PRESIDENCY OF THE GOVERNMENT

CDL-UD(2017)021
Or. Engl.

EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW (VENICE COMMISSION)

in co-operation with

THE PRESIDENCY OF THE GOVERNMENT OF TUNISIA

Regional seminar for senior public officials
UniDem Med

" PERFORMANCE, MERIT AND EQUALITY IN THE CIVIL SERVICE "

Hotel Dar el Marsa
La Marsa, Tunisia

27 - 30 March 2017

TOWARDS A NEW PUBLIC MANAGEMENT ? NEW CHALLENGES AND NEW MISSIONS FOR THE CIVIL SERVICE

by

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TOWARDS A NEW PUBLIC MANAGEMENT?

NEW CHALLENGES AND NEW MISSIONS FOR THE CIVIL SERVICE

How to respond to new challenges and the need for efficiency without comprising public service values?

Dear participants!

1. Introduction

My task today is to try to set the scene for this seminar with an introductory speech. There are national standards – expressed as political programs or in the legislation – for good governance in a broader sense (with efficiency under the budgetary and other restraints on economy, technical support and personnel) and for good public administration (with public service and legal values etc.) in different countries. All countries need to develop such standards of their own.

But there are, as we all know, also international documents and control mechanisms for the protection and development of rule of law and human rights. I will not dwell of the important role of the United Nations here. I just want to mention it as a starting point. I am also aware of the Arab world having its Arab Charter of Human Rights.

Here my task is to add some of the European perspectives and some practical experiences.

The Council of Europe is the institution from which the important European convention on human rights stems. This is a piece of hard law for the member countries with its court ECHR in Strasbourg with an important case law and the control-mechanisms of the Council of Europe.

The Council of Europe and the Venice Commission for democracy through law are also contributing with several recommendations and opinions stating overarching values and setting principles and standards on different aspects for a democratic and law of rule abiding member state. Among the member states are Algeria, Morocco and Tunisia. The Palestinian National Authority has special status within the commission.

Such documents could be regarded as soft law for the member states. These documents are relevant also for the national public administration within the member states. These documents are safeguarding and remind the member states of the pre-eminence of the culture of human rights and the rule of law as the founding principles for the public service and how they must be implemented in the day-to-day work within the public administration.

But they could also serve as an inspiration for other countries than member countries in their reforming of public administration. These documents could serve as inspiration and toolboxes when more general reform-policies or are under preparation or in action or under evaluation as well as when a more specific administrative program or policy is developed, under scrutiny or being audited.

I will start by listing four documents:

1. The European convention for the protection of human rights and fundamental freedoms 1950.
2. Recommendation 1617(2003) of the Parliamentary Assembly of the Council of Europe on civil service reform in Europe
3. Recommendation CM/Rec (2007)7 of the Committee of Ministers to member states on good administration
4. European Commission for democracy through law (Venice Commission): The Rule of Law Checklist, CDL-AD(2016)007 in English and also in Arabic.

In the following I will start with a couple of words on the notions civil service reform, good

governance and good administration. Then I will turn to the checklist. The checklist is the most recent document with an overall perspective. It is relevant not only for legislators and courts but also for civil servants and public administration. It deals with human rights issues and also specific areas such as corruption and data surveillance.

I will close my presentation sharing some experiences from my native country Sweden and the other Scandinavian countries in the northern Europe. The ombudsman is a well-known concept and there are some other issues worth mentioning when considering civil service reforms.

2. A general statement on civil service reforms

The Parliamentary Assembly of the Council of Europe has worked on the issue of reforming civil service. In its Recommendation from 2003 it has recognized that high-quality civil service is a vital precondition for strong democracy and the rule of law among the member states. It is vital to engage on reforms to modernise and streamline public administrations to give citizens easier access to information, eliminating obsolete or inefficient services, and introducing effective and clear administrative procedures that define the boundaries of unlawful behaviour and ensure compliance with principles of ethics. The states should devolve wherever possible administrative responsibilities to local authorities so as to bring public institutions closer to citizens and to streamline organisational structures. It is necessary to develop, where necessary, a clearer demarcation between the political sphere and public administration, for the purpose of ensuring the independence of national public officials and defining better their tasks and responsibilities. In view of the unique role and contribution of public administrations to social cohesion and employment, the states are encouraged to consider carefully all possible consequences before introducing new, private sector-oriented management methods. The recommendation also stresses the need for professional training of officials.

