Directorate General Democracy

Special Adviser to the Government of Ukraine on Decentralisation

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Opinion[1]

of the Special Adviser to the Government of Ukraine on Decentralisation

on the Draft Concept of Reform and Development of the

National Academy of Public Administration,

2016-2020

[1] This opinion reflects the views of the Special Adviser, based on the Council of Europe Standards and best European practices. It does not constitute an official position of the Council of Europe on the issue under consideration.

Introduction

This opinion was prepared in the framework of the Council of Europe Programme "Decentralisation and territorial consolidation in Ukraine" at the request of the President of the National Academy of Public Administration, Office of the President of Ukraine.

1. International practice

It is universally acknowledged that public[2] servants of a certain level, working both for central government agencies and for local/regional authorities, need to receive specific job-related training. Public administration becomes more and more complex both in terms of its legal aspects and the technicality of its various interventions and training needs can usually not be covered by general education, including at the university level. Of course, schools of political studies offer an advantage in this respect; however, such schools typically offer only initial training for students, have relatively limited practicality and do not ensure life-long training and retraining for public servants.

This is why most countries have developed or have supported the development of a network of training service providers specifically for public servants. Their status and level of co-ordination vary from one country to the other but what remains constant is the fact that in large countries a single training institute cannot fulfil all training needs of all staff working for public authorities at central, regional and local level.

Among large unitary states[3] France has a very co-ordinated system which seems to have substantially influenced the current concept of reform of the National Agency of Public Administration. It will therefore be used as an example in this opinion. The French system is represented by a high-level school for training very senior public servants both in respect of initial and life-long training (Ecole Nationale d'Administration, National School of Administration – ENA), offering both initial training for accessing senior civil service (with only around 90 French and 30 international alumni annually) and retraining for senior servants ("stages") and by a large and decentralized (despite its name) system of training and retraining local government officials: CNFPT (Centre National de la Fonction Publique Territoriale, National Centre of Territorial Public Service). CNFPT has several regional poles and hubs, including the National Institute for Territorial Studies (INET – Institut National des Etudes Territoriales) aimed at the most senior local and regional public servants. Brief information about these two French training institutions which seem to have inspired the concept of reform of NAPA appears in appendix.

[2] The term "public servant" will be used throughout this opinion and it is deemed to cover both staff working for central government (more typically called "civil servants") and for local and regional authorities (more typically called "public servants" or, in Ukraine, "servants of local self-government authorities")

[3] Federal states typically have different systems in different federated entities with very limited or no competences at central level in the field of training public servants so they are less likely to be a very useful source of inspiration for Ukraine.

2. General comments

NAPA is an essential element of the training system for public servants in Ukraine[4] and it is clearly in need of a wide and ambitious reform in order to be able to tackle public administration needs and challenges of the 21st century in Ukraine.

The reform of NAPA is viewed in the framework of the civil service reform envisaged by the Strategy for Sustainable Development "Ukraine-2020". The goals of the NAPA reform are also mentioned in the Strategy of Civil Service Reform 2016-2020: *"improve the quality of professional training, bring education programmes in line with the modern needs of public administration, form pro-Ukrainian public administration elite, which would be guided by the principles of statehood and public administration, lifelong learning, horizontal interaction and cooperation, and provide personal development"*. The Strategy also indicates that the civil servants' training has to be organised in accordance to European requirements and standards and meets the current needs.

NAPA currently offers both full-time ("on campus") training lasting 18 months and remote training, which lasts 30 months. In 2015, NAPA had 2,104 trainees enrolled, following the State Order expressing demands from various institutions (1,165), the National Agency for Public Service (345) and other (594).

Launching the activity on preparation, approval and subsequent implementation of a reform of NAPA is a highly commendable step and the Council of Europe is ready to offer every support it can provide in order to help such endeavour.

The current concept is for the moment very general and, as the NAPA President mentioned during a discussion with the Council of Europe Special Adviser to the Government of Ukraine it is necessary to have substantial discussions about the reform of the Academy and to take the political decision to start the reform with subsequent possibilities to develop more precise particular tasks and plans. This step-by-step approach can only be considered as a prudent and very wise one.

NAPA is situated administratively directly under the Office of the President. There is no intention to change this, although in several countries administrative schools aimed at training civil servants normally depend either on the Prime Minister (like in France) or on a ministry. This should however not raise special concern as far as there is mechanism in place to avoid politisation of the school (in terms of appointments of its managers and teachers) and of access to it (which should be based on merit and qualifications, not political profiles). NAPA should be(come) an autonomous entity, aiming at ensuring training excellence and as free as possible from political influence.

[4] An educational establishment that provides scientific and methodological support to the system of training, re-training, specialization and in-service training of civil servants (Law of Ukraine "On Civil Service", Article 48, Paragraph 3).

