

Vladimir Kovalkin, Artur Yuditski

THE SYSTEM OF RECRUITMENT FOR SERVICE IN INSTITUTIONS OF GOVERNMENT IN THE REPUBLIC OF BELARUS REFORM PROPOSALS

Policy paper

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Summary

The primary focus of this work is to analyze the situation around the existing legislation and the real practice in recruiting the executives and middle-ranking civil servants for government service in the Republic of Belarus, and to develop recommendations on how to correct the official and unofficial procedures that came into place.

The researchers came to the conclusion that the closed nature and non-transparency of the system of recruitment for governmental service in the Republic of Belarus is mainly the outcome of the two chief factors. First of all, it is the imperfection of the legislation in force that does not sufficiently detail the necessary instructions and administrative procedures, which leaves a lot of freedom for interpretations of the existing legislation. Second of all, it is the traditions of the Soviet authoritarian bureaucratic system that influenced to a great extent the formation of the system of recruitment of civil servants in the modern day Belarus.

The objective of the proposed reforms is a transition from the clannish, based on the personal and family connections, approach to the recruitment for governmental service, to the modern rational bureaucracy.

The achievement of the planned results is expected, first of all, through the development of transparency, accountability and monitoring, both from the side of the civil society and from the side of the governmental inspecting structures, and second of all through the correction and amendment of the legislation in force. As an outcome of the proposed measures, a professional, transparent and rational system of recruitment for governmental service should be formed in the Republic of Belarus. The measures to be taken should loosen the influence of personal factors in the process of recruitment of civil servants and make the process of recruitment comply not just with the wording but also with the spirit of the law.

The content and description of the problem

The professional governmental service came to be formed as a political institute in the Republic of Belarus after the October Revolution in 1917 – when the Communist Party took the power – in the conditions of a cultural and political authoritarianism, and later the Stalinist totalitarianism. The primary focus of the governmental administration was to serve the Communist Party of the Soviet Union (CPSU) and its Central Committee (CC). The governmental bureaucracy was free from oversight by the society, and all bureaucrats must have been the members of the CPSU. The distinctive features of this bureaucracy were the rigidity and complex hierarchy in decision-making; the possibility for decisions to be made was locked to only the top tier of the line/structure of command; the position of authority was more often gained through personal connections of individual bureaucrats, rather than by merit; the strict legislation was universally undermined by a vertically-organized patronage. Obvious were both the deeply-rooted traditions of Byzantine style authoritarian governance and the structural and behavioural conservatism. Therefore the foundations of modern-day bureaucracy were laid in the environment of authoritarianism, in absence of commitment to democratic principles.

The traditions of the Soviet authoritarian bureaucratic system influenced to a significant extent the system of recruitment of civil servants in the modern-day Belarus. Many external experts consider the system of recruitment for governmental service in the Republic of Belarus non-transparent, unaccountable to the society and inefficient, but this situation is beneficial for the various insider actors.

The roots of the problem are in the current political regime: the governmental employees are expected to demonstrate a high level of loyalty to the current leadership of the Republic of Belarus, while the legislation serves as a facade of sorts, covering the system, working behind it. The analysis of the legislation has shown its weakness with regard to the regulation of the process of finding and recruiting the governmental employees. For instance, the official procedures for finding, selecting, inclusion into the so-called “human resources reserve”, and recruiting the candidates for governmental jobs demonstrate a rather traditional and subjective character, are not transparent and lack oversight by the civil society, are only performed to create an illusion of observance of legislation, and are being played up as necessary to the decisions to employ this or that candidate, that had already been made by the heads of administration.

What are the disadvantages of this situation and how can it be corrected?

The main objective of this document is to analyze the current situation around the existing procedures for the recruitment of the clerks and middle-ranking administrators for governmental service in the Republic of Belarus, and to develop recommendations on how to correct the official and unofficial procedures that have formed so far. The planned outcomes are to be achieved, first of all, through the development of transparency, accountability and oversight both by the civil society and by the bodies of governmental control, and second of all, through the amendments and extension of the existing legislation. As a result of the proposed measures, a professional, transparent and rational system of recruitment for governmental service should be formed in the Republic of Belarus.

The aims and objectives of the proposed reforms

The aim of the proposed reform of the system of recruitment for governmental jobs is the transitions from the clannish approach, based on the personal and family connections, to the modern-type rational bureaucracy. The measures to be taken should loosen the influence of personal factors in the process of recruitment of civil servants and make the process of recruitment comply not just with the wording but also with the spirit of the law.

The system of recruitment for governmental jobs must acquire a formal, procedure-based and transparent nature. The primary criteria for acceptance for a governmental job will be education, experience, merit, knowledge of the Constitution of the Republic of Belarus and the legislation that is related to the fulfilment of corresponding duties. Special attention will be paid to the moral/ethical and personal and business qualities of a candidate.

Target groups and stakeholders

The target groups of the reform of the system for recruitment for governmental service are: the governmental employees and the middle-ranking administrators, the graduates of the field-specific higher education institutions, the potential candidates for the governmental service vacancies, the civil society, the business community, and the international organizations.

