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**COMMITTEE ON THE BUDGET AND
THE INTERGOVERNMENTAL WORK PROGRAMME**

**COLLOQUY ON
"CIVIL SERVICE SYSTEMS:
THE EUROPEAN EXPERIENCE"**

Geneva, 26-27 October 1995

Record of proceedings

Thursday 26 October 1995

The Vice-Chairman, Mr Thomas Cox, took the Chair at 9.30 a.m.

The **CHAIRMAN** thanked the Swiss authorities for their kind agreement to host the colloquy organised by the Committee on the Budget and the Intergovernmental Work Programme. He welcomed the presence of Mr F. Couchepin, Chancellor of the Swiss Confederation, which showed the interest taken by Switzerland in the Council of Europe's activities.

He apologised for the absence of Sir Keith Speed, Chairman of the Committee, prevented by ill health from coming to Geneva.

He noted that the committee's task was to assist the Central and Eastern European countries to establish democratic structures, a process in which the civil service naturally had a vital role to play. The committee had therefore set up a sub-committee with special responsibility for studying problems related to the functioning of a European civil service; it had also in 1994 held a colloquy in Portoroz, Slovenia, of which the present colloquy was the direct continuation. Everyone could benefit from these debates, whose conclusions would be subsequently submitted to the Parliamentary Assembly and would lead to recommendations to be communicated to the Committee of Ministers.

Mr Michel SENIMON, *General Secretary of "Europa"*, introduced the debate by saying that it would focus on four key themes: recruitment procedures and admission to the civil service, presented by Professor H  l  ne Pauliat, training systems and methods, presented by Mr Mariano Baena del Alcazar, machinery to ensure civil servants' political neutrality, presented by Professor Ridley, and the continuity of the civil service in the event of political changes, presented by Professor Piquemal.

In October 1993, the "Europa" Association had sent a mission to Romania on behalf of the Parliamentary Assembly of the Council of Europe to verify the relevance of these four themes to countries in the process of transition. The Portoroz colloquy had highlighted the importance of democratising administrative machinery in the former Eastern countries. However, a general movement for reform and re-examination of the civil service had now begun in Western Europe. He wondered whether the reconstruction of the civil service in Central and Eastern European countries might not afford an opportunity for clarification and a way of transcending certain conflicts by promoting the creation of a "new European administrative area".

At different speeds, varying from tranquil reform to a clean break, all European countries today had to answer decisive questions such as the model of society and the type of economy they sought, with the resulting role to be accorded to the state and the place to be assigned to the civil service. It was strikingly obvious that European countries were replying very differently to these questions.

For example, there were two different concepts of a civil service, one emphasising the *employment* aspect and the other the *career* aspect. In the former, the administration was run like a private sector concern: civil servants with specialised qualifications were recruited for a specific job, at a level depending on their task and salary. They had no security of employment and enjoyed no guarantees other than those of private sector employees.

By contrast, the career system emphasised the specific nature of the civil service. Civil servants spent their whole working life in the service of the a public employer (eg the government), and were organised as a statutory body or "corps" within which they were promoted from one grade to the next. They were not specialists, but "generalists" who could be appointed to different posts; their career proceeded according to pre-established rules, with promotion usually by seniority. They enjoyed the protection provided by their status and had security of tenure.

The choice between the two systems had important consequences: states which opted for the employment system sought a civil service which was closer to civil society, while those which preferred the career system established a clearer separation between the general interest and the interests of individuals.

However, no state operated a "pure" system, and mixed systems were the rule. In addition, there was a certain convergence with, in many cases, the career system being ousted by the employment system for reasons of flexibility. Both national and local government services - for in speaking of the civil service one should bear in mind local administrations - had to cope with radical changes. The Central and Eastern European countries were joining Western Europe at a time when the latter was required to open up to the world, and also at a time of recession and unemployment, factors making for social unrest, xenophobia and racism. A new world economic order was now being established in which action by the state and local authorities was being challenged: public expenditure was even regarded in some cases as a brake on the creation of wealth and as both sterile and ineffectual. Market forces influenced local and central authorities, which were guided in reforming and adapting their civil services by principles borrowed from the management culture such as competition, contracts, aims, evaluation and performance. The new creed was flexibility, defined by an OECD report in 1993 as the management of human and financial resources based on the decentralisation of responsibility, the quest for efficiency and adaptation to the rules of the market.

Thus, despite the diversity of their public administrations and historical traditions, the European countries, both in the West and in Central and Eastern Europe, had now made the same choices. The citizen ceased to be an individual subject to an administrative authority and became a user or even a customer; the economy was now a market economy, even where stops were taken to offset the effects of competition by making the state the guarantor of social cohesion; and the civil service was increasingly run on the lines of the employment system.

On all sides recruitment procedures were being made more flexible by recourse to contractual work; promotion by seniority was being challenged; salaries took into account an assessment of performance, merit and productivity. In a word, the concept of flexibility had become the doctrinal justification for the employment system. The most striking example of this change was that of the British civil service, which had switched from one extreme to the other, from the career to the employment system. Here reference could be made to the report by Professor Ridley indicating the eight principles applied by the Conservative government in reforming the civil service at the beginning of the 1980s: fragmentation, competition, individual responsibility, performance assessment, monitoring of results, personnel management in accordance with private sector rules, the economic use of resources and the service to be provided to users. In this way, independent agencies with their own budgets were now responsible for the implementation of political guidelines set down by ministers.

The powers wielded by agency directors over their subordinates were now considerable. Going still further, programmes had been prepared in the United Kingdom for the assessment of public services and competitive tendering had been introduced - in which the services themselves could take part - to determine whether the work they performed could not be carried out at less cost. Thus the public service was now guided solely by economic logic, which was somewhat surprising. However, generally speaking, all the civil services of the Council of Europe member countries were concerned - both central government and local government services - and the question was now being asked whether the status system should be replaced by contractual machinery.

But in practice things were far from simple and clear cut. Even though boosted by the success of the idea of flexibility, the employment system was still very rigid, whereas the career system afforded real possibilities of flexibility provided that the political will existed. This was to be seen in Italy, Denmark and Germany and also the Netherlands. In the Netherlands, it had been decided to recruit in the light of a list of performance criteria but it was found that the resulting work contracts were for indefinite periods and were highly protective of those in salaried posts.

It would be noted that a generalised collective agreement system was not necessarily more flexible than a civil service system, since the protection provided was in some cases more rigid than the most rigorous status system. It was therefore important not to confuse substance with form and not to do away with the civil service on the pretext of modernisation. There must be no more of the facile equation "the employment system = modernity + flexibility". The principle of the specific nature of the civil service merited defence, though this did not mean that openings towards the private sector were to be avoided. It was in fact the harmonious reconciliation of the two principles that would govern the advent of a new European public service area.

The CHAIRMAN thanked Mr Senimon and noted that all democracies, both old established and more recent ones, sought the same objective which was to set up a civil service of integrity which would be safe from political pressure.

Mr François COUCHEPIN, Chancellor of the Swiss Confederation, said that the Swiss civil service comprised nearly 430,000 people of whom 160,000 worked for cantons, 130,000 for municipalities and 140,000 for the Confederation. Their status was not the same since in addition to the federal system, each canton and indeed each municipality had its own special features. However, the very great majority of local authorities aligned their civil service law on that of the Confederation or were mainly guided by it.

After briefly noting the principles which governed the functioning of the Swiss form of participative democracy within which the general administration of the Confederation was required to operate, he said that this general administration comprised in January 1995 19.4% women, 76% German-speaking personnel, 17.2% French-speaking and 4.6% Italian-speaking. Senior civil servants represented 13.7% of the total. The average age was 41.8 years and the staff turnover rate - 4.6% in 1994 - was very low.

The civil service was governed by the Constitution and two major texts, both of which were now being revised: the Civil Service Regulations (*Statut des Fonctionnaires*), going back to 1927, and the law on the organisation of the administration. Federal civil servants came under public law. The Rules were complemented by a number of decrees.

Members of the civil service comprised both civil servants and employees. Their status differed mainly in the duration of their appointment. There were in addition "special cases", namely the general secretaries and heads of information of the seven federal departments, and also the personal staff of the federal councillors and the Chancellor.

As regards access to the civil service in Switzerland, every vacant post was in principle thrown open to public competition in the *Bulletin des places vacantes de la Confédération*, a trilingual weekly publication. Applications could be made by any individual, whether Swiss or foreign, of good morals, who considered that he or she satisfied the post description. For certain jobs, access might depend on other conditions such as the possession of a grade or success in a competitive entrance examination, as was the case for the foreign service. While there was no provision for membership of a political party, this might have a certain influence in some cases. There were no real quotas for minorities or women, but two directives on this subject were regarded as providing encouragement.

