

State Secretaries Reform in Ukraine

Attempt to Delineate Responsibilities between Ministers and Senior Civil Servants

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Abstract

The relationship between politicians and senior officials has been on the reform agenda in many countries, often on the premise that balance between technical, nonpartisan appointments and ensuring the responsiveness of public servants to the policies of the current government could be improved (Matheson et al. 2007). This paper examines an attempt to de-politicize senior civil service in Ukraine through the introduction of state secretaries, to understand whether the diagnosis of imbalance in this

political/administrative interface was correct, and why the reform failed. The paper draws on a survey of government officials and experts as well as legal acts, available documents, articles, and personal interviews. The paper concludes that politicized civil service was a problem of form rather than function—the immediate problem was the undefined political role of the executive. It led to compression of the roles of policy makers and senior civil servants, making the reform ultimately irrelevant.

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**State Secretaries Reform in Ukraine: Attempt to Delineate Responsibilities
between Ministers and Senior Civil Servants**

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Key words: public administration, civil service reform, political economy of reform, institutional
refor

I. Introduction

The interaction between professional civil servants and politicians is at the heart of the challenge of balancing accountability to elected politicians with professional independence, competence and policy continuity within the public sector. Concerns that the delineation between political and administrative functions is suboptimal have been evident in countries at all income levels for several decades. Typically, the reform concern in lower income and former communist countries is that civil servants suffer from political interference and that patronage considerations prevent the development of a cadre of talented senior managers (World Bank, 2000). Conversely, in many high-income countries the late twentieth and early twenty-first century concerns are that political neutrality has been overstated and that senior officials are immune from the concerns of their political masters (Peters and Pierre, 2004).

This paper draws on a small survey of expert respondents in offering a case study of the establishment of state secretary positions in Ukraine (Eisenhardt and Graebner, 2007; Dooley, 2002); a reform that was initiated in 2001 in an attempt to move from political senior appointments to technical non-politicized appointments. The objective of the article is to challenge the proposition, shared by international development actors at the time, that politicization of senior officials was the binding constraint on a more efficient public sector and which could be adjusted without larger changes. The survey of 15 civil servants, ministers, state secretaries and representatives of academia, as well as the review of legal documents and literature provides a basis for the analysis in the paper (see Appendixes 1 and 2).

The next section provides a literature review of the relationship between politicians and senior officials. It is followed by a description of the state secretaries' reform in Ukraine and findings of the case study. The paper concludes by generalizing lessons learned from the Ukrainian experience and posing questions for future research.

II. Literature Review

A seminal conceptualization of the relationship between politicians and bureaucracy dates back to the work of Max Weber (1947) and describes an ideal type bureaucracy where politicians act as representatives of political interests and programs while bureaucrats act as implementers of the policy, whose major concern is efficiency. Senior officials staffing arrangements are at the core of this relationship as senior officials are the main interlocutors between politicians and civil service. The relationship between policy making and policy implementation closely mirrors the relationship between politicians and bureaucracy. Policy can be defined as: “the sets of laws, regulations or other government enforced rules, or funding arrangements, that:

- require, restrain or pay for actions from individuals, enterprises and government officials;
- together contribute to the achievement of specific government objectives; and
- are recognized as interlinked.

Government policy is distinguished from isolated government action, in that it refers to a set of laws, regulations or other rules or government actions that attempt to have some impact on economic and social actors. To count as 'policy', this collection of rules must be somehow interlinked and, whether effectively or otherwise, must in some way seek to achieve some objectives of government.” (Evans and Manning 2003, pp: ii-iii). The political policy-making function frames problems in a way that encourages debate and contestation, and which allows solutions to be seen in the context of their ideological implications; to initiate policies, and to be accountable for their results.

Accompanying this idea of policy-making, there is also the function of “implementation”. It is important to note however, that implementation is far from a blind, mechanical process in which clear rules and policy frameworks are rolled out by the bureaucratic machine. Political policies inevitably leave sufficient room for interpretation and manipulation to allow implementation to take two stylized forms. Neutral/professional implementation is driven primarily by technical considerations and compliance with law and due process and seeks to achieve the technical objectives of the policy. Politicized implementation also uses the room for maneuver within policy frameworks but with less regard for technical objectives and driven primarily by the need to maintain the reputation or authority of their political principals through biasing results towards

avored groups or ensuring the distribution of public goods to important constituents (Peters and Pierre 2004). In caricature, technical implementation of policies seeks to achieve the stated objectives of those policies, while politicized implementation seeks to provide political advantage to the political policy-makers themselves.

