

## The Instrumental and Ideological Politicisation of Senior Positions in Poland's Civil Service and its Selected Consequences

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### Abstract

The article focuses on the problem of the civil service's dependence on its political superiors in Poland in 1996-2017. It aims to analyse the motivations of politicians responsible for civil service reforms and to assess the impact of these reforms on the effectiveness of the corps' functioning. The authors conceptualise the problem of politicisation of the civil service by referring to the theory of politicisation adding an extra dimension of political ideas and institutions as an important factor of change in Poland's public administration system. The article describes the stages of civil service reform in Poland over the last twenty years, taking into account the political context, the most important postulated changes and the associated controversies with reference to the concepts outlined in the theoretical part. The study also comprises a relevant literature review based on a number of sources, including the reports published by the Head of the Civil Service in Poland, international databases (including Quality of Government) and specialist reports with a particular emphasis on research devoted to Central Europe. The findings paint a multi-layered and nuanced picture of the evolution of the Polish civil service and its strong associations with the issue of the so-called "unfinished transformation". In addition the article confirms that both the instrumentalisation of institutions by the "camp" of political opportunists and their formal, radical reconstruction by the "ideological contrarians" resulting in the centralisation of power around the ruling parties have had a negative effect on the quality of civil service functioning in Poland.

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## **1. Introduction**

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One of the key dilemmas concerning the operation of the state raised in the public debate is how to properly design the relations between the public administration and its political superiors, which determines the efficient implementation of public policies. From this perspective, the reforms of the civil service have become crucial in recent years, since they have either contributed to its independence from the central government or caused its politicisation, depending on the prevailing views of the ruling parties at the time. Poland has also experienced significant ebbs and flows in this area in the last two decades. The consecutive governments quite often reversed the reforms introduced by their predecessors, or the reforms themselves were challenged by the Constitutional Tribunal. For example, this was the case with the amendment to the Public Service Act of March 2006, which contained certain stipulations intended to make it easier for local government and Supreme Audit Office staff to apply for civil service jobs.

The aim of the present article is to conceptualise the key determinants and consequences of the reforms of the civil service in Poland from the perspective of its politicisation, based on theories concerning the relations between politicians and public administration, as well as to conceptualise certain relevant political ideas and institutions. In the latter case, the authors focus on the issue of “unfinished transformation” and the problem of “institutional immaturity”, which manifest themselves in “incompleteness” or “instrumentalisation of institutions”. In order to narrow down the scope of such a broad issue, special emphasis was placed on the issue of recruitment of senior civil servants in Poland. From the theoretical standpoint, a review of the literature concerning the above issues was conducted. In order to verify the adopted concepts, the consequences of the reforms were analysed among others on the basis of the data contained in the reports published by the Head of the Polish Civil Service (HCS), international databases (e.g. Quality of Government) and reports, especially those which focus on the Central and Eastern European context.

For the sake of clarity, the authors have adopted the following structure for the article. The introduction is followed by the theoretical background of the study - the context of the problem is outlined with reference to the literature on the relations between public administration and its political principals as well as the mechanisms employed by politicians to influence the former. The authors also highlight the different approaches to the understanding of the phenomenon of politicisation itself. Then an attempt is made to conceptualise the phenomenon of politicisation of the civil service in Poland based on scientific publications and research reports devoted to this issue in the Central European context. Specifically, in the Polish reality, such

factors as “the unfinished transformation syndrome” or “institutional imperfection” are discussed. In order to ensure a better understanding of the reforms, the article offers a synthetic description of the Polish administration, including the structure of the central government administration and the division of powers between the central and local levels. The main part of the article analyses the changes in the civil service system in Poland and their ideological and political conditions. The analysis covers the period from 1996, when the Civil Service Act was passed, until the end of 2017. Predictably, the changes of interest as reflected by the adoption of different legal solutions co-occurred with the changes in power; for this reason the following key periods have been identified: 1996–2006, 2006–2008, 2008–2015 and 2016–2017. For each of these periods, the authors discuss the political context related to the imposition of a new order by the newly elected governments, the most important civil service reform proposals and the related controversies interspersed with references to the concepts outlined in the theoretical part. Finally, the selected consequences of changes in the civil service system in Poland are presented and illustrated by relevant statistics.

## **2. The theoretical perspective**

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### **The context**

The relations between the public administration and its political superiors have been the subject of intensive intellectual exploration for decades (Weber et al. 1946; Downs 1967; Niskanen 1971; Aberbach et al. 1981; McCubbins et al. 1987; Peters and Pierre 2004; Hood and Lodge 2006). The problem of political control of public administration occupies a prominent place in this line of research (Finer 1941; Friedrich 2000; Etzioni-Halevy 1983; McCubbins et al. 1987; Moe 1998; Page and Wright 1999).

The numerous instruments of supervision and control at the disposal of politicians include budget structuring and control, the institution of counter-bureaucracies, expert and consultancy teams, the introduction of New Public Management instruments, audit and evaluation, organisational restructuring, and modifications to the operating procedures (McCubbins and Schwartz 1984; McCubbins et al. 1987; Neuhold et al. 2013). One of the favourite tools of political control in the last decade have been the politically motivated appointments to senior civil service positions (Snyder and Weingast 2000; Peters and Pierre 2004; Doherty et al. 2014; Ennsner-Jedenastik 2014). It has gained in intensity in keeping with the increasing importance of public administration in the system of state governance (Blau and Meyer 1971; Putnam 1975; Etzioni-Halevy 1983; Aucoin 2001; Farazmand 2009; Mazur and Kopyciński 2017).