The candidate selected might be appointed to begin with as an employee on trial, generally for six months or more, and then as a civil servant for a four-year period. He or she might also be appointed as either a permanent or a temporary employee. Appointment took the form of a decision containing detailed basic information on the work to be performed. All appointees received a job description. There was no right of appeal against an unfavourable decision. Very senior civil servants were appointed by the government. Participants would have noted that unlike other countries, Switzerland had no school of administration from which candidates for senior civil service posts must have graduated.

Civil servants' rights included rights to the basic salary and allowances, an annual "ordinary" increase and an extraordinary increase in the event of promotion, a free working timetable within a set framework, holidays and paid leave, in-service training, various social security benefits and also the right of association - it should be noted that membership of a political party was in no way incompatible with a civil service career -, the right to be paid for an invention, and in certain cases official housing or a uniform.

The civil servant had no absolute right to occupy the post to which he or she had been appointed. The law made provision for a physical transfer or additional responsibilities outside the context of the regular job if "these were required by the service or by the rational use of personnel". The federal court had however modified this rule by specifying that this reservation should figure explicitly in the decision of appointment.

The duties of civil servants, whether formulated positively to describe a particular activity or negatively to prohibit certain behaviour, were all designed to guarantee the smooth functioning of the administration. Positive obligations included those of complying with the job description - this was a management requirement - and the requirement of obedience, tempered in the sense that the law stated that the civil servant should act "reasonably", ie that he or she was not required to act on an order which was manifestly illegal, contradictory or absurd.

The Civil Service Regulations also imposed the obligation of loyalty to the Confederation, accompanied with the duty of reserve in the expression of political opinions.

Strikes and encouragement to strike were prohibited. There was also a ban on accepting gifts, with the exception of what were known as "customary presents" for consumption on the day. For Parliament these positive or negative obligations constituted the counterpart of the rights enjoyed by the civil servant.

While not figuring explicitly in the Civil Service Regulations, the duty of neutrality stemmed from the provisions requiring the civil servant to treat all citizens equally and prohibiting any expression of partisanship.

Civil servants were entitled to the same rights as other citizens, subject to certain limitations: for example they were not allowed to engage in commercial or industrial activities.

Civil servants were accountable on both disciplinary grounds and in criminal law. Disciplinary action designed to ensure the proper functioning of the administration was based on the Regulations and could be undertaken on grounds of desirability or appropriateness. The administrative authorities thus had wide direction. The civil servant was entitled to be heard and could lodge an appeal with the Federal Court. The resignation of the civil servant concerned terminated such proceedings.

Criminal proceedings, which were entirely separate from disciplinary ones, even if concerned with offences committed by the civil servant in connection with his work, were based on the Criminal Code and the Federal Law on accountability; they could only be started after authorisation by the Federal Department of Justice.

Civil responsibility for damage caused to third parties by a civil servant in the performance of his duties lay with the state, which was however entitled to lodge an appeal for recovery of damages in the event of intentional damage or serious negligence.

In theory, civil servants were appointed for four years, but generally speaking and "unless otherwise decided" these appointments were renewed. In other cases, the appointment might be terminated on retirement, or on grounds of invalidity, or by resignation which became effective only when accepted by the authority concerned. "Service records" might also be cancelled by the public administration. Such a decision had to be duly justified and notified in writing to the individual, who had a right to be heard. There was also a disciplinary measure of dismissal in the event of grave and repeated dereliction of duty.

In his view, the civil service system he had just described in broad outline could be regarded as open and democratic. For example, a civil servant might hold elective office, and at present there was a member of Parliament who directed a major federal office. This system also served as a model, since the status of cantonal and municipal civil servants was largely based on it. It enabled the Swiss authorities to recruit civil servants who would prepare their decisions and execute them loyally and competently. However, as in other countries, ways were being studied of how to streamline the civil service and make it more efficient, less costly and more transparent.

The federal government had already considerably reduced the strength of the army, which was due eventually to lose 5,000 jobs, and it sought to reduce the number of civil servants across the board by 5 to 10%. As regards salary policy, the sliding scale (automatic cost-of-living increases) had been abolished and both senior civil servants and ministers had had to accept a 1 to 3% cut in their salaries, which had yielded savings of 12 million Swiss francs a year.

A management control system had been introduced and some offices had been privatised. The Regulations (Statut) of the civil service were also being revised so as to give greater powers to the government as regards salaries, enable it to modulate them and introduce, to a modest extent, merit-related pay. There were also plans to introduce more flexibility in the organisation of the administration by drawing a clearer distinction between policy-making by the government and the management of departments.

However, a people's referendum had been launched against these reforms and there was a great risk that neither the government nor the civil service would be accorded these new powers.

In conclusion, the state could not be assimilated to a private enterprise, and it had its own operational criteria. There was no doubt that staff should be motivated and that the best service should be sought at the lowest cost. But it was also essential to guarantee the independence of civil servants and provide them with the security they needed to fulfil their tasks with due respect for the principles of the civil service, which were linked to the very existence of the state. The state should therefore handle these new concepts cautiously; in any case, they were not all new and not always appropriate.

The **CHAIRMAN** thanked the Chancellor for his very interesting statement and in particular his comments on the referendum. In the United Kingdom, a wealthy businessman had just created a party calling for the holding of a referendum on whether the United Kingdom should belong to the European Union. That gentleman might be well advised to consider the Swiss referendum system.

Recruitment: "Admission to the civil service"

Mrs Hélène PAULIAT (*Professor of Public Law at the University of Limoges*) said that recruitment procedures to the civil service were specially varied, since from one state to another the same words had different connotations. For example the term "civil service" might be taken in one country to mean all personnel having public law status whereas elsewhere certain officials having private law status might be included. Even the idea of a "civil servant" was far from standard, since such officials might be recruited on a permanent or temporary basis or under contract. This tricky comparison was made all the more difficult by the fact that, depending on the state, competitive recruitment took on different forms. However, the six states whose recruitment systems had been specially studied sought, like the others, to reconcile the efficiency of the civil servant with his independence from the state, due account being taken of the extent to which relations with private law were possible.

There were some common principles, for example that of equality of access to the civil service: the terms used were "equality of eligibility" or, more generally, "equality of access". However, the existence of constitutional or administrative texts did not mean that all states necessarily deduced legal consequences from them; thus these texts might do no more than simply beg the question. For example in Germany, equality of access to the civil service was provided for without any express stipulation in the texts that recruitment was on the basis of a competitive examination. Thus the principle remained theoretical, and could not be invoked before a judge. The same was true for Greece. In other countries there were instances of hesitation and hovering between different doctrines.

On the other hand, a number of states systematically recruited by competitive examination. The United Kingdom was the first to pose the principle of the merit system. Although, as was well known, the United Kingdom had no written constitution, the principle of recruitment by merit was implicit, being the culmination of a competitive entry system which had little in common with other systems, such as that in France. Belgium followed similar principles. France recognised the principle of equality of access, from which stemmed the principle of competitive recruitment except for reserved jobs or those filled at the discretion of the government and local authorities. Italy also adopted this principle, which now concerned only a very small number of posts, including the diplomatic service and the judiciary, since the Italian civil service had recently been privatised.

While recruitment procedures were in practice very variable, there was no difficulty in identifying two criteria which were always sought: how to gauge in advance the future efficiency of the applicant, and how to recruit independently of the civil service and of the government. With this in mind, post vacancies were advertised systematically, on a compulsory basis and as widely as possible. This was in some cases verified by monitoring bodies such as the United Kingdom Civil Service Commission or the Belgian Recruitment Secretariat, both bodies responsible for supervising technical procedures for recruitment. Particularly in the United Kingdom, this did not exclude the possibility of parallel recruitment.

Next came the question of verifying the individual and professional abilities of civil service applicants. Here there were two types of control carried out either by independent bodies - in the United Kingdom and Belgium - or by the civil service itself. There were two standing conditions common to all the European Union states: applicants must have regularised their situation as regards national service and be in full enjoyment of their civic rights. As regards nationality, the European Union member countries were required to comply with a decision by the European Court of Justice and, like Switzerland, to open their civil service to foreigners; this presupposed the equivalence of diplomas. In their personal capacity, applicants were expected to be loyal and law-abiding.

