



European Institute of Public Administration
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The Regulation of Executive Pay in the Public and Semi-Public Sector across the European Union

Annex– Research Phase 2

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Contents

- In-depth country studies 6

- 1. The Netherlands 7
 - 1.1 (Semi-)Public Sector 7
 - 1.1.1 Pay system and Public Administration 7
 - 1.1.2 National Regulation 7
 - 1.1.3 The Scope of the Standard 9
 - 1.1.4 Compliance and Monitoring 11

- 2. Belgium 15
 - 2.1 Public Sector 15
 - 2.1.1 Pay System and Public Administration 15
 - 2.1.2 National Regulation 17
 - 2.1.3 The Scope of the Standard 19
 - 2.1.4 Compliance and Monitoring 25
 - 2.2 Semi Public Sector 27
 - 2.2.1 Pay System 27
 - 2.2.2 National Regulation 28
 - 2.2.3 The scope of the Standard 29
 - 2.2.4 Compliance and Monitoring 30

- 3. France 32
 - 3.1 Public Sector 32
 - 3.1.1 Pay System and Public Administration 32
 - 3.1.2 National Regulation 35
 - 3.1.3 The Scope of the Standard 38
 - 3.1.4 Compliance and Monitoring 42
 - 3.2 Semi-Public Sector 45
 - 3.2.1 Pay System 45
 - 3.2.2 National regulation 46
 - 3.2.3 The Scope of the Standard 47
 - 3.2.4 Compliance and Monitoring 48

- 4. Germany 51
 - 4.1 Public Sector 51
 - 4.1.1 Pay System and Public Administration 51
 - 4.1.2 National Regulation 52
 - 4.1.3 The Scope of the Standard 53
 - 4.1.4 Compliance and Monitoring 57
 - 4.2 Semi-public Sector 58

4.2.1 Pay System.....	58
4.2.2 National Regulation and Scope of the Standard	58
4.2.3 Compliance and Monitoring.....	60
5. Italy.....	62
5.1 Public Sector.....	62
5.1.1 Pay system of the Public Administration.....	62
5.1.2 National Regulation	64
5.1.3 The Scope of the Standard	64
5.1.4 Compliance and Monitoring.....	69
5.2 Semi-Public Sector	72
5.2.1 Pay System.....	72
5.2.2 National Regulation and Scope of the Standard	73
5.2.3 Compliance and Monitoring.....	74
6. Poland.....	78
6.1 Public Sector.....	78
6.1.1 Pay System and Public Administration.....	78
6.1.2 National Regulation	79
6.1.3 The Scope of the Standard	80
6.1.4 Compliance and Monitoring.....	84
6.2 Semi-public Sector	86
6.2.1 Pay System.....	86
6.2.2 National Regulation.....	88
6.2.3 The Scope of the Standard	90
6.2.4 Compliance and Monitoring.....	95
7. Sweden	98
7.1 Public Sector.....	98
7.1.1 Pay System and Public Administration.....	98
7.1.2 National Regulation.....	99
7.1.3 The Scope of the Standard	101
7.1.4 Compliance and Monitoring.....	102
7.2 Semi-public Sector	105
7.2.1 Pay System Poland	105
7.2.2 National regulation.....	105
7.2.3 The Scope of the Standard	106
7.2.4 Compliance and Monitoring.....	106
8. UK	108
8.1 (Semi-)Public Sector	108
8.1.1 Pay System and Public Administration.....	108
8.1.2 National Regulation.....	111

8.1.3 The Scope of the Standard	113
8.1.4 Compliance and Monitoring.....	117
Fact Sheets.....	124
9. The Netherlands	126
9.1 Public/ Semi-Public Sector.....	126
10. Belgium	136
10.1 Public Sector.....	136
10.2 Semi Public Sector	150
11. France	156
11.1 Public Sector.....	156
11.2 Semi-Public Sector	172
12. Germany	179
12.1 Public Sector.....	179
12.2 Semi-Public Sector	187
13. Italy.....	194
13.1 Public Sector.....	194
13.2 Semi-Public Sector	208
14. Poland.....	216
14.1 Public sector	216
14.2 Semi-public sector	224
15. Sweden	233
15.1 Public Sector.....	234
15.2 Semi-Public Sector	242
16. UK	246
16.1 (Semi-)Public Sector	246
Interviews	263
17. Belgium – Interview recorded 15.07.2015, Brussels	265
17.1 Public sector	265

17.2 . Semi-public sector.....	266
18. France	268
19. Germany– Interview Report.....	270
20. Italy- Interview Report	275
20.1 Public sector	275
20.2 Semi-public sector.....	281
21. Poland- Interview Report	283
21.1 Public sector	283
21.2 Semi-Public Sector.....	290
22. Sweden- Interview Report.....	300
Public sector	300
23. UK	307
List of references	309
Books & articles:.....	309
Legislation:	311
Other sources:.....	320

In-depth country studies

The investigation of eight European member states has shown that member states had different national reasons and motives to reform their pay systems or to introduce regulatory policies after the economic crisis in 2008. Due to the differences in these backgrounds to reform the pay systems of the respective countries, the pay systems and regulations introduced in all eight countries will be investigated in detail in the following section. Thereby, a comparative analysis will provide answers to the third research question, of what regulatory measures, methods and norms apply in the public and semi-public sector of the respective EU countries to control the executive pay of senior civil servants and top officials. The findings allow for comparative conclusion about cross-national variations of methods and the identification of methods that may serve as potential best-practices for the achievement of regulating executive pay.

1. The Netherlands

1.1 (Semi-)Public Sector

1.1.1 Pay system and Public Administration

The discussion in the Netherlands regarding policies controlling top incomes is based on the changes in the administrative structure as well as public and political outcries in response to cases regarding excessive payments of top officials.¹ Discussions were influenced by a change from a classical bureaucracy to a more New Public Management inspired system. In short, this involved the change from a system organized around public service concepts towards a more business like performance-oriented approach. A performance related system has been considered crucial for attracting and retaining high-performing staff, in fear that public sector officials will divert to the private sector due to higher salaries provided.²

In March 2006 the ‘Act on publication of publicly financed top wages’ (Wet Openbaarmaking uit Publieke middelen gefinancierde Topinkomens (WOPT)) became operational. The purpose of the WOPT is countering excessive remuneration and severance payments of high-level/senior officials of institutions in the (semi-)public sector by the introduction of a cap policy. The WOPT was established especially for the posts of high-level officials as the bonuses and salaries of senior top officials fell outside of the general regulation of the pay system of public administration that links salaries and boni to a pay scale of civil servants. A top official is considered the person who is at the highest level of the executive body and is responsible for the daily management of the respective corporation or institution. Noticeably, these policy changes in the system led to greater transparency. The WNT is the latest instrument in controlling top incomes in the Netherlands being currently reviewed.

1.1.2 National Regulation

As of January 1, 2013 the WOPT was replaced by the WNT (Wet normering bezoldiging toefunctionarissen publieke en semi publieke sector). The WNT entered into force in 2013.. The goal of the instrument is that it provides a democratically legitimized instrument that sets the standards and obligations that may be imposed for the payment of officials in the public and

¹ M Brans and B. Guy Peters, *Rewards for High Public Office in Europe and North America* (Taylor and Francis 2012). p. 153.

² Ibid 142.

semi-public sector. Therefore, it prevents institutions in the public and semi-public sector, awarding excessive salaries and boni. Those goals are the salient points of the explanation and justification of the top incomes policy, special circumstances whether legal or economic are not made explicit in the justification of the policy.

In 2014, the general standard was up to 130% of the Minister salary, which amounts to € 230,474, gross per annum, including taxable expenses and pension contribution.³ Since 2015 based on the WNT the standard chosen for the income of top executives in the (semi) public sector is up to 100% of Minister's salary, which in 2015 amounts to €178,000, gross per annum, including expenses and pension contribution.⁴

As outlined under Article 1.1, b, sub 1 WNT, top officials includes at the state level: the Secretaries-General, the Directors-General, the Inspectors-General and other members of the senior management group, the vice-admirals, generals, lieutenant-admirals and lieutenant generals, those responsible for the daily management of the Cabinet of the King, the States-General, the High Councils of State and Cabinets of the Governors and the Commission on Monitoring the security and intelligence services.⁵ The WNT standard applies to top officials who belong to the group of top executives within a corporation or institution. This includes those who lead the entire corporation or institution.

According to Article 1.2 of the WNT, the law applies to all institutions and organisations established under public law. These are public institutions established by or under a law. The WNT lists the following: the national government; the provinces; municipalities; the water boards; the public professional bodies and business; the other bodies to which regulatory powers granted under the Constitution; European Groupings of Territorial Cooperation with registered office in the Netherlands.⁶ Organisations that fall under the semi-public sector include the following: health care institutions and health insurers; educational institutions; cooperative building societies; organizations in the field of development cooperation, and government-subsidized institutions.

³Topinkomens.nl, 'Voor WNT-Instellingen' (2015) <<http://www.topinkomens.nl/voor-wnt-instellingen>> accessed 20 June 2015.

⁴ Article 2.3 *Wet normering bezoldiging topfunctionarissen publieke en semi publieke sector*.

⁵ Article 1.1 *Wet normering bezoldiging topfunctionarissen publieke en semi publieke sector*.

⁶ Article 1.2 *Wet normering bezoldiging topfunctionarissen publieke en semi publieke sector*.

Top officials fall within the meaning of the WNT, regardless of how the function is performed (hiring (ZZP), posting, transmission, etc.). Interim staff can be top officials under the WNT, as long as they are appointed for an 18 months period and are already employed longer than six months for the institution. This is outlined in Article 2.1, paragraph 4 WNT.

Regarding the remuneration of interim staff, it is also regulated by the standard and calculated if the function of top official is less than a full calendar year. The remuneration is calculated based on a formula that takes into account the individual maximum salary, the applicable WNT-year norm for the function, a part-time factor if applicable and the duration of the activities:

$$x = (y * a * b) / 365$$

Wherein:

x = individual maximum salary (ex. VAT)

y = maximum applicable WNT-year norm for that function

a = part-time factor (in full-time positions: 1.0)

b = total number of calendar days (not days) in which the function is fulfilled in the year.

1.1.3 The Scope of the Standard

The scope of the sectors and levels of government includes the institutions which are covered by the WNT both in the public and semi-public sector at a national level: the national government; provinces; municipalities and water boards; health care institutions and health insurers; educational institutions; cooperative building societies; organizations in the field of development cooperation; government-subsidized institutions (The grant must be at least €500 000, - per year, at least 50% part of the income of that year and are issued for a period of at least three years.); independent administrative bodies (ZBOs), and institutions in which the government appoints one or more members of the board or supervisory board.

However, the precise point of reference of the standard does not apply completely for healthcare providers, health insurance companies, educational institutions, housing corporations and organizations in the field of development there are different, sector standards.⁷ These sector-specific regulations are as follows:

⁷ Regeling van de Minister van Binnenlandse Zaken en Koninkrijksrelaties van 10 december 2014, nr. 2014-0000657970, houdende vaststelling van een controleprotocol voor de naleving van de Wet normering bezoldiging topfunctionarissen publieke en semipublieke sector (Controleprotocol WNT).

- The ministerial regulation on pay top executives ‘OCW’ (Education, Culture and Science) sectors;
- The ministerial regulation on sectorial wage standard health insurance executives;
- The ministerial regulation on salary maximums executives’ care and welfare;
- The ministerial regulation on salary maximums executives authorized institutions housing 2014;
- The ministerial regulation on pay top executives development sector (from 1 January 2015).

The standard only applies to administrative officials and not to political office holders as they are exempted from the WNT.

The Prime Minister, Ministers and State Secretary income are regulated under ‘*Wet rechtspositie ministers en staatssecretarissen*’ which states in Article 1 that the remuneration of Ministers is determined at 10,325.86 Euros gross per month and for the State Secretary it is 9691,95 Euros gross per month. Hence, the total salary amounts to approximately 134,000 euros gross per annum, including holiday pay and excluding end of year bonuses for Ministers and 125,000 euros for the State Secretary, respectively. Holiday pay is calculated under Article 24 of the Civil Servants Pay Decree 1984 (*Bezoldigingsbesluit Burgerlijke Rijksambtenaren*) as amounting to 8% of the salary received. Moreover, under Article 20a of the respective Decree, an end of year bonus amounts to 8.3% of the salary received.

Members of the Second Chamber are under the income regime of the Civil Servants Pay Decree 1984 (*Bezoldigingsbesluit Burgerlijke Rijksambtenaren*) which are classified under a pay scale. Members of the Second Chamber are under band 16 of the Civil Servants Pay Decree 1984 that amount to a salary of 94,000 euros gross per annum. Holiday pay and the end of year bonus as under the Decree also apply to Members of the Second Chamber.

Scale 16		Scale 17		Scale 18	
0	5357,49	0	5943,06	0	6529,63
1	5553,35	1	6138,92	1	6726,01
2	5746,69	2	6332,74	2	6918,80
3	5943,06	3	6529,63	3	7115,19
4	6138,92	4	6726,01	4	7311,56

5	6332,74	5	6918,80	5	7507,42
6	6529,63	6	7115,19	6	7703,79
7	6726,01	7	7311,56	7	7899,67
8	6918,80	8	7507,42	8	8113,34
9	7115,19	9	7703,79	9	8327,00
10	7311,56	10	7899,67	10	8541,18

Moreover, the standard is not applicable to Judges, their income is regulated under the ‘*Wet Rechtspositie Rechterlijke Ambtenaren*’ and is determined by the level of experience.

1.1.4 Compliance and Monitoring

No exemptions under private law exist that undermine the application of the standard. The instrument used in addition to the WNT is the Verification Protocol: (*Controleprotocol WNT*) it states that institutions that fall under the WNT regime have a duty to publish. The data is included in the annual financial statements and are checked by an accountant. The institution serves to report the data by 1 July following the financial year, sending it digitally to the Minister of the Interior and Kingdom Relations. Moreover, as outlined in Article 5.6 WNT, the disclosure is as far as possible in the manner prescribed in the financial reporting document, and by publication in the Government Gazette.⁸ Each year the remuneration standards are defined in a ministerial regulation. This system of disclosure is based on the principle of transparency.

The installed mechanism for self-regulation is that institutions that fall under the WNT regime have a publishing and a reporting obligation. Excessing the norm provided under the WNT would lead to sanctions. The duty to publish is when the data is included into the annual financial statements and are checked by an accountant. The reporting obligation is when WNT data are to be reported by the institution, which serves to report the data by 1st of July following the financial year, sending it digitally to the Minister of the Interior and Kingdom Relations.⁹ As a result, data is collected systematically.

⁸ Article 5.6 *Wet normering bezoldiging topfunctionarissen publieke en semi publieke sector*.

⁹ *Ibid*.

The role of the accountant is equal to a monitoring role regarding the compliance with the standards. The accountant as under the WNT audits the financial statements of the WNT institution that falls under its scope. The accountant also checks that the WNT is followed correctly and has the duty to notify the Ministry of the Interior and Kingdom Relations when the institution under the WNT is not in accordance with the law that should be adhered to.

Non-compliance with the WNT, can lead to extensive sanctions. This includes agreements on remuneration that exceed the permitted limits being declared void. As a consequence the excessive part that is unduly paid can be recovered by the State. Furthermore, prior to proceedings by the State to recover the payment, the opportunity is provided to the institution and the senior official to remedy the breach.

The Minister of the Interior and Kingdom Relations has established a verification protocol.¹⁰ The verification protocol assigns the monitoring role to the Minister of the Interior and the accountant. The Minister of the Ministry of the Interior and Kingdom Relations, in case of exceeding the norm, has the authority to impose a penalty to undo the **excessive payments and halt a grant (subsidy) awarded to the institution totalling the amount** of the excess payments.

Furthermore, the Verification Protocol provides detailed guidance on the scope and depth of the audit on compliance with the provisions as under the basis of the WNT. The duties of the accountant are elaborated therein, which includes that the accountant audits the financial statements of the WNT institution. On the basis of Article 5.2, WNT, the accountant reports an undue payment to the Minister of the Interior and Kingdom Relations or the relevant Minister, if a claim against a former top official or senior official from undue payments has not been included in the financial reporting document or; at the time when the auditor gives his opinion on the financial accounting document, has not yet been reimbursed by the top official in question.¹¹

In case of exceeding the norm, the Minister of the Interior and Kingdom Relations has the authority to do the following: impose a penalty to undo the excessive payments and halt a grant

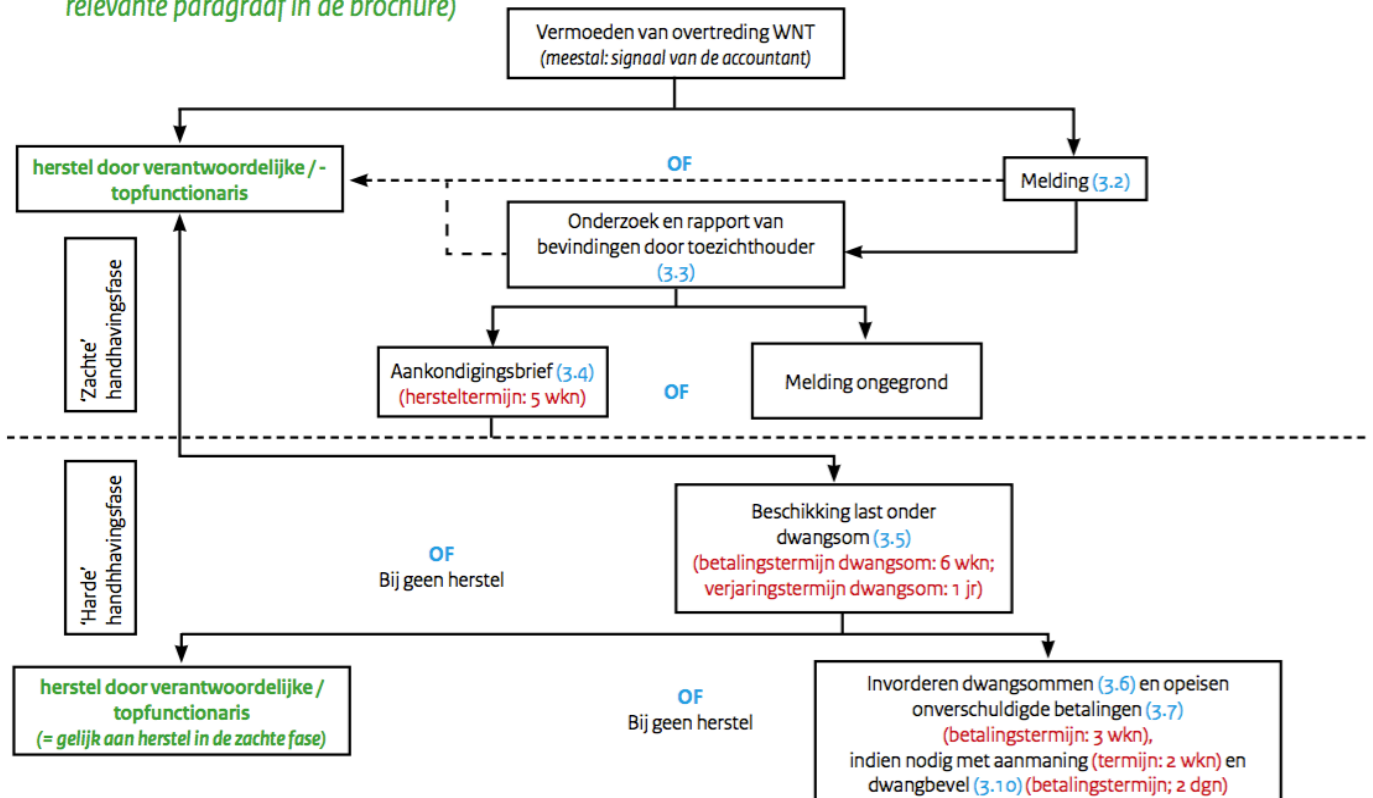
¹⁰ Regeling van de Minister van Binnenlandse Zaken en Koninkrijksrelaties van 10 december 2014, nr. 2014-0000657970, houdende vaststelling van een controleprotocol voor de naleving van de Wet normering bezoldiging topfunctionarissen publieke en semipublieke sector (Controleprotocol WNT).

¹¹ Article 5.2 *Wet normering bezoldiging topfunctionarissen publieke en semi publieke sector*.

(subsidy) awarded to the institution totalling the amount of the excess payments. Moreover, the severity of the breach provides for a choice between soft and hard law sanction measures as portrayed in the chart.¹²

Bijlage II Handhaving

Van naleving naar handhaving (cijfers verwijzen naar de relevante paragraaf in de brochure)



¹² 'Wat betekent de WNT voor u?' Ministerie van Binnenlandse Zaken en Koninkrijksrelaties. p. 43.

2. Belgium

2.1 Public Sector

2.1.1 Pay System and Public Administration

The investigation of the Belgian pay system and the regulation of income policy of high-level officials in the case of Belgium is very complicated. The Belgian pay system is very complex and not all information about boni is published. Also public information about the current policy proposal on the regulation of executive pay in the semi-public sector is difficult to find. It must be noted that there has been an increased emphasis on the delivery of results of the policies of the government concerning salaries in the public sector and especially top income.¹³

Discussions about the remuneration of high-level officials date back to 2001 and 2004. The main objectives of the political discussion since then have been the increase of the attractiveness of working in the public sector and the competitiveness of rewards in the public sector, since one main problem for the government is the low degree of flexibility of labour force in the public sector due to a mandate system, that allows top functionaries to cling to their seats. Therefore, one of the main aspects currently discussed in regard to **senior civil service is their selection and evaluation**. In addition, the increase of objectivity and transparency constituted one of the main points on the political agenda (cf. interview).

A heated public and political debate about the subject remerged especially after the economic crisis in 2008. The remuneration of the PM and the Ministers has been politicized in the context of the economic turmoil. Indeed, politicians from the left-wing party, governing the country at that time, decided to decrease their salaries because of the crisis. This debate however did not concern the rewards of Belgian judges as there is a shortage of judges and a high salary is regarded as a necessity to attract qualified candidates.

In the political realm income of high-level officials has become a subject of controversy between the left-wing and the right-wing parties, especially. After the crisis in 2008, the Belgian population called for more transparency regarding the income, the rewards and the bonuses of top civil servants. Politicians had to prove and to restore the legitimacy of their rewards. The

¹³ Association of Higher Civil and Public Servants, Consultation Paper on Strengthening Civil Service Accountability and Performance, 2014, p. 19.

public and the media pressured for political changes. In addition, scandals and crisis play a role in the decisions of changing the system.¹⁴ Consequently, the crisis of 2008 and the enforcement of austerity measures paired with the aim of increasing transparency and the attractiveness of the public sector have constituted the triggers to foster the change for the decisions to tighten the law. Measures thus have been taken after the crisis:

- Decrease of 5% of the amount of the parliamentary indemnity;
- Decrease of 15% of the amount of the indemnity of the President of the Chamber;
- Decrease of 10% of the indemnity of the Vice-President of the Chamber;
- Freezing of the subsidies given to the officially recognized political parties in 2012 & 2013;

The indemnities and bonuses of the Ministers and Parliamentarians are **not enshrined in laws**, but rather in **internal regulations** of the assemblies. These internal regulations are not available to the public, except the one of the Walloon Parliament (Southern part of the country).

The pay system as it is now dates back to the mid-nineties. There is **no law** as such regulating the salaries of the Belgian top civil servants **in the sense of a cap in the public sector**. In 2000 a new reform, the Copernicus plan, was instigated by a new government, formed by the Social Democrats, the Liberals and the Greens. This plan provides for a function-based system.¹⁵ This plan allowed for a number of measures to be implemented, thus enabling the government to save 5 million € in 2 years. These measures remain applicable in 2015.¹⁶ After the introduction of Copernic plan, a new name was attributed to the federal public ministry: the Service Public Fédéral (SPF). Each Service Public Fédéral corresponds to a Minister and to a competence. The Service Public Fédéral represents the Belgian federal public sector since then. Since 2014, small premiums for interim functions were introduced (cf. interview).

There are **4 different levels of salaries** in Belgium. These levels are put on a scale and each profession falls into a level, the level determining the salary and the benefits. The Special Law of 8 August 1980 establishes that the recruitment of statutory public servants has to be made

¹⁴ *Les vrais salaires de la politique belge*, J.C., LaLibre.be, 28/11/2013.

¹⁵ M. Brans eds, *The Politics of Belgium: Institutions and Policy under Bipolar and Centrifugal Federalism*, Routledge, 2013, p. 124.

¹⁶ Circular 644 & 645.

via the services of the federal recruitment office called the SELOR. Moreover, the salaries in Belgium are linked to the cost of living by indexation.

There is a difference between so-called **‘mandataires’ and ‘contractuels’** who are both employed on the basis of a contract. Limited term contracts have been introduced for senior civil servants in 2014. There also exist both departmental and individual performance agreements in the Belgian Civil Service, which include key policy objectives and a time plan. In practice, it has been difficult to motivate the ministers to evaluate their most senior civil servants. In Belgium, there is **no link between performance and pay**. However, it is important to note that, if the performance objectives are not achieved, the individual may be released from its position. In addition, the vast majority of senior civil servants have their contract renewed. The **principle of ministerial accountability** is still prominent because of Belgian reforms, and transparency has improved due to the increased publication of management plans.¹⁷

Consequently, in Belgium salaries in the public sector are not regulated by an additional cap policy but **according to the general pay system** in which **base salaries are indexed** with a coefficient 1, 6084, which is investigated in the following in more detail.

2.1.2 National Regulation

In 1995 – 1996, a revision of the Belgian reward structure was launched. This revision was a response to controversies and discussions on the fiscal regime. The regime was indeed questioned by the tax administration and an opposition party politicized it. The traditional political parties, the Socialists, the Liberals and the Christian-Democrats, quickly agreed on the revision. The 1996 revision brought several changes, the main one being that the tax exemption enjoyed by the MPs was abolished and replaced by a system of tax-free allowance.

In 2000, a new reform, the **Copernicus plan**, was instigated by a new government, formed by the Social Democrats, the Liberals and the Greens. This plan was not directly linked to the previous fiscal change. This plan allowed for swift career ascension to the top, in order to increase the flexibility and mobility in the public sector. The chairs of the government services were appointed via mandate or contract, the salaries of the chairs of the management committees, who were appointed for 6 years, doubled. The candidates were appointed because

¹⁷ Ibid at 1.

of their experience and competences. Top civil servants earned more than 2.5 times the base salary of an MP in order to attract qualified candidates at that time. Also, the salaries of judges were more than doubled. Details and the amount of the Copernicus premium granted to public servants are enshrined in the Royal Decree of 10 July 2002.

There is **no cap law** used in Belgium, rather the salaries of top income are regulated by the pay scales or grids of the general pay system. This scale of salaries is regulated by different laws. This wide variety of laws shows the complexity and non-transparency of the system:

The Royal Decree of 2 October 1937 on the statute of the state agents. Article 1 of this Decree provides a definition of state agents: every person who works, who provides services, on a definitive basis, to the State administrations. Article 3 of this law establishes the 4-levels scale. The 3 Articles following article 3 (Articles 4, 5 and 6) discuss to which level each job belongs to.¹⁸ Article 4 precisely further divides the A level into four sub-levels, from A1 to A4.

The Royal Decree of 29 June 1973 gives guaranteed compensation to certain federal public servants.¹⁹ This Decree fixes a pay matrix. The scale in this matrix is divided into four different levels, top Civil Servants being part of level 1. The reward system is composed of the annual salary, a premium at the end of the year, and holiday pay. All are linked to the salary scales.²⁰

The Royal Decree of 11 February 1991 secures individual pecuniary right for people hired by employment contract in federal public services.²¹

The Royal Decree of 11 July 2001 on the weighting of the management functions and framing in the federal public services and laying their treatment. This Decree establishes a table for calculating the points of the managers, the number of points determining the salary.²²

18 Arrêté Royal du 2 Octobre 1937 portant sur le statut des agents de l'état, available at:

[http://www.fedweb.belgium.be/fr/binaries/1937-10-02%20KB%20\(Statuut%20-%20Compatibiliteitsmodus\)_tcm119-9641.pdf](http://www.fedweb.belgium.be/fr/binaries/1937-10-02%20KB%20(Statuut%20-%20Compatibiliteitsmodus)_tcm119-9641.pdf)

19 Arrêté royal du 29 juin 1973 (M.B. du 8.8.1973) accordant une rétribution garantie à certains agents des services publics fédéraux, available at:

http://www.fedweb.belgium.be/fr/binaries/19730629_KB_AR_retribution_garantie_gewaarborgde%20bezoldiging_tcm119-53351.pdf

20 M. Brans, Belgium: Public Office and Private Rewards, 106.

21 Arrêté royal du 11 février 1991 (M.B. du 21.2.1991) fixant les droits individuels pécuniaires des personnes engagées par contrat de travail dans les services publics fédéraux, available at:

http://www.fedweb.belgium.be/fr/binaries/19910211_KB_AR_tcm119-9683.pdf

22 Arrêté royal relatif du 11 juillet 2001 relatif à la pondération des fonctions de management et d'encadrement dans les services publics fédéraux et fixant leur traitement, available at:

http://www.fedweb.belgium.be/fr/binaries/20010711_kb_managementfuncties_fods_nl_fr_tcm119-10546.pdf

The Royal Decree of 28 November 2008 on the end of the year premium granted to employees of the ‘Trésor Public’. This Decree amends a Decree of 1979. Article 3 of the 2008 Decree determines an annual denominator for the calculation of the premium. Such a premium is composed of an inclusive part and a variable part.²³

The Royal Decree of 25 October 2013 on the pecuniary careers of staff members of the Federal Public Service. This Decree describes the organization of the scales and sub-scales of public staff members in order to calculate their salaries.²⁴

The Royal Decree of 25 September 2014 on various measures relating to the selection and the carrier of state agents. This Decree amends some articles of the previous decrees relating to the state agents.²⁵

For the ‘**mandataires**’, the appointed agents/attorneys, a test of 13 criteria has been established. According to the number of points received, the job is linked to 1 of the 7 classes of salaries. For instance, the presidents of the SPF, the federal public service, belong to the 7th class.

2.1.3 The Scope of the Standard

There are 4 different levels of salaries in Belgium. These levels are put on a scale and each profession falls into a level, the level determining the salary and the benefits. The levels go from **A to D** and are further subdivided. For **fixed terms contract employees only levels B, C & D** are available. Experience, either in private or in public sector and age are taken into account when calculating the salary. Separate human resources practices are used for senior civil servants who are considered a separate group and have separately defined skills profile.

²³ARRETE ROYAL DU 28 NOVEMBRE 2008 REMPLAÇANT, POUR LE PERSONNEL DE CERTAINS SERVICES PUBLICS, L'ARRETE ROYAL DU 23 OCTOBRE 1979 ACCORDANT UNE ALLOCATION DE FIN D'ANNEE A CERTAINS TITULAIRES D'UNE FONCTION REMUNEREE A CHARGE DU TRESOR PUBLIC, available at: http://www.fedweb.belgium.be/fr/binaries/20081128_KB_AR_eindjaarstoelage_allocation_fin_annee_tcm119-28473.pdf

²⁴ Arrêté royal du 25 octobre 2013 relatif à la carrière pécuniaire des membres du personnel de la fonction publique fédérale, available at: http://www.fedweb.belgium.be/fr/binaries/20131025_nieuwe_loopbaan_nouvelle_carri%C3%A8re_tcm119-236933.pdf

²⁵ Arrêté royal du 25 septembre 2014 portant diverses mesures relatives à la sélection et à la carrière des agents de l'Etat, available at: [http://www.fedweb.belgium.be/fr/binaries/2014-09-25%20KB%20\(diverse%20maatregelen%20betreffende%20de%20selectie%20en%20de%20loopbaan%20van%20het%20Rijkspersoneel\)_tcm119-258179.pdf](http://www.fedweb.belgium.be/fr/binaries/2014-09-25%20KB%20(diverse%20maatregelen%20betreffende%20de%20selectie%20en%20de%20loopbaan%20van%20het%20Rijkspersoneel)_tcm119-258179.pdf)

In 2010, because of the **crisis**, the salaries of the Prime Minister and of the Ministers have been reduced by 5%.²⁶ It is important to note that the base salary of each category is calculated for a **single person, without children**. Moreover, benefits and indemnities are added to this base salary. All of the salaries are subject to the index: they **vary according to cost of living**. Since 2013 the indexation coefficient equals 1, 6084.²⁷

The following table provides an idea of the amount of the top incomes in the public sector in Belgium, indicating the biggest salaries to be the salaries of the Presidents of the Chamber and of the Senate:

"politique"	Salaire net mensuel
Parlementaire	5 729 €
Vice-Présidents du bureau du Parlement wallon	6 245 €
Président d'un groupe politique au Parlement wallon	6 457 €
Parlementaire et bourgmestre	7 588 €
Président du Parlement wallon	9 316 €
Président du parlement de la Fédération Wallonie-Bruxelles	9 316 €
Secrétaire d'Etat	10 702 €
Ministre fédéral	11 150 €
Ministre wallon	11 451 €
Premier Ministre, Vice-Premiers fédéraux	11 477 €
Président de la Chambre et du Sénat	16 566 €

28

High level Civil Servants

a. Senior government positions:

The government decides on the salary of senior government positions, more specifically the Minister for Civil Service. Base salary levels for senior civil servants vary by band (1-7). In

²⁶ Références, Le top 5 des politiciens belges les mieux payés, 2012, available via: <http://www.references.be/carriere/salaires/Le-top-5-des-politiciens-belges-les-mieux-payes>

²⁷ FedWeb, Calcul du traitement, 2014, available via: http://www.fedweb.belgium.be/fr/remuneration_et_avantages/traitement/calcul_du_traitement/#.VZ41Ifntmkr

²⁸ F. C., Les vrais salaires de la politique belge, Lalibre Belgique, 2013, available via: <http://www.lalibre.be/actu/politique-belge/les-vrais-salaires-de-la-politique-belge-528d8e773570386f7f3091f2>

2008, all top civil servants belonged to band 7. There is no current data about to which band top civil servants belong in 2015. Senior civil servants will only receive a base salary.²⁹ The Belgian law has a **distinct senior civil servant status**. The senior servants are recruited in a different way than civil servants in general³⁰:

Functional level	Typical title	Belonging to senior civil service: yes/no	Political appointment: yes/no
1 st	Chairman	Yes	yes
2 nd	Director-General	Yes	no
3 rd	Director	Yes	no
4 th	Advisor-General	no	no
5 th	Advisor	no	no

b. Civil servants:

A remuneration grid for civil servants is established in Belgium. This grid however only applies to the staff of the public administration; it is not concerned with the highest jobs. Groups of public employees are covered by the same civil service legislation as civilian central government employees: only the subnational government, not the police, nor the education and health systems.

The salary of civil servants depends on different factors: their function and their experience. Civil servants can belong to different categories, from Level A to Level D, A encompassing the highest paid civil servants. The reference standard in this case is the salary of an administrative expert with 5 years of experience (level B1). The salaries of each level are determined in accordance with the Royal Decree of 25 October 2013 on the pecuniary carrier of the federal public function's staff.

Prime Minister

The Prime Minister earns 11.477 €/month (own calculation = around 18.000 €monthly gross salary, hence, amounting to around 216.000 €annual gross salary). This is not enshrined in the

²⁹ H. Kuperus & A. Rode, *Top Public Managers in Europe Management and Working Conditions of the Senior Civil Servants in European Union Member States*, 2008.

³⁰ *Ibid* at 13.

law, it depends on who is the Prime Minister. Indeed the socialists decided to decrease the amount of their salaries. The same holds true for the Ministers.

Ministers

The Ministers of the Federal Government earn 11.150 €/month, which means around 17.500 € gross salary/month hence amounting to around 210.000 € annual gross salary.

Members of the Parliament

Article 66 of the Constitution mentions the benefits enjoyed by the federal parliamentarians. According to this article, a member of the federal parliament working in the Chamber earns € 729, 20 /month (net salary).

Presidents of the Chamber and of the Senate have the same salary. It amounts to approximately 16.566 euros/month.³¹ The parliamentary indemnity is based on the treatment of a State counsellor beginning his carrier. At the moment it amounts to **5729 euros/month** (gross salary), which amount to around 68.748 € gross per annum. The provisions on salaries of the members of the Parliaments are not enshrined in laws, they can be found in the **internal regulations** of each Parliament. Members of the Federal Parliament, as explained in the Letter from the President of the Chamber of 16 September 2010, will see their salaries **cut** if they participated in **less than 80%** of the sessions in which their **votes were needed**. Thus, the salaries of Parliamentarians are **not fixed**, they depend on their presence in the assembly.

Judges

Under Article 151(4) of the Belgian Constitution, the judges are **appointed by the King**, under the conditions and in the manner specified by the law.³² Newly appointed judges earn **56.487 € gross per year**. This is 1.5 times more than the average annual salary in Belgium. The annual salary of judges in charge of the **highest jurisdictions** amounts to **122.196 € gross per year**. This is 3.2 more than the average annual salary in Belgium. Belgian judges are appointed on the basis of their experience and after having passed an exam. The salaries are **calculated depending on the professional experience**. The formula used to calculate the judges' salary is called the **Claeys Formula**. It reads as follows: for white-collar employees with an annual

³¹ Ibid at 7.

³² European e-Justice Portal, Judicial systems in Member States: Belgium, 2015, available via: https://e-justice.europa.eu/content_judicial_systems_in_member_states-16-be-en.do?member=1

gross remuneration under 120,000 EUR: $(0.87 \times \text{length of service}) + (0.055 \times \text{age}) + (0.038 \times \text{annual gross remuneration}/1000) - 1.95 = \text{months' notice}$.

Since their **competences** are taken into account and since they have to **pass a difficult exam**, not accessible to everybody, the remuneration of judges is not really challenged. Moreover, unlike in several other European countries, the Belgian **ordinary** judges **do not have benefits**. Only judges exercising in the field of youth protection receive an annual gross bonus of 3867€ and judges of instruction an annual gross bonus of 6260€. The salaries of judges are regulated by the second part of the *Judiciary Code of 1967* and by *the Law amending the Judicial Code*, including provisions on the judiciary level A, court registrars and secretaries as well as provisions relating to judicial organization of 25 April 2007.³³

Subnational Administrators

In addition, Belgium is a decentralized federal State. Matters are regulated at different levels. The salaries and treatments of parliamentarians at the regional levels are not enshrined in laws but rather governed by internal regulations; for instance the *Internal Regulation of the Walloon Parliament on the indemnities of the staff members* adopted on 26 March 2014. Article 1 of this Regulation provides that the monthly income of a staff member is **4.459, 25 euros/month (gross)** (pivot index = 138, 01€). This indemnity is linked to the **cost of living**. This Regulation also stipulates that Parliament's members receive benefits such as free transport cards, lunch tickets, and a chauffeur.

For the '**mandataires**', the appointed agents/attorneys, a test of 13 criteria has been established. According to the number of points received, the job is linked **to 1 of the 7 classes of salaries**. For instance, the presidents of the federal public service belongs to the 7th class. Here is the amount of the **annual gross salary** per class:

- Class 1 = 51 973,55 €
- Class 2 = 57 104,87 €
- Class 3 = 65 508,80 €
- Class 4 = 73 185,81 €

³³ The law is available via the following link: http://www.etaamb.be/fr/loi-du-25-avril-2007_n2007009412.html

- Class 5 = 87 385,33 €
- Class 6 = 102 162,42 €
- Class 7 = 117 600,71 €

Mandataires fill the 4 top senior levels of the civil service. They are appointed for 6 year terms, during which they undergo performance evaluation at regular intervals. At the end of their terms, they have the possibility to apply for a renewal. Mandate holders can be recruited externally (the two highest levels, N and N1 only) or from the pool of existing career civil servants (N, N1, N2, and N3).³⁴

An example of mandataires are mayors. Mayors, according to Article L- 1123-15 of the *Local Democracy and Decentralisation Code*, are **paid according to the number of inhabitants of the area they govern**. The table provides an overview of gross annual salaries. The bigger the city, the bigger the salary ³⁵:

<i>Nombre d'habitants</i>	<i>Traitement alloué</i>
300 habitants et moins	13.785,16 euros
301 à 500 habitants	15.242,03 euros
501 à 750 habitants	16.697,77 euros
751 à 1.000 habitants	18.639,00 euros
1.001 à 1.250 habitants	20.580,68 euros
1.251 à 1.500 habitants	21.186,92 euros
1.501 à 2.000 habitants	21.793,61 euros
2.001 à 2.500 habitants	22.582,33 euros
2.501 à 3.000 habitants	23.492,59 euros
3.001 à 4.000 habitants	24.523,74 euros
4.001 à 5.000 habitants	25.433,75 euros
5.001 à 6.000 habitants	28.100,02 euros
6.001 à 8.000 habitants	29.912,10 euros

³⁴ Ibid at 1.

