

# Principle of Accountability and Establishment of Politically Neutral Civil Service in Georgia

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## Abstract

The presented paper aims at examining one of the six SIGMA PAR principles, accountability, measured in two main dimensions: 1. transparency of the government decision-making and functioning and 2. participation of non-state actors. The implementation of these components is evaluated, namely: the transparency of government decision making process and involvement of the non-state actors in the policy process; and establishment of a politically neutral civil service, in terms of protecting civil servants from political influence.

The research was conducted in two main stages: 1 - desk research, which involved analysis of The Law of Georgia on Civil Service, regarding the norms for the establishment of a politically free civil bureaucracy. 2 - analysis of the established practice in public organizations. The data was collected through in-depth interviews and focus groups with the major stakeholders.

The study identified gaps between regulatory framework mechanisms and their practical implementation, enabling to develop recommendations at the sectoral level for establishment of a politically neutral public sector and transparent, evidence-based policy making system.

*Key words: Accountability, Political Influence and Neutrality, Public Participation in Policy Making*

## 1. Introduction

One of the six SIGMA PAR principles, accountability, is measured in two main dimensions: 1. transparency of the government decision-making and functioning and 2. participation of non-state actors. Both are critically important to sustain public trust in government and maintain political stability in a developing country. On the contrary, non-transparent and non-participative decision-making processes lead to a sharp drop of public trust and increase the degree of politicization of the public sector. The goal of the PAR in Georgia, as declared in the Law on Civil Service 2015 is to establish a system of professional and politically neutral civil service; thus, it is critical to institutionalize both factors and put implementation mechanisms in place.

The purpose of the presented paper is to evaluate the effectiveness of implementation of the accountability principle, as related to the policy cycle and protection of a professional civil servant from political influence.

## 2. Accountability and citizens' involvement in policy process

SIGMA 2018's report negatively assessed fulfillment of the commitments made by Georgian Government in the public policy component, in response to which the Government Administration issued the Ordinance #629, which regulates in detail the forms of citizen involvement in the public policy-making process. This is particularly important at the local self-government level. According to the IDFI 2017 research, the involvement is low due to the following factors: 1. Insufficient skills of citizens to participate in policy dialogue; 2. Lack of political will from the local administrations to receive recommendations from the citizens. 3. Low administrative capacity of local civil servants responsible for citizens' participation; 4. Incomplete legal framework for effective engagement; 5. Lack of innovative approach on how to effectively inform and engage citizens (IDFI 2017, p. 21).

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Since the beginning of the PAR, the main focus of international donor organizations, foreign and local experts, has been on the central agencies, which, overall, has shown positive results. Less attention was paid to the municipalities, where the level of the personnel qualification, low efficiency of legal regulations and strong influence of political leaders remain a problem to this day. However, it should be noted that the interest of both researchers and donors toward PAR implementation at the local level has recently increased, which was partly determined by recognition of the importance of self-government in Georgia among the EU public administration principles, and the launching implementation of the Decentralization Strategy 2020-2025 adopted in 2019. Currently, the risk of political influence and low accountability, direct or indirect interference of political officials in the appointment and dismissal of civil servants, as well as violation of the principle of political neutrality of civil servants and forced involvement of administrative resources in political processes are particularly high in self-governing agencies. Municipal employees are generally less aware of their own rights and are more vulnerable to the influence of the leadership. Thus, it is essential to intensify the work at the self-government level and increase the awareness of the employees, as well as to provide more support from the central coordinating agencies in the implementation of the public administration reform processes.