Verification of professional ability and efficiency was conducted in various ways. In Germany, applicants had to undergo training even before applying, and only a small number of those trained were entitled to go forward to the final competitive examination. In the United Kingdom the Civil Service Commission defined the conditions and level of recruitment and the appointing body could appoint applicants only from among those approved by the Commission. There was a similar system in Italy where the different recruitment stages led to the establishment by a panel of a list of possible applicants: this left a certain margin for manoeuvre to the appointing body. In France, where the preference was for recruiting "generalists", recruitment was carried out by a panel independent of the appointing body; this body was bound by the panel's choices and the candidate's place in the list, except in the case of local authorities. A curious temporary procedure was the system of computerised selection, without any panel, in force in Greece from 1983 to 1991. As this system, which gave precedence to social criteria over diplomas, had not been entirely satisfactory, it had been replaced.

The Netherlands and Denmark had a very different recruitment system, since they applied procedures comparable to those in the private sector. The recruiting and appointing body was not bound by any general criterion.

Obviously there was thus great diversity in the machinery used to reconcile the principles and ideals of a public service with the more economic rationale of profitability. It was always possible to seek greater flexibility. However, it might well be that the main aim should be to preserve the independence of civil servants from external pressure and make sure that they were competent.

Mr R. VONICA (*Romania*), recalling that the December 1991 Constitution had enshrined Romania's return to the family of modern democratic states, said that a quality civil service was the essential tool of all democracies. The Romanian Parliament had made provision for the state to exercise its authority through various national and local public services which came under the legislative, executive and judicial powers and defined various civil service functions.

Romanian legislation distinguished between decision-making and executive roles, and clearly defined not only the powers and functions of posts and civil servants but also conditions of admission and recruitment procedures.

In particular, in accordance with Article 21 of the Universal Declaration of Human Rights, the Constitution laid down the principle of equal access by all citizens to public office provided they had the necessary aptitude. This rule, which prohibited any form of political, religious, racial or social discrimination, was however subject to exceptions, since in Article 16, paragraph 3 of the Constitution, civil or military public employment was open only to Romanian nationals resident in the country.

While dual citizenship was admitted under Romanian law, public employment and senior offices were open only to citizens having solely Romanian nationality, in order to avoid any conflict of interests. The residence condition had the same purpose.

Equality of the sexes was also a principle recognised by the Constitution, which guaranteed equal access for women and men to the civil service. There were, however, posts, particularly military ones or at senior level, which for customary or other reasons affecting women were only very rarely held by women, who were thus in a situation of inferiority compared with men.

A civil service applicant, in addition to the skills required, must enjoy full civic rights and be of irreproachable morals. The Romanian civil service combined the career and employment systems.

As regards access, under the Constitution appointments might be made either by nomination or by election. While for nomination competitive examinations were the rule, this was not an absolute rule since there were special nomination procedures for the highest posts and civil servants in positions of authority such as prefects.

He then explained the rules governing the holding of a civil service post concurrently with being engaged in political activities. Romania did not yet have a law on the general status of civil servants, but the appropriate Senate committees were now studying a draft law on this subject. The Romanian Parliament was open to dialogue - its representation at this meeting proved this - and that it was seeking the best possible formula which would take into account requirements linked to the existence of the state and the necessary protection of civil servants while also being guided by the experience of other states and the principles of international law.

Mr V. YUZHAKOV (*Russia*) reported on progress in the restructuring of the Russian civil service. In August 1995, the Duma had adopted a framework law on this subject, and six other drafts were being prepared including one on the career system. This was a vast operation undertaken with help from French and German experts and would be based on the broad outlines of a European civil service.

Formerly the civil service had been limited to those employed and paid by government bodies, and did not include the entire public sector, with the post office and railways. The new law enshrined equality between the civil servants of the Russian Federation and those of local authorities. Each citizen had equal access to such posts, with a few restrictions such as, for example, the requirement of Russian nationality for specific posts, and the fact that dual citizenship was not admitted under the Constitution. Each applicant was required to submit an annual declaration of assets and in principle to respect strict political neutrality. This latter rule was not in fact respected since the government had created a party to help it remain in power, which civil servants were obliged to join if they wished to keep their posts.

The new law determined the conditions for admission to the civil service as regards qualifications and ability; professional experience was also taken into account. For certain junior posts, recruitment was conducted without any competitive examination on the decision of the head of the service. By contrast, a competitive examination was compulsory for higher posts.

The law, which also laid down the principle of recruitment by competition and would take effect from 1 January 1996, had considerably increased the accountability of civil servants, since provision was made for their dismissal in cases where they had not properly respected citizens' rights.

Mr M. STRIMITZER (*Austria*) thought that the current reconsideration of civil services in Western Europe was linked to empty government coffers. There was overstaffing, and administration was too costly for states which were having difficulty in meeting many various demands. It would however be putting the cart before the horse to attempt to reform the civil service without first noting that it was growing citizen demand that had caused the number of civil servants to grow. Political parties considered that everything, or almost everything, must be settled by legislative means, and this also resulted in increasing the number of civil servants responsible for implementing newly passed laws. Thus the real question was a political one: whether it was the civil service or the state which must be streamlined.

Having said that, one should not exclude from the outset a possible change in civil service status which would make it easier to dismiss unsatisfactory officials, increase productivity and improve post assessment. One could not, however, put private management and the public service on the same footing, since the public service was the guarantor of the rule of law. For example it would be harmful to be guided by the North American "spoils" system.

Mr REDMOND (*United Kingdom*) noted the need for caution and the safeguarding of structures. He thought it was out of the question to attempt to work out a system which would apply to all European states without distinction. He then referred to the partial privatisation of the civil service that had taken place in the United Kingdom, on which he had divided views. From now onwards, when a parliamentarian asked a question of a minister, it was the director of the service concerned who replied. What was happening was that government responsibilities were being diluted. In addition, there were from time to time allegations of corruption and practices contrary to the public interest. If a civil servant pointed the finger at such a case he did not know what his future would be! Special rules on this subject should therefore be drawn up.

Mr ŠETINC (*Slovenia*) said that the Slovene Government and Parliament were having great difficulty in defining who should recruit and select civil service applicants. The personality of the minister was decisive, since his attitude had repercussions at lower levels. It was difficult to imagine recruitment based solely on diplomas and qualifications, since political considerations were frequently involved. This being the case, how could one avoid the out and out politicisation of the civil service? Slovenia had the special additional problem that it had no school of administration except for police officers.

Mr V. MOÏSSEYENKO (*Ukraine*), a member of the Rada parliamentary committee appointed to prepare new regulations for civil servants in the framework of the new Constitution, said that he was especially concerned at the danger of corruption, which the oft-proposed privatisation of the civil service would not, in his view, necessarily prevent. He thought that all government power, and the civil service as a whole, should be at the service of citizens and that this would be in the interest of the government itself. To achieve this, one should maintain the principle of strictly vertical power: republic, region, district, municipality. This was the only way to avoid the corruption experienced by many states.

He was also interested to have information on the effect on civil service recruitment of the use of several national languages as in Switzerland. Ukraine had not yet succeeded in satisfactorily solving this problem.

The CHAIRMAN invited Mr Couchepin to indicate his thinking on the ideas put forward in the debate.

Mr COUCHEPIN (*Chancellor of the Swiss Confederation*) noted that the questions that had turned up the most frequently were those of equality of access to the civil service and the independence of the civil service.

Mr R. JAGMETTI (*Switzerland*) said in answer to Mr Moïsseyenko that in Switzerland all citizens were entitled to see their files or cases dealt with in the official language they spoke, be it German, Italian or French. A civil servant must be able to express himself in that language. It should be noted that in fact the Confederation was made up of relatively homogeneous cantons from the language point of view and that in Geneva a French-speaking citizen would deal with French-speaking authorities, while in Zurich a German-speaking citizen would deal with German-speakers. The question arose only at the federal level, for example for the Federal Court, which gave its judgements in the language of the parties. Thus at cantonal level it was not necessary for a civil servant to speak all three languages.

Mr A. THEIS (*Luxembourg*) asked whether there was an age-limit in France for entry to the civil service. To his knowledge the limit in Switzerland was 35 years, except for certain jobs where special professional experience was required.

Mrs H. PAULIAT said that a distinction should be drawn between external examinations for direct recruitment to the civil service and in-service competition for promotion within the service. For external examinations the age-limit was usually 27 years but might be much higher depending on family responsibilities and military service. Special provisions applied to women with several children and widows. For internal examinations the age-limit was rather that of a minimum age, since the applicant was required to have been in the service for a certain time to be admissible.

The sitting was adjourned at 12.35 p.m.

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The Vice-Chairman of the committee, Mrs Özver, took the Chair at 3 p.m.