³⁵ Union des villes et des communes de Wallonie asbl, Le statut des mandataires communaux, 2014, available via: <http://www.uvcw.be/articles/3,17,2,0,2146.htm>

8.001 à 10.000 habitants	31.983,61 euros
10.001 à 15.000 habitants	36.663,56 euros
15.001 à 20.000 habitants	39.276,32 euros
20.001 à 25.000 habitants	46.817,39 euros
25.001 à 35.000 habitants	49.891,02 euros
35.001 à 50.000 habitants	52.810,93 euros
50.001 à 80.000 habitants	61.937,53 euros
80.001 à 150.000 habitants	74.668,50 euros
plus de 150.000 habitants	80.492,09 euros

Mayors also have **other benefits** such as a holiday premium (between 65% and 92% of their gross salary) and end of the year premium.³⁶ Since 2012, a new law on the ‘cumul des mandats’ (= several jobs at the same time) stipulates that, mayors cannot earn **more than 1.5 time** the parliamentary indemnity (in 2011, **169.546,56 €** gross per year).

2.1.4 Compliance and Monitoring

There is no cap law existing for the remuneration of high-level official therefore no loopholes by private law to the regulation may be defined. It can be stressed however that since 2012, the ‘**cumul des mandats**’ has been limited for public officials. Cumul des mandats refers to holding different offices at the same time. This is due to the passing of the *Local Democracy and Decentralization Code*. MPs **can no longer** have a second job in the federal administration. Nor can they belong to the board of directors of a public enterprise (SNCB, Belgacom, bpost). They cannot practice as judges.³⁷ **MPs can only exercise a public function** next to their parliamentary function if the salary of the second function does not consist of **more than half** of their parliamentary indemnities (in 2012: 57.648,91 euros gross per year). If this limit is **exceeded**, the parliamentary indemnity is **reduced**.³⁸

Equally, since there is no executive pay policy in Belgium, there is no instrument controlling executive remuneration or that installs a sort of self-regulating mechanism. However, the national **Court of Auditors** is responsible for ensuring that the finances and the public funds

³⁶ Références, Combien gagnent nos bourgmestres et échevins ?, 2012, available at: <http://www.references.be/carriere/salaires/Combien-gagnent-nos-bourgmestres-et-echevins>.

³⁷ Jobat, Quels cumuls possibles pour un membre du parlement?, 2013, available at: <http://www.jobat.be/fr/articles/quels-cumuls-possibles-pour-un-membre-du-parlement/>

³⁸ Ibid at 14.

of the State are well distributed and well managed. The Court of Auditors regularly transmits its results to the parliamentarians. Data on the remuneration of top officials is however **not collected systematically**. The Court of Auditors is governed by Article 180 of the Constitution.³⁹ Competences of the Court of Auditors are further elaborated on in the *Law of the 29 October 1846* on the organisation of the Court of Auditors. Accountants working at the Court of Auditors play only a limited role. The salaries are fixed according to the general pay scheme that uses a base salary that is indexed.

No rules for sanctions are determined, as there is no cap law in force. The income is regulated according to the rules and reference points set out by the pay scheme. The number of mandates also plays a role, if too many offices are held at the same time, a limitation will be imposed by the *cumul des mandats*. The limitation of ‘*cumul des mandats*’, may include a reduction in remuneration if they exceed a certain limit or the limitation to hold several posts.

No information regarding the monitoring of executive remuneration in Belgium was found. There is no law on the topic. Yet, the media regularly publishes the data on PM’s and MP’s salaries to the public. The government does not publish the data itself. In addition, the special laws of 2 May 1995 and of 26 June 2004 put the obligation on certain ‘*mandataires*’ and high civil servants to disclose the list of their accounts, functions and jobs to the Court. They also have to make a declaration of patrimony.⁴⁰ Nevertheless, no official monitoring system is in place, neither an official obligation to publish salaries. Even though some top officials start to publish their salaries (cf. interviews). In addition, there is an informal check between the evaluator and top official in the form of consultations about the performances of the top official, which can influence the termination of his or her mandate (cf. interview). This might be regarded as an indirect check, as it evaluates the performance of a specific post.

³⁹ FedWeb, Cour des Comptes, 2013, available at: http://www.fedweb.belgium.be/fr/a_propos_de_l_organisation/budget_et_marches_publics/organismes_de_controle/cour_de_s_comptes/#.VYVjJ_ntmkp

⁴⁰ Missions et compétences de la Cour des Comptes, available at : <https://www.ccrek.be/FR/Presentation/MissionsEtCompetences.html>

2.2 Semi Public Sector
2.2.1 Pay System

The debate about the salaries of CEOs of semi-public companies in Belgium is vivid. Proposals for a cap were formulated because, after the economic crisis in 2008, the CEOs were found by the public to earn too much. Indeed, the trigger of the first proposal made by Hendrik Bogaerts was the fact that the press and thus the people discovered that the CEO of Belgacom, the telecommunications company, earned more than 2 million € in 2012. The debate opposes the two main political formations: the left-wing led by the Socialist Party (PS) in the south of the country and its northern alter ego, the SPA; and the right-wing one, MR in Wallonia and Open-VLD in Flanders.

The left-wing parties pointed out that CEOs of state-owned enterprises earned too much and proposed a law on a reform of these CEO's salaries. The targeted enterprises were, for instance, Belgacom (telecommunications), bpost (postal services) and the SNCB (railway). This law however never passed. The parties of the right wing won the last elections in May 2014 and did not reconsider passing the proposal. Alexander de Croo, from the Open VLD, is the new Minister of Public Enterprises. He decided that interfering with the salaries of the CEOs was not his role. Thus, there **is no law regulating the rewards of the top CEOs of public companies**.

2.2.2 National Regulation

Proposals to regulate the executive pay of managers and CEOs in the semi-public sector were made, but not implemented. The applicable policy at the moment is the **Act of 21 March 1991 on the reform of some public economic enterprises**.⁴¹ The Company Code also regulates matters concerning listed companies.⁴² (Definition of a listed company: art. 4 *Company Code*). Various law proposals amending this Act are pending in the Belgium parliament:

- Proposed law: Doc 53/1395/001, April 26, 2011: Bill to amend the Companies Code and the Act of 21 March 1991 on the reform of certain economic public enterprises in this regard to the moderation and the justification for the remuneration variable leaders;

⁴¹ Loi portant réforme de certaines entreprises publiques économiques. Available at: http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=fr&la=F&cn=1991032130&table_name=loi

⁴² Code des Sociétés, available via: http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=fr&la=F&cn=1999050769&table_name=loi

- Proposed law: Doc: 53 1396/001, 26 April 2011: Draft law amending the Companies Code and the Act of 21 March 1991 on reform of certain public economic enterprises, as regards the publication of differences remunerations;

- Proposal law: Doc 53 1397/001, 26 April 2011: Proposed Resolution to moderate the remuneration of leaders of autonomous public enterprises.

A ministerial committee was set up in August 2013 and decided on the nomination of 5 CEOs for the following companies: SNCB, SFPI, Lotterie nationale, FSMA, Belgocontrol. All of these nominations are politically labelled.⁴³ Doubts concerning the importance of experience and competences when electing the candidates were therefore raised by an opposing party, the Greens.⁴⁴ A justification to the importance of the amount of salaries is that enterprises need **better managers** and in order to **attract** them, **high salaries** in line with the market are needed. At the moment there is no law on the topic that would function as a cap or control of the remuneration of managers and CEOs in of public companies.

2.2.3 The scope of the Standard

A **first proposal** for a cap policy to public companies in the semi-public sector was made by Mr H. Bogaerts in 2012 with the aim of reducing the salaries of CEOs to 400.000€ that is 200% of the PM's annual salary. The latest proposal for fixed payment in the semi-public sector states the following amount: 290.000 €gross annual salary (Details of this salary: 200.000 € which is the same salary as a President of the 'Service Public Fédéral' + 30% of the fixed part and other advantages such as insurance and extra-legal benefits for a maximum of 15%). This proposal was made by Mr. Magnette, the Minister of Public Enterprises in 2012. The proposal concerned the total remuneration of newly hired executives in state-owned companies (**partially owned companies by the Belgian state where the Belgian state holds a majority stake**). Examples of these companies are listed in the below in the table. The proposal aimed to apply to the top managers, hence, restricting the salary of the senior executives, which means the CEOs and managers of these enterprises. There is no evidence that the law regulates hourly rates and the salaries of interim of the semi-public companies. The cap was strongly resisted by

⁴³ Belga, Les patrons des entreprises publiques ont été choisis, 2013, available at: <http://www.dhnet.be/actu/belgique/les-patrons-des-entreprises-publiques-ont-ete-choisis-522326b8357060cc093e08ed>

⁴⁴ Ibid at 3.

businesses because it was considered as being anti-competitive. The proposal however **never came into force**.⁴⁵

According to the Minister, this proposal would be part of a worldwide attempt to bring morality back to economics. Yet, the cap would **only affect the CEOs appointed at the federal level** in companies where the **state hold a majority stake** and to **CEOs employed after the law** has been enacted, which excludes companies, in which the state does not hold a majority stake. The following table provides examples of the annual gross salary and the decreases of salaries in case Mr Magnette's proposal would have been passed:

Directeur (Director)	Entreprise (Enterprise)	Salaire en 2011* (2011 Salary)	Salaire selon la proposition de Magnette (Salary according to the proposal)	% en moins (Decrease - %)
<u>Didier Bellens</u>	Belgacom	2.580.147 €	290.000 €	-88,8%
Johnny Thijs	Bpost	1.104.941 €	290.000 €	-73,8%
Jannie Haek	SNCB Holding	496.963,07 €	290.000 €	-41,6%
Luc Lallemand	Infrabel	480.187,68 €	290.000 €	-39,6%
<u>Marc Descheemaeker</u>	SNCB	477.341,72 €	290.000 €	-39,2%

The law proposal has not been implanted. It is however interesting to point out that some salaries of top managers of public enterprises such as Bpost and Belgacom have been reduced, which has led to resigning of some managers. It is however, assumed that the comparison with the private sector plays a stronger role than the political discussion in these decisions (cf. interview).

2.2.4 Compliance and Monitoring

All companies have to disclose their annual losses and benefits. However, it cannot be said that data on salaries is systematically collected as there is no institution to which the information is

⁴⁵ Références, Et si les salaires des patrons d'entreprises publiques étaient limités selon Magnette?, 2013, available via: <http://www.references.be/carriere/choisir/Et-si-les-salaires-des-patrons-d-entreprises-publiques-etaient-limites-selon-Magnette>

reported. Accountants of the companies have a great role in disclosing the companies' reports.⁴⁶ In addition, according to Art. 96, § 3, alinéa 2, 3^o- 4^o of the *Companies Code*, the companies must disclose a management report, containing financial information. Annual reports on the accounts must be given, in accordance with Article 92 of the *Companies Code*. This is minor (although binding since enshrined in the law) and it cannot be compared to the systematic approach of the Netherlands.

There was no information on mechanisms for self-regulation found. There is no obligation to report to the ministry or a similar approach. However, it has been noticed that semi-public agencies that fall out the *mandataire* system of weighing salaries have started to request for the fixed weighing system of the *mandataires* for comparison and potential adaptation. Yet, it need to be stressed that this approach is not obligatory (cf. interview). Since the proposal on the cap as a standard has not been passed, there is consequently also no monitoring of compliance a law.

The semi-public sector in Belgium quite intransparent, complicated and remuneration mostly not regulated. The salaries of managers and CEOs are individually and secretly negotiated. Because of the fact that CEOs are appointed by ministers and that they are all linked to a political party, CEOs of a public company have a political affiliation. This fact might be interpreted as a potential control in the same way as a lack of independence of CEOs form political couleur.

Since there is no fixed regulation, there is no excess or sanction as remuneration of top income is negotiated individually and secretly. However, in Paul Magnette's proposal, it was foreseen that the 'golden parachutes' would be limited to one year of salary. Moreover, if an executive were to quit or to get fired, they would leave without a compensation or salary.

⁴⁶ Cour des Comptes, Mission et compétences, available via: <https://www.ccrek.be/FR/Presentation/MissionsEtCompetences.html>

3. France

3.1 Public Sector

3.1.1 Pay System and Public Administration

In 2014, the Minister of Decentralization and Public Sector, Marylise Lebranchu, made an appeal to the people earning more than ministers to agree to reduce their salaries.⁴⁷ It was interpreted that these high earners are high public officials “Hauts Fonctionnaires” (“hors-échelle”) having an index superior of 650.^{48/49} In France, in fact, All State civil servants are classified in a unique salary scale. The different elements used to calculate the total pay consist of a basic index in euros, a multiplier corresponding to the civil servants corps and grade, diverse benefits and indemnities relating to family situation (e.g., housing), as well as deductions, such as contributions to pension and taxes, and bonuses varying by corps. This egalitarian system entails that civil servants at the same hierarchy level receive the same basic pay, within the same corps in the same Ministry, irrespective of the quality of their individual work. It is a global system, in which each group pay is related to all other groups' pay⁵⁰.

The discussion about top officials' remuneration came about because of protests of public agents in regards to the Prime Minister's Manuel Valls announcement in 2014 that the indexes for the calculation⁵¹ of the salaries of the public officials will stay frozen.⁵² High public officials represent less than 5% of the 5,2 Million of the employees in the whole French public sector.⁵³ Their salaries do not depend on indexes but scales, each scale stating a salary, from A to G determined by the *Decree n°85-1148 of October 24 1985*. Beside the high salary, high public officials benefit from high bonuses, which could be considered as a “form” of compensation. The bonuses were used as a means of attraction, since the same work practiced would entail a higher salary in the private sector.⁵⁴ In 2014, it was discussed in the media that high public officials, such as the director of the “Banque Public d'Investissement” earn an (monthly gross

⁴⁷ <http://www.latribune.fr/actualites/economie/france/20140417trib000825823/ces-plus-hauts-salaires-de-la-fonction-publique-appeles-a-faire-un-geste.html>

⁴⁸ <http://www.fonction-publique.gouv.fr/emplois-superieurs-classes-hors-echelles>

⁴⁹ <http://www.latribune.fr/actualites/economie/france/20140417trib000825823/ces-plus-hauts-salaires-de-la-fonction-publique-appeles-a-faire-un-geste.html>

⁵⁰ <http://www.fonction-publique.gouv.fr/emplois-superieurs-classes-hors-echelles>
<http://unpan1.un.org/intradoc/groups/public/documents/un/unpan023308.pdf>

⁵¹ <http://vosdroits.service-public.fr/particuliers/F461.xhtml>

⁵² <http://www.latribune.fr/actualites/economie/france/20140417trib000825823/ces-plus-hauts-salaires-de-la-fonction-publique-appeles-a-faire-un-geste.html>

⁵³ <http://www.latribune.fr/actualites/economie/france/20140417trib000825823/ces-plus-hauts-salaires-de-la-fonction-publique-appeles-a-faire-un-geste.html>

⁵⁴ <http://www.latribune.fr/actualites/economie/france/20140417trib000825823/ces-plus-hauts-salaires-de-la-fonction-publique-appeles-a-faire-un-geste.html>

amount of 37.500 Euros)⁵⁵ annual gross amount of 450.000 Euros⁵⁶. It is however unclear how the newspaper came up with the amount of the salary.

In France until 2007, only the President decided how much he would earn, as it was until then the custom to do so. In the same year, the French President Nicolas Sarkozy wanted to augment his salary to match the one of the Prime Minister⁵⁷ and asked the national assembly for a reform of the remuneration of the President. The Parliament changed the *Finance Law of 2002* by a new *Financial Law of 2007*, which determined the president's salary since then. In 2012, the course of income policy changed further: Francois François Hollande has adopted the decrease of 30% of the remuneration of the President and the member of the government upon taking office in 2012. These changes were related to the current situation at that time, the financial crisis putting into question whether government officials shall earn such high salaries.⁵⁸ Hence, the *Decree n° 2012-983 on the remuneration of the President of the Republic and the Government* was agreed the 23rd of August 2012 came into effect by which the salaries of the President and the Ministers were reduced by 30%.⁵⁹ The Decree of 2012 is still applicable.

A new proposal of the *Law on Finances* was presented for the year of 2015 at the General Assembly and is still in discussion. It provides the idea of **reducing by half the remuneration in the field of public agents per categories**. The cost of the personnel in the public sector represents 1/3 of the budget of the state. Already in 2010, the salaries of the higher public officials were frozen as an answer to the economic crisis. According to the proposal of 2015, the index will be frozen and the envelopes establishing the salaries of each category in the public sector will be reduced.⁶⁰ Syndicates have rejected the reduction of the salaries of the public agents.⁶¹ This is why Marylise Lebranchu proposed again in June 2015 a re-evaluation of the salaries in the public sector. The proposal concerns the public sector of the state, territory and hospitals and the agents of categories A, B, and C, with A being the highest position and C the lowest position.⁶² There is a rise of salaries for the start and end of the public agent's career

⁵⁵ <http://www.lesenquetesducontribuable.fr/2014/10/14/ces-hauts-fonctionnaires-qui-vivent-a-vos-crochets/48521>

⁵⁶ Annual gross amount calculates by the writer.

⁵⁷ <http://elections.lefigaro.fr/flash-presidentielle/2012/03/08/97006-20120308FILWWW00474-sarkozy-explique-sa-hausse-de-salaire.php>

⁵⁸ Le Parti Socialiste, 2012 : 32

⁵⁹ Le Conseil constitutionnel et le traitement du président de la République : une hérésie constitutionnelle, Olivier Beaud

⁶⁰ <http://www.senat.fr/rap/114-108-1/114-108-19.html>

⁶¹ <http://www.lesechos.fr/economie-france/budget-fiscalite/021135437561-le-gouvernement-serait-pret-a-augmenter-le-salaire-des-fonctionnaires-1128023.php>

⁶² <http://www.action-publique.gouv.fr/revalorisation-fonctionnaires-remunerations>

to maintain the attractiveness of these jobs.^{63 64 65} This means that in the new proposal the salary difference between each category (A,B and C) has been raised in comparison with the previous rule and higher salaries are ensured to workers at the beginning of their carrier or when they are closed to the end of it .

There is no cap provided for the remuneration of high officials in the public sector. Rather the remuneration of high-level officials is regulated by a pay system that uses scales and decrees. The standard of reference for the calculation of the remuneration of top officials is a range of base salaries determined by a scale for the position of senior civil servant/Hauts Fonctionnaires/grand corps de l'État. In France, public organizations are legal bodies or organisation, which are regulated by the administrative law upon which recruitment is done through public law.⁶⁶ The public sector in France is divided in three categories, the public sector of the state, the public sector of the territories.⁶⁷ and the public sector of the hospitals.⁶⁷ There is no real definition of an Haut Fonctionnaire, it is more a customary notion.⁶⁸ Such a position in an administration is of high prestige, as the placements are high in the hierarchy and demand major responsibility.⁶⁹ They are recruited from renowned French institutions of higher studies.⁷⁰

Two distinctions are however made in this group, the *technical Hauts Fonctionnaire* recruited from the “École Polytechnique” and the *administrative Hauts Fonctionnaire* recruited from the “École Nationale d'Administration”.⁷¹ In the group of *technical Hauts Fonctionnaire*, one can find the engineers. Their responsibilities are of directions in the different field construction, economy, finances and industries.⁷² In the *administrative Hauts Fonctionnaire* one can find the consultant body of the “Conseil d'État”, giving advice to the government. Also they constitute the judges of last resort, the consultant body of the Court of Auditors. They control the use of

⁶³ <http://www.action-publique.gouv.fr/revalorisation-fonctionnaires-remunerations>

⁶⁴ <http://www.lesechos.fr/economie-france/budget-fiscalite/021135437561-le-gouvernement-serait-pret-a-augmenter-le-salaire-des-fonctionnaires-1128023.php>

⁶⁵ <http://www.lesechos.fr/economie-france/budget-fiscalite/021135437561-le-gouvernement-serait-pret-a-augmenter-le-salaire-des-fonctionnaires-1128023.php>

⁶⁶ <http://insee.fr/fr/methodes/default.asp?page=definitions/fonction-publique.htm>

⁶⁷ <http://insee.fr/fr/methodes/default.asp?page=definitions/fonction-publique.htm>

⁶⁸ <http://www.vie-publique.fr/decouverte-institutions/institutions/administration/acteurs/qu-est-ce-qu-grand-corps-etat.html>

⁶⁹ <http://www.vie-publique.fr/decouverte-institutions/institutions/administration/acteurs/qu-est-ce-qu-grand-corps-etat.html>

⁷⁰ <http://www.vie-publique.fr/decouverte-institutions/institutions/administration/acteurs/quels-sont-grands-corps-etat.html>

⁷¹ <http://www.vie-publique.fr/decouverte-institutions/institutions/administration/acteurs/quels-sont-grands-corps-etat.html>

⁷² <http://www.vie-publique.fr/decouverte-institutions/institutions/administration/acteurs/quels-sont-grands-corps-etat.html>

the public funds by the public and private persons and also have the right to report to the parliament and the government on public financial affairs by an annual report. Further they represent the body of the General Inspectorate of Finance, where the consultants verify the public accounts.⁷³

3.1.2 National Regulation

The salaries of the high public officials, Ministers and the President are determined by the following Decrees:

- *Decree No 2012-983 of 2012 determines the salaries of the President and the Government.* This Decree states how to calculate the salary of the President and the Government.
- *Decree n°85-1148 of October 24 1985 on the remuneration on the civil and military personnel of the State, on the personnel of the territorial collectivities and Public Hospitals modified by the Decree n° 2010-761 of July 7 2010.* This is the general Decree determining how the calculation of the remuneration of the Public Agents of the whole French Public Sector should be done. It also gives the remuneration of the Higher Public Official according to fixed scales according to the changes in 2010.
- *Decree n° 2014-425 of April 25 2014 on the remuneration of the Secretary of States.* This Decree determines the calculation of the remuneration of the Secretary of State.
- *Decree n°48-1108 of July 10 1948 on the hierarchical grades of the Personnel of the State relevant to the general Pension Scheme.* This Decree determines the Indexes of the Public Agents, the Grades and the Employments by name. For example the First President of the Court of Auditors is graded as HEG, meaning that the person in that employment belongs to the “Hors-Échelle” scale of G, meaning that the person earns in the realm of 83 400,81⁷⁴ given by the *Decree n°85-1148 of October 24 1985*. One could say that the indexes are fixing the salaries, as it is upon their utilization, that the salaries of the Public Agents are calculated.

Some of these Decrees have been modified to respect the political environment of the present government. Decrees have an executive value; they are an act of the President of the Republic or the Prime Minister, a power given by the Constitution. Decrees must be conforming to the laws as they are situated under the law in the hierarchy of norms in France. The modified top

⁷³ <http://www.vie-publique.fr/decouverte-institutions/institutions/administration/acteurs/quels-sont-grands-corps-etat.html>

⁷⁴ <http://www.emploitheque.org/traitement-brut-hors-echelle.php>

income policy of 2012 applies according to the Decree to the President and the government officials. The *Decree of 1985, modified in 2010*, applies to high-level civil servants who profit from the “hors-échelle” status. The *Decree n°48-1108 of July 10 1948 on the hierarchical grades of the Personnel of the State relevant to the general Pension Scheme* lays out the different professions that belong to the high public official status such as the President and Public Prosecutor of the highest scale (G). Mostly, high public officials are recruited upon their education in prestigious higher education institutes and hold responsibilities in directing and consultation.

Staff hired by the public sector, but not through public status and who does not belong to the public sector, can be hired in the three categories of the public sector (state, territory, and hospitals).⁷⁵ They can be auxiliary staff, contractual staff, part-timers, and interim staff. Their remuneration is determined by the *Decree n° 86-83 of January 17th 1986 modified in 2014*.⁷⁶ There is however, no information on whether the hourly rates are affected by the standard in regards of the decrease of the remunerations in the public sector.

The standard used to determine the remuneration of top functionaries is established by **calculations of (varying average) base salaries of the scale “hors-échelle” according to position in the scale**. Apart from that, there are *Decrees*, which regulate the salaries for the positions that do not fall under the scale of “hors –échelle”, such as the *Decree No 2012-983 of 2012* that determines the salaries of the President and the government and stipulates the calculations for these positions. Still, in all the *Decrees* concerning the remuneration of the public agents, an increase of the remuneration is given **in relation to the scale** attained by the senior civil servants, in varying forms such as by calculating different **average salaries** that are for certain positions multiplied with **a multiple that varies per position (and an index)**.

The ‘hors-échelle’ category relates to the public servants whose majored indexes are between 881(A) and 1501(G), respectively representing an annual gross salary of 48.951,44 Euros and 83.400,81 Euros. Only the position in the scale from A to G is the determinant of their salary.⁷⁷ Majored indexes are normally used to calculate the salary of public agents and the gross index indicates the career position of the Public Agent.⁷⁸ The *Decree n°85-1148 of 24th October 1985*,

⁷⁵ <http://www.vie-publique.fr/decouverte-institutions/institutions/administration/acteurs/quelles-sont-differentes-categories-agents-administration.html>

⁷⁶ article 1-3 <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=LEGITEXT000006065701&dateTexte=20150801>

⁷⁷ <http://www.emploitheque.org/traitement-brut-hors-echelle.php>

⁷⁸ <http://vosdroits.service-public.fr/particuliers/F461.xhtml>

in its article 6, provided below, determines the different scales of the “Hors-échelle” employees and gives the annual salaries.⁷⁹ They are also called “Hauts Fonctionnaires” (higher public servants), and their recruitment depends on their education qualifications.⁸⁰

In addition, a **cap to bonus is provided for certain single senior civil servants**,⁸¹ meaning that the system of bonuses is allowed, but there is a reference amount that cannot be exceeded, plus the bonus applies only for specific positions and is calculated in relation to the functions covered and the individual performance⁸² applying a coefficient or multiple as presented in the table.⁸³

It must be stressed however that the bonus cap changes from one public official to the other,

Referred Amounts (en euros)		
Functions	Individual Results	Plafonds (CAP)
4 500	6 700	67 200
4 000	5 200	55 200
3 800	3 800	45 600

as determined by Ministerial Ordinances in different years, from 2008 to 2014. Yet, according to the *Ministerial Ordinance of 19th June 2014*, not all of the positions mentioned in the ordinance are part of the senior civil service. Therefore, only the relevant positions are outlined, these are the following: “Inspecteur général nommé dans un emploi de vice-président ou de président de section du Conseil général de l’environnement et

du développement durable” (General Inspectorate in the field of Sustainability), “Inspecteur général de l’administration du développement durable” and “Inspecteur de l’administration du développement durable” (General Inspector and Inspector in the field of Environment and in the field of sustainable development).

The General Inspectorate in the field of Sustainability belongs to the category of Hauts Fonctionnaires as determined by the Decree n°2005-367 of 21 April 2005. Also public officials that execute the role of the General Inspector and Inspector in the field of Environment or in

⁷⁹http://www.legifrance.gouv.fr/affichTexte.do;jsessionid=76A3310DDF28E5A42A4808D2BBF567ED.tpdila10v_3?cidTexte=JORFTEXT00000872483&idArticle=&dateTexte=20150809
⁸⁰<http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000030824105&fastPos=13&fastReqId=2014208229&categorieLien=id&oldAction=rechTexte>
⁸¹http://www.legifrance.gouv.fr/affichTexteArticle.do;jsessionid=12A7765656E9A848CA04C76DDBE37A53.tpdila08v_1?cidTexte=JORFTEXT000029175674&idArticle=JORFARTI000029175682&dateTexte=20140702&categorieLien=cid#JORFARTI000029175682
⁸²<http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000020019120&fastPos=1&fastReqId=2098625863&categorieLien=cid&oldAction=rechTexte>
⁸³<http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000020019120&fastPos=1&fastReqId=2098625863&categorieLien=cid&oldAction=rechTexte>

the field of sustainable development, may receive a bonus depending the functions and results under conditions determined by the *Decree n° 2008-1533 of December 22 2008*.⁸⁴

Furthermore, the President, government officials and parliamentarians' earnings depend on the category of 'hors-échelle' rates. For example, according to the *Decree No 2012-983 of 2012*, the President earns two times the average of the highest and lowest payments determined in the "hors-échelle scale, whereas the ministers earn 1.4 times the same average. Additional fees are included, which will be further discussed below.

In the following section, the determination of the remuneration of top functionaries will be laid out and the yearly gross base salaries will be presented, in order to better understand how remuneration is determined by the pay system. All increases of remuneration of public officials provided by decrees are calculated in relation to the scale attained of higher civil servants.

3.1.3 The Scope of the Standard

Since there is no cap policy for the remuneration of senior civil servants and top officials applied in the public sector the following section will outline the scope of the remuneration determined and fixed according to the pay scales of the pay system and the decrees.

High Public Officials

The higher public officials, categorized as "hors-échelle" earning civil servant are subject to salaries defined by the *Decree n°85-1148 of October 24 1985* in its article 6.⁸⁵ They will be categorized between A and G, A being the lowest grade with gross yearly income of 48 951, 44 Euros and G being the highest grade with gross yearly income of 83 400, 81 Euros.⁸⁶ The following table is the representation of article 6.

TRAITEMENTS ET SOLDES ANNUELS BRUTS **soumis à retenue pour pension à compter du 1er juillet 2010 (in euros)**

⁸⁴<http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000020019120&fastPos=1&fastReqId=2098625863&categorieLien=cid&oldAction=rechTexte>

⁸⁵http://www.legifrance.gouv.fr/affichTexte.do;jsessionid=C76D7D706EA364F6559350F4EEDA651C.tpdila08v_1?cidTexte=JORFTEXT00000872483&dateTexte=20150801

⁸⁶ article 6,
http://www.legifrance.gouv.fr/affichTexte.do;jsessionid=C76D7D706EA364F6559350F4EEDA651C.tpdila08v_1?cidTexte=JORFTEXT00000872483&dateTexte=20150801

Groups	Chevrons		
	I	II	III
A	48 951, 44	50 896, 17	53 507, 65
B	53 507, 65	55 785, 75	58 786, 18
B	58 786, 18	60 341, 96	61 953, 30
C	61 953, 30	63 286, 83	64 675, 91
D	64 675, 91	67 620, 78	70 565, 65
E	70 565, 65	73 343, 82	-
F	76 066, 43	-	-
G	83 400, 81	-	-

For the purpose of this study, the high public official of category G determined by the *Decree n°48-1108 of July 10 1948* will be presented:

Profession	Scale	Gross Annual Remuneration in Euros
First President of the Court of Auditors	G	83 400, 81
Public Prosecutor of the Court of Auditor	G	83 400, 81
Vice President of the “Conseil d’État”	G	83 400, 81
Magistrate of the Judiciary can go up from C to G	C - G	61 953, 30 - 83 400, 81
Grand Chancellor of the “Légion d’Honneur”	G	83 400, 81
Grand Chancellor of the “Ordre de la Libération”	G	83 400, 81

The President

The President and the Members of the Government are remunerated according to the *Decree n° 2012-983 of 23rd august 2012*.⁸⁷ The monthly remuneration is double of the average of the minimum and the maximum of a civil servant “hors-échelle”, where the net index is 650 (determined by the *Decree N No 48-1108 of July 10 1948*, modified by the *Decree of February 16 1957*),⁸⁸ would earn.⁸⁹ The monthly gross remuneration of the President and the members of the parliament are completed by a residence compensation of 3% of the remuneration and a function allowance of 25% of the sum of the gross payment and the residence compensation.⁹⁰ The annual gross remuneration would be 178.923,72 Euros for the President⁹¹ and 178.923,72 Euros for the Prime Minister⁹². The President’s and the Prime Minister’s annual gross payment, residence compensation and the function allowances correspond to the highest rates defined by Article 1 (these monthly rates were 6950,07 in the year of 2013)⁹³ of the Decree and are increased by 5%.⁹⁴

Ministers

Ministers and Delegated Ministers earn the 1.4 times the civil servant “hors-échelle”.^{95 96} The annual gross remuneration would be 119.282,40 Euros for the Ministers and the Delegated Ministers. This Decree is still applicable and to-date no changes are discussed. The Secretary of State is remunerated according to a *Decree of 27 April 2014*, where his/her remuneration is 1.33 times the average of the highest and lowest ‘hors-échelle’ standard of the civil service standard.⁹⁷ To this a residence compensation of 3% of the remuneration and a function allowance of 25% of the sum of gross remuneration and residence compensation is added.⁹⁸ Previous to this Decree, the *Finance Law of 2002* determined the salary of the Secretary of the State, which was 1.9 times the average of the highest and lowest ‘hors-échelle’ standard of the high public officials. This shows a diminution of the salary of the Secretary of State. The annual gross remuneration would be 113.316 Euros for the Secretary of State.⁹⁹ The Decree

⁸⁷ <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000026310466>

⁸⁸ <http://www.fonction-publique.gouv.fr/emplois-superieurs-classes-hors-echelles>

⁸⁹ Article 1, <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000026310466>; hors echelle = out of range

⁹⁰ Article 1, <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000026310466>

⁹¹ Calculated by the writer

⁹² Calculated by the writer

⁹³ <http://www.emploitheque.org/traitement-brut-hors-echelle.php>

⁹⁴ Article 3, <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000026310466>

⁹⁵ Calculated by the writer.

⁹⁶ Article 2, <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000026310466>

⁹⁷ Article 2, <http://www.legifrance.gouv.fr/affichTexte.do?jsessionid=?cidTexte=JORFTEXT000028879653&dateTexte=&oldAction=dernierJO&categorieLien=id>

⁹⁸ Article 1, <http://www.legifrance.gouv.fr/affichTexte.do?jsessionid=?cidTexte=JORFTEXT000028879653&dateTexte=&oldAction=dernierJO&categorieLien=id>

⁹⁹ Calculated by the writer.

determining the Secretary of State's¹⁰⁰ salary was agreed later than the one determining the President's and the Members of the Government.¹⁰¹

Members of Parliament

The Members of Parliament¹⁰² follow similar a calculation and this is determined by the *Order n° 58-1210 of 13th December 1958* upon the organic law. The order has last been modified in 2007 and is still in vigour.¹⁰³ ¹⁰⁴ The remuneration of the parliamentarians is equal to the average of the highest and lowest remuneration of the civil servant “hors-échelle”.¹⁰⁵ To this a function allowance is added, which can vary upon the participation of the parliamentarian.¹⁰⁶ This has to be determined by the assemblies.¹⁰⁷ The annual gross remuneration would be 154.440 Euros for the Deputies.¹⁰⁸

Constitutional Court

The Members¹⁰⁹ of the Constitutional Court receive remuneration according to the *order (n° 58-1067) of 1958*, where their remuneration relates to “hors-échelle” of the two highest category of employment in the service of the state.¹¹⁰ The annual gross remuneration would be 179.004 Euros for the members of the Constitutional Court.¹¹¹ These remunerations however have not seen the decrease of 30%.¹¹² It has to be said that the decrease in the remuneration of the judges in the Constitutional Court was not part of the 60 policies of Francois Hollande before becoming President of the Republic.¹¹³

The Public Officials

¹⁰⁰ Calculated by the writer.

¹⁰¹ http://www.lemonde.fr/les-decodeurs/article/2014/04/29/non-le-salaire-des-secretaires-d-etat-n-a-pas-augmente_4409223_4355770.html

¹⁰² The annual gross remuneration would be 154.440 Euros for the Deputies

¹⁰³ http://www.senat.fr/role/senateurs_info/statut.html

¹⁰⁴ <http://www2.assemblee-nationale.fr/decouvrir-l-assemblee/role-et-pouvoirs-de-l-assemblee-nationale/le-depute/la-situation-materielle-du-depute>

¹⁰⁵ Article 1, http://www.legifrance.gouv.fr/affichTexte.do;jsessionid=D7FB0A9EC9D86477A3DB335431854CDF.tpdila08v_1?cidTexte=JORFTEXT000000705195&dateTexte=20150627

¹⁰⁶ Article 2,

http://www.legifrance.gouv.fr/affichTexte.do;jsessionid=D7FB0A9EC9D86477A3DB335431854CDF.tpdila08v_1?cidTexte=JORFTEXT000000705195&dateTexte=20150627

¹⁰⁷ Article 2,

http://www.legifrance.gouv.fr/affichTexte.do;jsessionid=D7FB0A9EC9D86477A3DB335431854CDF.tpdila08v_1?cidTexte=JORFTEXT000000705195&dateTexte=20150627

¹⁰⁸ Calculated by the writer.

¹⁰⁹ The annual gross remuneration would be 179.004 Euros for the Members of the Constitutional Court,

<http://www.journaldunet.com/economie/magazine/le-salaire-des-politiques-et-des-elus/conseil-constitutionnel.shtml>

¹¹⁰ Article 6, http://www.conseil-constitutionnel.fr/conseil-constitutionnel/francais/le-conseil-constitutionnel/les-membres-du-conseil/fondements-textuels/fondements-textuels.220.html#_Toc210217161

¹¹¹ Calculated by the writer.

¹¹² <http://www.journaldunet.com/economie/magazine/le-salaire-des-politiques-et-des-elus/conseil-constitutionnel.shtml>

¹¹³ <http://www.journaldunet.com/economie/magazine/le-salaire-des-politiques-et-des-elus/conseil-constitutionnel.shtml>

The remuneration of the public agents in general is determined through the *Decree n°85-1148 of October 24 1985 on the remuneration on the civil and military personnel of the State, on the personnel of the territorial collectivities and public hospitals modified by the Decree n° 2010-761 of July 7 2010*.¹¹⁴ Remunerations are related to groups and indexes, and the experience and study of each personal will depend in which category they belong to.

3.1.4 Compliance and Monitoring

According to the *Law n° 2000-295 of April 5th 2000*¹¹⁵ limiting the aggregation of terms of office and functions provides that a parliamentarian cannot be a parliamentarian and at the same a consultant in listed cases.¹¹⁶ For ministers it is different, as their office is taken as a function, they can aggregate, for example, being a minister in one sector and at the same time being a mayor of a village.¹¹⁷ Hence, their remunerations may be cumulated. Concerning public servants, according to the *Law of 13th July 1983* on the rights and obligations of the public servants, they must use their integral work to the activities given to them.¹¹⁸ A *Decree of 2 May 2007* on aggregation of activities by public servants provides some exceptions, such as to produce scientific, artistic, intellectual or literary products. In 2009, the *Law of 3rd August 2009* on the mobility and professional route in the public sector, determines that if a public servant work only 70% as a public official, then it is possible to execute another activity, be it private or in another public field.¹¹⁹ Some conditions¹²⁰ are provided including informing the administration.¹²¹ Some limits are provided in terms of remunerations, where in certain local-local or local-national situation a certain limit of remuneration cannot be surpassed.¹²² Consequently, there might be ways to earn more than the salaries receive for a public profession.

The national statistic and economic studies site collects the data on the remuneration of (senior) public officials nationwide in France. The last publication of the salaries in the public sector by the national statistic and economic studies in its website was in June 2015 for the salaries of 2012. As the remunerations rates are given by the different Decrees, the disclosure of executive

¹¹⁴http://www.legifrance.gouv.fr/affichTexte.do;jsessionid=76A3310DDF28E5A42A4808D2BBF567ED.tpdila10v_3?cidTexte=JORFTEXT00000872483&idArticle=&dateTexte=20150809

¹¹⁵ <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=LEGITEXT000005629272&dateTexte=20100622>

¹¹⁶ <http://www.slate.fr/story/23457/cumul-de-mandat-cumul-de-remuneration>

¹¹⁷ <http://www.slate.fr/story/23457/cumul-de-mandat-cumul-de-remuneration>

¹¹⁸ http://lexpansion.lexpress.fr/actualite-economique/un-fonctionnaire-peut-il-cumuler-deux-emplois_1367532.html

¹¹⁹ http://lexpansion.lexpress.fr/actualite-economique/un-fonctionnaire-peut-il-cumuler-deux-emplois_1367532.html

¹²⁰ <http://vosdroits.service-public.fr/particuliers/F1648.xhtml>

¹²¹ http://lexpansion.lexpress.fr/actualite-economique/un-fonctionnaire-peut-il-cumuler-deux-emplois_1367532.html

¹²² <http://www.slate.fr/story/23457/cumul-de-mandat-cumul-de-remuneration>

remuneration can be found through the calculation methods provided by the Decree. Also the national statistic and economic studies site provides information on the salaries in the public sector on yearly basis. The Court of Auditors has the responsibilities to inform the citizens of the good application of the public funds, according to the Article 47-2 of the Constitution.