3. On good governance

In a certain document, *Stocktaking on the notions of "good governance" and "good administration"*, CDL-AD(2011)009, the Venice Commission makes a difference between these two concepts.

Good governance is a broader concept. It is an indeterminate term used to describe how public institutions conduct public affairs and manage public resources. Governance is "the process of decision-making and the process by which decisions are implemented (or not implemented)" on national, regional or local level. It is a model often used when comparing or evaluating especially by different international institutions (UN, the IMF, the World Bank etc.). There are a lot of different diverging views on this notion. The Venice Commission concludes in the just mentioned document:

> 66. As the use of the notion "good governance" at the international and the national level shows, the exact content of this notion remains, at least in some elements, vague and there is only consensus on a definition concerning some key elements, such as transparency and accountability. Even among the bodies of the Council of Europe, there is a different understanding of the concept of "good governance".
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> 67. While the concept of good governance was first used in legal documents by the World Bank at the end of the 1990s and was in that context largely inspired by economic considerations, it has since been borrowed by a range of other international organisations, which have included new elements in it. It is, however, striking that good governance has almost never been used in domestic legal orders, be it the constitutional or legislative level or even in case-law. This bears witness to its non legal-nature and to the fact that it was originally aimed at monitoring from outside, i.e. without a direct involvement of those concerned in the country.
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69. Accountability, transparency and participation are the most frequently mentioned elements, but they seem to have different meanings according to the context in which they are used.

70. There appears to be no consensus on the question whether good governance is a means to achieve a certain aim, for example the protection of human rights, or whether it is an end in itself. This is closely related to the question as to whether good governance encompasses democracy, the rule of law or the protection of human rights or whether it has a separate existence.

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76. In view of the foregoing, the Venice Commission considers that the concept of good governance can offer some guidance especially for States in a transition process provided it is not used to weaken key requirements in terms of democracy, rule of law and human rights. In that sense, good governance can only exist in societies where democratic institutions and processes including transparency and accountability prevail, and where the authorities respect and comply with the full range of human rights. The lack of consensus of the exact content of the concept of good governance including within the Council of Europe, combined with its non-legal nature and quasi-absence at the domestic level, makes it however difficult to turn it into a workable principle.

But the Council of Europe has also presented a simple tool on good governance that seems me to be useful also for internal use, for reforming public administration under the usual fiscal or budgetary restrictions within your own domestic legal order. I refer to a Council of Europe document presenting 12 principles for good governance at local level, with tools for implementation. Added to each principle are some bullet-points and useful further references to different tools for self-assessment or benchmarking. See http://www.coe.int/t/dgap/localdemocracy/Strategy_Innovation/12principles_en.asp

These principles are:

1. Fair conduct of elections, representation and participation
2. Responsiveness
3. Efficiency and effectiveness
4. Openness and transparency
5. Rule of law
6. Ethical conduct and competence and capacity
8. Innovation and openness to change
9. Sustainability and long-term orientation
10. Sound financial management
11. Human rights, cultural diversity and social cohesion
12. Accountability

These principles sum up necessary public values. The very general and a bit vague notion good governance is here presented at least as a useful frame for a first checklist.

