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Capacity Building Needs in Public Institutions **with a** **Focus on Increasing Human Capacities** in the Consumer Protection Department



Position Paper



Capacity Building Needs in Public Institutions With a Focus on Increasing Human Capacities in the Consumer Protection Department



Institute for Development Policy - INDEP

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Note:

This paper was originally written in English.

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1. Introduction

Professional capacity and development are critical for Kosovo public institutions. The human capacity reforms are needed to strengthen individual and organizational capacities of the Kosovo government to offer quality services to citizens and meet the challenges deriving from European integration process.

Despite some improvements, the public administration capacities in Kosovo are still facing many challenges related to merit-based recruitment, promotion, dismissal, and the remuneration.¹ The European commission Kosovo report 2020 also highlights that Kosovo is at an early stage of preparation in the area of consumer protection. The difficult social and economic situation, low capacity, and fragmented actions of government in addressing capacity development needs over the years have led towards a public administration that leaves room for significant improvements.

This paper will discuss recent developments and ongoing challenges of administrative capacities in public institutions and requirements and next steps to move faster in the process towards joining the EU. This includes adopting and implementing the Principles of Public Administration in the area of human capacity building which were developed by SIGMA in 2014. These principles are an integral part of the EU Enlargement process.

Among horizontal issues on capacity development in public institutions, this paper will specifically discuss the need to further strengthen the administrative capacities in the Department for Consumer Protection that operates within Ministry of Trade and Industry. The discussion and analysis will take into account the current state of play of consumer protection in Kosovo, Stabilization Association Agreement (SAA) and EU requirements and acquis, and finally proposes a roadmap for capacity building in the Department for Consumer Protection and in the area of consumer protection in general.

¹ European Commission, Kosovo Report (2020), Public Administration Reform
https://ec.europa.eu/neighbourhood-enlargement/countries/package_en

2. Recent developments and ongoing challenges of public administration administrative capacities in Kosovo

2.1. Holistic view on developments, challenges and institutional framework on administrative capacities

In 2018 the Government of Kosovo introduced a legislative package for public administration reforms. The Draft Law on Salaries in the Public Sector, the Draft Law on Public Officials, and the Draft Law on Organization of State Administration and Independent Agencies were approved by the Government in September 2018² and after five months in February 2019 these laws were adopted by the Assembly. The Law on Organization of State Administration entered into force; however, the Constitutional Court took its decision declaring the Law on salaries³ unconstitutional and proposing further legislative amendments to the Law on public officials⁴. This has postponed the adoption of all secondary legislation implementing these two laws. The delay of reforms is also delaying the public administration to fully fulfill its function and responsibility.

The Independent Civil Service Oversight Board has been established based on the article 101 of the constitution of Kosovo that among others is an independent oversight board for civil service that shall ensure the respect of the rules and principles governing the civil service⁵; however, this board is currently not functional due to a lack of board members. As a result, many complaints regarding employment disputes of civil servants and candidates for admission to the civil service have not been reviewed.⁶ This creates room for manipulations in employment, promotions and avoidance of accountability. Training for civil servants is provided by Kosovo Institute for Public Administration (KIPA), however, the skills and knowledge gained from participants is not having an impact on professional development of civil servants, in addition KIPA has limited budget and ability to provide the necessary training remains weak.

² The Prime Minister Office (2018), Government of Kosovo approved the Draft-law on Salaries
<https://kryeministri-ks.net/en/government-of-kosovo-approved-the-draft-law-on-salaries/>

³ The Constitutional Court (2020), Constitutional review of Law No. 06/L-111 on Salaries in Public Sector
<https://gjk-ks.org/en/decision/vleresim-i-kushtetutshmerise-se-ligjit-nr-06-l-111-per-pagat-ne-sektorin-publik-3/>

⁴ The Constitutional Court (2020), Constitutional review of specific Articles of Law No. 06/L-114 on Public Officials
https://gjk-ks.org/wp-content/uploads/2020/07/ko_203_19_agj_ang.pdf

⁵ Constitution of the Republic of Kosovo, Article 101, Civil Service
<http://www.kryeministri-ks.net/repository/docs/ConstitutionIKosovo.pdf>

⁶ European Commission, Kosovo Report (2020), Public Administration Reforms, Public service and human resource management
https://ec.europa.eu/neighbourhood-enlargement/countries/package_en