The reason for the growing popularity of this mechanism among politicians is their desire to secure the loyalty of high-ranking officials, to ensure effective

communication with the party power base and access to the knowledge of politically loyal people, which is supposed to enable them to efficiently coordinate tasks for which they are held politically responsible (Thatcher and Sweet 2002; Hustedt and Salomonsen 2014). This issue has acquired distinct importance in the context of public sector reforms undertaken in a number of countries in recent decades with a view to decentralising their governance systems. Their unintended consequences include problems in steering public policies, coordinating public programmes, agreeing on key public decisions and accountability for public actions. Moreover, it also often results in the defragmentation of the public sector (Pollitt and Bouckaert 2011).

The increasing prevalence of politically motivated appointments to senior civil service positions reflects fundamental changes in the way politicians think about governance and signals their desire to regain their lost capacity to steer public governance processes. At the same time, it suggests that other available mechanisms for ensuring the subordination of senior officials are ineffective or that their costs are too high when compared with the benefits of their application.

### **Understanding politicisation**

The definitions of the concept of politicisation vary by author (Derlien 1996; Peters and Pierre 2004). In general, the term refers to politicians' desire to influence the behaviour of officials and their decisions in order to ensure the consistency of the latter's conduct with the values, preferences and political interests held by the former, and to change their administrative culture (Aberbach et al. 1981; Aberbach and Rockman 1988; Page and Wright 1999; Peters and Pierre 2004, Rouban 2005; Eichbaum and Saw 2007).

The phenomenon of politicisation assumes different shapes depending on the administrative tradition at hand (Painter and Peters 2010), the type of administrative reforms prevailing in a given country (Christensen and Læg Reid 2001; Pollitt and Bouckaert 2011), the preferred public management models (Christensen and Læg Reid 2001; Peters and Pierre 2004; Dahlström and Niklasson 2013), and the specifics of the tasks performed (Pollitt 2006; Lewis 2008).

The authors of this article have decided to focus on only one of the politicisation mechanisms, namely the appointment to senior civil service positions primarily on the basis of political loyalty. This mechanism reveals a triumph of loyalty over competence (Moynihan and Roberts 2010) and the widespread temptation to form networks of political dependence involving officials and their political superiors (Campbell and Wilson 1995; Hughes 2003). It should be noted that politicisation as understood in this article does not imply the pursuit of any illegal practices.

## The politicisation of the civil service in Central Europe – An outline of the concept

Researchers who analyse the politicisation of the civil service in Central European countries emphasise that the scale of the phenomenon is much greater than in their Western European counterparts; moreover, the changes as implemented by the former are characterised by discontinuity, a radical reversal of the previously implemented decisions depending on who comes to power (Meyer-Sahling 2009, 2011), and an imitative nature (e.g. reflecting the needs of accession to the European Union) which consists in the application of solutions appropriate for consolidated governance systems without their institutionalisation or permanent embedding in the administrative culture (Nunberg 1999; Van der Meer et al. 2015; Painter and Peters 2010).

It is argued that a high degree of politicisation in the filling of the key civil service positions may lead to the emergence of deficient administration (Goetz and Wollman 2001) characterised by a high level of politicisation associated with the instability of the rule of law, which undermines the quality of governance in Central European countries and their ability to effectively participate in the European Union (Goetz 2001; Dahlström et al. 2012; Meyer-Sahling and Veen 2012). It is noted that politically motivated appointees to senior civil service positions tend to be more loyal to their superiors than to the principles of legalism and the rule of law (Meyer-Sahling 2009), which leads to the problem of accountability, undermines the principles of professionalism, results in inferior-quality public service provision (Holmberg and Rothstein 2012), and engenders a loss of trust in the administration (Peters and Pierre 2004).

The main reason for the politicisation of senior civil service appointments in these countries is their historical background strongly marked by the *nomenklatura* system (König 1992; Goetz and Wollmann 2001). Similar practices were adopted in the initial period of political transformation, when massive replacement of officials associated with the communist system and managing state-owned enterprises took place (Mair et al. 2012). This massive staff replacement was mentally accepted by some politicians as a customary mechanism for handling human resources. In this case, the logic of path dependence extensively described by the representatives of historical institutionalism (Pierson 2000; Hall, Taylor 1996) can be clearly perceived.

For all intents and purposes, such an explanation of the phenomenon of politicising the senior civil service appointments correctly reflects the reality of the Polish civil service. A number of arguments can be quoted to support the view that the civil service in Poland is oscillating between the open politicisation model and the party politicisation model with relatively short intervening periods of moderate politicisation (e.g. the government of the Civic Platform and the Polish People's Party [PO-PSL] in 2007-2015). This process is well reflected by the concept of reform

reversal (Meyer-Sahling 2009). However, in order to better understand the nature of this process, one must invoke at least two additional clarifications in the field of political ideas and institutions.

The first one concerns the sphere of ideas and refers to the “unfinished transformation syndrome”. The proponents of this hypothesis maintain that if Poland is to achieve its strategic goals, it needs to be thoroughly reconstructed, and one of the prerequisites for success is a civil service corps consisting of politically loyal officials who share a certain ideology. It is thus not the discrepancies between the superiority of certain civil service models or the ways of their modernisation that generate such radical change in the civil service; their sources should rather be sought in the substantive values placed above these models and benchmarks (e.g. the models of democracy, national interest, rule of law). Such a significant diversity of values at this level may constitute a cultural explanation of the reform reversal phenomenon. In its cultural dimension, politicisation is associated not only with the desire to establish a loyal civil service, but also with the intention to create a new politically loyal elite of officials.

The unfinished transformation syndrome is inseparably linked with the antagonistic division into pragmatists who advocate an incremental and evolutionary path of change in the civil service system, who recognise that the political transformation in Poland has generally been successful (the previously mentioned political opportunists) and radicals who advocate fundamental and radical formal changes in the civil service system, who claim that the political transformation in Poland has generally failed (the already mentioned ideological contrarians).