Quality of government is another notion used. Among research-institutes studying the problem of corruption within the public service the QoG Institute could be mentioned. This is an independent research institute within the Department of Political Science at the University of Gothenburg. The institute conducts and promotes research on the causes, consequences and nature of Good Governance and the Quality of Government (QoG) - that is, trustworthy, reliable, impartial, uncorrupted and competent government institutions. The main objective of the research is to address the theoretical and empirical problem of how political institutions of high quality can be created and maintained. A second objective is to study the effects of Quality of Government on a number of policy areas, such as health, the environment, social policy, and poverty. We approach these problems from a variety of different theoretical and methodological angles. See http://qog.pol.gu.se/

4. Good administration

The main document from the Council of Europe on good administration is the recommendation from 2007. Here the Council sums up its earlier work on this issue.
The fundamental principles are listed as in the already mentioned documents so also here the notion good administration is used in a broad sense. The starting-point for these recommendations is:

How to promote good administration ensuring efficiency, effectiveness and value for money within the principles of the rule of law and democracy? The requirements are to following. Member states must

> - ensure that objectives are set and performance indicators are devised in order to monitor and measure, on a regular basis, the achievement of these objectives by the administration and its public officials;
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> - compel public authorities to regularly check, within the remit of the law, whether their services are provided at an appropriate cost and whether they shall be replaced or withdrawn;
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> - compel the administration to seek the best means to obtain the best results;
>
> - conduct appropriate internal and external monitoring of the administration and the action of its public officials;
>
> – promote the right to good administration in the interests of all, by adopting, as appropriate, the standards set out in the model code appended to this recommendation, assuring their effective
> implementation by the officials of member states and doing whatever may be permissible within the constitutional and legal structure of the state to ensure that regional and local governments adopt the same standards.

The Venice Commission argues in its earlier mentioned document on Stocktaking for a more limited notion on "good administration" and states the following:

> 65. In contrast with good governance, good administration is a concept which is far more used at the national level. Admittedly, only one State has explicitly enshrined good administration in its Constitution. The requirements of a right to good administration, however, stem from the fundamental principles of the rule of law, such as those of lawfulness, equality, impartiality, proportionality, legal certainty, taking action within a reasonable time limit, participation, respect for privacy and transparency. Today, these principles are already reflected in the constitutions of nearly all European States, which means that interpreting them in combination with each other point to a general requirement of good administration. Consequently, a right to good administration has been recognised in many states by legislation, the judiciary and the legal doctrine. Indeed national case-law frequently deals with alleged violations of the right to good administration as such or, at least, of the various procedural rights which compose it, even those states which have not formally acknowledged a right to good administration.
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> 71. As regards "good administration", this term seems to refer to some of the rights enshrined in Article 6 of the European Convention on Human Rights. Some of the elements mentioned are, for example:
> - impartiality
> - fairness
> - termination of proceedings within a reasonable time

- legal certainty
- proportionality, non-discrimination
- right to be heard
- effectiveness
- efficiency

72. Good administration, however, goes beyond the scope of article 6 ECHR in many respects, including in terms of infrastructure and attitudes. States must in particular meet certain requirements with respect to organisation, which should cater for the needs of the public. This cannot always be translated into legal terms as it should lead to material adjustments ensuring the proximity and accessibility of administrative offices. For example, their location and opening hours are easier to perceive as signs of good administration than are legislative and regulatory provisions. Also, ensuring that civil servants perform their asks both in the general interest and in the interests of the persons with whom they are dealing, is essential for good administration, which makes the training of civil servants indispensable.

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74. Good administration is recognised as a legal principle and even as a right in many contexts. The right to good administration should, however, not be seen as an enforceable right itself since it needs to be specified in a set of rights and obligations that are more concrete. It is only these that have the character of individual rights that every person may claim from the administration.

75. Good administration implies that procedural mechanisms are as important as outcomes: they are themselves an integral part of the right to good administration. How the administration acts is inseparable from the substance of the action itself. The right to good administration therefore includes both basic principles and procedural guarantees. Its legal nature notwithstanding, good administration also requires measures to (re)organise the administration, to encourage certain behaviours and to facilitate the training of civil servants.

To sum up: for the Venice Commission the concept of good administration includes both basic legal principles and procedural guarantees. It also requires measures to organise the administration, to encourage certain behaviours and to facilitate the training of civil servants.

Is the list exhaustive? You could always discuss it. In my personal view I would like to add to the list in para. 71 two principles of general importance: The principle of transparency and the principle of respect for privacy.

