



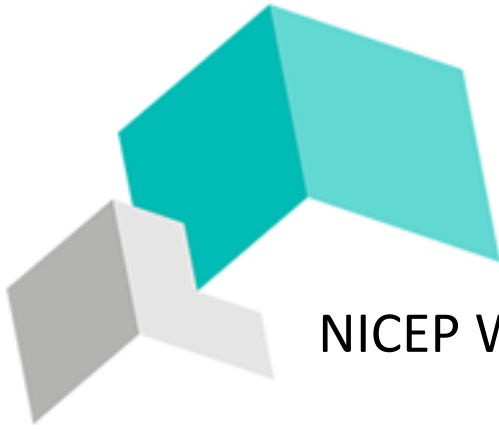
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Glass half full? Or half empty?
Civil service professionalization in the Western
Balkans between successful rule adoption and
ineffective implementation

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Abstract

This paper examines the professionalization of the civil service in the Western Balkans in the context of European integration. It focuses on the fit of civil service systems with European principles of administration as applied by SIGMA and the European Commission to accession states. The analysis distinguishes ten domains of civil service management and three levels of institutionalisation including formal rules, the quality of implementation and the attitudes of civil servants towards European principles. Based on extensive documentary research, personal interviews and a web-based survey of ministerial civil servants, the analysis reveals that formal-legal frameworks fit the European principles to a considerable extent. The main challenge for civil service developments in the Western Balkans concerns the ineffective implementation of formal rules. Even if formal rules and procedures are routinely applied, they do not reach expected outcomes such as merit selection and impartial behaviour of civil servants in policy-making and implementation. Finally, it is shown that civil servants partially support the European principles. In particular, discretionary approaches to civil service management have become increasingly popular in the region. The conclusion explores potential explanations of the emerging pattern of civil service professionalization in the Western Balkans.

Introduction

Public administration is a critical arena for the relations between the European Union (EU) and the Western Balkans. The establishment of professional, impartial public administration based on the rule of law is widely regarded as a precondition for the consolidation of democracy and economic development (Evans and Rauch, 1999; Linz and Stepan, 1996). The quality of public administration has been found to be associated with lower levels of public sector corruption and a range of social outcomes such as better health and with higher levels of happiness in society (Dahlstroem et al, 2012; Heywood and Meyer-Sahling, 2013; Holmberg and Rothstein, 2012).

The effectiveness of public administration plays a key role in the context of European integration. Research has shown that bureaucratic capacity has a major impact on the successful implementation of EU policies and for candidate states it is closely associated with the effective, timely and reliable management of the accession process (Hille and Knill, 2006; Treib, 2008). In other words, without the presence of effective and reliable public administration in candidate states EU enlargement cannot work successfully.

This paper examines the extent to which civil service systems in the Western Balkan states fit the European principles of administration as they are promoted by the European Commission and SIGMA-OECD. The paper unpacks the European principles along ten dimensions of civil service management and distinguishes three levels of institutionalisation: the level of formal rules, the level of implementation and the level of attitudes towards European principles of administration. The paper provides evidence from six Western Balkan states that are not (yet) members of the EU: Serbia, Montenegro, Albania, Macedonia, Bosnia and Herzegovina and Kosovo.

The paper argues that it is a matter of perspective whether the glass of civil service professionalization is considered to be half full or half empty. On the one hand, it is evident that formal-legal framework fit the European principles to a relatively high extent. On the other hand, it is shown that the quality of implementation lacks behind. Moreover, civil servants attitudes towards civil service professionalization only partially fit the European principles of administration. While there is widespread support for the merit principle it is evident that discretionary and performance-

oriented approaches to civil service management become increasingly popular across the region. The paper is divided in five parts. Following a brief discussion of the EU's and SIGMA's approach to civil service reform and professionalization, the paper discusses the three levels of institutionalisation. It concludes with a discussion of potential explanations of civil service professionalization in the Western Balkans.

EU approach to civil service professionalization

The EU has long recognised the relevance of public administration for the success of the European integration project (Dimitrova, 2002). In 1995, the Madrid Council added administrative capacity, including the establishment of professional, de-politicised civil service systems, as a condition for EU membership. Yet the management of public administration has traditionally been in the realm of member state competencies. There is no elaborate *acquis communautaire* that could guide the European Commission when advising and evaluating candidate states with regard to the quality of their public administration. Moreover, public administration in the EU member states is characterised by different administrative traditions and hence diverse institutional structures.

In the late 1990s, SIGMA therefore developed the concept of the European Administrative Space on behalf of the European Commission (SIGMA, 1998, 1999). The concept takes into account that public administration in the EU system of multi-level governance embodies basic principles such as the rule of law and hence legal certainty and predictability, impartiality, political neutrality and professional integrity, openness and transparency, legal accountability, efficiency and effectiveness.