In terms of policy framework, Kosovo has an expiring strategy on modernization of public administration 2015-2020. The strategy was revised in 2015 in order to provide effective objectives of the public administration reforms. The main goal of the strategy was to improve administrative procedures and modernize public services and to create an administration oriented towards the needs of citizens through four policy priorities.⁷ In addition, Kosovo has the Strategy for Training of Civil Servants 2016-2020.⁸ This strategy purpose was to professionally train civil servants with adequate knowledge and skills and create a professional and competent administration at both central and local level, which not only would provide quality public services for citizens but also would contribute in advancing Kosovo in its path towards EU integration, where a professional horizontal administrative capacity will help to implement and enforce EU law in all sectors.

Kosovo stands well in terms of the number of policy documents in the area of public administration reforms; however, there are not strict mechanism in place to monitor and evaluate its implementation. In this regard, t h e r e ' s t w o t h i n g s o n e t h e q u a l i t y o f improve and secondly, they need to be implemented.

There are several steps and a lengthy process towards joining the EU, one of the stages requires that the country needs to be in a position that has all the necessary capacities to properly apply and enforce the judicial, administrative, economic and other reforms necessary for the country.⁹ Among others, Kosovo need to establish a professional civil service capable of taking policy decisions and providing public services. Public administration must perform well and it needs to be efficient, merit-based, transparent and accountable at all levels.¹⁰ Therefore, Kosovo has no other way but to make the necessary changes about the public administration reform in line with EU standards in order to meet the political criteria for accession.

The 2020 Communication on EU enlargement policy, highlights that Kosovo has some level of preparation towards public administration reforms.¹¹ “ S o m e ” l e v e l i n t n o t e t e r m

⁷ Ministry of Public Administration (2015), Draft Strategy on Modernization of Public Administration 2015-2020

<http://www.kryeministri-ks.net/repository/docs/Strategy-for-Modernisation-of-PA-2015-2020.pdf>

⁸ Ministry of Public Administration (2015), Strategy for Training of Civil Servants 2016-2020

http://www.kryeministri-ks.net/repository/docs/STRATEGJIA_E_TRAJNIMEVE_TE_NEPUNUESVE_CIVIL_.pdf

⁹ European Commission, European Neighborhood Policy And Enlargement Negotiations

https://ec.europa.eu/neighbourhood-enlargement/policy/steps-towards-joining_en

¹⁰ European Commission, European Neighborhood Policy And Enlargement Negotiations

https://ec.europa.eu/neighbourhood-enlargement/policy/glossary/terms/accession-criteria_en

¹¹ European Commission (2020), 2020 Communication on EU enlargement policy

https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20201006-communication-on-eu-enlargement-policy_en.pdf

satisfactory. Therefore, it's ~~include in domestic programs and plans specific~~ and measures that address transparency and accountability, sound public financial management and people in the administration that are more professional.

Many of the issues discussed here require strong and professional administrative capacity. In addition to the traditional and required usual training, Kosovo should include training related to the approximation, application and enforcement of EU legislation as well as sharing of EU best practices. In addition, non-majority communities and women should equally be represented in all the capacity development in public institutions.

Public administration reform has become an integral part of the EU Enlargement process, for this reason in 2014 SIGMA developed the Principles of Public Administration. The Principles define what good public governance entails in practice and outline the main requirements to be followed during the EU integration process.¹² In the table below you can see the summary of principles that fall in the category of public service and human resource management. For more details on what each principle includes please see the annex.

¹² SIGMA (2017), Principles of Public Administration for EU candidate countries and potential candidates
<http://www.sigmaxweb.org/publications/principles-public-administration-eu-candidate-countries-and-potential-candidates.htm>

Table 1: Summary of Principles of Public Administration for EU candidate countries and potential candidates in the area of public service and human resource management¹³

PUBLIC SERVICE AND HUMAN RESOURCE MANAGEMENT	
Policy, legal and institutional frameworks for public service	
Principle 1	The scope of public service is adequate, clearly defined and applied in practice.
Principle 2	The policy and legal frameworks for a professional and coherent public service are established and applied in practice.
Human resource management	
Principle 3	The recruitment of public servants is based on merit and equal treatment in all its phases; the criteria for demotion and termination of public servants are explicit.
Principle 4	Direct or indirect political influence on senior managerial positions in the public service is prevented.
Principle 5	The remuneration system of public servants is based on job classifications; it is fair and transparent.
Principle 6	The professional development of public servants is ensured; this includes regular training, fair performance appraisal, and mobility and promotion based on objective and transparent criteria and merit.
Principle 7	Measures for promoting integrity, preventing corruption and ensuring discipline in the public service are in place.