5. The Rule of Law Check List

The most recent contribution by the Venice Commission is the Rule of law Checklist. Since this document also is available in Arabic we will focus especially on it here today.

A rule of law checklist will naturally deal with how the three branches (legislative, executive and judiciary) respect each other's and fulfil their obligations towards the citizens. When the public administration makes decisions affecting civil rights of the single citizen the judiciary has an important role to upheld a correct implementation of the law. Accountability of the civil servant concerned and control against misuse of power are here also important tasks to be uphold by the Judiciary and the auditing authorities. This means that the checklist is relevant for all public entities and its representatives of a nation. The rule of law is not just for the Judiciary it must encompass and engage all the three branches of government! Even if the checklist has the members states as primary addressees it also has the ambition to give a worldwide contribution to the improvement of the application of the rule of law. It should therefore be mentioned that the third part of the booklet contains selected standards (hard law and soft law) from all around the world both in general and on the different components of the rule of law.

The document gives a thorough presentation of the notion rule of law with references to several international documents. The analysis of the Commission concludes:

> The Venice Commission analysed the definitions proposed by various authors coming from different systems of law and State organisation, as well as diverse legal cultures. The Commission considered that the notion of the Rule of Law requires a system of certain and foreseeable law, where everyone has the right to be treated by all decision-makers with dignity, equality and rationality and in accordance with the laws, and to have the opportunity to challenge decisions before independent and impartial courts through fair procedures. The Commission warned against the risks of a purely formalistic concept of the Rule of Law, merely requiring that any action of a public official be authorised by law. "Rule by Law", or "Rule by the Law", or even "Law by Rules" are distorted interpretations of the Rule of Law.

The checklist provides a tool for assessing the rule of law in a given country from the viewpoint of its constitutional and legal structures, the legislation in force and the existing case-law. Also the proper implementation of the law must be taken into consideration. It is also underlined that the rule of law can only be fully realised in an environment that protects human rights. The link between rule of law and democracy is also of importance:

> The Rule of Law is linked not only to human rights but also to democracy, *i.e.* to the third basic value of the Council of Europe. Democracy relates to the involvement of the people in the decision-making process in a society; human rights seek to protect individuals from arbitrary and excessive interferences with their freedoms and liberties and to secure human dignity; the Rule of Law focuses on limiting and independently reviewing the exercise of public powers. The Rule of Law promotes democracy by establishing accountability of those wielding public power and by safeguarding human rights, which protect minorities against arbitrary majority rules.

The rule of law has a common core valid everywhere. But:

> This, however, does not mean that its implementation has to be identical regardless of the concrete juridical, historical, political, social or geographical context. While the main components or "ingredients" of the Rule of Law are constant, the specific manner in which they are realised may differ from one country to another depending on the local context; in particular on the constitutional order and traditions of the country concerned. This context may also determine the relative weight of each of the components.

The Venice Commission concludes the introduction of the benchmarks in the list:

> The contextual elements of the Rule of Law are not limited to legal factors. The presence (or absence) of a shared political and legal culture within a society, and the relationship between that culture and the legal order help to determine to what extent and at what level of concreteness the various elements of the Rule of Law have to be explicitly expressed in written law. Thus, for instance, national traditions in the area of dispute settlement and conflict resolution will have an impact upon the concrete guarantees of fair trial offered in a country. It is important that in every State a robust political and legal culture supports particular Rule of Law mechanisms and procedures, which should be constantly checked, adapted and improved.
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> The Rule of Law can only flourish in a country whose inhabitants feel collectively responsible for the implementation of the concept, making it an integral part of their own legal, political and social culture.

The headlines and benchmarks in the checklist are the following:

Legality
Is supremacy of the law recognised?
Do public authorities act on the basis of, and in accordance with standing law?
Does the domestic legal system ensure that the State abide by its binding obligations under international law?
Is the supremacy of the legislature ensured?
Is the process for enacting law transparent, accountable, inclusive and democratic?
Are exceptions in emergency situations provided for by law?
What measures are taken to ensure that public authorities effectively implement the law?
Are private actors in charge of public tasks accountable under the rule of law?

