

OPEN SOCIETY FUND BiH

Call for an Accountable and Professional BiH Civil Service
- Values and Ethical Standards in the BiH Civil Service System -

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Executive Summary

Based on the general assumption that the acceptance of the concept of ethical values and principles is a key to the effective professionalisation of the civil service, this study promotes the necessity of clearly and systemically integrating these aspects, along with their enforcement mechanisms, into the current and future programs of reforms. Such an ‘awareness’ campaign should lead to an understanding of the clear link between professional and ethical conduct needed for an accountable and reliable civil service and for building the citizens’ trust in its performance. The draft Code of Ethics for civil servants at the State level has been developed as part of the recommendations. It aims to fill the gap in the current framework of reforms. The key elements of the Code proposed herein are: the role and purpose of the Code; fundamental civil service values and principles; conflict of interest measures; enforcement/implementation instruments (*i.e.* the Code instructs civil servants in cases of ethical dilemma, but also precisely refers to those responsible for Code implementation); sanctions for breaches of the Code; and, finally, procedure in the case of enquires. Such a Code should be a part of the overall institutional/organizational rules of the civil service system. Effective integration of these standards into the BiH civil service system would be a sign that the civil service itself is ready for the changes needed in order to facilitate the professional delivery of public services. Their continuous and committed enforcement is key to success and could regain the public trust in the overall system, and it is certainly in line with EU standards.

1. Introduction

The existence of a set of ethical rules and principles for civil servants, along with their enforcement mechanisms, *i.e.* the existence of an ‘ethical infrastructure’ (Main Features of an Ethics Framework for the Public Sector, 43rd Meeting of the DG for PA, Maastricht, 2004), requires significant attention within the field of public administration reform and in the context of European integration processes. Since studies about the BiH civil service system rarely tackled the issue of ethical reform as an essential part of civil service reform, this highly topical issue represents the key problem addressed in this study. As provided in the 2003 Report of the Council of Europe Committee on Economic Affairs and Development *“reform should be guided by two objectives: to place the interests of citizens and Europe’s common values at the centre and to maintain or restore, as the case may be, the legitimacy and popular confidence in public institutions.”*

According to a public survey, a true distrust in the BiH public administration is evident and the assumption is that neglecting these essential principles in practice could be causing these attitudes (Governance Perception Survey in BiH, UNDP BiH, 2003).¹ This issue needs to be assessed through several mechanisms and instruments available for achieving the goals stated in the legislation. These include institutional, procedural and managerial arrangements within the civil service system. Any weaknesses in these arrangements affect the behavior of civil servants and, consequently, the general performance of the public administration and success of reforms.

¹ The same is confirmed in the BiH Medium Term Development Strategy (PRSP) 2004-2007, Revised Document, Chapter II.3. Reform of Public Sector: Administration, Statistics, at pp. 63-66, at www.eppu.ba; According to the EC survey the BiH authorities are not working fast enough to move forward in the European integration processes, at <http://www.delbih.ec.europa.eu/en/index.htm>.

Therefore, this study, developed on the basis of past policies and previous research, should directly contribute to the promotion of strong ethical standards and work on an effective Code of Ethics as a key to a professional and reliable civil service. Being aware that the BiH Law on the Civil Service² has been enacted with an aim to separate the political sphere from the administrative sphere, to promote a professional civil service based on merit and, at the same time, to satisfy the ethnic representation requirement, the specific objectives of this study are:

- to explore ethical standards set by civil service legislation in order to assess the impact of this legislation on civil service professionalization;
- to develop the draft Code of Ethics for civil servants (at the State level) that will comprehensively and clearly specify and explain ethical standards to be met by civil servants, as well as their enforcement mechanisms;
- and, finally, to promote the continuous dissemination/communication of these standards to both civil servants and citizens in order to strengthen their effective observance.

The content analysis method, along with structured, anonymous, in-person interviews with civil servants and representatives of international agencies and organizations in BiH, provides a clear insight into the overall understanding of the issue of values and ethics as well as its position in the current civil service reform efforts. Experiences of the Republic of Estonia, the UK and the Czech Republic are also presented in order to stress the importance of integrating these aspects into civil service reform and to share good practices relevant for BiH.

² Law on Civil Service in the Institutions of Bosnia and Herzegovina, Official Gazette of BiH, No. 19/02. 35/03, 4/04, 17/04, 26/04, 37/04, 48/05 and 02/06.

2. Relevance of Ethical Standards for a Professional and Accountable Civil Service

Criteria for accession to the European Union (EU) have been determined by the European Council in Copenhagen and Madrid.³ These criteria refer to ‘sufficient’ administrative capacity of the countries of the Western Balkans seeking to join the European Union requiring them to accept some ‘common EU standards’ shared through certain key principles. Accountability and transparency are listed among the key principles of good governance⁴ accepted within the EU. These principles provide benchmarks against which progress in the public administration reform (PAR) can be measured.⁵ In other words, although no “formal” *acquis* exists for public administration, we are witnessing an emerging European Administrative Space among the EU member countries referring to these common principles, values, practices and even structures, which ultimately create common EU standards, a magic word for countries wanting to join the EU. Several studies and reports discussing this issue and the administrative reforms undertaken in the last enlargement confirm the above as well as the difficulty of the process itself.⁶ As *Bugaric* reports in the context of the last enlargement “*sometimes explicitly, sometimes implicitly the [EC] Opinions and Progress Reports referred to various issues related to the general quality of public administration.*

³ See 1993 Copenhagen criteria and 1995 Madrid Criteria of the European Council, at http://ec.europa.eu/comm/enlargement/towards_EU_membership/criteria_en.htm.

⁴ The key principles of good governance include 1) reliability and predictability (legal certainty); 2) openness and transparency; 3) accountability and 4) efficiency and effectiveness. Some of these principles have been established through the case law of the European Court of Justice, e.g. the principle of effectiveness, see Art. 10 of the EC Treaty.

⁵ As reported in *Bugaric, B.*, SIGMA unit of the OECD had a task to develop a new assessment tool necessary to assess the administrative capacity of the CEE countries. Critics is that “the two papers produced by the SIGMA contained a rich description of certain common principles of public administration in Europe, but were short of a more detailed analysis of how such abstract principles function in different countries.... Since there was no clear EU model of public administration, the Commission had a pretty much open-ended discretion to ascertain and tell the candidate countries what the administrative capacity requirement really means.”, in *The Europeanization of National Administrations in CEE, in Legal and Political Responses in Central and Eastern Europe*, ed. Sadurski/Ziller/Zurek, European University Institute – Robert Schuman Center for Advanced Studies (2006) at p. 215.

⁶ *Bugaric, B.*, *The Europeanization of National Administrations in CEE*, EUI - RSCAS (2006); *Grabbe, H.*, *How Does Europeanization Affect CEE Governance? Conditionality, Diffusion and Diversity*, *Journal of European Public Policy* (2001); *Bossaert, D./Demmke, C.*, *Civil Services in the Accession States: New Trends and the Impact of the Integration Process*, EIPA, Maastricht (2003); *Verheijen, T.*, *Civil Service Systems in Central and Eastern Europe*, Cheltenham, Edward Elgar Publishers (1999); *Ziller, J.*, *EU integration and Civil Service Reform, in Preparing Public Administrations for the European Administrative Space*, SIGMA Paper No. 23, Paris, OECD (1998).