For the proposal of Law of 2015 reducing the remuneration by categories, no information was found with regard to a self-regulating mechanism. However, the fixing of remuneration by the general pay system with (average) base salaries linked to the pay scale of “hors-échelle” and being calculated with a multiplier could be regarded as a sort of indirect self-regulation, since the pay system determines and fixes remuneration in this way. In addition, the supplementary decrees seem to depict indirect ways of self-regulation stipulated by law, which might be brought before the court if not followed.

The Decrees determining the remunerations do not in themselves provide any sanctions, they fix the salaries by law. The Court of Auditors plays a role, as they can sanction the policy maker and the public manager in case of violation of rules or bad management of the state budget.¹²³ It could not be determined whether the fiscal authority has a power of control on the executive pay, although this might be indirectly linked to the oversight of the budget.

The Court of Auditors (Cour des Comptes) and the General Inspectorate of Finance and the Treasury Department (Inspection Générale des Finances et au Trésor) are the two monitoring institutions that have to some extent the inspections right over the finances and the treasury of the state. The Court of Auditors controls the regularity of management of the expenses of the state (as the application of the public funds must be in accordance with the rules in vigour), efficiency and economy (whether the measures taken are proportional), and effectiveness (whether the measures taken are pursuing the objectives wanted).¹²⁴ The General Inspectorate of Finance and the Treasury Department has been given the power to monitor and inspect the budget of the state on the spot or on pieces under the supervision of the Ministry, of the Minister of Economy and Finances, and the Minister of Budget by the *Decree n°73-276 of March 14th 1973*. The Decree provides that General Inspectorate of Finance and the Treasury Department can control, audit, study, give consultation and evaluate in the field of the economy, finances

123 <https://www.ccomptes.fr/Nos-activites/Cour-des-comptes>

124 <https://www.ccomptes.fr/Nos-activites/Cour-des-comptes>

and administration.¹²⁵ The Prime Minister can ask for an assignment of investigation to the General Inspectorate of Finance and the Treasury Department to be accomplished. The Minister of Economy can also assign a task of investigation the General Inspectorate of Finance and the Treasury Department in different field of work. As the President of the Republic does the nomination of the Inspector,¹²⁶ its autonomy is questionable.

125 <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=LEGITEXT000006062077&dateTexte=20110623>

126 article 5, <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=LEGITEXT000006062077&dateTexte=20110623>

3.2 Semi-Public Sector

3.2.1 Pay System

Not only the public sector has become subject to modification in the context of reduction of remuneration, but also the semi-public sector has seen changes with regard to the remuneration of senior executive and managers in 2012, where a **maximum remuneration** has been set up by a **cap** on the remuneration of the executive functions of the semi-public Sector. The *Decree n° 2012-915 of July 2012* to reduce the salaries of directors in the semi-public sector was one of Hollande's 60 policies in his political program before becoming President in 2012.¹²⁷ The remuneration in the semi-public sector has been considered to be too excessive.¹²⁸ According to the *Decree n°53-707 of August 9 1953 related to the control of the State on the National Public Enterprises and certain organs having economic and social object modified partly by the Decree n° 2012-915 of July 2012 concerning the remuneration of the Executive Directors*, the application of a cap was a necessary step to control the budget in regards to the Public Enterprises.¹²⁹

The public sector delegates certain tasks to be exercised in the name of the state and in the general interest to the semi-public corporations or enterprises.¹³⁰ Parts of the semi-public sector are the “Etablissement Public Administratif” the public administrative corporations, “Etablissements publics industriels et commerciaux” the public industrial and commercial establishment, “Entreprises Publiques” public enterprises, and “Entreprises à capitaux publics” enterprises with public capitals.

Semi-public organisations include the enterprises in which the State holds majority of shares and which also fall under the Decree of 2012¹³¹ such as the Rail Enterprise (SNCF or RATP), the Postal Service (La Poste), or the Electric Service (EDF). The enterprises where the state holds minority shares are for example Renault, Air France, France Télécom, and GDF. The Decree does not apply to these unless the governance body of the enterprises decides voluntarily

¹²⁷ <http://www.parti-socialiste.fr/dossier/le-projet-de-francois-hollande>, point 26

¹²⁸ <http://www.economie.gouv.fr/agence-participations-etat/moralisation-et-lencadrement-des-remunerations-des-dirigeants-dentreprise>

¹²⁹ http://www.legifrance.gouv.fr/affichTexte.do;jsessionid=73A5F2CBB18532A8CBECA14340D328DD.tpdila12v_3?cidTexte=JORFTEXT00000299254&categorieLien=cid

¹³⁰ http://www.cofop.fr/la_fonction_publicque/service_public/etablissements_publics/

¹³¹ <http://www.economie.gouv.fr/facileco/entreprises-publiques>

to do so. The Minister of Economy aims to instruct the state representatives in the governance body to propose moderation of the remuneration of the Executive Directors.¹³²

When public enterprises create affiliates, they can to some extent avoid being controlled, and the help that the state financially provides to the public enterprises can be very risky for the Treasury of the State.¹³³ In addition, transparency on the remuneration of top executives in the semi-public sector was one of the reasons why this standard was decided upon.¹³⁴ The Minister of Economy, Finance and External Commerce stated that this step was to moralise and to control the remunerations of the Executive Officers, which were considered too high.¹³⁵ Also, it is to portray an example to be followed.¹³⁶

3.2.2 National regulation

In the semi-public sector a **cap of 450.000 Euro (20 times the averages of the lowest salaries paid in the Public Enterprises)** as remuneration of directors has been introduced by the *Decree n° 2012-915 of July 2012 related to the Control of the State of Public Enterprises*.¹³⁷ The law provides that salaries of the directors cannot be more than 20 times the averages of the lowest salaries paid in the public enterprises. The objective of the Decree is to control the remuneration of directors in the enterprises where the state holds a majority of shares.¹³⁸ The enterprises counted in this sector include the following: EDF, Areva, La Poste, SNCF, RATP and their principal affiliates.¹³⁹ The Decree extends the application of the measure to the Airport of Paris and Compagnie Nationale du Rhône.¹⁴⁰ In order to calculate the remuneration and whether the cap is reached, the decree of *Decree n°53-707 of August 9 1953 related to the control of the State on the National Public Enterprises and certain organs having economic and social object modified partly by the Decree n° 2012-915 of July 2012 concerning the remuneration of the*

¹³² <http://www.economie.gouv.fr/agence-participations-etat/moralisation-et-lencadrement-des-remunerations-des-dirigeants-dentreprise>

¹³³ <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000299254&dateTexte=20150811>

¹³⁴ http://www.lemonde.fr/economie/article/2012/05/14/le-debat-sur-la-transparence-des-salaires-des-dirigeants-dans-le-public-s-impose_1700874_3234.html

¹³⁵ <http://www.economie.gouv.fr/agence-participations-etat/moralisation-et-lencadrement-des-remunerations-des-dirigeants-dentreprise>

¹³⁶ <http://www.economie.gouv.fr/agence-participations-etat/moralisation-et-lencadrement-des-remunerations-des-dirigeants-dentreprise>

¹³⁷ <http://legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000026227470&categorieLien=id>

¹³⁸ <http://www.economie.gouv.fr/agence-participations-etat/moralisation-et-lencadrement-des-remunerations-des-dirigeants-dentreprise>

¹³⁹ <http://www.economie.gouv.fr/agence-participations-etat/moralisation-et-lencadrement-des-remunerations-des-dirigeants-dentreprise>

¹⁴⁰ <http://legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000026227470&categorieLien=id>

Executive Directors also states, that the attendance and the indemnities paid to the executive officers are taken into account. What the amount of the attendance and indemnities consists of is however not mentioned.

3.2.3 The Scope of the Standard

In France, a cap has been implemented for remuneration top executives and managers of the semi-public sector. The salaries of the directors mandated by the state cannot be more than 20 times the averages of the lowest salaries paid in the public enterprises. The Article L133-1 of Financial Jurisdiction Code defines the public enterprises as enterprises where the state holds the majority of capital¹⁴¹. The Decree also applies to the public corporations, public operators and the “Caisse de depot et de Consignation” (a Financial Public Institution) and its principle affiliates.

According to the Decree n° 2012-915 of July 26 2012, the remunerations of the *Executive Directors* fall under the cap. The Decree applies to all the executive directors of the affiliates of the public enterprises, but does not cover the hourly rates, the remuneration of interim staff, and the *Senior Executives* (“Cadres Dirigeants”) positions of the public enterprises. This means that the *Senior Executives* (“Cadres Dirigeants”) can earn higher salaries than the *Executive Director* within the same enterprise¹⁴². According to the Article L. 3111-2 of the Labor Code, to be a “Cadre Dirigeant” have high responsibilities, the autonomy of managing their time, the autonomous power to take decisions and benefitting of one of the highest remuneration in the establishment.¹⁴³ The Court of Cassation in its *Decision of 31st January 2012* interpreted that only the participants in the directory of enterprises can be regarded as a “Cadres Dirigeant”.¹⁴⁴ In cases where the state holds a minority of shares in public enterprises, such as Air-France KLM, France or Télécom, it is up to the agent of the public authority to negotiate with the board of the enterprise for the application of the new Decree to Executive Directors.¹⁴⁵ Therefore, not all corporation providing public services fall under the cap.

¹⁴¹http://www.legifrance.gouv.fr/affichCodeArticle.do?jsessionid=98E31380DF1710E16F9CEC3399F58904.tpdila12v_3?cidTexte=LEGITEXT000006070249&idArticle=LEGIARTI000006357187&dateTexte=&categorieLien=cid

¹⁴² http://www.lemonde.fr/economie/article/2012/06/13/les-salaires-des-patrons-du-public-seront-plafonnes_1717447_3234.html#1OILD6c7sj1z8kU3.99

¹⁴³<http://legifrance.gouv.fr/affichCodeArticle.do?cidTexte=LEGITEXT000006072050&idArticle=LEGIARTI000006902439&dateTexte=&categorieLien=cid>

¹⁴⁴<http://www.legifrance.gouv.fr/affichJuriJudi.do?oldAction=rechJuriJudi&idTexte=JURITEXT000025287680&fastReqId=1816798375&fastPos=10>, this made a lot of enterprises changes the nomination of their employees

¹⁴⁵http://www.lemonde.fr/economie/article/2012/06/13/les-salaires-des-patrons-du-public-seront-plafonnes_1717447_3234.html#1OILD6c7sj1z8kU3.99

3.2.4 Compliance and Monitoring

No information about exemptions under private law was found. Yet, with regard to the semi-public sector, the cap law applies to executive directors in the enterprises where the State holds a majority in shares according to *Decree n° 2012-915 of July 2012*. For executive directors in public enterprises with minority shares held by the state, it is up to the agent of the public authority to negotiate with the board of the enterprise for the application of the new Decree to Executive Directors. Consequently, it may be derived that the Decree does not apply to all public enterprises and is limited in its application. In 2012, 20 executive directors were concerned by this Decree.¹⁴⁶ In 2013, only 9 executive directors attain the cap of 450.000 Euros.¹⁴⁷

Data is not collected systematically as compared to the Dutch case. Data on top executives is collected indirectly every time the remuneration is determined, as proposals of remuneration need to be approved by the Ministry of the Economy and the Budget. When the Minister of Economy and of the Budget has verified the remuneration of the executive directors, the *Decree n°53-707 of August 9 1953 related to the control of the State on the National Public Enterprises and certain organs having economic and social object modified partly by the Decree n° 2012-915 of July 2012* states, that the decision of the Minister of Economy has to be made public.

There is no official mechanism for self-regulation installed. An indirect mechanism for self-regulation could be the publication of salaries of the directors of public enterprises. In addition, the Decree states that the Minister of Economy and the Minister of the Budget control the remuneration of executive directors in the industrial and commercial public enterprises.¹⁴⁸ Public enterprises have to provide all information regarding the (proposals of) remuneration of executive directors to the Minister of Economy and of the Budget before fixing the remuneration. When the Ministers of Economy and of Budget give their decision upon the amount of the salary, the decision is made public. The Ministers may also refuse remuneration that does not respect the Decree.

¹⁴⁶ http://www.lemonde.fr/economie/article/2012/07/25/les-remunerations-des-dirigeants-du-public-plafonnees_1738115_3234.html

¹⁴⁷ <http://www.journaldunet.com/economie/magazine/salaire-des-dirigeants-d-entreprise-publique.shtml>

¹⁴⁸ <http://legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000026227470&categorieLien=id>

In addition, the Court of Auditors investigates the Public Enterprises, but it only gives its opinion on whether the remuneration is well attributed.¹⁴⁹ No additional information could be found in with regard to the role of accountants. The Court of Auditors publishes the annual report of public enterprises, such as La Poste, in which it confirms that the remuneration process as determined by the Decrees has been respected.¹⁵⁰ Although the Court of Auditors assesses whether the regulations are well applied or not, no information was found on whether they can also execute powers to sanction public companies in case the rules are not respected.

¹⁴⁹ <http://www.ladocumentationfrancaise.fr/rapports-publics/154000189/index.shtml>

¹⁵⁰ <http://www.ladocumentationfrancaise.fr/rapports-publics/154000189/index.shtml>

4. Germany

4.1 Public Sector

4.1.1 Pay System and Public Administration

In Germany there is no pay cap introduced to regulate the remuneration of high-level officials. One explanation may be that all ranks are in a pay scale and the posts of the federal judges reflects the base line, which renders the pay system transparent. The pay scale has remained stable over the years without any major increases. This explains also the missing discussion about too high top income. Remuneration of officials has rather been subject to the opposite trend, namely reduction, because of losses in pay value due to inflation and the agenda of moderating payment due to the reunification and crisis. Members of the government (Ministers, Chancellors, State Secretaries) have regularly not increased their pay in line with the civil servants. This happened in 1992–1994, 2003–2004, 2008–2009, 2010 –2011. Consequently, the amount of remuneration they actually receive is 25% below the amount they should receive. There is also no more 13th salary (Weihnachtsgeld) for the members of government, since 2006. They have done this to show the solidarity with the people during the regression, and to help consolidate the budget. The amount in percentage of GDP Germany spends on the remuneration of its civil servants has steadily declined since 1970; it started out at 16.5% and is now, 2014, at 9.3%.

The attractiveness of working in the public administration has yet decreased only relatively, because even though there have been cuts in holiday and Christmas boni, pensions and health care the overall package received are still generous. The mobility between the public and the private sector is low. In order to explain the lack of a cap or any other regulation as such, the pay system will be investigated in more detail below.

The government constitutes the public sector and any enterprise, in which a public agency (the federation, the state, cities, etc.) holds more than 50% of the shares, is a public enterprise, according to Section 2(3) Finanzstatistikgesetz. In German law, there is no difference in law between public or semi-public companies; they have to follow the same rules. Public companies therefore have the purpose to bring a benefit to society, and not just maximise profit. A public agency can only invest in an enterprise if this is given, according to Section 65 of the

Bundeshaushaltsordnung. Examples for public enterprises in Germany are Deutsche Bahn AG (railway), Deutsche Telekom AG (telecommunications), Deutsche Post AG (mail).

In 2007, Germany underwent a federalism reform. After that, the different states of Germany could decide themselves what to pay their civil servants; however as long as they had not made their own schedule, the former federal schedule would apply. All states have now made their own schedules. However, calls have been made to take away this competence from the states again, since “poorer” states could only pay their civil servants less than what was offered through the federal schedule, and it was not attractive for young people to become a civil servant in these states, and they moved elsewhere. Now some of these “poor” states (especially states of the former GDR) have problems filling their vacancies and want to return to the old mandatory federal schedule. Additionally, civil servants can receive merit-based pay of the amount of 7% of their monthly salary, for the period of up to 12 months. There is a special budget for this.

4.1.2 National Regulation

There are several laws dealing with the remuneration of top civil servants in Germany, yet, not in the sense of a pay cap. These laws are the *Bundesbesoldungsgesetz*¹⁵¹ and the *Bundesministergesetz*,¹⁵² as well as art. 33(4) of the Constitution. This article stipulates that civil servants have a right, due to their service to the country, to be remunerated for their efforts. In Germany, payment is laid out according to different tariff groups. Each civil servant belongs to one level of a tariff group and his salary is adjusted accordingly. It depends on the level of education, work experience, field of employment (military/police e.g.) and rank of service how much one is paid. In these tables, one can see that top civil servants fall under schedule A13-16 and B1-B11. There is furthermore the *Bundesministergesetz*, the law regulating the pay of the civil servants in government. Most of the salaries of top civil servants in Germany are coupled to the pay set out in these tables, the final pay for the chancellor for example constituting 166% of the pay of a B11 official. For judges, the pay is laid out in a table, also to be found in the *Bundesbesoldungsgesetz*, the schedule is called R.

¹⁵¹ Bundesbesoldungsgesetz (BBesG) vom 19. Juni 2009

¹⁵² Gesetz über die Rechtsverhältnisse der Mitglieder der Bundesregierung (BMinG) vom 27. Juli 1971

4.1.3 The Scope of the Standard

There is no “cap” in the proper sense for the pay of high civil servants in Germany. However, due to the schedule system, the payment is fixed, and it is not easy for civil servants to climb along the schedule. The position they will be in depends on their experience and level of education. The cap in a sense is then that civil servants are arranged according to schedule, and they do have to show good work in order to be promoted. There is also an inherent stop in promotions, since, for example, the highest pay schedule is reserved for the state secretaries.

The Besoldungsordnung mentions specifically in each section for which group of civil servants the remuneration applies. High Civil Servants, the so-called Beamte des höheren Dienstes, get paid according to Besoldungsordnung A, and are in group A13-16, which is itself separated into several levels (Stufen). There is also the Besoldungsordnung B, which regulates the pay for special higher civil servants, such as Ambassadors, State secretaries and Directorate-Generals of Ministries. In the Besoldungsordnung B, there are only fixed payment groups, which are not separated into levels anymore.

The military also is paid according to the Besoldungsordnung, schedule A and B, just like civil servants. In the health sector, nurses are paid according to Schedule A7 and the head doctor of a ward gets paid according to schedule A16, it is also possible to be somewhere in between. In the education sector, professors are paid according to schedule W in the Besoldungsordnung and teachers which were made civil servants (not all teachers are civil servants) get paid according to Schedules A12-A16 in the Besoldungsordnung. It can be seen from this, that in Germany, everyone is paid according to one level in the Besoldungsordnung. It is according to the level they are assigned by their State or Germany that their payment is constituted, see section 19 Bundesbesoldungsgesetz. In the following, the pay will be set out for each top civil servant post.¹⁵³

High Civil Servants (*Beamte des höheren Dienstes*)

High Civil Servant’s pay in Germany is organised according to *Besoldungsordnung*, these are “tariff groups,” in which the payment is staggered according to level of service and experience.

¹⁵³ I have calculated the annual pay myself, since only the monthly pay is set out in the law.

High Civil Servants, the so-called *Beamte des höheren Dienstes*, get paid according to *Besoldungsordnung A*, and are in group A13-16, which is itself separated into several levels (*Stufen*). There is also the *Besoldungsordnung B*, which regulates the pay for special higher civil servants, such as ambassadors, state secretaries and directorate-generals of ministries. In the *Besoldungsordnung B*, there are only fixed payment groups, which are not separated into levels anymore. The actual gross amount received per month in € will be outlined in the following table.

	<u>Level 1</u>	<u>Level 2</u>	<u>Level 3</u>	<u>Level 4</u>	<u>Level 5</u>	<u>Level 6</u>	<u>Level 7</u>	<u>Level 8</u>
<u>A13</u>	3.971,66	4.169,32	4.365,80	4.563,45	4.699,49	4.836,69	4.972,70	5.106,41
<u>A14</u>	4.084,44	4.339,05	4.594,85	4.849,46	5.025,01	5.201,76	5.377,31	5.554,05
<u>A15</u>	4.992,48	5.222,70	5.398,24	5.573,81	5.749,38	5.923,78	6.098,17	6.271,40
<u>A16</u>	5.507,53	5.774,96	5.977,25	6.179,56	6.380,70	6.584,18	6.786,48	6.986,46
<u>B1</u>	6.271,40							
<u>B2</u>	7.285,26							
<u>B3</u>	7.714,27							
<u>B4</u>	8.163,05							
<u>B5</u>	8.678,13							
<u>B6</u>	9.167,62							
<u>B7</u>	9.639,65							
<u>B8</u>	10.133,77							
<u>B9</u>	10.746,50							
<u>B 10</u>	12.649,78							
<u>B 11</u>	13.141,59							

Federal President (*Bundespräsident*)

The federal president is remunerated to 5/3rd of the remuneration class B11, this is the same as for the chancellor, and he gets a fully staffed office paid for out of the “*Aufwandsentschädigung*” (effort compensation) of 78.000€ gross a year. Additionally, the president gets paid after his exit from office, the so-called “*Ehrenbesoldung*”, this is currently 214.000€ gross a year.¹⁵⁴

Chancellor (*Kanzler(in)*)

The German chancellor’s income is tied to the tariff group B11; he/she receives 166% of that pay. Consequently, she receives a payment of 203.072, 04€ gross per year. Additionally, he/she receives a one-off payment each year of 12.270,96, the so-called *Dienstaufwandsentschädigung*, a “service effort compensation” (which is not subject to tax);

¹⁵⁴ Section 1 of the Gesetz über die Ruhebezüge des Präsidenten (BPräsRuhebezG) vom 17. Juni 1953

and she is eligible to receive up to 1.840, 65€gross compensation a year, if he/she is unable to move his/her household to the capital.

Ministers (*Minister*)

The German ministers' income is tied to the tariff group B11; he/she receives 133% of that pay. Consequently, he/she receives a payment of 162.458,04 €gross per year. Additionally, he/she receives a one-off payment each year of 3.681,36 € the so-called *Dienstaufwandsentschädigung*, a “service effort compensation” (which is not subject to tax); and she is eligible to receive up to 1.840, 65€gross compensation a year, if he/she is unable to move his/her household to the capital.

State Secretaries (*Staatssekretäre*)

They are paid according to tariff group B10 (see also below the section on High Civil Servants). Additionally, he/she receives a one-off gross payment each year of 2.760,96 € the so-called *Dienstaufwandsentschädigung*, a “service effort compensation” (which is not subject to tax); and he/she is eligible to receive up to 1.840, 65€gross compensation a year (not subject to taxation), if he/she is unable to move his/her household to the capital.

Members of Parliament (*Bundestagsabgeordnete*)

Members of Parliament are able to regulate their own pay, and have a right to be paid appropriately to ensure their independence, which is laid down in § 48 (3) *Grundgesetz*. The amount of compensation is coupled to that of an ordinary judge at a Federal Court (MPs are paid according to schedule R6) since MPs and this group face similar responsibilities and tasks. The amount is 108.984 €gross per year; subject to income tax. No additional payments are made. The compensation is adjusted annually, according to the *Nominallohnindex*, the nominal wage index, and is only valid for one term, and only if it has been decided so within three months of the constitutive meeting (which happens regularly every four years, since the elections for parliament occur every four years).¹⁵⁵ The current *Nominallohnindex* is 106,7.¹⁵⁶

Supreme Judges (*Bundes(verfassungs)richter*)

For judges at the federal courts (General Federal Court, Federal Tax Court, Federal Labour Court, Federal Administrative Court, Federal Social Court), the base salary is regulated in the *Besoldungsordnung R*, the tariff group R. Their salary constitutes the base line of salaries from

¹⁵⁵ Deutscher Bundestag (n.d.). Höhe der Abgeordnetenentschädigung.

¹⁵⁶ Statistisches Bundesamt (2015, July). Verdienste und Arbeitskosten: Reallohnindex und Nominallohnindex.

which the levels of pay for all political and bureaucratic officials are derived from and is therefore determining for the pay system of the German public administration. For judges at the Constitutional Court, the *Gesetz über das Amtsgehalt der Mitglieder des Bundesverfassungsgerichts*,¹⁵⁷ regulates the pay.

Federal Court judges

President of the Federal Courts is paid according to tariff group R10.

Federal Attorney General is paid according to tariff group R9.

Vice-President of the Federal Courts is paid according to tariff group R8.

Other judges at the Federal Courts are paid according to tariff group R6.

Constitutional Court judges

President of the Constitutional Court is paid 4/3 of tariff group B11.

Vice-President of the Constitutional Court is paid 7/6 of tariff group B11.

Other judges at the Constitutional Court are paid according to tariff group R10.

Actual amount received gross, still subject to tax:

	monthly	yearly
<u>R6</u>	9167,62€	110.011,44€
<u>R8</u>	10.133,77€	121.605,24€
<u>R9</u>	10.746,50€	128.985,00€
<u>R10</u>	13.193,93€	158.327,16€

From this, it follows that all judges at the Constitutional Court, and the presidents of the Federal Courts get paid more than the top civil servant in Germany (the state secretary in schedule B11).

There are no special provisions relating to the payment of external staff found. There is a programme called “*Personalaustauschprogramm Seitenwechsel*”, where employees of companies go to work in ministries etc. for a while, but still be paid by their employer, while at the same time, another person from the ministry goes to work for their employer. It was founded in order to improve the exchange of knowledge between the business world and the state and is regulated in the *Allgemeine Verwaltungsvorschrift zum Einsatz von außerhalb des öffentlichen Dienstes Beschäftigten (externen Personen) in der Bundesverwaltung* from June 28, 2008.

¹⁵⁷ Gesetz über das Amtsgehalt der Mitglieder des Bundesverfassungsgerichts (BVerfGAmtsGehG) vom 28. Februar 1964

4.1.4 Compliance and Monitoring

There are also no exemptions to the payment set allowed under private law. It may be interesting to stress in this context, however, that MPs may have side-jobs in the private sector. They have the obligation to publish their earnings from side-jobs, this is stipulated in the *Verhaltensregeln der Geschäftsordnung des deutschen Bundestages*. In case the MPs do not follow the procedure in publishing their earnings, the Bundestag can fine them.

In the public sector, there is no specific monitoring body. Since the remuneration is contained in a law, there is no way of not complying with the standard; otherwise the case may be brought before the court. In addition, tax statements are submitted yearly to the tax authorities, since every employee in Germany is required to submit a tax statement, according to Section 25(3) *Einkommenssteuergesetz* in conj. with Section 56 and 60 *Einkommenssteuerdurchführungsverordnung*. With regard to the earnings of MPs, they have to report these to the Bundestagspräsident in written form within three months of taking up a position or when they already hold a position upon becoming MP, immediately.

Moreover, the data on salaries is contained in the law on the *Besoldungsordnung* and *Bundesministergesetz*, which can be amended at request at any time. There is therefore no systematic collection of the data on salaries, although the Federal Ministry of the Interior does collect data on how many people are employed in each salary group. Further, accountants play no specific role in the management of executive pay of top officials of the high civil servants. State officials have to annually submit a tax statement, since every employee in Germany is required to submit a tax statement, according to Section 25(3) *Einkommenssteuergesetz* in conj. with Section 56 and 60 *Einkommenssteuerdurchführungsverordnung*.

Consequently, the mechanisms for self-regulation mainly come into effect in the sense that MPs have the obligation to publish their earnings from side-jobs.¹⁵⁸ There is no other self-regulation in effect, since according to section 14(1) *Bundesbesoldungsgesetz* the remuneration gets amended regularly according to the financial and economic circumstances prevalent in Germany, most importantly the *Nominallohnindex*.

¹⁵⁸ Deutscher Bundestag (n.d.). Tätigkeiten und Einkünfte neben dem Mandat.

4.2 Semi-public Sector

4.2.1 Pay System

There is no distinction between public and semi-public companies in Germany. All companies in which a federal agency holds a stake are categorised as “*öffentliche Unternehmen*”, which is a public company, according to Section 2(3) *Finanzstatistikgesetz*. In the semi-public sector, there are several companies, which are more and more being privatized. These companies are: *Deutsche Bahn AG* (transport), *Deutsche Post AG* (post), *Deutsche Telekom AG* (Telecommunications). The federal government has tried to decrease its shares in these companies for some time now, in order to leave business to the free market, and only secure some influence in strategically important businesses.¹⁵⁹

For a long time in Germany, the public did not care about the salary of top executives, and thought salaries to be normal also from an international perspective. Only when a few scandals became known, which showed that managers increased their salary even though the company turned less profit or even had to let people go, this mentality changed.¹⁶⁰ Because of this debate, the law forcing top executives of companies indexed on the German stock exchange to publish their salaries was introduced, since the companies did not want to commit to a voluntary publication.¹⁶¹ Nowadays, three states of Germany (North-Rhine Westphalia, Schleswig-Holstein, Hessen) have thought about introducing laws to make the manager’s payment of smaller, not stock-exchange companies public, but only in NRW has this led to success so far.¹⁶² According to the official explanation for the laws relating to the publication of top executive salaries, the law was introduced because a voluntary commitment according to the Public Corporate Governance Code was not enough. It is necessary for the public to understand the salaries of top executives to decrease the politicization of the issue, and it is important for investor protection to keep the enterprise in financial health.

4.2.2 National Regulation and Scope of the Standard

In Germany, since 2005, the official companies trading on the German stock exchange, the DAX (all the above mentioned companies are on the stock exchange), have to publish the salary

¹⁵⁹ Bundesministerium der Finanzen (n.d.). Bericht zur Verringerung von Beteiligungen des Bundes – Fortschreibung 2014, p. 1

¹⁶⁰ Hans-Böckler-Stiftung (2006, July). Informationen zur Bemessung der Vorstandsvergütungen, p. 11

¹⁶¹ Handelsblatt.de. (2005, June 30). Bundestag nickt Managergehälter-Gesetz ab. Handelsblatt.

¹⁶² Weckbrodt, H. (2015, April 7). Nur jedes 3. öffentliche Unternehmen legt Manager-Bezüge offen. Oiger.

of their CEOs and Boards once a year. This is stipulated in the so-called *Gesetz über die Offenlegung der Vorstandsvergütungen*.¹⁶³ The law relating to this issue was tightened three years later, in 2009, with the *Gesetz zur Angemessenheit der Vorstandsvergütung*,¹⁶⁴ which laid down that each member supervisory board of companies was now personally responsible for the appropriateness of the salary, which is tied to **a horizontal comparison** with the usual remuneration of managers in the same field, and the specific relation in pay within that company between low-level and higher-level employees (**vertical comparison**). The supervisory board needs to take these comparisons into account when determining the salary. In general, salaries of executives in these companies are always higher than those of top civil servants, as can be seen from the published salaries of the CEOs.

In addition, the employment that top officials, who work in public companies, executive in addition to their job in the public service is considered as a “Nebentätigkeit” (secondary employment) and regulated by the “Nebentätigkeitsverordnung”. The salary of the secondary employment is maximized to 6100 €/year for top officials (salary grade B 6 and higher) (cf. interview).

Furthermore, in the *Public Corporate Governance Code*¹⁶⁵, which is an instrument applicable to all companies in which Germany hold shares, section 4.3 sets out the way in which the pay of CEO’s shall be determined. It shall be done in an appropriate way that takes into account the current financial situation of the undertaking and the business prospects of the undertaking. However, this instrument is non-binding and may rather be regarded as a forerunner to the Law introduced in 2009.

The obligation to publish the salary of the CEOs is only valid for those companies traded on the stock exchange. Their CEOs are furthermore not top civil servants, but private managers. There is no obligation to publish the salary for companies not on the stock-exchange (public and private companies), according to § 286 (5) *Handelsgesetzbuch*.¹⁶⁶ However, some companies are operating in the semi-public sector (health insurances, hospitals, swimming pools, sports areas, etc.), where it would also be beneficial if the pay was known.

¹⁶³ Gesetz über die Offenlegung von Vorstandsvergütungen (VorstOG) vom 11. August 2005

¹⁶⁴ Gesetz zur Angemessenheit der Vorstandsvergütung (VorstAG) vom 5. August 2009

¹⁶⁵ Bundesministerium der Finanzen (2009, June). *Grundsätze guter Unternehmens- und Beteiligungsführung*.

¹⁶⁶ Handelsgesetzbuch (HGB) vom 10. Mai 1897

For the semi-public companies, it would be helpful if not only those companies operating on the stock exchange had to make their salaries known, but also health care providers, insurers, hospitals, swimming pools and sports arenas, since also these companies are subsidised by tax payer money. The publication of salaries is valid for the executives of the following companies, since they are indexed at the German stock exchange:

- *Deutsche Post AG*
- *Deutsche Bahn AG*
- *Deutsche Telekom AG*

These are the most important ones. A list of all companies in which Germany holds a stake can be found in the *Beteiligungsbericht des Bundes*. It is published every year.¹⁶⁷

4.2.3 Compliance and Monitoring

Public companies are obliged to publish their earnings yearly in the *Vergütungsregister*. This data is then collected systematically and can be accessed publicly on their website: <http://www.bundesanzeiger-verlag.de/betrifft-unternehmen/steuern-finanzen/verguetungsregister/>.

In addition, the annual gross payment of managers and CEO's is also published in the *Vergütungsregister*. If it becomes evident, that a mismanagement regarding salaries has happened, the supervisory board is liable towards the shareholders, see section 116(3) *Aktiengesetz*. The executives still have the right to the payment they were "promised" though. They do not lose this right, unless it becomes obvious that there was an immoral contract obviously against common sense, according to section 138 German Civil Code.

Accountants do not play a special role in the management or the control of executive pay of managers and CEO's of public companies. In Germany, it is more relevant that the supervisory board manages the executive pay, and the supervisory board can be liable if it does not follow the rules laid out in the *Gesetz über die Angemessenheit von Vorstandsbezügen*. The shareholder

¹⁶⁷ Bundesministerium der Finanzen (2013, December). *Alphabetische Zusammenstellung der Unternehmen, die mit der Bundesrepublik Deutschland i.S.d. § 15 AktG verbunden sind sowie alphabetische Zusammenstellung der rechtlich unselbstständigen Einrichtungen des Bundes, die dem Bund als herrschendem Unternehmen zuzurechnen sind.*

assembly also can “ratify” the payment, but they are not liable in case the payment is not considered inappropriate, nor must the supervisory board follow their recommendation.¹⁶⁸ Every top executive in Germany has to submit a tax statement, for them the same rules regarding taxes apply as has been set out in the part about the public sector.

There are no other mechanisms of self-regulation. What could be regarded as a sort of indirect control might be the cross horizontal comparison with the private sector as well as the *Public Corporate Governance Code*, however the latter is not binding. In addition, currently, a new law is being developed in Germany, which regulates the switch of former senior civil servants in government to working in the private sector. This law is not yet ratified or in force. A current draft states however that there needs to be a mandatory disclosure requirement if somebody switches jobs to the private sector within 18 months of leaving the position in government. Only present or former Ministers or State secretaries have to follow this law. The government can forbid them to take up their new job within a period of 1 year or up to 18 months, if it goes against the public interest.¹⁶⁹

¹⁶⁸ Hans-Böckler-Stiftung (2011, September). Arbeitspapier 239: Kriterien für die Vorstandsvergütung in deutschen Unternehmen nach Einführung des Gesetzes zur Angemessenheit der Vorstandsvergütung, p. 13

¹⁶⁹ Gathmann, F. (2015, February 3). Politiker in die Wirtschaft: Wie die Koalition Seitenwechsel regeln will. Spiegel Online.

5. Italy

5.1 Public Sector

5.1.1 Pay system of the Public Administration

In 2009 and 2011, the Italian government introduced a series of reforms aiming at reforming the structures of public administration. One of the ways to reduce public debt after the economic crisis in 2008 was to cut salaries of the public administration. The decree named “Salva Italia” (“Save Italy”) had the objective to implement clear standards for rewards and established a cap for the highest salaries of officials of the public administration.¹⁷⁰ In 2014, the newly formed government announced the cut towards the top salaries of top managers in the public administration in the name of “social justice”.¹⁷¹

The public sector in Italy comprises all bodies and institutions that fulfil the following criteria:

- Organizations that pursue public objectives
- Organizations that embody authoritative powers
- Organizations instituted by the State or other public bodies
- Organizations funded through public money
- Organizations controlled by public powers

This includes the following bodies and institutions:

- National Health Service
- Non-economic public agencies
- Research institutions
- Regions and local autonomies
- Ministries
- Fiscal agencies
- Presidency of the Council of Ministers
- Educational institutions

¹⁷⁰ Article 23 ter of the Legislative Decree of 201/2011 converted in Law 214/2011 (also called decree “Salva Italia”)

¹⁷¹ See news article from March 2014 in which Prime Minister Matteo Renzi announces cuts to top managers in public administration in the name of “social justice”. Retrieved at <http://www.ilgiornale.it/news/interni/stipendi-valle-moretti-abbia-dignit-andarsene-1004106.html> (Last access on June 30 2015).

- Public Universities
- Agencies defined in Article 70 paragraph 4 of Legislative Decree 165/01
- Agencies defined in Article 60 paragraph 3 of Legislative Decree 165/01
- Independent authorities
- Police corps
- Armed forces
- Fire-fighting services

It is important to stress that the civil servants of the Italian public administration all fall under the term “managers” and are divided according to different levels (*fasce*); for each sector there are managers of level I or II.¹⁷² Top officials are *dirigenti di I fascia* (managers of level I). Therefore, the expression *top manager* is used in the meaning of *high-level/senior civil servants* in the Italian public administration throughout the analysis of executive remuneration in Italy. In addition, it should be stressed that in the public administration of Italy there are no differences between levels of managers with regard to the rules that apply; all civil servants are called *public managers* and paid according to the same rules¹⁷³. Consequently, the Agenzia per la Rappresentanza Negoziabile delle Pubbliche Amministrazioni (Agency for the Negotiating Representation of Public Administration) for each contract negotiates salary specifications at both national and regional level.¹⁷⁴ In fact, all public contracts, from civil servants to those of ministers are contracted by the *Agency for the Negotiating Representation of Public Administration*, too. The Agency was created through the Legislative Decree 29/1993 and was later re-confirmed in its functions by the Legislative Decrees 150/1993 and 165/2001. It is a technical agency that owns legal personality in public law and autonomy in organizational and accounting activities, which represents the public administration in the national negotiations of labour contracts. The agency performs all activities related to the negotiation and definition of collective contracts in various compartments of public labour.

Furthermore, the Italian pay scheme has become subject to the Brunetta reform in 2009, which aimed at introducing a performance management system in the public administration based on **performance-related pay**. Since the introduction of the legislative decree n. 150/2009, monetary rewards relate to individual performance that is assessed through **a system of**

¹⁷² Pursuant to Article 15 and 23 of Legislative Decree n. 165/2001.

¹⁷³ Article 23 ter of the Legislative Decree of 201/2011 converted in Law 214/2011 (also called decree “Salva Italia”).

¹⁷⁴ As established by Legislative Decrees 29/1993, 165/2001 and 150/2009.

appraisal. Yet, the performance system is still under implementation in the public sector. In addition, the system of appraisal is still under investigation to decrease the risks of a bureaucratization of the appraisal processes in public administration (cf. interview). Despite reforms of the public administration in the 90's public managers and servants kept their legal status and remained under labour and statutory law. However, there are plans to undergo a separate and general reform in the upcoming semester with regard to taxation of the payments. Generally, it may be stressed that the system of remuneration is **based on fixed and variable components.** The new reforms about performance related rewards consequently aim at **“putting emphasis on the variable component related to managerial performance”** (cf. interview).