Legal certainty
Are laws accessible?
Are court decisions accessible?
Are effects of laws foreseeable?
Are laws stable and consistent?
Is respect for the principle of legitimate expectations ensured?
Is retroactivity of legislation prohibited?
Do the nullum crimen sine lege and nulla poena sine lege (no crime, no penalty without a law) principle apply?
Is respect for res judicata ensured?

Prevention of abuse (misuse) of power
Are there legal safeguards against arbitrariness and abuse of power (détournement de pouvoir) by public authorities?

Equality before the law and non-discrimination
Is respect for the principle of non-discrimination ensured?
Is equality in law guaranteed?
Is equality before the law guarantied?

Access to justice
Are there sufficient constitutional and legal guarantees of judicial independence?
Are there sufficient constitutional and legal guarantees for the independence of individual judges?
Are there specific constitutional and legal rules providing for the impartiality of the judiciary?
Is sufficient autonomy of the prosecution service ensured?
Are independence and impartiality of the Bar ensured?
Do individuals have an effective access to courts?
Is the presumption of innocence guaranteed?

The checklist also contains two useful examples of particular challenges to the rule of law:
1. corruption and conflict of interest and
2. collection of data and surveillance.

Let us look at one of the principles and thereby illustrate how the issues are further built up in the checklist. I will choose one of them of great importance for the legitimacy within the society: Prevention of abuse (misuse) of power. You see the heading, the main checkpoint, the scheme with a list of questions followed by some short commentaries. Footnotes with further information are also provided:

Prevention of abuse (misuse) of powers[50]

[50] Protection against arbitrariness was mentioned by the European Court of Human Rights in a number of cases. In addition to those quoted in the next note, see *e.g. Husayn (Abu Zubaydah) v. Poland*, 7511/13, 24 July 2014, § 521ff; *Hassan v. the United Kingdom,* 29750/09, 16 September 2014, § 106; *Georgia v. Russia (I)*, 13255/07, 3 July 2014, § 182ff (Article 5 ECHR); *Ivinović v. Croatia*, 13006/13, 18 September 2014, § 40 (Article 8 ECHR). For the Court of Justice of the European Union, see *e.g.* ECJ, 46/87 and 227/88, *Hoechst v. Commission*, 21 September 1989, § 19; T-402/13, *Orange v. European Commission*, 25 November 2014, § 89. On the limits of discretionary powers, see Appendix to Recommendation of the

Are there legal safeguards against arbitrariness and abuse of power (*détournement de pouvoir*) by public authorities?

> i. If yes, what is the legal source of this guarantee (Constitution, statutory law, case-law)?
> ii. Are there clear legal restrictions to discretionary power, in particular when exercised by the executive in administrative action?[51]
> iii. Are there mechanisms to prevent, correct and sanction abuse of discretionary powers (*détournement de pouvoir*)? When discretionary power is given to officials, is there judicial review of the exercise of such power?
> iv. Are public authorities required to provide adequate reasons for their decisions, in particular when they affect the rights of individuals? Is the failure to state reasons a valid ground for challenging such decisions in courts?

– An exercise of power that leads to substantively unfair, unreasonable, irrational or oppressive decisions violates the Rule of Law.

– It is contrary to the Rule of Law for executive discretion to be unfettered power. Consequently, the law must indicate the scope of any such discretion, to protect against arbitrariness.

– Abuse of discretionary power should be controlled by judicial or other independent review. Available remedies should be clear and easily accessible.

– Access to an ombudsperson or another form of non-contentious jurisdiction may also be appropriate.

– The obligation to give reasons should also apply to administrative decisions.[52]

This ends my citation from the checklist. We may look on other parts of the list and select parts of use for the further discussion today.

6. From the core values to the implementation in practice

So here I have highlighted the link between the Venice Commission activities on the values of rule of law and democracy and the need to have these values in mind when developing new roles, tasks and missions of the civil service. But these core values should not be regarded as just a theoretical superstructure.

