CIVIL SERVICES AND STATE ADMINISTRATIONS (CSSA)

COUNTRY REPORT: CZECH REPUBLIC
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CZECH REPUBLIC

A. PUBLIC SERVICE CHARACTERISTICS

1. LEGAL STATUS OF PUBLIC SERVANTS

♦ **Legal provisions defining the status of public servants**

1.1 The Constitution of the Czech Republic stipulates (Art. 79, para. 2): "The legal relations of state employees in the ministries and other administrative offices shall be regulated by an Act of the Parliament". Such an Act, which would regulate the existence and status of all public servants in the scope covered by the SIGMA analysis, has not been adopted yet. However, there are Acts regulating the existence and status of certain groups of public servants, such as the Act of the Czech National Council No. 186/1992 CoL on the service relationship of the members of the Police of the Czech Republic, the Act of the Czech National Council No. 555/1992 CoL on penitentiary service and judiciary guard of the Czech Republic, regulating the service relationship of the members of these armed forces, the Customs Act No. 13/1993 CoL regulating *inter alia* the service relationship of customs officers. For details on these Acts see para. 1.4.

Also the status of judges is regulated by a specific law on courts and judges (Act No. 335/1991 CoL) -- see Chapter 10. To a certain extent, Act No. 283/1993 CoL on state attorneys regulates the status and employment relationship of state attorneys in a different way from the generally valid Labour Code.

1.2 All public servants, except for those specified in 1.1 above are subject to general employment law, i.e. the Labour Code (Act No. 65/1965 CoL as amended). Beyond the framework applicable to all employees under the jurisdiction of the Labour Code with reference to their fundamental duties, on the basis of an amendment (Act No. 231/1992 CoL effective 29 May 1992), the Labour Code specifies (Sec. 73, paras. 2 through 5) further duties for public servants and some other employees (such as the employees of the Office of the President of the Republic, the Parliament Office, the Government Office, the Supreme Auditing Office, the employees of courts and offices of state attorneys and others). These duties include:

a) to act and decide impartially and refrain from anything that could threaten the confidence in the impartiality of decisions;
b) to keep silent about the facts learned in the course of the performance of their employment and which cannot be communicated to other parties in the interest of the employer; this does not apply, if they have been relieved of this duty by a statutory body or by the managing employee authorised thereto, in connection with the performance of their employment;
c) not to accept any gifts except for gifts or advantages granted by their employer or on the basis of legal regulations and collective agreements;
d) to refrain from conduct which could result in a conflict of public interest with personal

interests, in particular not to abuse information acquired in connection with the performance of employment to the benefit of themselves or other parties.

Moreover, these employees must not be members of managing or supervisory bodies of legal entities performing business activities unless they have been deployed to such bodies by their employer; in connection with this membership they shall not receive any remuneration from the respective legal entity performing business activities. These employees may perform business activities only with the previous written consent of their employer; this provision does not apply to scientific, pedagogical, journalistic, literary or artistic activities and the administration of their own property.

As early as the time of adoption of this supplement to Sec. 73 of the Labour Code it was obvious that the amendment was merely a temporary solution to remain in force until the adoption of the definite codification regulating the legal status of civil servants on new legal foundations, not as a contractual legal relation, but as a legal relation of a natural person to the state. However, this temporary legal regulation is still in force, as the Civil Service Act has not been adopted yet.

The managing public servants, i.e. the ministers and the heads of central state administration authorities not headed by a member of the Government (such as the Czech Bureau of Statistics, the Czech Geodetic and Cadastral Office, the Czech Mining Office and other central state administration bodies specified in the Act of the Czech National Council No. 2/1969 CoL on the establishment of ministries and other central state administration bodies of the Czech Republic, the so-called Competence Act as amended), are subject to further stricter provisions under the Conflict of Interests Act (Act of the Czech National Council No. 238/1992 CoL) provided by an amendment of this Act by the Act No. 287/1995 CoL which entered into force on 1 January 1 1996, to which the Labour Code refers (in Sec. 73, para. 6). Moreover, these persons ranking among the so-called public functionaries must submit a report on personal benefits, and reports on activities also concerning their spouses, on income and gifts and real property of themselves and their spouses.

1.3 There is no legal differentiation between these two groups, as there is no Civil Service Act.

1.4 Special groups of public servants in central state administration to which a special statute applies include in particular the customs officers, the members of the Police of the Czech Republic, the members of the Penitentiary Service and the Judicial Guard and, to a certain extent, also the firemen (members of the Fire Rescue Corps). The differences exist particularly in the recruitment/dismissal provisions, in remuneration, in promotion, in the length of the leave of absence, in the time-off institution, in the creation of the prerequisites for service performance and in the provisions concerning service discipline (disciplinary remuneration, disciplinary offences and disciplinary punishments).

♦ **Current status on implementation**

1.5 All specific laws concerning the individual groups of public servants, as well as the provisions of Sec. 73, paras. 2 through 5 of the Labour Code concerning civil servants, have been fully implemented.

♦ **Arrangements where laws/regulations are not yet in operation**

1.6 The answer to this question arises from the reply to Q 1.5. The Institute of permanent public service has not been established by law as yet. It is assumed that it will be the object of the Civil Service Act.

Note on Chapter 1

Czechoslovakia between the two World Wars had a regular civil service based legally on the Service Rules which were the fundamental legal civil service regulation forming the basis of further legal rules valid not only for civil, but also for public service (such as the Salary Act of 1926). This status was changed in 1950 by the adoption of Act No. 66/1950 CoL on work and salary relations of state employees. This Act regulated the civil service on the basis of an entirely different concept from the pre-war Service Rules. This concept did not make any distinction between public and private employment relationships and considered civil service merely a specific type of generally uniform employment relationship. The adoption of the Labour Code (Act No. 65/1965 CoL), in force since 1 January 1966, either eliminated entirely the different provisions concerning civil service or adjusted them to general requirements, such as the transfer of employer subjectivity from the state to the individual state authorities. In this way the legal relations of civil servants have been changed into labour law relations and the distinctions between an employee (factory worker, railwayman, member of a co-operative) and a civil servant have been entirely eliminated.

For this reason in 1991, still at the time of the existence of the CSFR (Czech and Slovak Federal Republic), attempts were made to regulate some relations of the state administration employees on the principle of deviations from the Labour Code, proposing in particular a different definition of the origin of employment relationship in state administration, appointment to position, and particularly the definition of new duties of civil servants while retaining the contractual relationship. In the course of this legislative work, however, it was found that the results of this method -- deviations from the Labour Code while maintaining the contractual concept of employment relationship -- did not give satisfactory results and the work in this area was abandoned.

Another phase of the legislative work on the Civil Service Act started immediately after the origin of the Czech Republic at the beginning of 1993. In the Programme Declaration of the first Klaus coalition government of 1992, the Government promised to "prepare fast a draft of an Act on the legal status of state administration employees defining the requirements imposed on these employees and their duties as well as certain compensating measures assuring stability and independence of their status." The drafting of the Act was within the competence of the Minister of Labour and Social Affairs in co-operation with the Deputy Prime Minister in charge of the Office for Legislation and Public Administration. The draft of the principles of the Act, submitted in June 1993, was approved by the Government in August 1993 and subsequently positively assessed also by the respective Committees of the Chamber of Deputies of the Parliament. On the basis of these approved principles the full text of the draft Act was elaborated and submitted to the Prime Minister in July 1994. This was followed by complicated political negotiations and the draft Act had to be revised several times. The basic concept of the Act, initially

approved by the Government, was questioned particularly by the Minister of Finance. It can be assumed that the selected approach intending to provide a comprehensive regulation of the legal conditions of civil servants in the form of a code comprising almost 300 sections was not acceptable politically. Equally politically unacceptable, obviously, was the proposal of the establishment of a permanent civil service and the application of the career system.

The second Klaus coalition government in its Programme Declaration of 1996 again promised "to prepare a draft of a Civil Service Act regulating the status of civil servants, their status and claims accentuating their political and party independence". The Ministry of Labour and Social Affairs established an external working group to review the principal working theses in which the Ministry had abandoned the principles of permanent civil service and the career system forming the basis of the draft law of 1995. As a result of the limited financial possibilities of the 1997 state budget, however, further legislative work on the Act was suspended, and the Klaus Government resigned in November 1997.

On 23 March 1998, Tošovský´s transition government adopted Resolution No. 202 on the Proposal of Further Government Procedure in Public Administration Reform. The schedule of the measures essential for the implementation of further progress included also the drafting of the substantial intent of the Civil Service Act by May 1998 and the drafting of the full text of the Act by February 1999. The substantial intent of the Act was drafted more or less on the 1997 working principles of the Ministry of Labour and Social Affairs, but the Government did not have time to review it.

The significance of a stable civil service and its legal regulation were pointed out several times also by President Václav Havel. In his address to the Chamber of Deputies of the Parliament of 14 March 1995, for instance, he stated that the backbone of every well functioning and stable state consisted in a well functioning, stable and efficient state administration, and that the Civil Service Act would be a significant step in this direction, although no Act in itself could provide automatically a more respectable and better state administration. He emphasized that the process would be of long duration and that it was necessary to create such conditions "as would ensure that no one would consider the profession of a civil servant as something inferior or entirely disadvantageous, but on the contrary as a sort of distinction, as it is the case in many developed countries".

The present Zeman Government included in its Declaration of August 1998 as a principal measure "the depoliticization of state administration by the adoption of a Civil Service Act to stabilise the state apparatus, improve its efficiency and eliminate its dependence on short-term political pressures". The Government simultaneously promised to draft a Civil Service Act imposing high requirements on professional public servants on the one hand, and protecting them in the performance of their exacting activities on the other hand. It promised also to elaborate a system of education and training of public servants, comprising both the medium-level and particularly high-level education of prospective public servants and the training of existing public servants in the lifelong education system. The system is to be co-ordinated by the authority entrusted with the supervision of public administration quality. The legislative works were concentrated, once again, in the Ministry of Labour and Social Affairs, which established a working group comprised of representatives of individual ministries, independent experts and representatives of trade unions. The fundamental conceptual material serving as a basis for further legislation should be drafted and submitted to the Government for decision by June 1999. According to the legislative plan of the Government, the draft substantial intent of the Act should be

submitted to the Government by the end of 1999 and the draft of the full text of the Act by the end of the 3rd quarter of 2000. The Act is expected to enter into force in January 2002, unless unforeseen circumstances intervene.

2. RECRUITMENT, SELECTION AND DEPLOYMENT

♦ Selection procedures for entry

2.1 With reference to the core of the whole public service which, as explained in Chapter 1, is in the jurisdiction of the Labour Code, no such general provisions exist. However, there are certain groups of public servants for whom such provisions do exist. For instance, for the heads of District Offices (73 in number) the selection procedure is obligatory, as provided by Act No. 425/1990 CoL on District Offices as amended. Sec. 8, para. 1 reads: "The District Office is headed by its head, appointed and dismissed by the Government upon the proposal of the Minister of the Interior of the Czech Republic". Para. 2: "The Minister of the Interior submits the proposal for the appointment of the head of the District Office after a selection procedure. The selection procedure is declared by the Minister of the Interior; its rules shall be provided by the Ministry of the Interior by a legal regulation". This legal regulation is the Ordinance of the Minister of the Interior No. 444/1992 CoL on the rules of the selection procedure for the position of the head of District Office, which is applied consistently. It is impossible for the Government to appoint the head of a District Office without the preceding selection procedure organised by the Ministry of the Interior. Also the customs officers (9267 in number) are subject to a specific regulation forming part of the Customs Act (No. 13/1993 CoL). The details of the entry procedure are regulated by the Ordinance of the Ministry of Finance No. 258/1997 CoL issuing the rules of the entry procedure and regulating some details concerning the ranks of customs officers. Similarly, the appointments of the directors of School Offices (86 in number) and of the central school inspector are based on the results of a competition procedure (Act No. 564/1990 CoL on state administration and self-government in education, Sec. 12, para. 4d). The rules for the composition of competition commissions and their activities are defined by the Ordinance of the Ministry of Education No. 187/1991 CoL. With reference to the directors of Labour Offices (77 in number) the Act No. 9/1991 CoL on employment and competence of the authorities of the Czech Republic in the field of employment provides that their appointment by the Minister of Labour and Social Affairs is based on the results of a competition, as a rule (Sec. 2, para. 3). In some cases there is the possibility to organise the selection procedure for a certain position on the basis of an internal guideline of the ministry or another administrative authority.