Mr Marcel PIQUEMAL, *President of the Scientific Bureau of the European Meetings of Civil Services*, concluded the morning's debate by noting that great progress had been made since the Portoroz colloquy. It had been said that the colloquy was meeting not to settle the problems of civil servants but to find out how to serve the public. This was true. However, politicians had a duty to consider how the civil service should operate in a state governed by the rule of law. All speakers had noted the difference between a civil service and private institutions, which was a difference in kind but did not on that account mean that there could be no correspondence between the two of them. Moreover in all states the relations between the civil service and the economic situation were becoming increasingly closer and more obvious. While the historical development of each nation was different, in an era of continents, and with due respect for preserving separate national identities, European countries could no longer take refuge in isolationism but aspired to converging aims. The suggestion by the Scientific Bureau of the European Meetings of Civil Services that the Council of Europe should draw up sponsorship covenants was precisely aimed at highlighting possible convergences while respecting the traditions of all states.

Training: 'What training should public officials receive?'

Mr Mariano BAENA DEL ALCAZAR (*Judge at the Spanish Supreme Court*) discussed the training of civil servants in Western Europe. In most Central and Eastern European countries the political neutrality of the civil service remained to be achieved. Parliaments should therefore adopt a position on the various possible options available in the very diverse existing situations. The officials mainly concerned at this colloquy were those who worked in government departments, and by analogy, for local government. The officials of the police and the judiciary, the armed services and parliamentary assemblies were special cases.

One should begin by distinguishing between initial training provided immediately after recruitment from in-service training designed to update skills and techniques. The main aim of initial training was to socialise the official by making him aware that he belonged to a community, that he should observe political neutrality and identify with the state for which he worked. A distinction should also be drawn between the training of senior officials - those who worked with politicians in decision-making - from those of their more junior colleagues.

From the outset there were two major models, the French model based on the Ecole Nationale d'Administration (ENA) and the British model which laid great importance on university training. Initial training predominated in France, which operated the career system, and in-service training in the United Kingdom, which operated the employment system. One should however avoid any oversimplification, since in both countries, as elsewhere, courses were held at universities for civil servants and schools of administration provided in-service training. Thus the greatest differences were not to be found here, but in the fact that in France ENA graduates were destined to serve in four major corps. In Germany, the training system combined universities with the civil service training school. Spain had set up a major school exclusively for "generalists". Italy had developed many university courses and also had many research centres on administration. Many countries made no provision for initial training but provided facilities for in-service training, though those programmes were not necessarily attended by all civil servants.

There were thus three major systems: predominance of initial training; predominance of in-service training; specialised university courses for in-service training.

Initial training aimed at creating an élite group to assist politicians and the government in preparing the political decisions required for legislation. In-service training, originating from the practice of large private firms and large American departments, had spread to all European countries during the last 25 years. University programmes on general or specialised public administration could be introduced to train highly specialised technicians but not, as already noted, a group with a strong spirit of public service which would respect strict political neutrality.

Going into detail, there were differences in school systems, in-service training systems and the content of university courses. The best known example of a school system was that of the French Ecole Nationale d'Administration.

There were, however, disadvantages in this type of system, which in France was very closely linked to the Parisian upper middle class. This had been shown by the objections raised against the transfer of the school to Strasbourg. It provided admittedly diversified training for very young people, chosen after a very rigorous selection procedure. These young people had, for better or worse, an "esprit de corps", which explained why they were both admired and criticised. They identified with the state to the extent that they sometimes blocked necessary changes which would be facilitated by the employment system. Making one single high-level school responsible for training élite civil servants presupposed an efficient education system.

In Germany, the Speyer school concluded agreements with the Federal state and the *Länder* and its training laid great importance on public law. In Italy, it was administration research institutes which had gradually formed the managerial ranks of the civil service. Spain had set up a major school for "generalists" to inject new life into an ageing and hidebound administration.

It was possible to have several major schools, with each government corps, such as diplomacy or finance, recruiting and training its own staff. Generally speaking, all civil services should comprise specialists and generalists whose function would be to work with politicians. What was important was that these senior civil servants should be able subsequently to receive in-service training at their school or university which would make them agents of change. In addition to academic training, possible formulae were practical training courses and perhaps even an opening to administrative law.

Mr M. SENIMON said that in listening to Mrs Pauliat and Mr Baena del Alcazar, he had noted shared causes of concern in the recruitment procedures to different European civil services - impartial recruitment, equality of access for all, the need for in-service training to supplement high-level initial training, at university or in a major school - but there was also the major alternative facing the Central and Eastern European countries today: the employment or the career system. It was central to the discussion at this colloquy to see whether it was possible, despite this basic divergence, to define a common policy for the civil service in Europe.

He had already said that today, on grounds of flexibility, the general aim was to modernise the civil service and reduce its size. But one should beware of throwing out the baby with the bathwater! Liberal modernisation must not mean questioning the constituent components of the ethic of public service, provision free of charge, neutrality, continuity and specificity.

At all events it was clear that the choices to be made by the countries in transition would have a decisive influence on the new European administrative area which was now emerging, and that the aim of this colloquy was to throw light on these choices.

Mr O. LAVRYNOVYCH (*Ukraine*) said that for a new democracy the civil service question was a crucial one. In Ukraine, civil servants first completed a traditional university course and then attended a two-year course at an Academy which prepared them for work in a government department or local authority. The aim was to train them to exercise their functions in a spirit of political neutrality. Unfortunately, Ukraine was experiencing the effects of the Soviet heritage, and it was difficult to create a new society when those who were nostalgic for a totalitarian state rejected both independence and democracy.

Mr ŠETINC (*Slovenia*) wondered how an efficient civil service could be set up in a radically changing society in which Parliament was rushing through laws which the administration barely had time to assimilate. For example, the law on landed property and the privatisation of state enterprises had given rise to a great number of legal disputes and appeals, so that the work of lawyers was becoming very lucrative. The number of Slovene lawyers had risen from 500 to 1400. In this way, the civil service was losing its members to the private sector and judges were becoming lawyers. How could continuity be ensured in a country of 2 million inhabitants with only limited resources?

The authorities were faced with a dilemma: whether to provide on-the-spot training in ministries or to use existing university institutions to train their new civil servants. This was a matter for reflection by parliamentarians, who did not think sufficiently of the consequences of their votes for the work of government departments.

Slovenia and Switzerland had co-operated in an attempt to find a practical answer to this problem which would be presented to the colloquy on Friday.

In the same way as every patient sought the best doctor, those who desired a first-class state should seek to build up a first-class civil service.

Mr V. MOÏSSEYENKO (*Ukraine*) said that the Ukrainian civil service training system comprised the National Civil Service Academy set up by decree of the President of the Republic, which had four regional branches; university courses, including evening classes, and on-the-spot training courses. There was also an in-service training Institute for regional and local government. Industrial regions such as the Donbass had schools for the further training of civil servants. The system in force in Ukraine for the training of managers went back to the heritage left by the Ukrainian Communist Party which had set up both a Social Science Academy and a higher Communist Party school. It was, moreover, the illegal confiscation of the Party's assets and the taking into account of local situations that had enabled Ukraine today to solve the problem of training managerial civil servants.

Mr V. YUZHAKOV (*Russia*) said that the Russian Federation was unable to choose between the French and the British model and that the question discussed for the last three years was still whether it was preferable to create the equivalent of the French ENA or to opt for university training. Russia had at present a mixed system. Specific programmes for civil service applicants had been drawn up and were provided in regional civil service academies, also known as "management centres". The Moscow Central Academy, which trained university graduates for the civil service, corresponded roughly to ENA, and also to some extent resembled French regional training schools. However, the regional academies also provided in-service training for municipal officials, which was all the more necessary in that their initial training had in many cases been solely technical. These courses, which could be attended without the officials having to leave their posts, were also open to university students. At the end of the current academic year, nearly 2,000 young people would have acquired basic training for central and local government service. After competitive examinations and internal promotion, they would become the senior civil servants at the beginning of the twenty-first century.

Not the least problem was that of ensuring the quality of instruction; this meant training trainers. To that end, the Russian Federation was engaged in useful co-operation with many Western European countries, including Germany and France, and with European Union institutions. He hoped that the colloquy would give further stimulus to such co-operation. But there was a question of how to organise competitive examinations both for pre-service training and for the appointment of civil servants. The French method appeared very complicated, and the question was still how to succeed in appointing competent independent civil servants.

Mr J.-P. BERGER (*Switzerland*) said that centralised standard initial training for civil servants would be inconceivable in Switzerland, a country of great cultural and language diversity in which all kinds of training, in the same way as all cultural matters, were governed by cantons and not the central government, with the exception of the two higher technical colleges. Harmonised courses existed in the eight - shortly to be nine - Swiss universities, which with the two higher national technical colleges provided technical training for civil servants. However, emphasis was laid to a greater extent on in-service training.