How should these fundamental principles of civil service be fed in, protected and nurtured in practice? They are highly relevant in all parts of the whole chain from general reforms of the public administration on central, regional or local level and also when you have to deal with reforming of a certain branch or a more limited part or element of the public service. You must not only have the aims and end-results in mind, but also the means and tools to get there. You do not only need financial and technical resources and a skilled personnel but also the legal instruments regulating the purposes, the rights and obligations and the procedures. You need to address both the citizens, the single client and the responsible civil servant when you decide on the provisions and on the practical procedures, the uses of computerized services, general information, the forms etc.

Committee of Ministers on good administration, CM/Rec(2007)7, Article 2.4 ("Principle of lawfulness"): "[Public authorities] shall exercise their powers only if the established facts and the applicable law entitle them to do so and solely for the purpose for which they have been conferred".

[51] CM(2008)170, The Council of Europe and the Rule of Law, § 46; ECtHR *Malone*, 8691/79, 2 August 1984, § *68 Segerstedt-Wiberg and Others v. Sweden*, 62332/00, 6 June 2006, § 76 (Article 8). The complexity of modern society means that discretionary power must be granted to public officials. The principle by which public authorities must strive to be objective ("sachlich") in a number of States such as Sweden and Finland goes further than simply forbidding discriminatory treatment and is seen as an important factor buttressing confidence in public administration and social capital.

[52] See e.g. Article 41.1.c ot the Charter of Fundamental Rights of the European Union. Cf. also item II.E.2.c.vi and note 126.

So with legislation you specify both obligations and rights for the clients concerned. With legal instruments you also state the limits for the competence and powers of the administrative body and its staff.

To set up such limits is just a starting-point. There is also a need for procedural rules and practices giving the citizens (entities, parties and clients) foreseeability and participation. The ambition of the civil service must be to present its programs easily available and comprehensible and to deliver decisions that are well and openly reasoned so that they are understood and respected by the clients and the general public.

So these standards must be implemented also in the day-to-day work of the civil service. The aim is to serve the citizens. In the end a reform-program should result in better trust and legitimacy for the civil service among the citizens.

But there are no short cuts here. A dialogue on practical experiences is needed. Both success stories and failures could be helpful as lessons learned in this process.

7. The Scandinavian countries

I will end up presenting some traits and experiences from my own country, Sweden and the other Scandinavian or Nordic countries that could be of some interest. It may look like success stories. But honestly, I do not want to brag – we have our own serious problems and increasingly diverging attitudes among politicians and citizens – and of course I am well aware of the limited usefulness of comparisons.

When you look at the World Values Surveys and other worldwide indexes these countries are special. You could observe that the citizens in Scandinavian countries are very individualistic but also express a very high degree of trust in relation to each other – to known or unknown other citizens - and to the public service. The successful policies promoting gender equality are also important features in our countries. Interestingly Swedish citizens also trust and have a high esteem of the National tax board and its services! What are the reasons behind all this?

It is striking that in all the Nordic countries policies promoting *gender equality* have been quite successful but not at all a closed issue.

Women got the voting rights in Finland already 1906. Social welfare programs and policies and the education systems have been of great importance for improved gender equality. When you look at statistics you will find very high but varied figures on participation of women on the levels of the different political, judicial, administrative and academic branches as well as on the labour market as a whole and in different of its segments. A observation made in the quality of government research is that there seems to be a correlation between a high degree of female representation in parliaments and governments and a low grade of corruption.

There is still definitely a will and need for improvements, see on Sweden *Gender equality policy goals*, http://www.government.se/government-policy/gender-equality/goals-and-visions/.

I will go on with a few legal and administrative issues of importance for the positive development in these countries.