2.2 According to the law it is the statutory representative of the ministry or another administrative authority (i.e. the minister or the head of another administrative authority) who is authorised to appoint (or select and appoint) employees. This statutory representative may delegate this authority. In practice this authority is delegated either to the head of the personnel department or to the heads of the departments or units concerned, who exercise it usually in co-operation with the head of the personnel department.

♦ **Qualifications**

2.3 Persons with experience gained outside the public service have broad possibilities of entry to public service. Their previous experience is credited in full if it is identical with their public service activities; in other cases it is left at the discretion of the statutory representative or the person to whom he has delegated the authority for staff appointment. This discretionary power, however, is based on a regulation -- Government Order No. 253/1992 CoL on salary conditions of the employees of state administration, some other bodies and communes, issued on the basis of the authorisation by Act No. 143/1992 CoL on salaries and remuneration for standby service in budget-financed and other organisations and bodies. The Government Order provides also a catalogue of work and qualification requirements, method of ranking in grades, basic salary scales and methods of their determination. Under this regulation the employer must include the employee in the grade ranked by the catalogue as corresponding to the most exacting work which the employee is required by the employer to perform (Sec. 4, para. 1). The Government Order further provides the procedure to be used for the classification of the employee into the salary scale on the basis of the computation of the so-called creditable experience, i.e. the decisive credited period. The applicant must prove his previous experience by an affidavit.

2.4 The prescribed qualification must be proved by the original or an officially attested copy of the report (certificate) on the highest qualification achieved.

♦ **Probation**

2.5 According to the law a probationary period may be agreed in the employment contract amounting to three months, unless a shorter probationary period has been agreed. The probationary period must be agreed in writing, otherwise it is not valid, and it cannot be prolonged (Labour Code, Sec. 31). Some groups of public servants, however, are subject to special regulations in this respect. For instance, the upper limit of the probationary period for firemen is five months, for the members of the police and customs officers 12 months. Before the termination of the probationary period the employer prepares a service appraisal, the purpose of which is to assess the fulfilment of service duties, and the professional and health capacities of the policeman (customs officer) for the further performance of duties or services.

♦ **Transitional arrangements**

2.6 This question is not the object of the present-day Labour Code regulation. It is under discussion at the moment and will be solved by the Civil Service Act under preparation.

2.7 The answer arises from the reply to the preceding question. A special arrangement exists for the members of the penitentiary service and judicial guard and for customs officers. The Customs Act provides that the ranks of the members of the customs administration attained according to previous regulations are deemed to be the ranks attained according to the new Act. The members of the police are governed by the transition

provisions of the Act on the service relations of the members of the Police of the Czech Republic, which provides generally that the service relations originating before it entered into force are considered as regulated by the new Act, unless the new Act specifies differently. Another regulation provides, for instance, that the waiver of legal university education for the exercise of the position of investigator, granted under the previous Act, lost force on 31 December 1995, and that such waiver may be granted temporarily by the Minister, if the policeman otherwise guarantees the proper exercise of the position of investigator; further provisions concern the claim of service allowance, etc.

♦ **Mobility**

2.8 The present regulation does not consider the transfer between institutions without the employee's consent. As public servants have no other regulations, the provisions of Sec. 38, paras. 3 and 4 of the General Labour Code are applicable, reading as follows:
Para. 3: "The employee's transfer for the performance of his work to another place than that agreed in the employment contract is possible only with his consent and in the framework of the employer's business, if necessarily required by his operating needs."
Para. 4: "The employer with whom the employee is in employment relationship may agree in writing with the employee that he will deploy him temporarily for the performance of his work to another legal entity or natural person. The agreement must contain the name of the legal entity or the name and surname of the natural person to whom the employee is temporarily deployed, where and when the temporary deployment will originate, type and place of performance of the work and the period for which the temporary deployment has been agreed."

It is envisaged that the future Civil Service Act will enable the transfer of a civil servant between institutions also without his consent.

The groups of public servants under specific service relationship regulations have different arrangements from other civil servants. For instance, a policeman may be transferred for the performance of the position to which he had been appointed to another place of service, if required by important interest of the service and for the necessary period which, however, must not exceed one year. He may be transferred again only after the elapse of two years from the termination of his previous transfer. He may be transferred for a longer period (or transferred again even before the elapse of two years from the termination of his last transfer) only if he has agreed to the transfer in writing. The same regulations also apply to customs officers.

2.9 The present regulations do not provide any mechanisms "to stimulate temporary secondments of public servants in order to improve the institutions' capacities to deal with EU accession". However, the present legislation makes it possible to apply the procedure of a long-term mission abroad to which the employee may be sent even without his consent; however, the employee must be duly informed of this deployment (Sec. 38, para. 2 of the Labour Code).

♦ **Appeal**

2.10 Unsuccessful candidates have no possibility of appeal. However, should the candidate harbour a substantiated suspicion that his failure was due to discrimination

violating the provisions of the Charter of Fundamental Rights and Freedoms, forming part of the constitutional system of the Czech Republic, he has the possibility of applying to the courts.

3. CONDITIONS OF SERVICE, PAY AND CAREERS

♦ Employment system

3.1 The current employment system of public servants is position-based rather than career-based, but includes the right to promotion according to age in that grade in which the employee has been ranked. Some groups of public servants whose service relationship is governed by a specific regulation (police, customs officers, penitentiary service members, etc.), however, are subject to different legal rules regulating their promotion; they are entitled to promotion to a higher rank after they have complied with the conditions stipulated by law.

3.2 Yes, grades are used. There is a regulation applicable to the employees of all state administration authorities (on central, regional and district levels) as well as to the employees of the communes and other authorities and agencies specifically enumerated in this regulation. This regulation provides the catalogue of works as well as the qualification requirements, the method of ranking in grades, the basic salary scales and the method of their determination (Order of the Government of the Czech Republic No. 253/1992 CoL on salary conditions of employees of state administration, some other bodies and communes, issued on the basis of the authorisation by Act No. 143/1992 CoL on salaries and standby service remuneration in budget-financed and some other organisations and bodies). Under this regulation it is within the competence of the statutory representative of the respective ministry or other administrative authority to decide on the ranking of the employee in the appropriate category. This discretionary power is generally delegated to the head of the personnel department and to the heads of the respective departments of the ministry or other administrative authority. The definitions provided in the catalogue of positions in the above-mentioned Government Order are comparable among state administration bodies, communes and other organisations financed fully or partially by the state budget, with the proviso that the basic salaries of employees of state administration bodies are superior by 25 %.

♦ Rights and duties of public servants

3.3 All rights and obligations are provided uniformly for all employees by the Labour Code (Act No. 65/1965 CoL as amended). Apart from that, this Act specifies further duties of public servants outside this framework. There are also additional duties arising from Act No. 238/1992 CoL as amended on the conflict of interests (compare Q 1.2). In the case of policemen and customs officers (and similarly also members of the penitentiary service and judicial guard), with regard to the character of their service relationship entailing the

elements of subordination, the contractual freedom of this relationship (as in the employment relations based on the Labour Code) is not provided, and these employees are bound to obey the orders of their superiors (transfer, service beyond the basic time limit per week, standby service, etc.). On the other hand, the rights of these employees include the right to a period of rest between two service shifts and during the week, the right to holidays and additional holidays, as well as to preventive rehabilitation, compensation of damages, financial claims related to service termination and, last but not least, the right to appeal a superior's decision. All of these rights are provided by the respective laws.

♦ **Career development and promotion**

3.4 Such cases can be solved by the granting of a higher personal premium. The personal premium is an unclaimable salary component provided at the discretion of the managing executive. His discretionary power is considerable, as the personal premium may amount to as much as 100 % of basic salary. The manager can also promote such an employee to a higher category. Both mechanisms are possible, but the employee has no legal claim to their application, which is at the discretion of the manager.

3.5 There are no general criteria in this respect. Promotion is automatic according to seniority within a given grade. As mentioned above, promotion to a higher grade is also possible. For the members of the police, the law provides the criteria for promotion to a higher rank; if the policeman has complied with these criteria, he is entitled to promotion. The customs officers are subject to similar regulations.

3.6 There is no general regulation prescribing a performance appraisal and its form. However, there are specific regulations for individual groups of employees, e.g. policemen. The Act on service relationship of the members of the police of the Czech Republic provides that the service appraisal forms the basis for decisions in the matters of service relationships of policemen. The Act further defines that the service appraisal consists of the assessment of fulfilment of service duties and of professional and health capacities of the policeman for the further exercise of his position or service, and provides that the appraised policeman must be informed of the contents of his appraisal. By its implementation ordinance No. 374/1992 CoL the Ministry of the Interior defined the details of service appraisal.

♦ **Training**

3.7 The institutional arrangements for providing and funding training are not assured centrally. In the framework of the limits allocated by the state budget, individual ministries and other state administration authorities and agencies themselves allocate funds for training. All key ministries have training institutions of their own, the annual programmes of which comprise the subjects needed for the training of employees in the respective sector, including languages, especially English. Apart from that, universities and other high-level schools offer postgraduate courses concerned, *inter alia*, with the *acquis communautaire* and European integration. For instance, during the 1998-1999 school year, the Agricultural University in Prague was commissioned by the Ministry of Agriculture to

open a postgraduate study of "European Agrarian Diplomacy". A comprehensive system of training exists for special groups of civil servants (policemen, customs officers). The Customs Administration, for instance, has an internal training system assuring the preparation of customs officers for service performance. If the performance of a certain service type requires further knowledge which cannot be acquired by prescribed general education and specific customs education, the customs officers are sent to participate in such forms of education and training as will assure these professional needs.

3.8 There are various special training courses to satisfy the needs of individual ministries, provided particularly by their own training institutions. Apart from that, various training courses, seminars and workshops are organised with foreign assistance, particularly on the basis of bilateral agreements, not only on the central level, but also for territorial state administration agencies and for communal offices. An important role in this respect is played by the Institute of Local Administration operating in the framework of the Ministry of the Interior, and the foundation Fund of Assistance to Local Administration (FALA).

3.9 Training does not constitute the necessary prerequisite for career development. The only group of public servants for whom training has been made obligatory by the Ordinance of the Ministry of the Interior No. 260/1991 CoL (as amended by Ordinance No. 536/1992 CoL on special professional qualification of District Office and Communal Office employees and its verification) are the employees of district offices and communal offices exercising so-called delegated state administration tasks. The Ordinance specifies the exact scope of officials concerned, necessitating special professional qualification for the exercise of their activities, the contents of the qualification, the methods of its verification and its organisational assurance, and the forms of its further improvement. The Ordinance also specifies the officials who must have a certificate of professional qualification to perform their jobs.