3. Specific comments

It appears in the concept that the lines of reform of NAPA are numerous and extremely ambitious. It seems that there should be:

- A think tank to advise the President of Ukraine and to support governmental authorities and local self-government bodies. Such section may be considered as original for what is essentially a training institutions, but there is no fundamental reason to criticize such initiative insofar as it does not become a politicized office but an independent think tank working in the synergy with other divisions;
- An area of activity will be to conduct applied research in topics of interest for public administration. There is clear cross-fertilisation between the training function (and in particular the preparation by trainees of Masters and PhD thesis) and the research function; therefore the creation of such area of work is to be welcomed in particular if the "applied" character is to be ensured, i.e. if the topics of research will genuinely be in line with the most topical needs of Ukrainian public administration. It is however not clear what the relation between this section and the previous one (the think tank aimed at advising the President) will be. Moreover, the concept reads, under this section "…and training of competitive cadres of research". What exactly is meant by this should be further explained; typically a research section does not primarily aim at training "cadres of research" but rather at using already trained researchers (although further practical training may be a by-product of their work).
- An area of activity which would ensure training of the very senior civil servants, including the future prefects; this seems to be very much inspired from the ENA experience and can be welcomed. Middle-level civil service for central, regional and local authorities should also need to be trained, although, after discussion with the NAPA President and in the light of experience of other countries it is likely that the training formats for the very senior level and for the middle level may be separate and different;
- An area of work would consist in initial education (Master's degree level) to the most promising students.

This is indeed a very ambitious and thorough reform of the current NAPA.

Some of the measures proposed can only be commended:

- streamlining the structure of the Academy according the new priorities is a sine-qua-non condition for the success of the reform;
- giving NAPA a legal status "as a participant of research and educational activities in the modernized system…" (our underlining) would likely be very useful;
- conducting training of public servants in coordination with public administration bodies can be helpful in order to ensure the necessary "practice oriented" training curricula;
- having cooperation agreements signed between NAPA and governmental agencies, civil service institutes, alumni organisations and similar establishments in other countries can only be welcomed; the same can be said for the idea of developing certified programmes on the basis of international principles and declining them according to the needs of various types of civil servants.

However, certain paragraphs may raise some questions.

First, the following provision needs to be further discussed: “co-ordinating role of the Academy among other Ukrainian higher educational establishments should be established with respect to quality development and implementation of Master’s programs and PhD programmes specialization 074 Public Administration and Management”. NAPA will be the main training service provider for civil servants (it has to be clarified what it means in the present context); giving it a co-ordinating role for other institutions would make it both player and referee. It is not clear (nor adequately argued) why NAPA should coordinate (what: curricula? Teaching? Admission?) other senior educational institutions which are under the supervision of the Ministry of Education or of an independent body. There is a risk of impacting – inter alia – on the freedom of education which is recognised to Universities across Europe (and validated by Council of Europe’s numerous texts). NAPA could and should have a seat (and voice) in any body, representing all stakeholders and partners, that play a role in the field of higher education, but not “coordinate” them (see next section concerning a comprehensive National Training Strategy).

Second, the provision “Ensure employment of the Academy graduates depending on their studies ratings and internship results” may work (following the ENA model) for the sections where NAPA will have a monopoly of the training (possibly the ENA-style training of the very senior civil servants); in other cases however, the question of the link between graduation ranking and employment should either be left to the market forces or discussed within and decided upon by the body supervising a comprehensive National Training Strategy, with the involvement of other stakeholders like the National Agency of Civil Service and, for local government officials, of the MinRegion. The same can be said of the provision: “Puts appointments to relevant public service positions and level of remuneration, career promotion on those positions into dependence of special education provided by the Academy”. These functions and responsibilities should be left to the body that manages the careers of senior civil servants (National Agency for Civil service, or Ministry of Regional Development) on the basis of clear legislative provisions.

Third, it is very natural that administrative schools offer training which would promote (if not ensure) that the administrative elite is guided by the principle of public good, professionalism, respect, integrity (including public ethics), value for money, sustainability etc. (one could enumerate all 12 European principles of good democratic governance). Putting (twice) as the main guiding principle “patriotism” is likely an influenced of the conflict on the East of Ukraine. While understanding the current situation of Ukraine, we believe that such principle could usefully be replaced by the wider one of “loyalty”.

Last but not least, the funding arrangements included in the Strategy look excessively optimistic: “the governmental authorities, local self-government bodies should annually target not less than 5% of the total payroll funds at funding education, professional development and special training of public servants and local self-government officers”. As an example, in France compulsory training of local and regional staff is done by CNFPT and it is paid from a reserve created by a 1% contribution on the staff payroll.