The European principles of administration are derived from the EU Treaties, case law of the European Court of Justice and administrative law codes of the EU member states. It is assumed that they are shared in the legal frameworks daily practices and cultures of public administration in the EU and its member states. Until recently they were not explicitly formulated in a European level document such as a Charter for Better Governance or as a Code of Good Administrative Practice. However, the operationalization of the European principles of administration could be derived from

SIGMA baselines and assessments as well as the regular reports published by the European Commission. In the autumn of 2014, SIGMA published an extensive document that detailed the contents of the European principles across various areas of public administration reform, including the reform of the civil service.¹

Against this background, this paper examines the 'fit' of civil service systems with European principles of administration in the Western Balkans. In order to analyse the degree of fit, ten domains of civil service management and three levels of institutionalisation can be distinguished (Meyer-Sahling, 2009, 2012). They refer to the 'width' and 'depth' of institutionalisation respectively.

The ten *domains* of civil service management include

1. The adoption and implementation of civil service reform programmes that fit the European principles of administration;
2. The adoption and implementation of civil service laws;
3. The establishment of central civil service management institutions with sufficient capacity for effective cross-governmental management of the civil service;
4. The establishment of merit recruitment systems including open competition for entry, professional examination and independence from political interference;
5. The establishment of civil service tenure rules that stabilise public administration and protect employment in the civil service.
6. The development of a professional and de-politicised senior civil service system including prospects of merit promotion to management positions.
7. The establishment of fair and effective performance management systems for civil servants;
8. The establishment of predictable and transparent salary systems as well as adequate salary levels;
9. The establishment of training systems that provide for regular and effective training and development of civil servants;

¹ SIGMA (2014) *The Principles of Public Administration*. Available at <http://www.sigmaxweb.org/publications/Principles-Public-Administration-Nov2014.pdf#page=10>.

10. The establishment of integrity management systems that provide guidance for ethical behaviour in the civil service and regulate, monitor and sanction conflict of interest in the civil service.

The three *levels of institutionalisation* refer to

1. The level of formal rules;
2. The level of management practices and hence the rule implementation;
3. The level of civil service attitudes and hence rule internalisation.

The three levels of institutionalisation are related to each other. In the accession process it is assumed that the reform of formal-legal frameworks leads to a change of management practices. Over time new rules and practices are expected to be fully internalised by civil servants. They become part of the DNA of public administration and hence an administrative culture that fully fits the European principles of administration. (for details, see SIGMA, 1999).

The analysis relies on three types of empirical evidence to test the fit of civil service systems with the European principles of administration. First, legal material, reports from government, civil society organisations and think tanks were screened and examined. Second, personal interviews were conducted in the winter of 2010/2011 with senior civil servants, members of parliament from governing and opposition parties, outside observers from civil society, academia and a wide range of actors from the international community. Since then it has been possible to participate in several regional networking events and conferences organised by the Regional School of Public Administration in 2013, 2014 and 2015. The networking events included senior representatives from the civil service agencies of Western Balkan states and provided a forum to discuss problems of and strategies for the professionalization of the civil service in the region.

Third, a web-based survey of civil servants was conducted in the Western Balkan states. The survey targeted civil servants of the core structure of central government ministries. The survey aimed to uncover the experience of civil servants with the day-to-day management of the civil service. Moreover, it aimed to reveal their attitudes

towards the European principles of administration. The survey was conducted in local languages. It was distributed by central civil service management bodies. Overall, it was possible to collect more than 4000 responses from five of six Western Balkan states (Albania: 1093, BiH State level: 578, Kosovo: 318, Montenegro: 499, Serbia: 1753).

Civil service professionalization across levels of institutionalization

This section is structured along the three levels of institutionalisation. It will begin with the formal-legal frameworks, then move to the quality of implementation and close with a discussion of civil servants' attitudes towards European principles of administration. The discussion will not elaborate each country in detail but focus on the main features of civil service governance in the region.²

The level of formal rules

Civil service systems in the Western Balkans have reached a moderate to high degree of fit with regard to the quality of formal-legal frameworks. The conclusion applies to most countries and most domains of civil service management. Kosovo has been the last country to bring its formal-legal framework in line with European principles. Kosovo's laggard status is closely associated with its trajectory since the beginning of the 2000s. Since declaring state independence in 2008 Kosovo has tried to catch up with other Western Balkan states insofar as civil service reform is concerned. For instance, a civil service law and a new salary act were adopted in 2010 and implementation has begun shortly after. Among the other Western Balkan states, the differences are remarkably small. This might be unexpected insofar as Western Balkan states are at different stages of political and economic development and have with different prospects of joining the EU.

Looking briefly across the domains of civil service management, it is evident that a moderate to high degree of fit applies to the formal rules governing all ten civil service management domains. First, civil service reform programmes that are linked to wider

² For country details, please see (Meyer-Sahling, 2012).

administrative reform strategies are in place in all Western Balkan states. Reform programmes are also regularly updated and renewed.