- **Right to join a union and to strike**

3.10 There are no restrictions: public servants have the right to organise in trade unions and other associations recorded with the Ministry of the Interior; they can strike. The right to strike, however, is forbidden to some groups (e.g. policemen).

3.11 The existing trade unions include in particular: the Trade Union of State Authorities and Organisations, in which 40-50 % of civil servants are organised (the representativeness varies with time), the Firemen's Trade Union with 90 % of organised firemen, and the Independent Police Trade Union, organising less than 40 % of policemen.

- **Pay components**

3.12 The basic pay of civil servants comprises claimable components (basic salary depending on grade and number of years of professional experience, management allowance, differentiated according to management level and requirements of management work, special allowances for specified work, the performance of which is connected with the threat to life or health), and unclaimable components (personal premium to reward long-

term quality and scope of tasks performed, and ad hoc bonuses to reward the fulfilment of an extraordinary or particularly important task, to reward the merits of work on attaining 50 years of age and on the first termination of employment relationship after the granting of a full invalidity pension or reaching retirement age, and to reward personal assistance in the case of extraordinary events threatening property, health or life. The size of individual bonuses is not determined centrally. In every calendar half-year civil servants are entitled to a so-called further salary derived from the claimable salary components and the personal premium. The total amount is provided by the government every year in accordance with state budget possibilities.

3.13 Take-home pay is not monitored or compared in the Czech Republic, as the amount of income tax on supplementary activities' employment forms part of every employee's total income and consequently depends on the individual conditions of every employee; it is not dependent on performance appraisal. The "gross" salary of a civil servant before taxation and payment of further charges provided by the law consists of 73 % of basic salary and 27 % of other components. In the case of policemen the ratio is 50 % to 50 %.

3.14 Generally such fringe benefits do not exist. For some special groups of civil servants (customs officers, policemen, etc.), however, some leave entitlements and other benefits do exist. Besides, in all authorities there exists a fund of cultural and social needs equalling 2 % of the total wage fund, which is used *inter alia* for covering the fees of employee training.

3.15 Public servants in key areas for implementing the *acquis* or in otherwise strategic functions related to EU accession are highly qualified servants and the work connected with these activities is ranked in the highest grades (11 and 12). The extraordinary requirements and scope of these tasks may be appreciated by the employer by means of a personal premium of up to 100 % of the highest basic salary of the respective grade. Therefore no special arrangement for these civil servants is necessary.

- **Termination of service**

3.16 Procedures and grounds for the termination of public service are the same as in all other cases of employment under the Labour Code (Sec. 42 ff.). In principle there are four types of employment relationship termination: mutual agreement, notice, immediate cancellation and cancellation during probationary period. If the employee is given notice for redundancy (Sec. 46, para. 1c), he is entitled to severance pay amounting to twice his average earnings (Sec. 60a). The groups of public servants regulated by specific service relationship acts (see Q 1.1) also have specific regulations for the termination of service relationship and claims connected thereto.

3.17 For the core of public servants beyond the scope specified in para. 3.16 there is no further severance pay. Special regulations apply only to specific groups of public servants (policemen, customs officers, and others). For instance, the policeman is entitled to severance pay if his service relationship has lasted at least six years. The basic severance

pay amounting to his last gross monthly service income is increased by one third of his gross monthly income for every completed year of service. The basic severance pay is further increased depending on the character of his service rank, but must not be higher than six times the last gross monthly income. If he complies with further conditions stipulated by the Act on the Service Relationship of the Members of the Police of the Czech Republic, the policeman is entitled to a salary compensation and a service allowance.

3.18 There are no such legal guarantees; on the other hand, there are no reasons why the civil servant considered redundant by one administrative agency could not apply for employment with another administrative agency and be engaged by it.

4. PERSONNEL MANAGEMENT STRUCTURES AND CONTROL OF STAFFING

♦ Coordination of personnel management

4.1 No, personnel management of public servants is in the hands of every single minister or head of another administrative authority or agency (whether of central or regional level), who are the so-called statutory representatives of their respective institutions.

4.2 There are no special regulations governing personnel management. Everything is governed by the uniform Labour Code (except for special regulations concerning certain groups specified in Chapter 1) and its implementation regulations. Every ministry or other central state administration authority or agency issues its own internal regulations called Working Rules.

4.3 There is no such body yet.

4.4 In this respect it is possible to mention the co-ordinating role of the Ministry of the Interior in relation to district offices under the District Office Act in the framework of which the Ministry of the Interior, on the basis of approved state budget grants to the budgets of district offices and communes, stipulates the number of employees, the amount of personnel and material expenses connected with the exercise of state administration for every district office, and the sum of contributions to personal and material expenses connected with the exercise of state administration for the communes in every district (Sec. 16, para. 2, of Act No. 425/1990 CoL as amended).

♦ Staff involvement in personnel decision-making

4.5 The involvement of trade union bodies is regulated in the Labour Code (Chapter III, Sec. 18 - 23), specifying in particular the participation of trade unions in labour law relations, their joint decision-making with the employer on the allocations to the fund for cultural and social needs, and their participation in the drafting of labour law regulations implementing the Labour Code. This is a generally valid codification. In practice, the participation of civil servants in decision-making on matters concerning them proceeds mostly on the level of consultations and information. Joint decision-making is limited. In comparison with the private sector, the scope for collective bargaining is considerably limited, as most labour law claims, particularly concerning salaries, are determined by legal regulations. The legal system does not enable collective bargaining, including collective agreements, on the national level.

♦ Management and control of staffing

4.6 There is no integral model of staff planning, including the use of mathematical methods, for decisions on the number of employees and their distribution into individual

categories. The introduction of such methods is envisaged in the framework of rationalization of state budget drafting and control and, in particular of the adoption of the Civil Service Act. In spite of that, however, the development of staff numbers is not entirely unrestrained, without regulatory interference of the state. The mechanism of determination of staff limits and the principles of their observation are specified under 4.7. So far there is not a single office responsible for these problems. Nearest to this responsibility is the Ministry of Finance (due to the state budget) and the Ministry of Labour and Social Affairs (legislation concerning wage and salary funds).

4.7 The setting of maximum numbers of employees (limits, ceilings) in the individual parts of state administration is based on the Order of the Government No. 48/1995 CoL on the control of funds expended on salaries and standby service remuneration in budget-financed and some other organisations and institutions. This Order authorises the government to stipulate the limits of staff, including funds available for salaries for the bodies and organisations with a separate state budget chapter as well as for the bodies and budget-financed organisations controlled by them. The concrete mechanism of determination of staff limits is as follows: in the framework of the approval of the draft state budget, the government also approves the respective tables (drafted and submitted by the Ministry of Finance) comprising, apart from staff limits, the limits of funds to be used for salaries in the respective budgetary year. Certain powers for their modification in the course of the year are delegated to the Ministry of Finance. The state budget indicators include the amount of funds for salaries and other payments for executed work in budget-financed organisations, and the amount of funds for salaries and other payments for executed work in state administration organisations and institutions contained therein. The numbers of employees do not constitute state budget indicators directly; they are mediated by the amounts of the above-mentioned expenditure items on which they depend.

4.8 Government Order No. 48/1995 CoL (see Q 4.7) contains the mechanism of obligatory observance (within the salary limit) of the amount corresponding to unstaffed positions, if the organisation operates with less than 97 % of the staff limit. In this way the regulation provides 3 % of the salary funds limit for incentives to reduce staffing. Since 1997 the government has abandoned entirely the mandatory observance of salary savings due to lower staffing. The reasons include, on the one hand, the stimulation of staff reductions, and on the other hand, the creation of a certain possibility of faster increase of mean salaries in the public sector during a period of restrictive budget policy. In a broader context, there is also the possibility of using the salary funds of unstaffed positions for entirely different purposes. As such cases involve an interference with the approved state budget indicators, as a rule this possibility is subject to approval by the Ministry of Finance, and since 1999 by the government. The progress of such changes is governed in particular by Act No. 576/1990 CoL as amended on the budgetary rules of the Republic and Ordinance No. 205/1991 CoL as amended on the management of budgetary funds of the state budget of the Republic and the financial management of organisations financed fully and partially by the state budget.

- **Job evaluation and classification and job descriptions**

4.9 The jobs (activities) in public administration are classified on the basis of a uniform analytical method based on criteria assessing their complexity, responsibility and difficulty and are divided into 12 grades. General characteristics of the activities in the individual grades are provided by the law. On this basis the government issues by its Order the catalogues of jobs for the individual branches of public administration and services. There are specific regulations for armed forces, security forces and services, customs administration bodies, members of the Fire Protection Corps (firemen), and the employees of some other organisations (Government Order No. 79/1994 CoL).

4.10 The duty to provide the descriptions of the individual jobs is not codified. The individual state administration authorities do so on the basis of their Working Rules, which are not centrally approved or co-ordinated.

4.11 Job descriptions must be based on the type of work agreed in employment contracts. Apart from the most exacting activity, according to which the employee is ranked in the appropriate grade, the job description contains further activities specifying the type of work in more concrete terms. With the exception of the specification of the most exacting activity corresponding to the catalogue of jobs, no other requirements imposed on job descriptions are provided centrally.

- **Management and control of pay and salary payments**

4.12 The law provides a uniform system of basic salaries for the whole area of public services and administration, with the proviso that for employees of state administration and armed forces (army, police, customs administration, etc.) the appropriate laws provide more exacting working conditions than the general conditions and duties of employees in an employment relation, which are compensated for by a uniform increase in basic salaries (by 25 % of the highest basic salary for the grade in which the employee has been ranked).

4.13 Act No. 143/1992 CoL and the Government Order implementing it provide uniform procedures for the determination of all salary components for all employees. Under the Competence Act (Act of the Czech National Council No. 2/1969 CoL as amended) the drafting of legal rules concerning wage and salary systems is the responsibility of the Ministry of Labour and Social Affairs. The Ministry of Finance influences significantly the general standard of salaries in the whole area of public services and administration.

4.14 Every state administration authority provides its own computerised payroll system. There is no general computerised payroll system for the whole public administration.

- **Appeal against personnel decisions**

4.15 Public servants are subject to the same regulations as private sector employees. Under an Ordinance dating from 1958 (long obsolete and unsatisfactory), the employee can file a complaint with his superior. In the case of invalid severance of an employment

relationship, the employee may apply to the courts (Sec. 64 of the Labour Code). Special appeal provisions concerning the service relationship exist only in the case of the above-mentioned public servant groups, such as under Act No. 186/1992 CoL, Sec. 132 - 138 in the case of policemen, under the Customs Act and the Ministry of Finance Ordinance No. 259/1998 CoL in the case of customs officers, etc.

- **Evaluation of use of resources**

4.16 There is no special public disclosure and scrutiny of the use of public service resources. The Final Account prepared in the same structure as the state budget and enabling, consequently, the scrutiny of the indicators provided by the budget, is reviewed by the Parliament.

4.17 There is no audit of use of human resources and of personnel costs in public administration. When reviewing the Final Account (see Q 4.16) the use of salary funds in state administration comes under special scrutiny. Failure to observe prescribed indicators is considered an unauthorised use of budget funds and may be subject to sanctions (return to state budget plus penalty). Parallel to this is another sanction for the failure to observe the salary limits: the statutory representative of the organisation which has failed to observe the limit may not draw a personal premium for six months.

4.18 The individual administrative authorities carry out their own audits. In addition, the Ministry of Labour and Social Affairs checks the observance of wage and salary regulations, and the Ministry of Finance and the Supreme Auditing Office check the economic use of budget funds.