Due to its political status, the Administration of the President of the Republic of Belarus is the main stakeholder of the reform of the system of recruitment for governmental service. The process of implementation of the reform can be accelerated or slowed down by the Academy of Public Administration Under the Aegis of the President of the Republic of Belarus, by the heads of the governmental bodies (organizations), by the heads of regional executive committees, and by the heads of district administrations and certain departments of the Minsk City Executive Committee, and by the House of Representatives of the National Assembly of the of the Republic of Belarus.

The evaluation of the system of recruitment for governmental service in the Republic of Belarus

In this chapter we will analyze the official procedures of recruitment for the governmental service and how they correspond to the real-life bureaucratic practice.

The analysis of the legislation currently in force

The legislation that serves as a foundation for the system of recruitment for the governmental service has been only partially developed. It is worth pointing out that the law “About governmental service in the Republic of Belarus”¹, hereinafter referred to as the Law did not bring any significant changes into the regulation of the issues of recruitment for governmental service. It kept the continuity in relation to the legislative acts adopted earlier. Apart from that, many of the articles of the Law do not contain the necessary instructions for those intended to implement the Law, the main administrative procedures are not detailed and leave too much freedom to those responsible to interpret and apply at their own discretion; at all stages of the process of recruitment of a governmental employee, the opinion of the head of the governmental body or organization is of the decisive importance. This subject will be the main focus of this chapter.

Let us review the procedure of development and adoption of a new legislation or instruction on the process of recruitment for the governmental service in the Republic of Belarus. According to the Article 100 of the Constitution of the Republic of Belarus, one of the main functions of the National Assembly of the Republic of Belarus (the legislative body of the state) is the adoption of legislation. According to the Article 99, part 1 of the Constitution of the Republic of Belarus, the following have the right to initiate the legislation: the President, the members of the House of Representatives, the Council of the Republic, the Government, and the citizens, if their number is no less than 50 thousand people. In accordance with the position of the Administration of the President of the Republic of Belarus, among its main tasks are the following: providing for the implementation of the governmental personnel policy and ideology; providing for the interaction of the President of the Republic of Belarus with the bodies of legislative, executive and judicial power; coordination of the activities of the Academy of Public Administration under the Aegis of the President of the Republic of Belarus. The Administration of the President of the Republic of Belarus is also a founder of the Academy of Public Administration under the Aegis of the President of the Republic of Belarus, and among its functions is the participation in development and assessment of draft legislative acts related to the issues of governmental personnel policy. The Parliament of the Republic of Belarus is the legislative body whose main function is to review, adopt or decline the draft legislation.²

The procedures of recruitment for and carrying out the governmental service are regulated by the norms of various branches of law. For instance, the organizational issues of the governmental service, its principles, hierarchy, positions, their classification, and registers are regulated and defined by the constitutional and administrative law, while the relations in connection to entering the governmental service, carrying out a governmental service or the termination of the relation to the governmental service – by the norms of the labour law and pension law. The Law itself stipulates that “the relations in connection to the governmental service that are not regulated by this Law and other legislative acts are subject to the norms of labour law, pension law, and other legislation”.

The Law defines the list of the governmental bodies, employment by which is legally a governmental service: the House of Representatives and the Council of the Republic of the National Assembly of the Republic of Belarus and their Secretariats; the Government of the Republic of Belarus and its Executive staff; the Constitutional Court and its Secretariat; the Supreme Court and the Supreme Economic Court and their administration, common and economic courts and their apparatus; the Administration of the President of the Republic of Belarus, the State Secretariat of the Security Council, the Economic administration of the President of the Republic of Belarus, and other governmental bodies that directly take care of the activities of the President of the Republic of Belarus; the bodies of the Committee for Governmental Inspection, the bodies of the Prosecutor’s Office, the National Bank, the Central Commission of the Republic of Belarus on elections and carrying out of the national referenda and its Executive staff; the Ministries

1. The Law of the Republic of Belarus № 204-3 of June 14, 2003 “On governmental service in the Republic of Belarus” (with the inclusion of the amendments)

2. Article No 1. The Law of the Republic of Belarus No 204-3 of June 14, 2003 “On governmental service in the Republic of Belarus” (with corresponding amendments)

and other national bodies of governmental administration, and their local units; the diplomatic representations, consular institutions and missions of the Republic of Belarus; local Councils and their Executive staff; the executive-administrative bodies and their executive staff; state notary offices; customs offices; other governmental bodies and the governmental organizations endowed with the equal to the governmental bodies status. The Law does not refer to the citizens in military service, the officers and enlisted personnel of the bodies of internal affairs, the bodies and units formed to deal with emergency situations, the departments of financial investigations of the Committee of Governmental Inspection, if not otherwise stipulated by the acts of legislation.