5.1.2 National Regulation

The Legal basis, Article 23 ter of the Legislative Decree of 201/2011 converted in Law 214/2011 (also called decree “Salva Italia”) establishes that **the maximum reference point for remunerations for public administration managers is the salary of the first President of the Court of Cassation (primo Presidente della Corte di Cassazione).** As of 2012, all salaries of public administration managers including those of top officials have become subject to such a cap imposed. In 2012, the maximum cap was set at 301.320,29 EUR gross per year, as published in note n. 78084 of the 17th of July 2013. As a result, no salary in the national public administration should exceed this amount. Moreover, Article 13 of the Legislative Decree n. 66 of 24th of April 2014 established the maximum limit for the remuneration of the first President of the Court of Cassation **at 240.000 EUR gross per year.** Therefore, as of 2014, no salary in public administration should exceed this amount including public managers up to the Prime Minister. Further, the Law 214/2011 sets a limitation to **cumulative salaries.** When holding two appointments in public administration and in a ministry, one cannot receive more than 25% of the total amount of the salary perceived for the first appointment (including bonuses and reimbursements). As a consequence, Italy uses **a reference point that pegs the rewards for high-level officials to a standard wage level of one particular function, in this case the salary of the first President of the Court of Cassation (primo Presidente della Corte di Cassazione) paired with the use of performance-related pay.**

5.1.3 The Scope of the Standard

Article 23 ter of the Legislative Decree of 201/2011 converted in Law 214/2011 in conjunction with Article 13 of the Legislative Decree n. 66 of 24th of April 2014 establish **a cap of 240.000 EUR gross per year (maximum salary of the first president of the Court of Cassation)** to all managers working in **national public administrations**. This includes managers of 1st level (top managers) in the ministries, presidency of the Council of Ministers, public research institutions and non-economic public agencies. Article 84, last paragraph of the Italian Constitution and Law 177 of 1985 establish the rules for the compensation of the **President of the Italian Republic**. The legislative Decree of the 4th of October 2012 establishes the rules to determine the salaries of all managers working in **regional public administrations**. This includes managers of 1st level (top managers). The **standard does not regulate hourly rates** but only sets standards that tie the maximum remuneration that are received by top managers in public administrations. Salary specifications (including hourly rates) at both national and regional level are negotiated by the Agenzia per la Rappresentanza Negoziabile delle Pubbliche Amministrazioni for each contract. Salaries are contracted individually for each public administration manager. The salary will be composed of **three parts; a basic remuneration, a remuneration based on the position held and a performance-related remuneration**.

In Italy, there are no differences in the public administration between levels of managers with regard to the rules that apply; all are called public managers and paid according to the same set of rules. Furthermore, salary specifications at both national and regional level are negotiated by the Agenzia per la Rappresentanza Negoziabile delle Pubbliche Amministrazioni for each contract. Managers are divided in different levels (fasce). For each sector there are managers of I or II level. In the following section, the executive pay of top managers for different sections of national public administration will be set out. The salaries that are analysed are from 2013, as this is the most recently published statistic. As a result, the cap of 240.000 EUR gross per year as maximum salary was not yet implemented.

High-level civil servants

High-level civil servants are dirigenti di I fascia (managers of I level or top managers). The standards outlined applies to all employees of the public administration hired as dirigenti (managers). Depending on the managerial level, one may earn more or less on a sliding scale, which sees the salary of the First President of the Court of Cassation as the absolute maximum. Because top managers (or high-level civil servants) are the ones who earn more on the

managerial scale, they are the ones who have been the most affected by the cap on managers' salaries in the public administration.

Enti Pubblici Non-Economici (Non-Economic Public Agencies)

The medium salary in 2013 for top managers (managers of 1st level) has been 220.160 EUR gross per year. The salary was composed of 63.670 EUR gross in basic salary and 156.490 EUR gross in accessory remuneration tied to the office held and performance. In particular, 104.792 EUR gross was the amount of accessory salary tied to the position held and 49.106 EUR gross was the amount of performance related bonus. As a result, performance only accounts for less than one fourth of the total salary perceived by the top managers.¹⁷⁵

Public research institutions

The medium salary in 2013 for top managers (managers of 1st level) has been 151.176 EUR gross per year. The salary was composed of 59.332 EUR gross in basic salary and 91.844 EUR gross in accessory remuneration tied to the office held and performance. In particular, 82.252 EUR gross was the amount of accessory salary tied to the position held and 9.212 EUR gross was the amount of performance related bonus. As a result, performance only accounts for a small fraction of the total salary perceived by the top managers.¹⁷⁶

Ministries

The medium salary in 2013 for top managers (managers of 1st level) has been 188.104 EUR gross per year. The salary was composed of 65.292 EUR gross in basic salary and 122.812 EUR gross in accessory remuneration tied to the office held and performance. In particular, 96.975 EUR gross was the amount of accessory salary tied to the position held and 22.448 EUR gross was the amount of performance related bonus. As a result, performance only accounts for a small portion of the total salary perceived by the top managers.¹⁷⁷

Presidency of the Council of Ministers

The medium salary in 2013 for top managers (managers of 1st level) has been 188.603 EUR gross per year. The salary was composed of 66.701 EUR gross in basic salary and 121.902 EUR

¹⁷⁵ See report for 2013 of ARAN for Managers of I level in the Non-Economic Public Agencies. Retrieved at: https://www.aranagenzia.it/attachments/article/5152/Retribuzioni%20medie%20PA%20per%20macrovoce_SITO.pdf (last access on 25th of May 2015).

¹⁷⁶ See report for 2013 of ARAN for Managers of I level in Research Institutions. Retrieved at: https://www.aranagenzia.it/attachments/article/5152/Retribuzioni%20medie%20PA%20per%20macrovoce_SITO.pdf (last access on 25th of May 2015).

¹⁷⁷ See report for 2013 of ARAN for Managers of I level in the Ministries. Retrieved at: https://www.aranagenzia.it/attachments/article/5152/Retribuzioni%20medie%20PA%20per%20macrovoce_SITO.pdf (last access on 25th of May 2015).

gross in accessory remuneration tied to the office held and performance. In particular, 95.805 EUR gross was the amount of accessory salary tied to the position held and 23.381 EUR gross was the amount of performance related bonus. As a result, performance only accounts for a small portion of the total salary perceived by the top managers.¹⁷⁸

President of the Italian Republic

Pursuant to Article 84, last paragraph of the Italian Constitution and pursuant to Law 177 of 1985, the President of the Italian Republic does not perceive remuneration or salary but a personal compensation. As a result, the salary of the President of the Republic does not fall under the afore-mentioned cap in salary. In 2014, the compensation received by the President of the Republic was 239.181 EUR gross per year, including all additional bonuses.¹⁷⁹

Regional public administration

Regional administrations are governed by different legislation and standards than national administrations. In particular, regional managers of 1st level (*dirigenti regionali di prima fascia*) perceive salaries well above the national average. For instance, in 2013 regional managers of 1st level earned 96.682 EUR gross per year, of which only 11.926 EUR gross per year was performance related pay (see Appendix 1).¹⁸⁰

The Legislative Decree of the 4th of October 2012 establishes a cap for the salaries of regional administrations set at the remuneration given by councillors in the most efficient administration. Further, the Decree establishes the elimination of bonuses and additions to the perceived salary. Moreover, Article 34 of the *Disegno Di Legge Boschi* (DDL - planned legislative decree) intends to limit the remuneration of regional administrators to that attributed to the mayors of the chief-towns of the region itself. This legislation affects managers working in regional public administration; this includes the managers of 1st level who are the top officials in regional public administration.

¹⁷⁸ See report for 2013 of ARAN for Managers of I level in the Presidency of the Council of Ministers. Retrieved at: https://www.aranagenzia.it/attachments/article/5152/Retribuzioni%20medie%20PA%20per%20macrovoce_SITO.pdf (last access on 25th of May 2015).

¹⁷⁹ As disclosed in an official note of the Presidency of the Republic on April 16 2014. Retrieved at <http://presidenti.quirinale.it/elementi/Continua.aspx?tipo=Comunicato&key=16464> (Last access June 30 2015).

¹⁸⁰ See report for 2013 of ARAN for Managers of I level in regional administrations. Retrieved at: https://www.aranagenzia.it/attachments/article/5152/Retribuzioni%20medie%20PA%20per%20macrovoce_SITO.pdf (last access on 25th of May 2015).

As explained above, the Presidency of the Council of Ministers, the Ministries, Regional and other local councils are considered parts of the Italian public administration.¹⁸¹ However, the **political representatives included in the public administration have different functions** than those of the other managers. Ministers and other political representatives have a **guiding role whereas other managers have an executing role**.¹⁸² Nevertheless, political representatives are included in the legislation for managers of the public administration:

- Article 23 ter of the Legislative Decree of 201/2011 converted in Law 214/2011 in conjunction with Article 13 of the Legislative Decree n. 66 of 24th of April 2014 establish a cap of 240.000 EUR gross per year (maximum salary of the first President of the Court of Cassation) to the salaries perceived by members of the government and members of the Senate and the Parliament.
- Legislative Decree of the 4th of October 2012 establishes the rules to determine the salaries of regional councillors, mayors and presidents of the regions.

As for the **President of the Republic**, other legislation applies to his salary. Article 84, last paragraph of the Italian Constitution and Law 177 of 1985 establish the rules for the compensation of the President of the Italian Republic.

With regard to **Members of Parliament** (the Chamber of Deputies and Senate), salaries are regulated by Article 69 of the Constitution, which establishes a compensation to enable parliamentarians to freely execute their electoral mandate. Law 1261 of 31 of October 1965 determines that this compensation shall not exceed the salary perceived by the President of Section of the Court of Cassation. As of January 1 2012, the amount of compensation of Members of the Chamber of Deputies is 10.435.00 EUR gross per month.¹⁸³ The compensation for Members of the Senate is 10.385,31 EUR gross per month.¹⁸⁴ Further, Members of Parliament receive a monthly compensation for living expenses amounting to 3.503,11 EUR gross per month, from which 206, 58 EUR are deducted for each voting day the Member of Parliament is absent.¹⁸⁵

¹⁸¹ Article 1 of the Legislative Decree 165 of 2001.

¹⁸² Article 4(1) and (2) of the Legislative Decree 165 of 2001.

¹⁸³ Information retrieved from the website of the Chamber of Deputies at: <http://leg16.camera.it/383?conoscereIacamera=4> (Last accessed on July 14 2015).

¹⁸⁴ Information retrieved from the website of the Senate at: https://www.senato.it/leg17/1075?voce_sommario=61 (Last accessed on July 14 2015).

¹⁸⁵ Ibid.

5.1.4 Compliance and Monitoring

In order to assess the compliance with the regulations it should be pointed out that the limits and standards established by law for the remuneration of top managers in national and regional public administrations and for the compensation of the President of the Italian Republic only concern the salary paid by the state. For instance, Law 214/2011 sets a **limitation to cumulative salaries** in public administrations only. When holding two appointments in public administration and in, for instance, a ministry, one cannot receive more than 25% of the total amount of the salary perceived for the first appointment (including bonuses and reimbursements). As a result, top managers are not prohibited from perceiving salaries and compensations paid by private institutions or owning private assets.

Although there is **no law imposing the disclosure** of the full assets of top managers in public administration, those holding political offices (such as ministers and the Prime Minister) often have their income disclosed by national media.¹⁸⁶ Additionally, pursuant to Article 5 of Legislative Decree 149/2013 converted in Law 13/2014 the Italian Parliament is obliged to disclose on its official website all information related to the assets and income of the members of the Parliament. Apart from that, currently there is **no encompassing system of disclosure**. Data on the salaries of all managers of the Public Administration is collected by the Agency for the Negotiating Representation of Public Administration annually. However, this data only concerns the salary perceived by top officials in their public function and does not show additional private income or assets.

With regard to the role of **accounting**, the agency holds legal personality and autonomy to perform all activities related to the negotiation and definition of collective contracts in various compartments of public labour. The agency presents in its organizational structure various departments that have legal and accounting responsibilities in the negotiation and definition of contracts in the public administration, including those of top managers. Hence, there is **no role of external accountants** in the management of executive pay. Further, each public administration body is required to constitute an Organismo Indipendente di Valutazione (independent evaluation body). Such independent bodies have the duty to evaluate the over-all

¹⁸⁶ See for instance the news item published on a National newspaper disclosing the assets and income of members of the government. Information retrieved at: <http://www.repubblica.it/politica/2014/05/22/news/guadagni-86831697/#gallery-slider=86808412> (Last access on June 30 2015).

performance and compliance with the law of the public administration organization in question. In addition, the agency holds further the **competency to monitor the application of collective contracts** in the public administration and to present annual reports to the Department of Public Functions and the Ministry of Economics, in which the effectivity of contracts is evaluated. However, the laws establishing the new standards do not mention possible future consequences in cases of non-compliance with the standard.

Concerning the national public administrations, with regard to the standard established by Article 23 ter of the Legislative Decree of 201/2011 converted in Law 214/2011, a memo of July 2013 of the Presidency of the Council of Ministers invited all bodies concerned to report to the government whether:

- There has been a deviation from the standard imposed by Article 23 ter of the Legislative Decree of 201/2011 converted in Law 214/2011.
- The deviation has been corrected to fall within the afore-mentioned standard.
- The body has established internal regulations to classify all salaries issued to managers and determine whether a deviation from the standard is registered.¹⁸⁷

Yet, this legislation enacted so far in conjunction with Article 13 of the Legislative Decree n. 66 of 24th of April 2014 (for national public administrations) and Legislative Decree of the 4th of October 2012 (for regional public administrations) **does not present any sanctions** that would exist in case of exceeding salaries. Rather public administration bodies are encouraged to rectify deviations from the standards. This seems to imply having the manager in question **return the portion of the salary exceeding the cap. Monitoring** is assigned to each single public administration body rather than to one national monitoring agency. The reason for this might be to ensure a more effective and capillary self-monitoring mechanism. Furthermore, the monitoring does not refer to all groups of public managers. For example, with regard to the Presidency of the Republic no law establishes a monitoring mechanism.¹⁸⁸

In addition, no legislation or enacting legislation has been found which establishes a monitoring system to ensure that the standards set out in Legislative Decree of the 4th of October 2012 are

¹⁸⁷ Information retrieved from the official document circulated by the Presidency of the Council of Ministers: <http://www.funzionepubblica.gov.it/media/1084356/nt%2033516%20del%2015-7-2013-disposizioni%20su%20trattamenti%20economici-monitoraggio%202013.pdf> (Last access on June 30 2015).

¹⁸⁸ Article 84 of the Italian Constitution and Law 177 of 1985.

respected for regional public administrations. Indeed, it must be stressed that the introduction of a **monitoring system** that can be applied to a **performance assessment** that provides measurable and specific objectives is one of the **main challenges** of the reforming process (cf. interview).

5.2 Semi-Public Sector

5.2.1 Pay System

The semi-public sector in Italy comprises all companies with a public participation (where the state or public institutions own shares). Such companies pursue a public goal and perceive funds issued from the state using public money. The organizational structure of the companies in the semi-public sector is also of importance. In fact, pursuant to Article 2449 of the Italian Civil Code, if the state or public institutions participate in a company, the statute may entitle the state or participating public institution to nominate one or more members of the supervisory body.

Public companies are completely subject to private law. Therefore, the salaries of top executives of semi-public companies are **contracted individually** between the person who will hold the position and the company itself. Nevertheless, generally public companies have to comply with Legislative Decree n. 66 of 24th of April 2014 that **established a cap of 240.000 EUR gross per year (maximum salary of the first president of the Court of Cassation)** for the executive pay of public managers. Yet, it is important to point out that public companies have not been subject to the Brunetta reform (legislative decree n 150/2009), which introduced a performance management system in the public administration that tightens the link between public executive pay and performance (cf. interview). The reason to explain this exclusion from the reform may be that the commercialization of public companies has already led to structures of increased performance-related remuneration. Consequently, the remuneration of top managers is contracted individually, however, for defined public companies a **reference point is set that pegs the rewards for high-level officials to a standard wage level of one particular function, namely, the salary of the first President of the Court of Cassation (primo Presidente della Corte di Cassazione)**. It may be further assumed that the commercialization of public companies has **led to an increased focus on rewards that are performance related.**

The remuneration of top public officials in Italy has been a controversial topic for decades, also in the semi-public sector. However, since the economic crisis starting in 2008, the salaries of managers of public companies became a relevant and hotly debated issue again. In 2009 and 2011, the Italian public administration has become subject to a series of reforms aiming at reducing the public debt which was crippling the economy. In particular, one of the ways in which the government attempted to reduce public debt was to cut the salaries in public administration and to privatize public companies. The decree “Salva Italia” (“Save Italy”) had

the objective of reducing public debt and contained a reform, which established a cap for the salaries of public administration officials.¹⁸⁹ However, the salaries of top managers of certain companies of the semi-public sector, namely, companies which have a part of their shares owned by the State but which exclusively issue financial instruments other than shares, have been excluded from the reform.¹⁹⁰ In 2014, the government announced a cut in the high salaries of top managers in the public administration in the name of “social justice”.¹⁹¹ This has caused a heated public debate between the Prime Minister Matteo Renzi and the CEO of Ferrovie dello Stato (the Italian railway services). In fact, the CEO has argued on national news that if salaries of top managers in the semi-public sector would be cut, the best managers would work for fully private companies.¹⁹²

5.2.2 National Regulation and Scope of the Standard

Article 23 ter of the Legislative Decree of 201/2011 converted in Law 214/2011 in conjunction with Article 13 of the Legislative Decree n. 66 of 24th of April 2014 applies to the salaries of managers of **companies partially owned by the State, which issue shares as well as other financial instruments.**¹⁹³ As a result, the salaries of the CEOs of such companies are capped at a maximum of 240.000 EUR gross per year (which is the maximum salary perceived by the first President of the Court of Cassation). However, the cap **does not apply** to the salaries of managers of companies with **direct or indirect public control which are present or not present in the stock market and which do not publicly issue shares but exclusively other types of financial instruments.**¹⁹⁴ Instead, the Ministerial Decree 166 of 2013 establishes that the salary of CEOs of such semi-public companies should not be increased by more than 75% of the previous salary. Furthermore, the composition of their salary does not need to conform to the dispositions of Legislative Decree 165 of 2001. As a result, their salaries vary greatly as they are established by individual contracts and are much higher than those of top officials in

¹⁸⁹ Article 23 ter of the Legislative Decree of 201/2011 converted in Law 214/2011 (also called decree “Salva Italia”)

¹⁹⁰ Amendments have excluded the application of Article 23 ter of the Legislative Decree of 201/2011 converted in Law 214/2011 to semi-public companies which issue exclusively “financial instruments” different from shares.

¹⁹¹ See news article from March 2014 in which Prime Minister Matteo Renzi announces cuts to top managers in public administration in the name of “social justice”. Retrieved at <http://www.ilgiornale.it/news/interni/stipendi-valle-moretti-abbia-dignit-andarsene-1004106.html> (Last access on June 30 2015).

¹⁹² Information retrieved at: <http://www.ilgiornale.it/news/interni/minaccia-moretti-renzi-se-mi-tagli-stipendio-vado-1003855.html> (Last access on June 30 2015).

¹⁹³ Ministerial decree 166 of 2013.

¹⁹⁴ Article 23 ter of the Legislative Decree of 201/2011 converted in Law 214/2011 in conjunction with Article 13 of the Legislative Decree n. 66 of 24th of April 2014

the public administration (for instance, in 2012 the CEO of the National Railway Service has perceived a salary of 873.666 EUR).¹⁹⁵

Due to **the restriction in its application**, the cap seems to apply to only a handful of semi-public companies, and certainly not to the biggest ones. Indeed, Eni (the company controlling the flow of gas and other fossil energies in Italy), Enel (the company controlling electric energy in Italy), Finmeccanica (the biggest IT group in Italy), Cdp (the agency specialized in deposits in Italy), Poste Italiane (the National Postal Services) and Ferrovie dello Stato (the National Railway Service) are excluded from the cap.

In addition, it should be stressed that the Article 23 ter of the Legislative Decree of 201/2011 converted in Law 214/2011 in conjunction with Article 13 of the Legislative Decree n. 66 of 24th of April 2014 applies to the salaries of **managers** of companies partially owned by the State issue shares as well as other financial instruments. The legislation defines *managers* as CEOs and top executives. As a result, the cap does not affect directors of semi-public companies who do not exercise executive functions.

The standard does **not regulate hourly rates** but only sets a cap that ties the maximum remuneration that can be received by top managers in semi-public companies, which issue bonds. Hourly rates are negotiated individually in each contract. Further, the salaries of public managers of public companies are **contracted individually** between the person who will hold the position and the company itself. As a result, the hourly rates and remuneration arrangements are also contracted individually.

5.2.3 Compliance and Monitoring

The limits and standards established by law on the remuneration of top executives (CEOs) of semi-public companies that **issue shares as well as other financial instruments**, only concern the salary to which the state contributes in paying by virtue of holding shares of the company. Consequently, top executives are not prohibited from perceiving salaries and compensations paid by private institutions or owning private assets annually.

¹⁹⁵ Information retrieved at: <http://www.ilgiornale.it/news/interni/ecco-stipendi-dei-manager-pubblici-1003908.html> (Last access on June 30 2015).

Unlike in the public administration in the semi-public sector, there is no agency that collects all data regarding the salaries of managers and CEOs of public companies. Thus, there **is no encompassing system of disclosure** specifically for top executives in the semi-public sector. However, the information can be retrieved, as every natural person needs to disclose its income annually by law to the *Agenzia delle Entrate* (the agency that collects taxes in Italy). Although there is no law imposing the disclosure of the full assets of top managers in public administration, media channels often publish the statistics and amounts of salaries of top executives of semi-public companies.¹⁹⁶

The law does not refer to any monitoring mechanism that would involve **accountants**. However, because the salaries of top executives of semi-public companies are contracted individually between the person who will hold the position and the company itself, it is possible that the company monitors the management of executive pay through accountants. For instance, in companies that have a **two-tier structure, the supervisory board** may hold this function. In companies with a **one-tier structure, the shareholders may exercise a monitoring function over the appointed CEOs**.¹⁹⁷ Hence, CEOs of companies (including semi-public ones) need to report to their shareholders and in case of a two-tier structure to the supervisory board. Because the state or public bodies hold shares in semi-public companies, CEOs need to report their actions also to them as shareholders sitting in the board.¹⁹⁸ It is important to stress in this context that pursuant to Article 2449 of the Italian Civil Code, if the state or public institutions participate in a company, the statute may entitle them to nominate members in one or more of the supervisory bodies.

Each semi-public company that issues shares as well as other financial instruments is encouraged to monitor the compliance of the salaries of its officials with the new standards established in Article 23 ter of the Legislative Decree of 201/2011 converted in Law 214/2011. **Monitoring is assigned to each company** rather than to one national monitoring agency. More precisely, a memo of July 2013 of the Presidency of the Council of Ministers invited all bodies concerned to report to the government whether:

¹⁹⁶ Ibid.

¹⁹⁷ Dorresteijn A., Monteiro T., Teichmann C., Werlauff E., *European Corporate Law*, Second Edition, Kluwer Law International (2009).

¹⁹⁸ Dorresteijn A., Monteiro T., Teichmann C., Werlauff E., *European Corporate Law*, Second Edition, Kluwer Law International (2009).

- There has been a deviation from the standard imposed by Article 23 ter of the Legislative Decree of 201/2011 converted in Law 214/2011.
- The deviation has been corrected to fall within the afore-mentioned standard.
- The body has established internal regulations to classify all salaries issued to managers and determine whether a deviation from the standard is registered.¹⁹⁹
-

It may be derived from these guidelines that there seem to be **no sanction system** per se. The legislation enacted so far to support the provisions of Article 23 ter of the Legislative Decree of 201/2011 converted in Law 214/2011 in conjunction with Article 13 of the Legislative Decree n. 66 of 24th of April 2014 (for semi-public companies which issue shares as well as other financial instruments) does not present any sanctions that would exist in case of exceeding salaries. Rather, companies are encouraged to rectify deviations from the standards. This may imply having the manager in question return the portion of the salary exceeding the cap.

¹⁹⁹ Information retrieved from the official document circulated by the Presidency of the Council of Ministers: <http://www.funzionepubblica.gov.it/media/1084356/nt%2033516%20del%2015-7-2013-disposizioni%20su%20trattamenti%20economici-monitoraggio%202013.pdf> (Last access on June 30 2015).

6. Poland

6.1 Public Sector

6.1.1 Pay System and Public Administration

The group of senior civil servants encompasses the post of directors general, directors of organizational units and their deputies in the Chancellery of the Prime Minister, ministries, central offices and regional offices. The remuneration of top executives was highly debated in 2008 in the framework of whether to re-include these positions into the corps of civil service after they had been excluded in 2006. The economic crisis of 2008, seems to be one of the reasons to have opened the debate on the salaries of high-level officials in the public sector again. It was debated whether to freeze the salary levels of the top officials and indeed, it was done in 2008. In 2009, the post of senior civil servants were re-incorporated into the civil service corps with the aim to include the senior civil servants into the management tasks of the state and to increase the professional nature of public administration as well as the politically neutral execution of tasks in the state (cf. interview.)

With the inclusion of the senior civil servants into the civil service corps, it has been equally decided to render the composition of the remuneration of senior officials the same as for the rest of the civil servant in public administration. This is determined by **a basic pay, long-term employment bonus, civil service bonus (which is paid to nominated civil servants only), with the permanent function bonus being cancelled.** The basic pay is however variable by the possibility to increase it (cf. interview).

The maximum ranges of the **multiplier system** were increased for all posts and groups, especially, with regard to senior posts, medium-ranking positions, coordinating and independent positions. This was done with the intention to reward persons holding executive positions and other key posts that are similar to positions in the job market and to connect the government employees pay to the conditions of the 'commercial' job market in order to increase the effectiveness of the spending of public sources.

This change is also related to the aim of increasing the coherence of senior servants' remuneration, in particular for directors general. While the competitiveness in the civil service is highest in the lowest post in each post group, it is lower in relation to posts of highly-qualified

specialists and senior managers. One major point on the agenda is therefore to maintain the candidates with suitable qualifications by increasing the attractiveness to work in public administration by a proper relationship between the executive pay in the public and the private sector.

Currently there is no additional regulation by law in the sense of a cap policy to regulate the salaries of top officials in the public sector. Rather salaries are determined and fixed by the **pay system** that regulates remuneration determined on **a base salary with a multiple and a variable part** such as **benefits with another multiple**. These will be further investigated below.

6.1.2 National Regulation

The *Law on the Salaries of Persons holding Managerial Public Posts* provides a standard for a point of reference which is a base salary. The Law on the Salaries of Persons holding Managerial Public Posts dates back to 1981. The level of pay is defined by the ordinance of the Prime Minister and thus by law. It is based on a multiplier system in which the positions of the civil service are divided into several groups and to which each a multiplier (coefficient is assigned). A relevant number assigned according to the position of the public official multiplies this base salary. The definition of the multipliers' range has been derived from the research and analysis of 120.000 positions in public administration. The remuneration is thus determined by the product of a given multiplier and a base reference wage, which is defined every year by the Budget Law (in 2015 1873, 84 PLN (450 Euro), amounting to around 5400 Euro annual gross). In addition, the conditions of the job market should be taken into account in the calculation of high-level officials' executive pay (cf. interview). Law also defines the pay of the ministers. The salary consists of a base salary and a function bonus and is determined through a multiplier system, which is defined by the ordinance of the President of the Republic of Poland. The base reference wage is also defined by the Budget Law as for the group of senior civil servants (in 2015 1766, 46 PLN (425 Euro) amounting to 5100 Euro annual gross). The salaries are consequently fixed through the pay system.

6.1.3 The Scope of the Standard

The *Law on the Salaries of Persons Holding Managerial Public Posts* applies to the highest level of the state's executive branch, namely, the President of the Council of Ministers (the Prime Minister), the Minister, the Vice-President of the Council of Ministers; but also the Voivode and the Vice-Voivode being a regional representative (reference). According to Art. 1 of the *Law on the Salaries of Persons Holding Managerial Public Posts*, the law covers the following positions: the President of the Republic of Poland, the Marshall and the Vice-Marshall of the Sejm (the lower chamber of the Parliament), the Marshall and the Vice-Marshall of the Senat (the upper chamber of the Parliament), the President of the Council of Ministers (the Prime Minister), the Minister, the Vice-President of the Council of Ministers, the President of the Supreme Chamber of Control, the President of the National Bank of Poland, the Ombudsman, the Child's Ombudsman, the General Inspector of the Protection of Personal Data, the President of the Institute of National Memory – the Commission Persecuting Felonies Against the Polish Nation, the President of the National Council of Radio and Television, the President of the Attorney General of the State Treasury, the Vice-President of the Supreme Chamber of Control, the Chief and the Vice Chief of the Sejm's and Senat's Chancellery, the Chief of the Prime Minister's Chancellery, the Chief of the Civil Service, the Chief and the Vice-Chief Labour Inspector, the Head of the National Election Office, The Minister of State, the Chief and the Vice-Chief of the President's Chancellery, the Vice-Attorney General, the Vice- President of the Attorney General of the State Treasury, the President of the Polish Academy of Sciences, the State Secretary, the member of the National Council of Radio and Television, the first Deputy of the President of the National Bank of Poland, the Vice-Secretary of State, the first Vice-President of the National Bank of Poland, the Ombudsman Deputy, the Child's Ombudsman Deputy, the Deputy of the General Inspector of the Protection of Personal Data, the Insurance Ombudsman, the Head of the Central Planning Office, the Vice-President of the Polish Academy of Sciences, the Voivode, the Deputy Head of the Central Planning Office, and the Vice-Voivode.

President

The *Law on the salaries of persons holding managerial public posts* establishes the salary of the President of the Republic of Poland to be composed of 7 base salaries and a benefit composing of 3 base salaries, amounting to 51 000 euro annually.²⁰⁰ The Members of

²⁰⁰ Ustawa z dnia 31 lipca 1981 r. o wynagrodzeniu osób zajmujących kierownicze stanowiska państwowe, Art. 2, 2a.

Parliament as well as the Senators will get the same amount of money as the Vice-Secretary of State. This is regulated by the *Law on Execution of the Parliamentary Mandate*.²⁰¹ The salary of the public officials comprises a multiple of a base salary as well as an additional benefits established as for the respective position (Art. 3(1)).

The President of the Republic of Poland provides a decree, which gives the value of the multiples for the aforementioned top public officials enlisted.²⁰² The following table presents the multiples for the different posts:

The post	Multiple for the base salary	Multiple for the benefit	Annual gross salary with the benefit in Euro ²⁰³
Marshall of the Sejm, Marshall of the Senat; the Prime Minister	6,2	2,0	41 820
Vice-Marshall of the Sejm, Vice-Marshall of the Senat, the President of the Supreme Chamber of Control	5,7	1,6	37 230
The Chief of the President's Chancery, the minister, the Ombudsman, the Chief of the Sejm's Chancery, the Chief of the Senat's Chancery, the Chief of the Prime Minister's Chancery, the President of the Institute of National Memory – the Commission Persecuting Felonies Against the Polish Nation, the President of the National Council of Radio and Television, the Vice-President	5,6	1,5	36 210

²⁰¹ Ustawa z dnia 9 maja 1996r. O Wykonywaniu mandatu Posła i Senatora, Art. 5(2).

²⁰² § 2. Rozporządzenie Prezydenta Rzeczypospolitej Polskiej z dnia 25 stycznia 2002 r. w sprawie szczegółowych zasad wynagradzania osób zajmujących kierownicze stanowiska państwowe.

²⁰³ Calculated by the researcher

of the Supreme Chamber of Control			
the Child's Ombudsman, the General Inspector of the Protection of Personal Data, President of the Polish Academy of Sciences	5,0	1,3	32 130
Vice-Chief of the President's Chancery, Vice-Chief of the Sejm's Chancery, Vice-Chief of the Senat's Chancery, the Secretary of State, the Ombudsman Deputy, the Deputy General Inspector of the Protection of Personal Data, the Head of the National Election Office, the member of the National Council of Radio and Television	4,9	1,2	31 110
The Chief Labour Inspector, the Vice-Attorney General, the Vice-Secretary of State, the Vice-President of the Polish Academy of Sciences, the Voivode, the Member of Parliament, the Senator	4,4	1,2	28 560
Vice-Chief Labour Inspector, the Vice-Voivode, the Insurance Ombudsman	4,0	1,2	26 520
the President of the Attorney General of the State Treasury, the Vice-President of the Attorney General of the State Treasury, the Head of the	1,0-6,5	1,0-2,0	

Central Planning Office, the Chief of the Civil Service			
The President of the Constitutional Tribunal	5,7	1,8	38 250
The Vice- President of the Constitutional Tribunal	5,7	1,6	37 230
The President of the National Bank of Poland	6,2	2,0	41 820
The first Deputy of the President of the National Bank of Poland	5,7	1,6	37 230
The first Vice-President of the National Bank of Poland	5,6	1,5	36 210

The salary of the top public officials is a multiple of the base reference wage provided by the Budget Law every year.²⁰⁴ Therefore, it differs every year. Concerning the group of senior civil servants the multipliers for this group (2,2 – 8,0) provide the possibility to differentiate the basic pay and allows for an adjustment of changes in the labour market (cf. interview). The Law does not mention hourly rates or interim staff.

Art. 1 of the *Law on State Enterprises* says that state enterprises are independent, self-governing and self-financing enterprises possessing legal personality.²⁰⁵ State enterprises are formed by the chief and central organs of public administration, the National Bank of Poland and public banks (Art. 7). The aim of enterprises of public utility is to fulfil human needs such as producing and providing services in sanitary engineering, public transport, providing people with electric, gas and heat energy, etc. (Art.6(1)). The *Law on the Salaries of Persons Holding Managerial Public Posts* covers the President of the National Bank of Poland as well as its Deputy and the Vice-President.

²⁰⁴Ustawa z dnia 31 lipca 1981 r. o wynagrodzeniu osób zajmujących kierownicze stanowiska państwowe, Art. 2, 2a.

²⁰⁵Ustawa z dnia 25 września 1981r. o przedsiębiorstwach państwowych

6.1.4 Compliance and Monitoring

It is not mentioned that the data of senior civil servants is collected systematically. Neither is it published. However, data on salaries of civil servants is public in accordance with the Law on Access to the Public Information in the Public Information Bulletin, which is updated irregularly. When it comes to the top public officials, their salaries are widely known due to the specifications in the Law on the Salaries of Persons Holding Managerial Public Posts.

An internal mechanism for self-regulation of the pay exists with regard to the pay calculation for (senior) civil servants is stipulated by the “Civil Service Human Resources Management Standards”. This standard determines the element that should be taken into account by the director general when calculating the basic pay of a civil service corps member. This might be amongst others the result of the job evaluation, performance and job market determinants. The standard does also stipulate which elements should not be included such as competences of the employee that are not related to the tasks or relevant to the office held (cf. interview).

It must however be stressed that a few unintended effects come to effect that are currently under investigation, such as the emergence of unjustified differences in pay of senior posts and a formal differentiation of organs authorized for the calculation of the pay of persons holding the posts of director general of office. This means that if a person holds a position outside the civil service, the Head of the Civil Service decide the level of pay; and if a post is held in the civil service, the pay is calculated by the political Head of Office, and does not require the involvement of the Head of the Civil Service. This has led to differences in pay of senior civil servants and high-ranking state positions on the expense of the latter. Desirable solutions to this problem could be an increase of the coherence of senior civil servants pay, in particular DG the strengthening of the position /competences of the Head of the Civil Service and an increase of pay according to results of the job performed (cf. interview).

Moreover, Art. 202(1) of the Constitution establishes the Supreme Chamber of Control as the highest controlling, auditing organ of the state. The *Law on the Supreme Chamber of Control* gives the power to the Chamber which is the highest external entity that controls the organs of public administration, to audit the Sejm’s Chancery, the President’s Chancery, the Highest Court, the Ombudsman, the Senat’s Chancery, National Council of Radio and Television, the Institute of National Memory – the Commission Persecuting Felonies Against the Polish

Nation, the General Inspector of the Protection of Personal Data, the Constitutional Tribunal, the National Election Office, the Labour Inspector's Office.²⁰⁶ The institutions enlisted need to give in the disposition of the Supreme Chamber of Control all the documents requested.²⁰⁷ The authorized members of the Supreme Chamber of Control can enter the premises of the offices under control freely, collect the relevant documentation, hear witnesses, and demand information from third parties, using the help of specialists.²⁰⁸

²⁰⁶ Art. 4(1) Ustawa z dnia 23 grudnia 1994 r. o Najwyższej Izbie Kontroli.

²⁰⁷ Ibid., Art. 29(1)(1).

²⁰⁸ Ibid. Art. 29(2).

6.2 Semi-public Sector

6.2.1 Pay System

The salaries of semi-public officials are regulated by Law on Salaries of People Managing Certain Legal Entities introduced in 2000, which introduced a cap policy to remuneration in the semi-public sector. It was introduced in order to provide a comprehensive system of regulating such salaries; in fact it covers different topics: the functioning of the cap, the bonuses system and the extra benefit one.²⁰⁹ It is also regarded as a tool to make the system of payments more transparent and to lower the salaries. The financial crisis of 2008 has influenced the calculation of the base salary of managers in the semi-public sector, which is taken into account to establish the salaries of top officials. The reason was the state of public finances and government's attempt to fight the crisis.

In view of the 2008 crisis, the topic of the salaries of top officials of the semi-public as well as public sector is vivid nowadays. Already in the year 2000 *Law on Salaries of People Managing Certain Legal Entities* (henceforth called *The Remuneration Act*) was implemented with the aim of decreasing and determining the remuneration of managers in the semi-public sector, since at certain State Treasury companies the management board's remuneration was considered too high, even in comparison with the private sector. Art. 1 of the *Law on State Enterprises*²¹⁰ stipulates that state enterprises are independent, self-governing and self-financing enterprise possessing legal personality. State enterprises are formed by chief and central organs of public administration, National Bank of Poland and public banks (Art. 7). The aim of enterprises of public utility is the fulfilling of human needs, especially to produce and provide services in sanitary engineering, public transport, and providing people with electric, gas and heat energy (Art.6(1)). The cap to remuneration established by the *Remuneration Act* has been in force since that time and its main principles have remained unchanged. Furthermore, since 2011 the base salary has been frozen on the same level due to a bad state of public finances.²¹¹

²⁰⁹ <http://www.eurofound.europa.eu/observatories/eurwork/articles/debate-over-law-capping-pay-of-managers-of-state-owned-enterprises>

²¹⁰ Ustawa z dnia 25 września 1981r. O przedsiębiorstwach państwowych.

²¹¹ http://wiadomosci.gazeta.pl/wiadomosci/1,114871,17324802,Muzycy_z_Filharmonii_Narodowej_zarabiamy_za_malo_.html;
<http://bytow.naszemiasto.pl/artykul/czy-w-szpitalu-doszlo-do-zlamania-ustawy-kominowej-urzed,1417025,art.t.id.tm.html>

The intended effect of introduction of the *Remuneration Act* was to limit the remuneration costs incurred by State Treasury companies, amount of severance pay and additional benefits for managerial staff. An unintended consequence of the Act's provisions are problems with hiring well-qualified managers for positions at management boards of State Treasury companies due to the amount of possible remuneration. At the same time, it needs to be pointed out that the provisions of the Act have led in certain sectors, (e.g. banking) to very big differences in remuneration of the managerial staff on the public and private market (cf. interview).

Therefore, nowadays, the *Law on Salaries of People Managing Certain Legal Entities*²¹² is criticized for not being flexible because of the lack of the flexibility of salaries, as it is impossible to adjust the salary to the enterprise's needs, the responsibilities of the manager, as well as the results the manager reaches.²¹³ As a consequence, the rules for remuneration of managerial staff at State Treasury companies have been subject to numerous analyses which have contributed to taking attempts at changing the *Remuneration Act*, and which is currently still reviewed.

The most important attempt to change the regulations was made in 2008, but the President vetoed it. Also In 2014, the Ministry of State Treasury drew up *Draft Principles (assumptions) of the Bill on Rules of Exercising Certain Rights of the State Treasury and Local Government Units*, which introduces rules according to which remuneration of management board members of certain companies would be determined by the supervisory board or another statutory supervisory body under remuneration rules (regulations). The conditions of paying out remuneration and awarding other benefits connected with work performed by members of management bodies of crucial entities for the State Treasury would be determined in accordance with separate rules. Determining remuneration in the above-mentioned way would *not* be subject to the limits set out in the *Remuneration Act*. Rather the remuneration of managerial staff at State Treasury companies should be made more flexible in such a way, as to make their level depend on, first of all, the economic and financial condition of the individual entities.