B. PUBLIC SERVANTS: PROFESSIONAL ROLE IN POLICY FUNCTIONS AND DECISION-MAKING; RELATIONS WITH THE PUBLIC AND WITH POLITICIANS

5. LEGAL COMPETENCE, ABILITIES AND ACCOUNTABILITY MECHANISMS

♦ **Legal basis for actions of public servants**

5.1 The Constitution contains a general authorisation of administrative authorities and territorial self-government bodies for the issue of legal regulations depending in each individual case on authorisation by law. "If authorised by an Act of Parliament, ministries, other administrative offices and organs of territorial self-government may issue regulations, on the basis of and within the bounds of that Act" (Art. 79, para 3 of the Constitution). Further constitutional authorisation concerns the government, which is authorised to issue Orders: "In order to implement a law, and remaining within the bounds thereof, the government is authorised to issue orders. The orders shall be signed by the Prime Minister and the competent member of the Government" (Art. 78). Specific enabling powers in laws given to individual ministers usually leave a certain leeway at the minister´s discretion when drafting secondary legislation. In the framework of these authorisations civil servants act in accordance with the instructions of their ministers which, however, must comply with the competences of the respective minister (Act No. 2/1969 CoL as amended on the establishment of ministries and other central state administration authorities of the Czech Republic, the so-called Competence Act, and a number of further specific Acts).

♦ **Requirements to carry out government policy and to obey orders**

5.2 Public servants are subject to the provisions of the Labour Code as are private sector employees, in particular to Sec. 9, para. 1, reading: "Legal acts in labour law relations are performed on the part of the employer as a legal entity primarily by his statutory representative, and on the part of the employer as a natural person by the employer himself. In their stead these acts can also be performed by the persons authorised by them. Other employees of the employer, particularly the heads of his organisational units, are authorised as the employer´s representatives to perform on behalf of the employer such legal acts as arise from their positions defined by organising rules."

Para. 2 reads: "Within the boundaries of his capacity, the employer may authorise in writing his other employees to perform certain legal acts in labour law relations on his behalf. This written authorisation must specify the scope of authorisation of the authorised employee."

Para. 3 reads: "The employer's leading employees, i.e. his representatives (para. 1), as well as his other employees entrusted with management on the individual management levels, have the right to define and impose on their subordinates working tasks, to organise, manage and control their work and to give them binding instruction for

this purpose."

The principal duties of leading employees are defined separately (Sec. 74 of the Labour Code). The possibilities of enforcement of the law in practice are relatively great: either the servant complies with the order of his superior or he/she is threatened with salary reduction (e.g. in the form of reduction or withdrawal of the personal premium which is not claimable and the amount of which depends on the superior's discretion) or possibly even with the termination of the employment relationship.

5.3 Under the Labour Code the fundamental duties of employees include the observance of laws concerning the work performed, and the observance of other regulations concerning the work performed, if they have been duly informed of them. Safeguards of public servants, which is the object of the question, are not regulated uniformly and are dispersed in various organising or possibly in working rules of the individual ministries or other administrative authorities.

- **Lines of accountability**

5.4 Independence in policy-making is reserved to ministers or statutory representatives of other central administrative authorities of the same rank. In other administrative actions and in service delivery the responsibilities rest with the person who signs the decision (the director of a department, but also the head of a lower unit or the official authorised by him/her). This is regulated by internal regulations of the respective authority.

5.5 Accountability in the framework of the hierarchical structure of the ministry is regulated by an internal regulation. According to the Constitution it is not the individual ministers but the government as a whole which is accountable to the Parliament (Art. 68, para. 1 of the Constitution).

- **Ability to innovate**

5.6 There are no special arrangements, but the remuneration system makes it possible to reward initiative.

- **Management practices**

5.7 Line managers may merely submit a proposal to reward good performance to the minister or another statutory representative, but do not decide themselves.

- **Management control**

5.8 This appraisal is rather subjective. There is no horizontal, objective system of appraisal to be applied obligatorily in public administration as a whole.

- **Parliamentary accountability**

5.9 The Chamber of Deputies of the Parliament may scrutinize the activities of public

servants through the ministers, as every deputy has the right to request information and explanations needed for the exercise of his/her office from the members of the government and the heads of state administration authorities. The members of the government and the heads of state administration authorities are bound to provide the requested information and explanations within 30 days, unless their disclosure is hindered by the laws requiring silence or containing the prohibition of their publication (Sec. 11, Act No. 90/1995 CoL on the Procedural Rules of the Chamber of Deputies). Another possibility to scrutinize the activities of public servants in serious cases is provided by the investigation commission which the Chamber of Deputies may establish upon the proposal of at least one fifth of all members to investigate matters of public interest (Sec. 48 of the Act).

5.10 It is not usual practice; such cases are exceptional. Concrete data are not available.

♦ **Non-judicial accountability**

5.11 The institutions of ombudsman and court of auditors do not exist in the Czech Republic. The only institution is the Supreme Audit Office which is an independent organ for performing audits on the management of state property and the implementation of the state budget (the Constitution, Art. 97, para. 1). It can investigate actions of public servants only within the scope defined by the law, i.e. in the fields of

a) management of state property and financial funds levied on the basis of a law to the benefit of legal entities with the exception of the funds levied by communes within their self-government competence;
b) the Final Account of the Czech Republic;
c) the fulfilment of the budget of the Czech Republic;
d) the management of the funds received by the Czech Republic from abroad and the funds for which the state has assumed guarantees;
e) issue and amortization of government bonds;
f) awarding of public contracts.

(Act No. 166/1993 CoL on the Supreme Audit Office, Sec. 3).

5.12 The results of the activities of the Supreme Audit Office are, according to the above Act, audit findings summing up and assessing the facts ascertained during the audit. The approved audit findings are published by the President of the Supreme Audit Office in the Bulletin of the Supreme Audit Office and submitted without delay to the Chamber of Deputies, the Senate and the Government, and to the ministries upon request. These bodies draw the consequences. If the audit conclusions are based on the protocols handed over to the bodies acting in criminal procedure, their publication is possible only with the consent of the respective body.

♦ **Judicial accountability**

5.13 The decisions of public service bodies are reviewed by special panels of general courts. This review is concentrated in regional courts. Superior courts review the decisions of the ministries and other central state administration authorities. District courts review the decisions only minimally (in case of misdemeanours with a fine exceeding 2 000 Kč).

Administrative judiciary reviews the legality of the decisions of public administration, i.e. of both the state administration authorities and the bodies of territorial and professional self-government. In principle the review concerns the legally effective decisions resulting from a two-instance administrative procedure. In the cases specified by law, however, the courts may also decide on remedies concerning the decisions of administrative bodies which have not yet become legally effective. The administrative boards of the courts do not review those decisions of administrative bodies which are not dealing with the rights or obligations of a natural person or legal entity, in particular the generally binding (normative) acts, decisions of an organisational character and decisions regulating internal conditions of the body which has issued them. For this reason, the judicial proceedings are based on the complaint in which a natural person or a legal entity maintains that its rights have been violated by the decision of an administrative body and requests the court to investigate the legality of such a decision. The court proceeds in a single instance and no ordinary or extraordinary remedies are permissible against its decision. The proceedings concerning remedies are analogous, with the exception of the review of administrative decisions concerning pensions; in these cases an appeal against the decision of the regional court (which decided in the first instance) is made to the superior court; it is also possible to appeal to the Supreme Court. That is also the only case in which the Supreme Court acts as a reviewing instance in the review of a decision of an administrative body.

The solution of the system of administrative judiciary is under discussion at present, including the function of the Supreme Administrative Court provided by the Constitution, which has not been established yet.

5.14 In the judicial review of a complaint against a legally effective administrative decision, the individual administrative bodies (ministries or other administrative authorities) who have issued the contested decision in the last instance are the defendants. The proceedings concerned with the remedy are brought against the decisions of administrative bodies issued in the first instance and not against individual public servants. This, however, does not exclude the public servants' responsibility for the violation of their duties, which may be of criminal law or civil law (including labour law) character but never of administrative law character, which is borne by the institution.

5.15 As mentioned under 5.13 anyone may contest an administrative decision: any natural person or legal entity considering that his/her rights have been violated by the decision of an administrative body. The plaintiff is obliged to be represented by an attorney at law or a commercial lawyer, if he/she (or the person acting on his/her behalf in court) lacks legal education. Should he/she not have sufficient funds for hiring an attorney, he/she may be granted an attorney at the cost of the state. The law provides that in the case of refugees the legal representative is appointed obligatorily at the cost of the state.

Note on Q 5.13 - 5.15

The law referred to above is the Civil Procedure Code -- Complete Wording promulgated as Act No. 62/1996 CoL as amended.

6. PUBLIC SERVANTS AND POLITICS

- **Legal provisions defining the principle of professional independence of public servants**

6.1 The Constitution does not define political impartiality and professional independence of public servants. It is assumed that such a definition will be contained in the Civil Service Act, the preparation of which is within the competence of the Ministry of Labour and Social Affairs. The substantial intent of the Act is to be submitted to the government by the end of 1999.

- **Political affiliation and activities of public servants**

6.2 There are no legal restrictions on public servants' belonging to or playing an active role in any political parties or engaging in other political activities. However, such activities are forbidden by the law to some groups of public servants. For instance, the Customs Act forbids customs officers to become members of political parties or to be active in a political movement for the duration of their service relationship. The Act also forbids them to perform any activities for the benefit of political parties or movements not connected with the exercise of their service duties. Analogous restrictions apply also to the members of the Police of the Czech Republic under Act No. 186/1992 CoL.: "During his service relationship the policeman may not become a member of any political party or be active in any political movement or perform any activities for their benefit not connected with the fulfilment of his service tasks" (Sec. 152, para.1).

- **Contacts with political parties/parliamentary organisations**

6.3 Such contacts are not regulated by law except for the conflict of interest regulated by the Act of the Czech National Council No. 238/1992 CoL on some measures connected with the protection of public interest as amended by Act No. 287/1995 CoL and Act No. 228/1997 CoL. Under this Act, the conflict of public interest with private interest consists in such action or omission of a public functionary as threatens the confidence in his/her impartiality or in the course of which the public functionary abuses his/her position to obtain unlawful benefit for himself/herself or another natural person or legal entity (Sec. 1 of Act No. 287/1995 CoL). Public functionaries in the meaning of the quoted Act are deputies and senators, members of the government and heads of other central state administration bodies.

- **Role of public servants in policy-making**

6.4 No such legal provisions exist yet.

6.5 Yes, ministers do make use of public servants to provide professional and impartial policy advice; however, there are no objective data of the fact.

♦ **Changes of officials on changes of government**

6.6 Such a situation has not been regulated by law yet. In practice deputy ministers and some top managers in ministries are replaced with the change of government in most cases. These high officials are recalled from their positions, but their recalling does not terminate their employment relationship; in most cases, however, it is severed by mutual agreement.

6.7 There are no legal provisions differentiating permanent public servants and officials performing political functions. Consequently, there are no different arrangements for their replacement.

7. STANDARDS OF CONDUCT; MECHANISMS FOR ENFORCEMENT; SANCTIONS

♦ Regulation of administrative functions

7.1 Yes, they do. The fundamental duties of civil servants (beyond the scope of duties of employees in general) are provided by the Labour Code (Sec. 73, paras. 2 through 5, quoted in Q 1.2). Further procedures are defined by specific laws regulating the competences of the individual sectors of public administration and particularly in the specific Act on Administrative Procedure (Act No. 71/1967 CoL), the new version of which is under preparation. The procedures of the legislative activities of officials are defined in the Legislative Rules of the Government approved by the Resolution of the Government No. 188 of 19 March 1998.