The latter explanation relates to institutions, particularly to institutional immaturity. Immature institutions hinder cooperation, increase the costs of social interaction, intensify uncertainty, make it difficult to coordinate collective action and reduce the capacity to rationally adapt to change. Institutional immaturity has two components. The first one is known as institutional incompleteness, i.e. only certain selected components of an institution are subject to genuine social internalisation, while the remaining ones are only superficially assimilated. What it means in practice is that only certain elements of an institution have the capacity to influence views, attitudes and behaviours. These elements are essentially decided by the political elite or other influential actors capable of imposing the way in which the dominant institutional solutions are shaped and interpreted. The other one is the instrumentalisation of institutions, which consists in subordinating institutions to ad-hoc, biased reasons and particularistic benefits of a political party or a group of influence. As a result, the institutions become weapons in the political struggle and an instrument of power serving to control and subordinate the state in the name of its radical reconstruction. The political pressure exerted on the institutions makes them too flexible and subject to the ad-hoc preferences of the political circles in power at a given time.

It seems that taking into account the institutional factors helps to better understand the motivations of the key political actors undertaking permanent reconstructions of the civil service system in Poland, including the appointments of senior civil servants, especially those politicians who subscribe to the unfinished transformation viewpoint. This leads to the opinion that the fundamental reasons for the perturbations in the civil service system in Poland are rooted not in the sphere of disputes over effective and more efficient mechanisms of civil service management, but in the sphere of primitive political ideas so differently perceived by pragmatists and radicals (or opportunists and contrarians).

### **3. The Polish administration**

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Poland's central administration is characterised by a fairly strong decentralisation of power. More than 52 % of all public administration employees work in local government, around 6 % in regional government and fewer than 42 % in central government (Central Statistical Office 2015). In Poland, the civil service is limited to central administration - local government employment is subject to separate regulations.

The central government administration plays a key role in such areas as national defence and the judiciary with responsibilities for legislation and regulatory policy. The powers of local and regional governments in this area include issues related to public services (e.g. public transport), public finances (e.g. local taxes and fees), and economic development (economic programmes). From the point of view of the division of powers, a peculiar situation exists at the regional (voivodship) level, where apart from the voivodship (local) government, the voivodes (governors of regions) represent central government. The latter are appointed and dismissed by the Council of Ministers. Their tasks include the supervision of the so-called complex governmental administration (part of the field government administration accountable to the voivodes which includes managers of services, inspections and guards) and of local self-government units. Nominally the employees in voivodship offices are members of the civil service corps.

The current government consists of 19 ministries and a Chancellery of the Prime Minister constituting the main body of the Government Centre. The ministries (as well as the Chancellery) are similarly divided into departments (fulfilling substantive tasks) and bureaus (providing coordinating and supporting services). Both are further subdivided into units. Every ministry is headed by a politically appointed minister together with deputy-ministers and a political cabinet. The most important civil servant (discharging most HRM functions) is the Director General of a ministry. Departments and bureaus also have their directors. Units are run by heads who constitute the lowest-ranking managers. Generally ministries are large

organisms, consisting of even up to 30 departments/bureaus and even employing a staff of more than 2 thousand.

At the central level, the political and administrative realms have been kept separate since 1998, with a formal constitutional guarantee of independence of the civil service and the traditionally politicised positions of state secretaries and undersecretaries. In practice, the status of Directors General – who are theoretically guaranteed independence, but are in fact largely political appointees – has remained unclear for years (Meyer-Sahling and Veen 2012).

Traditionally, senior civil service positions include heads of offices and heads of department in offices. In 1998–2006 and 2009–2015, these positions were formally apolitical. In 2007–2008, they were partially politicised (through the creation of the so-called National Human Resources Reserve), and since 2016, they have been fully politicised.

#### **4. Changes in the civil service system and their ideological and political background**

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##### **1996–2006**

The establishment of a formal civil service system in Poland began in 1996 with the passage of the first Civil Service Act. In practice, since it provided for the evolution of the civil service by gradually recruiting new officials to replace those recruited under the previous system (i.e. the pre-transformation period, specifically since 1982), it quickly became clear that it would not facilitate the necessary transformation of the system towards an independent corps, as provided by the new Constitution adopted in 1997.

As a result, in 1998 the second Civil Service Act was passed, which established a civil service corps comprised of the current employees of the government administration (over a hundred thousand). Specially designated bodies were set up to coordinate activities aimed at developing and maintaining the civil service and its independence – first of all, the position of the Head of the Civil Service with the subordinate Office of the Civil Service and an opinion-giving body – the Civil Service Council – were created.

Senior positions in the civil service (mainly the Directors General of offices and Department Directors) were given separate authority under the new regulations – they were to be filled by an open competition under the 1998 Act.

Since the adoption of the Act, the idea of the non-politicisation of the civil service was paid lip service by the most important parties of the then political establishment (i.e. the Solidarity Electoral Action/Freedom Union [AWS–UW] coalitions ruling in 1997–2001 and the Democratic Left Alliance/Labour Union/Polish People's Party [SLD–UP–PSL] coalition in 2001–2005). In practice, however, par-

ticularly the senior civil service positions remained relatively politicised (Meyer-Sahling and Veen 2012). Attempts were also made to legitimise the politicisation of senior positions by introducing temporary employment authorisations as the so-called acting officials (Burnetko 2003). However, these attempts were subsequently thwarted by the Constitutional Tribunal.

