



# POLITICAL INDEPENDENCE OF CIVIL SERVANTS AND THE ROLE OF SENIOR CIVIL SERVANTS



## A SUMMARY OF THE STUDY REPORT



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## SUMMARY

This study concerns the institute of the senior civil servant/service (SCS), also referred to as the institute of the senior public servant/service (SPS), the first reference to which in Georgia can be found in the Public Administration Reform (PAR), Roadmap 2015 prepared by the Administration of the Government of Georgia. The PAR Roadmap provided for the creation of a merit-based, professional, and effective civil service system, free of political influence. The institute of the SCS, together with other instruments, forms part of the foundation of said system. This document aims to provide readers with a clear understanding of the SCS institute and the specifics of its implementation in Georgia.

The sources of information for the study were secondary literature complemented by 25 in-depth interviews with foreign and local respondents. Notably, the foreign respondents comprised experts involved in the reform and those who had held SCS positions in the past.

The document analyzes key SCS models based on the status afforded to SCSs, an organization's level of centralization, and the special conditions which differentiate SCSs from other civil servants. It separately deals with the distinction between the functions of political office-holders and SCSs, while also discussing SCS models in relation to rules of employment.

The report refers to the United Kingdom, the Netherlands, Estonia, Belgium, Lithuania, and Latvia as the examples of the best international experience/practice in this regard. It also discusses the experiences of the countries of the Western Balkans (Albania, The Republic of North Macedonia, Montenegro, Serbia, and Bosnia and Herzegovina) as well as Ukraine within the context of developing relevant recommendations, the aim of which is to help avoid potential risks and failures. Although the issues concerning the functioning and management of the SCS are analyzed in light of the experiences of various countries, the key focus is on EU Member States. An annex to the study provides a description of several countries with respect to the employee selection procedures, working conditions, and other different aspects of activities in their respective SCS systems.

The report covers the following areas: the significance of the SCS institute; selection and appointment procedures and tools (with a special emphasis on the role of SCS selection committees); employment models; the position, status, level, functions, and tenure of SCSs; the specifics of SCSs' relations with political office-holders; the qualifications and competences of SCSs; and remuneration, appraisals, professional support, mobility, and other issues.

A separate sub-chapter of the report deals with the analysis of mechanisms and reviews the relevant tools which ensure diversity and fairness in the SCS systems.

The report aims to propose recommendations to decision-makers and stakeholders involved in public sector reform and specifically civil service reform, highlighting the issues that need to be considered and reviewed prior to introduction of the SCS institute. To this end, the final part of the report provides a recommendations package that needs to be taken into account in its entirety, as opposed to picking and choosing individual recommendations.

## STUDY FINDINGS

The existence of the SCS institute in the public sector dates back centuries but only started to gain widespread prominence in the 1990s. SCS positions have various names in different countries (e.g. permanent secretary, secretary-general, or director-general, with 'senior civil servants' or 'senior civil managers' used as collective terms), but each refer to a civil servant who are the highest-ranking officials in an apolitical system of professionals, unlike political office-holders. A distinction is usually made between first- and second-category SCSs: the first category includes SCSs at the governmental and ministerial level; the second category covers SCSs at the agency and departmental level.

The analysis presented in this document confirms that, as opposed to other civil servants, SCSs actively communicate with political office-holders in public agencies. Their key role is to increase the efficiency of a public agency with a secondary aim of meeting public interests. It is incumbent on SCSs to consult and support political office-holders—a duty which is based on the principles of independence and meritocracy. The word 'permanent' when referring to SCSs is often applicable because the majority of SCSs are appointed for the long term, with some states even affording them life tenure. In countries where the term of appointment is actually defined, it usually extends beyond election cycles thereby maintaining political neutrality regardless of government change.

According to the 2016 data of the Organisation for Economic Co-operation and Development (OECD), this category of civil servants, namely SCS, constitutes less than 1% of the total number of civil servants in OECD member states. Notably, a uniform senior civil service model does not exist, due to the varying features of the civil sector and differing historical experiences of different countries. The analysis presented in this document confirmed that an SCS's status, compatibility with civil servant rank, and usage of this institute outside executive authority—as well as at governmental, ministerial, and departmental levels—varies from country to country. For instance, SCS positions exist at regional and/or local levels in some states but not others.

The analysis also shows that the ways in which the SCS institute is accommodated in the statutory apparatus vary as well. In particular, the majority of EU Member States have a special legislative framework governing this institute, while a minority regulate SCS activities under general employment legislation (Bojanov, K., Milanov, R., 2018).