7.2 The Act on Administrative Procedure (Rules of Administrative Procedure) of 1967, regulating the procedure in which the decisions on the rights, legally protected interests or duties of natural persons and legal entities are made by ministries and other administrative authorities, provides the basic principles of the procedure. It also regulates the relations of public servants with the public, e.g. how to proceed in close co-operation with citizens and organisations, how to give them assistance and advice to avoid their sustaining injury in proceedings due to ignorance of regulations, how to settle matters in due time and without delay, etc. At the same time, the Rules provide the terms for the settlement of matters. The public is also protected by the new Act No. 82/1998 CoL on the liability for damages caused during the exercise of public power by a decision or by incorrect official procedure. Under this Act, the state is liable for any damage caused by state administration bodies, legal entities and natural persons in the exercise of state administration entrusted to them, and by territorial self-governing units (i.e. communes and self-governing regions to be established under Constitutional Act No. 347/1997 CoL in 2000) if the damage was caused during the exercise of state administration transferred to them by the law. In other cases, these territorial self-governing units are also liable, under the conditions provided by this Act, for any damages caused during the exercise of their autonomous competence. In respect of activities of administrative officials, the state is liable for any damages caused by a decision issued in administrative procedure or by incorrect official proceedings.

♦ Transparency in decision-making

7.3 The Constitutional Act of 9 January 1991, instituting the Charter of Fundamental Rights and Freedoms, stipulates that the right to information is guaranteed and that censorship is not permitted. It provides that the organs of the State and of local self-government shall provide, in appropriate manner, information on their activity, and the conditions and form of implementation of this duty shall be set by law (Art. 17). This provision was implemented by the Act on the right to environmental information adopted on 12 May 1998 (Act No. 123/1998 CoL).

7.4 The Parliament is discussing at present the draft of the Act on free access to information. Moreover, the secrecy and confidentiality of information is protected by several laws, such as Act No. 256/1992 CoL on personal data protection in information systems, the Act of the Czech National Council No. 337/1992 CoL on the administration of taxes and fees, Customs Act No. 13/1992 CoL, and Act No. 61/1996 CoL on some measures against legalization of the proceeds of criminal activities.

7.5 Yes, that is provided in the Administrative Rules (Act No. 71/1967 CoL), in particular in Sec. 46 and 47 providing that the decision must be issued by the competent authority, must be based on the reliably ascertained facts of the case and must comprise the necessary requisites including, *inter alia*, that:

- the decision must comprise the statement, substantiation and instruction on appeal; the substantiation need not be provided if the decision fully satisfies all parties to the proceedings;
- the written decision must also specify the body which has issued it; the decision must be provided with the official seal and signed, specifying the name and position of the authorised person.

Specific legal regulations may provide further requisites of administrative decisions beyond those provided by the Administrative Rules (Sec. 47).

7.6 There are no such arrangements.

♦ **Standards of conduct of public servants**

7.7 There is no law or any other legal regulation defining the rules of conduct of public servants. There is no ethical code valid for the core of public servants either. However, such ethical codes have been issued for specific groups of public servants whose service relationship has been regulated by specific laws (see Chapter 1). For instance, the Policeman's Ethical Code was issued by the Order of the President of the Police of the Czech Republic in 1996. However, the rules of conduct of public servants are defined in the Working Rules of the individual ministries and other administrative authorities. Every new public servant must become acquainted with, and confirm with his signature, the Working Rules of the institution he is entering. All state administration bodies must have their Working Rules (Labour Code, Sec. 82).

7.8 Generally speaking, the Labour Code does not contain any disciplinary measures. However, these measures form part of the laws regulating the service relationship of certain groups of public servants, such as policemen, members of the penitentiary service or customs officers. The breach of service duty by a customs officer is considered a disciplinary offence, which is investigated by the superior customs officer or the employee entrusted by him/her, the general director's inspection or, in the case of suspicion of a criminal offence committed in the course of fulfilment of service duties, by the bodies acting in criminal procedure. A proved disciplinary offence may be punished by the culprit's superior by means of one of the disciplinary penalties, including: written reprimand, reduction of functional salary by as much as 15 % (for three months at the most)

or demotion to a lower rank (for a maximum period of one year). If the customs officer is suspected, with reason, of having breached his service duty in a particularly gross manner or having committed a criminal offence, and his further service performance would threaten an important service interest or the further investigation of his/her offence, he/she may be released temporarily from active service by a decision of his/her superior officer for a period provided by the law. If it is proved that the customs officer has committed certain specified actions, then he/she may be dismissed from the service.

Disciplinary offences of policemen and members of the penitentiary service are solved in a similar way. The law on the service relationship of the members of the Police of the Czech Republic (Act No. 186/1992 CoL as amended) deals with this issue very thoroughly. Apart from disciplinary penalties there are also disciplinary rewards: written approbation, a monetary or other gift, extraordinary promotion or appointment to officer's rank. The whole Chapter 2 of the Act (Sec. 28 through 39) deals with the issue of service discipline.

If a public servant commits a criminal offence in the exercise of his/her activities, he/she is subject to criminal law responsibility investigated by the bodies acting in criminal procedure in accordance with the general criminal law regulations. If an unlawful decision of the state administration body or incorrect official procedure has caused damage, Act No. 82/1998 CoL is applicable. If the state has compensated the damage caused by the activities of a state administration body, it may demand compensation from those who have participated in the issue of the unlawful decision or incorrect official procedure, if they were authorised to issue the decision or conduct the official procedure (Sec. 17, para. 1 of the quoted Act).

7.9 Such cases are subject to general regulations on the principles of contentious procedure under private law. There is no special law for public servants (except for specific groups, particularly armed forces). Certain procedures can be found only in the Working Rules of individual state administration authorities.

7.10 No general arrangements exist except through individual trade unions. Some groups, such as the police, have such arrangements, e.g. the availability of psychologists to deal with the day-to-day problems of the members of the force.

- **Mechanisms preventing incompatibilities and conflict of interest**

7.11 The Labour Code provides that, apart from their employment performed in a labour law relation, employees may only perform gainful activities identical with the object of their employer's business with the employer's previous consent. This restriction does not apply to the performance of scientific, pedagogical, journalistic, literary and artistic activities (Sec. 75). This provision applies generally to all employees. In addition, employees of state administration bodies are subject to a further Labour Code provision, under which they may not be members of managing or supervisory bodies of legal entities performing business activities unless they have been deployed to such bodies by their employer, in which case they do not receive any remuneration for such membership (Sec. 72, para. 3).

Act No. 287/1995 CoL provides further duties of public functionaries comprising,

besides deputies and senators, members of the government, and heads of central state administration bodies who are not members of the government. In particular, they must not use their position, power or information acquired in the exercise of their functions for the acquisition of unjustified benefits for themselves or other persons. A member of the government or the head of a central state administration authority who is not a member of the government must not:

a) perform business or other autonomous, gainful activities;
b) become a member of any managing, supervisory or control body of a legal entity whose object of activity is a business operation, unless a specific law provides differently;
c) perform any gainful activities in a labour law, service or analogous relationship, apart from the relationship in which he/she acts as a public functionary.

The above-mentioned functionaries must terminate the above activities as soon as possible after the date on which they started exercising their public functions.

Further, these functionaries must issue an affidavit on personal benefits, a declaration on their activities, income and gifts, and real property. These declarations are recorded by and deposited with the mandate and immunity committee of the respective chamber of the Parliament. Upon a written request, every citizen has the right to inspect these records. The mandate and immunity committee has the right to examine whether the data in the individual declarations are true and complete, including with the co-operation of the respective tax and financial authorities. The Act also comprises detailed provisions on the procedure to be followed concerning a decision as to whether the public functionary has acted at variance with his affidavit.

Finally Act No. 228/1997 CoL, supplementing the act on the conflict of interest, solves the issue of incompatibility of functions. It provides that the functions of deputy or senator are incompatible with the functions performed in the framework of labour law or service relationships with:

a) a ministry or any other administrative authority, if they are functions acquired by appointment or functions in which the decisions on the exercise of state administration are made;
b) the office of state attorney or a court, the army of the Czech Republic, Police of the CR, Penitentiary Service of the CR, Security information service, Supreme Audit Office, Office of the Government, state funds, National Property Fund of the CR, the Land Fund of the CR and further specified institutions, unless they are functions of a service or ancillary character.

The employee performing his/her function in the above-mentioned institutions who has been elected deputy or senator is released from the exercise of the rights and duties arising from his/her employment or service relationship from the day of his/her vow for the duration of his/her mandate. This Act implements the provision of the Constitution on the incompatibility of activities with the functions of deputy or senator (Art. 22 of the Constitution).

7.12 No such legal provisions exist.

♦ **Mechanisms for combatting corrupt activities**

7.13 Every state administration body has its internal control units and mechanisms which may vary (in the Ministry of the Interior there is the Department of Supervision and the Department of Economic Control). The general control body is the Supreme Audit Office which audits the management of budgetary funds, financial offices, etc. In case of suspicion of corruption, these bodies submit their suggestions to the bodies acting in criminal procedure comprising, according to the Rules of Criminal Procedure, the court, the state attorney, the investigator and the police.

7.14 In the police there is a special unit for the investigation of corruption and serious economic criminal offences, established on the basis of Act No. 283/1991 CoL as amended on the Police of the Czech Republic.

7.15 This body has the status of a body acting in criminal procedure under the act on judicial criminal procedure (Act No. 141/1961 CoL as amended). In the framework of the legislative programme of the government concerning the recodification of principal laws, the new Rules of Criminal Procedure are under preparation in the Ministry of Justice.

7.16 There are no special bodies with the power to prosecute corrupt actions of public servants. Such actions are prosecuted by the criminal boards of general courts under criminal law regulations.

C. PUBLIC SERVICE DEVELOPMENTS AND CONSTRAINTS

8. PUBLIC SERVICE DEVELOPMENT

♦ **Government action on public service development**

8.1 The genesis of the activities of preceding governments aimed at the development of public service is described in some detail in the note following Chapter 1. In a brief summary, the period after 1989 can be divided into the following phases:
--- Federal state. In March 1992 the Office of the Government of the Czech Republic established a working group for civil service reform. The group had some 20 members comprising the representatives of ministries, heads of district offices and independent experts, with the Directrice of the Department for Public Administration Analysis of the Office of the Government of the Czech Republic in the chair. The working group prepared conceptual material for civil service reform in the Czech Republic. However, in view of the approaching parliamentary elections in June 1992, the government did not review it.
--- 1992 - 1996. In its declaration of July 1992, the first Klaus coalition government undertook to quickly prepare "a draft law on the status of state administration officials". In August 1993 the government approved by its Resolution No. 460 the draft of the act on the service of some civil servants (the Civil Service Act). On the basis of the approved principles, the Ministry of Labour and Social Affairs prepared a draft act (full text version) and the Office for Legislation and Public Administration the drafts of four implementation ordinances (secondary legislation). All these drafts were submitted to the Prime Minister in July 1994 and again in January 1995, but were not reviewed by the government. In retrospect, it can be concluded that the selected approach intending to provide comprehensive legislation of the legal conditions of civil servants of Code type, comprising almost 300 sections, was not acceptable politically. The same concerned the proposal of permanent service, the so-called tenure and the career system in civil service.
--- 1996 - 1997. Also the second Klaus coalition government included the preparation of the draft of the Civil Service Act in its declaration of July 1996. The act was to regulate the status of civil servants, their duties and rights, with emphasis on their political and party independence. The Resolution of the government No. 577 of November 1996 included the task of the Minister of Labour and Social Affairs to submit the substantial intent of the Civil Service Act and the conflict of interest Act by 30 June 1998, subsequently shortened to 3rd quarter of 1997. In June 1997, however, in view of "limited state budget possibilities and the public opinion of civil servants", the Minister of Labour and Social Affairs decided to suspend the work on the draft of the substantial intent of the Act. In its stead the Ministry prepared in July 1997 the conceptual document on "The Possibilities of Public Service Regulation in the Ministries and Other State Administration Authorities", submitted to the Prime Minister on 31 October 1997. However, it was not reviewed by the government, and in November 1997 the government resigned.