With regard to the legal basis, all the Western Balkan states have adopted civil service law. As mentioned above, Kosovo was the last country to adopt a civil service law. In the other countries, the relevant civil service laws were adopted in the period between 1999 and 2005. New civil service laws were recently adopted in Montenegro and Albania in response to EU demand for reform.

The scope of civil service laws demonstrates relatively minor differences across countries. Generally, countries have opted for a narrow scope that focuses on central and regional government employees who exercise state authority. Most commonly civil servants are required to hold a university degree. The civil service law therefore covers a relatively small proportion of public administration employees.

At the top end, civil service laws establish a clear separation between politics and administration. In each of the countries, a political appointee besides the minister is defined by other legislation. In Bosnia, Kosovo, Macedonia and Albania, this is a Deputy Minister. In Serbia and Montenegro, it is a State Secretary. Yet the systems differ with regard to the management role that they grant political appointees. In particular in Serbia, State Secretaries tend to intervene in the management of ministerial departments. Macedonia further differs in that the State Secretary (in addition to the Deputy Minister) who sits on top of the ministerial departments was taken out of the scope of the civil service law when the first Gruevski government took power in 2008.

With regard to the central management of the civil service, the analysis shows that all Western Balkan states have established a central institution responsible for the cross-governmental management of the civil service. The actual capacity of these central bodies is not always sufficient. Yet one of the main differences between the institutions concerns their location. In several countries, central civil service agencies, which were widely promoted by international assistance programmes in the early 2000s, have been replaced with ministries of public administration. Serbia, Croatia, Macedonia and Kosovo have (re-)established ministries of public administration. Civil service agencies

as they were originally envisaged have only 'survived' in Bosnia and Herzegovina at both state and entity level.

Merit recruitment procedures have been established across the Western Balkan states. In all the countries it is required to openly advertise job vacancies, oral and written examinations are typically required and appeals against recruitment decisions are possible. The density of the recruitment procedures differs. In Serbia, for instance, it is merely optional for applicants to pass a written examination. Kosovo has only recently introduced the option to take written examinations. Moreover, it is widespread in the region that ministers take the final decision when it comes to the selection of new civil servants; a tradition (and design feature) that does clearly not support the establishment of merit practices in the civil service.

Civil service employment in the Western Balkans is generally protected as expected by the European principles of administration. Yet the trend is negative in this domain of civil service management. Serbia introduced measures to fast track the dismissal of civil servants on the basis of poor performance. Macedonia and Croatia have also introduced formal new procedures that facilitate the dismissal of civil servants due to poor performance within one year. The new procedures have a considerable threat potential. They open the door for discretionary dismissals and indicate a departure from the European principles as applied by SIGMA and the European Commission. However, it remains to be seen whether they will actually be applied in practice.

Separately formalised senior civil service corps have not been established in the Western Balkans. However, senior-ranking positions in the civil service are clearly distinguished from political positions (see above). To the extent that senior-ranking positions are classified as civil service positions, provision for merit recruitment and promotion are in place. In several countries, the merit procedures are very light. For instance, the entry procedure in Montenegro requires lower entry standards for managers than for ordinary civil servants. Moreover, the selection procedure for senior civil servants in Serbia was suspended for several years, as a result of which managers were appointed on the basis of temporary contracts. Compared to other domains of civil

service management, the senior civil service fits the European principles to relatively lower degree.

Performance evaluation systems exist in all countries. It is typical for civil servants to undergo an evaluation at least once per year. A recent amendment in Macedonia has introduced additional mid-term reviews. Salary systems have been reformed across the region. The reform of salary systems was mainly driven by the World Bank, leading to position-based systems that are complemented by both seniority and (small) performance-based components in order to ensure both predictability and performance incentives for civil servants.

Training systems have been established in all the Western Balkan countries. Kosovo established a separate training institute. Albania has recently turned its training institute into a school of public administration; a trend that started in Croatia and has been under discussion in other countries across the region. In the other cases, training efforts are primarily coordinated by the central civil service management institutions.

Conflicts of interest are regulated but the degree of regulation is very light and hence still insufficient when assessed against the European principles of administration. Interestingly, the political rights of civil servants in the Western Balkans are fairly unrestricted. It is frequently argued that a restriction of political rights contradicts the constitutional rights of civil servants as citizens. Even if such an argument enjoys a certain degree of plausibility, it implies that the formal institutional framework does not support the emergence of a politically neutral civil service. To the contrary, it opens the door and might even legitimise political activities of civil servants.