The law also regulates the issues of creation and maintaining the HR registries of governmental posts – the system to keep record of the governmental posts in the Republic of Belarus. Maintaining these HR registers involves both approving the lists of governmental positions, and the collecting and examining information about the candidates for the governmental positions. The Law provides for the HR registers of the Head of State, the HR register of the Government of the Republic of Belarus and HR registers of the regional executive committees and the Minsk city executive committee. According to the Law, the information about the candidates for governmental positions is compiled by the Government of the Republic of Belarus, by the Administration of the President of the Republic of Belarus, by the State secretariat of the Security Council of the Republic of Belarus, by the regional executive committees and the Minsk city executive committee, according to their scope of responsibility and competence.

Currently the procedures of creating the HR registers and the regulation of maintaining of such registers are performed according to a number of acts of legislation: the Decree of the President of the Republic of Belarus (of November 8, 2000, No 644; of November 8, 2001, No 645; of November 2, 2000, No 577) with subsequent alterations and amendments; the decision of the Council of Ministers of the Republic of Belarus of December 27, 2001, No 1869, with subsequent alterations and amendments; the decision of the Minsk city executive committee of January 4, 2001, No 10; the decision of the Minsk region executive committee of December 2, 2002, No 845; and decisions of other regions' executive committees.

The Article 11 of the Law regulates the issues of assigning classes to the government employees and creation of the commission on assigning classes. All government employees get assigned either a highest class or one of 12 classes, of which the twelfth class is the lowest. Classes are assigned: by the President of the Republic of Belarus and the Prime Minister of the Republic of Belarus to the higher officials; by the commission on assigning the classes of the corresponding governmental body to the ordinary employees and the middle-ranking managers. Correlation between the classes of government employees and the governmental positions is defined by the President of the Republic of Belarus or by the governmental body, authorized by the President.

The commissions on assigning classes are created – in order to assign classes to the government employees – according to the procedure, defined by the President of the Republic of Belarus; by the Government of the Republic of Belarus; by the House of Representatives and the Council of the Republic of the National Assembly of the Republic of Belarus; by the Central commission of the Republic of Belarus on elections and carrying out of the national referenda; by the Higher Court of the Republic of Belarus and the Higher Economic Court of the Republic of Belarus; by the Prosecutor General's Office of the Republic of Belarus; by the regional executive committees and the Minsk city executive committee; by the regional Councils and the Minsk city Council; by the State Customs Committee of the Republic of Belarus within their jurisdiction, according to the Article 12 of the Law.

The Articles 17-18 of the Law mention the human resources reserve of the government employees. Thus, according to the Law, the human resources reserve is formed in the governmental bodies in order to fill vacant governmental positions (excluding the positions that can only be filled through elections). The human resources reserve of government employees is comprised of the citizens who took part in a competition and selection, and have been recommended by the selection commission to be included into the human resources reserve, as well as the government employees who were laid off as a result of liquidation of a governmental body, or as a result of job cuts or staff positions reductions. The citizens who were included in a reserve, all other conditions being equal, have the right of priority to fill the corresponding governmental position as compared to all other candidates.

At the same time, the administrative procedures related to the maintaining of the human resources reserve are set out in the greatest detail in the Decree of the President of the Republic of Belarus of July 26, 2004, No 354 "On working with managerial human resources in the system of governmental bodies and other governmental organizations", whose provisions are taken as guidelines on how to fulfil the work duties by the members of human resources divisions of the bodies of governmental administration. Thus, according to the Decree, its implementation should be monitored/supervised by the Administration of the President of the Republic of Belarus, while the heads of the governmental bodies and other governmental organizations bear personal responsibility for the work with managerial human resources, with the reserve of such human resources, for its quality and its effective use. Work with a reserve includes formation of the reserve and monitoring of its condition, professional development of the potential employees who got included into the reserve, and promoting them further up the career ladder. The main criteria to include a candidate into a reserve are: the results of his or her practical activities in the position they hold, the main indicators of the condition of work discipline and operational discipline, how well is the workplace safety maintained in the industrial division (or the

area of activity, or the governmental body/organization, or the structural unit of a governmental body/organization, or the executive-administrative body on the level of region, district, city district) headed by the candidate; managerial capacities and personal qualities, his or her aptness for the future job, his or her potential capabilities; the results of testing and the latest attestation of the candidate; the testimonials of the individuals who work immediately with the candidate; the age and health condition of the candidate.

An important statement in the Decree is that the composition and the working procedure of the selecting commission that enlists candidates into the human resources reserve is defined by the head of a governmental body/organization. As we will later see in the course of the research this statement provides for unlimited opportunities for the heads of organizations to form the human resources reserve of the governmental body or organization they are heading at their sole discretion.

The records of the reserve are kept by maintaining a database (a list or an electronic database). An individual who has been enlisted in the reserve has the following rights: priority right to be sent for retraining, professional development training, internship; the right to substitute according to the established procedure for the higher-ranking officials who are on a temporary leave of absence, as well as for the managers whose positions are vacant. The individuals enlisted in the reserve, all other conditions being equal, have the right of priority to fill a specific position as compared to all other candidates, but being enlisted in a reserve does not serve as unconditional grounds for assigning such a candidate to one or another position. In this manner the Decree does not oblige the head of a governmental body or organization to employ a candidate from a "human resources reserve" for governmental service.