8.2 The programme declaration of the present government of August 1998 states that

"the government will submit a Civil Service Bill which will impose high requirements on professionals in public service on the one hand, but will protect them in the exercise of their exacting service on the other hand" and that "the government will elaborate a system of education and training of public servants comprising both the medium-level and particularly the high-level education of prospective public servants and the training of existing public servants in the lifelong education system. The system will be co-ordinated by the authority entrusted with the supervision of public administration quality."

8.3 So far the Government has not issued any documents on the subject.

8.4 The Ministry of the Interior submitted to the government conceptual material on public administration reform for inclusion in the programme of the government meeting on 29 March 1999. This document also comprises a time schedule of subsequent legislative work. The substantial intent of the Civil Service Act, the elaboration of which is within the competence of the Ministry of Labour and Social Affairs, is to be submitted to the government by the end of 1999. At present the Ministry has set up a working group to review the initial conceptual material which, if approved by the government, should provide the basis for the work on the substantial intent of the Act. As some specific acts have been adopted in the meantime, under which professional soldiers, members of the police of the Czech Republic, members of the Security Information Service, members of the Penitentiary Service and members of the Customs Administration (for details see Chapter 1) are in a service relationship, i.e. practically in public service, the regulation of the civil service which is under preparation will concern exclusively ministries and other (central and territorial) state administration authorities. This service should be subject to uniform management by the Civil Service Office, which will form part of the Office of the Government. The civil service legislation should represent a combined model incorporating to advantage the elements of both the career-based and position-based systems. The service for indefinite period will not be connected with tenure, which would be applied to only a limited group of selected senior civil servants.

8.5 On 17 February 1999, the government adopted by its Resolution No. 125 the "Government Programme of the Fight against Corruption in the Czech Republic", which also provides, *inter alia*, concrete realisation measures, responsible authorities, the time schedule and methods of control of implementation.

- **Staffing strategies to facilitate EU accession**

8.6 The Governmental Committee for European Integration approved the "Concept of the Training of Civil Servants in European Affairs" in March 1997. This concept is based on the fact that there is no central National Training Institute in the Czech Republic. Respective ministries are primarily responsible for the training of their staff. The Ministry of Foreign Affairs (MFA) co-ordinates the training of civil servants in European affairs and shares to a great extent the responsibility for the preparation of the EU negotiation team.

Apart from the activities co-ordinated by the MFA, there has been a considerable number of programmes designed to train Czech officials in different aspects of EU affairs, carried out by line ministries.

The training projects co-ordinated through the Czech Ministry of Foreign Affairs for high ranking Czech officials have been or are sponsored to a great extent by the EU/PHARE programme. The first project was organised in 1997. In December 1996, a four-member Czech consortium, composed of the Prague University of Economics, the Faculties of Law and of Social Sciences of the Charles University and the NGO Center for Democracy and Free Enterprise, was established to support and manage the project. The project was led by a four-member EU-based consortium -- composed of the Civil Service College, London, *Bundesakademie für Verwaltung* (German Federal Academy of Public Administration), Bonn, Finish Institute of Public Administration, Helsinki, and *Verwaltungsakademie* (Austrian Federal Academy of Public Administration), Vienna -- which provided the trainers and arranged visits to the four EU countries concerned for senior Czech officials.

The project included a two-week comprehensive training programme and a one-week study visit for 80 officials. In parallel to this, 10 Czechs were trained to become the core of a new group of public administration lecturers with enhanced knowledge of EU affairs. Those trainers have established a civic association -- ETC (European Training and Consulting) -- and since 1997 have been operating as the trainers in European affairs for central and regional authorities. About 180 officials from different line ministries were trained in short-term seminars carried out by the ETC in 1998.

The MFA also organised a long-term course together with the French *École Nationale d´Administration* (National School of Administration) in 1997. This project was co-financed by the French Ministry of Foreign Affairs (50 %) and prepared a group of 50 state officials in a series of topics concerning the European Union. Currently the question of how the co-operation could continue in the future is being considered.

In 1999 the above-mentioned PHARE project will be followed by another one providing similar training for another 80 state officials -- members of the negotiation team and their collaborators -- and another group of 10 future trainers. According to PHARE rules it was unfortunately impossible to take advantage of the formerly established consortium, and it has been necessary to undergo a tender procedure for project implementation, which is being completed at present.

In addition, there will be two other projects under the PHARE programme -- a follow-up to the project carried out in 1997 (through tender procedure) and a cycle of short-term courses, “ABC of the European Union”, providing basic information on EU matters by the trainers associated in the ETC.

There is a number of smaller projects carried out in co-operation with EU Member States -- seminars, study visits, expert consultations, etc. -- involving especially co-operation with Austria, Denmark, France, the Netherlands, Sweden and the U.K.

All of these activities, however, cannot fully replace the operation of a central civil service training institution, be it a national school of public administration or an institute. Although various proposals have been submitted since 1993, previous governments have postponed their decisions on them. The conceptual document on public administration reform submitted to the government by the Ministry of the Interior in March 1999 represents a solution to this problem, with the proviso that a detailed concept of a comprehensive public servants’ education and training system will be drafted by the ministry and submitted to the government by 30 June 1999.

8.7 Institutions involved in the process of integration of the Czech Republic into the European Union: the co-ordination of preparations for accession to the EU is within the responsibilities of the Ministry of Foreign Affairs, EU Section, in notably two departments established for this purpose -- the Department for Political Relations with the EU and the Department for Co-ordination of Relations with the EU. These two departments are headed by the director-general directly subordinated to the Deputy Minister of Foreign Affairs, who is also the chief negotiator of the Czech Republic in the accession talks.

Through a Government Resolution of 1994 (amended in September 1998), the Czech Republic established a system of institutions dealing with EU affairs, including the Government Committee for European Integration, the Working Committee for Integration of the Czech Republic into the EU (Working Committee for the Implementation of the Europe Agreement before the amendment of the Resolution) under which a system of expert working groups operates. The above-mentioned resolution also set a task of establishing special units for EU affairs within individual ministries, which need to be stable and to upgrade continuously the skills of their staff.

Negotiating team. In March 1998, the Government appointed members of the delegation for negotiations on the Treaty of Accession of the Czech Republic to the European Union. The head of the delegation is the Deputy Minister of Foreign Affairs in charge of EU affairs, his deputy being the Head of the Permanent Mission of the Czech Republic to the European Communities. Members of the negotiating team are the directors of the two above-mentioned departments of the Ministry of Foreign Affairs and the negotiators representing the Ministry of Finance, Ministry of Agriculture, Ministry of Industry and Trade, Ministry of the Interior, Ministry of Justice, Ministry of the Environment, Office of the Government and the Czech National Bank. Other ministries and central bodies of state administration participate in the negotiating team at expert level.

Committee of the Government of the Czech Republic for European Integration. The Government Committee for European Integration works as a standing consultative meeting of ministers. The Committee is chaired by the Vice Prime Minister responsible for foreign and security policy. Vice-Chairmen are the Vice Prime Minister responsible for economic policy and the Minister of Foreign Affairs. The members of the Committee are the Vice Prime Minister acting as Minister of Labour and Social Affairs, the Vice Prime Minister who is Chairman of the Legislative Council of the Government, and the Ministers of Finance, Interior, Justice, Industry and Trade, Transport and Communications, Regional Development, Agriculture, Environment and Defence. Participation is also recommended to the President of the Supreme Audit Office, Governor of the Czech National Bank, Chairman of the Czech Statistical Office and Chairman of the Office for Protection of Economic Competition. The Committee meets approximately at one-month intervals.

Working Committee for the Integration of the Czech Republic into the EU. The Working Committee for the Integration of the Czech Republic to the EU is an interministerial working body responsible for the internal co-ordination of EU affairs in the Czech Republic. It consists of senior officials ranking from deputy ministers to heads of units, representing all ministries and other bodies of state administration involved in the preparation of the Czech Republic for accession to the EU within their individual

competences and the members of the negotiating team mentioned above. The Working Committee usually meets once a month and its sessions are chaired by the Deputy Minister of Foreign Affairs.

Within the framework of the Working Committee, special bodies for co-ordination of the communication strategy (Advisory Committee for Implementation of Communication Strategy of the Czech Republic before Accession to the EU) and training of officials in EU matters (Steering Committee for Training of Officials in EU Affairs) were established, the agenda of both being co-ordinated by the Ministry of Foreign Affairs.

Working Groups. The Working Groups have been set up, following the Decision of the Working Committee, as interministerial working bodies. Their number currently totals 32, covering all aspects of relations with the EU. Each working group is controlled by the respective central body of state administration responsible fully or partially for a particular matter. It is composed of experts concerned with the given subject area, including economic and social partners.

Working Team for Integration of the Czech Republic into the EU. The Working Team for the Integration of the Czech Republic into the EU is the working body of the Council of the Economic and Social Agreement based on the tripartite agreement. It is composed of the representatives of the government, the employers and the employees. Its main task is to enable consultation on the important issues concerning EU affairs between the government and its social and economic partners.

Parliament. Two bodies concerned with EU affairs were set up within the Parliament -- the Committee for European Integration in the Chamber of Deputies and the Committee for European Integration in the Senate.

Preparation of documents and/or positions. The Ministry of Foreign Affairs -- through the Working Committee -- is responsible for the framework co-ordination of the preparation for accession. Individual central bodies of state administration assure co-ordination within and between individual ministries and are responsible for the content and quality of prepared documents. The Ministry of Foreign Affairs monitors the progress of work within the individual ministries and central bodies of state administration through its representatives in the working groups or through direct contacts. According to the nature of the document/position, its final adoption/approval is within the responsibility of the appropriate ministry or ministries or of the government. Neither the Government Committee nor the Working Committee has the power of decision.

The same mechanism is applied to the preparation of all documents for the negotiations. Responsibility for the analyses and assessments of the compatibility of Czech legal norms with EC legislation, preparation of materials for screening and elaboration of the negotiation positions lies primarily within the individual ministries and central bodies of state administration. All guidelines for the negotiations are approved by the head of the delegation for negotiations on the Treaty of Accession of the Czech Republic to the EU, acting in keeping with the mandate he was given by the government. The head of the delegation, together with the other members of the negotiating team, prepares and implements the negotiation strategy.

The government is regularly informed of the ongoing screening exercise and the results of the negotiations. If the Czech position differs from the one approved by the government within the mandate for negotiations, its decision is required.

The above-mentioned co-ordination mechanism is also applied to the implementation of the Europe Agreement and to the bilateral work between the Czech Republic and EU bodies, i.e. Association Council, Association Committee and its sub-committees, as well as the Parliamentary Association Committee.