In order to increase citizen involvement, the practice of participatory budgeting was introduced under the OGP in 2015. However, recent studies show that municipalities perceive this process as a formal bureaucracy, and the population itself is not fully aware of its role in the policy-making process. Consequently, while the municipality tries to more or less follow the legal procedures, participatory budgeting is not established as a good practice. With the exception of several municipalities, civic activism is also low. The non-governmental sector is usually represented in the form of large NGOs from the capital, with different project outreach in municipalities or local offices. The Decentralization Strategy states that "the exercise of the powers imposed by the self-governing unit by law requires the transfer of the financial or material resources necessary for the exercise of these powers." (p. 7). The need to strengthen self-government autonomy, and increase citizens' participation as a mechanism of public control. However, according to the reports of NGOs and community organizations in different regions, it is clear that the involvement of the population is formal. Participatory budgeting procedures imply participation in all stages of the budget process, starting from elaboration of the so-called "Document on Priority Needs", and a draft budget, approval of the budget by the City Council, and including public hearings of the quarterly and annual reports on budget implementation. It also envisages full-scale and equal involvement of all administrative units in municipalities.

Nevertheless, the real participation of the population and the key local actors - NGOs, businesses or academia - is still very low. The population is not fully informed about public hearings or City Councils' meetings. Quite often involvement is limited to the presence of pro-government activist groups. A survey conducted in one of the self-governing cities in May 2021 found that 31% of the respondents not only do not participate in politics, but also do not use municipal services<sup>2</sup>.

The situation described above is significantly aggravated by the factor of political influence. The problem of large-scale abusive involvement of administrative resources in the pre-elections processes, restriction of freedom of expression of civil servants and forced support of the ruling political party are still acute in the municipalities. Moreover, often high-ranking officials of a particular ministry visit municipalities to mobilize administrative staff for the elections. Municipal employees are involved in the election process at the expense of leave, serve as members of the election commission, and are agitating among the population to support the ruling party. Consequently, the local self-government is a high risk zone in terms of political influence.

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<sup>2</sup> The survey was conducted within the project - PAR Monitoring Through Public Awareness, implemented by the local NGO CRI "Bright Future"

### **3. The concept of political neutrality and the protection of civil servants from political influence**

The legislator distinctively differentiates political offices (President, MP, and Municipal Council Members, Prime Minister and Members of Government, Mayors etc.) from professional civil servants (Law on Civil service, Article 3, h, i); this confirms the intention of the legislator to present a civil servant as a neutral, independent from political influence, primary figure of the public sector, which is built on the principles of professional and career civil service. Separation of political and executive functions is considered particularly important for the effectiveness of a career civil service. The state-political and political officials exercise authority that differs from solely executive functions of civil servants. Their primary activity area is politics; they hold offices on political grounds, and their appointment and dismissal are linked to political developments; while public administration is exercised continuously, regardless of which political team is in power (Comments on the Law, pp. 26-27). Besides, political neutrality of a civil servant is regulated by the Chapter 2 of the Law on Civil service, which stipulates that a servant is restricted to use his/her official position for partisan (political) interests, to participate in election campaigns, to use administrative resources in favor of any political force (Article 15).

From the legal point of view, professional civil servant is protected from the abusive power influence by the number of mechanisms: competitive appointment of a civil servant to a vacant position (both lower and upper-ranking officials) (Articles 34-43), career management (Chapter 4, Articles 47-52), and protection against unfair dismissal (Chapter 12, Articles 106-116). Besides, Chapter 13 of the Law defines the right of a civil servant to appeal against any decision, including the decision of the Competition Commission (Article 117), dismissal (Article 118) by administrative or civil proceedings, and receive appropriate compensation, including reinstatement.

There is no allocated top civil servant position in the Georgian public sector. Instead, positions are distributed into four hierarchical ranks, which we can distinguish as high-level (1 and 2) and low-ranking (3 and 4). The Law offers various mechanisms of legal protection from political influence for both high- and low-ranking officials, however, in the case of the high managerial positions, the issue is more sensitive: their appointment, as well as performance appraisal is carried out by a state political official, as a direct supervisor (in the case of a ministry, a minister or a deputy). Thus, despite the legislator's efforts to separate political and executive processes in the public sector, even at the level of organizational management of a public institution, the risk of politicization and political influence in decision-making is maintained, especially for the first-ranking officials.