Since the beginning of the discussion on the shape of the Polish civil service, the political map has featured views which opposed the strong independence of the civil service from political influence. The sentiments were perhaps most aptly captured by Jarosław Kaczyński, in 1997-2001 alternately deputy of the Solidarity Electoral Action, chairman and member of the non-parliamentary party Centre Agreement (Porozumienie Centrum) and a non-attached deputy. During the parliamentary discussion on the draft Civil Service Act in 1998, he claimed that even though it aimed to establish an independent and uncontrolled institution, politicians would still find a way to discipline “inconvenient” officials by abusing the law (Stenogram 1998):

*Please ... note that this is how a group is about to be created which is almost exclusively intended to be subject to self-control mechanisms through disciplinary accountability. Anyone familiar with these issues knows that the mechanisms of disciplinary responsibility do not work in Poland. This can certainly be confirmed by experts. This is simply the case. There is no serious reason to believe that this case will be any different.*

He continued:

*It is possible to abuse certain kinds of institutions, such as mandatory long leaves, transfers, etc. In this way, adjustments will be made. This creates space for abuse and is a very bad situation. It is not good if the rules are not used, but abused.*

As a solution, he proposed one of two options:

*Certainly, it is necessary to institute stringent criteria to be met by everyone who holds a managerial position. However, the superiors can be free to choose from among those who meet these requirements. One could go even further, although this would be contrary to the spirit of this Act. Such a decision could be taken by political leaders. All the time, I am thinking that the choice can be made among the people who meet certain requirements.*

His conclusion was:

*I would be happy to put forward proposals for amendments. However, I have come to the conclusion that a new law should almost be written for this purpose.*

It appears that at the time, three political attitudes to the issue of independence of the civil service could be identified:

- Political opportunism (institutional instrumentalism): a dominant attitude among the leaders of the parties governing when the 1998 Act remained in force, which consisted in paying lip service to the independence of the civil service while in reality trying to politicise the senior posts,
- Full support for the idea of independence (true believers): characterised the representatives of expert circles,
- Ideological contrarianism: represented by Jarosław Kaczyński and his followers focussing on the threats resulting from a strong independence of the civil service related to the agency problem (principal-agent problem<sup>4</sup>).

## 2006–2008

Following the parliamentary elections of September 2005, Jarosław Kaczyński's Law and Justice (PiS) party took power in Poland and immediately changed the approach to the operation of the civil service in Poland. The new opening was heralded by the amendment of the Act of March 2006, which made it possible to transfer local government officials and the Supreme Chamber of Control officials to the civil service. The parliamentary opposition attributed the initiative to the intention of the new authorities to employ the former subordinates of President Lech Kaczyński (associated with PiS), who was the President of the Supreme Chamber of Control in the early 1990s and before his election to the Presidency of the Republic of Poland held the post of the Mayor of Warsaw. The amendments to the Local Government, Supreme Audit Office and Civil Service Employees Acts adopted on 10 March 2006 (*Journal of Laws* 2006, No. 79, item 549) permitted the staff of certain other institutions to take up positions covered by the Civil Service Act by way of secondment or transfer outside the unit in which they were originally employed. A sufficient reason was the decision of the Director General of the host institution demonstrating a particular interest of the civil service to that effect. In this way, the seconded or transferred employees became civil servants. At the same time, the amendment shortened the required period of preparatory service required to take the civil service examination from six to two months. This amendment was negatively reviewed by the Civil Service Council and a number of social organisations (Gadowska 2015, 181-182).

In March 2006, the Law and Justice (PiS) club presented its own draft of a completely new Civil Service Act together with the supplementary National Human Resources Reserve Act. The proposals introduced changes primarily at the level of the highest posts (Directors General and Heads of Departments), which were ex-

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4 Incidentally, the principal-agent problem can be considered a correlate of reforms undertaken in the spirit of New Public Management, which may strengthen the politicisation of the civil service (Niklasson 2013).

cluded from the civil service. At the same time, they created a structure of intermediate posts between the political and administrative spheres.

The candidates for these positions were to be selected from the so-called National Human Resources Reserve, whose operation was normalised under the National Human Resources Reserve and Senior State Positions Act of 24 August 2006. It included civil servants, persons who passed the relevant National Human Resources Reserve examination, persons who won the competition announced by the Prime Minister for a specific position and persons appointed by the President of the Republic of Poland as representatives of the Republic of Poland to other countries and international organisations. The membership in the National Human Resources Reserve was to last five years, after that the exam had to be taken again. The obligation also applied to civil servants.

The new Civil Service Act of 24 August 2006 also abolished the position of the Head of the Civil Service, whose responsibilities were taken over by the Head of the Chancellery of the Prime Minister (on behalf of the Prime Minister), abolished the Civil Service Office (whose function was taken over by the Chancellery of the Prime Minister) and the Civil Service Council (Gadowska 2015, 186-187), which was part of the implementation of the so-called Streamlined State Programme proposed by the government at that time. The regulations concerning the remuneration of civil servants also changed.

Despite the argument that the Civil Service Council should be abolished in order to reduce the operating costs of the public administration, at the same time the Public Service Council was established (pursuant to the National Human Resources Reserve and Senior State Positions Act of 24 August 2006) – an entity entrusted with similar functions except the National Human Resources Reserve, from which the candidates for the top positions in the government administration excluded from the civil service by the new Act were to be selected. This category included, among others, the heads of the central government administration offices and their deputies, chairpersons of state agencies and their deputies, or chairmen of boards of state funds and their deputies. In practice, an important argument in favour of this change was the possibility of filling the posts of the newly appointed council by persons favourably disposed towards the ruling party.

The 2006 reform of the civil service carried out by the Law and Justice government was fully in line with the views expressed previously by the head of the party's parliamentary club Jarosław Kaczyński. After coming to power, he consistently represented ideological contrarianism in terms of the positive and negative effects of politicising the senior positions in Poland's government administration. P. Heywood and J.-H. Meyer-Sahling (2008), among others, pointed to a certain paradox in the views of the Law and Justice party in this area in their report on corruption threats in Poland prepared by Ernst & Young under the Efficient State Programme. They pointed out that the party politicised the civil service as part of

its anti-corruption campaign. From the point of view of the reverse assumption, which predominates among the experts in the field of public administration, this concept may appear to be illogical. However, it was argued that such solutions were necessary to combat the alleged primary problem of the Polish civil service at that time, namely the existence of strong informal networks of relationships and dependencies among the highest officials considered conducive to pathological behaviours (Meyer-Sahling 2009, 16). Meanwhile, the reform significantly weakened the entire recruitment system by, inter alia, relaxing the recruitment criteria and limiting competition between candidates for senior government positions (Heywood and Meyer-Sahling 2008, 6).