The table above shows that the reach and scope of public service needs to be defined and implemented in practice so that the legal/policy frameworks and institutional set-up for professional public service are in place. Also, these principles tell us that good managerial standards and good human resource management practices ensure that public services are provided as intended.

The application and implementation of these principles is crucial for candidate and potential countries because they are regularly monitored and evaluated in order to define the extent of capacity of national public administration to effectively implement the *acquis* in line with the criteria defined by the European Council in Copenhagen (1993) and Madrid (1995).

¹³ This table excludes the principles of public administration that fall in the categories as following: Strategic Framework of Public Administration Reform; Policy Development and Co-ordination; Accountability; Service Delivery; Public Financial Management.

2.2. Challenges and perspectives on increasing human capacities in the department of consumer protection

This section provides an analysis on the state of play of consumer protection in Kosovo, Stabilization Association Agreement (SAA) and EU requirements and proposes a roadmap for capacity building in the area of consumer protection.

The main legislative framework in the area of consumer protection is the Law No. 06/L-034 on Consumer Protection¹⁴ and Administrative Instruction No. 13/2018 on the Complaint Handling Procedure.¹⁵ While the policy framework in this area includes the Consumer Protection Programme 2016-2020.¹⁶

The Department for Consumer Protection has been established in 2012 and operates within the Ministry of Trade and Industry. In addition, an important body for a well-functioning of consumer protection is the Council for Consumer Protection. This council was established based on the article 132 of the Law on Consumer Protection. The main responsibilities of the Council are of a counselling nature in the area of consumer protection, furthermore, it has the responsibility to develop and monitor the Consumer Protection Program. Market inspectorate¹⁷ that operates within the Ministry of Trade and Industry is also a very important body that is responsible for the supervision of Kosovo's implementation of legislation in the field of consumer protection and product safety.

Associations of consumer protection play an important role in protecting the rights and interest of consumers. The law on consumer protection includes specific provisions on the establishment of consumer protection associations and possibly the union of associations.¹⁸ However, in Kosovo there is only one non-governmental organization that exclusively deals with consumer rights issues. This implies that this is a burden for only one NGO to provide assistance to all citizens of Kosovo.

¹⁴ Official Gazette of the Republic of Kosovo (2018), Law No. 06/L-034 on Consumer Protection <https://gzk.rks-gov.net/ActDetail.aspx?ActID=16551>

¹⁵ Ministry of Trade and Industry (2018), Legislation, Administrative Instructions <https://mti.rks-gov.net/desk/inc/media/21DEF589-FF69-4C3F-A0DB-03220F5B12E1.pdf>

¹⁶ Ministry of Trade and Industry (2016), Consumer Protection Programme 2016 – 2020 http://www.kryeministri-ks.net/repository/docs/CONSUMER_PROTECTION_PROGRAMME.pdf

¹⁷ Official Gazette of the Republic of Kosova (2013), Law No. 04/L-186 On Amending And Supplementing The Law No. 03/L-181 On Market Inspectorate And Inspective Supervision <https://gzk.rks-gov.net/ActDetail.aspx?ActID=8667>

¹⁸ Official Gazette of the Republic of Kosovo (2018), Law No. 06/L-034 on Consumer Protection <https://gzk.rks-gov.net/ActDetail.aspx?ActID=16551>

In view of international obligations in the area of consumer protection, Article 81 of the SAA foresees that Kosovo shall create active consumer protection policies, in line with the EU law, alignment of national legislation on consumer protection with the existing EU acquis, effective legal protection of consumers, monitoring the regulations by the respective authorities, as well as exchange of information on hazardous products.¹⁹

While the EU acquis in the area of consumer protection covers legislation in the field of consumer protection, including on product safety and to put in place independent administrative structures and enforcement powers which allow for effective market surveillance and enforcement of the acquis. In addition, countries should ensure appropriate out-of-court dispute resolution mechanisms as well as consumer information and education. The role for consumer organizations should be ensured as well.²⁰

Consumer protection is a horizontal issue that touches upon many issues within a society. Therefore, having a strong consumer protection department is paramount. This will ensure that the voice of consumers is heard by all relevant bodies and guaranteeing the basic rights of consumers in purchasing goods and services in line with SAA and EU acquis. At the end of the day the consumers pay the price if anything goes wrong.