²¹² Ustawa z dnia 3 marca 2000 r. o wynagradzaniu osób kierujących niektórymi podmiotami prawnymi,

²¹³<http://biuletyn.piszc.pl/component/content/article/98-archiwum-biuletynu/biuletyn-20-luty-2013/375-kominowka-wci-budzi-wtpliwoci192>

The *Remuneration Act* has however not been changed and remains the basic legal act applicable to remuneration of managerial staff at State Treasury companies following the aim to reduce excessive salaries. The rules stipulated in the Act are outlined in detail below.

6.2.2 National Regulation

Pursuant to the Act of 3 March 2000 of the *Remuneration Act*, provisions are introduced which limit the amount of remuneration of people who are in charge of entities in which the State Treasury has **a majority stake** and of local government units. The aim of the Act was mainly to lower remuneration of managers employed in the public sector. According to the *Remuneration Act*, the most important regulations concerning the remuneration amount and the rules for remunerating management board members include:

- maximum monthly remuneration amount of such persons may not exceed six times the average monthly remuneration in the enterprise sector (i.e. currently PLN 20,727.48 gross);
- what constitutes the basis for determining the maximum monthly remuneration amount is currently the average monthly remuneration in the enterprise sector in Q4 2009;
- maximum three-month severance pay is applicable,
- depending on the financial results achieved or extent of completion of other tasks an annual bonus may be awarded whose amount may not exceed three times the average monthly remuneration.

In the case of bad or deteriorating economic and financial results, the annual bonus for the president and members of the management board is not awarded.

The reference point for the base salary is the medium monthly salary in the enterprise sector (without any additional rewards (which are based on profit)) from the fourth quarter of the previous year as given by the President of the Central Statistical Office.²¹⁴ The salary for the top officials employed in the companies can be a multiple (depending on the position: max. 6 times) of the base salary.²¹⁵ The law provides for the limits to the salaries, therefore, such a salary is a maximum, which functions as a cap. This entails also that a company can propose lower salaries.

²¹⁴Ustawa z dnia 3 marca 2000 r. o wynagradzaniu osób kierujących niektórymi podmiotami prawnymi, Art. 8(1), 8(3).

²¹⁵Ustawa z dnia 3 marca 2000 r. o wynagradzaniu osób kierujących niektórymi podmiotami prawnymi, Art. 8(1), 8(3).

Due to an amendment to the law introduced in 2011, the base salary from year 2009 was reintroduced ever since as reference point, and no longer applies the base salary of the previous year (Art. 29b-f(1)). The base salary in 2009 was 3453,58 zł monthly (around 830 Euro), amounting to 9960 Euro gross annually; and in 2014 4138,58 zł monthly (around 999 Euro), amounting to 11988 Euro gross annually. This means that for 2015 instead of taking the reference salary base from 2014, the base is taken from year 2009 and entails a 17% difference.²¹⁶

According to Art. 29f(2) of the *Law on Salaries of People Managing Certain Legal Entities* in the Supervisory Boards and Audit Committees in State Agencies the base for 2015 is a medium monthly salary in the enterprise sector (without the prizes based on profit) from the fourth quarter of 2011. In 2011, the base amounted to 3875,35 zł (around 910 Euro), amounting to 10.920 euro annually.²¹⁷ It can be observed that the difference between what the officials should get if the salary base was taken from 2014 and from which it is actually taken now (2011) amounts to 10%.

In 2013, a number of managers left public companies because when the companies were bought by the state the salaries went down.²¹⁸ This was a consequence of the implementation of the *Law on Salaries of People Managing Certain Legal Entities*. The companies that used to be private, with salaries negotiated secretly orientated towards the market value of the private sector, became public companies that had to adhere to a certain limit of salaries as well as the publicity requirement. The provisions of the *Remuneration Act* have thus limited the level of remuneration of management boards of State Treasury companies, but have also led to a significant disproportion between remuneration of management board members in the private and public sector (cf. interview). The ministry therefor adopted, on 3 April 2013, the document: *Good practices in the field of determining remuneration amount and components in the case of entering into managerial contracts with management board members of certain State Treasury*

²¹⁶ <http://dziennikigus.stat.gov.pl/dzienniki-urzedowe-gus/> position 2

²¹⁷ <http://stat.gov.pl/sygnalne/komunikaty-i-obwieszczenia/lista-komunikatow-i-obwieszczen/obwieszczenie-w-sprawie-przecietnego-miesiecznego-wynagrodzenia-w-sektorze-przedsiębiorstw-bez-wyplat-nagrod-z-zysku-w-czwartym-kwartale-2012-r-,35,1.html>

²¹⁸ <http://tvn24bis.pl/wiadomosci-gospodarcze.71/odprawy-odszkodowania-szefom-panstwowych-spolek-ustawa-kominowa-niestraszna.416478.html>

*companies*²¹⁹ - which defines guidelines to be used in determination of remuneration set out and paid out on the basis of managerial contracts. Its main principles include:

- The contract's amount should not differ from the average remuneration level on the market (+/- 10% for a given sector), and consist of two components - fixed (60%) and variable (40%) part.
- The variable part of the remuneration should depend on the achievement of targets and be linked to such ratios and financial results, as: net profit, income, EBITDA, profitability or liquidity, as well as completion of investment processes.
- At fuel and energy sector companies, 50% of the remuneration's variable part should depend on completion of investment processes, with consideration given to, in particular, their scale, innovativeness and timely completion.

The remuneration amount of presidents and members of management boards is determined, in particular, by the scale of the operation conducted, its scope and value of assets. Currently, management board members of the vast majority of companies with the State Treasury's stake (including, in particular, small and medium-sized ones) are remunerated in accordance with the rules set out in the *Remuneration Act*. Frequently, in the case of the company's deteriorating financial situation decision are made to limit the remuneration amount. These guidelines may be regarded as an attempt to solve the problem the difficulties of disproportion between remuneration of management board members in the private and public sector and finding the best-qualified managers by more competitive salaries.

6.2.3 The Scope of the Standard

The *Law on Salaries of People Managing Certain Legal Entities* covers state-owned companies(Art.1(1))²²⁰. These are defined as state organizational entities that have legal personality but are not a legal subject (Art.1(2)), self-governing organizational entities having legal personality but not being legal subject(Art.1(3)); one-person companies subject to commercial law created by the State Treasury or entities of local self-government (Art. 1(4)); companies subject to commercial law in which state's capital exceeds 50% or of which at least 50% of the shares belongs to the state (Art.1(5)), companies subject to commercial law in which

²¹⁹ <http://nadzor.msp.gov.pl/nad/program-profesjonaliza/25353.Dobre-Praktyki-wynagradzania-menedzerow.html>

²²⁰Art. 1(1)

state's capital exceeds 50% or of which at least 50% of the shares belongs to the local self-government (Art. 1(6)); companies subject to commercial law in which company's capital exceeds 50% or of which at least 50% of the shares belongs to a company from points (4-6) (Art. 1(7)); state agencies (Art. 1(8)); research institutes or subjects to which provisions on research institutes is applied (Art. 1(9)); foundations in which public means exceed 25% of annual income or where property coming from public means exceed 25% of the foundation's property at the end of the year and its value exceeds 10% of the income of the foundation (Art. 1 (10)), national budget entities excluding the public administration organs, courts and persons that are covered by the *Law on Salaries of Persons Holding Managerial State Posts* (Art. 1(12))²²¹, and independent public health institutions (Art. 1(16)).²²²

The law is applied to directors, presidents including temporary ones, vice-directors, vice-presidents members of the managing organs- especially board members, main accountants of the aforementioned entities and also persons managing employed based on a civil law contract (excluding the independent public health institutions); liquidators of state-owned companies; members of the supervisory board and audit committees of state organizational entities having legal personality but not being a legal subjects; self-governing organizational entities having legal personality but not being a legal subject, one-person companies subject to commercial law created by the State Treasury or entities of local self-government; companies subject to commercial law in which state's capital exceeds 50% or of which at least 50% of the shares belongs to the state, companies subject to commercial law in which state's capital exceeds 50% or of which at least 50% of the shares belongs to the local self-government; state agencies; executives of the independent public health institutions (Art.2).

The Prime Minister may through a decree raise the maximum salary by 50% of the officials regulated by the Law in cases when the entity is of special importance to the state, taking into account: the type of services rendered or product delivered; the scope of activity; turnover; the number of employees (Art. 9).

There is a base salary and it is multiplied by a relevant number (see the table below) regulated by the Law. Some top officials can get an annual award according to Art. 10 of the law, these posts include: directors, presidents including temporary ones, vice-directors, vice-presidents

²²¹Ustawa z dnia 31 lipca 1981 r. o wynagrodzeniu osób zajmujących kierownicze stanowiska państwowe

²²² Art. 1.

members of the managing organs - especially board members, main accountants and also persons managing employed based on a civil law contract of state-owned companies; state organisational entities having legal personality but not being a legal subject; self-governing organisational entities having legal personality but not being a legal subject; one-person companies subject to commercial law created by the State Treasury or entities of local self-government; companies subject to commercial law in which state's capital exceeds 50% or of which at least 50% of the shares belongs to the state, companies subject to commercial law in which state's capital exceeds 50% or of which at least 50% of the shares belongs to the local self-government; state agencies; research institutes or subjects to which provisions on research institutes is applied; foundations in which public means exceed 25% of annual income or where property coming from public means exceeds 25% of the foundation's property at the end of the year and its value exceeds 10% of the income of the foundation, national budget entities excluding the public administration organs, courts and persons that are covered by *the Law on Salaries of Persons Holding Managerial State Posts*.²²³

The following table presents the multipliers for the maximum salary for semi-public officials:

Persons employed in	The multiply of the base salary	Annual gross in euro with the base taken from 2009 (current base salary used)
State-owned companies(Art.1(1)), State organisational entities having legal Personality but not being legal subject(Art.1(2))	6	59 760
Self-governing organisational entities having legal personality but not being legal subject(Art.1(3))	4	39 840
One-person companies subject to commercial law created by the State Treasury or entities of local self-government (Art. 1(4)); companies subject to commercial law in which state's capital exceeds 50% or of which at least 50% of the shares belongs to the state (Art.1(5)), companies subject to commercial law in which state's capital exceeds 50% or of which at least 50% of the shares belongs to the local self-government (Art. 1(6))	6	59 760

²²³ Ustawa z dnia 31 lipca 1981 r. o wynagrodzeniu osób zajmujących kierownicze stanowiska państwowe

Companies subject to commercial law in which company's capital exceeds 50% or of which at least 50% of the shares belongs to a company from points (4-6) (Art. 1(7))	4	39 840
State agencies (Art. 1(8)); research institutes or subjects to which provisions on research institutes is applied (Art. 1(9)); foundations in which public means exceed 25% of annual income or where property coming from public means exceed 25% of the foundation's property at the end of the year and its value exceeds 10% of the income of the foundation (Art. 1 (10))		
-if created or supervised by a minister or a central organ of governmental administration	6	59 760
-if created or supervised by a local self-government or a territorial organ of governmental administration	4	39 840
National budget entities excluding the public administration organs, courts and persons that are covered by the <i>Law on Salaries of Persons Holding Managerial State Posts</i> (Art. 1(12))	3	29 880
Liquidators, syndics and managers of the bankruptcy estate of entities enlisted in art. 1	4	39 840
Members of the supervisory entities, in particular members of the supervisory board and audit committees	1	9960/10 920 ²²⁴
Executives of independent public health institutions	4	39 840

The statutory regulations concerning the amount of the remuneration paid to members of management boards of State Treasury companies are rigid and **do not allow its change in the case of changes in the economy or on the labour market**. A change of the remuneration amount may take place only through a change in the amount of the average monthly remuneration and resignation by the legislator from the pay freeze. It may happen only within the Act (cf. interview)

²²⁴ The higher value applying to Supervisory Boards and Audit Committees in State Agencies

It needs to be pointed out that the provisions of the *Remuneration Act* allow the possibility of entering into managerial contracts. Such a contract may be signed by a natural person; or a person who conducts business activity who will conclude with a company a management services agreement, if the person establishes personal or material security for possible claims arising in connection with non-performance or improper performance of the contract; or at his/her own expense takes out third party liability insurance in connection with management. In the above-mentioned case, the limitation under the *Remuneration Act* does not apply and makes the Law inapplicable for these positions (cf. interview). For that reason, the provisions of the contracts as well as salaries are not publicly known. A good example can be given by the introduction of such contracts in Polskie Koleje Państwowe – Polish State Railways Company which owned by the state a 100%, where such contracts were introduced.

The *Remuneration Act* also allows the possibility to enter into civil law agreements for provision of management services (so-called managerial contracts). This is the case in approximately 4,4% of the companies which are supervised by the Ministry of State Treasury and are subject to the regulations of the Act in question. In such a case, a management board member is not employed at the company based on an employment contract, but provides management services conducting one-man business. Regulations stipulate that the precondition is, among other things that the management board member needs to conclude, at his own expense, third party liability contract which covers being in charge of the company's affairs. Contracts are concluded for the guarantee sum set out in the insurance document for the amount (even) as high as a few hundred million PLN (cf. interview).

Another category of companies supervised by the Ministry of State Treasury is companies with the minority stake of the State Treasury, which are not subject to the regulation of the *Remuneration Act*. In their case, supervisory boards or general meetings determine the remuneration of management board members. With management board members of such companies a managerial contract, employment contract, civil law agreement, e.g. management agreement, etc. can be concluded, because there are no limitations as to the remuneration form and amount. In the case of agreements on providing management services, a common practice is used: to determine fixed monthly remuneration, variable remuneration which depends on achievement of targets and lack of income/benefits from subsidiaries, etc. In each case, management board members' remuneration amount is determined after the analysis of such criteria, as: the company's financial and economic condition, level of remuneration in the

region, sector, company's size, level of remuneration in the company, level of remuneration of management boards in similar companies, and qualifications required (cf. interview).

6.2.4 Compliance and Monitoring

No information was found on a systematic collection of data with regard to top executives in the Polish semi-public sector comparable to the Dutch case. However, according to information gathered by the interviewee, with regard to the civil law agreements for provision of management services (so-called managerial contracts) of the companies, which are supervised by the Ministry of State Treasury and that are subject to the regulations of the Act in question; the parties are in possession of the knowledge of the terms and conditions under which agreements on provision or management services have been concluded. Their content is protected and kept secretly under the law, and may not be revealed without consent of the interested parties. At the same time, in the case of public companies, full information on the amount of remuneration and other benefits (including, e.g. competition bans paid out to persons who have stopped working for companies' management boards) is included in annual reports of such companies, which are made public. Art. 15 of the *Law on Salaries of People Managing Certain Legal Entities* states that the salaries have to be published and are not covered by the law on the protection of personal data (cf. interview).

The managerial contracts, which offer freedom with regard to the determination of managerial staff's remuneration and good practices on shaping them, are regarded as mechanisms of self-regulation concerning the remuneration of managerial staff of State Treasury companies (cf. interview). Furthermore, auditors check the annual financial report of the mentioned enterprises and shall inform about any inconsistencies with the law in the report (Art. 65(7) of the Law on Accounting).²²⁵ The annual financial reports alongside the auditors' report are given to the relevant court registry (Art. 69 (1) of the Law on Accounting).

With regard to sanction methods, Art. 13 of the law states that if the salary, the annual award, severance package as well as the value of additional benefits exceed the limits given by the law, it means that *the surplus given is de iure void*. According to Art. 14 (1) of the law, if the supervisory bodies of entities such as state organizational entities having legal personality but not being legal subject; one-person companies subject to commercial law created by the State

²²⁵Ustawa z 29 września 1994 r. o rachunkowości

Treasury or companies subject to commercial law in which state's capital exceeds 50% or of which at least 50% of the shares belongs to the state, companies subject to commercial law in which state's capital exceeds 50% or of which at least 50% of the shares belongs to the self-government, break the provisions of the Law, the supervisory organ is summoned to be dissolved. Art. 14(2) prohibits the appointment of the persons having been a part of the supervisory body when Art. 14(1) was infringed for the next term.

Furthermore, Art. 202(1) of the Constitution stipulates that the Supreme Chamber of Control is established as the highest controlling, auditing organ of the state. The Law on the Supreme Chamber of Control gives the power to the Chamber, which is the highest external entity that controls the organs of public administration, the National Bank of Poland, the state legal persons,²²⁶ the organs of the local self-government, self-governing legal persons,²²⁷ other self-governing entities as well as other entities such as enterprises in which public means are used.²²⁸ Art. 10 of the law prescribes that the documents produced by the Supreme Chamber of Control are made public except for those protected by the law of secrecy.

²²⁶ Art. 2(1) Ustawa z dnia 23 grudnia 1994 r. o Najwyższej Izbie Kontroli.

²²⁷ Art. 2(2).

²²⁸ Art. 2(3).

7. Sweden

7.1 Public Sector

7.1.1 Pay System and Public Administration

In order to increase the motivation for employees in the public sector, Sweden introduced an individual setting of salary method in the beginning of the 1990s. The method was influenced by the private sector and their way of setting salaries was changed to **performance- related pay**.²²⁹ This change led to a decrease in the disparity between the salaries of the public and the private sector. Since then the market value of efficiency decides upon the wages of such employees. There is an individual and differentiated pay system related to the level of responsibility, profession, market price, performance and results. The pay is connected to the **individual employment rather than the post**. As in the private market, the pay is revised annually and factors such as individual results and performance are considered.²³⁰ The civil servants have the **opportunity to negotiate higher salaries** than their peers, based on how they perform, or how they have performed in earlier employment. Further, also, in principle, the same labour law applies to the public sector as to others in the labour market.²³¹

In 2006 to 2009 discussions about the top income of the public sector reemerged but this time they were led by the media and by political parties. Some politicians as well as the public argued that high civil servants had a too high salary and this was not in accordance with the wage level of the larger population in Sweden. Since these high-level civil servants are there to represent the people they should have lower salaries according to some politicians. Some individuals voluntarily changed their salaries but further than this, no legal or political changes followed.²³² These explained developments are due to Swedish egalitarian culture, which is based on solidarity and aims at equity and equality.²³³ The organizations, which are recognized as the public sector, are those which are funded by tax revenue and which have a societal importance, such as government, healthcare, tax authorities, military, and education.

There is no cap policy to regulate the salaries of senior civil servant of the public sector; rather salaries are determined by Boards or Ministries, which renders the pay levels rather (individually) flexible and competitive.

²²⁹ Pihlgren & Svensson 1992, p 85-86.

²³⁰ OECD country profiles 2012.

²³¹ Öberg 2012, p 175.

²³² Öberg 2012, p 177.

²³³ Hood and Peters 1994, p 120.

7.1.2 National Regulation

It is important to point out that in Sweden there is no base or cap salary system applicable for either public or private sectors. Remuneration of top officials is determined by the general pay system of the public administration based on **decisions made by different committees** and boards and **individual negotiations with the Ministries based on performance**. The Swedish state model can be regarded as referring to a special way of reaching decisions by means of consensus seeking within a corporatist arrangement. The cultural gain of Sweden, in this framework can be understood as a firm belief in ongoing economic growth and a positive belief that the “good state” will distribute the surplus fairly among its citizens. Three distinctive features can characterize the Swedish labour market: first, they have an active labour market policy, which is aimed at achieving full employment. Second, they have a strong **independent central organization**, which **negotiate independently** without government interference and about income policies. Third, an egalitarian wage policy is based upon solidarity with the two principles of equity and equality.²³⁴ Consequently, **employment legislation in Sweden is very similar for the public and private sector** but there are **additional provisions** regarding the misuse of public power, and similar issues, applying to the public sector.²³⁵

High civil servants have their remuneration established by the ministers, which set their remuneration based on an individual assessment. Their salary level is proposed by the responsible ministry, which is also negotiated with the Ministry of Finance and then finally decided by the Cabinet collectively. In 1§ 1991:359 it is stated that the Law of Remuneration of Ministers is applicable for all ministers of the government. The Members of Parliament have their remuneration regulated by the law 1994:1065 on the economic conditions of MPs. The Supreme Court judges have their remuneration determined on an individual basis. In the laws of this section, there is no other information regarding interim posts neither is there any information about this in other available laws. In addition, there is no indication about the regulation of hourly rates. In order to provide a better understanding of how the remuneration of senior civil servants and top officials in the public sector is determined the Swedish pay system and its laws will be investigated in more detail in the following:

²³⁴ Hood and Peters 1994, p 120.

²³⁵ OECD Country profiles 2012.

High Civil Servants

The government appoints the key posts in the public sector such as ambassadors, Director General of government agencies, boards of state-owned companies. Such professions have their **salary level proposed by the responsible ministry**, which is also **negotiated with the Ministry of Finance and then finally decided by the Cabinet collectively**.²³⁶ The negotiation of the salary is based on the assessment of the individual.

Prime- Minister, Ministers and Members of Parliament

The remuneration of all the ministers; including the Prime Minister and other ministers is determined by the **Board on Remuneration of Ministers** (Riksdagens arvodesnämnd). The Board has to decide on the remuneration in accordance with the *Law of Remuneration of Ministers* etc.²³⁷. Under this law, **no calculation or base salary is provided**. This means that the **Committee determines the level** set for the payment of such remuneration. The Board has the sole task to decide the size of the minister's salaries. The Board consists of three persons appointed by the Administrative Office of the Parliament. The rules governing the remuneration that the ministers get, are based on the assumption that they work all year and every hour each day.²³⁸ The Members of Parliament have their remuneration regulated by the *law on the Economic Conditions of MPs*²³⁹. Their remuneration is determined by the **Parliamentary Remuneration Committee** according to chapter 3 §1.

Supreme Court Judges

There are two parallel court systems whereby the Supreme Court is the highest court of general jurisdiction and the Supreme Administrative Court is the highest administrative court. Before 2006 the judges were exempt from person-based salaries. The argument was that it would be unethical to differentiate the salaries based on the work they do, since it could create an unwanted incentive, which could harm the state governed by law.²⁴⁰ However, this was not supported and since 2006 the Swedish government has introduced a system of **person-based salaries**, which means that income is negotiated individually.

²³⁶ Öberg 2012, p 184.

²³⁷ *Law of Remuneration of Ministers* etc. 1991: 359

²³⁸ <http://www.riksdagen.se/sv/Sa-funkar-riksdagen/Sa-arbetar-ledamoterna/Ekonomiska-villkor/>

²³⁹ *Law on the Economic Conditions of MPs* 1994:1065

²⁴⁰ Öberg 2012, p 186.

7.1.3 The Scope of the Standard

In Sweden remuneration is determined by decisions taken by committees or consensus of Ministries based on individual negotiation due to performance. The scope of the remuneration of different positions is rather (individually) flexible in terms of wage mobility and competitive.

High Civil Servants

The conditions for the central governments employees are established in collective agreements. The wages of the Director-General are the **highest compared to other high public officials**. **The argument for the high salaries is that it would otherwise be impossible to recruit competent persons for the positions.**²⁴¹ High/senior civil servants have their salary level proposed by the responsible ministry, which is also negotiated with the Ministry of Finance and then finally decided by the Cabinet collectively.²⁴²

Prime Minister and Ministers

The Board on Remuneration of Ministers (from here on called the Board) reevaluates the amount of remuneration every year. This year the salary of the Prime Minister is 199.860 Euro gross per year and for other ministers from 78.144 – 158.868 Euro gross per year. The base remuneration is 6.512 Euro, which is subject to taxation. The Board decides the level of remuneration that exceeds the base level.

The ministers also have a right to compensation for increased living costs when working in another city or when they have dual residence or for travel expenses connected to their work, 5§.²⁴³ Further, they also get seasonal train and air tickets for work related use as well as to getting from their home to work. They enjoy chauffeured cars for official use, free lunch during cabinetwork as well as a card, which they can charge for work.²⁴⁴ Equipment such as phone and computer is also provided for them. The Prime Minister also has access to an official residence which is not subject to any taxation as benefit on kind, Chapter 11 §10 of the Income tax Act.²⁴⁵ If a minister decides to resign, they have a right to get a severance allowance, which is also decided by the Board, 1§.²⁴⁶

²⁴¹ Öberg 2012, p 184.

²⁴² Öberg 2012, p 184.

²⁴³ *Law of Remuneration of Ministers etc.* 1991: 359

²⁴⁴ Öberg 2012, p 183.

²⁴⁵ *Income tax Act* 1999:1229

²⁴⁶ *Law of Remuneration of Ministers etc.* 1991: 359

From the Board's guidelines, it is clear that the severance allowance should be the same amount, which the minister would have earned for a year if he had not resigned. The remuneration is also pensionable so the national pension system applies to the ministers as well as a supplementary (occupational) pension. Their remuneration is not subject to the normal rules of health insurance, parental insurance and vacation since they are assumed to be for service all the time. If the minister is sick and cannot be at service a deduction on their normal remuneration will be made, 2§.²⁴⁷

Members of Parliament

With regard to Members of Parliament, their remuneration is regulated on a similar basis. They get a monthly remuneration, which is decided by **the Committee** as stated in chapter 2 §1.²⁴⁸ They are eligible to the same rights/obligations as every employee under the *Social Code* and the *Act on Sick Pay*, chapter 3 §3. They have the right to get travel cost compensations under chapter 4 and compensations for extra living costs under chapter 5. They get technical equipment under chapter 6 which is relevant for their work. Chapter 8 provides that they have the right to pension and how this is calculated. Chapter 11 and 12 provide that there is an income guaranty for the family of a person who was a MP in case that person died and the size of such remuneration for the family.

Supreme Court Judges

The government sets the wages for the President of the Supreme Court and the Supreme Administrative Court. All the other judges have their wages set by a collective bargaining at the local level. However, at the moment there is no room for individualization since the agreements made by the Swedish National Court and the trade union do not leave any such.²⁴⁹

7.1.4 Compliance and Monitoring

²⁴⁷ Law of Remuneration of Ministers etc. 1991: 359

²⁴⁸ Law on the Economic Conditions of MPs 1994:1065

²⁴⁹ Öberg 2012, p 187.

No information was found regarding how the remuneration of high civil servants is exempted from the private law standards, which exists. The rules specified in the *Law of Remuneration of Ministers* etc. 1991: 359 and the *Law on the Economic Conditions of MPs* 1994:1065 are the exemptions to the main rules of private law. Matters, which are not regulated specifically in the exceptional rules provided for, will fall under the general rules of public law. Some specific examples of references to private law are the rules on social security and sick relief which will even be regulated for the top officials under the main rules unless some exception to that is stated in the law.

Information is not systematically collected as in the Netherlands. Yet, every taxable person has to declare his or her income. This information is then provided to the tax authorities, which store such information and then assess the taxable income of a person. Since the top officials also are taxable persons, they have to provide their income information to the tax authorities. This information is accessible in the database of the tax authorities to the public due to the principle of free access to public records. Except from this information, no evidence on a special role of accountants was found.

Sweden is characterized by an egalitarian wage policy system, which is based upon solidarity with the two principles of equity and equality. This principle is in itself a mechanism for self-regulation among the top officials since they want to adhere to the public perception of what the remuneration based on solidarity is and thus they do not tend to step away from the standard set in society. There is an expectation from the public that the top politicians and officials should not constitute elite, but that they should reflect the Swedish society. Therefore, the public officials should get paid for their job, but there should not be any lavish rewards provided via public means. Further, due to the principle of public access whereby the general public and the mass media are allowed to unimpededly view the activities pursued by the government, get information about the wage levels and other rewards of all employees, including government employees, there is a high degree of transparency that allows for the disclosure of their rewards. In addition, due the principle of free access to public records every information, which is provided to the state, is, unless it is restricted based on public interest, accessible. This allows everyone to access any information, also including remuneration of top public officials.

Since the wages are either set by committees/boards or the government collectively, there is no supervision beside their assessments. In the *Law on the Economic Conditions of MPs* chapter

16 2§ it is stated that the committees decision on regular remuneration cannot be appealed to the Administrative Court. In the *Law of Remuneration of Ministers* etc. it is stated in 1§ that the decision of the committee cannot be appealed. Information about sanctions is not provided since the regulations fall all under the general rule of public law or constitute special agreements. If there is an infringement of the laws, the case may be brought before the Court.

7.2 Semi-public Sector

7.2.1 Pay System Poland

The level of remuneration that high positioned persons in the semi-public sector are receiving has been debated in the Swedish media for a long time. It has been shown that the salaries of CEO's of large companies are increasing in a much faster speed than the average worker. This development is also applicable to the CEOs of state owned companies. In 2009, the government provided new guidelines on the remuneration for CEOs and other high level position holders in the (semi-)public sector. The remuneration for the positions of managers and CEOs of public companies should have a two-folded aim: First, they need to be competitive to the private market salaries and, secondly, they must contribute to setting the standard of the level of remuneration, which is acceptable in for the community at large.

Semi-public companies are governed firstly by the states ownership policy guidelines which give them the guidance on how to structure and what the aims are of the company. The government has issued several policy guidelines. The last one from 2014 *Statens ägarpolicy och riktlinjer för företag med statligt ägande* (from here on called the 2014 Guidelines) mentions the 2009 guidelines for the remuneration of CEOs and others. It is stated that a reasonable remuneration is important since there has to be confidence in the business community and that the remuneration is an important issue for the government. However, in the end, the general meeting decides on how CEO's are to be remunerated.

7.2.2 National regulation

In Sweden, no cap policy is used to regulate the remuneration of high-level officials. Rather, under paragraph 2.7.2 of the 2014 of the Guidelines states that CEOs remuneration is to follow the guidelines provided in 2009. It is the **Board's responsibility to fix the remuneration of the CEO**. This has to be done in **a conscious, responsible and transparent way** and it has to be ensured that the remuneration is reasonable and balanced. The remuneration also should be competitive, have a ceiling and contribute to good ethics and corporate culture. The remuneration should not be higher than what it is in other **comparable companies** but it should be characterized by **moderation**. On page 9 it is further stated that **bonuses are not to be given** to CEOs of such companies. **Pension benefits** are to be carried by the employee himself if they

are above the collective pension plan. If the CEO is dismissed then max 18 monthly salaries can be paid.

As a consequence, Sweden does not use any additional regulatory measures such as a cap to regulate the remuneration of managers and CEOs of public enterprises. In fact, salaries are set by an internal board that is responsible to its shareholder and in comparison to similar companies in the sector.

7.2.3 The Scope of the Standard

The 2014 Guidelines are applicable to companies that are owned partly or entirely by the government as stated in paragraph 1.1. If they are partly owned by the government this entails that the state has 50% of the votes in the company. The 2014 Guidelines are applicable to top executives within a semi-public company in which the state holds at least 50% of shares.²⁵⁰ The remuneration guidelines are based on arguments supporting the importance of setting a good standard for the business world but also to set a standard that is competitive in order to be able to attract talented persons.²⁵¹ No information about the regulation of hourly rates of interim staff was found.

7.2.4 Compliance and Monitoring

The positions of managers and CEOs of public companies are not exempted to any rules under public law. The same rules apply to these posts as to any other employee. They also have the same rights as any other employee with regard to sickness benefits, maternity/parent leave, pensions and resignation.

The data on remuneration of top executives is published in the annual accounts in the same way as it is done for public limited companies. This means that the remuneration is governed by the rules of accounting as public limited companies under the *Publicly Limited Company Act*.²⁵² There are further rules, which apply to these remunerations: they are to be presented for each single executive in detail (remuneration, bonuses and benefits in kinds).²⁵³ The accountant is

²⁵⁰ 2014 Guidelines p, 9

²⁵¹ 2014 Guidelines p, 9

²⁵² Publicly Limited Company act 2005:551

²⁵³ 2014 Guidelines p, 9.

required to sign and affirm in written that the Board has adhered to the guidelines in each of the annual accounts with regard to the remuneration of the top executives.²⁵⁴

Furthermore, the board is required to disclose and explain each decision, which they have been taking with regard to the remunerations of public executives. The Board is responsible to its shareholders. If there is any deviation from the guidelines, this has to be explained.²⁵⁵ The remunerations are also provided in the annual accounts of the companies. The income is also available to the public via the principle of free access to public records. This allows everyone to access any information, also including remuneration of top public officials. However, no information was found about possible sanctions in the Act.

Overall, it may be concluded that a monitoring is done by the accountants and by the annual reports as well as the explanations, which are required by the Board at the annual meetings with regard to the matter.

²⁵⁴ 2014 Guidelines p, 9.

²⁵⁵ 2014 Guidelines p, 9.

8. UK

8.1 (Semi-)Public Sector

8.1.1 Pay System and Public Administration

The approach of the British government concerning public sector pay has been based on an increase in transparency and more information readily available to the public. It was found that people are largely unaware of the work of Members of Parliament (henceforth referred to as MPs) and this has led to misunderstandings and public animosity when MPs are paid more.²⁵⁶ The debate in the UK is largely focused on the government and much less on the top/senior officials. The public perception of high government salaries has become subject to political controversy by both of the main parties in the UK: Labour and the Conservatives. Instances include Ministers declining pay increases in 2008 and 2009.²⁵⁷ The rhetoric of solidarity was used to explain the cuts in the public sector as being vital for the success of the austerity measures, which were imposed in the parliamentary budget of 2010,^{258,259} and extended by the Treasury in 2014 and 2015. The government introduced these measures to help to reduce the national debt deficit.²⁶⁰ It can be said that the economic situation after the financial crisis was one of the major reasons for many changes in the top income policy decisions in the public sector. The pay freezes and general cuts in government and public administration salaries are in response to the nationwide austerity measures.

Political posts were largely the focus of the pay cuts in in the UK. Yet, it can be seen that the Senior Civil Service are often paid much more even than the Prime Minister. For instance, the top pay band is £180,000-£200,000 for permanent secretaries and £104,000-£208,100 as a general pay band for the senior civil service.²⁶¹ This demonstrates that the potential pay of the senior civil service can be much higher than the £142,500 of the Prime Minister. The Prime Minister's salary is however not used as a cap for all public-sector workers.

²⁵⁶ The Independent Parliamentary Standards Authority. (2013, December). MP's Pay and Pensions, Final Report, p. 29.

²⁵⁷ Kelly, R. (2013, April 1). Member's Pay and Expenses, Current rates. Research Paper 13/33, p. 17

²⁵⁸ BBC News. (2010, May 17). Emergency Budget: Coalition government sets June date.

²⁵⁹ BBC News. (2010, June 22). Budget key points: At-a-glance.

²⁶⁰ Gentleman, A. (2015, January 1). Austerity cuts will bite even harder in 2015 – another £12bn will go. *The Guardian*.

²⁶¹ Cabinet Office (2014, December). Government Evidence to the Senior Salaries Review Body on the Pay of the Senior Civil Service, p. 4

The UK is a centralised unitary state, so the levels of government are the same for the entire country, except for some branches of local government and administration.²⁶² The same applies for the civil service; the centralised pay structure applies for the whole country. For the public sector, non-departmental public bodies, and NHS, the pay is decided with a board structure or through the Ministry. The House of Commons Public Administration Select Committee best explains the situation of the definitions and the confusion and lack of clarity between public, semi-public and private companies in the UK: *“There are parts of the public sector which receive none of their income from tax revenues; equally, there are parts of the private sector which receive all or nearly all of their income from public sources. In addition, there are organisations, which to some eyes fall within the public sector, but not to others. Public private partnerships and the nationalised banks only add to this complexity.”*²⁶³ Therefore, it is very difficult to draw general conclusions about comparisons between UK companies, let alone with the clear definition of (semi-) public companies in the Netherlands.

The **public sector** itself is consequently difficult to define in the UK system. A clear distinction can be made to civil service and publicly appointed posts, issued by Ministers or the Crown, which can be regarded as the public sector.²⁶⁴ However, it is not as simple as there are posts that are paid from public taxes that are not what one would traditionally consider a public sector company or position and the opposite also applies, as some posts may be considered to be in the public sector but they are not paid from public taxes.²⁶⁵ For example, the Met Office and Ordnance Survey are considered part of the public sector, but they are funded on a purely commercial basis with absolutely no recourse from taxpayers’ funds.

There are numerous other examples such as Ofcom – The regulatory office of communications, which is considered public sector, but receives taxpayers’ money in combination with commercial funding.²⁶⁶ These are examples of the difficulties with definitions between public and semi-public companies in the UK, and they are further elaborated on in the source House of Commons, Public Administration Select Committee. (2009, December 15), Top Pay in the Public Sector, Sixth Report of 2009-10.

²⁶² BBC 2010, See: <http://www.bbc.co.uk/news/uk-11333472>

²⁶³ House of Commons, Public Administration Select Committee. (2009, December 15). Top Pay in the Public Sector, Sixth Report of 2009-10, Volume 1, p. 8

²⁶⁴ Cabinet Office (2014, December). Government Evidence to the Senior Salaries Review Body on the Pay of the Senior Civil Service, p. 9

²⁶⁵ House of Commons, Public Administration Select Committee. (2009, December 15). Top Pay in the Public Sector, Sixth Report of 2009-10, Volume 1, p. 9

²⁶⁶ *ibid.*, p.9

Therefore, in the UK the distinction is not based on whether there is public money being spent on a company, but rather on the public service, they provide. Thus, even if a company has 0% public tax investment, if they provide a service to the public (such as the Royal Mail), then they are still classed as public sector. Some argue that nobody even knows how many non-departmental public bodies (or quangos) exist in the UK.²⁶⁷ Information can be mostly only attained through freedom of information petitions or sometimes the information is transparently released, but this differs depending on the public company or non-departmental public body.

The **idea of semi-public companies** does exist to an extent in the UK, but the term is rarely or never used in practice because even when companies are not fully public or private, they can still be defined as ‘public companies’. The companies that would normally be considered semi-public in other countries are classed as non-departmental public bodies or generally as public companies in the UK. Furthermore, because of the decentralisation and a large amount of trusts and businesses with different statuses arising from these developments, it is not possible to attain a standardised pay scale for each semi-public, non-departmental public body, trust or foundation (such as with the National Health Service) and other public companies. At present, there is a wide delegation of powers to the public corporations and National Health Security Foundation Trusts. The boards of these organisations generally set their own executive pay levels autonomously and only need to get the approval of a Minister when the government holds shares in the company.²⁶⁸ The way that executives are paid are in line with the Senior Civil Service and there is generally a push towards a competitive salary to attract high skill managers, but not limitless in scope like in the private sector due to the current socio-economic situation. In regard to semi-public companies there is a very large amount of classifications of companies and each has a specific coordination of the pay levels²⁶⁹ – for instance, see table in question 4c below. There are calls for reforms to executive remuneration and recommendations made about pay to accommodate the changes after the financial crisis, often with a focus on transparency, and promoting good practice.²⁷⁰

²⁶⁷ BBC News, see: <http://www.bbc.co.uk/news/uk-11333472>

²⁶⁸ House of Commons, Public Administration Select Committee (2009), ‘Top Pay in the Public Sector’, Sixth Report of 2009-10, Volume 1, p. 35, 63.

²⁶⁹ ONS.gov. (n.d.). See spreadsheet of all semi-public company classifications. Retrieved 9 March 2015, from <http://www.ons.gov.uk/ons/guide-method/classifications/na-classifications/the-ons-classification-process/sector-classification-index.xls>

²⁷⁰ Department for Business Innovation and Skills (2011, September). Executive Remuneration, Discussion Paper.

8.1.2 National Regulation

There is no additional regulatory measure such as a cap policy. Rather the pay system is marked by the use of diverse elements regulating executive pay of top officials. This includes a band system for public officials, which determines base salaries and variable parts; a median senior civil service pay which varies annually and serves as the standard for the augmentation percentage of Minister's pay; and a system of independent committees that set the salaries for parliamentarians and senior civil servants of non-governmental bodies. In addition, for high-level executives of non-political posts performance-related pay is applied. This combination of various elements of determining executive pay renders the system rather unique. However, it also reflects the very complex and not always clearly defined nature of the public sector. Therefore, the general pay system of the UK will be investigated in detail to better understand how executive pay of high-level officials is determined and regulated.

Senior Civil Servants:

The Review Body on Senior Salaries makes recommendations and gives independent advice to the government for ministerial pay and High Civil Servants. The recommendations given by the Senior Salaries Review Body are not legally binding, but they are strongly taken into consideration by Parliament. The Review Body on Senior Salaries also reviews pay for Senior Civil Servants (SCS), senior officials in the armed forces, judiciary, very senior managers (VSM) in the National Health Service and Police and Crime Commissioners.²⁷¹ The median Senior Civil Service pay is used as a reference point to calculate the increasing percentage in Minister's pay, therefore it can be seen as a type of standard for other governmental departments.