There is a spectrum of arrangements for appointing and managing senior officials in different countries in order to achieve implementation (of either type). Matheson, Manning et al. (2007) analyze different arrangements in a number of European and non-European countries. They conclude that while all the countries adhere to non-partisanship of the public service, senior appointments are still political to a varying degree. Three stylized sets of arrangements for appointing and managing senior officials can be found in European countries: (1) primarily non-partisan with senior officials appointed based on technical criteria (Westminster); (2) primarily political appointees; (3) hybrid models combining technical appointments and political acceptability. Generally, the direction of reform is to move away from (2) – although whether towards (1) or (3) is less evident. Most of the countries use a hybrid model combining technical appointments and political acceptability (including Italy, Germany, Belgium and France). In Italy (Carboni, 2010), the principle of separation between politicians and senior officials has been affirmed by law since 1993 with a certain degree of autonomy over expenditure and responsibility for policy implementation. In 1998, Italy adopted the “spoils” system for senior civil servants (vice ministers and undersecretaries) who have to be confirmed or removed from their positions within three months after a new legislature is elected. Some countries have formal restrictions, which spell out a division of responsibility between ministers and civil servants (e.g., U.S., United Kingdom, the Republic of Korea, New Zealand) and define certain functional areas that are outside of the ministerial oversight (e.g., New Zealand and UK for areas such as land registration or accounting officers role). Most of the Eastern European and former Soviet Union countries have a system that does not clearly separate roles of politicians and senior officials, and the level of politicization is increasing over time (Meyer-Sahling, 2004). In countries where senior officials are primarily political appointees, they tend to exercise politicized implementation, prioritizing the careers or survival of their political principals above the attainment of policy objectives.

Regardless of the type of the arrangements for senior officials, a functional government requires both political leadership and professional capacity for policy implementation. The recent research (Peters et al, 2004; Christensen and Laegreid, 2004) showed that interaction patterns between politicians and bureaucrats are complex and interlinked, but both political and administrative functions are critical in delivering public service to the citizens. Svava (2001) offers a framework for analysis of the politics-administration dichotomy. The framework sets two directions: political control (capacity of politicians to set directions and maintain oversight) and professional independence (capacity of civil service for policy formulation and implementation). Svava argues that a high level of political control and high level of professional independence result in an optimal situation of complementarity enabling efficient public service delivery. However, changing towards a less politicized appointment arrangement is strenuous. Jacobsen (2006) emphasizes that economic and political stability is a key precondition – turbulent times make politicians more prone to maintaining day-to-day control. Heredia and Schneider (1998) note that political powerholders are to relinquish discretionary control over bureaucratic implementation if they can see a political future for themselves in a more merit-based bureaucratic environment. Despite these complexities, a clear distinction between political policy-making and neutral professional implementation has become a standard cry of reformers, leading them towards de-politicization reforms based more around “isomorphic mimicry” than functional progress (Pritchett et al, 2010).

This paper suggests that the State Secretary reform in Ukraine focused on the superficial organizational form of the senior administrative appointments, seeking to mimic the desired distinction between politics and neutral administration, ignoring the underdeveloped political policy-making function in the executive.

III. State Secretaries Reform: Context and Implementation

This section looks at the context, design and implementation of the State Secretary reform in Ukraine using a case study methodology (Gerring, 2004) drawing on a literature review, a study of legal texts and other documents.

Public Administration in Ukraine before the State Secretaries Reform

Political policy-making was not a strong feature of the executive at the time of the reform initiation (Koliushko, 2002b). In the Soviet period ministers of the central Soviet cabinet of ministers and republican cabinets were civil servants (Order of State Committee of Labor of the Soviet Union #443 On Approval of the List of Civil Service Positions) who would implement policies that originated outside the executive in the Central Committee of the Communist party. Since the independence of Ukraine in 1991, the system changed somewhat chaotically but utilized the bureaucratic apparatus inherited from the Soviet Union. Over time, policy implementation became deeply politicized as senior officials (including ministers) and many lower levels of the administration held their positions on the basis that they could use policy as a “cover” for discretionary actions which supported the political standing of the president and powerful players within Parliament. Ministers had little political policy-making role – they were primarily politicized implementers and managers of their ministries (Ukraine SIGMA Assessment 2006). The Law on the Cabinet of Ministers dated back to 1978 and was completely silent on the policy making function as it pertained to the Soviet practice of ministers as administrators.

