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**EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)**

in co-operation with
**THE PRIME MINISTRY OF JORDAN / INSTITUTIONAL PERFORMANCE AND POLICY
DEPARTMENT
AND
THE GENERAL PERSONNEL COUNCIL OF PALESTINE¹**

10th Regional seminar for senior public officials

UniDem Med

**“LEADING INNOVATION IN THE CIVIL SERVICE:
FROM RULE OF LAW STANDARDS TO LEADERSHIP”**

Amman, Jordan, 4 – 6 November 2019

FINAL REPORT

by

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Ensuring Sustainable Democratic Governance and Human Rights in the Southern Mediterranean

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¹ This designation shall not be construed as recognition of a State of Palestine and is without prejudice to the individual positions of Council of Europe and European Union member States on this issue.

1. Introduction

The 10th UniDem Med regional seminar was held from 4-6 November 2019, in Amman, Jordan. The Seminar entitled “Leading Innovation in the Civil Service: from Rule of Law Standards to Leadership” was organised by Venice Commission in co-operation with the Prime Ministry of Jordan / Institutional Performance and Policy Department and the General Personnel Council of Palestine.

Participants included senior public officials and experts from five Southern Mediterranean countries (Algeria, Jordan, Morocco, Palestine, and Tunisia) and from Europe (Estonia, United Kingdom, Switzerland, Greece, and Portugal).

The seminar that took place over three consecutive days, covered several topics including: public administration modernisation and rule of law principles, ethics, transparency and integrity as accelerators for democratic reforms, leadership and human resources management in the era of new technologies. This report summarizes the seminar proceedings, discussions, conclusions and recommendations.

2. Seminar proceedings

The seminar was inaugurated by Mr. Mousa Abu Zaid, President of the General Personnel Council, Palestine, Ms. Herdís Kjerulf-Thorgeirsdottir, First Vice-President of the Venice Commission, Council of Europe, member of the Venice Commission on behalf of Iceland, Ms. Yasera Ghosheh, Minister of State for Public Sector Development, Jordan, Mr. Sameh Nasser, President of the Civil Service Bureau of Jordan and Mr. Sami Al-Dawood Minister of State for Cabinet Affairs, Jordan.

In their opening remarks, speakers highlighted the importance of the seminar and the need for such forums in the wake of the enormous challenges that face states and governments in the region, and the need for public sector to keep pace with technological developments and find ways to be able to meet the increasing demands for openness, efficiency, and effectiveness.

Speakers also stressed the need for exchange of experiences, best practices, success stories, and similarly failures and mistakes and lessons learnt. The seminar for them represents an opportunity for networking and future bilateral cooperation between represented countries. Jordanian and Palestinian speakers expressed their gratitude to the Venice Commission for supporting the seminar and for the long-standing partnership. For the Palestinian speaker the seminar also represents an additional value since it is the first time for Palestine to be the host of UniDem Med regional seminar although, sadly, it was not held in Palestine due to the difficulty of bringing delegates to Palestine.

The seminar setup included presentations from international and regional experts on one of the major themes of the seminar followed by presentations on specific countries experiences from officials and experts from the southern Mediterranean region. This setup allowed for proper combination between theoretical frameworks and practical experiences. It also allowed for peer feedback from practitioners in the region on their counterparts' experiences.

The seminar took place over three days with each day focusing on a specific theme. The first day was under the theme “public administration modernization and rule of law principles”. Under this theme, panelists and speakers discussed the evolution of public service values in the light of an increased need to integrate rule of law principles into the strategic framework for civil service reform. Additionally, speakers highlighted the role and the interplay between public institutions and the senior civil service officials in establishing proper legal frameworks that are in harmony with international human rights standards, and the proper institutional

arrangements to ensure respect for the rule of law principles, providing legal certainty and ultimately improving the level of public trust and accountability before the citizens. The first day sessions also discussed how can we get better engagements from civil servants and citizens and what is the role of leadership in the senior civil service to achieve the reforms and with which new qualifications and skills. Country experiences presented major achievements of and challenges that face Jordan and Palestine in the area of rule of law.

The second day revolved around “ethics, transparency and integrity as accelerators for democratic reforms”. This theme discussed some technical aspects and best practices in adopting ethics charters and agreements, codes of conduct. Sessions of the second day provided the theoretical framework so participants would have a unified understanding of the term government transparency, public integrity, and accountability. Country experiences included presentations from Jordan, Palestine, Tunisia, and Estonia.