Members of Parliament:

A standard salary applies for Members of Parliament (£67,060 annual gross) and is now set by the Independent Parliamentary Standards Authority. According to the Parliamentary Standards Act 2009 (which gained Royal Assent on 21 July 2009), the Independent Parliamentary Standards Authority is a fully independent standards authority. Following the amendment of this act by the Constitutional Reform and Governance Act in 2010,²⁷² the responsibility for

²⁷¹ Review Body on Senior Salaries (2015). Thirty-Seventh Annual Report on Senior Salaries Report no. 83, see Foreword.

²⁷² British National Archives. (2010, April 8). Constitutional Reform and Governance Act 2010.

determining MPs pay was given fully to the Independent Parliamentary Standards Authority and is effective since May 2011.²⁷³

As of 2015, the Independent Parliamentary Standards Authority recommended a pay increase for Members of Parliament of 9.3%, bringing pay up to £74,000 annual gross salary.²⁷⁴ The Prime Minister, David Cameron, has asked the Independent Parliamentary Standards Authority to reconsider this recommendation, as the proposal is still being implemented and peer-reviewed.²⁷⁵ However, the Independent Parliamentary Standards Authority has binding effect after consultation of other actors, therefore if the proposal is accepted in the consultation then it will come into effect and MP pay will rise. This is demonstrative of the Independent Parliamentary Standards Authority's independent nature.²⁷⁶

Prime Minister:

The Prime Minister is the highest paid Minister, as can be seen below in the table of minister's pay. After the pay cut and subsequent freeze of 2010, the Prime Minister has a combined MP and Ministerial annual gross salary of £142,500.²⁷⁷

Ministers:

All Ministers of the House of Commons, as sitting Members of Parliament, receive an MP gross annual base salary (£67,060) with an additional ministerial salary. Members of the House of Lords receive only a ministerial salary. Ministerial salaries are calculated in a process known as "uprating", which is done in accordance with MPs' salaries. Prior to 1996, this process had always been carried out without any legislation or parliamentary resolution underpinning it.

In a report by the Review Body on Senior Salaries in 1996, a formula for the uprating was recommended. The Senior Salaries Review Body is an independent advisory body and they provide advice on the salary for holders of judicial office, senior civil servants, senior officers of the armed forces, and other public offices that fall under their scope in certain times.²⁷⁸ The uprating formula was then implemented in the Ministerial and Other Salaries Act 1997, which

²⁷³ The Independent Parliamentary Standards Authority. (2013, December). MP's Pay and Pensions, Final Report, p.17

²⁷⁴ The Independent Parliamentary Standards Authority (2013, December). MPs' Pay and Pensions, Final Report, p. 8

²⁷⁵ MacLellan, K. (2015, May 24). Cameron says to freeze government ministers' pay for five years. *Reuters*.

²⁷⁶ The Independent Parliamentary Standards Authority (2015, June). MPs' Pay in the 2015 Parliament: A Consultation, p. 4

²⁷⁷ Kelly, R. (2013, April 1). Member's Pay and Expenses, Current rates. Research Paper 13/33, p. 19

²⁷⁸ British Government Website. (2009, March 31). Review Bodies on Senior Salaries March 2009. Retrieved 1 July 2015, from <https://www.gov.uk/government/organisations/review-body-on-senior-salaries/about>

replaced the 1975 Act with the same name. The pay increases have since continued in the same way (in accordance with the aforementioned formula). The formula follows “the average percentage by which the mid-points [median] of the Senior Civil Service pay bands having effect from 1st April of the year concerned have increased compared with the previous 1st April.”²⁷⁹ Therefore, the Ministerial pay falls in line with the median of Senior Civil Service pay bands. However, in 2008-2011 a pay freeze was introduced which is detailed in the table below and changes the formula slightly with a new 1% pay increase.

8.1.3 The Scope of the Standard

There is no pay cap in existence for the Senior Civil Service as well as MP and Minister’s salary in the United Kingdom. There was a pay freeze, which was done in the spirit of solidarity after the financial crisis in/after 2008, but there is no specific cap or standard. The UK is a centralized and unitary state, therefore much of the public sector, administration and civil service are centred in London and there are not many degrees of payment throughout the country. For the Senior Civil Service (including high judiciary, senior national health service etc., as will be discussed) there is **a minimum and a maximum salary for each pay band, which is determined by performance**. This is also reflected in the MP pay grid, as all are paid the same and it does not depend on a particular region. For MPs the annual gross salary stays the same each year £67,060 (due to the pay freeze) and only changes when the Independent Parliamentary Standards Authority decides to change it – as regulated by statute.

However, for the public sector, non-departmental public bodies, and NHS, the pay is decided with **a board structure or through the relevant Ministry**. It is also relevant to specify that the **boards of these organisations generally set their own executive pay levels autonomously** and only need to get the **approval of a Minister** when the **government holds shares in the company**.²⁸⁰ Concerning public corporations, the Board remuneration committee of each corporation set the senior/executive pay levels. The government shareholders (of the respective department) oversee the remuneration boards of these public corporations.

Senior Civil Servants:

²⁷⁹ British Archive (1997). Ministerial and Other Salaries Act (1997), Section 1 (2) (1A)

²⁸⁰ House of Commons, Public Administration Select Committee (2009), ‘Top Pay in the Public Sector’, Sixth Report of 2009-10, Volume 1. p. 35, 63.

Senior Civil Servants are paid in accordance with a band structure that provides the following annual gross base salary across the senior civil service²⁸¹:

Pay Band	Minimum (£)	Maximum (£)
3	104,000	208,100
2	85,000	162,500
1A	67,600	128,900
1	62,000	117,800

A different pay band exists for the Permanent-Secretaries of the senior civil service²⁸²:

Tier	Minimum gross annual (£)	Maximum gross annual (£)
1	£180,000	£200,000
2	£160,000	£180,000
3	£142,000	£160,000

The payment works based on a **reward system that varies depending on the department**. As can be seen, on a particular band there is a minimum and maximum gross annual income that can be awarded depending on the performance of the civil servant in question. **However, annual salaries of more than the minimum of £142,200 annual gross and bonus awards of more than £17,500 need to be signed off by the Chief Secretary.**²⁸³ Annual pay increases have been limited at 1% for the senior civil servants in 2014/15 for only the highest performing civil servants.²⁸⁴ Those in the bottom 10% of performers do not receive any such pay increases.²⁸⁵

Very Senior Managers (VSM) in the National Health Service:

In the National Health Service Foundation Trusts, their boards usually set executive pay, respectively.²⁸⁶ It is estimated that there are currently 424 Very Senior Managers employed under National Health Service England (after the reorganisation of the National Health Service

²⁸¹ Cabinet Office (2014, December). Government Evidence to the Senior Salaries Review Body on the Pay of the Senior Civil Service, p. 4

²⁸² *ibid.*, p.4

²⁸³ Cabinet Office (2014, December). Government Evidence to the Senior Salaries Review Body on the Pay of the Senior Civil Service, p. 5

²⁸⁴ *Ibid.*, p. 3

²⁸⁵ *Ibid.*, p. 3

²⁸⁶ House of Commons, Public Administration Select Committee. (2009, December 15). Top Pay in the Public Sector, Sixth Report of 2009-10, Volume 1, p. 63

after the Health and Social Care Act of 2012).²⁸⁷ A 1% pay increase for the Very Senior Managers was also recommended by the Senior Salaries Review Body and subsequently accepted in April 2013 (this is also in line with the increase for other public sector positions mentioned previously – such as the civil service and the judiciary).²⁸⁸

The general pay of the National Health Service very senior managers is very difficult to establish because there are many different frameworks for the establishment of the pay of very senior managers in the sector (foundation trusts, non-foundation trusts and other overarching systems).²⁸⁹ There were calls from the Senior Salaries Review Body to assimilate all of the Very Senior Managers pay in the UK to remove the discrepancy around the different frameworks, but this recommendation was not accepted.²⁹⁰ Furthermore, gathering information about Very Senior Managers in the National Health Service is very problematic due to data-protection rules as they are not fully public companies, and the trust status makes data collection difficult, these data protection rules limit the amount of information that can be specifically released about Very Senior Managers. The Senior Salaries Review Body finds it very difficult to collect data on Very Senior Managers’ salaries.²⁹¹ Only non-specific bands are feasible to collect due to the Data Protection Act:²⁹²

The 2012 VSM pay framework – salary bands for the organisations’ chief executives 1 April 2013

Organisation	SSRB Band	Floor £	Ceiling £
Care Quality Commission Monitor	F	175,000	225,000
<hr/>			
NHS England			
<hr/>			
Health Education England National Institute for Health and Clinical Excellence NHS Blood and Transplant Authority NHS Business Services Authority NHS Litigation Authority	E	150,000	200,000
<hr/>			
NHS Health and Social Care Information Centre NHS Trust Development Authority			
<hr/>			
Human Fertilisation and Embryology Authority	D	125,000	175,000
<hr/>			
Health Research Authority Human Tissue Authority	C	100,000	150,000

Source: Department of Health.

Ministers and MP Salaries:

²⁸⁷ Review Body on Senior Salaries, Cockburn, B (2014, March). Thirty-Sixth Annual Report on Senior Salaries 2014. Report No. 82, p. 45
²⁸⁸ Review Body on Senior Salaries, Cockburn, B (2014, March). Thirty-Sixth Annual Report on Senior Salaries 2014. Report No. 82, p. 45
²⁸⁹ *Ibid.*, p. 45
²⁹⁰ *Ibid.*, p. 45
²⁹¹ *Ibid.*, p. 51
²⁹² *Ibid.*, p. 75

Pay for Members of Parliament (House of Commons) as of 2014 is: £67,060²⁹³ annual gross. The pay freeze was enacted in the Ministerial and Other Salaries Act 1975 with the amendment Order 2011.²⁹⁴ This pay freeze is still in effect as of 2015 to Ministerial salaries.²⁹⁵ Therefore, the pay scheme provides the following base salaries of the different ministers and members of parliament:

Office ²⁹⁶	Combined Ministerial and MP salary in previous administration	Combined Ministerial and MP salary as <u>after</u> the cut and pay freeze (2010)*	Annual pay cut 2010
Ministers in the House of Commons			
Prime Minister	£150,000	£142,500	£7,500
Cabinet Minister	£141,647	£134,565	£7,082
Minister of State	£103,937	£98,740	£5,197
Parliamentary Under-Secretary of State	£94,142	£89,435	£4,707
Ministers in the House of Lords			
Cabinet Minister	£106,356	£101,038	£5,318
Minister of State	£83,043	£78,891	£4,152
Parliamentary Under-Secretary of State	£72,326	£68,710	£3,616

Additionally, due to the lack of private law restraints, some Members of Parliament are able to earn more than the Prime Minister in practice, taking into account professions they hold in parallel to out-of-Parliament work.

So-called “temporary staff” or interim workers are to be treated in the same way as direct workers in the United Kingdom. The Temporary and Agency Workers (Prevention of Less

²⁹³ Parliament UK. (2010, April 21). Pay and expenses for MPs. Retrieved 1 July 2015, from <http://www.parliament.uk/about/mps-and-lords/members/pay-mps/>

²⁹⁴ *Ibid.*, p. 20

²⁹⁵ MacLellan, K. (2015, May 24). Cameron says to freeze government ministers’ pay for five years. *Reuters*.

²⁹⁶ Kelly, R. (2013, April 1). Member’s Pay and Expenses, Current rates. Research Paper 13/33, p. 19

Favourable Treatment) Bill of 2007 enforce this.²⁹⁷ This bill is based on the European Directive 2008/104/EC.²⁹⁸ This applies to political and Senior Civil Servants, as well as to managers of public companies.

From the salary grids, particularly that of the Senior Civil Service, it is seen that a **reward for performance system is used in the non-political posts**. This is done in the hope to encourage higher performance in the civil service and incentivise good working culture. In particular, this then permits some civil servants, public sector executives and non-departmental public body workers having a higher salary than the Prime Minister does. This, though, is seen as acceptable by most commentators in the UK, as the position of Prime Minister has other benefits and it is also seen as a necessary compromise for the political impact a lower salary can have in such a position.²⁹⁹

Furthermore, it can be said that the economic situation after the financial crisis was one of the major reasons for many changes in the top income policy decisions in the public sector. The pay freezes and general cuts in government and public administration salaries are in response to the nationwide austerity measures. This is a sign of solidarity, which was important with the Conservative party's push for austerity in the UK. Therefore, the cuts and pay freezes are a consequence of the economic policy of the time; it is politically sensitive for the government to sanction large pay increases in the public sector when the UK is undergoing austerity measures.

8.1.4 Compliance and Monitoring

In the UK system, there appears to be no limit to the earnings of high-level civil servants, Very Senior Managers in the National Health Service, Members of Parliament, or managers of public companies when taking into account their private commitments. Consequently, there might be large exemptions to the earning standards discussed above. This exemption falls under the discussion of freedom of contract, which is a right, ensured to all private citizens under law. However, there is the so-called "Register of Members' Financial Interests", which was

²⁹⁷ House of Commons. (2006). Temporary and Agency Workers (Prevention of Less Favourable Treatment) Bill.

²⁹⁸ European Parliament and the Council (2008, December 19). Directive 2008/104/EC, On Temporary Agency Work, L-327/9.

²⁹⁹ House of Commons, Public Administration Select Committee. (2009, December 15). Top Pay in the Public Sector, Sixth Report of 2009-10, Volume 1, p. 55

established in 1974 through a resolution in the House of Commons.³⁰⁰ Following the rules of this resolution the Members of Parliament who were elected in 2015, for example, had to declare their own financial interests and any changes have to be registered within 28 days.³⁰¹ The aim of this registry is to keep track of any interests that Parliamentarians may have that could potentially influence their decisions in public office.³⁰² The similar type of registry exists for the civil service, as was declared by the Civil Service Commission's Code of Practice in 2010.³⁰³ In articles 10, 12 and 14 in this Code of Practice, there is an explicit prevention of previous, subsequent and current interests having an impact on the conduct of civil servants through a registry and review by the Commission.³⁰⁴

If a MP or civil service worker wishes to engage in activities other than their duty of public office, this right is largely afforded to them in the UK, as long as their interests are declared beforehand. There has been discussion of so-called extra pay in the British media, as many MPs earn very large amounts through private commitments, vastly exceeding the MP pay standards of £67,060.³⁰⁵ As of 2013, there were 20 MPs who earned more money from outside ventures than they did from their government salary.³⁰⁶ In total, British MPs earned more than £7 million in out of Parliament work in 2014.³⁰⁷ It could be argued that the standard pay for MPs and other public sector workers is superfluous if they are able to earn large amounts of money by working as consultants or directors alongside their duties as public servants. Ed Miliband, the now former leader of the Labour Party, called for outside of Parliament earnings to be capped. He and others argue that the interests of public servants are potentially divided when they have other business commitments, not to mention the fact that some spent more than 1,000 hours working on projects other than their parliamentary commitments in 2013. David Cameron, Prime Minister of the UK, rejected Ed Miliband's call for a cap on extra-parliamentary work, stating that he sees it as important to have public sector workers involved in private affairs, as he does not want a parliament full of "professional politicians" with no experience.

³⁰⁰ Hudson, K (2015, June 29). Register of Members' Financial Interests: Introduction to the Registers for the 2015 Parliament.

³⁰¹ *Ibid.* p. 1.

³⁰² *Ibid.*, p. 1.

³⁰³ British Government, Civil Service Commission (2010, November). Code of Practice for Commissioners.

³⁰⁴ *Ibid.*, p. 3.

³⁰⁵ Telford, L., & Heighton, L. (2015, February 22). The MPs who topped up their salaries with £1,600-an-hour second jobs. *The Telegraph*.

³⁰⁶ Ball, J. (2013, May 27). MPs' outside jobs and interests: get the data. *The Guardian*.

³⁰⁷ Dearden, L. (2015, February 24). Revealed: British MPs earned more than £7m outside of Parliament in 2014. *The Independent*.

Generally, the data on semi-public and public companies is not collected systematically or in any particular way. There is a general possibility for outside parties to ask for information in regard to general characteristics of salaries, but it often depends on the type of company and the extent of whether it is public or semi-public. The full list of all of the salaries was discovered through the Freedom of Information Act and can be found online. The highest salary as of September 2010 was the Chief Executive of the Olympic Delivery Authority with an annual gross salary of £390,000. Still, investigation into the executive pay of semi-public and public workers is often limited. It is often required for Journalists, for example, to apply through the Bureau of Investigative Journalism and many cases of Freedom of Information applications are still ongoing.³⁰⁸ This underlines the situation that the UK pay system for non-departmental public bodies is not very transparent and it is difficult to attain specific details of executive pay – even when consulting the Freedom of Information Act.

Still, public offices such as the senior civil service and Members of Parliament are subject to transparency regulations that provide for the disclosure of their salaries. These can largely be accessed online on the Independent Parliamentary Standards Authority website; this includes their expenses and other remunerations. The situation is slightly different for other executives in other sectors. Most of the central government sectors are subject to the “Government Financial Reporting Manual” which requires the same disclosure of remuneration as other small and medium sized companies, with a slight adjustment for the public sector context. This is done in accordance with Chapter 6 the Companies Act of 2006. These rules however do not apply to public companies that are not trading funds, National Health Service trusts and National Health Service foundation trusts and local government.

Accountants are known as Internal Audit Staff and have a reporting role. They are regulated in general by the Public Sector Internal Audit Standards. This is to promote the code of ethics for the internal audit staff and to promote consistent application of integrity standards in the UK public sector. The standards have been adopted as of April 2013. It is applicable across the UK government departments, their executive agencies and non-departmental public bodies. The rules inside the code of ethics give a wide discretion for disciplinary action if an auditor is in violation of the regulations. These regulations generally include principles of integrity, objectivity, confidentiality, and competency. With these codes of conduct in mind the internal

³⁰⁸ BBC News, Public Sector Salaries: Methodology. <http://www.bbc.co.uk/news/uk-11369278>

auditor has a duty to report issues with executive pay, should they arise, and the UK government recognizes this as crucial for good governance. Accountants and auditors that are part of the government departments and non-departmental public bodies have to apply the same code of practice, which is centralised by the Public Sector Internal Audit Standards. This therefore applies to public enterprises with government shareholders.

There is no overarching regulatory or advisory board for all public companies. Instead, the public and non-departmental public bodies' pay are established by review boards and ministers, and not in a uniform way. This leads to a general lack of clarity that the UK government has pledged to improve with the Public Bodies Bill - which will be done to include some of the non-departmental public bodies back into the government sector to improve the lack of clarity that has largely been discussed in this present report on the UK executive pay.

For the Civil Service there is the Senior Salaries Review Board, which has an advisory role in checking executive pay.³⁰⁹ The mechanisms for setting the pay for the Senior Civil Service and other semi-public and public companies is largely established autonomously by the boards of those companies or by the relevant Ministries.³¹⁰ For Parliament there is the Independent Parliamentary Standards Authority that regulates the pay and reimbursement, this is not self-regulation as it is a completely independent board. The following table shows the mechanisms for self-regulation in the different public and semi-public entities. The Senior Salaries Review Body inspects some governmental departments, and others are rather autonomous in their approach (for instance non-departmental public bodies and public companies) – which largely shape their own payment policies in boards.

³⁰⁹ *Ibid.*, p. 34

³¹⁰ *Ibid.*, p. 34

Type of Body³¹¹	Who sets Senior Pay	Advised by	Advisers Appointed by	Comments
Civil Service	Prime Minister	Senior Salaries Review Body	Prime Minister, following fair and open competition	
Non-Departmental Public Bodies	Ministers across Government	Board of each respective Non-Departmental Public Bodies	Ministers across government, following fair and open competition	In practice, Non-Departmental Public Bodies boards often take the lead
Public Corporations	Board remuneration committee of each corporation	Government Department, where these are shareholders		Boards appointed by Ministers, following fair and open Competition
National Health Service (Foundation status)	Board of Directors			
National Health Service (non-foundation status)	Ministers	Senior Salaries Review Body	Ministers, following fair and open competition	Applies only to posts within the very senior manager's (Very Senior Managers) network
National Health Service	Ministers	Review Body on Doctors' and	Ministers, following fair	

³¹¹ House of Commons, Public Administration Select Committee. (2009, December 15). Top Pay in the Public Sector, Sixth Report of 2009-10, Volume 1, p. 35

(Doctors and Dentists)		Dentists' remuneration	and open competition	
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The Senior Salaries Review Board for the Senior Civil Service only has soft/advisory power to recommend payment changes, but the Independent Parliamentary Salaries Authority has binding authority to declare the pay scales of MPs. In general, the norms are set out largely by statute including procedures such as the uprating formula for the Senior Civil Service. Therefore, the supervisors (such as the relevant ministers or in some situations the boards: see table above) have discretionary power through a statutory endowment to sanction those who go in excess of the given norms for each sector. The power to enforce Parliamentary standards is given to them by the Constitutional Reform and Governance Act of 2010, which, in paragraph 33, gives them the power to investigate and prosecute members falling outside of their agreed salary.³¹² The same code of conduct applies to the Senior Civil Service and is reviewed by the relevant supervisors (such as the relevant Ministry or boards).

For managers of public companies there are no limits to the salaries, they are only established by boards or the relevant ministries and paid accordingly. There is no sanction for board decisions on this matter because they answer to the Ministry, which has the final say on pay levels.

³¹² British National Archives. (2010, April 8). Constitutional Reform and Governance Act 2010.

Fact Sheets

9. The Netherlands

9.1 Public/ Semi-Public Sector

1. To what extent is there a (political) discussion in EU countries about policies controlling top income? In/On which political context is the policy set/based on, out of/based on political theory and with what arguments?

The discussion in the Netherlands regarding policies controlling top incomes is based on the changes in the administrative structure as well as public and political outcries in response to cases regarding excessive payments of top officials.³¹³ Discussions based on policy were influenced by a change from a classical bureaucracy to a more New Public Management inspired system. In short, this involved the change from a system organized around public service concepts towards a more business like performance-oriented approach. Moreover, a performance related system was considered crucial for attracting and retaining professional staff, in fear that public sector officials will divert to the private sector due to higher salaries provided.³¹⁴

The resurgence of the debate on the legal position of civil servants in the Netherlands has given rise to questions of a cross-national comparative nature. In the Netherlands, the debate is closely connected to the question of the specific character of the public sector and working for the government vis-à-vis working in the private sector, or the idea that there is (or should be) no fundamental difference between a job performed for the government and a job performed for a private corporation.³¹⁵

Noticeably, these policy changes in the system led to greater transparency. In March 2006 the ‘Act on publication of publicly financed top wages’ (Wet Openbaarmaking uit Publieke middelen gefinancierde Topinkomens (WOPT)) became operational. As of January 1, 2013 the WOPT was replaced by the WNT (Wet normering bezoldiging toefunctionarissen publieke en semi publieke sector.) The purpose of the WNT is countering excessive remuneration and

³¹³ M Brans and B. Guy Peters, *Rewards For High Public Office In Europe And North America* (Taylor and Francis 2012). p. 153.

³¹⁴ Ibid 142.

³¹⁵ F. M. van der Meer, C. F. van den Berg and G. S. Dijkstra, 'Rethinking The 'Public Service Bargain': The Changing (Legal) Position Of Civil Servants In Europe' (2013) 79 *International Review of Administrative Sciences*. p. 92.

severance payments to institutions in the (semi) public sector, hence, being the latest instrument in controlling top incomes in the Netherlands and a salient point in the discussion.

2. Which standard is chosen? What is standard based on?

a. What is the precise point of reference of the standard?

Based on the WNT the standard chosen, as from 2015, the income of top executives in the (semi) public sector is up to 100% of Minister's salary, which in 2015 amounts to €178,000, gross per annum, including expenses and pension contribution.³¹⁶ In 2014, the general standard was up to 130% of the Minister salary, which amounts to €230,474, gross per annum, including taxable expenses and pension contribution.³¹⁷

b. What is the scope of the standard?

The scope of the standard is dealt under question three regarding the scope of the executive pay policy. However, the precise point of reference of the standard does not apply completely for healthcare providers, health insurance companies, educational institutions, housing corporations and organizations in the field of development there are different, sector standards.³¹⁸ These sector-specific regulations are as follows:

- The ministerial regulation on pay top executives 'OCW' (Education, Culture and Science) sectors;
- The ministerial regulation on sectorial wage standard health insurance executives;
- The ministerial regulation on salary maximums executives care and welfare;
- The ministerial regulation on salary maximums executives authorized institutions housing 2014;
- The ministerial regulation on pay top executives development sector (from 1 January 2015).

³¹⁶ Article 2.3 Wet normering bezoldiging topfunctionarissen publieke en semi publieke sector.

³¹⁷ Topinkomens.nl, 'Voor WNT-Instellingen' (2015) <<http://www.topinkomens.nl/voor-wnt-instellingen>> accessed 20 June 2015.

³¹⁸ Regeling van de Minister van Binnenlandse Zaken en Koninkrijksrelaties van 10 december 2014, nr. 2014-0000657970, houdende vaststelling van een controleprotocol voor de naleving van de Wet normering bezoldiging topfunctionarissen publieke en semipublieke sector (Controleprotocol WNT).

d. Do specific or special (external) contexts/circumstances (e.g. legal or economic) play a role in the explanation or justification of the top incomes policy?

The WNT entered into force in 2013. The purpose and justification of the top income policy is countering excessive remuneration and severance payments to institutions in the (semi-) public sector. The goal of the instrument is that it provides a democratically legitimized instrument that sets the standards and obligations that may be imposed for the payment of officials in the public and semi-public sector. Therefore, it prevents institutions in the public and semi-public sector, awarding excessive salaries and boni. Those goals are the salient points of the explanation and justification of the top incomes policy, special circumstances whether legal or economic are not made explicit in the justification of the policy.

3. What is the scope of the executive pay policy?

a. For which sectors and levels of government does the top income policy apply? (Public / semi-public, including / excluding autonomous units, national / regional / ...)

The scope of the sectors and levels of government includes the institutions which are covered by the WNT both in the public and semi-public sector at a national level: the national government; provinces; municipalities and water boards; health care institutions and health insurers; educational institutions; cooperative building societies; organizations in the field of development cooperation; government-subsidized institutions (The grant must be at least €500 000, - per year, at least 50% part of the income of that year and are issued for a period of at least three years.); independent administrative bodies (ZBOs), and institutions in which the government appoints one or more members of the board or supervisory board.

b. Which organisations are categorised as / recognised as the public and semi-public sector?

According to Article 1.2 of the WNT, the law applies to all institutions and organisations established under public law. These are public institutions established by or under a law. The WNT lists the following: the national government; the provinces; municipalities; the water boards; the public professional bodies and business; the other bodies to which regulatory

powers granted under the Constitution; European Groupings of Territorial Cooperation with registered office in the Netherlands.³¹⁹

Organisations that fall under the semi-public sector include the following: health care institutions and health insurers; educational institutions; cooperative building societies; organizations in the field of development cooperation, and government-subsidized institutions.

c. For which groups of senior / top officials does the standard apply? (Top executives, internal regulators, interimmers...)? Based on which arguments?

As outlined under Article 1.1, b, sub 1 WNT, top officials includes at the state level: the Secretaries-General, the Directors-General, the Inspectors-General and other members of the senior management group, the vice-admirals, generals, lieutenant-admirals and lieutenant generals, those responsible for the daily management of the Cabinet of the King, the States-General, the High Councils of State and Cabinets of the Governors and the Commission on Monitoring the security and intelligence services.³²⁰ The WNT standard applies to top officials who belong to the group of top executives within a corporation or institution. This includes those who lead the entire corporation or institution. A top official is considered the person who is at the highest level of the executive body and is responsible for the daily management of the respective corporation or institution.

The standard does not apply to political office holders as they are exempted from the WNT. The Prime Minister, Ministers and State Secretary income are regulated under '*Wet rechtspositie ministers en staatssecretarissen*' which states in Article 1 that the remuneration of Ministers is determined at 10,325.86 Euros gross per month and for the State Secretary it is 9691,95 Euros gross per month. Hence, the total salary amounts to approximately 134,000 euros gross per annum, including holiday pay and excluding end of year bonuses for Ministers and 125,000 euros for the State Secretary, respectively. Holiday pay is calculated under Article 24 of the Civil Servants Pay Decree 1984 (*Bezoldigingsbesluit Burgerlijke Rijksambtenaren*) as amounting to 8% of the salary received. Moreover, under Article 20a of the respective Decree, an end of year bonus amounts to 8.3% of the salary received. Members of the Second Chamber

³¹⁹ Article 1.2 Wet normering bezoldiging topfunctionarissen publieke en semi publieke sector.

³²⁰ Article 1.1 Wet normering bezoldiging topfunctionarissen publieke en semi publieke sector.

are under the income regime of the Civil Servants Pay Decree 1984 (*Bezoldigingsbesluit Burgerlijke Rijksambtenaren*) which are classified under a salary scale. Members of the Second Chamber are under band 16 of the Civil Servants Pay Decree 1984 that amount to a salary of 94,000 euros gross per annum. Holiday pay and the end of year bonus as under the Decree also apply to Members of the Second Chamber.

Scale 16		Scale 17		Scale 18	
0	5357,49	0	5943,06	0	6529,63
1	5553,35	1	6138,92	1	6726,01
2	5746,69	2	6332,74	2	6918,80
3	5943,06	3	6529,63	3	7115,19
4	6138,92	4	6726,01	4	7311,56
5	6332,74	5	6918,80	5	7507,42
6	6529,63	6	7115,19	6	7703,79
7	6726,01	7	7311,56	7	7899,67
8	6918,80	8	7507,42	8	8113,34
9	7115,19	9	7703,79	9	8327,00
10	7311,56	10	7899,67	10	8541,18

Moreover, the standard is not applicable to Judges, their income is regulated under the ‘*Wet Rechtspositie Rechterlijke Ambtenaren*’ and is determined by the level of experience.

d. To what extent are the hourly rates or the remuneration or interim staff, consultants, etc. that are hired by the government on a temporary basis, also regulated by a standard?

Top officials fall within the meaning of the WNT, regardless of how the function is performed (hiring (ZZP), posting, transmission, etc.). Interim staff can be top officials under the WNT, as long as they are appointed for an 18 months period and are already employed longer than six months for the institution. This is outlined in Article 2.1, paragraph 4 WNT.

Regarding the remuneration of interim staff, it is also regulated by the standard and calculated if the function of top official is less than a full calendar year, the applicable standard remuneration is calculated as follows:

$$x = (y * a * b) / 365$$

Wherein:

x = individual maximum salary (ex. VAT)

y = maximum applicable WNT-year norm for that function

a = part-time factor (in full-time positions: 1.0)

b = total number of calendar days (not days) in which the function is fulfilled in the year.

e. To what extent do exemptions under private law to the application of the standard exist? To what extent do exemptions under private law undermine the application of the standard?

No exemptions under private law exist that undermine the application of the standard.

4. Which instrument is used on the control of executive pay? What are the relevant similarities and differences with the WNT?

a. Is data on salaries collected systematically in the same way as in the Dutch case? If so, by which bodies and how?

The instrument used in addition to the WNT is the Verification Protocol: (*Controleprotocol WNT*) it states that institutions that fall under the WNT regime have a duty to publish. This is when WNT data are included in the annual financial statements and are checked by an accountant.

The reporting obligation is when WNT data are to be reported to the Minister. The institution serves to report the data by 1 July following the financial year, sending it digitally to the Minister of the Interior and Kingdom Relations.³²¹

³²¹ Topinkomens.nl, "Wat Is De Meldplicht?" (2015) <<http://www.topinkomens.nl/vraag-antwoord/vraag-en-antwoord/wat-is-de-meldplicht>> accessed 20 June 2015.

b. What is the role of accountants in the management of executive pay?

The role of the accountant is equal to a monitoring role regarding the compliance with the standards. The accountant as under the WNT audits the financial statements of the WNT institution that falls under its scope. The accountant also checks that the WNT is followed correctly and has the duty to notify the Ministry of the Interior and Kingdom Relations when the institution under the WNT is not in accordance with the law that should be adhered to.

c. To what extent are there installed mechanisms for self-regulation?

The installed mechanism for self-regulation is that institutions that fall under the WNT regime have a duty to publish and a reporting obligation. Of course exceeding the norm provided under the WNT would lead to sanctions.

The duty to publish is when the data is included into the annual financial statements and are checked by an accountant. The reporting obligation is when WNT data are to be reported by the institution, which serves to report the data by 1st of July following the financial year, sending it digitally to the Minister of the Interior and Kingdom Relations.³²²

d. What sanctions exist in case of exceeding the norm? What powers do supervisors have, for example, to ask back salary that was paid too much?

Non-compliance with the WNT, can lead to extensive sanctions. This includes agreements on remuneration that exceed the permitted limits being declared void. As a consequence the excessive part that is unduly paid can be recovered by the State. Furthermore, prior to proceedings by the State to recover the payment, the opportunity is provided to the institution and the senior official to remedy the breach.

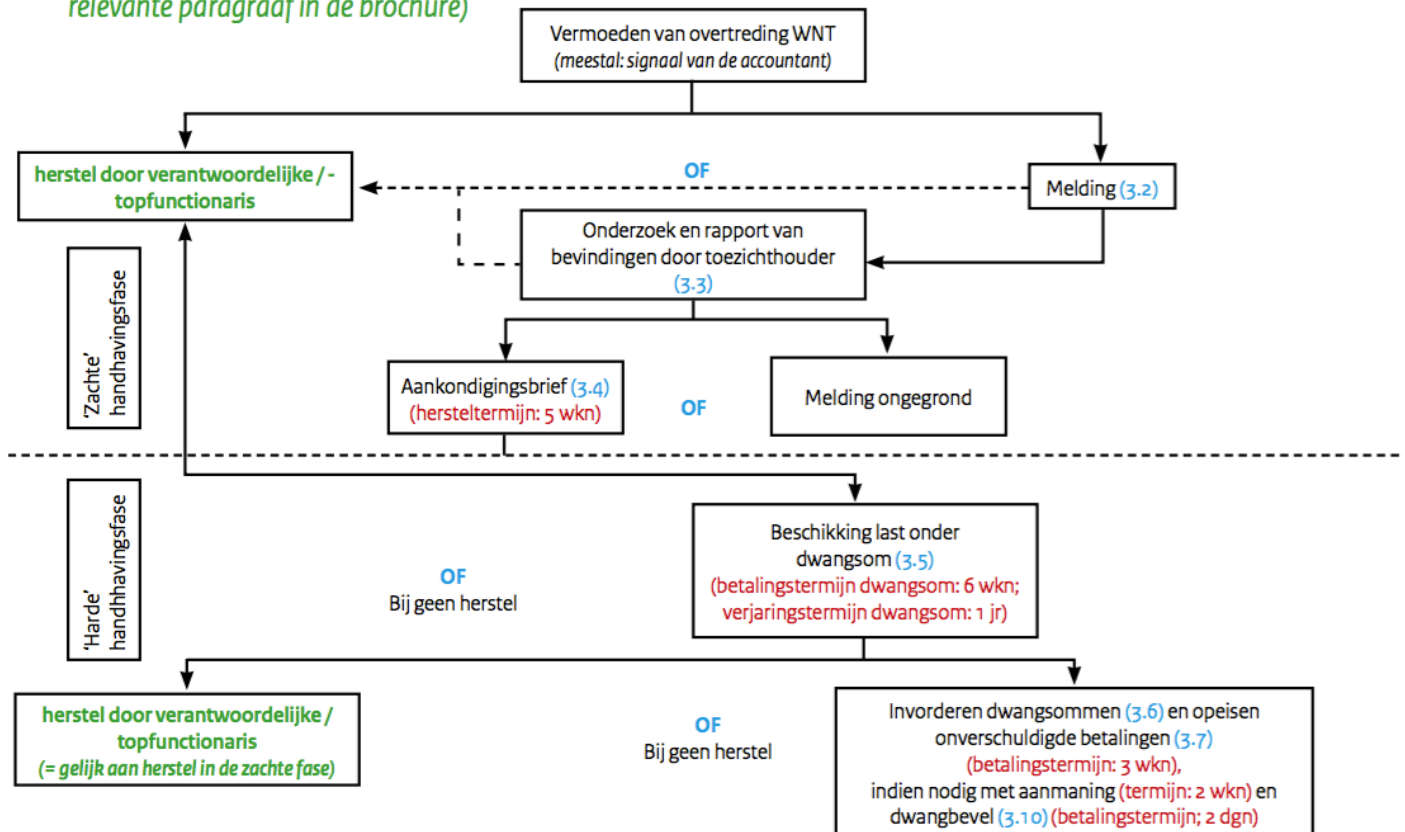
In case of exceeding the norm, the Minister of the Ministry of the Interior and Kingdom Relations has the authority to do the following: impose a penalty to undo the excessive payments and halt a grant (subsidy) awarded to the institution totalling the amount of the excess payments.

³²² Ibid.

Moreover, the severity of the breach provides for a choice between soft and hard law sanction measures as portrayed in the chart.³²³

Bijlage II Handhaving

Van naleving naar handhaving (cijfers verwijzen naar de relevante paragraaf in de brochure)



e. To what extent is there a system of disclosure of executive pay provided/foreseen? Based on what arguments?

WNT institutions have a duty to publish, the data is included in the annual financial statements and are checked by an accountant. The institution serves to report the data by 1 July following the financial year, sending it digitally to the Minister of the Interior and Kingdom Relations. Moreover, as outlined in Article 5.6 WNT, the disclosure is as far as possible in the manner prescribed in the financial reporting document, and by publication in the Government Gazette.³²⁴ Each year the remuneration standards are defined in a ministerial regulation. This system of disclosure is based on the principle of transparency.

³²³ 'Wat betekent de WNT voor u?' Ministerie van Binnenlandse Zaken en Koninkrijksrelaties. p. 43.

³²⁴ Article 5.6 Wet normering bezoldiging topfunctionarissen publieke en semi publieke sector.

5. How is the monitoring regarding the compliance with the standards organized? Who exercises this monitoring role?

The Minister of the Ministry of the Interior and Kingdom Relations has established a verification protocol.³²⁵ The verification protocol assigns the monitoring role to the Minister of the interior and the accountant. The Minister of the Ministry of the Interior and Kingdom Relations, in case of exceeding the norm, has the authority to: impose a penalty to undo the excessive payments and halt a grant (subsidy) awarded to the institution totalling the amount of the excess payments.

Furthermore, the Verification Protocol provides detailed guidance on the scope and depth of the audit on compliance with the provisions as under the basis of the WNT. The duties of the accountant are elaborated therein, which includes that the accountant audits the financial statements of the WNT institution. On the basis of Article 5.2, WNT, the accountant reports an undue payment to the Minister of the Interior and Kingdom Relations or the relevant Minister, if a claim against a former top official or senior official from undue payments has not been included in the financial reporting document or; at the time when the auditor gives his opinion on the financial accounting document, has not yet been reimbursed by the top official in question.³²⁶

³²⁵ Regeling van de Minister van Binnenlandse Zaken en Koninkrijksrelaties van 10 december 2014, nr. 2014-0000657970, houdende vaststelling van een controleprotocol voor de naleving van de Wet normering bezoldiging topfunctionarissen publieke en semipublieke sector (Controleprotocol WNT).

³²⁶ Article 5.2 Wet normering bezoldiging topfunctionarissen publieke en semi publieke sector.

10. Belgium

10.1 Public Sector

The investigation of the Belgian pay system and the regulation of income policy of high level officials in the case of Belgium is very complicated. The Belgian pay system is very complex and not all information about boni is published. Also public information about the current policy proposal on the regulation of executive pay in the semi-public sector is difficult to find. It must be noted that there has been an increased emphasis on the delivery of results of the policies of the government concerning salaries in the public sector and especially top income.³²⁷

The system as it is now dates back to the mid-nineties. There is no law as such regulating the salaries of the Belgian top civil servants. In 2000 a new reform, the Copernicus plan, was instigated by a new government, formed by the Social Democrats, the Liberals and the Greens. This plan provides for a function-based system.³²⁸ This plan allowed for a number of measures to be implemented, thus enabling the government to save 5 million € in 2 years. These measures remain applicable in 2015.³²⁹

1. To what extent is there a (political) discussion in EU countries about policies controlling top income? In/on which political context is the policy set/based on, out of/based on political theory and with what arguments?