## 2008–2015

The negative public reception of the civil service reforms implemented by the Law and Justice party made it one of the most prominent aspects of the 2007 election campaign. The electoral programme of the then main opposition party, the Civic Platform, promised to restore the independence of the civil service. After the election victory, the Civic Platform/Polish People's Party (PO-PSL) coalition was formed, and in its first year of government it thoroughly replaced all the senior staff (Kopińska 2018, 30), which was confirmed, among others, by the research on changes in the civil service conducted by K. Gadowska. In her view, at the initial stage of the parliamentary term, the new coalition replaced almost all the directors of the ministries (only 2 out of the 17 operating ministries did not take steps to that effect) (Gadowska 2015).

Taking into account the fact that work on reversing the civil service reform implemented in 2006 by the Law and Justice party was in progress at the same time, it may be concluded that the procedure corresponded well with the opportunistic approach diagnosed earlier, characteristic mainly of the period when the 1998 Act was in force. Against this background, Law and Justice as a party which openly opposed political non-affiliation of state officials seemed to be the most consistent and "transparent".

Eventually, a new Civil Service Act was passed on 21 November 2008 (*Journal of Laws* 2008, No. 227, item 1505) and came into force on 24 March 2009. As promised, it largely rejected the controversial changes implemented by the former government and invoked the old Act of 1998. It restored the open and competitive recruitment of Directors General; however, the possibility of appointing candidates to other senior positions by way of the so-called secondment or transfer was preserved. Importantly, the selection board responsible for recruiting officials did not specifically identify candidates for the posts, but selected the best two candidates on the basis of the criteria adopted and submitted them to the head of the office who made the final decision on the matter (Kopińska 2018, 30). Keeping the institution of secondment and transfer raised concerns of abuse and the diminishing role

of open competitions. Similar reservations regarding possible politicisation were raised by the fact that the selection procedure involved only two candidates (Gadowska 2015, 248-249).

The structure of the civil service corps under the 2008 Act was based on three key elements (Drobny, Mazuryk, Zuzankiewicz 2010, 31-44):

1. The Head of the Civil Service – he once again became the central body of government administration for civil service matters. His responsibilities included ensuring compliance with the relevant regulations, overseeing the human resources management process, preparing drafts of normative acts relating to the service's operation and international cooperation in this area. The Head of the Civil Service was appointed by and reported directly to the Prime Minister, to whom annual reports were also submitted. The rejection of such a report constituted an optional reason for dismissing the Head of the Civil Service. Moreover, the Prime Minister could dismiss the official in the event of a breach of the oath or the loss of good repute. The only obligatory grounds for dismissing the Head of the Civil Service were his resignation, failure to meet the statutory requirements or a long-term illness.

2. The Civil Service Council – the new Act reintroduced the previous name for this body, replacing the Public Service Council of 2006-2008. The change resulted mainly from the fact that its remit was narrowed down to include only matters related to the civil service, not to the broadly understood state administration. It consisted of 15 members appointed by the Prime Minister, including 7 members put forward by the parliamentary clubs, one to represent each (provided that the relevant requirements laid down in the Act were met). The terms of office of the members of the Civil Service Council lasted 6 years, with half of its members being replaced every 3 years. The Council had three kinds of powers: advisory and opinion-giving (e.g. regarding the draft budget in the part concerning the civil service), control and evaluation (e.g. evaluation of the civil service recruitment procedures), and supervision (e.g. in the event of irregularities in the course of the recruitment process conducted for a senior position in the civil service, the Board could request the Head of the Civil Service to organise new recruitment). The Prime Minister could dismiss a member of the Civil Service Council only if the latter failed to perform his duties, resigned or lost his good repute.

3. Directors General of offices – they are non-political officials responsible, among other things, for day to day administrative decisions to ensure uninterrupted operation of the office and activities in the field of labour law. Their direct superiors were the heads of individual offices. The offices in which the positions of directors general were created were specifically listed in the Act, namely: the Chancellery of the Prime Minister, individual ministries, offices of chairmen – members of the Council of Ministers, central government administration institutions, and voivodship offices.

In practice, the 2008 Act remained in force for nearly 8 years, which ensured a certain stability of the functioning of the civil service in Poland. Although on the one hand the Act made it possible to limit the politicisation of senior state positions, the implementation of its provisions also caused certain difficulties, such as non-compliance with the statutory principle of filling the vacant positions without delay as a result of protracted recruitment processes due, for example, to the reluctance of the Director General to accept all the submitted candidates. Still, a number of actions were taken to rationalise employment in the government administration despite the resistance of its certain representatives (Gadowska 2015, 312–314), and attention was drawn to the issues of the code of ethics for civil servants.

## 2016–2017

At the end of 2015, another change of government took place in Poland: the coalition of the Civic Platform and the Polish People's Party was replaced by Law and Justice, which, thanks to excellent election results, was able to govern independently. Traditionally, in the spirit of destructive reform reversals, one of the priority tasks of the newly formed government was to restore the previous solutions in the functioning of the civil service in Poland dating back to 2006–2008, which was again widely criticised by the public opinion and the expert community. Apart from the proposed provisions of the bill itself, serious controversy was also aroused by the new government's fast-track proceedings – the entire legislative process including the adoption of the Act took just 15 days, including a public holiday break.