The system that existed in Ukraine prior to the reform of 2001 relied heavily on the Presidential power with negligible role in policy making of the ministers and the Cabinet of Ministers. While formally Ukraine had a presidential-parliamentary system and the President was responsible for political policy making in regards to foreign policy, and the Cabinet of Ministers was the main body of the executive power according to the Constitution of Ukraine, the President de facto was responsible for policy making for both foreign and domestic policies. The President with the consent of the parliamentary majority appointed the Prime Minister. The President also appointed cabinet ministers based on the submission by the Prime Minister and, while they were notionally accountable to the Prime Minister, in fact they were dependent on the President for their continued employment. Ministers and their deputies were mainly involved into politicized implementation of the policies.

Table 1. Political/Civil Service Positions Functions: Pre State Secretaries Reform

	Pre 2001	
	De Jure	De Facto
President	Political policy-making (foreign policies)	Political policy-making
Cabinet of Ministers	Political policy-making	Negligible role in policy-making
Ministers	Political policy-making	Politicized implementation
Deputy Ministers	Politicized implementation	Politicized implementation

The 2001 State Secretaries Reform

Supported (or perhaps pushed) by international partners, in 2001 Ukraine embarked on the state secretaries' reform by introducing senior civil servant positions, i.e. state secretaries who would be in charge of professional implementation of the policies. The public administration reform concept was developed and approved by the Decree of the President of Ukraine #810 in 1998. The reform was developed by a group of government officials, politicians and academia with support of donors such as DFID, UNDP, World Bank and others. The Concept envisaged that political and administrative functions should be separated, shifting the system from political functionaries to Westminster style independent top civil servants. The role of the ministers was assumed to be that of ministers in other western democracies – policy making.

The state secretaries' role defined by the President's decrees gave them considerable independence from the Cabinet of Ministers, in principle seeking to make them technical implementers. The reform had started with the introduction of state secretary positions by the Decree of the President #345 approved on May 29, 2001 and the Decree on Sample Terms of Reference of a State Secretary approved on July 14, 2001. The state secretaries' responsibilities included preparation and submission for the minister's approval of the ministry's program and work plan, preparation of the budget, approval of the organizational structure of the ministry and staffing decisions for the ministry apparatus and regional units of the ministry as well as reporting on ministry's performance. In reality, this role overlapped with the politicized implementation function of the ministers who, with little political autonomy and with their traditional responsibilities taken over by the state secretaries, resented the new positions that they thought undermined them.

Table 2. Political/Civil Service Positions Functions: State Secretaries Reform

	De Jure	De Facto
President	Political policy-making (external policies)	Political policy-making
Cabinet of Ministers	Political policy-making	Negligible role in policy-making
Ministers	Political policy-making	Politicized implementation
Deputy Ministers	-	-
State Secretaries	Neutral/professional implementation	Politicized implementation

In fact, the functional overlap between the ministers and state secretaries was even more complete than the law suggested. The appointment procedure defined by the 2001 Decree envisaged that the President appointed and dismissed the state secretaries and their deputies. Prior to 2001 the deputy ministers were also appointed by the President but with the consent of the minister. The prime minister suggested state secretaries to be appointed by the President and the newly appointed state secretaries submitted candidates for deputy state secretaries directly to the President. De facto there was no competitive procedure for selection of the state secretaries and their deputies despite the non-political nature of these positions (Valevsky and Kononchuk 2003; Koliushko 2002a). The qualification requirements that had to be complied with were fairly general and the Decree of the President provided for a preference that could be granted to any civil servant based “on the initiative and past record he or she had” allowing considerable discretion. The responsibilities of the state secretaries had been changing during 2001-2003. The original Decree of the President issued in May 2001 was followed by the decrees of July 2001 and of January 2002. The Decree of July 2001 returned certain functions - some of the staffing and budget issues - to the ministers. At the same time, introducing a provision that the Cabinet of Ministers resignation did not lead to dismissal of the state secretaries however state secretaries were appointed for the term of the President and resigned once the new President was elected strengthened the pro-presidential nature of the state secretary positions. So the ministers and the state secretaries were each engaged in politicized implementation of policies emanating from the president.