An important statement of the Decree we are discussing is the one about the creation of a "prospective human resources reserve". According to the Decree, a prospective human resources reserve is a specially formed group of students of higher education institutions, and of the specialists aged up to 31 years old, who possess leadership and organization qualities, and who are capable of managerial activities in the governmental bodies/organizations. Candidates are recommended for the prospective human resources reserve by the heads of institutions of higher education, or if those are not students but specialists (aged up to 31 years old), then by the heads of the organizations where they are employed. The information about the individuals enlisted in the prospective human resources reserve is provided by the heads of the corresponding governmental bodies to the Academy of Public Administration, which forms and maintains a unified prospective human resources reserve. At the moment the Academy of Public Administration in coordination with the Administration of the President of the Republic of Belarus is developing the draft legislative act about the procedure for provision of such information. The work with the prospective human resources reserve is organized in such a way as to include the following: leadership capacity and creative abilities development for the students and for the specialists aged under 31; planning and carrying out professional development for the graduates of higher education institutions and for specialists aged under 31; monitoring of professional development of the individuals enlisted in the prospective human resources reserve; evaluation of both the effectiveness of selection of candidates for the prospective human resources reserve and of the work with the latter. In order to automate/computerize the work with the "prospective human resources reserve" the Academy of Public Administration has developed a special automated information system to electronically keep record of the managerial human resources and the reserve of such – AIS "Reserve". The information and analytics, as well as software-related and technical support of the AIS "Reserve" on all levels is taken care of by the Academy of Public Administration.

The Chapter 3 of the Law regulates the procedure of entering the government service. It establishes, that the right to enter government service is given to the citizens of the Republic of Belarus who reached 18 years of age, and who have a good command of the official national languages of the Republic of Belarus, and who meets other requirements set forth by this Law, and by other acts of legislation about the government service. It is provided that those entering governmental service will not face any limitations and will not be granted any advantages based on sex, race, nationality, social background, property status, relation to a religion or to beliefs, as well as membership with political parties or other public associations.

The Law determines the list of documents that a citizen submits when entering the government service, which is equivalent to the list of documents determined by the Article 26 of the "Labour Code of the Republic of Belarus" for everyone who enters any job. When applying for governmental service, it is necessary to submit a personal application, an individual's personnel record card; at the same time, when entering a governmental service where the scope of activities would require the employee to have access to information that is defined as state secrets, the candidate for such position has to undergo the procedure of formal registration for the access to these secrets according to an established routine (Article 25 of the Law).

The Law also defines the qualification requirements that a candidate has to meet when entering governmental service: the corresponding degree of education, the minimum work experience in the area of specialization, the command of the official national languages of the Republic of Belarus, the knowledge of Constitution of the Republic of Belarus, the knowledge of the laws related to carrying out the future work responsibilities. Other legislative acts may set forth other qualification requirements that citizens would have to meet in order to fill the corresponding governmental positions.

Entering the governmental service takes place by assigning, approving, or election that is formally executed by a decision, order, direction, or other act of the corresponding governmental body or official, with appropriate record being made in the employment record book according to the established procedure.

Entering the governmental service may need to be preceded by a competition for the vacant governmental position. The Law defines the procedure for carrying out such a competition. It is provided, that a competition for a vacant governmental position may be either open or closed. An open competition is open to all citizens of the Republic of Belarus meeting the corresponding qualification requirements that are defined for those entering the governmental service; a closed competition is open to the governmental employees who are enlisted in the human resources reserve. The decision to carry out the competition as well as the decision on the form and timeframe of the competition and about the list of positions to be defined as vacant is made by the head of the governmental body that has the right to hire and lay off an employee.

According to the decision of the Council of Ministers of the Republic of Belarus of September 26, 2003, No 1221 "About approving the Regulation on carrying out a competition for a vacant governmental position" the responsibility for organizing and carrying out a competition is given to a human resources department and to a competition commission that is to be formed by a decision/order of a head of the governmental body. Before the open competition is carried out, the human resources department of the governmental body must publish an advertisement about the open competition for a vacant position and about accepting the applications from those willing to take part in the competition. The advertisement must run in the official national mass media. The individuals who are entering governmental service for the first time will be allowed to participate in a competition only on the condition of passing the qualification exam according to the procedure established by the President of the Republic of Belarus. The competition commission as a rule includes the vice head of the governmental body, the head of the structural division that has a vacancy which should be filled, the specialists from the human resources department, and other employees. Independent experts as well as the representatives of non-governmental organizations/associations may be invited to participate in the work of the competition commission. In case only one candidate takes part in the competition, he or she will be considered selected if no less than 50 percent of the present commission members will vote in his or her favour. If two or more candidates for the same position take part in the competition, then the one who gets the majority of votes will be considered selected for the job. The chairman of the competition commission is appointed by the head of the governmental body from among the members of this commission.