Regarding the human/administrative capacities, based on the Regulation on Internal Organization and Systematization of Jobs, the Ministry of Trade and Industry²¹ has eight departments, several stand-alone divisions and five Central Bodies (the stand-alone divisions and central bodies are not relevant for this paper and are not included in the analysis). Surprisingly enough all departments have either two or three divisions except for the Department for Consumer Protection. The area of consumer protection not only has the lowest number of employees but it also operates without having any divisions. For more details see table 2 in the annex. The graph below shows that the total number of employees in the Department for Consumer Protection is three, that means five times less employees compared to the Department of Industry.

¹⁹ Council of the European Union, Stabilisation and Association agreement between the European Union and the European Atomic Energy Community, of the one part, and Kosovo, of the other part

<https://data.consilium.europa.eu/doc/document/ST-10728-2015-REV-1/en/pdf>

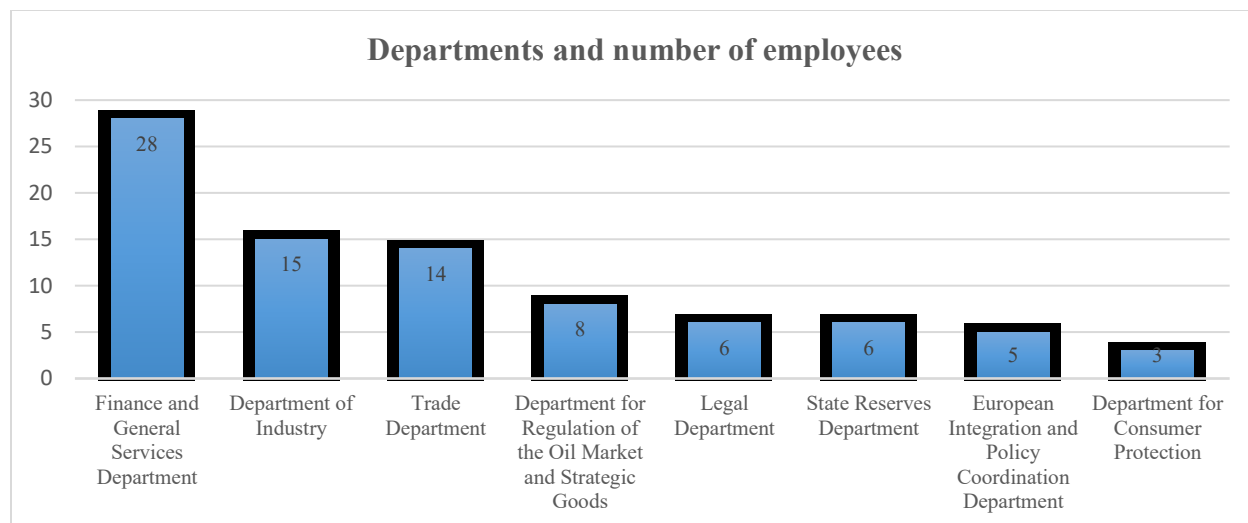
²⁰ European Commission, Chapters of the acquis, Chapter 28: Consumer and Health Protection

https://ec.europa.eu/neighbourhood-enlargement/policy/conditions-membership/chapters-of-the-acquis_en

²¹ Ministry of Trade and Industry, Regulation No. 29/2012 on Internal Organization and Systematization of Jobs of the Ministry of Trade and Industry

<https://gzk.rks-gov.net/ActDetail.aspx?ActID=10316>

Graph 1: Summary of human and institutional capacities within the Ministry of Trade and Industry



The graph above puts in perspective what are the priorities of the ministry respectively the government in the issues related to consumer protection. This graph confirms that human capacities in the Department for Consumer Protection are limited bearing in mind that the main responsibilities for drafting the Consumer Protection policies in Kosovo is the Department for Consumer Protection.