The amended Civil Service Act and certain other amendments were passed on 30 December 2015 (*Journal of Laws* 2016, item 34) and came into force on 23 January 2016. Again, the provisions for open and competitive recruitment for senior civil service positions were abolished, the Directors General and Heads of Departments in all the government offices were to be appointed and removed at any time, and the criterion of professional experience for candidates for these positions was relaxed.

The office of the Head of the Civil Service was also subject to significant changes – under the new Act, he no longer had to be a civil servant or have relevant experience in managerial positions. The competences of the Prime Minister were significantly broadened – he no longer had to consult other bodies when appointing the official and, crucially, could dismiss him at any time without giving a reason (Kopińska 2018, 31–32).

The new Civil Service Act fits perfectly into the concept of a politicised civil service, which has been maintained over the years by the Law and Justice Party as a prerequisite for ensuring the proper operation of the state. As a result, the relaunch of the public service reform in Poland as part of ideological contrarianism had to translate into large-scale staff changes. This was evidenced by a report prepared by the Civil Development Forum foundation, which analysed all the staff changes

resulting from the legal provisions adopted by the new government. By the end of 2017, a total of 37 “staffing” laws were adopted, which allowed for the replacement of staff most often by way of: (1) interrupting the term of office of a single or multi-person body, (2) transferring appointments from the local level to the central level, (3) liquidation of a multi-person body or (4) statutory termination of employment contracts (Paczocho 2018, 4-5).

## 5. Selected consequences of changes in the civil service system

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Despite the formal provisions for an independent civil service, most senior positions have remained politicised since the passage of the 1998 Act. This practice was described as the “implementation gap” (Meyer Sahling 2009). The estimated scale of politicisation at that time was 70-89 % for senior positions (Meyer-Sahling and Veen 2012). In 2003, approximately 50 % of senior civil service positions were filled by acting appointees (Springer 2012). In 2006, after the election was won by the Law and Justice Party, the percentage of acting managers in the senior civil service corps as a proxy for the scale of politicisation reached ca. 60 % (Heywood and Meyer-Sahling 2013).

An example of attempts to make the senior civil service positions under the 1998 Act more formally politicised was the fact that the Constitutional Tribunal challenged Article 144a of the Civil Service Act, which made it possible to disregard the competition procedure for filling senior civil service positions until 31 December 2002, or the provision resulting from the same amendment, which excluded the position of Secretary of the Council of Ministers from the civil service corps. The 1998 Act itself was not devoid of certain shortcomings, either. They were mainly due to the weak position of the Head of the Civil Service, who, as it turned out, had little actual influence on the implementation of the provisions of the Act and on the regulations in force concerning the Directors General. The requirement to agree with the relevant head of a central office on the competition criteria for filling senior civil service vacancies often made it impossible to launch the competition procedures in a timely manner and gave the acting managers an opportunity to keep their posts.

According to the SIGMA report published in 2003, although the Civil Service Act improved the situation, it did not solve the problem of the politicisation of positions in the state administration and a certain degree of fragmentation (or even “cutting up”) of its structure (Czaputowicz 2005). In late 2002, the Head of the Civil Service warned that:

*The pressure of politics on the civil service breaks down all barriers and cannot be stopped by any statutory provisions. We have*

*good recipes, but a bad political culture (Kopyt and Waszkiewicz 2002).*

From the point of view of the independence of senior civil service positions, the amendment proposed by M. Belka's technical cabinet brought about positive changes, which included, inter alia, the introduction of competitions for the post of Head of the Civil Service and the deputy, a declaration that the information on candidates who applied for the post constituted public information as set by the requirements laid down in the vacancy notice concerning the obligation of the Director General to disseminate information regarding the results of the recruitment process, similar provisions concerning competitions for senior civil service positions, and restrictive regulations concerning the employment of acting managers in the vacant positions.

The politicisation of senior positions in the civil service was given legal sanction with the adoption of the Civil Service and State Human Resources Acts of 2006, consistent with J. Kaczyński's ideological stance. Meyer-Sahling (2009) wrote about the reform:

*The changes in the scope of civil service laws in Hungary, Poland and Slovakia could also be regarded as a redefinition of the politics-administration nexus. These redefinitions have nevertheless had problematic consequences for European principles, such as the political neutrality of the civil service.*

According to the researcher, the changes introduced in 2006 can be described as "destructive reform reversal". This led to the politicisation of about 1600 positions in the government administration (DCS 2008, Góra 2006).

Since the establishment of the National Human Resources Reserve, potential candidates demonstrated little interest in becoming part of it. As a result, in 2007 it included only a few thousand names, which was problematic from the perspective of implementing the postulate of flexible management of human resources policy in senior state positions. To remedy that the amendment to the Act of 2007 extended the list of eligible persons by adding those holding the academic degree of doctor.

Another instance of reform reversal in 2008 restored most of the solutions in place until 2006, such as the inclusion of the corps of senior officials in the civil service with the obligation to hold competitions for all these positions. The new Act achieved the objective of minimising the number of senior positions filled by acting appointees/managers. According to the report submitted by the Head of the Civil Service, between 2009 and 2015, the practice occurred 75 times, and as of 25 August 2014, there were 13 persons in the acting capacity in the senior state positions. Such favourable data from the perspective of the implementation of the independence requirement should be interpreted in the context of the relationship between the time when the new Civil Service Act was passed (2008, but it came into force in 2009)

and the beginning of the new cabinet's term of office (2007). The ruling coalition of the Civic Platform and the Polish People's Party (PO-PSL) was able to fill senior state positions in accordance with the "soft" Act on the national Human Resources Reserve for more than a year. However, maintaining a very low rate of acting officials in the context of the annual staff turnover of over 10% (HCS 2010-2018) proves that the political practice and culture became aligned with the new formal institutions laid down by the Civil Service Act of 2008. The report of the Supreme Chamber of Control (NIK 2011) welcomed the revamped recruitment practices in the civil service. Moreover studies carried out by Dahlström et al. (2015) indicated that between 2009 and 2015, despite the reduction in civil service expenditure, the professionalism index of the corps increased in Poland relative to 89 out of the 94 countries included in their database, whereas the impartiality index relative to 92 countries. Undoubtedly, this was an impressive result, which made it possible for Poland to exceed the average values of both indicators in the OECD countries. This may constitute an exponent of change in the political opportunist environment as far as their relation to the civil service is concerned.