Individuals, who are entering governmental service for the first time, must pass a qualification exam according to the procedure, set forth in the Decree of the President of the Republic of Belarus No 139 of March 17, 2005. Qualification exams are to be carried out by examination commissions that are to be formed by the governmental bodies/organizations when somebody is entering governmental service in those governmental bodies/organizations. The questions for the examinations, as well as the questions for the job interview and for the tests, are the same for all those passing the exams, and are developed by the Administration of Public Administration Under the Aegis of the President of the Republic of Belarus, and are approved by the Rector of this Academy after being coordinated with the Administration of the President of the Republic of Belarus. The questions for a qualification exam are developed taking into account the requirements on the knowledge of the Constitution of the Republic of Belarus, as well as the basics of the following: the government service in the Republic of Belarus; the state human resources policy; the ideology of the Belarusian state; the government management of the economy; the official paperwork. To the types of questions mentioned above the examination commissions may add other questions based on the specifics of the activities of the government bodies/organizations where they would be developed. The qualification exam is to be carried out as often as necessary, and the form it will take (an examination, an interview, a test) is to be determined by the government bodies/organizations where the examination commissions have been created. The composition and the work procedure of the examination commissions are determined by the heads of the government bodies/organizations where those commissions have been created. In the case an examinee disagrees with the decision of the examinations commission, he or she has the right to appeal to the head of the government body/organization where the commission has been created. The head of the government body/organization will or will not recommend to have this person repeat the qualification examination. The person who failed (including repeatedly failed) a qualification examination, may apply for a government job to the same government body/organization no sooner than in one year after the examination. Having passed a qualification exam does not serve as an unconditional grounds for the candidate to be assigned a governmental position. The Law also includes the norms that provide for denying the candidate's application for government service³. In this manner the heads of government bodies/organizations have virtually unlimited possibilities to influence the results of a qualification examination.

The Article 29 of the Law regulates the issues of undergoing a preliminary probation when entering a government service. The duration of the preliminary probation period can be made from three to six months long, which significantly

3. The Article No 33 of the Law of the Republic of Belarus No 204-3 of June 14, 2003 "On governmental service in the Republic of Belarus" (including the later amendments)

exceeds the terms set forth in the Labour Code – no longer than three months. During the preliminary probation period the Law covers the governmental employee. If the result of the preliminary probation is unsatisfactory, the governmental employee is to be laid off on the grounds of having failed the probation.

The Law defines the procedure for making a contract with the governmental employees. The head of the corresponding government body/organization makes contracts with citizens entering the governmental service for the period of no less than one year (the maximum duration of the contract period is not limited). There is a provision that the citizens who are hired for governmental positions that have been created in order to immediately provide for the activities and the fulfilment of mandate of the President of the Republic of Belarus or other governmental officials will only have their contracts made for the period not exceeding the period of validity of the mandates of the corresponding officials. A sample form of contract that has to be made with the citizens entering the governmental service is defined by the acts of legislation.

Making an assessment of the legislation that regulates the system of recruitment for government service it is worth noting that it still includes many reference norms, and this entails the need to adopt additional acts of legislation. The absence of the necessary instructions and unambiguously defined administrative procedures leaves a great freedom for interpretation of the statements of the Law. Apart from that, the analysis of the legislation has shown that on all stages of the process of recruitment of governmental employees the opinion of the head of government body/organization has the decisive power.

Analysis of administrative practice

The existing legislation defines the principal actors of the process of development, adoption and execution of the legislation in the field of the system of recruitment for government service. But does it, in reality?

The main stakeholder of the process of development and adoption of legislation in the field of the system of recruitment for government service is the Administration of the President of the Republic of Belarus. Apart from that, according to the Regulation, the Administration of the President of the Republic of Belarus is responsible for the carrying out of the state human resources policy. But the limited number of staff of the main stakeholder cannot control the implementation of the legislation and the administrative procedure in relation to thousands of government employees, as well as to control their recruitment and layoffs. Thus the heads of government bodies/organizations have a certain degree of freedom in the process of recruitment of government employees.

The second stakeholder is the Academy of Public Administration under the Aegis of the President of the Republic of Belarus. Its primary task is to develop the legislation and instructions, the analysis of the existing practice, the development and support of the information-analytical systems in the field of system of recruitment for governmental service.

The typical procedure of development and adoption of a new legislation in the field of system of recruitment for governmental service in practice looks in the following way. The Administration of the President of the Republic of Belarus develops and introduces to the Parliament a legislative initiative, and later the Parliament reviews and either accepts the new draft legislation or sends it back for a revision. But at the same time in reality, lobbying and defending the draft legislation in Parliament, as well as defending the legislation before the social and non-governmental organizations, raising awareness and promotion of the draft legislation (including in the mass media) are among the tasks of the Administration of the President of the Republic of Belarus. Taking into account the influence the Administration of the President of the Republic of Belarus has on the election process in the Parliament of the Republic of Belarus, where the members of Parliament are virtually appointed rather than elected, and taking into account the possibility to appoint the heads of the state-run mass media (while there is virtually no other mass media in Belarus) and heads of other institutions of power, no significant resistance arises at the time of review and adoption of new legislation.