The European Commission Kosovo Report 2020 highlights a number of challenges in the area of consumer protection. It notes that Kosovo needs to amend the Law on Consumer Protection to further align it with the EU acquis and highlights that there still are issues regarding the enforcement of consumer rights protection.²² Therefore, in order to implement the legal framework, national strategies, and meet the EU requirements, it is essential to further develop the capacity of the human resources in all the areas of consumer protection and especially in the Department for Consumer Protection on a regular basis so that they are able to cope with changing challenges of their job responsibilities.

Having in mind that consumer protection requires a multi-dimensional involvement, commitment and cooperation of all factors and stakeholders and in order for Kosovo to advance in the area of consumer protection, administrative capacity building efforts need to focus in the Department of Consumer Protection in the following areas:

²² European Commission, Kosovo Report (2020), Consumer and Health Protection https://ec.europa.eu/neighbourhood-enlargement/countries/package_en

- Developing and implementing the legislation framework and consumer policies in line with EU acquis;
- Enforcing and Monitoring the Law on Consumer Protection and Consumer Protection Program;
- Make redress mechanisms easily available and effective;
 - This means the right to have a fair settlement of consumer complaints (e.g. Consumer Claims Tribunals, Mediation Bureaus, and Complaints Centers)
- Developing and implementing awareness and educational programmes for Consumer Protection.

In parallel with increasing the technical competence and expertise of professional staff in department for consumer protection, the government should increase institutional consumer protection capacities by raising the level of authority and accountability to supervise, enforce and examine laws that enhance consumer protection. The most important factors supporting the institutional building in the area of consumer protection are to increase the credibility of the department of consumer protection, allocate the necessary budget to increase the human capacities and technical competence, and enforcement capabilities.

In addition, in the medium and long term the capacity building should not only be focused in the department for consumer protection but also in other government departments and agencies and non-governmental organizations that are involved in monitoring and enforcement of consumer legislation and policy.

Specific recommendations are listed in the part of recommendations in the section four of this paper.

3. Conclusions

This paper highlights that having professional capacities in public institutions means offering quality services to citizens and meet the requirements needed to advance in the European integration process.

Despite some improvements, the public administration still struggles to fully fulfill its function and responsibility. The civil service faces many challenges including retaining quality staff, nepotism, lack of incentives for higher performance, and weak management accountability. In addition, non-majority communities remain underrepresented in public institutions and women are still underrepresented in senior positions in the civil service.

The turning back of the Law on public officials and the Law on salaries has hindered the public administration reforms in Kosovo and has postponed the adoption of all secondary legislation implementing these two laws. This paper has highlighted the importance of completing the Independent Civil Service Oversight Board with its members so that it becomes functional and start to review the civil servants complains.

In order to creating a professional staff in public institutions Kosovo in addition to offering traditional and required usual training, it should focus more on trainings related to the approximation, application, enforcement of EU legislation and on integrating and monitoring SIGMA Principles of Public Administration.

Regarding the capacities in the Department for Consumer, this paper found out that all departments in the Ministry of Trade and Industry have either two or three divisions except for the Department for Consumer Protection. The department of consumer protection has only three employees and operates without any divisions.

Furthermore, it's necessary to focus capacity building in Department of Consumer Protection in the areas of preparing and implementing the legislation framework and consumer policies in line with EU acquis; how make complain mechanisms easily available and effective; and how to develop and implement awareness programmes for Consumer Rights.

4. Recommendations

- The government should amend and adopt the current law on consumer protection, while amending it is necessary to include mortgage credit and alternative consumer dispute resolution in line with Directive 2013/11/EU, Regulation (EU) No 524/2013, Directive 2014/17/EU).
- In order to implement the revised Law on Consumer Protection the government should prepare and adopt all secondary legislation in line with EU acquis.
- The current Consumer Protection Programme needs to be revised and adopted and include objectives and detailed measures on increasing capacities in the department of consumer protection.
- Enforcement of consumer rights and the implementation of consumer policies need to be further improved.
- Improve overall capacities in policy and legislation planning and monitoring for an effective and efficient governance at national and local level.
- Kosovo should further promote high standards of transparency, integrity and accountability in public administration.
- Adopt and implement the Principles of Public Administration in the area of Public Service and Human Resource Management developed by SIGMA.
- Kosovo should make full use of European Union instrument for institutional cooperation and training (twinning, TAIEX).
- The Ministry of Trade and Industry should increase and reinforce the civil society's cooperation with the Council for Consumer Protection and other decision-making bodies.
- The Ministry of Trade and Industry should take initiatives to protect the vulnerable and disadvantaged consumers.
- Increase the number of employees and establish at least two divisions in the Department for Consumer Protection in order to fully exercise its mandate and have the capacity to implement the EU acquis.