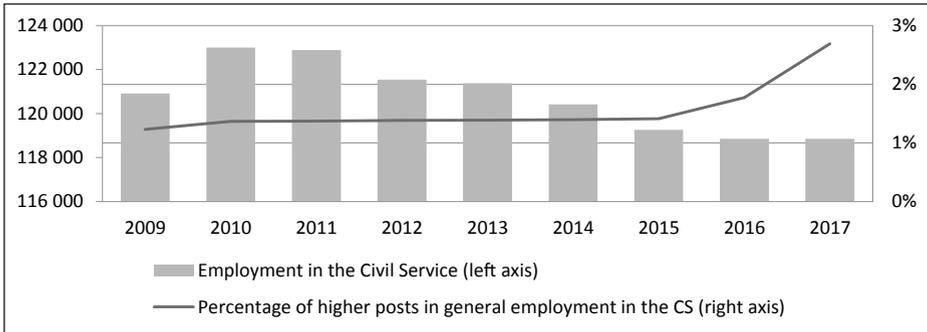
The return to power of the contrarian camp resulted in yet another reversal of approach to the filling of senior positions in the Polish civil service. The new Act of 2015, which came into force in 2016, provided that such positions can be freely appointed at the discretion of politicians. The departure from the arguably unsuccessful experiment involving the National Human Resources Reserve proves both that certain lessons have been learned from the past and that the new government is much more assertive with regard to the value of an independent civil service corps. Accordingly, in 2016:

- in the period of transition, i.e. in one month, almost one-third (505 out of 1580 of those employed as of 22 January 2016) of the senior civil service officials resigned from their posts or were transferred to other positions;
- 212 employment contracts, i.e. over 13% of the total, expired;
- 293 persons (19%) were transferred to lower positions in the civil service;
- in the same period, 1255 people were appointed to senior positions, including 131 from outside the civil service (HCS 2017, Kopińska 2018, Paczocha 2018);

Furthermore, in 2016 the inventory of senior positions was extended to include the posts of the County (Poviat) Veterinarian and Deputy Veterinarian (514 persons) (HCS 2017). In 2017, the list was further expanded by the inclusion of such positions as the Director of the Tax Administration Chamber, Director of the National Tax Information Office, Head of the Tax Office, Head of the Customs and Treasury Office and their deputies. Previously, all these posts were considered middle management ones. As a result, as of the end of 2017, there were 3197 senior civil service positions filled by purely political appointment. These changes coincided with a consistent reduction in civil service employment, hence the percentage of

such positions increased from 1.4% in 2009–2015 to 1.8% in 2016, and 2.7% in 2017 (see Chart 1).

**Chart 1**  
Civil service employment and percentage of senior positions



Source: HCS 2010–2018

In 2017, 744 people were dismissed from senior positions in the civil service, whereas 1622 were appointed, including the newly created positions in the National Revenue Administration (see Chart 2).

**Chart 2**  
Appointments to senior civil service positions by year  
(average for the years 2009–2015)



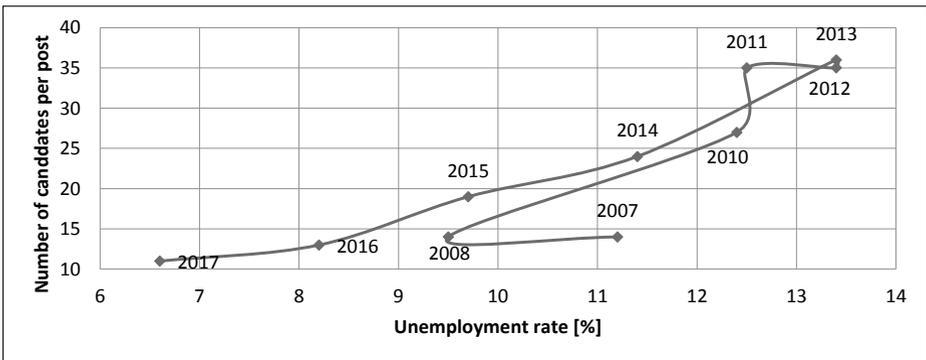
Source: HCS 2010–2018

The current trend towards both formal and actual politicisation of senior civil service positions significantly exceeds the scope of practices followed under the 2006 Act. Such systematic action results from the belief of the current political authorities in the need to control the activities of the administration, whose dependence is treated as an effective solution to the principal-agent problem. This prac-

tice may have a number of negative consequences related to the quality of administration in the context of e.g. knowledge management and staff motivation. In view of the difficulties in assessing the quality of administration in such a short period of time after the implementation of changes, it makes sense to seek a proxy for such an assessment. Here we propose a proxy in the form of the number of candidates per civil service vacancy as a reflection of the belief among the potential candidates in the long-term stability and quality of employment in the corps as compared with employment outside state administration.

As is shown in Chart 3 and as expected, the number of candidates is strongly associated with the situation in the labour market as measured by the unemployment rate (Briggs 2007). However, it should be noted that, regardless of the unemployment data, the number of candidates per vacancy significantly increased between 2010 and 2015 as compared with both the previous period (2007–2008) and the current situation (2016–2017), which shows that people tend to be attracted by the perceived independence of the corps and the stability of the political situation. Moreover, in the absence of systematic research on the social perception of the civil service, the change can be considered a proxy for the general improvement in the image of the corps under the 2008 Act and HRM regulations.