Overall, the formal-legal frameworks do therefore fit, by and large, the minimum standards that can be derived from SIGMA assessments and European Commission reports. It should be added that civil service systems in the Western Balkans fit the European principles to a larger degree than the new EU member states from Central and Eastern Europe (for comparison, see Meyer-Sahling, 2009, 2011). The Czech Republic, for instance, adopted a civil service law in 2002 but it has never been implemented. Slovakia and the Czech Republic have effectively no central management

institution for the coordination of the civil service. Estonia, Latvia and the Czech Republic have no written examination procedures. In fact, Lithuania is the only country among the new member states that has a merit recruitment procedure in accordance with the European principles. Salary systems in the region have remained discretionary and unreformed in several countries such as Poland.

It should therefore be recognised that civil service reforms in the Western Balkans have made considerable progress over the last decade and a half. The reform progress insofar as formal-legal frameworks are concerned clearly reflects the support of the international community. In fact, there is not a single civil service law in the region that cannot be traced to an international assistance project. This pattern indicates major influence and success for international assistance. However it also causes concern in that reforms have not been home grown but imported from outside. Civil service reforms in the new member states of Central and Eastern Europe were also subject to considerable influence from outside. Yet the first attempts to professionalise the civil service in new member states of Central and Eastern Europe in the early 1990s were usually the result of domestic initiatives and debates.

The level of implementation

The major challenge for civil service management in the Western Balkans concerns the implementation of the formal-legal frameworks. More specifically, formal rules and procedures are routinely applied, there is no systematic rule evasion and, apart from a few exceptions, there are no major implementation gaps.³ The main weakness in the area of implementation is therefore the low degree of rule effectiveness. This means that formal civil service rules are applied but they do not reach the outcome they are expected to reach.

The low degree of rule effectiveness is relevant for all domains of civil service management and for all countries. The problem is paradigmatic for the area of merit recruitment. Job vacancies are publicly advertised and open competitions are completed, oral and written examinations are conducted and an appeal is possible for

³ Important exceptions have long been the selection procedure for senior civil servants in Serbia and the application of the performance evaluation system in Montenegro

unsuccessful candidates. Figure 1 below shows that 60 per cent of the survey respondents agree that vacancies are advertised, almost 70 per cent agree that personal interviews are conducted and 63 per cent agree that written examinations are taken. When looking at overall proportions, it should be recognised that merit procedures are much less frequently applied in Kosovo and Serbia (Figure 2). This reflects the formal legal basis (e.g. optional written examinations) as much as it indicates that formal rules are fairly faithfully applied in practice. In the other countries, the application rates are much higher as required by civil service laws.

Figure 1. Merit procedures and party patronage in the Western Balkans

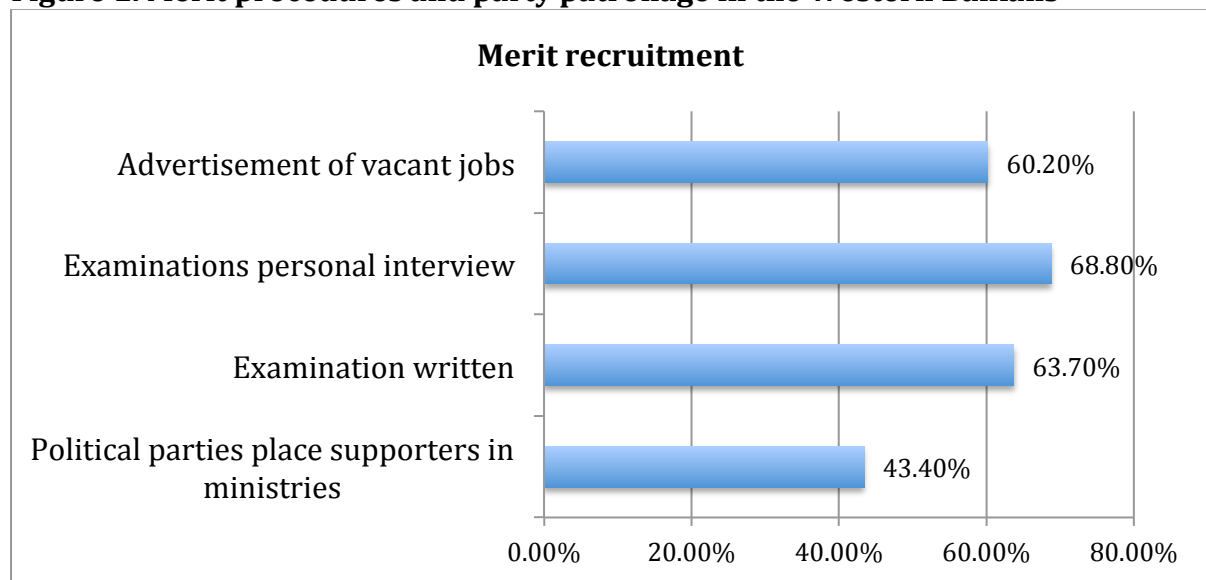
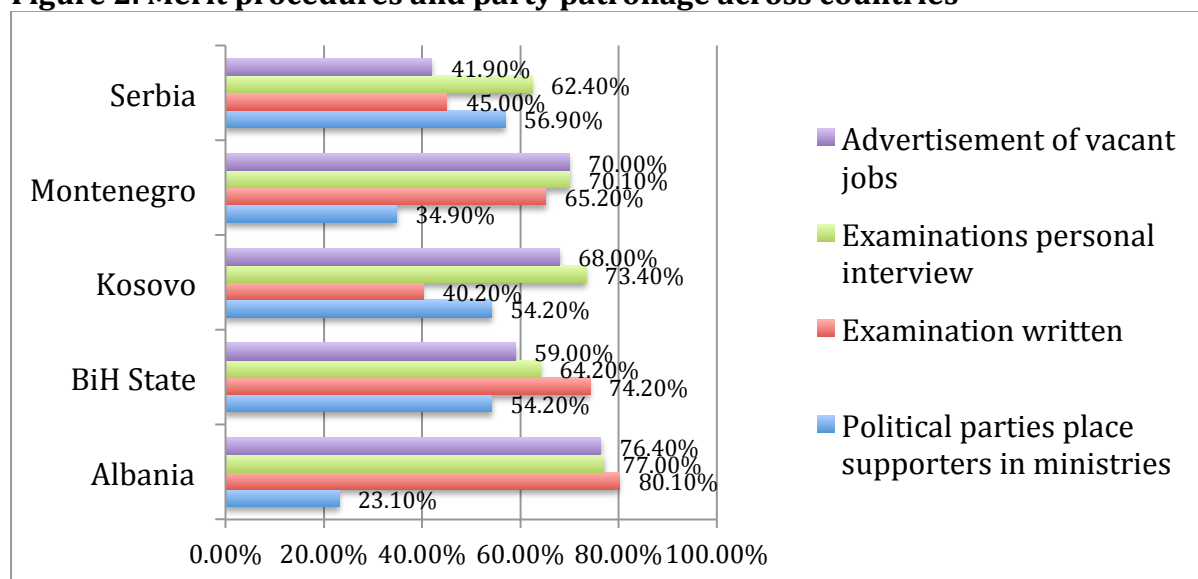