This situation is acceptable and preferable for the heads of governmental bodies/organizations – the non-collective stakeholder. In this way the vague legislation that has been lobbied by the Administration of the President of the Republic of Belarus allows for recruitment of governmental employees based not on the principle of their professionalism, education, experience and achievements, but based on the personal loyalty, friendship or family relationships. Such government employees secure the required level of vote rigging during elections, which allows the Administration of the President of the Republic of Belarus to be confident about the “planned results”. In turn, such government employees are beneficial for the higher ranking officials because they support the pyramidal patron-client connections, cover up the violations of legislation, provide for the material wealth of their bosses through corruption. As a result, a network of mutual cover-up between all the main actors of the process emerges.

But our analysis wouldn't be full without having a look at the typical cases of recruitment for the government service. The authors of this analytical document have conducted a series of interviews with the current government employees in order to discover the unofficial administrative procedures and the practice of application of the legislation.

So, the human resources department of the corresponding government body/organization is responsible for the

search, short-listing and selection of the candidates, as well as the formalities associated with the process of recruitment for government service. The decision on whether the candidate is accepted for government service or rejected is made by the head of the government body/organization on the basis of the recommendation of the competition commission that he or she has appointed him/herself. The staff of the human resources departments search for candidates for vacant positions among their “own circle” – friends, relatives, or the people they know. In the case that a vacant position finds no interest among those from “own circle” the staff of the human resources departments make a search query in the IAS “Reserve” that selects 3 candidates that meet the entered criteria. It should be noted that the decision on enlisting of one or another candidate in the human resources reserve is made by the head of a government body/organization on the grounds of the recommendation of the competition commission, formed by the same head of government body/organization. If it is impossible to find a suitable candidate in the human resources reserve, an open competition to fill the vacant position is carried out: the database containing the previously submitted CVs is reviewed, and the information about the competition is published in mass media.

The selection of a candidate is performed through interviews: first with a staff member of the human resources department, and later with the head of the government body/organization. At this stage the degree of loyalty to the current regime is assessed, as well as the formal compliance of the candidate’s education and work experience with the predetermined criteria, and finally the candidate’s experience and intellectual abilities. It is worth noting that even though the Law states that it is required to take into account the candidate’s health condition, this requirement cannot be implemented in practice because the staff of a human resources department does not have the right to demand the corresponding statement of health condition, issued by a recognized medical institution. Thus an unhealthy individual (including mentally unhealthy) can enter governmental service.

The decision to employ someone for governmental service is made by the head of the government body/organization, even in case a preliminary competition to fill the governmental position has taken place. Let’s not forget that the composition and work procedure of the competition commission is approved by the head of the government body/organization. The examination for the candidates who will be entering the governmental service for the first time would also be carried out by a commission formed by the head of the government body/organization. Thus both the competition and the examination take place not in order to discover the professional capacities of a candidate, but in order to comply with the procedure that is set forth in the legislation. The human resources department only has to correctly file all the necessary documents in order to prevent any penalties in case there will be an audit.

In the special cases when a candidate is initially recommended by the head of the government body/organization, the human resources department additionally prepares the candidate so he or she may win the competition and pass the examination: hands the necessary learning materials to him or her, instructs what to do best during the competition and the examination.

Here is how the existing practice is characterized by the Judge of the Constitutional Court of the Republic of Belarus, Candidate of Sciences in Law, Honoured Jurist of the Republic of Belarus, K.I. Kenik: “It is mentioned in the Recommendations on professional promotion and qualification growth of the managerial personnel, that the existing practice in selection of managerial personnel for the employment in the bodies of state administration is not effective. The prevailing principles are that of selection by the information contained in the personal profiles, or by the length of service. Not always the specialists who made a good showing are promoted to the managerial positions. More often than not the managers select the employees according to his or her own understanding of effective management. Oftentimes this leads to manifestations of flanneling, careerism, envy, and sometimes to abuse of position. The social-psychological environment inside the organizations becomes tense. Even though the Recommendations were adopted 10 years ago, in practice the traditional procedure of forming the human resources reserve still continues to remain in place at the present time, whereby at the core is the head of government body (as a rule, with organized assistance by the human resources department) at his or her own discretion enlisting the governmental employees of the given government body into the human resources reserve.”

The difference between the legislation and the real-life administrative practice is obvious. Using the vagueness of the legislation the heads of government bodies/organizations do not carry out the procedures of selection of candidates by competition in the way as is required by the Law, do not advertise the open vacancies in mass media, carry out the examinations for those entering the government service for the first time as a mere formality only, oftentimes intentionally preparing the “right” candidates to successfully pass the examination.

Summarizing the above, we must make one more important remark. The civil society does not participate on any of the stages of employing someone for governmental service, not even on the stage of development and adoption of the corresponding legislation.

Thus the system of recruitment for governmental service should be considered closed, non-transparent, and unaccountable to the civil society. This situation leads to the wilfulness of the heads of government bodies/organizations at the time of employing someone for the governmental service. As a result, the governmental positions are filled with individuals loyal to their heads rather than professionals.