Special conditions that apply to SCSs may include: a selection procedure that is different from that of other civil service positions; an obligation to pass a special exam or undergo special training before appointment; a distinctive employment system (career- or position-based); a distinctive appointment term (for life or a defined term); special support for SCSs (training, mobility, etc.); and/or additional benefits and incentives in terms of compensation, working time, etc.

If at least one of the foregoing conditions is present in a country, it is deemed that the country has special conditions in place for its SCS system. Scientific literature recognizes that today the high quality of public administration and the performance of civil servants significantly depends on the work of SCSs. At the same time, SCSs are deemed to be the best tool for keeping public sector administration free from political influence (Kuperus & Rode, 2016; Kuperus & Rode, 2008; SIGMA, 2018; Bojanov & Milanov, 2018; Matheson, A. et al., 2007; World Bank, 2005). Hence, two main dimensions can be identified when discussing the SCS system: management and political neutrality.

Within the ambit of management, the focus is placed on the fact that SCSs are responsible for 'good governance' as well as continuous modernization and improvement of state administration. They are considered as catalysts for public policy, especially in terms of reforming and efficiently implementing corresponding policies. In this respect, the 1990s served as a watershed period: emerging challenges in different countries and the need for an effective response necessitated that persons with distinguished managerial and coordination skills be engaged in transformed civil service systems.

In the dimension of political neutrality, the emphasis is placed on maintaining neutrality when dealing with political office-holders and carrying on activities that are based on a meritocratic system. Significantly, in western systems where the position of an SCS has existed for a while, managerial competencies are today afforded greater importance compared to political neutrality. This is because the key function of an SCS position is to increase the effectiveness of governance. However, it should be noted that in Central and Eastern European states, where the implementation of a senior civil service system has failed, the protection and maintenance of political neutrality has become a challenge.

The study of the secondary literature demonstrates that the SCS institute is considered as a counterbalance to, rather than standing in opposition to, political offices. A person occupying an SCS position ensures political neutrality of the merit-based civil service apparatus, as well as the coordinated and effective performance thereof. This is achieved through close cooperation with political office-holders. Accordingly, despite there being some sharp conceptual differences between politics and administration, there is an important link between the two. It is thus pivotal that the sharing of political responsibility does not entail succumbing, or being subjected, to political influence.

The analysis reveals that the functions of an SCS include developing internal regulations and organizational structures, as well as liaising with political office-holders regarding human resources and budgeting issues (SIGMA, 2018). In the majority of EU Member States, SCSs not only handle organizational matters (e.g. monitoring results and overseeing performance deadlines), but they also develop policies and mobilize necessary subject-matter experts (SIGMA, 2018).

In some countries, ministerial-level SCSs (or secretary-generals, as they are commonly referred to) formally lead civil servants and are fully responsible for the management of a ministry in general. In other countries, administrative management is kept separate from the management of policy-making.

The study contains a detailed and thorough review of the foregoing and other connected matters.

## KEY MODELS OF SENIOR CIVIL SERVICE

The study identifies five key models of SCS in light of varying statuses, organizational structures, and special conditions afforded to SCSs (Kuperus & Rode, 2016; Kuperus & Rode, 2008; SIGMA, 2018; Bojanov & Milanov, 2018; Matheson, A. et al., 2007; World Bank, 2005). Hence, Georgia can consider the SCS institute through the prism of these five models, each of which are introduced below:

**1) Centralized Senior Civil Service:** - Under this model, national legislation formally provides that SCSs are a special group of civil servants. A specially-established central office selects SCSs, determines their compensation, and manages their career. Meanwhile, SCSs enjoy special conditions which distinguish them from other civil servants. In the EU, this model is employed in the Netherlands and Estonia. The UK has also implemented this model.

**2) Senior Civil Service with official status and special conditions:** - Under this model, national legislation formally provides that SCSs are a special group of civil servants. However, unlike in the first model, there is no central office to manage SCSs. Instead, a bureaucratic unit responsible for the management of the civil service in general also administers SCS. Similar to the first model, SCSs under this model are also distinguished by special conditions afforded to them. In the EU, this model has been implemented in Belgium, Czech Republic, Ireland, France (for first-category SCSs), Italy, Malta, Luxembourg, Poland, Portugal, and Romania.

**3) Senior Civil Service with official status, but without special conditions:** - Under this model, national legislation formally provides that SCSs are a special group of civil servants. Similar to the second model, there is no central office responsible for administration and support. The senior civil service is managed by an office responsible for the administration of civil service at large. The only factor that distinguishes SCSs from other civil servants is their status; however, SCSs do not enjoy special conditions. In the EU, this model has only been implemented in Bulgaria.