**Chart 3**  
Unemployment rate vs interest in civil service employment in 2007–2017



\* For 2009, the statistics for the number of candidates are lacking.

Source: HCS 2010–2018 and national employment statistics.

A formal analysis based on OLS regression confirms that the formal politicisation of the senior civil service positions by the Civil Service Acts passed by both Law and Justice governments (in 2007–2008 and 2016–2017) had a negative impact on the number of candidates per vacancy even when controlled for the unemployment rate, which also affected this indicator (Table 1). Under formal politicisation, on average there are 8.13 candidates fewer per vacancy as compared with other years.

The unemployment rate affects the number of candidates in a predictable manner. The rise of unemployment by one percentage point leads to 2.5 more candidates per post. In general, it may be interpreted as an indirect indicator of a decreasing quality of the civil service (fewer candidates → less hiring choice → less qualified civil servants).

**Table 1**  
OLS results

Model (a.)	Unstandardised coeff.		Standardised coeff.	t	Signif. (b.)
	B	Stand. Err.	Beta		
(Const.)	-1.217	11.029		-.110	-
Unemployment rate	2.518	.898	.575	2.803	**
Formal politicisation (2007–2008, 2016–2017)	-8.129	3.965	-.421	-2.050	*

a. - Dependent variable: Candidates per one civil service position

b. - insignificant at p=0.1

\* - significant at p=0.1

\*\* - significant at p=0.05

R squared – 0.87

Source: own elaboration

However, this is a very indirect gauge of the quality of the civil service. Specifically, it lacks a firm theoretical grounding in the literature on politicisation and hence must be considered preliminary, although intuitively plausible. A more comprehensive analysis will be possible once more data on this period has accumulated. At the moment these results are confirmed by various other trends:

- Since 2016 staff turnover in the civil service has increased by over 50 %.
- The number of applications to the National School of Public Administration, commonly perceived as the school for the administrative elite, dropped sharply (several years ago, ten candidates competed for a single place, whereas in 2017, the number was down to five per place (Wójcik, Federczyk 2018).
- At the same time, in 2016-2017 the number of candidates for civil service nominations (the most prestigious form of promotion in this professional group) decreased by over 30 % compared with 2013–2015 (on average from 857 to 585).

The Head of the Civil Service commenting on the declining interest in civil service employment and increasing staff turnover, noted: “Further intensification of

this trend will adversely affect the proper performance of the state's tasks entrusted to the civil service corps" (Head of the Civil Service Report, March 2018, 10).

## **Summary and discussion**

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Overall the most important findings of the study include:

- 1) of The evolution of the Polish civil service was multi-layered and had nuanced nature. The strong association between the changes in this political domain and the issue of "unfinished transformation" can be seen;
- 2) Changes in the actual politicisation of the Polish civil service are related to the instrumentalisation of institutions by the camp of political opportunists, which introduces a rift between the institutions and political activities by bending the former to the politicians' will or plainly ignoring them;
- 3) The radical changes in the formal politicisation of the civil service in Poland generally occur due to the pressure of the political circles of ideological contrarianism;
- 4) The centralisation of power around the ruling party has had negative consequences for the quality and professionalism of the Polish civil service.

Unlike part of the analyses to date, the present text paints a multi-layered picture of the evolution of the Polish civil service, which includes changes both in the actual and formal dimensions of politicisation. In Poland, the latter is particularly closely associated with ideological embeddedness termed "unfinished transformation", which refers to the planned and systematic nature of politicisation in 2007-2008 and from 2016 onwards, resulting from the belief that a highly independent civil service cannot be properly steered. The difference between formal and actual politicisation lies in the complementarity between the formal institutions and political action. The actual politicisation, which was particularly evident in 1998-2004 and to a much lesser extent in 2009-2015, was related to the instrumentalisation of institutions by the political opportunists' camp, which made the institutions and political actions inconsistent. Nevertheless, in Poland, the institutional encouragement to limit civil service politicisation led to a notable change in the long-term behaviour of politicians - as a result, the independence and professionalisation of the civil service as perceived by both experts and the public increased in 2009-2015.

On the other hand, the unfinished transformation camp (referred to in this article as the contrarian camp) interprets the retreat from formal institutions supporting the limitation of politicisation as an element of a systematic political programme which consists in the centralisation of power around the ruling party in the face of the perceived difficulties in steering an independent administration. Such a justification goes further than the mere acknowledgement of the fact that "to the

victor go the spoils” (Ståhlberg 1986) and refers to the basic rationale for politicisation, namely to the critical role of the principal-agent problem in the process of effective governance.

The contrarians’ coming to power invariably marked a fundamental formal and actual politicisation of senior civil service positions. The second iteration of this process clearly intensified this trend by systematically involving more groups of officials in the corps of senior positions and thus formally politicising them.

Despite the ideological counter-arguments advanced by the camp in favour of intensive politicisation of the civil service instead of the “pragmatic” political opportunism, the process nevertheless appears to unfavourably affect the quality of operation and professionalisation of the civil service, which is evidenced by the improving performance of Poland’s civil service in terms of its impartiality and professionalism under the 2008 Act (Dahlström et al. 2015). In contrast, the increasing politicisation of the civil service resulted in a significant drop in the number of applications for civil service jobs (in 2017, the average number of applicants was less than a third of the 2013 figure). The link between the scope of formal politicisation of the civil service and the number of candidates seems to be evident and negative.

These unfavourable trends have been compounded by increased staff turnover in the civil service, a sharp drop in the number of applications to the National School of Public Administration, and a decrease in the number of candidates for civil service nomination. This confirms concerns voiced by most researchers about the link between politicisation and the quality of the civil service. That the reason behind the politicisation is ideological rather than opportunistic does not seem to matter much.

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