Policy alternatives and their analysis

Before we propose, let us say a few words about the theoretic background that we are going to build upon hereinafter:

1. Many researchers wrote about the difference between the official procedures and the reality of application of law in practice. In our work we will apply the approach of Crozier and Friedberg – the so-called French school of strategic analysis. The principal idea of this concept is: in spite of the acting system of regulation and formal responsibilities, an actor nonetheless has freedom of actions. In the case if the legislation does not set forth such strict administrative procedures, and leaves an actor the opportunity to act in a non-transparent, uncontrollable manner, and to make decisions at his or her discretion, a “zone of uncertainty” is created, which the actor can use for his or her own benefit.

2. Many aspects of the modern public administration call upon Weber and the classics of a hierarchically organized civil service, the so-called continental “Weberian system”. Weber considered the rational-legal bureaucracy to be the most effective method of administration, and saw this as a key to the process of rationalization of the Western society. Here we should note that from the point of view of the principal actors the system of recruitment for governmental service in Belarus does not need high levels of rationalization; those actors’ aims are to keep the patron-client relationships, the system of “telephone law”, maximum level of non-transparency and unaccountability before the society. Therefore the reformers will face the problem of transformation of the administration-by-command by its form and patrimonial by its essence system of recruitment for governmental service into a rational-legal system.

The theoretic approaches we discussed above give us the tools to analyze the real-life practice in order to develop our recommendations. Our goal is to offer a system of measures that will allow the transformation of the old pyramidal-and-clannish system of recruitment for governmental service into a more democratic “Weberian” one.

On the basis of the conducted research we can propose our policy alternatives:

1. Enhancement of the legislation related to the recruitment for governmental service in the Republic of Belarus;
2. External influence (from abroad) applied to the principal stakeholders through international agreements and international organizations;
3. Introduction of an independent actor by the creation of a commission for recruitment for governmental service. Increasing the influence of the civil society through experts’ and independent monitors’ participation in the work of the independent commission.

These recommendations are addressed to various political actors.

The first area: enhancing the legislation related to the recruitment for governmental service

The current legislation has a number of weaknesses that allow the heads of government bodies/organizations to act at their own discretion in order to employ their own friends and relatives for government service. This kind of practice should be brought to an end.

The negative consequences of this policy:

- For the Administration of the President of the Republic of Belarus. Vague and ambiguous interpretation of the legislation allows this actor to influence the decisions of the heads of government bodies/organizations using the method of “telephone law”. Better detailed and stricter legislation may limit the influence of the Administration of the President;
- For the Academy of Public Administration under the Aegis of the President of the Republic of Belarus. This actor is interested in permanently being involved in the process of enhancing the legislation, and may be apprehensive about budget cuts;
- For the heads of government bodies/organizations. They will lose the opportunity to act at their own discretion and employ their own friends and relatives, as well as the employees loyal to the regime.

The positive consequences of this policy:

- For the Administration of the President of the Republic of Belarus. A better detailed and stricter legislation may simplify the monitoring of the system of recruitment for governmental service. A clearer and more transparent legislation may strengthen the international organizations’ and investors’ trust in the Republic of Belarus, and especially in the Administration of the President of the Republic of Belarus, as the main representative of the state, which the

international actors can interact with in order to solve problems related to the implementation of large investment projects;

- For the Academy of Public Administration under the Aegis of the President of the Republic of Belarus. A clearer and more transparent legislation may strengthen the international organizations' and investors' trust in the Republic of Belarus, which will open up new opportunities for the staff and students of the Academy in the field of international cooperation and education;

- For the heads of government bodies/organizations. The monitoring of the process of recruitment for governmental service by the Administration of the President of the Republic of Belarus will have a more simple and formal nature, the opportunities for it to use the "telephone law" will be limited. Apart from that, a clearer and more transparent legislation may strengthen the international organizations' and investors' trust in the Republic of Belarus, which will allow for more investments in the zone of responsibility of the heads of government bodies/organizations as well as will foster international cooperation in the framework of various programs. As a result the heads of government bodies/organizations will be able to feel more independent from the Administration of the President of the Republic of Belarus: making the administrative procedures more formalized and detailed will allow for the transformation of the current pyramidal structure, the patron-client structure of bureaucracy into a more democratic "Weberian" rational-legal one;

- For the Parliament of the Republic of Belarus. Enhancing the legislation will raise the role of the Parliament of the Republic of Belarus and will enhance its image in the sight of the citizens.

The second area – introduction of external influence (from abroad) applied to the principal stakeholders through international agreements and international organizations

The negative consequences of this policy: all existing official actors are apprehensive about all sides of political and social life becoming open, especially the system for recruitment for governmental service. Thus this will bring them some significant disadvantages.

The positive consequences of this policy: a clearer and more transparent legislation may strengthen the international organizations' and investors' trust in the Republic of Belarus, which will bring about the new opportunities for international cooperation and participation in large investment projects.