**4) A recognized group of SCSs, with special conditions:** - Under this model, national legislation does not formally regulate SCS. However, this category of civil servants is afforded special status. They enjoy special conditions with respect to selection, appointment, support, and receiving benefits. This model is most actively used in the following EU Member States: Denmark, Germany, Spain, France (for second-category SCSs), Austria, Greece, Sweden, Slovenia, Latvia, Lithuania, Hungary, Cyprus, and Slovakia.

**5) SCSs without official recognition and/or any kind of organization:** - Under this model, national legislation does not regulate the status of SCSs. They do not enjoy any special conditions different from other civil servants—they are considered their equal and accorded similar advantages. Within the EU, this model is only used in Croatia.

## TYPOLGY OF SENIOR CIVIL SERVICE MANAGEMENT

The study of the secondary literature and in-depth interviews reveals various rules for employment regarding SCSs and some of the newest tendencies in this regard, which need to be considered when managing relevant changes in Georgia.

There are two main traditional types of employment in civil service: career-based and position-based. However, the study shows that, after civil service systems have been refined, we often encounter intermediate, hybrid versions, which integrate elements from both types.

Political hybrid systems are considered separately where a country has a career-based employment system. However, SCSs may be politically appointed in exceptional cases. In this system, SCSs may be selected from internal or external candidates—based on political decisions and preferences, rather than their career (or tenure) and achievements to date. Recently, within the real hybrid system, a typical concept of 'political hybrids' was developed in Spain, France, and Hungary, which focuses specifically on the first-category SCSs who are politically appointed by their minister.

Going beyond the traditional types, the current employment models are distinguished by their proximity to either the career- or position-based system. Thus, the SCS selection and employment systems are broken down into the following five types (Kuperus & Rode, 2016): mainly career-based; mainly career-based, with an element of the position-based system; a hybrid system where elements from both systems (career- and position-based) are combined in equal proportion; mainly position-based, with an element of the career-based system; and mainly position-based.

The analysis confirms that, in line with the common trends of the last decade, exclusively career-based systems no longer exist in the EU. Conversely, during last decade the number of countries to have adopted a mixed system has increased.

The picture has significantly changed from 2008 to the present day. More precisely, all EU Member States which had a career-based and/or a hybrid system in place have leaned towards the position-based system. The majority of countries with hybrid systems according to the 2008 data, now have a position-based system in place for SCSs. This trend is actively spreading outside the EU. The analysis also shows that the number of women among SCSs has increased worldwide following the implementation of the relevant tools aimed at ensuring diversity and fairness in the SCS system. This trend is especially evident in EU Member States: according to the 2015 data, the rate of appointment of women on SCS positions had increased by at least 10% in the previous seven years (Kuperus & Rode, 2016).

## *IMPLEMENTATION OF A SENIOR CIVIL SERVICE SYSTEM: THE PROBLEMS*

The study of the Western Balkans (Albania, The Republic of North Macedonia, Montenegro, Serbia, and Bosnia and Herzegovina) and Ukraine reveals problems which should preferably be avoided when this model is implemented in Georgia.

In particular, even though it appears that this institute has been formally implemented in the Western Balkans, SCSs do not have real authority to manage their affairs independently.

In these studied countries, functions of SCSs are unclearly formulated and the state authority is poorly delegated by political office-holders (for example, by the ministers). The fact that the real authority of SCSs is weak limits their governing functions and their role in institutional management. When a minister retains decisive administrative leverages, the degree of the SCS institute's politicization becomes high—this point was also highlighted during the in-depth interviews with foreign experts.

Another problem is that SCSs are in some cases accountable to two superiors: their minister and a special body responsible for the management of civil servants. Such dualism makes the accountability process much more complicated and, as a result, renders effective management of a ministry and its subordinate agencies more difficult. This casts doubt on the real advantages of the institute in these particular countries.

We can observe similar problems in Ukraine, where an excessively high degree of politicization of this process can be seen even after the second wave of reforms to implement an SCS system. The reform of the state apparatus is hindered by the practices of the Soviet era, some of which survive to this day. SCS selection and appointment procedures are mostly tailored to specific persons—there is no uniform approach and exceptions are frequently made. Moreover, the scale of the reform went beyond the executive branch and SCSs' positions have been implemented in legislative and judicial branches as well which is not observed in other countries. In Ukraine, the separation of authorities between SCSs and political office-holders is insufficient and ambiguous, which renders the reform an artificial formality.