The implementation of policies to control executive remuneration of public officials and politicians has been subject to public and political discussion about transparency of rewards for high-level officials in Belgium for more than a decade. Over the past few years the political and public debate about a policy to control executive pay of public officials and national politicians has re-emerged in Belgium. This debate however does not concern the rewards of Belgian judges as there is a shortage of judges and a high salary is regarded as a necessity to attract qualified candidates.

³²⁷ Association of Higher Civil and Public Servants, Consultation Paper on Strengthening Civil Service Accountability and Performance, 2014, p. 19.

³²⁸ M. Brans eds, *The Politics of Belgium: Institutions and Policy under Bipolar and Centrifugal Federalism*, Routledge, 2013, p. 124.

³²⁹ Circular 644 & 645.

In the political realm income of high level officials has become a subject of controversy between the left-wing and the right-wing parties, especially. After the crisis in 2008, the Belgian population requested more transparency regarding the income, the rewards and the bonuses of top civil servants. Politicians had to prove and to restore the legitimacy of their rewards. The public and the media pressured for political changes. In addition, scandals and crisis play a role in the decisions of changing the system.³³⁰ Measures thus have been taken after the crisis:

- Decrease of 5% of the amount of the parliamentary indemnity;
- Decrease of 15% of the amount of the indemnity of the President of the Chamber;
- Decrease of 10% of the indemnity of the Vice-President of the Chamber;
- Freezing of the subsidies given to the officially recognized political parties in 2012 & 2013;

The indemnities and bonuses of the Ministers and Parliamentarians are **not enshrined in laws**, but rather in **internal regulations** of the assemblies. These internal regulations are not available to the public, except the one of the Walloon Parliament (Southern part of the country). After the Copernicus plan, the salaries of judges were more than doubled. Details and the amount of the Copernicus premium granted to public servants are enshrined in the Royal Decree of 10 July 2002.

2. Which standard is chosen? What is standard based on?

a. What is the precise point of reference of the standard?

In 2010, because of the **crisis**, the salaries of the Prime Minister and of the Ministers have been reduced by 5%.³³¹ It is important to note that the base salary of each category is calculated for a **single person, without children**. Moreover, benefits and indemnities are added to this base salary. All of the salaries are subject to the index: they **vary according to cost of living**. Since 2013 the indexation coefficient equals 1, 6084.³³²

³³⁰ *Les vrais salaires de la politique belge*, J.C., LaLibre.be, 28/11/2013.

³³¹ Références, Le top 5 des politiciens belges les mieux payés, 2012, available via: <http://www.references.be/carriere/salaires/Le-top-5-des-politiciens-belges-les-mieux-payes>

³³² FedWeb, Calcul du traitement, 2014, available via: http://www.fedweb.belgium.be/fr/remuneration_et_avantages/traitement/calcul_du_traitement/#.VZ41Ifntmkr

The following table provides an idea of the amount of the top incomes in the public sector in Belgium, indicating the biggest salaries to be the salaries of the Presidents of the Chamber and of the Senate:

"politique"	Salaire net mensuel
Parlementaire	5 729 €
Vice-Présidents du bureau du Parlement wallon	6 245 €
Président d'un groupe politique au Parlement wallon	6 457 €
Parlementaire et bourgmestre	7 588 €
Président du Parlement wallon	9 316 €
Président du parlement de la Fédération Wallonie-Bruxelles	9 316 €
Secrétaire d'Etat	10 702 €
Ministre fédéral	11 150 €
Ministre wallon	11 451 €
Premier Ministre, Vice-Premiers fédéraux	11 477 €
Président de la Chambre et du Sénat	16 566 €

333
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Prime Minister

The Prime Minister earns 11.477 €/month (own calculation = around 18.000 €monthly gross salary, hence, amounting to around 216.000 €annual gross salary). This is not enshrined in the law, it depends on who is the Prime Minister, from which political party he comes. Indeed the socialists decided to decrease the amount of their salaries. The same holds true for the Ministers.

Ministers

The Ministers of the Federal Government earn 11.150 €/month, which means around 17.500 € gross salary/month hence amounting to around 210.000 €annual gross salary.

³³³ F. C., Les vrais salaires de la politique belge, Lalibre Belgique, 2013, available via: <http://www.lalibre.be/actu/politique-belge/les-vrais-salaires-de-la-politique-belge-528d8e773570386f7f3091f2>

Members of the Parliament

Article 66 of the Constitution mentions the benefits enjoyed by the federal parliamentarians. According to this article, a member of the federal parliament working in the Chamber earns € 729, 20 /month (net salary).

Presidents of the Chamber and of the Senate have the same salary. It amounts to approximately 16.566 euros/month.³³⁴ The parliamentary indemnity is based on the treatment of a State counsellor beginning his carrier. At the moment it amounts to **5729 euros/month** (gross salary), which amount to around 68.748 €gross per annum. The provisions on salaries of the members of the Parliaments are not enshrined in laws, they can be found in the **internal regulations** of each Parliament. Members of the Federal Parliament, as explained in the Letter from the President of the Chamber of 16 September 2010, will see their salaries **cut** if they participated in **less than 80%** of the sessions in which their **votes were needed**. Thus, the salaries of Parliamentarians are **not fixed**, they depend on their presence in the assembly.

Judges

Under Article 151(4) of the Belgian Constitution, the judges are **appointed by the King**, under the conditions and in the manner specified by the law.³³⁵ Newly appointed judges earn **56.487 € gross per year**. This is 1.5 time more than the average annual salary in Belgium. The annual salary of judges in charge of the **highest jurisdictions** amounts to **122.196 € gross per year**. This is 3.2 more than the average annual salary in Belgium. Belgian judges are appointed on the basis of their experience and after having passed an exam. The salaries are **calculated depending on the professional experience**. The formula used to calculate the judges' salary is called the **Claeys Formula**. It reads as follows: for white-collar employees with an annual gross remuneration under 120,000 EUR: $(0.87 \times \text{length of service}) + (0.055 \times \text{age}) + (0.038 \times \text{annual gross remuneration}/1000) - 1.95 = \text{months' notice}$.

Since their **competences** are taken into account and since they have to **pass a difficult exam**, not accessible to everybody, the remuneration of judges is not really challenged. Moreover, unlike in several other European countries, the Belgian **ordinary judges do not have benefits**. Only judges exercising in the field of youth protection receive an annual gross bonus of 3867€

³³⁴ Ibid at 7.

³³⁵ European e-Justice Portal, Judicial systems in Member States: Belgium, 2015, available via: https://e-justice.europa.eu/content_judicial_systems_in_member_states-16-be-en.do?member=1

and judges of instruction an annual gross bonus of 6260€ The salaries of judges are regulated by the second part of the *Judiciary Code of 1967* and by *the Law amending the Judicial Code*, including provisions on the judiciary level A, court registrars and secretaries as well as provisions relating to judicial organization of 25 April 2007.³³⁶

High Civil Servants

Senior government positions:

It is the government that decides on the salary of senior government positions, more specifically the Minister for Civil Service. Base salary levels for senior civil servants vary by band (1-7). In 2008, all top civil servants belonged to band 7. There is no current data about to which band top civil servants belong in 2015. Senior civil servants will only receive a base salary.³³⁷ The Belgian law has a **distinct senior civil servant status**. The senior servants are recruited in a different way than civil servants in general³³⁸:

Functional level	Typical title	Belonging to senior civil service: yes/no	Political appointment: yes/no
1 st	Chairman	Yes	yes
2 nd	Director-General	Yes	no
3 rd	Director	Yes	no
4 th	Advisor-General	no	no
5 th	Advisor	no	no

Civil servants:

A remuneration grid for civil servants is established in Belgium. This grid however only applies to the staff of the public administration, it is not concerned with the highest jobs.³³⁹ Groups of public employees are covered by the same civil service legislation as civilian central government employees: only the subnational government, not the police, nor the education and health systems.

³³⁶ The law is available via the following link: http://www.etaamb.be/fr/loi-du-25-avril-2007_n2007009412.html

³³⁷ H. Kuperus & A. Rode, *Top Public Managers in Europe Management and Working Conditions of the Senior Civil Servants in European Union Member States*, 2008.

³³⁸ *Ibid* at 13.

13 *Ibid* at 8.

The salary of civil servants depends on different factors: their function and their experience. Civil servants can belong to different categories, from **Level A to Level D**, A encompassing the highest paid civil servants. The **reference** standard in this case is the salary of an **administrative expert with 5 years of experience** (level B1).³⁴⁰ The salaries of each level are determined in accordance with the *Royal Decree of 25 October 2013* on the pecuniary carrier of the federal public function's staff.³⁴¹

b. What is the scope of the standard?

Belgium is a decentralized federal State. Matters are regulated at different levels. As mentioned above, the salaries and treatments of parliamentarians at the regional levels are not enshrined in laws but rather governed by internal regulations; for instance the *Internal Regulation of the Walloon Parliament on the indemnities of the staff members* adopted on 26 March 2014. Article 1 of this Regulation provides that the monthly income of a staff member is **4.459, 25 euros/month (gross)** (pivot index = 138, 01€). This indemnity is linked to the **cost of living**. This Regulation also stipulates that Parliament's members receive benefits such as free transport cards, lunch tickets, and a chauffeur.

d. Do specific or special (external) contexts/circumstances (e.g. legal or economic) play a role in the explanation or justification of the top incomes policy?

In 1995 – 1996 a revision of the Belgian reward structure was launched. This revision was a response to controversies and discussions on the fiscal regime. The regime was indeed questioned by the tax administration and it was politicized by an opposition party.³⁴² The traditional political parties, the Socialists, the Liberals and the Christian-Democrats, quickly agreed on the revision. The 1996 revision brought several changes, the main one being that the tax exemption enjoyed by the MPs was abolished and replaced by a system of tax-free allowance.³⁴³

³⁴⁰FedWeb, Rémunération et avantages, 2014, available via :

http://www.fedweb.belgium.be/fr/remuneration_et_avantages/traitement/calcul_du_traitement/#.VYUbjPntmko

³⁴¹ Ibid at 11.

³⁴² M. Brans, Rewards at the top in Belgium, 125.

³⁴³ Ibid at 1, 131.

In 2000, a new reform, the Copernicus plan, was instigated by a new government, formed by the Social Democrats, the Liberals and the Greens. This plan was not directly linked to the previous fiscal change. This plan allowed for swift ascension to the top, in order to increase the flexibility and mobility in the public sector. The chairs of the government services were appointed via mandate or contract, the salaries of the chairs of the management committees, who were appointed for 6 years, doubled. Therefore, they were appointed because of their experience and competences. Top civil servants earned more than 2.5 times the base salary of an MP in order to attract qualified candidates.

A heated public and political debate about the subject reemerged especially after the economic crisis in 2008. Also scandals played a role in the decisions of changing the law.³⁴⁴ After the crisis in 2008, the Belgian population requested more transparency regarding the income, the rewards and the bonuses of top officials. Politicians were required to prove and to restore the legitimacy of their rewards. The public and the media exerted pressures to influence political decisions to further enhance the transparency of and to decrease executive pay. Consequently, the crisis of 2008 and the enforcement of austerity measures have constituted the triggers to foster the change for the decisions to tighten the law.³⁴⁵

The remuneration of the PM and the Ministers has been politicized in the context of the economic turmoil in 2008. The euro-crisis had been a determining factor when the top incomes had to be calculated. Indeed, politicians from the left-wing party, governing the country at that time, decided to decrease their salaries because of the crisis. Moreover, the salaries in Belgium are linked to the cost of living.

3.What is the scope of the executive pay policy?

a. For which sectors and levels of government does the top income policy apply? (Public/semi-public, including/excluding autonomous units, national/regional/...)

Since there is no executive pay policy, this question cannot be answered. However, one can see that since Belgium is a federal State the discussion on salaries is dealt with at different levels, the federal and regional level.

³⁴⁴ Les vrais salaires de la politique belge, J.C., LaLibre.be, 28/11/2013.

³⁴⁵ Les vrais salaires de la politique belge, J.C., LaLibre.be, 28/11/2013.

b. Which organisations are categorised as/recognised as the public and semi-public sector?

After the Copernic plan, a new name was attributed to the federal public ministry: the Service Public Fédéral (SPF). Each Service Public Fédéral corresponds to a Minister and to a competence. The Service Public Fédéral represents the Belgian federal public sector.

c. For which groups of senior/top officials does the standard apply? (Top executives, internal regulators, interimmers...)? Based on which arguments?

There is a difference between so-called ‘mandataires’ and ‘contractuels’, employed on the basis of a contract. Limited term contracts have been introduced for senior civil servants in 2014. There also exist both departmental and individual performance agreements in the Belgian Civil Service, which include key policy objectives and a time plan. In practice it has been difficult to motivate the ministers to evaluate their most senior civil servants. In Belgium, there is **no link between performance and pay**. However it is important to note that, if the performance objectives are not achieved, the individual may be released from its position. In practice the vast majority of senior civil servants have their contract renewed. The **principle of ministerial accountability** is still prominent as a result of Belgian reforms, and transparency has improved due to the increased publication of management plans.³⁴⁶

For **fixed terms contract employees** only levels B, C & D are available. Experience, either in private or in public sector and age are taken into account when calculating the salary.

The Special Law of 8 August 1980 establishes that the recruitment of **statutory public servants** has to be made via the services of the federal recruitment office called the **SELOR**. Fixed term contracts, although not officially covered, are in use under the General Employment Framework (GEF). Separate human resources practices are used for senior civil servants who are considered a separate group and have separately defined skills profile.

For the ‘**mandataires**’, the appointed agents/attorneys, a test of 13 criteria has been established. According to the number of points received, the job is linked **to 1 of the 7 classes of salaries**.

³⁴⁶ Ibid at 1.

For instance, the presidents of the federal public service belongs to the 7th class. Here is the amount of the **annual gross salary** per class:

- Class 1 = 51 973,55 €
- Class 2 = 57 104,87 €
- Class 3 = 65 508,80 €
- Class 4 = 73 185,81 €
- Class 5 = 87 385,33 €
- Class 6 = 102 162,42 €
- Class 7 = 117 600,71 €

Mandataires fill the 4 top senior levels of the civil service. They are appointed for 6 year terms, during which they undergo performance evaluation at regular intervals. At the end of their terms, they have the possibility to apply for a renewal. Mandate holders can be recruited externally (the two highest levels, N and N1 only) or from the pool of existing career civil servants (N, N1, N2, and N3).³⁴⁷

An example of mandataires are mayors. Mayors, according to Article L- 1123-15 of the *Local Democracy and Decentralisation Code*, are **paid according to the number of inhabitants of the area they govern**. The table provides an overview of gross annual salaries. The bigger the city, the bigger the salary ³⁴⁸:

<i>Nombre d'habitants</i>	<i>Traitement alloué</i>
300 habitants et moins	13.785,16 euros
301 à 500 habitants	15.242,03 euros
501 à 750 habitants	16.697,77 euros
751 à 1.000 habitants	18.639,00 euros
1.001 à 1.250 habitants	20.580,68 euros
1.251 à 1.500 habitants	21.186,92 euros
1.501 à 2.000 habitants	21.793,61 euros

³⁴⁷ Ibid at 1.

³⁴⁸ Union des villes et des communes de Wallonie asbl, Le statut des mandataires communaux, 2014, available via: <http://www.uvcw.be/articles/3,17,2,0,2146.htm>

2.001 à 2.500 habitants	22.582,33 euros
2.501 à 3.000 habitants	23.492,59 euros
3.001 à 4.000 habitants	24.523,74 euros
4.001 à 5.000 habitants	25.433,75 euros
5.001 à 6.000 habitants	28.100,02 euros
6.001 à 8.000 habitants	29.912,10 euros
8.001 à 10.000 habitants	31.983,61 euros
10.001 à 15.000 habitants	36.663,56 euros
15.001 à 20.000 habitants	39.276,32 euros
20.001 à 25.000 habitants	46.817,39 euros
25.001 à 35.000 habitants	49.891,02 euros
35.001 à 50.000 habitants	52.810,93 euros
50.001 à 80.000 habitants	61.937,53 euros
80.001 à 150.000 habitants	74.668,50 euros
plus de 150.000 habitants	80.492,09 euros

Mayors also have **other benefits** such as a holiday premium (between 65% and 92% of their gross salary) and end of the year premium.³⁴⁹ Since 2012, a new law on the ‘cumul des mandats’ (= several jobs at the same time) stipulates that, mayors cannot earn **more than 1.5 time** the parliamentary indemnity (in 2011, **169.546,56 €** gross per year).

There are 4 different levels of salaries. These levels are put on a scale and each profession falls into a level, the level determining the salary and the benefits. The levels go from A to D and are further subdivided. For **fixed terms contract employees** only levels B, C & D are available. Experience, either in private or in public sector and age is taken into account when calculating the salary. This scale of salaries is regulated by different laws. This wide variety of laws shows the complexity and non-transparency of the system:

The Royal Decree of 2 October 1937 on the statute of the state agents. Article 1 of this Decree provides a definition of state agents: every person who works, who provides services, on a definitive basis, to the State administrations. Article 3 of this law establishes the 4-levels scale.

³⁴⁹ Références, Combien gagnent nos bourgmestres et échevins ?, 2012, available at: <http://www.references.be/carriere/salaires/Combien-gagnent-nos-bourgmestres-et-echevins>.

The 3 Articles following article 3 (Articles 4, 5 and 6) discuss to which level each job belongs to.³⁵⁰ Article 4 precisely further divides the A level into four sub-levels, from A1 to A4.

The Royal Decree of 29 June 1973 gives guaranteed compensation to certain federal public servants.³⁵¹ This Decree fixes a pay matrix. The scale in this matrix is divided into four different levels, top Civil Servants being part of level 1. The reward system is composed of the annual salary, a premium at the end of the year, and holiday pay. All are linked to the salary scales.³⁵²

The Royal Decree of 11 February 1991 secures individual pecuniary right for people hired by employment contract in federal public services.³⁵³

The Royal Decree of 11 July 2001 on the weighting of the management functions and framing in the federal public services and laying their treatment. This Decree establishes a table for calculating the points of the managers, the number of points determining the salary.³⁵⁴

The Royal Decree of 28 November 2008 on the end of the year premium granted to employees of the ‘Trésor Public’. This Decree amends a Decree of 1979. Article 3 of the 2008 Decree determines an annual denominator for the calculation of the premium. Such a premium is composed of an inclusive part and a variable part.³⁵⁵

The Royal Decree of 25 October 2013 on the pecuniary careers of staff members of the Federal Public Service. This Decree describes the organization of the scales and sub-scales of public staff members in order to calculate their salaries.³⁵⁶

³⁵⁰ Arrêté Royal du 2 Octobre 1937 portant sur le statut des agents de l'état, available at:

[http://www.fedweb.belgium.be/fr/binaries/1937-10-02%20KB%20\(Statuut%20-%20Compatibiliteitsmodus\)_tcm119-9641.pdf](http://www.fedweb.belgium.be/fr/binaries/1937-10-02%20KB%20(Statuut%20-%20Compatibiliteitsmodus)_tcm119-9641.pdf)

³⁵¹ Arrêté royal du 29 juin 1973 (M.B. du 8.8.1973) accordant une rétribution garantie à certains agents des services publics fédéraux, available at:

http://www.fedweb.belgium.be/fr/binaries/19730629_KB_AR_retribution_garantie_gewaarborgde%20bezoldiging_tcm119-53351.pdf

³⁵² M. Brans, *Belgium: Public Office and Private Rewards*, 106.

³⁵³ Arrêté royal du 11 février 1991 (M.B. du 21.2.1991) fixant les droits individuels pécuniaires des personnes engagées par contrat de travail dans les services publics fédéraux, available at:

http://www.fedweb.belgium.be/fr/binaries/19910211_KB_AR_tcm119-9683.pdf

³⁵⁴ Arrêté royal relatif du 11 juillet 2001 relatif à la pondération des fonctions de management et d'encadrement dans les services publics fédéraux et fixant leur traitement, available at:

http://www.fedweb.belgium.be/fr/binaries/20010711_kb_managementfuncties_fods_nl_fr_tcm119-10546.pdf

³⁵⁵ ARRETE ROYAL DU 28 NOVEMBRE 2008 REMPLAÇANT, POUR LE PERSONNEL DE CERTAINS SERVICES PUBLICS, L'ARRETE ROYAL DU 23 OCTOBRE 1979 ACCORDANT UNE ALLOCATION DE FIN D'ANNEE A CERTAINS TITULAIRES D'UNE FONCTION REMUNEREE A CHARGE DU TRESOR PUBLIC, available at:

http://www.fedweb.belgium.be/fr/binaries/20081128_KB_AR_eindjaarstoelage_allocation_fin_annee_tcm119-28473.pdf

³⁵⁶ Arrêté royal du 25 octobre 2013 relatif à la carrière pécuniaire des membres du personnel de la fonction publique fédérale, available at: http://www.fedweb.belgium.be/fr/binaries/20131025_nieuwe_loopbaan_nouvelle_carri%C3%A8re_tcm119-236933.pdf

The Royal Decree of 25 September 2014 on various measures relating to the selection and the carrier of state agents. This Decree amends some articles of the previous decrees relating to the state agents.³⁵⁷

For the ‘mandataires’, the appointed agents/attorneys, a test of 13 criteria has been established. According to the number of points received, the job is linked to 1 of the 7 classes of salaries. For instance, the presidents of the SPF, the federal public service, belong to the 7th class. Here is the amount of the annual gross salary per class:

- Class 1 = 51 973,55 €
- Class 2 = 57 104,87 €
- Class 3 = 65 508,80 €
- Class 4 = 73 185,81 €
- Class 5 = 87 385,33 €
- Class 6 = 102 162,42 €
- Class 7 = 117 600,71 €

d. To what extent are the hourly rates for the remuneration of interim staff, consultants, etc. that are hired by the government on a temporary basis, also regulated by a standard?

Hourly rates are not regulated in Belgium.

e. To what extent do exemptions under private law to the application of the standard exist? To what extent do exemptions under private law undermine the application of the standard?

Since 2012, the ‘**cumul des mandats**’ is limited. *Cumul des mandats* means holding different offices at the same time. This is due to the passing of the *Local Democracy and Decentralization Code*. MPs **can no longer** have a second job in the federal administration. Nor can they belong

³⁵⁷ Arrêté royal du 25 septembre 2014 portant diverses mesures relatives à la sélection et à la carrière des agents de l’Etat, available at: [http://www.fedweb.belgium.be/fr/binaries/2014-09-25%20KB%20\(diverse%20maatregelen%20betreffende%20de%20selectie%20en%20de%20loopbaan%20van%20het%20Rijkspersoneel\)_tcml19-258179.pdf](http://www.fedweb.belgium.be/fr/binaries/2014-09-25%20KB%20(diverse%20maatregelen%20betreffende%20de%20selectie%20en%20de%20loopbaan%20van%20het%20Rijkspersoneel)_tcml19-258179.pdf)

to the board of directors of a public enterprise (SNCB, Belgacom, bpost). They cannot practice as judges.³⁵⁸ **MPs can only exercise a public function** next to their parliamentary function if the salary of the second function does not consist of **more than half** of their parliamentary indemnities (in 2012: 57.648,91 euros gross per year). If this limit is **exceeded**, the parliamentary indemnity is **reduced**.³⁵⁹

4. Which instrument is used on the control of executive pay? What are the relevant similarities and differences with the WNT?

Since there is no executive pay policy in Belgium, there is no instrument controlling it. However the national Court of Auditors is responsible for ensuring that the finances, the public funds of the State are well distributed and well managed. The Court of Auditors regularly transmits its results to the parliamentarians. The Court of Auditors is governed by Article 180 of the Constitution.³⁶⁰ Competences of the Court of Auditors are further elaborated on in the *Law of the 29 October 1846* on the organisation of the Court of Auditors.

a. If data on salaries collected systematically in the same way as in the Dutch case? If so, by which bodies and how?

Data on salaries is not collected systematically as it is the case in the Netherlands.

b. What is the role of accountants in the management of executive pay?

Accountants working at the Court of Auditors play only a limited role, it is not as important as in the Netherlands, since there is no law on the topic.

c. To what extent are there installed mechanisms for self-regulation?

The income is regulated according to the rules and reference points set out by the pay scheme. The mandates also play a role, if too many offices are held at the same time, a limitation will be imposed by the cumul des mandate (see question 3 (e)).

³⁵⁸ Jobat, *Quels cumuls possibles pour un membre du parlement?*, 2013, available at: <http://www.jobat.be/fr/articles/quels-cumuls-possibles-pour-un-membre-du-parlement/>

³⁵⁹ Ibid at 14.

³⁶⁰ FedWeb, *Cour des Comptes*, 2013, available at:

http://www.fedweb.belgium.be/fr/a_propos_de_l_organisation/budget_et_marches_publics/organismes_de_controle/cour_de_s_comptes/#.VYVjJ_ntmkp

d. What sanctions exist in case of exceeding the norm? What powers do supervisors have, for example, to ask back salary that was paid too much?

Because of the limitation of ‘cumul des mandats’ (question 3 (e)), salaries are reduced if they exceed a certain limit, and the combination of too many mandates is no longer allowed.

e. To what extent is there a system of disclosure of executive pay provided/foreseen? Based on what arguments?

The media regularly publishes the data on PM’s and MP’s salaries to the public. The government does not publish the data itself.

The special laws of 2 May 1995 and of 26 June 2004 put the obligation on certain ‘mandataires’ and high civil servants to disclose the list of their accounts, functions and jobs to the Court. They also have to make a declaration of patrimony.³⁶¹

5. How is the monitoring regarding the compliance with the standards organized? Who exercises this monitoring role?

No information regarding the monitoring of executive remuneration in Belgium was found. There is no law on the topic.

³⁶¹ Missions et compétences de la Cour des Comptes, available at : <https://www.ccrek.be/FR/Presentation/MissionsEtCompetences.html>

10.2 Semi Public Sector

1. To what extent is there a (political) discussion in EU countries about policies controlling top income? In/On which political context is the policy set/based on, out of/based on political theory and with what arguments?

The debate about the salaries of CEOs of semi-public companies in Belgium is vivid. Proposals of reforms have been made, but there is **no concrete law yet**. The applicable regime at the moment is the *Act of 21 March 1991 on the reform of some public economic enterprises*.³⁶² The Company Code also regulates matters concerning listed companies.³⁶³ (Definition of a listed company: art. 4 *Company Code*).

Various law proposals amending this Act are pending in the Belgium parliament:

- Proposed law: Doc 53/1395/001, April 26, 2011: Bill to amend the Companies Code and the Act of 21 March 1991 on the reform of certain economic public enterprises in this regard to the moderation and the justification for the remuneration variable leaders;
- Proposed law: Doc: 53 1396/001, 26 April 2011: Draft law amending the Companies Code and the Act of 21 March 1991 on reform of certain public economic enterprises, as regards the publication of differences remunerations;
- Proposal law: Doc 53 1397/001, 26 April 2011: Proposed Resolution to moderate the remuneration of leaders of autonomous public enterprises.

The debate opposes the **two main political formations**: the left-wing one, led by the Socialist Party (PS) in the south of the country and by its northern alter ego, the SPA, and the right-wing one, MR in Wallonia and Open-VLD in Flanders. The left-wing parties thought that CEOs of state-owned enterprises **earned too much** and proposed a law on a reform of these CEO's salaries. The targeted enterprises were, for instance, Belgacom (telecommunications), bpost (postal services) and the SNCB (railway). This law however never passed. The parties of the right wing won the last elections in May 2014 and **did not reconsider passing the proposal**. Alexander de Croo, from the Open VLD, is the new Minister of Public Enterprises. He decided

³⁶² Loi portant réforme de certaines entreprises publiques économiques. Available at:

http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=fr&la=F&cn=1991032130&table_name=loi

³⁶³ Code des Sociétés, available via:

http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=fr&la=F&cn=1999050769&table_name=loi

that interfering with the salaries of the CEOs was not his role. Thus, there is no law regulating the rewards of the top CEOs yet.

A ministerial committee was set up in August 2013 and decided on the nomination of 5 CEOs for the following companies: SNCB, SFPI, Lotterie nationale, FSMA, Belgocontrol. All of these nominations are politically labelled.³⁶⁴ Doubts concerning the importance of experience and competences when electing the candidates were therefore raised by an opposing party, the Greens.³⁶⁵ A justification to the importance of the amount of salaries is that enterprises need **better managers** and in order to **attract** them, **high salaries** in line with the market are needed. At the moment there is no law on the topic that would function as a cap.

2. Which standard is chosen? What is the standard based on?

a. What is the precise point of reference of the standard?

A **first proposal** made by Mr H. Bogaerts in 2012 aimed at reducing the salaries of CEOs to 400.000€ that is 200% of the PM's annual salary. This has been a **proposal of a law for a cap**. The proposal for fixed payment in the semi-public sector states the following amount: 290.000 € gross annual salary (Details of this salary: 200.000 €, which is the same salary as a President of the 'Service Public Fédéral' + 30% of the fixed part and other advantages such as insurance and extra-legal benefits for a maximum of 15%). This proposal was made by Mr. Magnette, the Minister of Public Enterprises in 2012. This proposal concerned the total remuneration of newly hired executives into state-owned companies (companies where the state holds a majority stake). The cap was strongly resisted by businesses because it was considered as being anti-competitive. The proposal however **never came into force**.³⁶⁶

This cap would only affect the CEOs appointed at the federal level and would only apply to CEOs employed after the law has been enacted. According to the Minister, this proposal would be part of a worldwide attempt to bring morality back to economics. Here is a table giving some examples of annual gross salary and the decreases of salaries in case Mr Magnette's proposal would have been passed:

³⁶⁴ Belga, Les patrons des entreprises publiques ont été choisis, 2013, available at: <http://www.dhnet.be/actu/belgique/les-patrons-des-entreprises-publiques-ont-ete-choisis-522326b8357060cc093e08ed>

³⁶⁵ Ibid at 3.

³⁶⁶ Références, Et si les salaires des patrons d'entreprises publiques étaient limités selon Magnette?, 2013, available via: <http://www.references.be/carriere/choisir/Et-si-les-salaires-des-patrons-d-entreprises-publiques-etaient-limites-selon-Magnette>

Directeur (Director)	Entreprise (Enterprise)	Salaire en 2011* (2011 Salary)	Salaire selon la proposition de Magnette (Salary according to the proposal)	% en moins (Decrease - %)
<u>Didier Bellens</u>	Belgacom	2.580.147 €	290.000 €	-88,8%
Johnny Thijs	Bpost	1.104.941 €	290.000 €	-73,8%
Jannie Haek	SNCB Holding	496.963,07 €	290.000 €	-41,6%
Luc Lallemand	Infrabel	480.187,68 €	290.000 €	-39,6%
<u>Marc Descheemaeker</u>	SNCB	477.341,72 €	290.000 €	-39,2%

b. What is the scope of the standard?

The law was never passed therefore it is impossible to evaluate the scope of the standard.

d. Do specific or special (external) contexts/circumstances (e.g. legal or economic) play a role in the explanation or justification of the top incomes policy?

The proposals for a cap were formulated because, after the economic crisis in 2008, the CEOs were found by the public to earn too much. Indeed, the trigger of the first proposal made by Hendrik Bogaerts was the fact that the press and thus the people discovered that the CEO of Belgacom, the telecommunications company, earned more than 2 million € in 2012.

3. What is the scope of the executive pay policy?

a. For which sectors and levels of government does the top income policy apply? (Public/semi-public, including/excluding autonomous units, national/...)

The proposal aimed to apply at the top managers of semi-public enterprises in companies where the state holds a majority stake.

b. Which organizations are categorized as/recognized as the public and semi-public sector?

The enterprises belonging to the semi-public sector can be defined as enterprises partially owned by the state, where the Belgian state is a shareholder. Examples of these companies are listed in the above table.

c. For which groups of senior/top officials does the standard apply? (Top executives, internal regulators, interim...)? Based on which arguments?

The proposals on top incomes aimed at restricting the salary of the senior executives, the CEOs of these enterprises.

d. To what extent are the hourly rates or the remuneration of interim staff, consultants, etc. that are hired by the government on a temporary basis, also regulated by a standard?

There is no evidence that the law regulates hourly rates and the salaries of interim of the semi-public companies.

e. To what extent do exemptions under private law to the application of the standard exist? To what extent do exemptions under private law undermine the application of the standard?

There seems to be no exemption under private law.

4. Which instrument is used on the control of executive pay?

a. Is data on salaries collected systematically in the same way as in the Dutch case? If so, by which bodies and how?

All companies have to disclose their annual losses and benefits. However it cannot be said that data on salaries is systematically collected as there is no institution to which the information is reported.

b. What is the role of accountants in the management of executive pay?

Accountants of the companies have a great role in disclosing the companies' reports.³⁶⁷

³⁶⁷ Cour des Comptes, Mission et compétences, available via : <https://www.ccrek.be/FR/Presentation/MissionsEtCompetences.html>

c. To what extent are there installed mechanisms for self-regulation?

There are no mechanisms for self-regulation. This field is not transparent, complicated and mostly not regulated in Belgium. Because of the fact that CEOs are appointed by ministers and that they are all linked to a political party, CEOs of a public company have a political connection.

d. What sanctions exist in case of exceeding the norm? What powers do supervisors have, for example, to ask back salary that was paid too much?

Since there is no fixed norm, there cannot be any excess nor sanction. However, in Paul Magnette's proposal, it was foreseen that the 'golden parachutes' would be limited to one year of salary. Moreover, if an executive were to quit or to get fired, they would leave without a compensation or salary.

e. To what extent is there a system of disclosure of executive pay provided/foreseen? Based on which arguments?

According to Art. 96, § 3, alinéa 2, 3^o- 4^o of the *Companies Code*, the companies must disclose a management report, containing financial information. Annual reports on the accounts must be given, in accordance with Article 92 of the *Companies Code*. This is minor (although binding since enshrined in the law) and it cannot be compared to the systematic approach of the Netherlands.

5. How is the monitoring regarding the compliance with the standards organised? Who exercises this monitoring role?

Since the proposal on standard has not been passed, there is no reference point, and consequently no monitoring of compliance.

11. France

11.1 Public Sector

1.To what extent is there a political discussion in EU countries about policies controlling top income? In/On which political context is the policy set/based on, out of/based on political theory and with what argument?

Minister of Decentralization and Public Sector, Marylise Lebranchu, was making an appeal in 2014 to the people earning more than ministers to agree to reduce their salaries.³⁶⁸ It was interpreted that these high earners are high public officials “Hauts Fonctionnaires” (“hors-échelle”) having an index superior of 650.^{369 370} The discussion came about because of protests of public agents in regards to the Prime Ministers Manuel Valls announcement in 2014 that the indexes for the calculation³⁷¹ of the salaries of the public officials will stay frozen.³⁷² The high public officials represent less than 5% of the 5,2 Million of the employees in the whole French public sector.³⁷³ Their salaries do not depend on indexes but scales, each scale stating a salary, from A to G determined by the *Decree n°85-1148 of October 24 1985*. Beside the high salary, the high public official benefit from high bonuses, which could be considered as a “form” of compensation, as the same work practices in the private sector would be entail a higher salary.³⁷⁴ In 2014, it was discussed in the media that, high public officials, such as the director of the “Banque Public d’Investissement” earn an (monthly gross amount of 37.500 Euros)³⁷⁵ annual gross amount of 450.000 Euros³⁷⁶. It is however unclear how the newspaper came up with the amount of the salary.

A new proposal of the *Law on Finances* was presented for the year of 2015 at the General Assembly and is still in discussion. It provides the idea of reducing by half the remuneration in

³⁶⁸ <http://www.latribune.fr/actualites/economie/france/20140417trib000825823/ces-plus-hauts-salaires-de-la-fonction-publique-appeles-a-faire-un-geste.html>

³⁶⁹ <http://www.fonction-publique.gouv.fr/emplois-superieurs-classes-hors-echelles>

³⁷⁰ <http://www.latribune.fr/actualites/economie/france/20140417trib000825823/ces-plus-hauts-salaires-de-la-fonction-publique-appeles-a-faire-un-geste.html>

³⁷¹ <http://vosdroits.service-public.fr/particuliers/F461.xhtml>

³⁷² <http://www.latribune.fr/actualites/economie/france/20140417trib000825823/ces-plus-hauts-salaires-de-la-fonction-publique-appeles-a-faire-un-geste.html>

³⁷³ <http://www.latribune.fr/actualites/economie/france/20140417trib000825823/ces-plus-hauts-salaires-de-la-fonction-publique-appeles-a-faire-un-geste.html>

³⁷⁴ <http://www.latribune.fr/actualites/economie/france/20140417trib000825823/ces-plus-hauts-salaires-de-la-fonction-publique-appeles-a-faire-un-geste.html>

³⁷⁵ <http://www.lesenqueteducontribuable.fr/2014/10/14/ces-hauts-fonctionnaires-qui-vivent-a-vos-crochets/48521>

³⁷⁶ Annual gross amount calculates by the writer.

the field of public agents per categories. The cost of the personnel in the public sector represents 1/3 of the budget of the state. Already in 2010, the salaries of the higher public officials were frozen as an answer to the economic crisis. According to the proposal of 2015, the index will be frozen and the envelopes establishing the salaries of each category in the public sector will be reduced.³⁷⁷ Syndicates have rejected the reduction of the salaries of the public agents.³⁷⁸ This is why Marylise Lebranchu proposed in June 2015 a re-evaluation of the salaries in the public sector. The proposal concerns the public sector of the state, territory and hospitals and the agents of categories A, B, and C, with A being the highest position and C the lowest position.³⁷⁹ There is a rise of salaries for the start and end of the public agent's career to maintain the attractiveness of these jobs.³⁸⁰³⁸¹

In France until 2007, only the President decided how much he would earn, as it was until then the custom to do so. In the same year, the French President Nicolas Sarkozy wanted to augment his salary to match the one of the Prime Minister³⁸² and asked the national assembly for a reform of the remuneration of the President. The Parliament changed the *Finance Law of 2002* by a new *Financial Law of 2007*, which determined the president's salary since then. In 2012, the course of income policy changed further: During his electoral program, Francois Hollande promised that he would reduce the President's and the Minister's salaries by 30%.³⁸³ Hence, the *Decree n° 2012-983 on the remuneration of the President of the Republic and the Government* was agreed the 23rd of August 2012 by the executive power by which the salaries of the President and the Ministers were reduced by 30%.³⁸⁴ The Decree of 2012 is still applicable.

³⁷⁷ <http://www.senat.fr/rap/114-108-1/114-108-19.html>

³⁷⁸ <http://www.lesechos.fr/economie-france/budget-fiscalite/021135437561-le-gouvernement-serait-pret-a-augmenter-le-salaire-des-fonctionnaires-1128023.php>

³⁷⁹ <http://www.action-publique.gouv.fr/revalorisation-fonctionnaires-remunerations>

³⁸⁰ <http://www.action-publique.gouv.fr/revalorisation-fonctionnaires-remunerations>

³⁸¹ <http://www.lesechos.fr/economie-france/budget-fiscalite/021135437561-le-gouvernement-serait-pret-a-augmenter-le-salaire-des-fonctionnaires-1128023.php>

³⁸² <http://elections.lefigaro.fr/flash-presidentielle/2012/03/08/97006-20120308FILWWW00474-sarkozy-explique-sa-hausse-de-salaire.php>

³⁸³ Le Parti Socialiste, 2012: 32

³⁸⁴ Le Conseil constitutionnel et le traitement du président de la République : une hérésie constitutionnelle, Olivier Beaud

2. Which standard is chosen? What is the standard based on?

a. What is the precise point of reference of the standard?