Figure 2. Merit procedures and party patronage across countries



However, Figures 1 and 2 also show that over 40 per cent of the respondents agree with the statement that parties regularly place supporters in ministerial structures. In other words, party patronage is widespread even though merit recruitment procedures are routinely applied. Again we can identify differences across the countries. Patronage appears to be lower in Montenegro and Albania. Especially for Albania this pattern is likely to have changed after the last parliamentary election in 2013 when a new socialist government replaced a conservative-led government that had ruled for eight years.

The general finding has several implications. It specifies first of all what the nature of the implementation gap in public administration is. It is often suspected by outside observers that new laws are adopted but they are then not applied. But that is evidently not true for the civil service. Rather, the nature of the implementation problem is a problem of rule effectiveness.

Second, even if the examination procedure does evidently not work well, this does not mean that merit procedures have no impact whatsoever. Rather the effect often appears to be small and inconsistent rather than entirely absent. A regression analysis (Table 1, Appendix), which examines the relation between open job announcements, personal interviews and written examinations on party patronage suggests that the former two

have a significant albeit small effect on lowering patronage.⁴ By contrast, written examinations appear to be relatively ineffective, in particular, when controlling for country effects and the demographic characteristics of respondents. This might be the result of inadequate institutional designs, a lack of implementation capacity or the persistent of informal rules that contradict the effective use of written examination procedures. In any case, the finding implies that written examinations as such do not necessarily reduce party patronage in the civil service.

The problem of poor rule effectiveness is paradigmatic for the area of merit recruitment. However, similar patterns can be identified for other domains of civil service management. For instance, performance evaluations are regularly applied in the Western Balkans and institutionalised but civil servants question the impartiality of promotion processes in the civil service. Moreover, they are argued to have virtually no impact on training and salary outcomes. Figure 3 and 4 below shows the discrepancy between the application of performance evaluations, the ex ante agreement on performance objectives and the possibility for appeal on the one hand and the perception of civil servants regarding the extent to which political connections (rather than performance) dominate promotion decisions in the civil service. In other words, the problem of implementation is again not one of faithful rule application but one of insufficient rule effectiveness.

⁴ The survey question asked 'Political parties place their supporters in the ministerial structure' and can hence reasonably be taken to indicate the degree to which parties are perceived to rely on patronage appointments.