Until February 1999, the leading role in the process of approximation of the Czech legal system with EC legislation rested with the Ministry of Justice, where the department of compatibility (CODEC) was placed. Since 1 March 1999, this department was transferred to the Office of the Government in order to underline the importance of its task. The department deals not only with the co-ordination of the approximation process, but also with the co-ordination of the translation of EC legislation into Czech. At first, only working versions of the translations were made under the co-ordination of CODEC. On 30 September 1998, the Co-ordinating and Revision Centre was established by Government Resolution No. 645. This centre became a part of CODEC and is revising the working translations made by a private firm chosen in a public tender.

♦ **Resourcing public service development**

8.8 There does not exist a central allocation of staff to public service development/reform; it is up to individual ministries and other central state administration bodies to make such a decision within their approved allocated budget chapters.

8.9 The same as in 8.8.

♦ **External assistance and conditions**

8.10 The use of external assistance for public service development has been scattered over individual ministries and other administration authorities, without any co-ordination. It concerns both the ministries and their institutions and other organisations, including foundations. Assistance is based particularly on bilateral relations with individual providers. The co-ordination of external assistance funded by the PHARE programme is assured by the appropriate body (Foreign Assistance Centre) of the Ministry of Finance.

8.11 The existence of such requirements has not been ascertained.

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D. NUMBERS AND TABLES

9. DATA

♦ **Numbers and distribution of public servants**

9.1 Table 1

	1994	1995	1996	1997[1)]
Total labour force in civil sector (without armed forces)	4 275 409	4 408 361	4 367 343	4 262 519
Of which:				
total employment in state administration	77 801	86 222	94 024	89 629
local self-government	42 773	46 685	48 753	69 808
in private sector	x	2 859 221	3 051 975	3 086 419

[1)] preliminary data

The data represent the number of natural persons recorded.
Line 2 (state administration) contains the data on employees in central and territorial state administration authorities (see also under 9.2).
Line 3 (local self-government) contains the numbers of employees of communal offices which are subordinated to local self-government authorities, but which exercise both self-governing activities and transferred state administration.
Line 4 (private sector) contains the data for

- non-financial institutions and corporations, private and under foreign control;
- financial institutions, private and under foreign control (banks, savings banks, insurance companies);
- employees of natural persons not entered in the Companies Register.

The remainder, to make up the total given in Line 1, covers particularly the organisations fully and partially financed by the state budget (such as employees in the fields of education, medical service and others), judiciary (i.e. judges and state attorneys), etc.
The table has been compiled from the data of the Czech Statistical Office and the Ministry of Finance.

9.2 Table 2. Number of Public Servants 1994 - 1997

1994	77 801
1995	86 222
1996	94 024
1997[1)]	89 629

[1)] preliminary data

These figures include employees of ministries and other central state administration bodies (employees of the Ministry of Defence have been included in 1996 and 1997 only), territorial state administration authorities (District Offices, Labour Offices, Financial Offices, School Offices, etc.), customs officers, members of fire and rescue corps, Prison Service; however, they do not include the police and the army. The employees include also the employees in internal support functions in state administration units. This is due to the fact that all employees are within the jurisdiction of the Labour Code, as there is no Civil Service Act yet to differentiate civil servants proper.

Detailed data requested in Q 9.2 are not available; their disclosure would be contrary to the protection of individual data in the meaning of Act No. 89/1995 CoL on state statistical service.
The data were furnished by the Czech Statistical Office.

9.3 Table 3. Total Number of Vacancies in State Administration 1994 - 1997

Year	No. of vacancies	Percentage of the limit (planned number of employees)
1994	1 645	3.2
1995	1 901	3.4
1996	1 761	1.6
1997	1 809	1.6

The data were provided by the Ministry of Finance. The required breakdown is not available.

9.4 The required data are not monitored, but estimates from some key ministries were obtained. The Ministry of Finance has estimated that some 10.5 % of the total number of 1180 employees of the Ministry itself has a working knowledge of foreign languages; the same applies to approx. 2 % of the 14 146 employees of territorial Financial Offices, and about 1.6 % of the 9 267 customs officers. The Ministry of Finance believes that the situation in other central authorities and agencies is improving and that the number of employees with a working knowledge of foreign languages may

be estimated at 5-10 %; this percentage is significantly lower on the regional level where, however, the need for languages has not been very great so far.

The Ministry of Agriculture estimates the percentage of employees in the key areas for implementing the *acquis* at 25 % in the ministry proper and substantially lower in regional bodies. For general topics, the percentage is about 10 %.

Both the Ministry of Labour and Social Affairs and the Ministry of Interior estimate the portion of civil servants with a working knowledge of foreign languages at about 10 %.

♦ **Pay levels**

9.5 Table 4. Basic salary scales valid for state administration employees (public servants) from 1 January 1999 (see annex).

The rate of exchange to the EURO is variable and is announced by the Czech National Bank daily. In the recent period it has fluctuated at about 38 CZK for 1 EURO. The wage parity, expressing the number of EURO buying the same quantity of goods and services on the "average" EU market as for the actual wages in the Czech Republic on the Czech market, has been estimated by the Research Institute of Labour and Social Affairs at the beginning of 1999 at 15.50 CZK per 1 EURO.

9.6 There are no different pay levels in any special branches of the administration, e.g. in the key areas for implementing the *acquis.* This situation is due to the fact that in the catalogue of functions, forming part of the Order of the Government of the Czech Republic No. 253/1992 CoL on salaries of employees of state administration authorities etc., the important activities, including e.g. activities connected with the implementation of the *acquis,* are ranked in the highest grades; consequently no different pay levels are needed (for details see Q 3.15).

9.7 The minimum wage is provided by the Order of the Government and is binding for all employers. As of 1 January 1999, it amounts to 18 CZK per hour of work performed by an employee within normal working hours and 3 250 CZK for employees with monthly salaries. The mean wage in private sector amounted to 10 995 CZK in 1998 (the data are monitored by the Czech Statistical Office in the enterprises employing more than 20 people only).

♦ **Turnover rates among public servants**

9.8 Turnover rates of 1994 - 1997 are not available, as they are not monitored centrally. The recruitment and dismissal of employees is within the responsibility of every individual ministry or other administrative body; the data are not published. Nevertheless it is possible to make certain estimates on the basis of partial investigations. In the Ministry of Finance the following turnover rates (percentages) have been ascertained:

	1994	1995	1996	1997
Territorial Financial Offices	8.0	8.7	7.2	7.0
Customs service	7.3	7.5	7.1	6.6

These percentages refer to some 20 000 employees.
It is possible to state that the staff has been stabilized after 1994. In the Ministry of Finance the turnover rate dropped by 1.5 - 2 %. It is assumed that a certain stabilization trend can be observed also in other sectors, although the turnover rate in other ministries is higher than that of the Ministry of Finance. Approximate estimates of other ministries (in 1997) are:

Ministry of Agriculture	4.75%
Ministry of Labour and Social Affairs	5.3%
Ministry of Transport and Telecommunications	6.4%
Ministry for Regional Development	9.5%
Ministry of Justice	10.5%
Ministry of Culture	11.9%
Ministry of Education, Youth and Physical Training	14.7%
Ministry of Environment	9.9%

In the Ministry of Interior turnover rates (percentages) are available only for the security sector:

	1994	1995	1996	1997
policemen	18.3	3.85	3.75	0.6
civil officials	+14.5	8.25	8.1	18.9
employees in internal support functions	0.65	0.1	1.2	+ 1.0

\+ means higher recruitment

9.9 There was no change of government in the Czech Republic in 1994 - 1997. From the parliamentary elections of June 1992 a coalition government of right-wing parties (Civic Democratic Party, Christian-Democratic Party and Civic Democratic Alliance) headed by V. Klaus was in office. This coalition remained in power with the same prime minister after the next parliamentary elections of June 1996 until the end of 1997, when it resigned. Consequently, no replacement of public servants took place as a result of the change of government.

♦ Redundancy and termination rates among public servants

9.10 On the basis of the decision of the Government of the Czech Republic, rationalization measures were adopted aimed at a reduction of expenditure in organisations fully and partially financed by the budget in 1996. These rationalization measures also included a reduction in the number of employees:

- in central state administration bodies by 5 %;
- in subordinated organisations fully and partially financed by the budget, including subordinated state administration organisations, by 2 %;
- in district offices by 5 %.

The starting point was the number of employees approved for 1995. The reduction was generally projected into the above-mentioned groups of organisations, with the proviso that the concrete selection of redundant employees was left at their discretion. As the reduction was based on the limits (planned number) of employees and there was still a considerable number of vacancies, in the majority of cases no employees were actually dismissed for redundancy. In 1997 the wage funds amounting to some 5 077

million CZK were frozen by Resolution of the Government No. 229/1997 on the measures to assure the balancing of the state budget; further budget funds were frozen in the framework of the budget stabilization programme of the government on the basis of Resolution of the Government No. 356/1997 (the so-called "economy packets"). Economy of wage funds was achieved by the curtailing of one extra salary of the employees.

9.11 These data are not available either from the Ministry of Finance or from the Ministry of Labour and Social Affairs.

9.12 Data with such detailed specification are not available.

♦ **Training of public servants**

9.13 - 9.14 A general overview is not available. Indicated below is the number of public servants participating in training programmes 1994 - 1997 in selected ministries, mostly in their own training institutions. Separation of key areas for implementing the *acquis* as well as the separation of donor-funded or government-funded training have not been ascertained.

	1994	1995	1996	1997
Ministry of Education, Youth and Physical Training	198	375	201	146
Ministry of Regional Development (existing as from 1996)			410	541
Ministry of Labour and Social Affairs	143	267	232	287
Ministry of Agriculture	133	153	192	178
Ministry of Transport and Telecommunications	251	194	278	63
Ministry of Environment	x	352	419	470

In the Ministry of Foreign Affairs 115 employees participated in short-term affiliation abroad in 1994-1997. Concerning training of public servants in EU matters, see Q.8.6.

9.15 The number of public servants participating in language training 1994 - 1997

	1994	1995	1996	1997
Ministry of Education, Youth and Physical Training	53	61	57	36
Ministry of Justice	28	28	28	13
Ministry of Labour and Social Affairs	90	95	85	105
Ministry of Agriculture	121	135	144	112
Ministry of Transport and Telecommunications	x	80	75	68
Ministry of Environment	x	65	69	41
Ministry of Regional Development (existing as from 1996)			225	107

The Ministry of Foreign Affairs has the aggregate figure for the whole period 1994-1997 of 950 public servants who participated in language training. In the Ministry of the Interior approximately 10% of public servants (from the security sector only) attended the language courses of the Language Institute of the Ministry (those who might have been trained in other training institutions are not in the Ministry's records). The Institute of Local Administration of the Ministry of the Interior trained in its language courses altogether 261 public servants in 1995-1997 (the majority being from the district offices, i.e. territorial state administration bodies with all-purpose authority), 152 of whom studied German and 109 English.