The third area – creation of a commission for recruitment for governmental service with independent experts and representatives of the civil society participating in that commission

This commission should be independent from the heads of government bodies/organizations. The independent experts and the representatives of the civil society must without fail be included in the composition of the commission. The commission's main tasks will be: finding candidates and maintaining the human resources registry, carrying out the competitions and examinations for those applying to fill vacant governmental positions, assigning classes to governmental employees.

The negative consequences of this policy:

- For the Administration of the President of the Republic of Belarus. This actor will have to share its monopoly right for determining the human resources policy of the government service. Also the an independent actor will considerably limit the possibility of use of the method of "telephone law";

- For the Academy of Public Administration under the Aegis of the President of the Republic of Belarus. This actor may lose its standing of a "unique expert" – the only one knowing the real situation;

- For the heads of government bodies/organizations. They lose the ability to act at their own discretion and employ their friends and relatives, as well as the employees loyal to the regime. Apart from that, this policy may cause a significant psychological discomfort to the heads of government bodies/organizations.

The newly hired government employees will feel more independent from the Administration of the President and from the heads of their government bodies/organizations. This will increase the risk of leaking of undesirable information at the time of elections and political campaigns.

The positive consequences of this policy:

A clearer and more transparent system, confirmed by an independent expert assessment, will strengthen the international organizations' and investors' trust in the Republic of Belarus.

Apart from the above mentioned advantages to all of the actors we can add the following:

- For the Academy of Public Administration under the Aegis of the President of the Republic of Belarus. The possibility to carry out monitoring of the activity of a new actor will allow for an increase of the budget, including funding with the money coming from the grant of international organizations;
- For the heads of government bodies/organizations. They will get a chance to appeal to the public opinion and to the civil society. Their future career will depend not only on the assessment by the Administration of the President, but also on the assessment by the public opinion and the civil society;
- For the civil society. The representatives of the civil society will get a chance to influence and control this sphere of political life.

Expanding the influence and participation of the civil society in the work of the system of public service is a wider goal. But the participation of the representatives of civil society in the work of an independent commission for recruitment for governmental service and the involvement of independent experts in the assessment of the work of such commission and of the work of governmental employees would be the first step on the way to the reforms.

Recommendations

We recommend the following policy alternatives:

- 1) Creation of a commission for recruitment for government service in such a way that the independent experts and the representatives of civil society take part in the commission;
- 2) The Administration of the President of the Republic of Belarus in cooperation with the members of the commission for recruitment, namely the independent experts and the representatives of civil society must insist on strictly adhering to the legislation and administrative procedures;
- 3) The Academy of Public Administration under the Aegis of the President of the Republic of Belarus in cooperation with the Administration of the President of the Republic of Belarus and with the independent experts must introduce amendments to the legislation of the Republic of Belarus regarding the procedures of recruitment for governmental service. These amendments must follow a permanent monitoring of the real-life administrative practice and must not allow the heads of government bodies/organizations to act at their own discretion and retrofit the decisions they have already made to match the requirements of the legislation, while employing the candidates for governmental service based on personal loyalty, friendship or family relationships.

The new actor must make the system of recruitment for governmental service more balanced. A stricter legislation must not leave any possibilities for interpretation and freedom of action for the heads of government bodies/organizations in the most important matters.

Such decisive measures will allow for a transformation of the present pyramidal patron-client structure of bureaucracy into a more democratic "Weberian" one.

At the same time our recommendations have to be tested for the possibility of their application in the real-life practice, they have to be exhaustive and have to require no additional measures in order to be implemented. That's exactly where we run into a great problem: our recommendations should be a part of a more general process of liberalization and democratization of the system of public administration in Belarus.

There are regular elections taking place in the Republic of Belarus: presidential, parliamentary and regional. The main result by which the activities of governmental bodies/organizations and local administration has to be judged is not the economic success or the success in social development, but the result of elections. Many international observers, experts, organizations, as well as the representatives of the Belarusian opposition report about numerous violations and falsifications in the course of voting. These falsifications are carried out by the local authorities with the aid of the heads of government bodies/organizations.

The heads of government bodies/organizations will be held responsible in case the "voting results" do not correspond to the numbers that they were told they must achieve. Thus the Administration of the President of the Republic of Belarus is interested in the heads' of government bodies/organizations ability to employ the individuals loyal to them, their friends or relatives, for the governmental service at their own discretion, in return for the Administration's ability to obtain the expected elections "results".

The "word of the Law" is formally oriented towards selecting the most suitable governmental employee in terms of professional criteria, while the "spirit of the Law" is geared towards protecting the system that is secured from employing "politically suspicious" candidates.

Introduction of independent actors from the civil society is undesirable for both the Administration of the President of the Republic of Belarus and the heads of government bodies/organizations, as this would bring transparency not only to the system of recruitment for governmental service, but also to every side of political life.

Thus our recommendations must be a part of a wider and more general process of liberalization and democratization in Belarus.

**Mission of SYMPA Think tank is to promote reforms
of public administration system in Belarus
in accordance with modern principles and practice.**

**Think tank unites people interested
in public administration issues professionally
and scientifically.**

CONTACTS:

**e-mail: info@sympa-by.eu
web: www.sympa-by.eu**