- Strengthen the competences of employees within the Department for Consumer Protection in the areas of drafting and implementing the legislation and policies, education, informing and awareness raising of consumers and EU acquis.
- Allocate funding of national budget to meet the capacities and training needs for the Department for Consumer Protection.
- Increase the coordination of market surveillance and enforcement actions on product safety implementing Directive 2001/95/EC, and take actions to improve consumer services safety.

5. Annex

Table 1: Detail components of Principles of Public Administration for EU candidate countries and potential candidates in the area of public service and human resource management

PUBLIC SERVICE AND HUMAN RESOURCE MANAGEMENT	
Policy, legal and institutional frameworks for public service	
Principle 1	The scope of public service is adequate, clearly defined and applied in practice.
1.1.	There is a clear legal basis establishing the horizontal and vertical scope of the public service.
1.2.	The horizontal scope contains at least the positions with public authority to exercise powers conferred by public law and with responsibility for safeguarding the general interests of the state or other public bodies.
1.3.	The vertical scope clearly determines the upper and lower division line between political appointees, public servants and support staff.
1.4.	The material scope establishes all general provisions relevant to the employment relations of 9 public servants and management of public service.
1.5.	Public servants are distinguished from political appointees (i.e. political positions are not included in the scope of public service).
Principle 2	The policy and legal frameworks for a professional and coherent public service are established and applied in practice.
2.1.	There is a defined policy for public service development in the framework of the relevant strategies.
2.2.	Primary and secondary public service legislation ensures transparency, openness, accountability, efficiency and effectiveness.
2.3.	The general provisions of the public service law are applicable to special types of public service (e.g. police, prison, defence, foreign service) and staff of the constitutional bodies, or the general provisions and principles of the laws of the special types of public service and constitutional bodies are principally similar to the general provisions of the public service law.
2.4.	The degree of regulation in the primary and secondary legislation is adequately balanced to allow flexibility and ensure stability of the public service.
2.5.	Political responsibility for the public service is clearly established.

2.6. A central coordination unit, sufficiently empowered and capable of leading, supporting and monitoring the implementation of the values, policy and legal framework of the public service is in place.

2.7. A HRM information system to support the strategic workforce planning, management and monitoring of HRM practices in the public service is in place, including correct and complete data at the levels of the entire public service institutions and individual public servants, as required by the legislation, and enabling statistical information to be provided at a given date. This system interacts electronically with other national databases to avoid duplication of data gathering.

2.8. Professional and consistent HRM services are ensured across the public service by sufficient capacity to manage the workforce and implement the public service legislation.

Human resource management

Principle 3 The recruitment of public servants is based on merit and equal treatment in all its phases; the criteria for demotion and termination of public servants are explicit.

3.1. The recruitment and selection process in the public service, whether external or internal and regardless of the category/class of public servants, is clearly based on merit and equal opportunity.

3.2. The general eligibility criteria for applying for public service positions and general provisions ensuring the quality of the recruitment are established in the primary legislation. The detailed procedures, including specific requirements for entering each category/class, job descriptions, competency profiles, selection methods, scoring systems and composition of selection committees, are mainly covered by secondary legislation.

3.3. The recruitment and selection committees include persons with expertise and experience in assessing different sets of skills and competences of candidates for public service positions, and there is no political interference.

3.4. Candidates who are not appointed have the right to appeal against unfair recruitment decisions.

3.5. Protection against discrimination of persons applying to the public service and those employed is ensured by all administrative bodies, in accordance with the principle of equal treatment. In the cases explicitly established in the law, comprehensive equitable representation is taken into account in the recruitment process.

3.6. The objective criteria for demotion of public servants and termination of the public service relationship are explicitly established in law.