Figure 3. Performance management in the Western Balkans

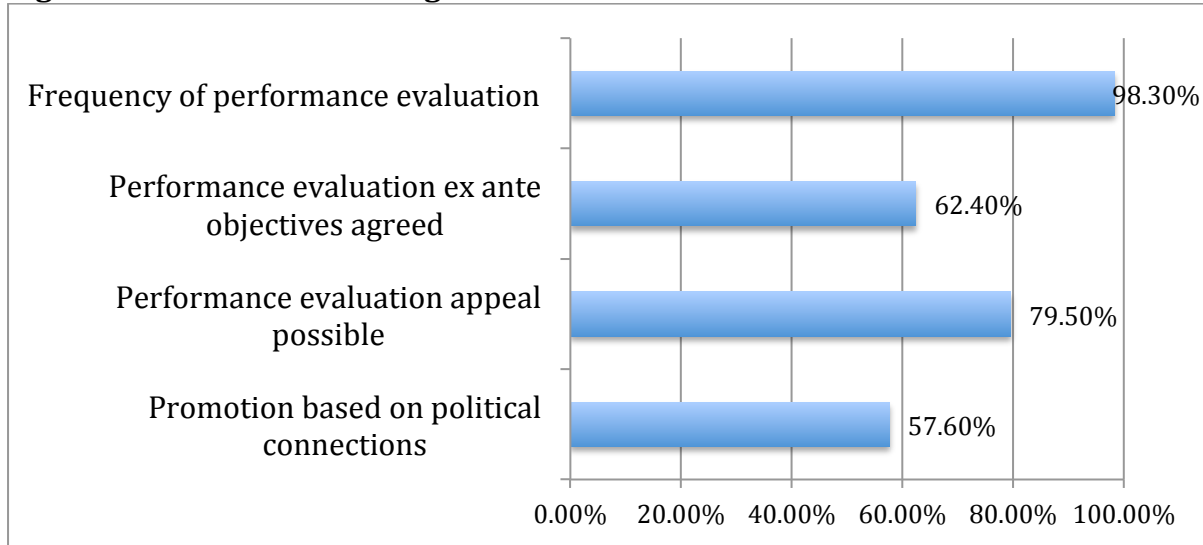
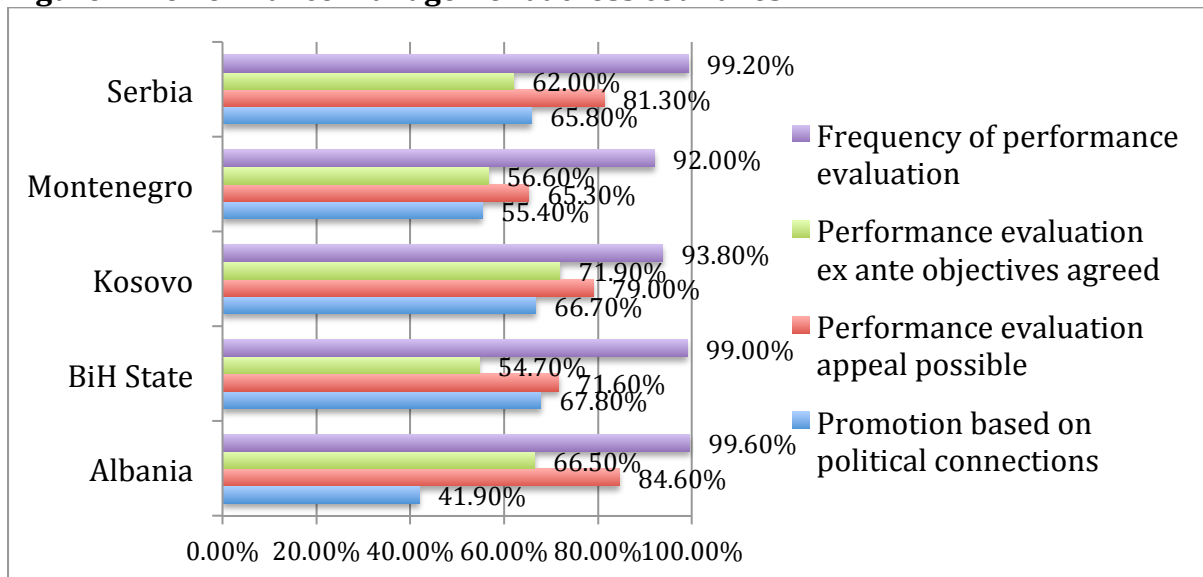


Figure 4. Performance management across countries



The level of civil servants' attitudes

The third level of institutionalisation concerns the attitudes of civil servants and hence the level of rule internalisation. The attitudes of civil servants towards the European principles of administration is fairly mixed. On the one hand civil servants show great support for merit-based institutions and outcomes. Figure 5 shows that the merit principle is largely uncontested in the region. Civil servants support recruitment and promotion based on merit, written and oral examinations and the de-politicisation of

selection and promotion decisions. These are essential standards associated with the European principles as applied by SIGMA and the European Commission.