## *THE ATTITUDES OF LOCAL EXPERTS AND REPRESENTATIVES OF NGOS*

The attitude of local experts and representatives of NGOs is generally positive towards the implementation of the SCS institute in Georgia, according to the interviews conducted. The majority of respondents noted that the key function of an SCS in Georgia should be to protect professional civil servants from political influence, to attend to the employment rights of civil servants, and to ensure the continuity, stability, and neutrality of public governance.

The respondents emphasized the role of an SCS in maintaining institutional memory and ensuring the continuity of the work process in an environment in which political office-holders are frequently replaced.

Some experts also see the role of an SCS as entailing the proposing of qualified expert recommendations to political office-holders during the policy-making process. SCSs are also considered by most respondents as institutions that support the professional development of those employed in the public sector. In this respect, SCSs are seen as persons who, unlike political office-holders and those employed in managerial positions in the public sector, have a much broader vision and handle the career advancement of civil servants at a strategic level.

Most of the respondents stated that if the country was to proceed to undertake a reform aimed at implementing the SCS institute, the risk of politicizing the process must be prevented. Despite their different backgrounds, the respondents all agreed that the process must be carried on with maximum involvement of stakeholders. In their view, this is necessary in order to carefully consider in advance all details associated with the implementation of the SCS institute and to control risks as much as possible.

The analysis demonstrates that the majority of respondents preferred a gradual move towards an SCS system. In the opinion of the majority of respondents, it would be desirable to first launch the system as a pilot in several ministries and then plan expansion in light of the pilot results. The majority of respondents consider it inadvisable to expand the SCS's position beyond the executive branch, thus opposing the replication of Ukraine's experience.

In the study, some respondents referred to an increase in bureaucratic processes and the duplication of positions when discussing the risks and challenges of implementing the SCS system. In this regard, the likelihood of contradictions over issues between SCSs and civil servants under their subordination was also underscored. Furthermore, Majority emphasized the need to avoid the risks of selecting/appointing SCSs on political grounds and 'closing' the civil service system for the general public. Corruption-related risks were also pointed out in the event that a career-based model is selected. Possible personal conflicts between a minister and an SCS affecting the system's stability were also mentioned among possible risks.

## RECOMMENDATIONS

In light of the study's conclusions, the report puts forward two categories of recommendations: the first category covers recommendations that serve as a prerequisite to the implementation of the SCS institute; and the second category includes recommendations which need to be taken into account both during the institute's implementation and throughout its functioning.

### *I. Recommendations necessary to set up the SCS institute:*

- 1) Identify all potential needs, risks, and hindrances, and plan management measures reliant on the efforts of the Civil Service Bureau and the Administration of the Government of Georgia.
- 2) Conduct a basic study before the reform to establish the compatibility of the existing reality with the proposed SCS system. In this process, the results of other studies conducted by the Civil Service Bureau must also be considered.
- 3) Clearly separate political and administrative responsibilities and garner political will to create a politically neutral institution, which is an effective tool to achieve set goals and aims. This will reinforce the statement made in the PAR Roadmap regarding the creation of a merit-based, professional, and effective civil service system that is free of political influence.
- 4) Give preference to the integration of various elements of the SCS system from diverse international best practice, instead of following the experience of one particular country. In so doing, the best local experience should also be relied on and, at the same time, the consensus of all stakeholders involved in the reform should be considered.
- 5) The reform process should, as much as possible, take into account the requirements of the Methodological Framework for the Principles of Public Administration (2019) developed by SIGMA, with a view to creating conditions to monitor progress against the relevant indicators. This particularly concerns the sub-indicators under Indicator 3.4.1 (Merit-based recruitment and dismissal of senior civil servants) provided in the block on the prevention of direct and indirect political influence on senior managerial positions in the public sector.
- 6) Define and agree on the scale of the reform in advance. In particular, answer the following questions:
  - (a) Should the reform reach outside the first-category SCSs (the governmental and ministerial high level) and cover second-category SCSs as well (on the level of subordinate agencies and LEPLs operating under the same ministry, as well as the ministry's departments)? Should the reform cover third-category SCSs?
  - (b) Should the reform extend beyond the central authority and include the local level as well?

However, the decision-making process should consider the fact that, pursuant to the Methodological Framework for the Principles of Public Administration (2019) developed by SIGMA, if SCSs are not employed in positions two levels below a minister —or, as the publication suggests, in so-called second-category SCS positions (e.g. director-general, deputy secretary-general, deputy permanent secretary, or a director of a department of a ministry who leads policy areas and manages several smaller managerial units within the ministry) —0 points are awarded with respect to above presented as follows: Indicator 3.4.1 (of a highest possible score of 2).