These issues include the development of an impartial and professional administration, the development of a training system, adequate policy development and policy-coordination capacities, etc.” (Bugaric, 2006). According to steps undertaken in Central and Eastern European (CEE) countries, the insistence of the European Commission (EC) on the adoption of civil service laws has been the starting point for public administration reform, emphasising the requirements of a professional and depoliticized civil service. (Bugaric, 2006)⁷ Both old and new EU member countries, but also some OECD member countries have recognised that one key pathway to a professional civil service is through strong ethical conduct, which is also fundamental for the overall public administration reform. As already stated for some other countries, such as Slovakia for instance, the same should apply to BiH as well, *i.e. “the ethical reform in public administration should certainly be perceived as an integral part of the current public administration reform”*.⁸

Ethical conduct articulates professional conduct. In the 2004 Survey conducted by the European Institute of Public Administration (Survey) with respect to the issue of ethics in public services of the enlarged European Union, one of the recommendations is that *“in the future, more attention should be placed on the relationship between unethical behaviour and individual and organizational poor performance,”* since it has been confirmed that *“the topic of ethics is strongly linked to the issue of individual and organizational performance.”* Indeed, the interviewed BiH civil servants have emphasised the importance of individual, personal ethics that, according to them, the current civil service system unfortunately does not measure

⁷ This author also argues that beside the EC promotion of career system within the CEE PAR there was a space for some other models such as the position system, which was strongly opposed by the SIGMA and EC and consequently limited policy choices available to the countries of CEE, at pp. 218-219. However, the author also reports that *“the fact that CEE countries ended up adopting different civil service systems, at least partially, shows that conditionality did not work uniformly. While Estonia adopted the position model, Slovenia, Bulgaria, Romania and Slovakia followed the career model, Hungary, Poland, Lithuania, Czech Republic, and Latvia embraced the mixed model.”* at pp. 221-222 (footnotes omitted).

⁸ Ethics in Public Administration – Draft Code of Ethics for Civil Servants/Employees in Public Administration, Draft Code of Ethics for Elected Representatives of Self-governments, at p. 4., available at <http://www.government.gov.sk>.

or assess. This applies to both recruitment and promotional policies and procedures. For those that do care about the overall image of the BiH civil service system, the unethical individual and institutional/organizational behaviour represent an obstacle to developing an impartial and professional civil service.

2.1. Basic Features of Ethical Infrastructure for Civil Servants

In general, certain ethical values and requirements are laid down in laws (civil service laws and criminal laws) and disciplinary legislation. These legal instruments refer to traditional civil service values such as: impartiality, legality, neutrality, conflict of interest avoidance, etc. However, in order to enhance ethical standards in the civil service, many countries opted for written ethical guidelines provided in instruments called codes of ethics, which are nowadays recognized as a very important new feature of ethical infrastructure for civil servants. (Survey, 2004)⁹ Such codes contain, formulate and explain ethical standards to be met by civil servants and some also refer to enforcement mechanisms as necessary components of an ethical infrastructure, *e.g.* the Latvian Code. (Palidauskaite, 2003) It is very important to note that such codes of ethics and their enforcement instruments vary from country to country, taking into account cultural differences in the perception of un/ethical behaviour, but at the same time *“today there are hardly any countries that are not willing to invest in these new instruments”*. (Survey, 2004) In the EU context, this applies to both old and new member states. In some countries, such as Estonia, the Code of Ethics is an integral part of the Public Service Law. In some other countries, these codes function more as recommendations, *e.g.* in the Czech Republic. Some countries do not have written codes of ethics at all. An example is Finland, which is, nevertheless, listed as the least corrupt country. (Transparency International Corruption Perceptions Index, 2006) Germany is also reluctant to

⁹ See also *Kernaghan, K.*, The Ethics Era in Canadian Public Administration, Research paper No.19, Canadian Centre for management Development (June 1996).

adopt these new ethical measures since its legal system ensures high-level ethical and professional performance. (Behnke, 2002)¹⁰

It is also generally recognized that written codes of ethics, even when comprehensively and clearly drafted, cannot contribute to effective implementation of ethical standards on their own. As stated in the Survey, *“despite their popularity, codes of ethics make little sense unless they are accepted by the personnel, and maintained, cultivated and implemented with vigour. In addition, codes of ethics are useless if staff are not reminded of them on a regular basis and given continuous training on ethics. Codes are only effective if they are impressed upon the hearts and minds of employees.”* (Survey, 2004)

Countries that do care about the ethos of civil service focus increasingly on other enforcement instruments/mechanisms needed for the effective implementation of codes of ethics. Among the various instruments, the key are certainly ethical education/training, good leadership (both political leadership and senior civil servants’ leadership), effective dissemination/communication of ethical standards and the inclusion of ethical considerations in recruitment and promotion policies. (Survey, 2004) Other mechanisms include punitive measures (which, according to the Survey, are vital against wrongdoings, but are not regarded as the most efficient instrument), suspension by independent bodies etc. (Survey, 2004) The Survey showed that normally countries combine three to four different instruments. (Survey, 2004) Therefore, as *Whitton* reports, *“it is now generally recognized that meaningful and enforceable ethics codes, linked to systemic practices and procedures, based on legislation, and backed by management leadership and high-level political commitment, and ongoing ‘professional ethics’ training, are essential.”* (Whitton, 2001)

¹⁰ Germany is on 16th place with 8.0 score in the 2006 Transparency International CPI score.

In view of the above, the features of ethics infrastructure are clearly shown in the OECD figure provided below:

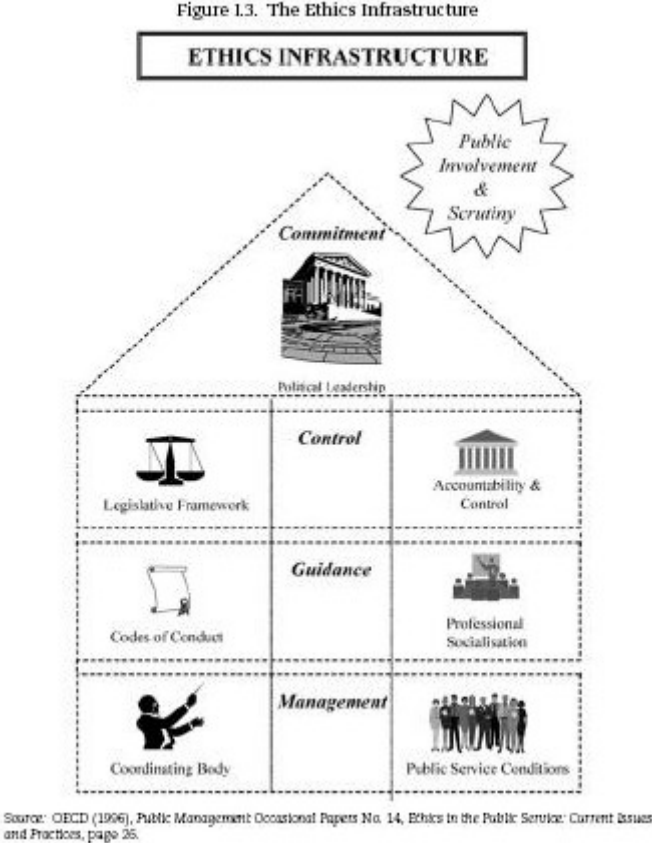


Figure 1¹¹

2.2. Current State of Ethics Infrastructure for Civil Servants at the State Level in BiH

The incredibly complex and complicated administrative structure established by the BiH Constitution (Dayton Peace Agreement, Annex IV) makes the reform of the BiH public administration extremely demanding and quite a challenging task. At the PIC Steering Board meeting (Brussels, 28 March, 2003), the BiH Council of Ministers, along with entity governments, adopted the document “Public Administration Reform – Our Program” recognizing that “the BiH public administration does not yet meet the expectations of all

¹¹ OECD (1996), Public Management Occasional Papers No. 14, Ethics in the Public Service: Current Issues and Practices, at p. 26, available at <http://www.oecd.org/dataoecd/59/24/1898992.pdf>.

citizens.” This document optimistically states that the main goal of the BiH PAR strategy and its implementation action plan is “*to create solid, reliable, and transparent public administration in all of BH, with a qualified and professional civil service at all levels,*”¹² or as provided in the Summary of the PAR Strategy “*the goal is to develop a professional, politically impartial, ethical, stable and officiating public service, which is respected and able to deliver effective services to both Governments and citizens.*” The EC Report from 2003 for BiH clearly stated that “*the notion of a professional, non-political civil service with recruitment and promotion based on experience and merit has had difficult birth.*” The EC Report from 2005 almost restates this fact, although some improvements at the lower levels are reported. At the same time, in order to define the types of reforms needed in this rather broad area, as well as to present the state of affairs in the BiH administration, the EC conducted functional reviews at all level of government, seeking to provide a clear path for ongoing and future reform processes. (Functional Review of Public Administration of BiH, 2004)

Just like other countries in the region, BiH enacted the civil service law(s) (at different level of governance) as part of the overall PAR. A policy option that would lead to professionalism, de-politicization and impartiality was adopted within the BiH civil service system. A professional civil service as well as the quality of public service are directly dependant on both the regulatory framework (*i.e.* the legal setting of the civil service system), as well as on managerial capacity that can ensure an increase of professionalism, stability and continuity. (Ziller, 1998) Since ethical infrastructures require significant attention within the framework of public administration reform and in the context of European integration processes, it would be expected that State level civil service staff take the lead in upgrading the level of accountability, professionalism, neutrality and transparency in the delivery of public service.