### **4. Perception of political influence and identification of high risk areas in HR practices by the civil servants**

Two perceptions of political influence can be identified among civil servants: on the one hand, it is perceived as a restriction of their rights, including: restriction of freedom of expression and political choice; forced involvement in electoral processes and misuse of administrative resources in favor of any political party; calling for the support of a particular political group; decision-making by a civil servant according to a partisan interests. On the other hand, this is an unfair or abusive treatment of a civil servant by the manager or the political official/agency head, which is revealed in putting him/her in an unequal position in the basic HR processes in the organization. Thus, little distinction is made between purely political influence and personal, subjective intervention by a manager or a political leadership. Both factors are equally criticized and considered as detrimental to the efficiency of an individual employee and an organization, as well as the public sector in general. Besides, it is clear that where procedural bias and personal attitudes are allowed, facts of political interference can emerge with similar success. This is especially true when appointing a civil servant to a job, moving to a senior position, assigning a class and

evaluating performance. Such an overlap is also explained by the fact that the majority of the civil servants acknowledge the facts of restriction of their rights, pressure on them in terms of freedom of expression and choice, as well as cases of unequal and unfair treatment in organizational processes. Most often the principle of political neutrality of civil servants is violated at the initiative of their immediate manager or a political leader of the agency, which may manifest itself in restriction to express his/her views in social media or other means, retention of monetary rewards, career development or else.

The areas identified as most sensitive are as follows: the interview phase of admission, "formal" competitions, weak regulation of career development, dismissal of through reorganization process. They all are strictly regulated by law. Nevertheless, protection from the interference of a political leadership is not fully guaranteed. During the admission to civil service, at the interview stage, a candidate finds it difficult to evaluate himself/herself objectively, therefore, there is a high level of bias on the part of the competition commission, as well as the risk of both direct and indirect interference by the head of the agency. The legislation ensures that the process is conducted as objectively as possible, including restriction to political officials from chairing the competition commission, invitation of an external member to the commission, audio-video recording of interviews, possibility of appealing the results of all stages of the competition; however, there are several gaps that allow abusive influence. First of all, it is dependance of the commission on the political leader of the agency. Formally, this is manifested in the authority of the agency head to nominate the chairperson and ultimately to approve the final candidates selected by the commission. Informally, it depends on the personal dignity and ethics of both the agency head and the members of the commission. Bias is evident in the selection of external members of the commission: inviting an expert from a "friendly" organization, whether it is a non-governmental sector, trade unions or other public agency or structural unit is a common practice; Especially considering that other than moral responsibility, external members have no motivation to participate in the competition. Audio-video recordings of the interviews is a very effective mechanism for ensuring process transparency. It is not mandatory by law, but clearly, the agencies that make recordings on a regular basis conduct the admissions competitions much more effectively, and the higher is candidates' trust in the agency and the commission.

Frequency of "formal" competitions is also pointed out as a problem, both when hiring in the civil service and when promoting within the sector. The severity of the problem at the municipal level should be specifically highlighted. Formal competitions and the appointment of pre-agreed candidates are common and established practice in self-governing bodies.

One of the high risks is the weakness of the career development/promotion mechanisms of a civil servant, which provides opportunities for subjective decision-making by political leadership. Introduction of internal competitions has to some extent created the possibility of promotion within the agency, however even in this case the civil servants have to compete with each other and they are not completely protected from the bias of the management. Besides, horizontal transfers, which allow the appointment of a relevant ranking civil servant from another agency or structural unit without competition, further limit the possibilities for direct promotion.

As for the dismissal, the high risk of reduction through reorganization procedure should be pointed out, which is often used in various agencies, especially in municipalities, to remove undesirable employees. In this regard, it is important to further formalize the procedures, which implies the implementation of the reorganization only on the basis of mandatory functional analysis of the organization performed by external experts.

Certain procedures involving HRs and middle-ranking managers (such as setting a pay ratio) are perceived by the lower-ranking civil servants as nontransparent and decisions are often judged as biased. In this regard, it is important for each agency to ensure that civil servants are informed of ongoing changes and that they participate in assessing the functional workload of their positions.