Mr M. SENIMON said that the rapid pace of change in countries such as Slovenia made urgent choices necessary. The statement by Mr Yuzhakov suggested that in a transitional period the career system would have the advantage of a formal recognition of change. Thus it might be advisable to help the new democracies to define standards before concluding sponsorship covenants on management. It was in fact difficult to train trainers for selection tests or the assessment of skills without knowing exactly what was sought. At a time when legislation was proliferating, legal assistance would make it possible to cut out dead wood and see things in perspective. Methods must be modernised, but this did not mean altering priorities at the very time when the Western democracies themselves were no longer sure of their choices.

Mr M. PIQUEMAL noted that Mr Berger had highlighted the basic link between each country's institutional structures, civil service and civil service training. In other words, even if common components were defined, each type of training should retain national components. He thought that the distinction drawn between schools of administration and universities was somewhat artificial, since the two forms of training were frequently associated. He warned against a proliferation of schools as was at present taking place in France, which he thought might have dangerous consequences.

He noted the dangers in fragmenting the civil service and thought that Mr Baena del Alcazar, who had for long been director of the Spanish National Civil Service Institute - the Spanish equivalent of ENA - would agree with him. What was needed was a single civil service with strong traditions which would recruit well-trained staff. It did not matter whether they were trained in a college or a university, provided that their training was not too remote from reality. Legal training should precede management training. Surely it was not normal that in France there were members of the *Conseil d'Etat*, the highest administrative jurisdiction, who had never had the slightest legal training. Only a sound corps of officials with real legal training could decide on administrative policies to implement political decisions. Where the civil service was weakened, it was democracy itself which suffered, and he would not like to see one day the Central and Eastern European countries in the enfeebled situation of the French civil service today.

Mr M. BAENA DEL ALCAZAR noted that paradoxically, the question of training was primarily a commitment for the future, since it concerned training tomorrow's civil servants, whereas in the Central and Eastern European countries, changes were being rushed through to meet urgent demands. Since the political system had changed, the administrative culture must be changed, and this was never easy. Speaking as a lawyer who had spent much of his life under a dictatorship, he thought that what was needed was a radical change, a cultural shock or break, and this went far beyond the practicalities of recruitment examinations.

Rights and duties: "Civil servants' political neutrality"

Mr Frederick RIDLEY, *Professor at Liverpool University, Vice-Chairman of EUROPA*, while agreeing that civil servants must first be concerned with efficiency, noted that their political neutrality was a question answered very differently depending on the country and historical traditions. Should the civil service be entirely at the disposition of democratically elected politicians, or could it regard itself as an independent institution? Should civil servants be entitled to exercise their political rights like other citizens, and to what extent?

At all events, in a country such as the United Kingdom, it was the government elected by majority vote and accountable to Parliament which alone had true democratic legitimacy; the civil service was in the service of the government and citizens and did not constitute an independent entity with its own values.

It could be asked whether politicians should play a part in appointing civil servants, as had been the case in communist and fascist regimes. The answer must be negative; those who recruited must be neutral. It had, however, been noted that it was very difficult to avoid official or unofficial political influence in appointments and promotions, particularly at the higher levels.

Thus the real question was to determine whether senior civil servants should be independent career officials or be appointed for political reasons. Only two countries, the United Kingdom and Ireland, considered that independence was necessary at all levels. In all other countries, ministers had a certain discretionary power to appoint very senior officials. It was true that arguments could be advanced on both sides. It was understandable that those who sought to implement a particular policy wished to surround themselves with staff sharing their convictions. But this meant encouraging the politicisation of the civil service at all levels, since ambitious young entrants were tempted to join the party which they considered had the greatest chance of winning.

In the United Kingdom, senior civil servants were permanent officials whose political views were not known, even by the ministers with whom they had very close working relations. The overriding rule was that they were prohibited from making any political statements. Obviously, career planning was thus made much easier. In addition, such a system ensured the continuity of public service, reduced the risks of corruption and guaranteed the professional security of officials whose career would not depend on meeting the right politician at the right time.

However, a doubt remained: could a permanent official genuinely contribute to elaborating a policy with which he disagreed? Again, what was meant exactly by "civil servants' neutrality"? Some people took it to mean that officials should advise all ministers of whatever political persuasion in a neutral way. But in the United Kingdom much more was expected of them: not only detailed advice but also total identification with the democratically chosen government, whatever its political views, which should manifest itself by an equal degree of enthusiasm and commitment.

As noted, British tradition prohibited civil servants from ever expressing a political opinion in public, and more generally from speaking on any controversial question - the siting of a new road, the organisation of secondary school examinations, etc. There were twofold consequences: any civil servant could work with any minister, and civil servants did not enjoy some of the rights accorded for example to their French counterparts. If they wished to stand for Parliament they must resign; this was not the case in many countries where many parliamentarians were civil servants seconded or on leave without pay, whose promotion was not affected even when they no longer went near their original department, and some of whom accumulated pension rights. Elsewhere the rights of British civil servants were the same as those of other subjects of the Crown, though they were expected to show a degree of reserve and abstain from criticising the government.

Thus the question was what limits should be set to the activities of civil servants, and at what stage might a particular activity affect their neutrality. How could one ensure the loyalty of civil service personnel? Might not an individual find himself in fact in a state of schizophrenia if, as an official during the day, he was then free in the evening to write incendiary letters to his favourite paper on the policy of the government he was supposed to serve? What was the role of the civil service in a political system? What should be its professional code of ethics?

In the United Kingdom, things were very simple: the civil servant was the faithful servant of a democratically chosen government. Legitimacy lay only with Parliament and the government: civil servants should never forget that they had not been elected. In other countries, such as France or Germany, the civil service was seen as an independent force ensuring the "continuity of government" and which, as a mediator between the government and society, guaranteed "respect for the public interest". The question was how objectively to define these notions. Expressing his doubts as to this conception of public service, he said that he was fully aware that this was a political problem, since in effect it meant defining democracy, stating whether the civil service was a "counter-force" and whom civil servants should represent. What was important was the value system underlying their behaviour: did civil servants feel accountable to their government, did they consider it their duty to defend national interest and the law? Did they regard themselves primarily as technicians? Shakespeare spoke of two hearts beating in one bosom. In this case, several loyalties were possible. It was for each country to decide what suited it best, since there were many answers and no universally valid recipe. The definition of the civil service was an ethical question. Thus before preparing a law on this subject, one must decide who was to be the master of these civil servants, without whom democratisation was impossible.

Mrs Z. JANOWSKA (*Poland*) said that these very interesting comments on the British system could guide Poland, where a draft law on the civil service, submitted for the first time in 1990, had been rejected by several successive governments. The result of these repeated rejections was that serious problems remained. Civil servants' neutrality was an unfamiliar concept in Poland: posts were awarded on political recommendation, formerly that of the communist party and today that of the majority party. In five years, following six elections, there had been six waves of evictions from ministries and departments involving thousands of people who when appointed had frequently been politically experienced but had mediocre practical skills, who were thus forced to leave their posts just when they were beginning to understand what was expected of them. Once fairly ample compensation had been paid, the whole process began again. She therefore hoped that Poland would eventually acquire an appropriate law based on the principle of civil servants' political neutrality and making provision in each ministry for a director-general and permanent staff who alone could guarantee stability. In addition, the qualifications of civil servants should be much higher than was generally the case today.

Civil servants should be recruited only if they had proved their professional knowledge and abilities. They should be neutral, loyal, impartial, with a feeling for team work and a concern for the general interest. In addition to their salaries they were entitled to in-service training, regular promotion and a pension. They belonged to a corps divided into different categories. Lastly, they should respect the greatest political neutrality and refrain from expressing their political opinions in public.

She was convinced that civil servants' political neutrality was possible in Poland as in other Central and Eastern European countries, though it had not yet become a habit.

Mr M. PIQUEMAL said that the United Kingdom and Poland were two diametrically opposed examples. Certain attitudes which appeared normal and natural in a country which was one of the oldest modern democracies were not to be taken for granted in countries with a different history. In Poland, it had been and was necessary to be recommended to become a civil servant. It was certainly difficult to ask the civil servants of countries which had only recently acceded to democracy to adopt the mentality of British civil servants.

He thought that a lesson to be learned from this colloquy, as from the last one, was that there was no unique model of political neutrality, only different systems which reflected a certain state of democracy and were signs of trends. One should not expect of European states with troubled histories the perfection of the age-old British democracy. It was enough to lay down a rule of impartiality, without requiring the absolute neutrality of civil servants which would make them asexual citizens. It was possible to hope that civil servants would be sufficiently aware of their duties to refrain from expressing their political opinions when they were in the service of a state and a democratically elected government.