¹² The preparation of the BiH PAR strategy has been seriously delayed., see BiH Medium Term Development Strategy (PRSP) 2004-2007, Revised Document, Chapter II.3. Reform of Public Sector: Administration, Statistics, at p. 63, at www.eppu.ba. The BiH PAR Strategy is available at <http://www.parco.gov.ba>.

According to the EC Report from 2003 “...if BiH is to make progress towards SAA, it must develop a stable public administration based on a clear legal framework and characterized by efficiency, professionalism and independence.” The BiH Civil Service Law clearly states that the civil service shall ensure the respect and the application of the following public administration principles: accountability, transparency and publicity, professional impartiality, legality, efficiency and effectiveness.¹³ Therefore, the Law itself refers to general public administration principles as requirements to be met by civil servants. The Law stipulates the duties and rights of civil servants. The civil servant “shall be guided by the public interest in the performance of his duties and in particular serve and assist the public.”¹⁴ The duty of impartiality includes the obligation to “refrain from any action or omission, which is incompatible with or infringes duties as established by this Law and in particular refrain from publicly manifesting his political or religious beliefs.”¹⁵ Furthermore, the civil servant shall “not pursue nor accept any gain, benefit, advantage in money, services or kind for himself or for his relatives other than those authorised by this Law”.¹⁶ Compliance with the constitutional and legal order in BiH is listed as the foremost duty of the civil servant along with his/her obligation to perform the tasks assigned in the job description.¹⁷ The Law also guides the civil servant in cases of receiving an allegedly illegal order.¹⁸ Among the rights of the civil servant, the Law provides for the right to: *be treated by his superiors with respect to his human dignity; be encouraged and supported in advancing career and professional development through training and other means; be protected in his physical and moral integrity by the State while fulfilling his official duties, etc.*¹⁹ Art. 16 of the Law addresses conflict of interest issues (although this issue arises also in the aforementioned

¹³ Law on Civil Service in the Institutions of Bosnia and Herzegovina, Art. 3, Official Gazette of BiH, No. 19/02, 35/03, 4/04, 17/04, 26/04, 37/04, 48/05 and 02/06.

¹⁴ Law on Civil Service in the Institutions of Bosnia and Herzegovina, Art. 14(4)(a), Official Gazette of BiH, No. 19/02, 35/03, 4/04, 17/04, 26/04, 37/04, 48/05 and 02/06.

¹⁵ Art. 14(3)(a).

¹⁶ Art. 14(3)(b).

¹⁷ Art. 14(1).

¹⁸ Art. 14(2).

¹⁹ Art. 15(1).

article dealing with the duties of civil servants) and finds, among other things, that it is incompatible for the civil servant to be a member of governing or other boards of political parties and to follow political parties' instructions.²⁰

The civil service reform at the State level cannot be considered a domestically-driven reform (at least not from the very beginning) since its Law was imposed by the High Representative in 2002. However, the start of its implementation (considered to be domestically-driven) was reported as being "successful". Three years later, according to the majority of interviewed civil servants, the whole system has been distorted. They have lost faith in the fairness of procedures, in particular those related to recruitment and promotion. Some are the result of contradictions within the Law itself (e.g. professional v. ethnical requirement), while some belong to individual and institutional unethical behaviours or "system shortcomings". The interviewed persons described the situation as humiliating for both civil servants already working and for new candidates, those who wish to and apply for work in the BiH civil service. People have simply lost faith in fair announcements. Civil servants and public officials are expected to serve the public interest, but in the current system some of them undoubtedly serve themselves. In the current system of values, political allegiance, dishonesty and money have gained value, and it is common that some administrative assistants are more powerful than assistant ministers or heads of departments. Finally, with the addition of an ethnic requirement in appointments, *i.e.* the so-called Bosniak/Croat/Serb structure, which (un)officially became a standard, it is hard to speak about a competent and professional civil service system as such. Furthermore, in a system without statistical evidence of unethical behaviour, it is easy to speculate about the facts. According to the majority of those interviewed, a so-called "*system of silence*" is a current reality.

²⁰ Art. 16.

Since the law refers to general public administration principles, there is no clear identification of ethical principles for civil servants that would rest upon these public administration principles. In order to enhance and promote ethical behaviour, it would be useful to collect all ethical standards and requirements in a single document, *i.e.* in a code of ethics that could guide and facilitate the behaviour of civil servants in particular situations. These standards will include rights and duties already provided in the legislation, as well as additional requirements in order to enhance professionalism and competence, accountability, political impartiality and neutrality, honesty, transparency, etc. When drafting the Code, the key challenge is to make it generally applicable.

Although having ethical guidelines is widely practiced, so far there is no Code of Ethics developed for civil servants working at this level of governance in BiH.²¹ Such a Code could place the issues of values and ethics at the highest level in the overall public administration reform in the country. The general assumption is that such an approach combined with the modern management of public administration could only lead to effective professionalization of the civil service.

Although some old-fashioned administrative structures are very reluctant toward the so-called ‘Europeanization’²² of the BiH public administration, there is room for speeding up the whole process. However, there is a strong belief that the European integration process is the only driver for changes, *i.e.* that the process itself significantly affects the work of public administration.

²¹ At the same time, a Law on Conflict of Interest in Governmental Institutions of Bosnia and Herzegovina governs special obligations of elected and public officials [and, accordingly, not civil servants] in exercising their duties in the institutions of BiH government. This Law incorporates a Code of Conduct for this category of officials., Law on Conflict of Interest in Governmental Institutions of Bosnia and Herzegovina Official Gazette of BiH 16/02.

²² “There are many different aspects of Europeanization. It affects national political and policy-making processes, national administrative cultures, discursive frameworks which shape the work of public administrations, and structures of national administrations.”, in *Bugaric, B.*, The Europeanization of National Administrations in CEE, p. 205, EUI-RSCAS (2006). *Bugaric’s* study provides an overview of the impact of Europeanization on national administrative structures, rules and procedures in the CEE with a conclusion that it had stronger impact on CEEs than on the old member states, both in direct and indirect form.