4. A comprehensive National Training Strategy

Launching the reform of NAPA is a very timely enterprise; however, this will not solve completely the problems of the training system for Ukrainian public servants. Indeed, NAPA may have a very important role in this respect but it is unlikely (and probably undesirable) that it will ever have a monopoly on training of all public servants in Ukraine; in this case, it should also not be the (main) rule-maker of the system.

However, well defining the role and perimeter of NAPA is clearly a good start.

The Council of Europe has launched the preparation (in co-operation with local stakeholders) of a full National Training Strategy, which should be ready before mid-2017. The preparation of such National Training Strategies was ensured by the Centre of Expertise for Local Government Reform, based on its own specialised toolkit, in several Central and Eastern European countries. Such Strategy, inspired and supported by the Centre of Expertise is currently being prepared also in Poland.

A NTS would typically:

- Start from the preparation of a Training Needs Analysis which, via analysis of legislation, questionnaires and in-depth interviews would identify the main training needs
- help the creation of a Platform of stakeholders which would steer regularly the whole NTS; the Platform would take decisions concerning mechanisms of accreditation of training service providers and approval of training programmes; it would also decide to launch regularly (every 2-3 years) new Training Needs Assessments in order to have an up to date picture in this field; the Platform may be supported by a small expert group; typically, in the Platform would be represented the main governmental stakeholders (MinRegion, MinEducation, National Agency for Civil Service…), the main service providers (NAPA) and, for issues concerning the training of local staff, representatives of the associations of local and regional councils;
- establish the main principles for creating a mechanism of coordinating the training offer and make sure that it is effective, it does not duplicate, and is in line with the identified needs (in the form of mechanisms, procedures and regulations for fast accreditation of trainers and fast approval of programmes).

It is hoped that, with the reform of NAPA and the creation of a NTS, the question of training public servants would receive a coherent answer.

Appendix I

French National School of Administration (ENA) (www.ena.fr)

ENA is subordinated directly to the Prime Minister of France.

Every day, about **200 people work at** ENA, whether as part of the teaching staff or in its administrative, technical or support services. However, ENA has a permanent **teaching staff of only 2**, in French as a foreign language and in sports. More than 1,000 other teachers are recruited each year for all of the school's different educational programs, coordinated by the educational directors.

Initial training lasts for two years, out of which one year is dedicated to two on-the-job experiences (stages) and is offered to the best around 90 French and 30 international students. There is a quota for those who are already working as public servants ("internal competition") and for those who have graduated with a Master's degree ("external competition") and a small quota for the most promising people who are neither of the above ("third-way competition").

ENA has **5 divisions**, each headed by a director:

- studies (i.e. the main education programme),
- outside on-the-job training (stages),
- European affairs,
- international relations,
- a general secretariat.

The Board of Directors

Besides student delegates, ENA's Board of Directors, chosen for their competence, includes, among others, members of the National Assembly, the Senate and the European Parliament, reflecting the strong European and international character of the school. The Chairman of the Board of Directors is, ex officio, the Vice-President of the Council of State[5], the nation's highest ranking civil servant.

The chairman and members of the Board are named in a Decree of the Council of Ministers.

National Centre for Territorial Public Service (CNFPT) (www.cnfpt.fr)

The CNFPT provides training and retraining to local and regional government staff. Its decision-making structures are composed in equal number of representatives of employers (local and regional authorities) and of their staff.

CNFPT is very de-concentrated; it is competent all over the French territory thanks to a network of 29 (sub-regional) "delegations", their county-level antennae (there are 101 counties – départements – in France), 18 poles of competences and 5 institutes.

[5] The Council of State is a *sui generis* French high autonomous authority which is both the main legal adviser to the Government and the highest administrative Court

1200 representatives of employers and staff work in the 29 delegations and antennae. To this should be added a network of partner institutes which establish training curricula.

CNFPT is composed of:

- a decision-making Board, which is presided by a local elected representative;
- a national orientation council, which is tasked with assisting the Board on training matters and is presided by a staff representative;
- 29 regional orientation councils which prepare regional training programmes and are presided by a delegate each.

The network of institutes under CNFPT includes the five CNFPT institutes in charge of training the senior civil servants ("cadres"): 4 INSET (Specialised National Institutes for Territorial Studies) in Angers, Dunkerque, Monpellier and Nancy, as well as the INET (National Institute for Territorial Studies) in Strasbourg, which is dedicated to the very senior territorial (local, county and regional level) civil servants ("cadres supérieurs"). The institutes offer initial training for senior territorial public servants. Each of them is specialized in one field of local public action.

Most local and regional public servants are subjected to compulsory training of similar duration:

- 5 days of "inception training" except in case of internal promotion;
- At least 3 days (for C grades) or 5 days (A and B) and a maximum of 10 days in case of first job;
- 2 to 10 days every five years;
- 3 to 10 days in the 6 months after appointment on a managerial position.

Promotion is conditioned by attendance to these compulsory trainings.