Freedom of information and freedom of expression or in other words, *transparency*, has very deep and old roots in our societies. In Sweden and Finland the principles of free access to print public documents and freedom of the press were made part of the constitution already in 1766 - before both the American and French Declarations of rights. Nowadays you do not need to print a public document to get access to it. Instead you just ask for the document without giving reasons for your demand (with exceptions due to secrecy). These rights are not only for journalists but for the citizens in common and are of great importance especially efficient in the fight against corruption and other unsatisfactory affairs. Open debate and public criticism are important tools that in the long run may promote trust and legitimacy within the society even if

there are serious societal problems that have to be solved. See *The principle of public access to official documents*, http://www.government.se/how-sweden-is-governed/the-principle-of-public-access-to-official-documents/.

The legislative process. Several steps in the process under public scrutiny give high quality. Before the Government can draw up a legislative proposal, based on suggestions put forward by the Government, Parliament or by private citizens, special interest groups or public authorities, the matter in question must be analysed and evaluated during an inquiry stage where the task may be assigned to officials from the ministry concerned, a commission of inquiry or a one-man committee. Inquiry bodies, which operate independently of the Government, may include or co-opt experts, public officials and politicians. The reports with drafts for new legislation are made public and referred for consideration to the relevant bodies. These referral bodies may be central government agencies, special interest groups, local government authorities or other bodies whose activities may be affected by the proposals. Their feedback, usually in written, well argued documents or at hearings, is made public. This process provides valuable feedback and allows the Government to gauge the level of support it is likely to receive. If a number of referral bodies respond unfavourably to the recommendations, the Government may try to find an alternative solution. A bill is drafted. If a proposed law has important implications for private citizens or the welfare of the public, the Government should first refer the proposal to the Council on Legislation (a body of distinguished judges) to ensure that it does not conflict with existing legislation. We use this judicial prereview-system which recommendations or statements are not binding for the legislating Parliament. *See Swedish legislation - how laws are made*, http://www.government.se/how-sweden-is-governed/swedish-legislation---how-laws-are-made/.

The Nordic *laws on administrative measures and procedure* are not too abstract, exhaustive or detailed.They are not doctrinaire, academic or bureaucratic in their approach. Instead they are service-oriented, streamlined and pragmatic, presenting procedures containing explicit obligations for the civil service and its servants on one side and on the other side procedural rights and duties for the clients when they have to or want to participate. The Swedish administrative law is general and short (now only 33 paragraphs; a reform-bill on this law just now presented for Parliament has 50 paragraphs). This law give the general provisions for administrative decision making powers on national, regional and local level concerning citizens rights and obligations. The decisions can be appealed to administrative courts where the two parties (the applicant and the board that took the decision) have to give their arguments. Also representatives for the public, laymen, take part in the decision-making. There are also legal provisions in other laws for certain administrative branches such as on taxation. See https://www.kriminalvarden.se/globalassets/om_oss/lagar/forvaltningslagen-engelska.pdf

There are also very efficient systems for the enforcement of court and administrative decisions. *The enforcement service*, or bailiff's office, uses modern data technology and of course necessary legal means of compulsion but also present a service-oriented attitude and ambition to give good information and advice to the citizens.

As I already said *the National Tax Board* is highly appreciated by the Swedish public. This astonishing fact is due to a reliable and highly computerized service both internally and in contact with the public. You could easily get available information in different forms and also advices in beforehand. Tax returns are usually handled speedily.

To ensure that public authorities and their staff comply with the laws and other statutes governing their actions all the Nordic countries have parliamentary *ombudsmen*. The concept of this office was introduced in Sweden and Finland already in the eighteenth century, perhaps directly inspired by a similar office of a general procurator in the Ottoman Empire. Later on the ombudsman became an office directly under Parliament and was also introduced in Denmark and Norway with similar supervisory tasks.

The task of the Swedish Ombudsmen is to review the implementation of laws and other regulations in the public sector on behalf of Parliament and independent of the executive power.

This review also includes to some extent courts and judges (not so in Denmark and Norway!) and other public authorities as well as their employees. The basis for the work of the Ombudsmen is the individual's interest in being treated lawfully and correctly by the authorities. The Ombudsmen form one pillar in constitutional protection for the basic freedoms and rights of individuals. The decisions of the Ombudsman could ultimately but nowadays seldom result in a prosecution for a crime (breach of duty) against a civil servant. Instead the Ombudsman, if needed, closes the file with a decision with reasoned criticism or good advice. This decision is made public and often presented in the media and annually in a public report to Parliament.