3. Codes of Ethics for Civil Servants in the Republic of Estonia, the UK and the Czech Republic

On the basis of the above analysis of the features of ethical infrastructure for civil servants, this section elaborates the Codes of Ethics in the following selected countries: Estonia, the UK, and the Czech Republic.²³ These Codes are assessed in order to stress the importance of integrating their aspects into civil service reform and to share good practices relevant for BiH. The assessment of these codes will help in establishing a general framework for BiH civil servants:

Code of Ethics	Estonia	UK	The Czech Republic
Code Status	part of Public Service Law	integral and key part of the UK government; the Code forms part of the contractual relationship between a civil servant and his/her employer	recommendation
Purpose	no explicit definition of the purpose	to set out, explain and promote core civil service values that support good government and help the civil service gain and retain the respect of the government, the public and its users; to set out the standards of behaviour expected from civil servants which are based on these core values	defined in the preamble; the Code seeks to gain and maintain the trust of the public, to promote ethical standards among public servants and to communicate/inform citizens about these standards
Civil Service Values/ Principles	service of people; loyalty to the government and respect for the constitution, law and the people; adherence to the legally expressed will of politicians; liability; public participation; political impartiality; predictability; objectivity; reliability; honesty;	integrity, honesty, objectivity and impartiality; professionalism and competence; standards of behaviour	service to the public; competence and continuous individual improvement; kindness; understanding; correct treatment of other public administration employees; objectivity; legality; respect for the rights and legitimate interests of citizens; avoidance of conflict of

²³ For the analysis of Estonian and the Czech Code see generally *Palidauskaite, J.*, Codes of Conduct for Public Servants in Eastern and Central European Countries: Comparative Perspective, Paper presented at the EGPA Annual Conference, Oeiras (2003).

	politeness; awareness; development	openness, individual	interests; political neutrality and impartiality; confidentiality; effective and economical administration and utilization of financial resources; refusal to act illegally
Priority Value/Principle	servicing the public interest	service to the public	service to the public
Enforcement Instruments	no explicit reference to enforcement instruments; however, the Code stresses the obligation of each servant to seek Code enforcement/application	explicit reference to enforcement instruments; guides the civil servant in cases of ethical dilemmas or concerns; provides for the Civil Service Commissioners to consider a complaint directly from the civil servants (but there is no power on the side of the Civil Service Commissioners to initiate enquiries without a complaint); in cases of evidence of criminal or unlawful activities, civil servants are instructed to report directly to the police or other appropriate authorities; the Code is part of a contractual relationship	no explicit reference to enforcement instruments; however, the Code stresses the obligation of each servant to seek Code enforcement/application

Table 1²⁴

The above table refers to the essential elements of ethical regimes in the selected countries. The first issue to be discussed relates to the legal nature of these Codes. As already mentioned, the legal status of codes varies from country to country, *i.e.* they can be legally binding or may have the status of a recommendation. The legally binding nature of the Estonian Code of Ethics has been expressed in its Public Service Law Art. 59(1) in the

²⁴ The Codes are provided in Appendix II., available at <http://www.legaltext.ee/text/en/X0002K8.htm>; <http://www.civilservice.gov.uk/publications/civilservicecode/index.asp>; <http://www.vlada.cz/cs/urad/sor/russ.html>

following terms: *A public servant shall also perform his or her duties pursuant to the public service code of ethics set out in Annex 1 to this Act...* Beyond the fact that the UK Code of Ethics “*supports the Government of the day in developing and implementing its policies, and in delivering public services*”, this Code is also part of a contractual relationship. The Czech Code opted for being legally non-binding in nature. It has the status of a recommendation for employees of the state administration and for employees of regional self-governed entities.²⁵

The second issue relates to the purpose of the Code itself. Although in some cases the purpose is implied, nevertheless a drafting technique that explicitly explains the Code’s purpose is recommended. In this regard, the Estonian Code lacks such explicit definition as opposed to the UK and the Czech Codes, which contain explicit definitions of their purpose.

All three Codes refer to a number of generally recognized civil service values/principles among which the priority value/principle is serving the public interest. In other words, all three Codes, although employing different drafting techniques, emphasise the core value/principle of the civil service system as such. Service in the public interest lies at the heart of civil service values and naturally follows from public administration activity. The UK Code defines the core value of integrity as “*putting the obligations of public service above your own personal interests*”²⁶. In the Estonian Code of Ethics, this priority value has been expressed in the following manner: *an official is a citizen in the service of people; Public authority shall be exercised solely in the public interest; The exercise of public authority is, as a rule, a public activity; An official shall be prepared to make unpopular decisions in the public interest; An official shall always, in his or her activities, subject departmental interests to public interest; An official shall make decisions based on public and generally*

²⁵ Art. 1(1) of the Czech Code of Ethics.

²⁶ Art. 2 of the UK Code of Ethics.

*understandable criteria.*²⁷ In Art. 2 of the Czech Code of Ethics, which refers to its basic principles, work in public administration is defined as a service to the public.

Although the Code is a necessary component of ethical infrastructure, it is not sufficient to ensure compliance. Therefore, the Code needs certain enforcement instruments that may help it be effective. In this regard, the Estonian and Czech Codes contain shortcomings given that their enforcement instruments are unclear or vague. However, both Codes stress the obligation of every servant to seek code enforcement/application. In the Estonian Code this has been expressed in the following terms: *An official shall facilitate the spread of the above principles in every way; An official shall do his or her best in the public service by constant individual development.*²⁸ The Czech Code in the Article 5, dealing with the issue of gifts and other bids, says: *In private life, the employee avoids such activities and behaviour that could scale down the public's trust in public administration. He/she must avoid his actions to be a cause for his/her own extortion based on his/her activities that are in conflict with legal or ethical norms.* Art. 7 of this Code refers to inadmissible activity notification guiding the civil servant to report such activities to the supervisor or directly to the police or other appropriate authorities.

The UK Code, as opposed to the Estonian and Czech Codes, clearly identifies and guides the civil servant with respect to enforcement/implementation procedures, e.g. each department or agency is obliged to become familiar with the code and its values; guides the civil servant in cases of ethical dilemmas or concerns and provides for Civil Service Commissioners to consider a complaint directly from the civil servants (but there is no power on the side of the Civil Service Commissioners to initiate enquiries without a complaint); in cases of evidence

²⁷ Arts. 1, 4, 7, 8, 10, 12 of the Estonian Code of Ethics.

²⁸ Arts. 19-20.

of criminal or unlawful activities, civil servants are guided to report directly to the police or other appropriate authorities; the Code is part of a contractual relationship.

However, neither of these Codes explicitly refer to sanctions (*e.g.* disciplinary liability) in cases of Code violations. Given the legally binding nature of the UK and Estonian Codes of Ethics, such disciplinary liability may be implied. The mere fact that every civil servant should seek Code enforcement and application without any reference to the chain of implementation procedures and bodies may inhibit the eventual success of the Code. (Palidauškaite, 2003) Therefore, the implementation of a code of ethics represents the key challenge even at the stage of the code's drafting.

4. What Might the Code of Ethics for BiH Civil Servants look like?

“When applied to certain classes of people – public servants, doctors - codes are the ultimate terms of reference. They are the framework upon which professions are built.” (Gilman, 2005)

It is now generally recognized that codes of ethics represent a very important instrument for enhancing and ensuring civil service professionalization. This written instrument serves as guidance to civil servants with respect to ethical and unethical behaviour. Consequently, it is very important to clearly and comprehensively draft such a code in order to communicate what is expected behaviour and what is not. Once it is drafted, each civil servant may test its action against expected ethical standards upon which the civil service profession is built. (Gilman, 2005)²⁹ The interviewed BiH civil servants indicated that the majority of them would like to have a code of ethics that would make it possible to openly distinguish *“bad people”* from *“good people”*. It is clear that such codes would make the testing of actions of each civil

²⁹ See also Palidauškaite, J., Codes of Conduct for Public Servants in Eastern and Central European Countries: Comparative Perspective, Paper presented at the EGPA Annual Conference, Oeiras (2003).

servant much easier from the moral and ethical perspective, since written guidance would indicate what is permitted and what is prohibited. The current state of ethical institutional/organizational culture within the civil service can be described as non-motivating. The problem of “*many hands*”³⁰ has been reiterated by the majority of those interviewed, which strongly supports drafting a code that can have an effective impact on both individual and institutional/organization culture as well as on the overall image of the civil service. Considering the above analysis and following the general guideline for developing codes of ethics (Main Features of an Ethics Framework for the Public Sector, 43rd Meeting of the DG for PA, Maastricht, 2004), the draft Code of Ethics for BiH civil servants could be:³¹

Code of Ethics for Civil Servants in the Institutions of Bosnia and Herzegovina

Civil Service Role and Purpose

1. Civil servants in the institutions of BiH are a key part of the government of Bosnia and Herzegovina. Civil servants, by assisting the BiH Government, fundamentally contribute to democracy, good government and the BiH society. A civil servant working in the institution of BiH equally assists, by law, Governments of different political persuasions, to serve the public interest.
2. This Code sets out the framework within which all civil servants work and the fundamental values and standards they are expected to uphold. This Code guides civil servants in all their professional activities and supports good government in order to ensure the achievement of the highest possible standards in all that the Civil Service does.
3. In order to contribute to gaining and maintaining the trust of the public, every civil servant should respect civil service values and standards of behaviour. Accordingly, this Code promotes these fundamental values and desired standards of behaviour among civil servants. It also informs the public about the standards of behaviour that citizens have a right to demand from civil servants.