The pressure within the system was building and as suddenly as introduced, the state secretary positions were abolished. The degree of functional overlap between the ministers and state

secretaries was emphasized by the turnover of state secretaries - few survived even one Presidential term demonstrating that the claimed non-partisanship of the state secretary positions was largely mythical (Valevsky and Kononchuk, 2003). There were over 50 Presidential decrees that dismissed state secretaries and their deputies during the period of 2001-2003. For example, the Ministry of Finance had four state secretaries within the three-year period. Although state secretary positions were established as civil service posts, many of the appointed state secretaries were active in politics (Kovrygenko, 2001). The other complication was that the ministers did not have any political deputies and the state secretaries often performed this function as well (Averyanov, 2002). Finally, the Decree of the President of May 26, 2003 liquidated the state secretary positions and reinstated the positions of deputy ministers. The functions that used to be carried out by the state secretaries were returned to the ministers, including decisions on the administrative budget of a ministry, approval of the ministry structure, and personnel list with consent of the Ministry of Finance. Some analysts attributed the abolishment of the state secretary positions to the political situation and appointment of the coalition government headed by Mr. Yanukovych that changed the power balance between the President and the Cabinet (Valevsky and Kononchuk, 2003).

IV. Findings

An indicative survey of 15 expert respondents who occupied positions as civil servants, state secretaries, or ministers at the time of the reform or were involved in the reform as representatives of academia and international organizations supports the claim that Ukraine's attempt to de-politicize appointments of senior officials missed the point that there was no established political policy-making function within the executive. Soviet heritage of a single party political structure with a limited political function of the executive contributed to ministers playing an administrative and managerial role – a space into which the new State Secretary positions were also squeezed. Most of the respondents supported the contention that the political policy-making function of the minister before the reform was very limited (10 respondents stated that the political function was not defined, four noted that it was defined to a limited extent, and only one claimed it was defined). Cascading replacements of key senior and mid-level officials in the ministries and government agencies when changes in the leadership occurred suggest that loyalty was regarded higher than professionalism.

The state secretaries' reform was only focused on the form of an appointment process for the senior civil service. The solution to the public administration problems that Ukraine chose was establishing non-political appointments for senior officials – state secretaries. The attempt to delineate political and civil service positions in the government turned out to be a case of “isomorphic mimicry”, i.e. conducting reforms to look legitimate rather than make governance more efficient and effective (Andrews, 2009).

In reality, the reforms were likely an attempt of the President to strengthen control over the executive by establishing state secretaries as an alternative and more manageable locus for politicized implementation than the ministers (Lytvyn, 2001). This hypothesis is supported by the fact that while the reform was discussed with the government and civil society, the draft Presidential decree that set the roles and responsibilities of state secretaries was not made public prior to approval. There was a de facto attribution of the state secretaries to the President through the appointment procedure and synchronization of tenure terms, discussed in the previous section. Seven of 15 respondents to the survey conducted for this study pointed out that strengthening of the Presidential power was one of the major reasons behind the reform initiation. The mandate of the state secretaries was geared towards controlling the budget and staffing.

The role compression between the ministers and state secretaries occurred as a result of the reform, when both were de-facto in charge of politicized implementation (table 2), yet serving different political masters (table 3). There was only one of 15 respondents of the survey that stated that the responsibilities between the minister and the state secretary were clearly defined. The other 14 respondents replied that the division was unclear and led to tensions between the ministers and state secretaries. There were also 12 respondents pointing out that the state secretaries' role was either not different from deputy ministers or that the only change was different reporting lines.

Table 3. Reporting Lines within the Government

	Pre 2001	2001 Reform	Post 2003
Cabinet of Ministers	Report to the Parliament and the President	Report to the Parliament and the President	Report to the Parliament and the President
Ministers	Report to the Parliament and the President	Report to the Parliament and the President	Report to the Parliament and the President
Deputy Ministers	Report to ministers	X	Report to ministers
State Secretaries	X	Report to the Presidential office and ministers	X
Directors of departments of ministries	Report to deputy ministers, sometimes minister	Report to state secretaries	Report to deputy ministers, sometimes minister

Two major changes resulting from the reform are worth noting – weaker reporting line from the state secretary to a minister compared to the deputy minister, and the direct linkage of state secretaries to the President. It led to considerable resistance to the new positions from the ministers.

The state secretaries existed for less than three years and were abolished returning to the pre-reform system. There has been no progress in reforming public administration since 2003. The recent Law on Civil Service approved on November 17, 2011 separated political positions of ministers and deputy ministers from the civil service positions – directors of department and below. However, most of the administrative functions related to managing a ministry’s apparatus are assigned to the ministers, creating opportunities for deep political control over civil service positions (Koliushko, 2012).

The costs of failure were long term, going beyond the period of the reform implementation. The reform that was used as a tool in the political struggle and created the rivalry within the

ministries caused a waste of effort and instability. The fact that public administration reforms were not seriously attempted until now indicates another cost associated with the failure: diminished trust in the reform process. The majority of survey respondents (10 of 15) viewed the reform as a valuable experience and lesson for future reforms.