- 7) Together with stakeholders, agree on the rules and procedures for selection and dismissal of SCSs, and develop a detailed job description outlining their rights and duties.
- 8) When determining their rights and duties, allocate adequate resources to SCSs necessary to exercise their authority in full.
- 9) Together with stakeholders, agree to minimize the political affiliation of SCSs; base the SCS selection criteria not on a purely career-based approach, but rather on a model that is more position-based, which is more widely established in modern SCS systems.
- 10) Clearly define SCS performance appraisal methods and specific incentive mechanisms resulting from such appraisals with a view to minimizing employee turnover and supporting the system's stable development.
- 11) Determine the accountability framework of an SCS at the preparatory stage.
- 12) Decide which institution(s) will be afforded the authority of selecting, nominating, and appointing SCSs. To this end, review the possibility of expanding the civil service's authority and/or creating a new unit in the governmental hierarchy if centralized management of SCSs is favored.
- 13) Investigate the possibility of appointing SCSs for a probationary period and extending that period where a decision is made to that effect. Furthermore, develop safeguards to ensure that this tool is not misused to exert political pressure on SCSs.

## ***II. Recommendations that need to be taken into account during the SCS institute's implementation and throughout its functioning:***

- 1) Gradually implement the SCS institute. In the first stage, it should be implemented as a pilot in several ministries. If the pilot is then successful, it can be expanded to other ministries and later to local self-government units.
- 2) Put into effect an important principle for SCS implementation: the separation of political and administrative responsibilities between political office-holders and SCSs. At the same time, equip SCSs with policy-making authority albeit only to the extent of providing analytical support to policymaking, which means issuing evidence-based policy recommendations.
- 3) Develop a competency framework for civil servants in which the experiences of the UK and Estonia can be used as examples to follow. This competency framework should reflect, in detail, standards applicable to SCSs. This instrument can be used for internal and/or external appraisal and quality management of SCSs.
- 4) Systematically collect and analyze data on different indicators of politicization in the public sector, which if kept low will be reflected in the effective management of situations and the better observance of relevant standards.
- 5) Pay attention to career advancement and development of SCSs and managers employed in the civil service, continuously strengthen personnel in managerial positions, and mobilize necessary resources to these ends.
- 6) Implement additional programs and campaigns to promote gender equality and diversity, and to integrate women, ethnic minorities, and persons with disabilities in the civil sector, including SCS.
- 7) Involve international organizations in the SCS institute's implementation process—foreign experts and persons with experience of working in SCS positions who participated in the study confirmed that successful reform will depend heavily on international support.

Moreover, it is necessary to consider the recommendations suggested by the study participants, namely international experts and persons with experience of working in SCS positions.

These recommendations are as follows:

- 1) Attract talented managers to SCS positions, who are highly motivated, have experience of working in the private sector, and have studied and even worked abroad;
- 2) Make remuneration high for SCSs to attract a better quality of candidate for these positions in the civil service;
- 3) Determine whether it would be desirable and acceptable to propose a hierarchical system of SCSs and to introduce SCSs at governmental level who would be hierarchically superior to ministries (e.g. by introducing the position of a permanent secretary at the level of the Cabinet of Ministers who would ensure uniform management of processes and co-ordinate the work of SCSs when deciding on certain issues);
- 4) Determine whether it would be desirable, with a view to preventing a low degree of SCS co-ordination, to create a single co-ordination body (e.g. in the form of a union of SCSs as is in place in Estonia, the Netherlands and the UK);
- 5) To focus, in the SCS selection process, on leaders with a high degree of responsibility who would ensure the implementation of important projects and would not confine themselves to standard bureaucratic procedures. The selected persons would have strategic vision and thinking and would be able to, where required, provide appropriate recommendations to politicians; and
- 6) Obtain additional financial resources to enable the full implementation and functioning of the SCS system, in line with the practices of other countries to have succeeded in this respect.



## *SUMMARY*

The study conducted by the Georgian Institute of Public Affairs (GIPA) using secondary literature research and in-depth interviewing methods demonstrated that the implementation of the SCS institute requires additional activities. In particular, it is necessary to delve deeper into all details concerning its implementation, functioning, and assessment. The analysis of international practice related to the SCS institute reveals the existence of several alternatives in terms of the scale, form, model, functioning, and personnel selection of an SCS institute. For this very reason, all stakeholders must be involved in the potential changes and relevant decisions. As the observation of the practice of SCS institute implementation confirmed, readiness and political will of the authorities are the most pivotal factors in ensuring that the SCS system fulfils its key purposes: to provide effective administrative management and to protect political neutrality.