There is a provision in the Swedish constitution stating that all officials shall observe equality before the law and objectivity and impartiality in their work. The Ombudsman takes a strong role upholding this important provision. The Ombudsman is also a guardian against corruption and civil servants not observing the principle of conflict of interests while fulfilling their tasks. See on the Swedish Parliamentary Ombudsman (JO) https://www.jo.se/en/About-JO/.

Under Parliament there are also *National Audit Offices* (NAO) responsible for financial and performance audit. The Swedish NAO operates in public with reports accessible for the citizens. In an annual financial audit, NAO audits and evaluates whether the financial statements of the government authorities are credible and correct, if the accounts are true and fair, and whether the leadership of the authorities being audited are following current ordinances, rules and regulations. In a performance audit, NAO audits the government authorities' efficiency. The starting point here is how well the subject of the audit is achieving its goals and the appropriateness of the organisation, operations, process, or function for the purpose. The goal of the audit is to make sure that the state, with regards to the interests of the general public, is getting good results for its efforts. For example, a topic for scrutiny could be how road and rail investments are being planned and organised. A common factor for all performance audits is that they are based on problem indicators and risk and materiality evaluations. This means that the audit is directed at operations that risk not to fulfil its purpose. It can relate to that the operations of the authority are not cost effective, that they have an inefficient organisation or that they are not observing rules and ordinances. The reports are sent to Parliament who asks for the Government to response in public. See http://www.riksrevisionen.se/en/Start/About-us/Our-fields-of-operation/.

I will end up with a couple of words on efforts to improve *the professional training of officials*. Adequate detailed training of the officials on how to fulfil their specific tasks within the different branches of the public service is of course the starting-point. But there is also a need for more general training on the values and principles we have on our agenda today. This could also include courses on professional ethics.

Personally I a couple of years ago led a working party in Sweden that presented a document on ethical standards for court judges: Good judicial practice – Principles and Issues. Some parts of this document is definitely relevant also for civil servants. See
http://www.domstol.se/Publikationer/Rapporter/god_domarsed-grundsatser_och_fragor_eng.pdf

Finally I want to mention another Swedish experience. Last year a Council on basic values reported to the Ministry of Finances. The Council has identified six leading constitutional principles to be respected by public service officials:
– Democracy
– Legality
– Objectivity
– Free formation of opinion
– Respect for all people´s equal value, freedom and dignity
– Efficiency and service

The Council concludes:

> These principles, which are set out in the constitution and acts of law, form a professional platform for you as a central government employee. They are to guide you in the performance of all your duties.

> Of necessity, the principles are formulated in a general way. You and your management must then clarify and exemplify what they mean in your particular activities. Different principles may sometimes be in conflict with each other. It is then a matter of carefully weighing alternatives that remain within the law and do not disregard important values.
>
> Central government employees often have a high degree of independence in their work. Many times you may discover that the law or regulations leave scope for interpretation. It is at such times, when you have to rely on your own judgement, that the central government's basic values have a particularly important role as guidance.

The Council has also presented booklets, one on how to counteract corruption and the other on the working methods on implementing the basic values among civil servants.

See
http://www.vardegrundsdelegationen.se/in-english/common-basic-values-for-central-governemnt-employees-summary/
http://www.vardegrundsdelegationen.se/in-english/a-culture-that-counteracts-corruption/
http://www.vardegrundsdelegationen.se/in-english/a-guide-to-working-with-the-central-goverments-basic-values/

8. Conclusions

To reform civil service there is a need to respect and use the over-aching constitutional and legal principles as well as take into account the available financial, technical and personnel resources. The practical implementation should result in a high standard day-to-day administration with skilled, committed civil servants performing their duties efficiently, objectively, impartially and with transparency under the law and professional standards.

In the end this should promote the accountability of the agencies and its servants towards both to the state and the citizens, men and women equally.