Civil Service Fundamental Values

1. BiH civil servants are appointed and promoted on merit on the basis of fair and open competition and are expected to carry out their role with dedication and a commitment to the

³⁰ The problem of many hands has been described in several studies. It refers to the excuse from moral responsibility of one single individual since there are so many others also involved in unethical actions. See, *Gilman, C. S.*, Ethics Codes and Codes of Conduct as Tools for Promoting and Ethical and Professional Public Service: Comparative Successes and Lessons, World Bank, Washington DC, Winter (2005).

³¹ It is important to note that for the purpose of writing this draft proposal codes for civil servants of some other countries have been also considered as models of good practice (*e.g.* Canadian Code of Ethics).

Civil Service and its fundamental values. The Civil Service fundamental values are as follows:

- Integrity – is exercising public authority solely in the public interest and putting the obligations of Civil Service above the personal interests of a civil servant; it is acting within the framework of the Civil Service fundamental values;
- Competence – is performing public authority on a high level of qualification and professionalism that a civil servant continuously improves and develops;
- Political impartiality – is acting solely according to the merits of the case and in a way that is not determined by party political considerations; it is maintaining the tradition of the political impartiality of the Civil Service;
- Neutrality – is carrying out responsibilities in a way that is fair, just and equitable and reflects the Civil Service commitment to equality and lack of prejudice;
- Legality – is exercising public authority pursuant to law and upholding the administration of justice;
- Honesty - is being truthful and open; it is using public money and other resources only for the authorised public purposes for which they are provided;
- Accountability – is fulfilling duties and obligations responsibly; it is being held accountable to the public for actions and behaviours;
- Transparency and openness – is handling information as openly as possible within the legal framework and ensuring that the value of transparency in government is upheld while respecting the duty of confidentiality as prescribed by law;
- Correct behaviour – is treating other civil servants of the same office, civil servants of other offices of public administration, as well as citizens with the highest degree of kindness, understanding, willingness and respect possible and refraining from any kind of prejudice;
- Efficiency and effectiveness – is ensuring that public money and other resources are used economically, expediently and prudently;
- Fairness – is making judgments free from discrimination and in a just manner;
- Responsiveness – is being responsive to the government, other civil servants and the public;
- Exemplariness - is the responsibility of every civil servant to exemplify, by his/her actions and behaviours, the fundamental values of the Civil Service;

- Leadership – is the particular responsibility of top management (managerial civil servants) to promote and support fundamental values by lead example; it is behaving in a way that upholds the fundamental values and good reputation of the Civil Service;
- Avoidance of Conflict of Interest – is not permitting civil servant’s personal interest to come into conflict with his/her position of a civil servant; it is refraining from any activity that is not in accordance with the correct performance of his/her duties or that in any way limits such performance.

2. Individual institutions may also have their own separate mission and statements of values based on the above fundamental values, including standards of behaviour expected of a civil servant when dealing with his/her colleagues.

Conflict of Interest Measures

1. A civil servant shall not permit his/her personal interests to come into conflict with his/her official position of a civil servant, *i.e.* such interests as might reasonably be seen to compromise the civil servant’s personal judgement or integrity. Private interests include any kind of advantage for himself/herself, his/her family, relatives, friends, individual and legal entities with whom he/she has or has had a business or political relationship.

2. A civil servant shall not misuse his/her official position, such as by using information acquired in the course of his/her official duties to further his/her private interests or those of others.

3. A civil servant shall not act in a way that is determined by party political considerations, or use official resources for party political purposes.

4. If the civil servant has doubts about whether an activity is compatible with his/her participation in the administration of public affairs, he/she shall discuss the matter with his/her supervisor or with his/her institution’s nominated integrity officer appointed to advise the staff on matters pertaining to the Code.

Application of the Code

1. This Code applies to civil servants covered by the Law on Civil Service in the Institutions of Bosnia and Herzegovina. A civil servant shall do everything in his/her power to act in conformity with this Code.

Responsibility for the Implementation of the Code

1. Each institution has a duty to make civil servants aware of this Code and its values. This Code is a condition of employment in the BiH Civil Service. It is part of the contractual relationship and, accordingly, every civil servant must comply with his/her obligations under this Code. This Code represents a key policy for the management of human resources.

2. Civil servants take responsibility for their decisions and actions. Every civil servant has a duty to exemplify fundamental civil service values through his/her actions and behaviours, and it is the particular duty of managerial civil servants (top management) to promote these values by lead example.

3. Top management, supported by the BiH Civil Service Agency, must ensure that civil servants are informed about Code requirements on an annual basis, and that adequate instruments are in place to help civil servants resolve issues of concern related to this Code. Top management ensures the implementation of this Code by supporting training on values and ethics and through other possible means.

4. If a civil servant has a concern or ethical dilemma, he/she should start by talking to his/her supervisor. If for any reason a civil servant should find this difficult, he/she should raise the matter with his/her institution's nominated integrity officer appointed to advise the staff on matters pertaining to the Code. If a civil servant does not receive what he/she considers to be a reasonable response, he/she may raise a concern or report the matter to the responsible unit within the BiH Civil Service Agency.

5. If a civil servant becomes aware of actions undertaken by others, which he/she believes to be in breach of this Code, he/she should report this to his/her supervisor without fear of reprisal. Alternatively, he/she may wish to seek advice from the institution's nominated integrity officer. If a civil servant does not receive what he/she considers to be a reasonable response, he/she may report the matter to the responsible unit within the BiH Civil Service Agency. Every civil servant should report evidence of criminal or unlawful activity to the police or other appropriate authorities.

6. It is expected that most matters arising from the application of this Code can and should be resolved at the organizational level.

Failure to Comply with the Code

1. A civil servant who does not comply with the Code requirements is subject to appropriate disciplinary action pursuant to the Law on Civil Service in the Institutions of Bosnia and Herzegovina, up to and including termination of employment.

Enquiries about the Code

1. Any enquiry about the Code application, interpretation and/or implementation, should first be referred to the top management or the institution's nominated integrity officer appointed to advise the staff on matters pertaining to the Code. In case of any further doubt, enquiries may be directly referred to the responsible unit within the BiH Civil Service Agency.

This proposed draft Code contains the basic elements needed for such an instrument. More precisely, it clearly explains the role and purpose of the Code; lists and explains fundamental civil service values and principles; provides for conflict of interest measures; refers to

enforcement/implementation instruments, *i.e.* guides civil servants in cases of ethical dilemmas, but also precisely refers to those responsible for Code implementation; it indicates the sanctions for Code breaches; and, finally, in case of enquires refers to responsible persons or units. This draft Code contains and explains a number of generally recognized civil service values/principles among which the priority value/principle is serving the public interest.

The proposed draft Code gives priority to professional competence (which encompasses an ethical dimension) over any other requirement for employment in the BiH civil service, including the ethnic requirement. In this regard, it aims to overcome the problems in the current system by strengthening the integrity of the civil service. By stipulating that the Code is a condition of employment in the BiH civil service, the draft is implying the legally binding nature of the proposal. Such a status would then imply legislative adjustments and harmonization of the draft Code and the Law itself. Explicit reference to enforcement instruments makes this draft more comprehensive and effective. It is evident that this draft Code seeks to be part of the overall institutional/organizational rules of the civil service system, *i.e.* part of human resources management. Finally, the draft Code clearly states that civil servants should be trained in the spirit of the Code in order to promote ethical decision-making and develop common ethical values. Leadership, being the most important instrument for implementing the Code of Ethics, has been strongly emphasised. Furthermore, the draft Code foresees a new position within each institution, namely the position of integrity officer, as well as a special unit within the BiH Civil Service Agency that will be responsible for investigating reports made by civil servants, advising responsible institutions, communicating/informing about matters of Code application, interpretation and/or implementation and, finally, for annually reporting on Code observance. The remaining open question relates to the absence of whistle-blowing legislation as legal protection for those who raise a concern or report in good faith.