Mr V. NEDELCIUC (*Moldova*) was interested in what Professor Ridley had said and hoped for the early and thorough democratisation of Moldova. The civil service would have to be overhauled and mentalities changed so as to prevent civil servants falling into the trap of authoritarianism. At present, civil servants trained under the former communist system did not even speak the language of the majority of people in Moldova. Moldova therefore needed help from the Council of Europe. He considered that the Council of Europe should inform itself about all the legislative and administrative processes taking place in each country, for example by way of hearings. Was there any reason why the Parliamentary Assembly should not devote a special session to this question so as to adopt a document which would serve as a standard for all?

Mr V. CHORNOVIL (*Ukraine*) had also paid great attention to Professor Ridley and fully appreciated the British rule of the civil servant's absolute neutrality. However, he did not believe that 100% neutrality was either possible or desirable in the former communist countries. As noted by Mrs Janowska, Poland had had six governments since the fall of the communist regime and senior civil servants had changed. In Ukraine since the declaration of sovereignty in 1990, there had been six successive governments but the civil servants appointed during the Brezhnev period were still there and these were pure products of communist party schools and the Communist Academy! When a society changed and a new economic system was established, a new government should constitute a new team of senior officials, even if subordinate officials were entitled to remain. The former managers should give way... So far Ukraine had not yet followed the example of Poland and the Baltic countries.

It was true that the present electoral law was based on the Soviet model and that the members of Parliament were not all elected. Nearly 65% of Ukrainian deputies now professed to be of "no party", like the government; in other words, they were former communist executives. However, a new electoral law was in preparation and there was a consensus that all parties should be better represented.

He willingly agreed that civil servants should not be too politically committed. In his time as a journalist, he could not have a column of his own because he was not a Communist Party member, and he had spent 15 years in Soviet camps as a dissident. Thus a certain degree of impartiality was necessary. However, he thought it desirable for government ministers to be able to choose their collaborators. Why should one seek at all costs a standard colourless society?

He noted that his communist colleague was much interested in the Swiss experience of multilingualism. However, as an eminent Swiss parliamentarian had said, cantons were homogeneous from the language point of view. Ukraine was a single ethnic state which had retained its identity and language despite annexation by the empire of the Tsars, Soviet colonisation and the famine of 1932-1933 which had killed 7 million people. Ukraine existed, and was composed of citizens the very great majority of whom spoke their own language, Ukrainian. Who wanted to speak Russian in the industrial Donbass?

He wondered how meaningful political neutrality could be for civil servants who flouted legislation concerning the official language of their country.

Mr M. STRIMITZER (*Austria*) noted that this absorbing debate had at least the merit of showing that political neutrality was not a cure-all. It was impossible to deny a civil servant the right to his own view of the world and to siding with a party. He could not be expected to identify totally with a government or a politician. He might, however, be required to identify with existing legislation and the laws he was responsible for applying whatever his personal opinion. As very rightly said by Mr Piquemal, he must prove his loyalty.

Moreover, as was the case in Austria, under positive law a civil servant could not be required to carry out an order from his superiors which was manifestly illegal.

But, Professor Ridley had been right in stressing that neutrality should preside over recruitment. The only admissible restriction would be the case of individuals who wished to enter the civil service while contesting the existence of the state and having no intention of defending democracy. Professor Ridley had in fact displayed the different facets of the problem without claiming to offer a universal solution.

Mr R.P. VONICA (*Romania*) said that being a civil servant and belonging to a political party were incompatible, the aim being to guarantee the separation of powers. Civil servants were expected to employ all their skills in the public service. Any official elected to Parliament had to take leave from the service. A draft law prepared by the appropriate Romanian services in collaboration with the

Council of Europe and in consultation with French, British, Italian and Greek experts - whom he wished to thank on behalf of the Romanian Parliament - would introduce the rule of civil servants' neutrality, make it incumbent on them to work with any democratically elected government and require them to maintain reserve, so as to prevent civil servants taking any part in political decision-making.

Mr LAVRYNOVICH (*Ukraine*) noted that political neutrality had different connotations for established democracies and countries in the course of democratisation. A civil service law had been promulgated in Ukraine three years ago, but obstacles still remained. The question to be asked was whether the civil servant should serve society or the government. In Ukraine, unfortunately, he served his political party, as could be only too easily seen in regions which had another official language or state symbol than that of the country. Civil servants of nations being democratised must succeed in combining professionalism and political impartiality. Here the collaboration of Ukraine with the Council of Europe was specially important.

Mr V. MOÏSSEYENKO (*Ukraine*) thought that civil servants' political independence was a pipe dream. It would be schizophrenic to claim that one had given up one's convictions on entry into the civil service.

Mr F. RIDLEY thought that it was wrong to say of the British system that it could not be transposed elsewhere on the grounds that it could only be applied to an old democracy. The proof was that this model had been adopted by India, Nigeria, a large number of countries much less developed than some of the countries represented at this colloquy, and also by Quebec, a Canadian province which, as everyone knew, was French-speaking. In conclusion, he repeated his plea that civil servants should identify fully with the policy of the democratically elected government to which they were responsible.

The sitting was adjourned at 6.15 p.m.

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Friday, 27 October 1995

Mr R. Alexander, Vice-Chairman of the committee, took the Chair at 9.15 a.m.

Mr M. SENIMON, *General Secretary of 'EUROPA'*, summed up the debates on Thursday by noting that the different European civil services combined in varying degrees the career system and the employment system. However, it had been noted that there were convergence factors such as deregulation, the widespread introduction of employment at the expense of careers, the overriding power of the concept of flexibility, protests against public expenditure and the attraction of the management culture. Convergence was emerging either by slow change or by abrupt breaks.

However, as at the Portoroz colloquy, it was clear that the employment system had rigid features and that the career system offered possibilities of a more flexible management of human resources.

Also to be noted was the fact that even if the civil service was increasingly confronted with market forces in certain functions, there was an ethic of public service which deserved to be defended.

Chancellor Couchevin had said that the Swiss Government intended to reduce the size of the civil service and gain better control of salary policy while at the same time more clearly separating political tasks from management. He had also said that this project evoked reactions expressed in the form of a demand for a people's referendum.

Mrs Pauliat had described the rich variety of recruitment procedures (competitive examination with written papers or on qualifications, interviews, as in the private sector, and even criteria other than solely personal qualifications) and she had noted that equality of access was less a question of legislation than of political will. Mr Baena del Alcazar had studied alternative forms of initial training by means of a major school, a university and in-service training. Professor Ridley had contrasted two options, the British one which emphasised strict political neutrality and brought the civil service nearer to civil society and citizens, and that which made the civil service an independent instrument of the government with its own values. All speakers had however recognised the need for the civil service to have a strong identity.

Speakers from Central and Eastern Europe had highlighted the pace of change in their countries, a "speeding up of history" which made it difficult to make a considered choice between different options. When everything was changing at high speed, it was difficult to view things in the necessary perspective.

He thought however that a standard-setting civil service, that is to say one based on clear rules and regulations, was a necessary stage in translating the reality of change and giving a legal framework to subsequent modernisation. In his view, reform should be in two stages: the elaboration of a new legal structure and even a new ethic, which would be a preliminary to a modernisation of methods on current lines.

Whatever the case might be, he noted that there was a strong demand for assistance in legislating, an approach already adopted by the Council of Europe in providing multilateral or bilateral assistance to the new members from Central and Eastern Europe.

Continuity of the civil service

Mr Marcel PIQUEMAL, who had agreed at short notice to replace the Italian Rapporteur who had been prevented from attending, noted that the idea of the continuity of power was to be found in all democratic states, including the United Kingdom, and that the continuity of the civil service, which was one expression of this, was a democratic duty. Whatever its methods, the civil service should translate the policies of the state into the everyday life of all citizens.

This meant, to reply to some of the questions raised, that the civil service was not independent of the government and that the democratically elected government should be in a position to pass on the expression of the people's will by way of its administrative services.

Secondly, a public service presupposed the existence of specific rules. No one could consider the state as an entrepreneur dealing in goods or services like any other entrepreneur. The state must always take the overall view which laid on the civil service the duty of continually acting in the interest of all citizens. However, over and above a common core, the expression of continuity was obviously linked to specific national features which all parliaments should reflect in laws concerning the civil service.

But this did not make things easy. In France, the number of independent government departments had been increased at short notice from 10 to 34, which, in his view - and he was a convinced supporter of decentralisation - resulted in breaking down the continuity of the public service and of the civil service itself. One could hardly consider it satisfactory for a government to be obliged to go on bended knees to a central bank to ask it to reduce its rates at a time when a reduction was vital for the pursuit of the policy proposed by the government.