## **5. The functions and role of middle-ranking managers**

The role of middle management and the importance of their full involvement in personnel management processes cannot be overestimated, be it feedback on the results of the evaluation, support in career promotion or protection of employees from political influence. The legal restrictions imposed by the Law on Civil Service, aim at increased protection of the rights of civil servants by creating barriers to prevent an unfair and biased approach to a civil servant by the immediate manager. At the same time, the Law significantly increases the workload of the middle-ranking managers, while limiting the scope of management tools, thereby hindering the achievement of organizational goals and reducing the effectiveness and motivation of middle managers. Managers have become responsible for their subordinates, performance evaluation, individual development plans, professional and career growth etc., with very limited levers to adequately reward or punish the employee. Besides, most of those who occupy mid-ranking positions, are field professionals and do not have specific managerial skills, experience or knowledge. At the same time, the low-ranking civil servants constantly voice up against political and personal bias from their superiors. Obviously, without proper organizational culture and ethics the legislators efforts do not result in reducing undesirable influence and unfair treatment and merely lead to increased bureaucracy in public organizations. It is therefore important to arrange intensive information meetings and training, on organizational and strategic management and civil service ethics. The latter, along with strong organizational culture, is of great importance while creating a politically neutral environment, which today largely depends on personal qualities of concrete managers and political leaders. At the end, the outflow of professional staff increases, organizational efficiency decreases, and it is difficult for the manager to direct organizational performance toward achieving strategic goals of an agency or a structural unit. Establishing a professional civil service implies a highly qualified staff and employment stability. Accordingly, one of the aims of the Law is to make civil service desirable and attractive, first and foremost for professionals and effective managers. The Law has dealt with the problem of stability with long-term employment contracts. But the research shows that the private sector is still a more attractive area of employment for qualified specialists, with a higher degree of managerial freedom to make decisions, be it staff promotion, dismissal or financial incentives. This finding is confirmed by the statistics of the staff outflow in the public sector in 2020, where the highest rate (56.8%) of the total number of dismissed civil servants (2108) is dismissal on the basis of personal statement (1198 employees), and the outflow rate of the 1<sup>st</sup> and 2<sup>nd</sup> rank civil servants is 4.7%, with the overall outflow indicator - 5.3% (Civil Service Bureau, Annual Report 2020).

The choice between protecting the rights of civil servants and increasing the powers of a manager is difficult to make. On the one hand, obviously, in the countries of “new democracies”, when the public sector reflects the polarization in the society, it is very important to stand guard over human rights, even if it requires more bureaucratic norms. On the other hand, managers in the public sector openly talk about the problems they face in terms of personnel management. They acknowledge that the detailed and rigorous regulation of the processes is inevitable in the transition period, although they believe that freedom of managerial decision-making is also needed from a certain stage of the reform. Moreover, reduction of the manager's authority over a number of procedures opens up more opportunities to strengthen political influence; for example, if the manager cannot dismiss the employee according to his/her professionalism and efficiency, the agency can only do so through the reorganization, where it is much easier to dismiss unwanted and politically unacceptable employees.

## **6. Conclusion**

The problem of public sector accountability and depoliticization is acute in Georgia and hinders creation of strong public institutions. However, introduction of separate procedures and legislative norms within the reform is not enough. It is essential that monitoring and control of these problems become part of the daily routine. It is necessary

to increase the transparency and objectivity of HR processes, namely, recruitment through competitions, performance evaluation, promotion, remuneration and dismissal; support development of the well-controlled managerial level of civil servants; strengthen the direct mechanisms of career development/promotion of civil servants; support depoliticization of civil service by raising the awareness of middle and lower-ranking civil servants at the municipal level about the rights of civil servants in terms of freedom of expression and choice, as well as the rights, guarantees and duties provided by the Law on Civil Service; support accountability at municipal level by encouraging public involvement in policy and budgetary processes.

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