The third day addressed the theme “enabling and measuring performance: leadership and human resources management in the era of new technologies”. Speakers and panellists presented strategic managerial approaches and tools to improve and measure performance. Sessions examined the link between leadership and innovation in the process of training and institutional development. Country experiences included presentations on regional experiences (Algeria, Morocco, Palestine and Jordan) and practices in terms of selection and career advancement.

The three themes are interrelated and are at the core of the current debates on public administration and democratic reforms. The broadness of the topics addressed exposed participants to the interrelated and interdependent relationship between the principles of public administration, rule of law, democratic reform, good governance, and effectiveness in management and service delivery. In fact, the essence of public administration work is to balance these principles, which may not be consistent in all cases.

3. Public administration modernization and rule of law principles

The first day of the seminar focused on the rule of law from the perspective of law and regulation, public policy, and public administration. The rule of law in administrative relations is also one of the salient elements of the ongoing transitional development in many countries. In contrast to the traditional democracies, it especially relates to human and minority rights, separation of power, participative authoritative procedures, transparent and accountable governmental actions, anticorruption, etc.

Discussions revealed that experts and participants are on agreement with regard to the centrality of rule of law principles for any successful administrative reforms in a democratic state.

Presentations by experts, however, showed the complexity of the concept of rule of law as a multidimensional construct. Different attempts have been made by respected international organizations and NGOs to operationalize this concept and to develop indicators that help to measure it. For example, United Nations developed “rule of laws indicators”; the Venice Commission developed “the rule of law check list”. The World Justice Project (an international NGO) developed the Rule of Law Index; and UNDP developed a guide for assessing rule of law in public administration. These different measures are useful tools for scholars and practitioners to be utilized in assessing the state of rule of law in a given jurisdiction. They are also useful frameworks for strategic planning and institutional and regulatory design.

However, these tools and measurements do not, alone, capture the essence of the rule of law challenge in public administration. The core rule of law principles (like equality before law, respect of human rights, equity before public service and public office, the principles of legality

and non-discrimination) are important values that need to underpin any public institution. Nevertheless, there are other important values that need to be taken into consideration, mainly efficiency and effectiveness. The main challenge for leaders in public administration is to strike the right balance between these values. Some participants stated that legitimacy and trust in public administration in this era of globalization and privatization is less based on a logic of legality and is more based on the principles of efficiency, effectiveness, and responsiveness. The same advocates of this opinion also believe that the support to rule of law should not lead to overemphasizing the legal aspects of the rule of law leading occasionally to an overly 'legalistic culture' that does not correspond to the economic and societal aspects of administrative action and the complex policy problems of contemporary societies. It is noted that some politicians and public administrators adopt a legalistic approach that tends to cast everything on the law as an easy solution to all problems overlooking other important tools and approaches.

One of the speakers pointed out to the need for moving from "state of law" to "social state of law", thus looking beyond the technical text of the law and examine its social implication and cost. In all circumstances, the rule of law has a procedural and content dimensions. The law itself needs to be equitable and respects human rights and minority rights.

Speakers from Arab countries highlighted challenges that obstruct the realization of some aspects of the rule of law in the work of public administration due to insufficient political will, slow democratic reforms, tendencies towards centralization, and societal structures and culture. Notwithstanding, of course, important achievements and developments in the recent years.

Among the different aspects of rule of law, participants particularly highlighted the need to focus on guaranteeing citizens' rights, respecting and promoting public service values, accountability, impartiality, predictability, non-discrimination and judicial accountability, as core values that need to be promoted and imbedded in any institutional design.

4. Ethics, transparency and integrity as accelerators for democratic reforms

The second day of the workshop discussed government transparency, public integrity, and accountability as necessary preventive measures against corruption. Like rule of law, trust and integrity support a more predictable operating environment, which in turn helps establish a level playing field for all stakeholders.

It is fully agreed that Corruption is a barrier to economic and social growth and a delegitimizing force that undermines public trust. Participants from Arab states detailed measures taken at the national levels to prevent and combat corruption including far-reaching laws, administrative and audit regimes, criminal law reforms, and codes of conduct for public employees, among others. However, implementation and enforcement of some aspects of the relevant laws can be weak and impunity for certain acts continues. Thus, a need for innovation arises.