5. Effective Integration of Ethical Standards into the BiH Civil Service System

A code of ethics is itself an important instrument, but can hardly be implemented without certain complementary or supplemental instruments. In administrative cultures where there is an evident decline in the value system of the whole of society, a code of ethics (understood as a piece of paper!) makes no sense. There can be no successful ethical reform without having fair and transparent recruitment that considers the requirement of personal ethics; a training system that involves modules on values and ethics for the full range of civil servants; a system of rewarding ethical performance and preventing wrongdoings; and promotional procedures that take ethical behaviour into consideration. As indicated in the Survey of the European Institute for Public Administration, the above instruments are used in the majority of countries to supplement existing punitive measures. Enhancing ethical behaviour and preventing wrongdoings of civil servants, and in particular politicians, is a problematic issue in transitional countries such as BiH. Hence, drafting and adopting a code of ethics appears in most cases to be the easiest part of ethical reform. Its promotion and implementation requires a developed system of supporting and enforcing instruments listed above. Of course, a change in mentality and attitudes is particularly important. This implies understanding that civil servants serve the public interest and provide certain services.

Interviews with representatives of international organizations and agencies indicate the importance of having ethical reform integrated into the overall PAR process. However, so far training programmes organized for State level civil servants have not included values and ethics as training modules, as a way to promote the importance of ethics in civil service. Since in both old and new EU member states this has been recognized as an essential part of a modern civil service, it is in this sense unjustified to place this issue below the required position in the context of BiH. Representatives of the international community explained that

their efforts were focused both on the development of institutional and of human capacity. Even the BiH Civil Service Law was initiated by the international community and the overall PAR process, since it is required for a successful step forward in European integration processes. The views represented indicate that politicians and civil servants should bear the burden of developing a de-politicised and competent civil service.

Considering all the above, effective integration of ethical standards is highly dependant on the political commitment and readiness to engage in this extremely important question of PAR reform. The obligation of managerial civil servants is almost as important and it includes the obligation of undergoing ethical training themselves as a way to respect the principle of exemplariness. Top management behaviour influences the development of institutional/organizational culture and creates customs and tradition. (Palidaukaite, 2003)

6. Conclusions and Recommendations

1. The above analysis strongly argues for integrating ethical reform into the overall public administration reform.
2. This is not a matter of luxury or trend; it is imperative for BiH.
3. Such integration should not be of a merely declarative nature, but must involve concrete instruments that can be measured over time.
4. Practically, this implies drafting and adopting a Code of Ethics for civil servants working at the State level in BiH.
5. In order for the Code to be accepted by civil servants themselves, there is a strong argument to involve them in the drafting process.
6. The Code of Ethics must have the following elements: reference to the role and purpose of the Code and provision of a general statement of civil service values; list of

ethical values and standards that must be met by civil servants (a more extensive list than provided in the Law) and an explanation of the meaning of these standards; reference to enforcement/implementation mechanisms as a way to safeguard and implement these standards.

7. Service to the public must be regarded as the priority value.
8. Enforcement mechanisms include: political leadership and civil service management leadership; a training strategy whose plan must include values and ethics as vital to reform old habits and behaviours, *i.e.* 'to reform the people'; ethical training for a wide range of civil servants, in particular the top management who need to promote these standards by lead example; revision of recruitment and promotion policies in order to enhance the relevance of individual ethical behaviour for upholding the institutional culture and ensuring civil service professionalization as foreseen by law; continuous communication/dissemination of the importance of ethical behaviour for the overall image of the civil service; law adjustments where necessary.
9. The Code of Ethics and its enforcement mechanisms must be part of the overall institutional/organizational rules of the civil service system *i.e.* part of human resources management.
10. Civil servants should be trained in the spirit of the Code in order to promote ethical decision making and develop common ethical values.
11. The promotion of civil service values and ethics through these mechanisms can ensure the harmonization of professional standards across the civil service and help develop a competent, neutral and accountable civil service.
12. Accordingly, these standards must be institutionalized and the initiative should come from the Office of PAR Coordinator or the BiH Civil Service Agency followed by a commitment on the part of the BiH Council of Ministers.

7. Appendix I

Interview Questions for Civil Servants working at the State Level in BiH

1. For you, What is the precondition for carrying out your duty professionally? Do you consider ethical behaviour to be a necessary precondition for professionalism?
2. Do you consider the ethical reform of public administration an integral part of the overall public administration reform (PAR)? Has any such thing been undertaken so far?
3. In your opinion, what is the current state of PAR? Do you feel it in everyday work?
4. Are you familiar with the content of the Civil Service Law, and if you are, do you think that it has been implemented successfully?
5. Do you think the Law has any shortcomings?
6. In your opinion, what are the fundamental values of the BiH civil service?
7. Which ethical standards should civil servants adhere to, and are they respected in practice? If not, what is the reason?
8. In respect to ethical behaviour, do you see any difference between higher and lower ranking civil servants?
9. And, what about between political appointees and civil servants?
10. Do you think that the BiH value system has changed? Please elaborate.
11. What must be done within the civil service system in order to effectively implement a code of ethics?
12. Have you been involved in any training, and have any training modules focused on civil service fundamental values?
13. Are you personally satisfied with working in the civil service, and why, and if not, why not? Is there something you would like to change?

14. Do you think that current managerial capacity can ensure professionalism, impartiality and accountability of the civil service?

15. Are you familiar with any case where a civil servant was faced with disciplinary responsibility?

16. Is the ethical behaviour of civil servants taken into account in matters concerning recruitment or promotion?

8. Appendix II

Estonian Public Service Code of Ethics (Annex 1 to the Public Service Act of Estonia)

1. An official is a citizen in the service of people.
2. The activities of an official shall be based on respect for the Constitution of the Republic of Estonia provided for in the oath of office.
3. An official shall adhere, in his or her activities, to the legally expressed will of politicians who have received a mandate from the citizens.
4. Public authority shall be exercised solely in the public interest.
5. Public authority shall always be exercised pursuant to law.
6. The exercise of public authority shall always involve liability.
7. The exercise of public authority is, as a rule, a public activity.
8. An official shall be prepared to make unpopular decisions in the public interest.
9. A person exercising public authority shall endeavour to achieve as broad participation of citizens in the exercise of authority as possible.
10. An official shall always, in his or her activities, subject departmental interests to public interest.
11. An official shall be politically impartial in his or her activities.
12. An official shall make decisions based on public and generally understandable criteria.
13. An official shall avoid creating a situation that arouses or may arouse suspicion with regard to his or her impartiality or objectivity in considering matters under suspicion.

14. An official shall treat property entrusted to him or her economically, expediently and prudently.
15. An official shall use information, which becomes known to him or her through official duties solely in the public interest.
16. A person exercising public authority is characterised by honesty and respect for the public and co-employees.
17. An official shall be polite and helpful when communicating with people.
18. An official shall be respectable, responsible and conscientious.
19. An official shall do his or her best in the public service by constant individual development.
20. An official shall facilitate the spread of the above principles in every way.

UK Code of Ethics

Civil Service values

1. The Civil Service is an integral and key part of the government of the United Kingdom³². It supports the Government of the day in developing and implementing its policies, and in delivering public services. Civil servants are accountable to Ministers, who in turn are accountable to Parliament³³.
2. As a civil servant, you are appointed on merit on the basis of fair and open competition and are expected to carry out your role with dedication and a commitment to the Civil Service and its core values: integrity, honesty, objectivity and impartiality. In this Code:
 - ‘integrity’ is putting the obligations of public service above your own personal interests;
 - ‘honesty’ is being truthful and open;
 - ‘objectivity’ is basing your advice and decisions on rigorous analysis of the evidence; and
 - ‘impartiality’ is acting solely according to the merits of the case and serving equally well Governments of different political persuasions.
3. These core values support good government and ensure the achievement of the highest possible standards in all that the Civil Service does. This in turn helps the Civil Service to gain and retain the respect of Ministers, Parliament, the public and its customers.

