to the Autonomous Communities of all educational, university and non university services, accounting for a great deal of employment (almost 50% of the total figure for the Autonomous Communities); and also to the transfer to the Autonomous Communities of most healthcare services (about 36% of their personnel) likewise accounting for a large number of jobs.

In order to analyze public expenditure in the three levels public administration it is very useful to check the graphic below were very clearly (although in Spanish) we can see the evolution from 1991 until 2006 of the public expenditure in the State, the Autonomous Communities and the Local Entities.



III. C Structural issues

There has now been a reduction in the number of contracted employees in public service employment, this category previously very much the norm, but now the exception in the Public Administration, down from the 30% it represented in 2001 to 26.64% of total public service in 2007.

There is also an increasing share for women, now well above the level in the area of general employment,

Public service jobs are concentrated basically in welfare services, and particularly in the health and educational fields which account for more than 46% of total public service employment and 78% of employment in the Autonomous Communities.

The significant growth in publics service employment in Spain between 1977 and 2001, of nearly one million jobs in absolute values and 68.12% in relative terms, is explained in particular by the major expansion during that time in welfare services, above all in education and healthcare, and by the creation of new jobs in the new Public Administrations in the Autonomous Communities. This scenario has been modified by the high growth figures posted in 2001-2007, with a considerable increase in numbers in work, and the completion of the wide ranging process of transfer to those Communities.

Thus from a previous situation where public service employment had grown more than employment in general in that period 1977-2001, the latter rose by 18.29%, when considering the working population, and 34.96% for salaried employees whereas, as already pointed out, public service employment was up by 68.12%m shifting in 2001-2007 to a 39.36% rise in the population in work and 44.42% for salaried personnel, while the public service employment share of total employment share of total employment moved during this last period from 12.36% and 15.01% respectively, in relation to salaried and employed numbers.

At the same time as public service employment grew in Spain, it was significantly redistributed as a result of the political and administrative decentralisation needed to develop the State of the Autonomies created in the Constitution.

The effect of this redistribution of numbers has been spectacular. The State Administration has lost nearly 52% of its personnel and, after accounting for more than 82% of total public service employment in 1982, by 2007 represented just 22%.

On the other hand, the numbers employed by the Autonomous Communities have risen considerably, from 3.85% of all public service employment in 1982 to 50.03% in 2007, making them the main public employers.

Numbers in the Local Administration (Town Councils) and Universities have also grown significantly, in both absolute and relative terms; in addiction it trebling their personnel numbers, they have increased their share of total public service employment, with the Local Administration (Town Councils) moving from 14.47% in 1982 to 24.1% in 2007, and the Universities from 2.64% in 3.86% in that same period.

III. D Labour costs

III. E Human Resource Management

The Spanish Public Administration Recruitment System is based upon three principles established in the 1978 Constitution. These principles are merit, capacity and equality.

To become a civil servant in Spain it takes to pass a series of exams according to the category of civil servant to achieve.

Each year the Annual State Budget Law establishes the number of jobs required for the State and the Autonomous Regions Budget Laws do the same with the different regions.

There are different recruitment processes for the State and the Autonomous Regions.

The National Institute of Public Administration is responsible for the recruitment of those public employees who belongs to general categories in the Central Administration. On the other hand, each Ministry is responsible for the recruitment of those public employees who belong to special categories.

This structure is repeated for the recruitment processes in the different Autonomous Regions.

The recruitment needs such as education, experience in the job, skills … etc, are established in the basis of the recruitment process. This is a public document published by the entity which is going to manage the recruitment process that explains all the details related to it.

III. F Relations between national and sub-national government administrations

There have been important personnel transfers from the State to the Autonomous Communities Administration, the most recent ones in the field of healthcare and justice.

These transfers have been developed by the Joint Commission of Transfers, special body responsible for such operations.

The reduction in General State staff has been considerable but linked to the correspondent reduction in functions.