- **Disciplinary proceedings against public servants**

9.16 These data are not monitored in the public administration as a whole.

Table 4. Basic salary scales in force since 1 January 1999 for employees of state administration bodies
(in CZK per month)

Pay steps	Years of experience	Pay grades							
		1	2	3	4	5	6	7	8
1	up to 1 year	4500	4920	5380	5930	6530	7200	7960	8820
2	up to 2 years	4640	5080	5570	6130	6770	7460	8240	9140
3	up to 4 years	4800	5240	5770	6330	6990	7720	8520	9450
4	up to 6 years	4950	5410	5960	6540	7220	7980	8820	9770
5	up to 9 years	5100	5570	6140	6750	7460	8240	9110	10090
6	up to 12 years	5250	5740	6330	6960	7700	8510	9400	10400
7	up to 15 years	5420	5900	6520	7180	7940	8770	9690	10720
8	up to 19 years	5580	6080	6720	7390	8180	9040	9990	11030
9	up to 23 years	5740	6260	6910	7610	8420	9310	10280	11360
10	up to 27 years	5910	6440	7090	7830	8660	9570	10560	11690
11	up to 32 years	6070	6610	7280	8040	8900	9840	10850	12020
12	over 32 years	6230	6790	7480	8250	9140	10100	11150	12340

E. THE JUDICIARY

10. DATA ON THE JUDICIARY

♦ Branches; hierarchical structure; distribution of officials

10.1 In Art. 91 the Constitution provides a unitary, self-contained system of courts, comprising the Supreme Court and the Supreme Administrative Court, superior courts, regional courts and district courts. The Supreme Administrative Court has not been established yet. In practice there are also regional commercial courts in Prague, covering the area of the capital city of Prague and Central Bohemian Region, in Brno, covering the South Moravian Region, and in Ostrava, covering the North Moravian Region. These courts were established by the Act of the Czech National Council No. 436/1991 CoL on some measures in the judiciary, the elections of associate judges, their release and dismissal and the state administration of the courts of the Czech Republic as amended. There are no other specialised courts, but some general courts have specialised boards.

The Constitutional Court is provided in the Constitution as a body of court type and defined as the judicial authority of constitutionality protection (Art. 83).

10.2 The system of general courts is a four-tier system of courts with mutual functional links (instance subordination and superiority). The Constitution permits the law to give to individual courts a different denomination. Act No. 335/1991 CoL on courts and judges as amended did so, for instance, to the system of courts in the territory of the capital city of Prague, where the municipal court exercises the competence of a regional court and the courts in city districts exercise the competence of district courts.

10.3 The number of judges by level and branch of court is given in Table 1. Table 2 gives the number of judicial candidates preparing for the exercise of the office of judge. Their preparatory service lasts three years, after which time they must pass a judicial examination, which forms one of the prerequisites for their appointment as judges.

10.4 The meaning of the term “key officials” is not clear. The annexed Table 3 gives the number of heads of court administrations who assure proper court operation in economic, technical and other respects.

♦ Integrity of judges

10.5 There are several provisions in the Constitution concerning judges. In particular Art. 93 provides that “judges shall be appointed to their offices for an unlimited term by the President of the Republic. They shall assume their duties upon taking the oath.” Only a citizen with a character beyond reproach, who has a legal university education, may be appointed judge. Further requirements and promotion conditions are regulated by the Act on Courts and Judges.

The Constitution guarantees the independence of judges in Art. 82, para.1, reading: "Judges shall be independent in the performance of their office. No one may threaten their impartiality". The Constitution further provides that judges may not be recalled or transferred to another court against their will; exceptions resulting from disciplinary responsibility shall be provided for by an Act of Parliament (Art. 82, para.2). Exceptions arising from the disciplinary responsibility of judges are provided in Act No. 412/1991 CoL as amended. The office of judge is incompatible with the activities specified directly in the Constitution or in a law. It follows from the Constitution that the office of judge is incompatible with the office of the President of the Republic, member of Parliament and any office in public administration (Art. 82, para.3). It follows from the Act on Courts and Judges that the office of judge is incompatible with any function in self-government bodies, and that judges should not perform any other gainful activities except for the administration of their own property, and for scientific, pedagogical, literary and artistic activities, provided they do not impair the dignity of the office of judge or threaten the confidence in independence and impartiality of the judiciary.

10.6 No, the laws concerning the judiciary are subject to the same procedure as any other laws (only Constitutional Acts require a qualified majority vote).

10.7 The prerequisites for the office of judge are regulated by the Act on Courts and Judges. They include general prerequisites -- citizenship of the Czech Republic, capacity for legal acts, integrity, such standard of experience and moral qualities as provides the guarantee that the judge will duly perform his/her office, minimum age of 25 years on the day of appointment, consent to appointment and consent to allocation to a certain court; professional prerequisites -- complete legal university education and judiciary examination; and special prerequisites, which can be provided by a specific Act.

Judges are appointed by the President of the Republic without time limitation. Their promotion to a higher court depends primarily on professional standard. Of decisive significance is the fact that the judge may be transferred to a higher court only with his own consent. (The transfer from a higher to a lower court requires not merely the consent of the judge; he must expressly request such transfer himself/herself) The transfer of judges should respect the sequence principle: the judge should amass experience at a district court first, a regional court second, and only then advance to a superior court or to the Supreme Court.

10.8 Pay scales for judges are given in Table 4.

10.9 Turnover rates among judges are given in Table 5.

10.10 The office of judge may be abolished only for the reasons and by the methods enumerated in the Act on Courts and Judges. The reasons include in particular:

- recalling from the office only by a legally effective decision of a Disciplinary Panel, which is the strictest disciplinary measure;
- resignation from office, which is the expression of the judge's will and his/her unilateral act;
- release from office, if a legally effective decision of a disciplinary court finds that his/her state of health prevents him/her permanently from the proper exercise of his/her duties;

or

– attaining the age of 65.

As the judge is appointed to his/her office without any time limitation and may be recalled only by a legally effective decision of a disciplinary court (as provided by the law), the change of government in 1994 - 1997 did not and could not be the reason for the dismissal of any judge from office.

♦ Court proceedings

10.11 Number of court proceedings 1994 - 1997

a) civil law cases

District courts	Civil suits	Distrainments	Other cases
1994	230 189	163 119	81 806
1995	234 930	195 174	79 045
1996	228 701	211 844	74 189
1997	231 585	237 066	76 421

Regional courts	Pension schemes (1st instance)	Appeals
1994	8 864	46 747
1995	7 754	50 473
1996	12 316	52 498
1997	10 233	69 026

b) criminal law cases

Year	District court cases	Regional court cases - 1st instance	Regional court persons - 2nd instance	Superior courts
1994	66 586	1 210	10 854	690
1995	71 227	1 132	11 223	949
1996	75 706	1 238	12 198	11 182
1997	81 434	1 433	13 148	11 247

Note: Number of sentences is not monitored by statistics

10.12 Average process time for a court proceeding 1994 - 1997

a) in civil law cases (months)

Year	District courts (minus divorces)	Regional courts (1st instance)	
		Pension schemes	Care of minors
1994	10.4	9.2	7.4
1995	12.1	9.0	8.9
1996	13.7	8.9	8.5
1997	15.4	9.7	8.1

b) in criminal law cases (months)

Year	District courts	Regional courts - 1st instance (including appeals)
1994	5.6	13.2
1995	6.0	15.2
1996	6.4	17.3
1997	6.8	18.1

10.13 Legal assistance in civil court proceedings is granted by the court to the parties as well as to other persons in the meaning of the duty provided in Sec. 5 of the Civil Procedure Code. This assistance consists of the explanation of the rights granted to and the duties imposed on the parties to the proceedings by legal regulations, how they should perform their intended acts and how to remedy the defects of performed procedural acts, if any, what legal consequences are connected with the procedural acts and what it is necessary to comply with in terms of the procedural duties arising from the law or from the court decision. The citizen who cannot act autonomously before court must be represented by a legal representative *ex lege* or on the basis of the court decision.

In criminal proceedings the state attorney acts as public prosecutor. The parties in the meaning of the Criminal Procedure Code include him/her against whom the criminal proceedings are conducted, the interested party and the injured party, in the proceedings before court also the state attorney and a social representative. The same status as the party to the proceedings is granted also to another person on whose proposal or request the proceedings are conducted or who has submitted a remedy. The accused is provided with legal assistance through his/her attorney selected by the accused himself/herself or appointed *ex lege* in case of mandatory defence.

♦ Training of judges

10.14 The Ministry of Justice, which is the central authority of the state administration of courts, has its own training institution - the Institute of the Ministry of Justice. From 1996 this Institute launched special training of judges and state attorneys in EC law. In co-operation with the *Deutsche Stiftung* in Germany and the *Ecole nationale de la Magistrature* in France, six seminars have been organised so far, attended by approximately 240 participants, of whom 160 were judges and 80 state attorneys, representing evenly all regional and district courts as well as regional and district state attorney's offices. In 1996 also preparation of systematic training of judges in EC law

started, effected in the form of 7 seminars in 1998. The training course was participated in by 110 judges representing every court in the Czech Republic. In this way a group of 110 trainers has been created, which is bound to conduct training in this field in their own courts. Apart from this large group of trainers, another group of 22 trainer-consultants was established, which will co-ordinate training in EC law in the individual regions.

At present the Institute is also preparing the EC law training of state attorneys, which will start in June 1999 in Prague. This training can be considered systematic. In 1994-1997, 160 judges and 80 state attorneys underwent EC law training. A detailed breakdown is not available.

Table 1. Number of Judges 1994-1997 (see above 10.3)

Courts	Number of judges			
	1994	1995	1996	1997
Regional courts	483	507	552	570
District courts	1332	1373	1376	1403
Superior courts	104	113	128	132
Supreme Court	27	46	52	55
Regional commercial courts (Prague, Brno, Ostrava)	113	139	140	148
Total	**2059**	**2178**	**2250**	**2308**

Table 2. Number of Judicial Candidates 1994-1997 (see above 10.3)

Courts	Number of judicial candidates			
	1994	1995	1996	1997
Regional courts	324	292	322	371
Regional commercial courts	40	29	31	31
Total	**364**	**321**	**353**	**402**

Table 3. Number of Other Key Officials in the Judiciary 1994 - 1997
(see above 10.4)

Courts	Number of heads of court administration			
	1994	1995	1996	1997
Regional courts	8	8	8	8
District courts	85	86	86	85
Superior courts	1	2	2	2
Supreme Court	1	1	1	1
Regional commercial courts				

(Prague, Brno, Ostrava)	3	3	3	3
Total	**98**	**100**	**100**	**99**

Note: The second superior court in Olomouc and another district court in Jeseník were established in 1995.

Table 4. Salaries of Judges since 1 January 1999 (see above 10.8)

Basic salary since 1 January 1999: 39 400,-

Salary grade	Courts			
	District	Regional	Superior	Supreme
1. to the end of the 5th year of service	32 000,-	35 100,-	38 300,-	No salary grades Judge 67 000,-
5. from the start of the 15th year of service	47 300,-	52 500,-	58 400,-	President 98 500,- Vice-president 82 800,-
10. from the start of the 30th year of service	54 800,-	60 700,-	67 000,-	
plus: compensation of expenses - untaxed	1970,- per month			
plus: (per month, rounded) additional salary twice a year (except for the President of Supreme Court)	1. 5 400,- 5. 7 900,- 10. 9 200,-	5 900,- 8 800,- 10 200,-	6 400,- 9 800,- 11 200,-	Judges 11 200,- Vice-president 13 800,-

plus:
extra for the service as the head of a panel, single judge, vice-president, president and president of the council of the Supreme Court

Promotion according to years of service:
Grade 1 - up to 5 years of service
Grade 2 - from the 6th year of service
Grades 3 - 10 one grade after three years of service

Overtime pay only for night work and work on the days of rest:
per hour rate + 50 % of average earnings per hour.

Table 5. Turnover Rates of Judges 1994-1997 (see above 10.9)

Courts	Departures of judges from the judiciary (including deaths)			
	1994	1995	1996	1997
District courts	25	38	16	23
Regional courts	6	10	0	11

Superior courts	2	0	0	0
Supreme Court	2	0	0	1
Regional commercial courts (Prague, Brno, Ostrava)	0	1	1	1
Total	**35**	**49**	**17**	**36**