Figure 5. Attitudes towards merit procedures and de-politicisation

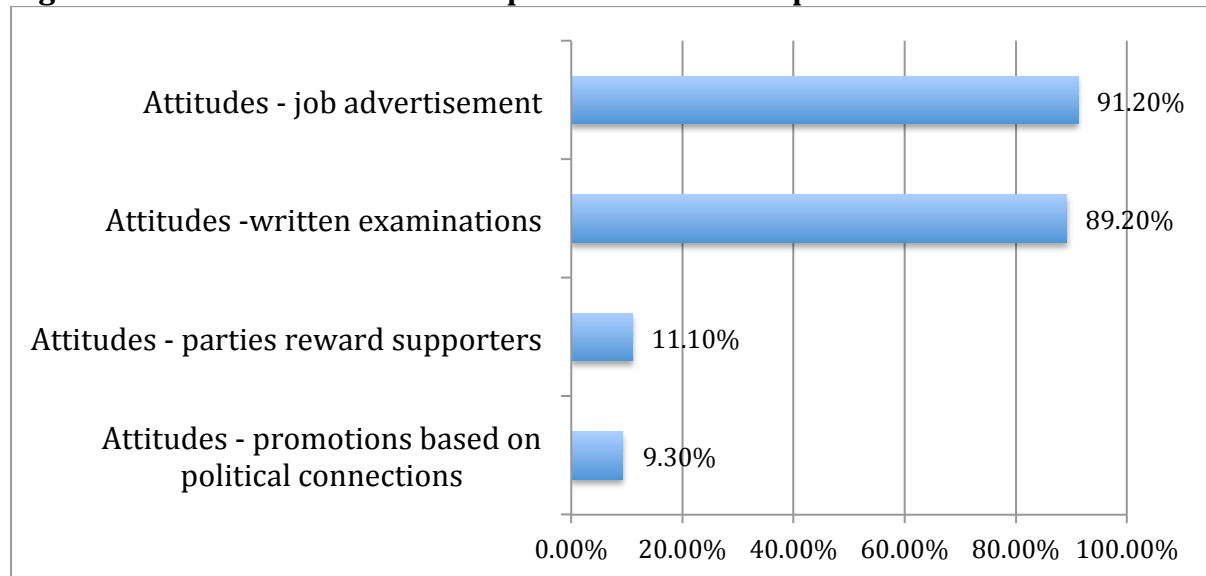


Figure 6. Attitudes towards performance-based human resources management

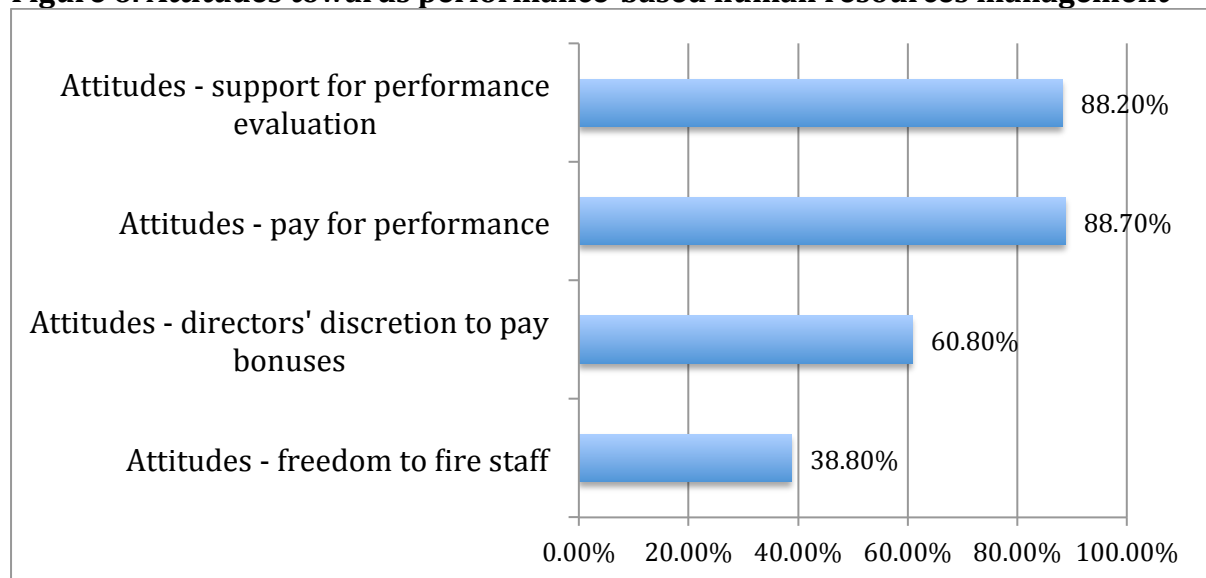


Figure 6 by contrast shows significant support for management principles that are not necessary in accordance with the European principles as applied by SIGMA and the European Commission for accession states. Freedom for managers to fire staff who perform poorly as well as discretion for managers to pay bonuses are two principles

that are closely associated with the new public management (NPM). The NPM is not necessarily incompatible with the European principles of administration. However, already in the late 1990s SIGMA took a clear position that discretionary civil service governance is problematic for transition and accession states. Especially under conditions of personnel politicisation, it creates major risks of favouritism, which contradicts the principles of fair and equal treatment as well as the overarching principle of civil service impartiality.