3.7. Public servants have the right to appeal against unfair demotion and dismissal.

Principle 4 Direct or indirect political influence on senior managerial positions in the public service is prevented.

4.1. The category/class/level of senior managerial positions in the public service, those at the interface of politics and administration, is included in the scope of public service (usually the positions of secretary-general of the ministry and director-general of the administrative body determine the upper dividing line between public servants and political appointees).

4.2. The criteria for recruiting persons to senior managerial positions are clearly established and disclosed.

4.3. The recruitment and selection process for senior managerial positions, either external or internal, is based on merit, equal opportunities and competition.

4.4. The termination of employment of public servants holding senior managerial positions is admissible only in cases explicitly provided for in the law and under the procedural provisions established in it.

Principle 5 The remuneration system of public servants is based on job classifications; it is fair and transparent.

5.1. The principles of remuneration, including the salary classification based on the job classification system, the complete list of variable elements of salary and the relation between the fixed and variable salary, are established in law to ensure the coherence, fairness and transparency of the whole public service. Detailed remuneration regulations are established in secondary legislation.

5.2. Allowances and benefits in addition to salary (e.g. family, rent, education and language allowances, and benefits in case of sickness, maternity or work accident) are established in law, to ensure the coherence of the whole public service, and are applied in practice.

5.3. Equal pay for work of equal value is ensured; any type of discrimination related to gender in remuneration is avoided.

5.4. Managerial discretion in assigning different elements of salary, allowances and benefits to individual public servants is limited, to ensure fairness, transparency and consistency of the total pay.

5.5. The remuneration system of public servants provides reasonable conditions for recruiting, motivating and retaining public servants with the required competencies.

Principle 6 The professional development of public servants is ensured; this includes regular training, fair performance appraisal, and mobility and promotion based on objective and transparent criteria and merit.

6.1. Professional training is recognized as a right and duty of public servants, established in law and applied in practice.

6.2. Strategic training needs assessments and the development of annual/bi-annual training plan(s) are conducted through transparent and inclusive processes, coordinated or supported by the central co-ordination unit for public service and/or public service training institution.

6.3. Strategic annual or bi-annual training plan(s) of public servants (for different categories, including senior managerial positions) are adopted, implemented, monitored and evaluated.

6.4. Sufficient resources are allocated for training public servants.

6.5. The principles of performance appraisal are established in law to ensure coherence across the whole public service. The detailed provisions are established in secondary legislation. The performance appraisal of public servants is carried out regularly. Public servants have the right to appeal against unfair performance appraisal decisions.

6.6. The mobility of public servants (secondment, temporary or mandatory transfer) is encouraged, established in legislation, based on objective and transparent criteria, and applied in practice.

6.7. The functional promotion of public servants (on-the-job, horizontal and vertical) is established in the legislation, based on the merit principle and objective and transparent criteria, and is applied in practice.

Principle 7 Measures for promoting integrity, preventing corruption and ensuring discipline in the public service are in place.

7.1. Effective and adequate legal provisions and institutional arrangements and tools exist to promote integrity in the public service¹¹, and are applied in practice.

7.2. Corrupt behavior of public servants is criminalized in the penal code.

7.3. The main principles of the disciplinary procedure (including the presumption of innocence, proportionality between disciplinary sanction and violation of official duties, the right to receive legal assistance, the right to appeal and the right to be heard during an appeal) and the main procedural steps (including initiation of the procedure, impartial investigation of facts, hearing of

the public servant concerned, bodies involved in initiation of the procedure, decision and review) are established in law to ensure consistency across the public service and are applied accordingly in practice.

7.4. A catalogue of disciplinary sanctions is established to ensure proportionality between misconduct and the respective sanction.

7.5. The right of the public servant to appeal against unfair disciplinary sanctions is established and implemented, to ensure that decisions are legally predictable, impartial and free from political interference.

Table 2: Summary of human and institutional capacities within the Ministry of Trade and Industry for a comparison with the department for consumer protection

Departments	Number of Divisions	Total number of employees
Trade Department	3	14
Department of Industry	3	15
State Reserves Department	2	6
Department for Regulation of the Oil Market and Strategic Goods	2	8
Department for Consumer Protection	0	3
European Integration and Policy Coordination Department	2	5
Legal Department	2	6
Finance and General Services Department	3	28