There could be no democratic progress without public officials invested with specific rights enabling them precisely to devote themselves fully to administration. It was not possible to accept the specious argument that the prerogatives of office amounted to advantages, whereas the fact was that these were duties laid on civil servants, accompanied by rights enabling them to ensure the continuity of the service. It was thus normal that the same rules should apply to all civil servants and that the career pattern should be the same for all. At the end of a day spent in local government, a civil servant was entitled to lead a normal life in the same way as parliamentarians. Thus the rights in question concerned solely the best way of serving the state, and this was their underlying basis. It was true that there might subsequently be an understanding between the government and civil service unions, and this might not be for the best... As regards the granting of union rights to civil servants, this was a matter for the sovereign appreciation of each state, not simply a question of administrative logic.

In conclusion, he hoped that the continuity of the public service and ways of guaranteeing it would be the basic components of this study, leading, in all countries where this was still necessary to legislation of laws concerning the organisation of the civil service.

Mr M. SEPP (*Estonia*) said that the Estonian Parliament hoped to structure a new society in which the efficiency of civil servants would be matched by the respect and trust due to them as representatives of the interests of the state. But after decades of another kind of regime, neither respect nor trust had yet been gained, and to restore them it was vital to ensure the continuity of the public service. A new civil service law had been prepared to that end. This gave civil servants the official status of state officials, laid down the conditions for recruitment, pay, promotion, length of service and dismissal, and also dealt with their training.

Mr A. VANGELOV (*Former Yugoslav Republic of Macedonia*) said that his country sought to establish an efficient civil service subject to the control of the electors. He noted briefly that immediately on acquiring independence, the Former Yugoslav Republic of Macedonia had begun to apply for membership of various European bodies. This was coming up against difficulties in view of the policies of certain neighbouring countries and the inconsistent attitude of both the European Union and the rest of the international community, notwithstanding all the efforts made by his country on behalf of peace. He would not dwell on these questions with which all were familiar.

The Former Yugoslav Republic of Macedonia was in the same situation as all Central and Eastern European countries: it was weighed down by an overstuffed, authoritarian administration which was all-powerful and unattackable. During the communist period, it had been divided into three branches, the state administration, the parallel structures of self-management and above them, in charge of all, the Communist Party, of which one had to be a member to become a civil servant. No aspect of social life was free from its control. A powerful bureaucracy is absolutely necessary in a totalitarian state.

The present leadership had tried to neutralise and cut down this sprawling administration and also put an end to the single-party system. The organs of state had been entirely overhauled; the parallel self-management structures had been abolished. But in addition to reducing staff by a third, the aim had been to change mentalities so as to instal a civil service of a more reasonable size, less costly and more democratic. The citizen was no longer to be regarded as a mere object for manipulation.

The question was whether this meant transferring or dismissing all those who had played a role under the previous regime. Such a radical and spectacular purge would have been dangerous; it would have paralysed the working of government and impaired the very substance of administration, at considerable social cost. It had been considered more reasonable to ask those who remained in the service to respect the rules and the new spirit.

Mr L. TOTO (*Albania*) thought that Albania, which after many years of totalitarian dictatorship was now engaged in a long process of democratic reconstruction, had much to gain from the experience of other countries which could be adapted to its own conditions. The government was at present seeking to establish a new more democratic civil service; it was preparing a number of texts changing administrative structures, in particular the functioning of the judiciary, and it was drawing up two sets of regulations, one for senior civil servants in the permanent employment of the state or local authorities and the other, based on the Labour Code, for ordinary civil servants.

As regards top-ranking civil servants, a three-member committee would be made responsible for preparing appointments and monitoring respect for guarantees. Its members would be chosen respectively by Parliament, the Government and the Court of Justice. It was important for a new democracy such as Albania to put an end to corruption and abuse of power.

Mr R. VONICA (*Romania*) considered that continuity was a key characteristic of the civil service; it was the expression of a power which could not be exercised intermittently and for this reason a strike by civil servants which would interrupt the public service was prohibited. Where a conflict arose between the interests of individuals or categories and the general interest, it was the general interest which should prevail.

As regards acquired rights, he noted that security of employment and the other rights accorded to civil servants under the previous regime were maintained. However, where the rules defining a specific public service were modified, or if that service were abolished or substantially reduced, neither civil servants nor users could invoke their acquired rights or the regulations in force.

Mr M. PIQUEMAL thought it useful to note that in international law civil servants' acquired rights were in principle maintained in the event of a change of political regime. However, the new authorities had to specify to what extent these rights were effectively taken into account. For example, they might rule that an official of the former regime with 30 years service would be entitled to have ten or twenty years' service taken into account for his pension.

For example, in France, at the Liberation, the value of the rights acquired by civil servants had been examined case by case. For this review, three criteria had been adopted: participation in the former political system, the nature of the functions fulfilled and the individual's behaviour in private life, in particular a pro-Vichy attitude. However, this evaluation was not sanctioned by law but remained on a case-law basis.

Mr RIDLEY noted that the idea of the continuity of the public service had again given rise to fine speech on the supposed values of the civil service and its "ethic", as if everyone had forgotten the image of a totalitarian bureaucracy. The fact was that when there was a change from a dictatorship to a democracy, it was also necessary to change the civil service and bring it closer to civil society, taking it out of the hands of those who had previously been in charge.

Who could argue that in his professional life a civil servant was necessarily more honest, scrupulous and efficient than a doctor, an accountant or an engineer in the private sector? In his view, a structure responsible for catering for the unemployed, such as the French ANPE, should employ only people who had known themselves what unemployment was. In many countries, civil servants continued to apply the law automatically and blindly, treating citizens as mere objects, without any personal knowledge of the situations with which they were dealing. He concluded by stressing that he was not taking the United Kingdom as an example. The British lesson could be applied everywhere.

Mr M. STRIMITZER (*Austria*) thought it useful to note that civil servants' right to strike was still regulated in Western European countries, but that the same question was solved in different ways. In certain countries such as Germany, civil servants theoretically did not have the right to strike and this prohibition had been confirmed by the Wiesbaden Court. In Austria, on the other hand, they had such a right, which was even explicitly recognised in the Austrian Constitution.

Mr V. MOÏSSEYENKO (*Ukraine*) noted that due to the transition, the number of civil servants in Ukraine had increased two and a half times, since the new economic conditions called for additional controls at local authority level in the fiscal and financial fields. However, the central administration did not work as it should. As had been said the previous day, civil servants were too dependent on the "fourth estate", that is to say the press, and even a fifth estate, in other words a mafia, which was becoming increasingly powerful in Ukraine. In the Donetsk the transition was marked by negative processes.

He would have liked to learn from this colloquy how it was possible to combat corruption and mafioso trends in a country in transition, but he had to admit that he had not gained satisfaction. Yet even in 1995, 72 business leaders had been assassinated in the Donetsk. Recently, a bomb had exploded at a football match. Ukraine was still far from being a democracy.

One was forced to recognise that these negative phenomena had not existed when the country had had a communist regime. Having worked in the Soviet civil service, he had been able to see this negative trend at first hand, and he could not share the optimism of his Estonian, Romanian and Macedonian colleagues.

Mr A. VANGELOV (*Former Yugoslav Republic of Macedonia*) said that he had not expressed optimism, but had indicated the path he thought it preferable to follow.

The **CHAIRMAN** thought that it was useful for countries which had well-established democratic systems and countries in transition to compare their experiences.

The session was adjourned at 10.30 a.m. and resumed at 11 a.m.

An example of co-operation:

The sponsorship agreement between Switzerland and Slovenia

Mr R.M. SANER (*Director of the Centre for Socio-Economic Development (Geneva)*), Chief Adviser of the Co-operation Project, and **Mr G. TRPIN** (*Slovenia*), National Director of the Co-operation Project, gave a presentation with slides of the sponsorship agreement between Switzerland and Slovenia devised on the one hand to develop Slovenia's ability to modernise its civil service and on the other to improve the efficiency of its senior civil servants.

The immediate objective of the project, officially launched in Ljubljana on 1 September 1995, was to facilitate the creation and development of two central government units which were the Organisation and Management (O&M) Unit and the Training and Management Development (T&D) Unit. The mid-term objective was to support the continuous functioning of these two units.

The method chosen was to train trainers. Forty-two Slovenian civil servants had been recruited to take part in a set of theoretical and practical activities in three phases. During the Basic Programme Phase, the trainees would acquire basic management and administrative knowledge and skills. For the Intermediate Programme Phase, they would visit Switzerland to study organisation and management and training and development systems of federal bodies, both cantonal and communal, public and private. The group would then be divided into two separate learning teams, one on O&M and the other on T&D, which would follow their own learning tracks during the Specific Programme Phase. Participants at the colloquy would find details of the proposed programme - comprising workshops rather than lectures - in the document distributed to them.