³²This Code applies to all Home civil servants. Those working in the Scottish Executive and the National Assembly for Wales, and their Agencies, have their own versions of the Code. Similar Codes apply to the Northern Ireland Civil Service and the Diplomatic Service.

³³Constitutionally, civil servants are servants of the Crown. The Crown's executive powers are exercised by the Government.

4. This Code³⁴ sets out the standards of behaviour expected of you and all other civil servants. These are based on the core values. Individual departments may also have their own separate mission and values statements based on the core values, including the standards of behaviour expected of you when you deal with your colleagues.

Standards of behaviour

Integrity

5. You must:

- fulfil your duties and obligations responsibly;
- always act in a way that is professional³⁵ and that deserves and retains the confidence of all those with whom you have dealings;
- make sure public money and other resources are used properly and efficiently;
- deal with the public and their affairs fairly, efficiently, promptly, effectively and sensitively, to the best of your ability;
- handle information as openly as possible within the legal framework; and
- comply with the law and uphold the administration of justice.

6. You must not:

- misuse your official position, for example by using information acquired in the course of your official duties to further your private interests or those of others;
- accept gifts or hospitality or receive other benefits from anyone which might reasonably be seen to compromise your personal judgement or integrity; or
- disclose official information without authority. This duty continues to apply after you leave the Civil Service.

Honesty

7. You must:

- set out the facts and relevant issues truthfully, and correct any errors as soon as possible; and
- use resources only for the authorised public purposes for which they are provided.

8. You must not:

- deceive or knowingly mislead Ministers, Parliament or others; or
- be influenced by improper pressures from others or the prospect of personal gain.

Objectivity

³⁴ The respective responsibilities placed on Ministers and special advisers in relation to the Civil Service are set out in their Codes of Conduct: www.cabinetoffice.gov.uk/propriety_and_ethics.

³⁵ Including taking account of ethical standards governing particular professions.

9. You must:

- provide information and advice, including advice to Ministers, on the basis of the evidence, and accurately present the options and facts;
- take decisions on the merits of the case; and
- take due account of expert and professional advice.

10. You must not:

- ignore inconvenient facts or relevant considerations when providing advice or making decisions; or
- frustrate the implementation of policies once decisions are taken by declining to take, or abstaining from, action which flows from those decisions.

Impartiality

11. You must:

- carry out your responsibilities in a way that is fair, just and equitable and reflects the Civil Service commitment to equality and diversity.

12. You must not:

- act in a way that unjustifiably favours or discriminates against particular individuals or interests.

Political Impartiality

13. You must:

- serve the Government, whatever its political persuasion, to the best of your ability in a way which maintains political impartiality and is in line with the requirements of this Code, no matter what your own political beliefs are;
- act in a way which deserves and retains the confidence of Ministers, while at the same time ensuring that you will be able to establish the same relationship with those whom you may be required to serve in some future Government; and
- comply with any restrictions that have been laid down on your political activities.

14. You must not:

- act in a way that is determined by party political considerations, or use official resources for party political purposes; or
- allow your personal political views to determine any advice you give or your actions.

Rights and responsibilities

15. Your department or agency has a duty to make you aware of this Code and its values. If you believe that you are being required to act in a way which conflicts with this Code, your

department or agency must consider your concern, and make sure that you are not penalised for raising it.

16. If you have a concern, you should start by talking to your line manager or someone else in your line management chain. If for any reason you would find this difficult, you should raise the matter with your department's nominated officers who have been appointed to advise staff on the Code.

17. If you become aware of actions by others which you believe conflict with this Code you should report this to your line manager or someone else in your line management chain; alternatively you may wish to seek advice from your nominated officer. You should report evidence of criminal or unlawful activity to the police or other appropriate authorities.

18. If you have raised a matter covered in paragraphs 15 to 17, in accordance with the relevant procedures³⁶, and do not receive what you consider to be a reasonable response, you may report the matter to the Civil Service Commissioners³⁷. The Commissioners will also consider taking a complaint direct. Their address is:

3rd Floor, 35 Great Smith Street, London SW1P 3BQ.
Tel: 020 7276 2613
email: ocsc@civilservicecommissioners.gov.uk

If the matter cannot be resolved using the procedures set out above, and you feel you cannot carry out the instructions you have been given, you will have to resign from the Civil Service.

19. This Code is part of the contractual relationship between you and your employer. It sets out the high standards of behaviour expected of you which follow from your position in public and national life as a civil servant. You can take pride in living up to these values.

The Czech Code of Ethics of Public Servants

Preamble

In order to contribute to gaining and maintaining the trust of the public, every public servant should respect certain core values. These are, first of all, the legality of all decisions made and equal approach to all individual and legal entities. Each and every public administration employee is concerned about the efficiency of public administration and therefore enhances his/her expertise by continuous training. The purpose of this code is to promote desired standards of behavior among public servants and to inform the public about the standards of behavior that citizens have a right to demand from public administration employees.

Article 1. Basic enactment

³⁶The whistleblowing legislation (the Public Interest Disclosure Act 1998) may also apply in some circumstances. The Directory of Civil Service Guidance gives more information: www.cabinetoffice.gov.uk/propriety_and_ethics.

³⁷The Civil Service Commissioners' Appeals leaflet gives more information: www.civilservicecommissioners.gov.uk. This Code does not cover HR management issues.

1. The Code serves as a recommendation for employees of the state administration and for employees of regional self-governed entities (who are hereafter referred to only as "employees").
2. The employee works in correspondence with the Constitution of the Czech Republic, laws and other legal regulations. At the same time he/she does everything possible to act in conformity with the enactments of the Code.

Article 2.
Basic principles

1. Work in public administration is a service to the public. The employee performs on a high-level of qualification that he/she continuously improves. His/her work should be accompanied by the highest extent of kindness, understanding and willingness possible and should refrain from any kind of prejudice.
2. The employee treats other employees of his/her office as well as employees of other offices of public administration correctly.
3. The employee makes his/her decisions and deals with matters objectively based on their merits of the case, taking into consideration only legally relevant facts and acting without unnecessary delays. He/she does not act willfully towards the detriment of any person, group of persons, body or component of legal entity. On the contrary, he/she asserts the rights and legitimate interests of citizens.

Article 3.
Conflict of interests

1. The employee does not permit his personal interest to come into conflict with his/her position as an employee of public administration. Private interest includes any kind of advantage for himself/herself, his/her family, relatives, friends, individual and legal entities with whom he/she has or has had business or political relationship.
2. The employee does not take part in any activity that is not in accordance with the correct performance of his/her work duties or that limits in any way such performance.
3. If the employee has doubts whether some activity is compatible with his/her participation in the administration of public affairs, he/she discusses the matter with his/her superior.

Article 4.
Political or public activity

1. The employee of public administration exercises his/her work in a politically disinterested manner.
2. The employee will not exercise such political or public activity that could corrupt the trust of citizens in his/her ability to exercise his/her service duties in a impartial manner.

Article 5.
Gifts and other bids

1. The employee neither demands nor accepts gifts, services, favors or any other benefits that could influence or seemingly influence his/her decisions in certain matters or corrupt his/her professional approach to certain matters. Moreover, the employee does not accept gifts or benevolence that could be considered to be a reward for the work whose administration is his/her duty.
2. The employee avoids situations, in which, because of his/her position in public administration, he/she is bound to serve out any other person's favor, or in which he/she is accessible to improper influence of other persons.
3. If the employee is offered any advantage because of his/her position in public administration, he/she rejects it and informs his/her superiors.
4. In private life, the employee avoids such activities and behavior that could scale down the public's trust in public administration. He/she must avoid his actions to be a cause for his/her own extortion based on his/her activities that are in conflict with legal or ethical norms.