The evidence presented in Figure 6 suggests that civil servants are fairly supportive of discretionary principles of civil service management. Further analysis suggests that support is especially strong among civil servants with fewer years of experience in public administration and civil servants with a university degree in economics. Moreover, relatively more support for discretionary governance can be found in finance and economy ministries. This pattern is consistent across Western Balkan states.

The support for discretionary management principles but the divisions *within* the civil service over the desirability of discretion suggests that civil service reform faces new challenges. In particular, it suggests that reform strategies that seek to reduce management discretion will be contested by a significant segment of the civil service. It should further be noted here that civil servants in the new member states are even more discretionary in their attitudes than civil servants in the Western Balkans. If we assume that the Western Balkan states will follow the trajectory of the new member states, albeit with some delay, we might expect that civil servants will become more discretionary in the years to come. For civil service reformers this will be a major challenge in the future.

Conclusion

The professionalization of the civil service is essential for the relation between the Western Balkans and the EU. The analysis of civil service systems in the Western Balkans in relation to the European principles of administration has revealed a mixed picture. Three findings stand out. (1) Civil service systems have achieved a moderate to

high degree of fit with European principles insofar as formal-legal frameworks are concerned. (2) The problem of the civil service in the Western Balkans is a specific kind of implementation problem. It involves the routinely application of formal civil service rules but a low degree of rule effectiveness. (3) Civil servants in the Western Balkans demonstrate only partial support for the European principles of administration as applied by SIGMA and the European Commission. In particular, discretionary and performance-oriented approaches to civil service management have gained popularity in the civil service.

Overall, it remains a matter of discussion whether the glass of civil service reform and professionalization is half empty or half full. Compared to the new member states of Central and Eastern Europe, it might be important to recognise the achievements of the Western Balkans states so far. Moreover, a focus on a high degree of fit in the area of formal institutionalisation and the finding that most of these procedures have at least a small impact on professionalizing management practices should be regarded as a promising sign for future reform.

Yet it remains to be seen why it has been so difficult to improve the quality of implementation in the Western Balkans. Further research will have to investigate whether rules and procedures remain incomplete, whether the implementation capacity is still too low and/or whether informal rules compete with formal rules. It is certainly possible to identify support for each of these possibly explanations. For instance, in Bosnia and Herzegovina one has to take into account informal norms of accommodating ethnic diversity in recruitment and selection decisions. These norms do not often (though not necessarily) compete with the formal requirements of the recruitment procedure.

The problem of insufficient implementation capacity should also not be underestimated. While central civil service agencies tend to have personnel and resources to manage the civil service from the centre, it is common for HR units in ministries and agencies to lack the capacity to play an active role in internal management. The weakness of HR units has consequences for monitoring and enforcement in the ministries and hence overall functioning of civil service management. A lack of

implementation capacity or the dominance of informal rules: either way, it is clear that there are no quick fixes for civil service professionalization in the Western Balkans.

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Appendix

Table 1. Regression Results

Dependent variable: party patronage	Model 1	Model 2	Model 3
Advertisements	-0.346*** (0.03)	-0.303*** (0.031)	-0.278*** (0.032)
Interviews	-0.140*** (0.035)	-0.151*** (0.035)	-0.144*** (0.036)
Written examinations	-0.081* (0.032)	-0.051 (0.033)	-0.048 (0.034)
Country (reference category: Albania)			
		0.401*** (0.087)	0.431** (0.088)
	Bosnia and Herzegovina (State Level)		
		0.236* (0.138)	0.321** (0.145)
	Kosovo		
		-0.072 (0.109)	-0.060 (0.113)
	Montenegro		
		0.389*** (0.076)	.404*** (0.078)
	Serbia		
Female			0.011 (0.061)
Age ⁵			-0.019 (0.018)
Time in public administration ⁶			0.058** (0.025)
Manager			0.181*** (0.068)
Constant	5.119 (0.115)	4.695 (0.139)	4.042 (0.251)
R2	.229	.256	.254
N	1214	1214	1156

Notes: Standard errors in parentheses. *** p < 0.01; ** p < 0.05; * p < 0.10.

⁵ In the survey, age was measured in categories from 1 – 10, whereby 1 = under 21 years, followed by 5 year intervals to 10 = over 60 years. In the analysis, ‘age’ is treated as a continuous variable for ease of interpretation and presentation.

⁶ In the survey, years in public administration was measured in bands from 1 = up to 6 months, 2 = 6 to 12 months, 3 = 1 to 2 years, 4 = 3 to 4 years, 5 = 5 to 10 years, 6 = 11 – 15 years, 7 = more than 15 years. In the analysis, ‘years in public administration’ is treated as a continuous variable for ease of interpretation and presentation.