Implementation of the project had involved refurbishing the Ljubljana training school premises. The trainees, who were seconded from the civil service, continued to draw their salaries throughout the programme. The project was taking place under the auspices of a National Council with representatives of the various ministries concerned and two teachers. On the Swiss side, the team comprised advisers, university teachers and experts.

The trainees chosen came from the Ministries of Agriculture, Culture, Education and the Interior. They included a large number of barristers and lawyers and a high proportion of economists. Their ages ranged approximately from 25 to 35 years, thus reflecting the concern of the project's promoters to ensure continuity and introduce an efficient working tool.

As regards assessment of the project's success, this depended on the commitment by the Slovene Government, which had agreed to mobilise resources and second staff. The aim was a transfer of applied skills which should in the long run have an impact on the entire administrative system. At the present time there was no other example of a partnership between two different civil services.

The project would also at the same time be integrated with other projects such as the reform of Slovenian institutions and the reorganisation of the administration, and should promote Slovenia's participation in the European Union PHARE programme.

To do this it would be necessary to improve the structure and functioning of public services, the judicial system and local authorities, by means in particular of the continuing training of officials.

Mr F. RIDLEY asked a simple question: why had the speakers not stated the qualifications of those providing this training?

Mr R.M. SANER said that he had wished to avoid presenting the project on too commercial lines. Training was given by teachers from Switzerland, Asia and America, in all 40 experts.

Mr F. RIDLEY asked particularly whether these experts had practical experience.

Mr R.M. SANER said that teaching was provided by teachers of administrative management, for example from the London School of Economics, and also by Slovenian university teachers.

Mr G. TRPIN added that on the Slovenian side, care had been taken to ensure that teaching was adapted to national conditions.

Mr M. SENIMON wondered what place the project would give to consideration of civil service in Europe, especially since teachers from America and Asia were involved. The colloquy had shown the importance of, for example, the career/employment alternative. If Slovenia wished to join the European Union it would be advisable for it to consider in the first instance European experience and problems.

Mr G. TRPIN said that the project was very clearly part of the approach to joining the Union.

Mr R.M. SANER said that he did not wish to start a debate on the most efficient form of civil service. Each country had its method and it was for Slovenia to adapt foreign experience, whether European, American or Asian, to its special situation. It was conceivable that in this way Slovenia might be able to bypass the aforementioned alternative. Slovenia was, at it were, a laboratory which was testing formulae for the future.

Mr G. TRPIN noted that Slovenia was a country in transition which was considering the model to be followed. At all events, it was much interested in the Danish system.

MP. VERMEULEN, speaking as a consultant in administrative organisation, thought that the methods followed by the project were entirely traditional, but regretted that the cultural problem had been set aside. It was agreeable to review management theories, but the most difficult question arose at the end: where did the citizen-user come in? The legitimate concern for administrative efficiency and the search for savings should not obscure the ultimate aim, which was to meet citizens' expectations. He therefore warned the Slovenian Government that the hardest part was still ahead.

Mr G. TRPIN recognised that it was not easy to solve cultural problems. However, the training provided under the project was comprehensive. As regards the aim of the administrative reorganisation, it was clear: to increase the efficiency of the civil service so as to serve citizens better.

Mr JÄGER thought that the success of the project depended to a great extent on the quality and receptivity of the 42 young officials concerned. Just how had they been recruited? Was there not a risk that older civil servants in Slovenia who had not had the advantage of this modern training would look askance at these young officials and feel jealous of them? The Council of Europe had noted such reactions in certain Central and East European countries, for the reason that young trainees had not been chosen entirely on merit.

He also asked whether Switzerland had already launched other bilateral projects of this kind.

Mr G. TRPIN said that selection was made by means of a widely open public competitive examination. There were certain age limits and required diplomas, and interviews and language tests had been held. Jealousy was perhaps a thing which was inevitable.

Mr R.M. SANER said that the project's organisers had been aware of the difficulties noted by Mr Jäger, and for that reason information about it had been widely circulated in the various ministries.

Selection had been made by a joint panel and those responsible for the project had contacted the candidates' superiors to make sure that they would be free throughout the duration of the training programme.

Mr GAUTSCHI, of the Bern Bureau de Co-opération avec l'Europe de l'Est, said that in Bern the same government department contained the divisions dealing with humanitarian aid and co-operation with the countries of both the East and the South. As regards co-operation, Swiss activities had always been slanted towards education. It was undeniable that each franc invested in training produced a better return than in other sectors. Projects similar to that just presented had already been inaugurated with Swiss aid in Latin America and in Asia, particularly China. Thus this was not an entire novelty and the experience acquired showed the usefulness of the approach adopted.

Mr HAMILTON (*United Nations Economic Commission for Europe*) noted that the establishment of an efficient civil service in the countries in transition was one of the key components of change. Were there any plans under this project to abolish irrelevant legislation and seek to open up the civil service?

Mr G. TRPIN said that while this was not directly related to the subject under discussion, privatisation of one part of the Slovenian public service was under discussion but that, for the time being, there was a firm dividing line between the public and the private sectors. For example the deregulation of the national electricity grid would be conducted with the greatest caution, and would take into consideration the experience of other countries such as France and the United Kingdom, which, as was well known, was not always the same.

Mr M. ŠETINC (*Slovenia*) noted that the regulations current in Slovenia might in certain cases impair efficiency. Did the project envisage changing the regulations?

Mr G. TRPIN said that the programme aimed at giving trainees the skills which would enable them to introduce the necessary changes.

Mr R.M. SANER said that recommendations could be made on these lines to the Slovenian Government and Parliament which would discuss them if they so desired. One must beware of putting the civil servants thus trained in the situation of outsiders within their own administration.

Mr M. PIQUEMAL asked what people thought of civil servants and ministers in Slovenia: were they regarded, respectively, as workers and entrepreneurs? On another subject, might European lawyers be called on to take part in any possible overhaul of the regulations?

Mr G. TRPIN said that civil services varied greatly throughout the world. In Slovenia, the newly established system was still finding its way, and public enterprises were regulated on British lines. Slovenian civil servants were not regarded as "workers", any more than ministers, who were responsible for regulation, were seen as "entrepreneurs". Assistance from European lawyers was welcome, as witness the preparation, with the assistance of French and German lawyers, of the draft law on energy supply. Fruitful co-operation was now under way with Denmark and the Netherlands, countries comparable in size to Slovenia.

The CHAIRMAN thanked Mr Saner and Mr Trpin for their very stimulating statements.

Mr M. PIQUEMAL said that, having taken part in the Portoroz colloquy, he could see how the debate had progressed. The great number of speakers showed eloquently not only the interest taken in the project but also parliamentarians' awareness of the importance of the civil service in the democratisation process. As a pillar of state, the civil service must feel itself protected by the political authorities. During the debate, a balance had been struck between the statement of major principles and recognition that there were different shades in their application. It had been firmly noted that access to the civil service should be based on objective, not political criteria, and that each official should pursue his career. One should now go further and try to construct a common base. Gradual convergences of view were emerging which held out hopes for common solutions which would take account of the diversity of states. He hoped that the conclusions of the colloquy would be brought to the knowledge of the Parliamentary Assembly of the Council of Europe and if possible the Committee of Ministers.

The CHAIRMAN noted that the meeting had concluded its work. He thanked the experts, rapporteur and all speakers who had taken part in the debates. The aim of the colloquy had been in the first place to help the emerging democracies to train an efficient civil service. It was his dearest wish that this aim had been achieved and that the ideas, opinions, comments, exchanges of experience and projects presented might have a positive fallout.

He was glad to note that the discussion had been much richer and more spontaneous than in Portoroz. These two working days had produced a consensus on the need to base the European civil service on democratic principles, in particular the separation of powers, which guaranteed its independence and impartiality. It was essential that civil servants should be independent from the government and work in a legal framework which determined their rights and duties.

It was true that each country had its own economic and social system, its own cultural traditions and also special difficulties which had to be taken into account. The colloquy had revealed a problem specific to the civil service in a number of countries in transition, where the best-trained officials, for example judges, were now setting up private firms.

With his usual frankness, Professor Ridley had said that there was no ready-made answer, but that the civil service should serve democratic governments; this raised the tricky question of the recruitment of senior civil servants and the limits that might be set to their political activities. The question of political neutrality had been central to the colloquy, but Mr Alexander, as rapporteur of the Committee on the Budget and the Intergovernmental Work Programme of the Council of Europe, hoped that all the themes dealt with at this interesting colloquy would be debated at a forthcoming meeting of the Parliamentary Assembly.

The session ended at 12.35 p.m.