V. Conclusions

Theory tells us that there is a spectrum of arrangements concerning senior appointments, and that a functional government requires both political leadership and professional capacity for policy implementation. Many countries have attempted civil service reforms with varying degrees of success – and indeed with varying degrees of clarity concerning how success might be defined (Politt and Bouckaert, 2011). Europe and Central Asian countries in particular have struggled with finding the right model when undergoing transition from a single party centralized planning system. The objective of this paper was to look into the failed attempt to de-politicize senior appointments in Ukraine through the introduction of the state secretary positions, to understand whether the diagnosis of imbalance in the political/administrative interface was correct, and what the reasons behind the reform failure were.

While Ukraine ostensibly initiated the reform to de-politicize the appointment arrangements of the senior officials, we argue that the politicized civil service was a problem of the form rather than a function – the immediate problem is the centralization of political policy-making around the president and the undefined political role of the executive. The role compression between the ministers and state secretaries occurred as a result of the reform, when both were de-facto in charge of politicized implementation, yet serving different political masters. The result was that the reforms were unsustainable and the government went back to the previous system, but with a tremendous waste of effort and a heightened distrust about the purpose of reform initiatives.

This analysis gives a rise to a policy research agenda focused on a better understanding of the conditions under which a political space is created to initiate an incremental reform process that is based on building functions of the government required for designing and implementing policies in an accountable way. It also poses a question on how international donor support could be provided in a way that supports an evolutionary process of state building rather than particular

models of the civil service system, to avoid abuse of the new institutions and procedures for political or private gain.

Appendix 1. Survey Description

The survey was conducted for this study between October 1 and November 5, 2013. 30 respondents were identified. The respondents either occupied positions of civil servants, state secretaries, and ministers at the time of the reform or were involved in the reform as representatives of the academia and international organizations. Out of 30 respondents, only 15 questionnaires were received.

The sample included 1 minister and 2 state secretaries at the time of the reform implementation, 8 civil servants, 2 representatives of the international organizations and 2 representatives of the academia.

The questionnaire for the survey consisted of both multiple choice and open-ended questions and is provided below.

1. During the state secretaries reform of 2002-2003 you were
 - a. Minister
 - b. State Secretary
 - c. Civil Servant
 - d. Donor employee
 - e. Academic

2. Was the political function of a minister well defined
 - a. Before the reform initiation?
 - b. After the reform initiation?

3. The main task of the minister before the reform initiation was
 - i. Managing the ministry
 - ii. Policy making

4. The main task of the minister after the reform initiation was
 - i. Managing the ministry
 - ii. Policy making

5. What were the main reasons behind initiation of the state secretaries reform?
6. How did the role of a state secretary change compared to the pre-reform deputy minister positions?
7. Was there a clear division of responsibilities between the state secretaries and ministers?
8. What were the main reasons for continuous changes in the mandate of state secretaries through Presidential decrees?
9. Did introduction of the state secretary positions lead to establishing of the professional independence of the civil service?
10. In your opinion what was the main reason for abolishing the state secretary positions?
11. In your opinion was the reform a positive or negative experience for Ukraine?

Appendix 2. References

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Table 1. Political/Civil Service Positions Functions: Pre State Secretaries Reform

	Pre 2001	
	De Jure	De Facto
President	Political policy-making (foreign policies)	Political policy-making
Cabinet of Ministers	Political policy-making	Negligible role in policy-making
Ministers	Political policy-making	Politicized implementation
Deputy Ministers	Politicized implementation	Politicized implementation

Table 2. Political/Civil Service Positions Functions: State Secretaries Reform

	De Jure	De Facto
President	Political policy-making (external policies)	Political policy-making
Cabinet of Ministers	Political policy-making	Negligible role in policy-making
Ministers	Political policy-making	Politicized implementation
Deputy Ministers	-	-
State Secretaries	Neutral/professional implementation	Politicized implementation

Table 3. Reporting Lines within the Government

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Cabinet of Ministers	Report to the Parliament and the President	Report to the Parliament and the President	Report to the Parliament and the President
Ministers	Report to the Parliament and the President	Report to the Parliament and the President	Report to the Parliament and the President
Deputy Ministers	Report to ministers		Report to ministers
State Secretaries		Report to the Presidential office and ministers	
Directors of departments of ministries	Report to deputy ministers, sometimes minister	Report to state secretaries	Report to deputy ministers, sometimes minister

Source: Various legislation