In order to design corruption-free systems and maintain economic and political stability, public administration/public service leaders need a comprehensive approach that integrates innovation and reconsiders traditional tools. Although most of the participating countries (especially from the Arab region) have made significant and significant efforts in the fight against corruption, major problems continue to exist. One of the speakers captured this need by saying we need to examine "solving old problems which are not adequately solved using current tools and approaches and solving new problems that current tools are unable to tackle, and anticipating solutions for predictable problems in the near future".

The participants reviewed some local experiences in preventing corruption and enhancing the value of integrity and transparency in society, as well as the experiences of some countries in developing codes of conduct for workers in the public job, training on them and monitoring their implementation (Palestine and Tunisia).

It emerged from the discussion that these countries adopt similar tools by establishing bodies to combat corruption, develop punitive laws, and also work to spread a culture of integrity and transparency in society. However, participants observed that bridges of trust with citizens are still weak, and there is perpetual negative general perception among citizens towards public sector. This requires, according to many participants, a review of work programs searching for new tools to build trust with citizens, and to seek to change their perception of the reality of corruption in the public sector.

Many participants pointed out to the importance of using technology to improve the level of government services and facilitate citizens' access to them. However, there is a general awareness that technology is a means, and it must be based on a sound system that believes in openness and transparency and accepts accountability. Other participants suggested a holistic approach that also ensures the involvement of private sector, civil society and private citizens and a strategy of stakeholder participation in which stakeholders can be involved in the policy cycle and in-service design and delivery, including through the provision of information, consultation and engagement.

5. Enabling and measuring performance: leadership and human resources management in the era of new technologies

The third day tackled crucial issues related to leadership in human resource management, appraisal of staff, and digitalisation of services and human resources work. It appeared from the discussions that one of the major challenges facing public administration is assessing employee performance in the public sector. Establishing a fair and objective performance appraisal system that motivates employees towards excellence is one of the concerns of public sector leaders and policy makers. In some countries in the Arab region, performance appraisal system has become a routine process free from any content and does not contribute to the promotion of distinguished elements and the detection of weak elements.

The Algerian representatives presented their country's experience in public sector reforms which led to the adoption of the Public Employment Law of 2006. The Algerian representative showed areas where reforms succeeded and the areas of failure and the reasons behind this failure.

Participants stated the need to review some performance appraisal systems, and to link them more to training programs in the public job, with the need to give serious consideration to the appraisal process so that it can ultimately lead to the elimination of weak elements. There are, however, political and social considerations that prevent the full realization of this recommendation in some Arab contexts.

Participants from Palestine presented the Palestinian experience in establishing an institute for public administration, and the multiple programs it provides and the role it played at the local and regional levels, as a success story that has become a source of pride for the Palestinians.

With the Estonian experience as a case study, participants discussed the needed new skills and the emerging dimensions of leadership in light of digitalization of government services. Participants discussed the limits of e-governance and the founding principles and preconditions for an effective e-governance regime.

Several speakers pointed out the importance of digitalization, as an instrument for integration and simplification of administration services. They praised the benefits of speed, transparency, cost effectiveness of digitization of services. But are all states prepared to adopt it in the short term? Again, it was stressed that pre-requirements of digitalization in terms of willingness to openness and to delegate and relinquish centralization in decision making, and the will to commit resources and put in place all legal and technological infrastructures.

6. Conclusions and recommendations

Country presentations and participants' discussions revealed the striking similarity of the problems and challenges facing public sector in the represented countries. However, what distinguishes the different national experiences is the degree of respective advancements and prioritization strategies. Various attempts have been made to give the administration the ability to adapt in order to keep abreast with the evolution of its environment and meet the needs of citizens.

The structure and design of the seminar do not necessarily lead to agreement over specific recommendations for each of the topics raised. However, there was a general agreement among the participants on the importance of continuing these meetings, and on the importance of communication between political and administrative levels in the government, and on the principles of the desired reform, and that political will is a decisive factor in any processes of far-reaching reforms, especially in developing countries. The issue of the rule of law remains the cornerstone of all reform processes and steps as a requirement and a pillar for any state. Additionally, participants agree that administrative reform is inseparable from political reform which should include enhancement of democratic and human rights principles. This inevitably requires high quality political and administrative leadership, a professional and motivated public service, impregnated with public values, and the need to enhance and embrace innovation as permanent attitude towards excellence and service to citizens.

Participants were on agreement that each country must take into account its own reality and national context, without however seeking to reinvent the wheel each time. Presentations and discussions provided excellent opportunity to draw from own and others previous experiences to avoid what has failed and to benefit from success stories and lessons learnt.