Article 6.
Abuse of official status

1. The employee does not use advantages, which stem from his/her official status, nor information obtained due to his/her position, for his/her personal benefit. His/her duty is to avoid any conflicts of interest as well as situations that could lead to suspicion of conflict of interest.
2. Unless legally, the employee does not offer, nor provide any advantage that would be in any manner associated with his/her position in public administration.
3. The employee does not knowingly mystify the public or his/her colleagues in the office.
4. The employee treats the information, learned due to his position in public administration, with all necessary confidence and provides it with adequate protection. At the same time, he/she takes into account citizens' rights of access to information as specified by particular laws.

Article 7.
Inadmissible activity notification

1. The employee makes all efforts to assure maximally effective and economical administration and utilization of financial resources, equipment and services that have been entrusted to him/her. In the case that he/she locates loss or detriment of public property or property belonging to territorial self-governed entities, or he/she discovers an act or acts of fraud or corruption, he/she notifies his/her supervisor, respectively authority acting in criminal proceedings.

2. If the employee is asked to act in contrast with legal regulations or in a manner that represents a possibility of abuse of power, stemming from his/her position, he/she refuses to do so and announces such incident to his/her supervisor.

9. Bibliography

- BiH Medium Term Development Strategy (PRSP) 2004-2007, Revised Document, Chapter II.3. Reform of Public Sector: Administration, Statistics, www.eppu.ba
- *Behnke, N.*, A Nolan Committee for the German ethics infrastructure?, *European Journal of Political Research*, Volume 41 Issue 5, August 2002
- Bosnia and Herzegovina, 2005 EC Report, COM (2005) 561 final
- BiH PAR Strategy – Summary, Conference on PAR in BiH, Sarajevo, (22 June 2006)
- *Bossaert, D./Demmke, C.*, Civil Services in the Accession States: New Trends and the Impact of the Integration Process, EIPA, Maastricht (2003)
- Bosnia and Herzegovina, 2005 EC Report, COM (2005) 561 final
- *Bugaric, B.*, The Europeanization of National Administrations in CEE, *in* Legal and Political Responses in Central and Eastern Europe, ed. Sadurski/Ziller/Zurek, European University Institute – Robert Schuman Centre for Advanced Studies (2006)
- Bulgaria, Anti-Corruption and Integrity Framework Assessment, SIGMA (July 2004)
- *Cardona, F.*, Accountability Structures, *Accountable Civil Service*, SIGMA Update, (January 2004)
- Civil Service Training in the Context of Public Administration Reform, Lessons on Best Practices in the Approach to Effective Civil Service Training, UNDP, New York (June 2003)
- Civil Service Reform in Europe, Parliamentary Assembly of the Council of Europe, Report of the Committee on Economic Affairs and Development, Doc. 9711, (19

February 2003), available at
<http://assembly.coe.int/Documents/WorkingDocs/doc03/EDOC9711.htm>

- Copenhagen Criteria and Madrid Criteria of the European Council, http://ec.europa.eu/comm/enlargement/towards_EU_membership/criteria_en.htm
- Ethics in Public Administration – Draft Code of Ethics for Civil Servants/Employees in Public Administration, Draft Code of Ethics for Elected Representatives of Self-governments, <http://www.government.gov.sk>
- European Principles for Public Administration, SIGMA Paper No. 27, Paris, OECD (1998)
- *Fournier, J.*, Governance and European Integration – Reliable Public Administration, in *Preparing Public Administration for the European Administrative Space*, SIGMA Paper No. 23, Paris, OECD (1998)
- *Gilman, Stuart C.*, Ethics Codes and Codes of Conduct as Tools for Promoting an Ethical and Professional Public Service: *Comparative Successes and Lessons*, Prepared for the PREM, the World Bank, Washington, DC (Winter 2005)
- *Grabbe, H.*, How Does Europeanization Affect CEE Governance? Conditionality, Diffusion and Diversity, *Journal of European Public Policy* (2001)
- Governance Perception Survey in BiH, UNDP BiH, CSSC Programme, (May 2003)
- *Kernaghan, K.*, The Ethics Era in Canadian Public Administration, Research paper No.19, Canadian Centre for management Development (June 1996)
- Main Features of an Ethics Framework for the Public Sector, As Proposed by the Dutch Presidency and Adopted by the Directors General Responsible for Public Administration in the Member States and the Institutions of the European Union in their 43rd Meeting in Maastricht (NL), (22 November 2004)
- National Integrity Systems 2004, Bosnia and Herzegovina Country Study Report, Transparency International (2004)

- Observatory on Ethics Codes and Codes of Conduct in OECD Countries, www.oecd.org
- OECD Public Management Policy Brief No. 7: Building Public Trust: Ethics Measures in OECD Countries (September 2000), <http://www.oecd.org/dataoecd/44/24/35061342.pdf>
- OECD (1996), Public Management Occasional Papers No. 14, Ethics in the Public Service: Current Issues and Practices, <http://www.oecd.org/dataoecd/59/24/1898992.pdf>
- *Palidauskaite, J.*, Codes of Conduct for Public Servants in Eastern and Central European Countries: Comparative Perspective, Paper presented at the EGPA Annual Conference, Oeiras (2003)
- Public Management Profiles of Western Balkan Countries, Bosnia and Herzegovina, State Level, OECD/SIGMA (2004)
- Report from the Commission to the Council on the Preparedness of Bosnia and Herzegovina to negotiate a Stabilisation and Association Agreement with the European Union. COM (2003) 692 final
- Review of the Impact of the Civil Service Law in BiH, USAID, Management Systems International, Washington, DC., (March 2004)
- 2006 Transparency International, Corruption Perceptions Index, <http://www.infoplease.com/ipa/A0781359.html>
- Survey: Ethics in the Public Services of the European Union Member States, European Institute of Public Administration (NL), For the 42nd Meeting of the Directors-General of the Public Service of the European Union Member States, Dublin, Ireland, 27-28 May 2004)
- Summary of the Public Administration Reform Strategy (2006) at p. 3, <http://www.parco.gov.ba>

- Functional Review of Public Administration of BiH, Final Report, Office of the PAR Coordinator, Project financed by the EU and implemented by ECO, Sarajevo (2004)
- *Verheijen, T.*, Civil Service Systems in Central and Eastern Europe, Cheltenham, Edward Elgar Publishers (1999)
- *Verheijen, T./Rabrenovic, A.*, Politicians and Top Civil Servants in Former Yugoslav States, Back to Discarded Traditions?, <http://unpan1.un.org/intradoc/groups/public/documents/nispacee/unpan021566.pdf>
- *Whitton, H.*, Implementing Effective Ethics Standards in Government and the Civil Service, Transparency International (2001)
- *Ziller, J.*, EU integration and Civil Service Reform, *in* Preparing Public Administrations for the European Administrative Space, SIGMA paper No. 23, Paris, OECD (1998)

Legislation

- Law on Civil Service in the Institutions of Bosnia and Herzegovina, Official Gazette of BiH, No. 19/02, 35/03, 4/04, 17/04, 26/04, 37/04, 48/05 and 02/06
- Law on the Council of Ministers of BiH, Official Gazette of BiH, No. 30/03, 42/03
- Law on Ministries and Other Bodies of Administration of BiH, Official Gazette of BiH, No. 5/03
- Law on Administration, Official Gazette of BiH, No. 32/02
- Law on Conflict of Interest in Governmental Institutions of Bosnia and Herzegovina, Official Gazette of BiH 16/02
- Rule Book on Disciplinary Responsibility of Civil Servants in the Institutions of BiH, Official Gazette of BiH 20/03

- Decision on Designating Units in BiH Institutions for Implementation of the Law on Civil Service in the Institutions of Bosnia and Herzegovina,
http://www.ads.gov.ba/zakoni/doc/odluka_HRM_jedinice.pdf
- Decision on Establishing Civil Service Agency,
http://www.ads.gov.ba/zakoni/doc/odluka_o_osnivanju_agencije.pdf