There is no cap provided for the Public Sector. Rather the remuneration of high-level officials is regulated by a pay system that uses scales and decrees. The standard of reference for the calculation of the remuneration of top officials is a range of base salaries determined by a scale for the position of senior civil servant/Hauts Fonctionnaires/grand corps de l'État. There is no real definition of a Hauts Fonctionnaire, it is more a customary notion.³⁸⁵ One can estimate that such a position in an administration is of high prestige, as the placements are high in the hierarchy and demand major responsibility.³⁸⁶ They are recruited from renowned French institutions of higher studies.³⁸⁷ Two distinctions are made in this group, the *technical Hauts Fonctionnaire* recruited from the "École Polytechnique" and the *administrative Hauts Fonctionnaire* recruited from the "École Nationale d'Administration".³⁸⁸ In the group of *technical Hauts Fonctionnaire*, one can find the engineers of "Ponts et Chaussées" and the engineers of Mines.³⁸⁹ Their responsibilities are of directions in the different field construction, economy, finances and industries.³⁹⁰ In the *administrative Hauts Fonctionnaire* one can find the consultant body of the "Conseil d'État", giving advice to the government. Also they constitute the judges of last resort, the consultant body of the Court of Auditors, where they control the use of the public funds by the public and private persons and also have the right to report to the parliament and the government on public financial affairs by an annual report. Further they represent the body of the General Inspectorate of Finance, where the consultants verify the public accounts.³⁹¹

The remuneration of top functionaries is determined by **calculations of (varying average) base salaries of the scale "hors-échelle" according to position in the scale**. Apart from that, there are *Decrees*, which regulate the salaries for the positions that do not fall under the scale of "hors-échelle", such as the *Decree No 2012-983 of 2012* that determines the salaries of the President and the government and stipulates the calculations for these positions. Still, in all the *Decrees* concerning the remuneration of the public agents, an increase of the remuneration is given **in**

³⁸⁵ <http://www.vie-publique.fr/decouverte-institutions/institutions/administration/acteurs/qu-est-ce-qu-grand-corps-etat.html>

³⁸⁶ <http://www.vie-publique.fr/decouverte-institutions/institutions/administration/acteurs/qu-est-ce-qu-grand-corps-etat.html>

³⁸⁷ <http://www.vie-publique.fr/decouverte-institutions/institutions/administration/acteurs/quels-sont-grands-corps-etat.html>

³⁸⁸ <http://www.vie-publique.fr/decouverte-institutions/institutions/administration/acteurs/quels-sont-grands-corps-etat.html>

³⁸⁹ <http://www.vie-publique.fr/decouverte-institutions/institutions/administration/acteurs/quels-sont-grands-corps-etat.html>

³⁹⁰ <http://www.vie-publique.fr/decouverte-institutions/institutions/administration/acteurs/quels-sont-grands-corps-etat.html>

³⁹¹ http://www.vie-publique.fr/decouverte-institutions/institutions/administration/acteurs/quels-sont-grands-corps-etat.html#rub_97

relation to the scale attained by the employees, in varying forms such as calculating different **average salaries** that are for certain positions multiplied with **a multiple that varies per position (and an index)**.

The ‘hors-échelle’ category relates to the public servants whose majored indexes are between 881(A) and 1501(G), respectively representing an annual gross salary of 48.951,44 Euros and 83.400,81 Euros and only the position in the scale from A to G is determinant of their salary.³⁹² Majored Indexes are normally used to calculate the salary of public agents and the gross index indicates the career position of the Public Agent.³⁹³ The *Decree n°85-1148 of 24th October 1985*, in its article 6, provided below, determines the different scales of the “Hors-échelle” employees and gives the annual salaries.³⁹⁴ They are also called “Hauts Fonctionnaires” (higher public servants), and their recruitment depends on their education qualifications.³⁹⁵

The President, government officials and parliamentarians earnings depend on the category of ‘hors-échelle’ rates. For example, according to the *Decree No 2012-983 of 2012*, the President earns two times the average of the highest and lowest payments determined in the “hors-échelle scale, whereas the ministers earn 1.4 times the same average. Additional fees are included, which will be further discussed below.

The salaries of the high public officials, Ministers and the President are determined by the following Decrees:

- *Decree No 2012-983 of 2012 determines the salaries of the President and the Government*. This Decree states how to calculate the salary of the President and the Government.

- *Decree n°85-1148 of October 24 1985 on the remuneration on the civil and military personnel of the State, on the personnel of the territorial collectivities and Public Hospitals modified by the Decree n° 2010-761 of July 7 2010*. This is the general Decree

³⁹² <http://www.emploitheque.org/traitement-brut-hors-echelle.php>

³⁹³ <http://vosdroits.service-public.fr/particuliers/F461.xhtml>

³⁹⁴

http://www.legifrance.gouv.fr/affichTexte.do?jsessionid=76A3310DDF28E5A42A4808D2BBF567ED.tpdila10v_3?cidTexte=JORFTEXT00000872483&idArticle=&dateTexte=20150809

³⁹⁵

<http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000030824105&fastPos=13&fastReqId=2014208229&categorieLien=id&oldAction=rechTexte>

determining how the calculation of the remuneration of the Public Agents of the whole French Public Sector should be done. It also gives the remuneration of the Higher Public Official according to fixed scales according to the changes in 2010.

- *Decree n° 2014-425 of April 25 2014 on the remuneration of the Secretary of States.* This Decree determines the calculation of the remuneration of the Secretary of State.

- *Decree n°48-1108 of July 10 1948 on the hierarchical grades of the Personnel of the State relevant to the general Pension Scheme.* This Decree determines the Indexes of the Public Agents, the Grades and the Employments by name. For example the First President of the Court of Auditors is graded as HEG, meaning that the person in that employment belongs to the “Hors-Échelle” scale of G, meaning that the person earns in the realm of 83 400,81³⁹⁶ given by the *Decree n°85-1148 of October 24 1985*. One could say that the indexes are fixing the salaries, as it is upon their utilization, that the salaries of the Public Agents are calculated.

Some of these Decrees have been modified to respect the political environment of the present government. The Decree has an executive value; it is an act of the President of the Republic or the Prime Minister, a power given by the Constitution. Decrees must be conforming to the laws as they are situated under the law in the hierarchy of norms in France.

In the following section the determination of the remuneration of top fonctionnaires will be laid out and the yearly gross base salaries will be presented, in order to better understand how remuneration is determined by the pay system. In all the Decrees concerning the remuneration of the Public Agents, an increase of the remuneration is given in relation to the scale attained by the employees.

³⁹⁶ <http://www.emploitheque.org/traitement-brut-hors-echelle.php>

b. What is the scope of the standard?

High Public Officials

The higher public officials, categorized as “hors-échelle” earning civil servant are subject to salaries defined by the *Decree n°85-1148 of October 24 1985* in its article 6.³⁹⁷ They will be categorized between A and G, A being the lowest grade with gross yearly income of 48 951, 44 Euros and G being the highest grade with gross yearly income of 83 400, 81 Euros.³⁹⁸

The following table is the representation of article 6.

TRAITEMENTS ET SOLDES ANNUELS BRUTS			
soumis à retenue pour pension à compter du 1er juillet 2010 (in euros)			
Groups	Chevrons		
	I	II	III
A	48 951, 44	50 896, 17	53 507, 65
B	53 507, 65	55 785, 75	58 786, 18
B	58 786, 18	60 341, 96	61 953, 30
C	61 953, 30	63 286, 83	64 675, 91
D	64 675, 91	67 620, 78	70 565, 65
E	70 565, 65	73 343, 82	-
F	76 066, 43	-	-
G	83 400, 81	-	-

For the purpose of this study, the high public official of the category G determined by the *Decree n°48-1108 of July 10 1948* will be presented here:

Profession	Scale	Gross Annual Remuneration in Euros
First President of the Court of Auditors	G	83 400, 81
Public Prosecutor of the Court of Auditor	G	83 400, 81
Vice President of the “Conseil d’État”	G	83 400, 81

³⁹⁷

http://www.legifrance.gouv.fr/affichTexte.do;jsessionid=C76D7D706EA364F6559350F4EEDA651C.tpdila08v_1?cidTexte=JORFTEXT000000872483&dateTexte=20150801

³⁹⁸ Article 6,

http://www.legifrance.gouv.fr/affichTexte.do;jsessionid=C76D7D706EA364F6559350F4EEDA651C.tpdila08v_1?cidTexte=JORFTEXT000000872483&dateTexte=20150801

Magistrate of the Judiciary	C - G	61 953, 30 - 83 400, 81
Grand Chancellor of the “Légion d’Honneur”	G	83 400, 81
Grand Chancellor of the “Ordre de la Libération”	G	83 400, 81

The President

The President and the Members of the Government are remunerated according to the *Decree n° 2012-983 of 23rd august 2012*.³⁹⁹ The monthly remuneration is double of the average of the minimum and the maximum of a civil servant “hors-échelle”, where the net index is 650 (determined by the *Decree N No 48-1108 of July 10 1948*, modified by the *Decree of February 16 1957*),⁴⁰⁰ would earn.⁴⁰¹ The monthly gross remuneration of the President and the members of the parliament are completed by a residence compensation of 3% of the remuneration and a function allowance of 25% of the sum of the gross payment and the residence compensation.⁴⁰² The annual gross remuneration would be 178.923,72 Euros for the President⁴⁰³ and 178.923,72 Euros for the Prime Minister⁴⁰⁴. The President’s and the Prime Minister’s annual gross payment, residence compensation and the function allowances correspond to the highest rates defined by Article 1 (these monthly rates were 6950,07 in the year of 2013)⁴⁰⁵ of the Decree and are increased by 5%.⁴⁰⁶

Ministers

Ministers and Delegated Ministers earn⁴⁰⁷ the 1.4 times the civil servant “hors-échelle”.⁴⁰⁸ The annual gross remuneration would be 119.282,40 Euros for the ministers and the Delegated Ministers. This Decree is still applicable and at the moment no changes are discussed. The Secretary of State is remunerated according to a *Decree of 27 April 2014*, where his/her remuneration is 1.33 times the average of the highest and lowest ‘hors-échelle’ standard of the civil service standard.⁴⁰⁹ To this a residence compensation of 3% of the remuneration and a

³⁹⁹ <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000026310466>

⁴⁰⁰ <http://www.fonction-publique.gouv.fr/emplois-superieurs-classes-hors-echelles>

⁴⁰¹ Article 1, <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000026310466>; hors echelle = out of range

⁴⁰² Article 1, <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000026310466>

⁴⁰³ Calculated by the writer

⁴⁰⁴ Calculated by the writer

⁴⁰⁵ <http://www.emploitheque.org/traitement-brut-hors-echelle.php>

⁴⁰⁶ Article 3, <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000026310466>

⁴⁰⁷ Calculated by the writer.

⁴⁰⁸ Article 2, <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000026310466>

⁴⁰⁹ Article 2,

<http://www.legifrance.gouv.fr/affichTexte.do;jsessionid=?cidTexte=JORFTEXT000028879653&dateTexte=&oldAction=dernierJO&categorieLien=id>

function allowance of 25% of the sum of gross remuneration and residence compensation is added.⁴¹⁰ Previous to this Decree, the *Finance Law of 2002* determined the salary of the Secretary of the State, which was 1.9 times the average of the highest and lowest ‘hors-échelle’ standard of the high public officials. This shows a diminution of the salary of the Secretary of State. The annual gross remuneration would be 113.316 Euros for the Secretary of State.⁴¹¹ The Decree determining the Secretary of State’s⁴¹² salary came later than the one determining the President’s and the Members of the Government.⁴¹³

Members of Parliament

The Members of Parliament⁴¹⁴ follow similar calculation and this is determined by the *Order n° 58-1210 of 13th December 1958* upon the organic law. The order has last been modified in 2007 and is still in vigour.⁴¹⁵ ⁴¹⁶ The remuneration of the parliamentarians is equal to the average of the highest and lowest remuneration of the civil servant “hors-échelle”.⁴¹⁷ To this a function allowance is added, which can vary upon the participation of the parliamentarian.⁴¹⁸ This has to be determined by the assemblies.⁴¹⁹ The annual gross remuneration would be 154.440 Euros for the Deputies.⁴²⁰

Constitutional Court

⁴¹⁰ Article 1,

<http://www.legifrance.gouv.fr/affichTexte.do;jsessionid=?cidTexte=JORFTEXT000028879653&dateTexte=&oldAction=dernierJO&categorieLien=id>

⁴¹¹ Calculated by the writer.

⁴¹² Calculated by the writer.

⁴¹³ http://www.lemonde.fr/les-decodeurs/article/2014/04/29/non-le-salaire-des-secretaires-d-etat-n-a-pas-augmente_4409223_4355770.html

⁴¹⁴ The annual gross remuneration would be 154.440 Euros for the Deputies

⁴¹⁵ http://www.senat.fr/role/senateurs_info/statut.html

⁴¹⁶ <http://www2.assemblee-nationale.fr/decouvrir-l-assemblee/role-et-pouvoirs-de-l-assemblee-nationale/le-depute/la-situation-materielle-du-depute>

⁴¹⁷ Article 1,

http://www.legifrance.gouv.fr/affichTexte.do;jsessionid=D7FB0A9EC9D86477A3DB335431854CDF.tpdila08v_1?cidTexte=JORFTEXT000000705195&dateTexte=20150627

⁴¹⁸ Article 2,

http://www.legifrance.gouv.fr/affichTexte.do;jsessionid=D7FB0A9EC9D86477A3DB335431854CDF.tpdila08v_1?cidTexte=JORFTEXT000000705195&dateTexte=20150627

⁴¹⁹ Article 2,

http://www.legifrance.gouv.fr/affichTexte.do;jsessionid=D7FB0A9EC9D86477A3DB335431854CDF.tpdila08v_1?cidTexte=JORFTEXT000000705195&dateTexte=20150627

⁴²⁰ Calculated by the writer.

The Members⁴²¹ of the Constitutional Court receive remuneration according to the *order (n° 58-1067) of 1958*, where their remuneration relates to “hors-échelle” of the two highest category of employment in the service of the State.⁴²² The annual gross remuneration would be 179.004 Euros for the members of the Constitutional Court.⁴²³ These remunerations however have not seen the decrease of 30%.⁴²⁴ It has to be said that the decrease in the remuneration of the judges in the Constitutional Court was not part of the 60 policies of Francois Hollande before becoming President of the Republic.⁴²⁵

The Public Agents in General

The remuneration of the public agents in general are determined through the *Decree n°85-1148 of October 24 1985 on the remuneration on the civil and military personnel of the State, on the personnel of the territorial collectivities and public hospitals modified by the Decree n° 2010-761 of July 7 2010*.⁴²⁶ Remunerations are related to groups and indexes, and the experience and study of each personal will depend in which category they belong to.

Mayors

Mayors are remunerated⁴²⁷ according to the population of the Municipalities. The *Law n° 2015-366 of March 31 2015* determines the indexes which will refer to the relevant amount of remuneration.⁴²⁸ The annual gross remunerations of the mayors can be from 7.752 to 66.144 Euros.⁴²⁹

d. Do specific or special (external) contexts/circumstances (e. g. legal or economic) play a role in the explanation or justification of the top incomes policy?

⁴²¹ The annual gross remuneration would be 179.004 Euros for the Members of the Constitutional Court,

<http://www.journaldunet.com/economie/magazine/le-salaire-des-politiques-et-des-elus/conseil-constitutionnel.shtml>

⁴²² Article 6, http://www.conseil-constitutionnel.fr/conseil-constitutionnel/francais/le-conseil-constitutionnel/les-membres-du-conseil/fondements-textuels/fondements-textuels.220.html#_Toc210217161

⁴²³ Calculated by the writer.

⁴²⁴ <http://www.journaldunet.com/economie/magazine/le-salaire-des-politiques-et-des-elus/conseil-constitutionnel.shtml>

⁴²⁵ <http://www.journaldunet.com/economie/magazine/le-salaire-des-politiques-et-des-elus/conseil-constitutionnel.shtml>

⁴²⁶ http://www.legifrance.gouv.fr/affichTexte.do?jsessionid=76A3310DDF28E5A42A4808D2BBF567ED.tpdila10v_3?cidTexte=JORFTEXT00000872483&idArticle=&dateTexte=20150809

⁴²⁷ annual gross remuneration can be from 7.752 to 66.144

⁴²⁸ <http://www.legifrance.gouv.fr/affichTexteArticle.do?idArticle=JORFARTI000030423041&cidTexte=LEGITEXT000030423951&categorieLien=id>

⁴²⁹ Calculated by the writer.

François Hollande has adopted the decrease of 30% of the remuneration of the President and the member of the government upon taking office in 2012. These changes were related to the current situation at that time, the financial crisis putting into question whether government officials shall earn such high salaries.

3. What is the scope of the executive pay policy?

a. For which sectors and levels of government does the top income policy apply? (public/semi – public, including / excluding autonomous units, national / ...)

The modified top income policy of 2012 applies according to the Decree to the President and the government officials. The *Decree of 1985, modified in 2010*, applies to high-level civil servants who profit from the “hors-échelle” status.

b. Which organizations are categorized as/recognized as the public and semi-public sector?

Public organizations are legal bodies or organisation, which are regulated by the administrative law upon which recruitment is done through public law.⁴³⁰ The public sector in France is divided in three categories, the public sector of the state, the public sector of the territories and the public sector of the hospitals.⁴³¹ A more general term used for the categories is the public employment, in the public administrations.⁴³²

c. For which groups of senior/top officials does the standard apply? (Top executives, internal regulators, interimmers,...) ? Based on which arguments?

The *Decree n°48-1108 of July 10 1948 on the hierarchical grades of the Personnel of the State relevant to the general Pension Scheme* lays out the different professions belonging to the high public official status. The first President and Public Prosecutor being two examples of the highest scale (G). Mostly, as “defined” in question 1, the high public officials are recruited upon

⁴³⁰ <http://insee.fr/fr/methodes/default.asp?page=definitions/fonction-publique.htm>

⁴³¹ <http://insee.fr/fr/methodes/default.asp?page=definitions/fonction-publique.htm>

⁴³² <http://insee.fr/fr/methodes/default.asp?page=definitions/fonction-publique.htm>

their education in prestigious higher education institutes. They mostly have the responsibilities of directing and consultation.

d. To what extent are the hourly rates or the remuneration of interim staff, consultants, etc. that are hired by the government on a temporary basis, also regulated by a standard?

Staff hired by the public sector, but not through public status and thus do not belong to the public sector, can be hired in the three categories of the public sector (state, territory, and hospitals).⁴³³ They can be auxiliary staff, contractual staff, part-timers, and interim staff. Their remuneration is determined by the *Decree n° 86-83 of January 17th 1986 modified in 2014*.⁴³⁴ There is no information on whether the hourly rates are affected by the standard in regards of the decrease of the remunerations in the public sector.

e. To what extent do exemptions under private law to the application of the standard exist? To what extent do exemptions under private law undermine the application of the standard

According to the *Law n° 2000-295 of April 5th 2000*⁴³⁵ limiting the aggregation of terms of office and functions provides that the parliamentarian cannot be a parliamentarian and at the same a consultant in listed cases.⁴³⁶ For ministers it is different, as their office is taken as a function, they can aggregate, for example, being a minister in one sector and at the same time being a mayor of a village.⁴³⁷ Hence their remunerations may be cumulated. Concerning public servants, according to the *Law of 13th July 1983* on the rights and obligations of the public servants, they must use their integral work to the activities given to them.⁴³⁸ A *Decree of 2 May 2007* on aggregation of activities by public servants provides some exceptions, such as to produce scientific, artistic, intellectual or literary products.⁴³⁹ In 2009, the *Law of 3rd August 2009* on the mobility and professional route in the public sector, determines that if a public servant work only 70% as a public official, then it is possible to execute another activity, be it

⁴³³ <http://www.vie-publique.fr/decouverte-institutions/institutions/administration/acteurs/quelles-sont-differentes-categories-agents-administration.html>

⁴³⁴ Article 1-3 <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=LEGITEXT000006065701&dateTexte=20150801>

⁴³⁵ <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=LEGITEXT000005629272&dateTexte=20100622>

⁴³⁶ <http://www.slate.fr/story/23457/cumul-de-mandat-cumul-de-remuneration>

⁴³⁷ <http://www.slate.fr/story/23457/cumul-de-mandat-cumul-de-remuneration>

⁴³⁸ http://lexpansion.lexpress.fr/actualite-economique/un-fonctionnaire-peut-il-cumuler-deux-emplois_1367532.html

⁴³⁹

private or in another public field.⁴⁴⁰ Some conditions⁴⁴¹ are provided including informing the administration.⁴⁴² Some limits are provided in terms of remunerations, where in certain local-local or local-national situation a certain limit of remuneration cannot be surpassed.⁴⁴³

4. Which instrument is used on the control of executive pay? (What are the relevant similarities and differences with the WNT?)

a. Is data on salaries collected systematically in the same way as in the Dutch case? If so, by which bodies and how?

The national statistic and economic studies site collects the data on the remuneration of (senior) public officials nationwide in France. The last publication of the salaries in the public sector by the national statistic and economic studies in its website was in June 2015 for the salaries of 2012.

b. What is the role of accountants in the management of the executive pay?

It could not be determined whether the fiscal authority has a power of control on the executive pay. Although according to law the Court of Auditors has the power to control how the public funds are managed and a power to sanction when the public funds are not managed.

c. To what extent are there installed mechanism for self-regulation?

For the proposal of Law of 2015 reducing the remuneration by categories, no information was found with regard to a self-regulating process. However, the fixing of remuneration by the general pay system with (average) base salaries linked to the pay scale of “hors-échelle” and being calculated with a multiplier, could be regarded as a sort of indirect self-regulation, since determine and fix remuneration. In addition, the supplementary decrees seem to depict indirect ways of self-regulation stipulated by law, which might be brought before the court if not followed.

Public agents that execute the role of the General Inspector and Inspector in the field of Environment or in the field of sustainable development, may receive a bonus depending the

⁴⁴⁰ http://lexpansion.lexpress.fr/actualite-economique/un-fonctionnaire-peut-il-cumuler-deux-emplois_1367532.html

⁴⁴¹ <http://vosdroits.service-public.fr/particuliers/F1648.xhtml>

⁴⁴² http://lexpansion.lexpress.fr/actualite-economique/un-fonctionnaire-peut-il-cumuler-deux-emplois_1367532.html

⁴⁴³ <http://www.slate.fr/story/23457/cumul-de-mandat-cumul-de-remuneration>

functions and results under conditions determined by the *Decree n° 2008-1533 of December 22 2008*.⁴⁴⁴ This can also be seen a self-regulatory measure. Yet, for these positions a ministerial ordinance provides a cap that the bonus cannot surpass.⁴⁴⁵ The relevant amount of the reward of a specific function will be determined by the multiplication in accordance with the responsibility of the public agent.⁴⁴⁶ The amount referred to the results is adjustable in accordance to a coefficient, depending on the individual result.⁴⁴⁷

The *Ministerial Ordinance of 19th June 2014* gives the following bonus payments for the respective Public Agents:

	Referred Amounts (en euros)		
	Functions	Individual Results	Plafonds (CAP)
“Inspecteur général nommé dans un emploi de vice-président ou de président de section du Conseil général de l’environnement et du développement durable”	4 500	6 700	67 200
“Inspecteur général de l’administration du développement durable”	4 000	5 200	55 200
“Inspecteur de l’administration du développement durable”	3 800	3 800	45 600

d. What sanctions exist in case of exceeding the norm? What powers do supervisors have, for example, to ask back salary that was paid too much?

⁴⁴⁴
<http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000020019120&fastPos=1&fastReqId=2098625863&categorieLien=cid&oldAction=rechTexte>

⁴⁴⁵
http://www.legifrance.gouv.fr/affichTexteArticle.do?jsessionid=12A7765656E9A848CA04C76DDBE37A53.tpdila08v_1?cidTexte=JORFTEXT000029175674&idArticle=JORFARTI000029175682&dateTexte=20140702&categorieLien=cid#JORFARTI000029175682

⁴⁴⁶
<http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000020019120&fastPos=1&fastReqId=2098625863&categorieLien=cid&oldAction=rechTexte>

⁴⁴⁷
<http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000020019120&fastPos=1&fastReqId=2098625863&categorieLien=cid&oldAction=rechTexte>

The Decrees determining the remunerations do not in themselves provide any sanctions, they fix the salaries by law. The Court of Auditors plays an important role, as they can sanction the policy maker and the public manager in case of violation of rules or bad management of the state budget.⁴⁴⁸

**e. To what extent is there a system of disclosure of executive pay provided/foreseen?
Based on what arguments?**

As the remunerations rates are given by the different Decrees, the disclosure of executive can be found through the calculation methods provided by the Decree. Also the national statistic and economic studies site provides information on the salaries in the public sector on yearly basis. The Court of Auditors has the responsibilities to inform the citizens of the good application of the public funds, according to the Article 47-2 of the Constitution.

5. How is the monitoring regarding the compliance with the standards organized? Who exercises this monitoring role?

The Court of Auditors (Cour des Comptes) and the General Inspectorate of Finance and the Treasury Department (Inspection Générale des Finances et au Trésor) are the two monitoring institutions that have to some extent the inspections right over the finances and the treasury of the state. The Court of Auditors controls the regularity of management of the expenses of the state (as the application of the public funds must be in accordance with the rules in vigour), efficiency and economy (whether the measures taken are proportional), and effectiveness (whether the measures taken are pursuing the objectives wanted).⁴⁴⁹ The *General Inspectorate of Finance and the Treasury Department* has been given the power to monitor and inspect the budget of the state on the spot or on pieces under the supervision of the Ministry, of the Minister of Economy and Finances, and the Minister of Budget by the *Decree n°73-276 of March 14th 1973*. The Decree provides that *General Inspectorate of Finance and the Treasury Department* can control, audit, study, give consultation and evaluate in the field of the economy, finances and administration.⁴⁵⁰ The Prime Minister can ask for an assignment of investigation to the

⁴⁴⁸ <https://www.ccomptes.fr/Nos-activites/Cour-des-comptes>

⁴⁴⁹ <https://www.ccomptes.fr/Nos-activites/Cour-des-comptes>

⁴⁵⁰ <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=LEGITEXT000006062077&dateTexte=20110623>

General Inspectorate of Finance and the Treasury Department to be accomplished. The Minister of Economy can also assign a task of investigation the *General Inspectorate of Finance and the Treasury Department* in different field of work. As the President of the Republic does the nomination of the Inspector,⁴⁵¹ its autonomy is questionable.

⁴⁵¹ Article 5, <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=LEGITEXT000006062077&dateTexte=20110623>

11.2 Semi-Public Sector

1. To what extent is there a political discussion in EU countries about policies controlling top income? In/On which political context is the policy set/based on, out of/based on political theory and with what argument?

Not only the public sector has become subject to modification in the context of reduction of remuneration, but also the semi-public sector has seen changes with regard to the remuneration of senior executive and managers in 2012, where a maximum remuneration has been set up on the remuneration of the executive functions of the Semi-Public Sector. The *Decree n° 2012-915 of July 2012* to reduce the salaries of directors in the semi-public sector was one of Hollande's 60 policies in his political program before becoming President in 2012.⁴⁵² It was implemented in 2012. The remuneration in the semi-public sector has been determined as being too excessive.⁴⁵³ According to the *Decree n°53-707 of August 9 1953 related to the control of the State on the National Public Enterprises and certain organs having economic and social object modified partly by the Decree n° 2012-915 of July 2012 concerning the remuneration of the Executive Directors*, the **application of a cap** was a necessary step to control the budget in regards to the Public Enterprises.⁴⁵⁴ When public enterprises create affiliates, they can to some extent avoid being controlled, and the help that the state financially provides to the public enterprises can be very risky for the Treasury of the State.⁴⁵⁵ Also transparency on the remuneration of top executives in the semi-public sector was one of the reasons why this standard was decided upon.⁴⁵⁶ The Minister of Economy, Finance and External Commerce stated that this step was to moralise and to control the remunerations of the Executive Officers, which were considered to be too high.⁴⁵⁷ Also it is to portray an example to be followed.⁴⁵⁸

⁴⁵² <http://www.parti-socialiste.fr/dossier/le-projet-de-francois-hollande>, point 26

⁴⁵³ <http://www.economie.gouv.fr/agence-participations-etat/moralisation-et-lencadrement-des-remunerations-des-dirigeants-dentreprise>

⁴⁵⁴ http://www.legifrance.gouv.fr/affichTexte.do;jsessionid=73A5F2CBB18532A8CBECA14340D328DD.tpdila12v_3?cidTexte=JORFTEXT000000299254&categorieLien=cidhttp://www.legifrance.gouv.fr/affichTexte.do;jsessionid=73A5F2CBB18532A8CBECA14340D328DD.tpdila12v_3?cidTexte=JORFTEXT000000299254&categorieLien=cid

⁴⁵⁵ <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000299254&dateTexte=20150811>

⁴⁵⁶ http://www.lemonde.fr/economie/article/2012/05/14/le-debat-sur-la-transparence-des-salaires-des-dirigeants-dans-le-public-s-impose_1700874_3234.html

⁴⁵⁷ <http://www.economie.gouv.fr/agence-participations-etat/moralisation-et-lencadrement-des-remunerations-des-dirigeants-dentreprise>

⁴⁵⁸ <http://www.economie.gouv.fr/agence-participations-etat/moralisation-et-lencadrement-des-remunerations-des-dirigeants-dentreprise>

2. Which standard is chosen? What is the standard based on?

a. What is the precise point of reference of the standard?

In the Semi-Public Sector a **cap of 450.000 Euro (20 times the averages of the lowest salaries paid in the Public Enterprises)** as remuneration of directors has been introduced by the *Decree n° 2012-915 of July 2012* related to the control of the state of public enterprises.⁴⁵⁹ The law provides that salaries of the directors cannot be more than 20 times the averages of the lowest salaries paid in the public enterprises. The objective of the Decree is to control the remuneration of directors in the enterprises where the state has majority participation.⁴⁶⁰ The enterprises counted in this sector include the following: EDF, Areva, La Poste, SNCF, RATP and their principal affiliates.⁴⁶¹ The Decree extends the application of the measure to the Airport of Paris and Compagnie Nationale du Rhône.⁴⁶² In order to calculate the remuneration and whether the cap is reached, the decree of *Decree n°53-707 of August 9 1953 related to the control of the State on the National Public Enterprises and certain organs having economic and social object modified partly by the Decree n° 2012-915 of July 2012 concerning the remuneration of the Executive Directors* also states that the attendance and the indemnities paid to the executive officers are taken into account. What the amount of the attendance and indemnities consists of is however not mentioned.

b. What is the scope of the standard?

In France a cap has been implemented for remuneration top executives and managers of the semi-public sector. The salaries of the directors mandated by the state cannot be more than 20 times the averages of the lowest salaries paid in the public enterprises. The public enterprises is defined as enterprises where the State holds the majority of capital by the Article L133-1 of Financial Jurisdiction Code⁴⁶³, and concerns the Rail Enterprise (SNCF), the Postal Service (la Poste), EDF, the Airport of Paris, la Française des Jeux. The Decree applies to the directors of the affiliates of the public enterprises if they fall under the category of *Executive Director*. It

⁴⁵⁹<http://legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000026227470&categorieLien=id>

⁴⁶⁰ <http://www.economie.gouv.fr/agence-participations-etat/moralisation-et-lencadrement-des-remunerations-des-dirigeants-dentreprise>

⁴⁶¹ <http://www.economie.gouv.fr/agence-participations-etat/moralisation-et-lencadrement-des-remunerations-des-dirigeants-dentreprise>

⁴⁶² <http://legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000026227470&categorieLien=id>

⁴⁶³

http://www.legifrance.gouv.fr/affichCodeArticle.do;jsessionid=98E31380DF1710E16F9CEC3399F58904.tpdila12v_3?cidTexte=LEGITEXT000006070249&idArticle=LEGIARTI000006357187&dateTexte=&categorieLien=cid

needs to be pointed out, that the Senior Executives “Cadres Dirigeants” in the public enterprises can earn higher salaries than the *Executive Director* in the same enterprises. The Cadres Dirigeants do not fall under the scope of the decree, because the decree does not have jurisdiction over employment contracts.⁴⁶⁴ According to the Article L. 3111-2 of the Labor Code, to be a “Cadre Dirigeant” one needs to have high responsibilities, the autonomy of managing his time, the autonomous power to take decisions and also benefitting of one of the highest remuneration in the establishment.⁴⁶⁵ The Court of Cassation in its decision of 31st January 2012 interpreted that only the participants in the directory of enterprises can be implied as being a “Cadres Dirigeant”.⁴⁶⁶

In case the State holds a minority shareholding in the Public Enterprises, such as Air-France KLM, France or Télécom, it is up to the agent of the public authority to negotiate with the board of the enterprise for the application of the new Decree to Executive Directors.⁴⁶⁷

d. Do specific or special (external) contexts/circumstances (e. g. legal or economic) play a role in the explanation or justification of the top incomes policy?

One of the 60 policies of Francois Hollande was to decrease the remuneration of the executive officers in the public enterprises where the state has a majority holding. The reason behind it was to put forward an example for saving after the crisis in 2008, which was also held as a priority of the new government in 2012.⁴⁶⁸ This was a way for the state to have more control and transparency⁴⁶⁹ on the remunerations of directors in the semi-public sector.⁴⁷⁰ Also it is hoped that such measures will influence the private sector more in reducing the salaries.⁴⁷¹

⁴⁶⁴ http://www.lemonde.fr/economie/article/2012/06/13/les-salaires-des-patrons-du-public-seront-plafonnes_1717447_3234.html#1O1LD6c7sj1z8kU3.99

⁴⁶⁵ <http://legifrance.gouv.fr/affichCodeArticle.do?cidTexte=LEGITEXT000006072050&idArticle=LEGIARTI000006902439&dateTexte=&categorieLien=cid>

⁴⁶⁶ <http://www.legifrance.gouv.fr/affichJuriJudi.do?oldAction=rechJuriJudi&idTexte=JURITEXT000025287680&fastReqId=1816798375&fastPos=10>, this made a lot of enterprises changes the nomination of their employees

⁴⁶⁷ http://www.lemonde.fr/economie/article/2012/06/13/les-salaires-des-patrons-du-public-seront-plafonnes_1717447_3234.html#1O1LD6c7sj1z8kU3.99

⁴⁶⁸ http://www.lemonde.fr/economie/article/2012/06/13/les-salaires-des-patrons-du-public-seront-plafonnes_1717447_3234.html#1O1LD6c7sj1z8kU3.99

⁴⁶⁹ http://www.lemonde.fr/economie/article/2012/05/14/le-debat-sur-la-transparence-des-salaires-des-dirigeants-dans-le-public-s-impose_1700874_3234.html

⁴⁷⁰ http://www.lemonde.fr/economie/article/2012/06/13/les-salaires-des-patrons-du-public-seront-plafonnes_1717447_3234.html

3. What is the scope of the executive pay policy?

a. For which sectors and levels of government do the top income policy apply? (public/semi – public, including / excluding autonomous units, national / ...)

In the semi-public sector, the cap law applies to executive directors in the enterprises where the State holds a majority in shares according to *Decree n° 2012-915 of July 2012*. For executive directors in public enterprises with minority shares held by the state, it is up to the agent of the public authority to negotiate with the board of the enterprise for the application of the new Decree to Executive Directors. The Decree also applies to the public corporations, public operators and the “Caisse de depot et de Consignation” (a Financial Public Institution) and its principle affiliates.

b. Which organizations are categorized as/recognized as the public and semi-public sector?

The semi-public corporations or enterprises are delegated by the public sector to exercise certain tasks in the name of the state and in the general interest.⁴⁷² Part of the semi-public sector are the “Etablissement Public Administratif” the public administrative corporations, “Etablissements publics industriels et commerciaux” the public industrial and commercial establishment, “Entreprises Publiques” public enterprises, and “Entreprises à capitaux publics” enterprises with public capitals.

As semi-public organisation, enterprises such as the Rail Enterprise (SNCF or RATP), the Postal Service (La Poste), or the Electric Service (EDF), are the enterprises in which the State holds majority of shares and which also fall under the Decree of 2012.⁴⁷³ The enterprises where the State holds minority shares are for example Renault, Air France, France Télécom, and GDF the Decree does not apply unless the governance body of the enterprises decides voluntarily to do so. The Minister of Economy aims to instruct the state representatives in the governance body to propose moderation of the remuneration of the Executive Directors.⁴⁷⁴ As a consequence, it may be derived that the Decree does not apply to all public enterprises and is

⁴⁷² http://www.cofop.fr/la_fonction_publicque/service_public/etablissements_publics/

⁴⁷³ <http://www.economie.gouv.fr/facileco/entreprises-publicques>

⁴⁷⁴ <http://www.economie.gouv.fr/agence-participations-etat/moralisation-et-lencadrement-des-remunerations-des-dirigeants-dentreprise>

limited in its application. In 2012, 20 executive directors were concerned by this Decree.⁴⁷⁵ In 2013, only 9 executive directors attain the cap of 450.000 Euros.⁴⁷⁶

c. For which groups of senior/top officials does the standard apply? (Top executives, internal regulators, interimmers,...) ? Based on which arguments?

According to the *Decree n° 2012-915 of July 26 2012*, the remunerations of the executive directors are concerned by the Decree.

d. To what extent are the hourly rates or the remuneration of interim staff, consultants, etc. that are hired by the government on a temporary basis, also regulated by a standard?

The Decree does not cover hourly rates or the remuneration of interim staff.

e. To what extent do exemptions under private law to the application of the standard exist? To what extent do exemptions under private law undermine the application of the standard?

No information about exemptions under private law was found.

4. Which instrument is used on the control of executive pay? (What are the relevant similarities and differences with the WNT?)

a. Is data on salaries collected systematically in the same way as in the Dutch case? If so, by which bodies and how?

When the Minister of Economy and of the Budget has verified the remuneration of the executive directors, the *Decree n°53-707 of August 9 1953 related to the control of the State on the National Public Enterprises and certain organs having economic and social object modified partly by the Decree n° 2012-915 of July 2012* states that the decisions of the Minister of Economy has to be made public. Hence, the data on top executives is collected indirectly every

⁴⁷⁵ http://www.lemonde.fr/economie/article/2012/07/25/les-remunerations-des-dirigeants-du-public-plafonnees_1738115_3234.html

⁴⁷⁶ <http://www.journaldunet.com/economie/magazine/salaire-des-dirigeants-d-entreprise-publique.shtml>

time the remuneration is determined. However, it is not collected systematically as compared to the Dutch case.

b. What is the role of accountants in the management of the executive pay?

No information could be found in this regard.

c. To what extent are there installed mechanism for self-regulation?

There is no official mechanism for self-regulation installed. An indirect mechanism for self-regulation could be the publication of salaries of the directors of public enterprises. In addition, the Decree states that the Minister of Economy and the Minister of the Budget control the remuneration of executive directors in the industrial and commercial public enterprises.⁴⁷⁷ Also the Court of Auditors investigates the Public Enterprises, but it only gives its opinion on whether the remuneration is well attributed.⁴⁷⁸ The Decree gives only the Minister of Economy and of the Budget the power to control and to refuse remuneration that does not respect the Decree.

d. What sanctions exist in case of exceeding the norm? What powers do supervisors have, for example, to ask back salary that was paid too much?

The Court of Auditors publishes the annual report of public enterprises, such as La Poste, in which it confirms that the remuneration process as determined by the Decrees has been respected.⁴⁷⁹ Although the Court of Auditors assesses whether the regulations are well applied or not, no information was found on whether they can also execute powers to sanction public companies in case the rules are not respected.

⁴⁷⁷ <http://legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000026227470&categorieLien=id>

⁴⁷⁸ <http://www.ladocumentationfrancaise.fr/rapports-publics/154000189/index.shtml>

⁴⁷⁹ <http://www.ladocumentationfrancaise.fr/rapports-publics/154000189/index.shtml>

**e. To what extent is there a system of disclosure of executive pay provided/foreseen?
Based on what arguments?**

Public enterprises have to provide all information regarding the remuneration of executive directors to the Minister of Economy and of the Budget before fixing the remuneration. When the Minister of Economy and of Budget gives its decision upon the amount of the salary, the decision is made public.

5. How is the monitoring organized in compliance with the standards? Who exercised this oversight?

Public enterprises have to provide all information as regards to the remuneration of executive directors to the Minister of Economy and of the Budget before fixing the remuneration. Based on this information, the Minister of Economy and of the Budget takes a decision on the appropriateness of the remuneration according to the rules of the applicable Decrees.

12. Germany

12.1 Public Sector

1. To what extent is there a (political) discussion in EU countries about policies controlling top income? In/On which political context is the policy set/based on, out of/based on political theory and with what arguments?

The debate surrounding the pay of top civil servants in Germany is almost exclusively focussed on the remuneration of Members of Parliament.⁴⁸⁰ This is because MPs are able to set their own wage, which is however tied to the salary of a federal judge. According to art. 48(3) of the German constitution, Members of Parliament have the right to compensation. A judgement by the German Constitutional court in 1975⁴⁸¹ confirmed that Members of Parliament are indeed able to set their own pay, but should do so in a transparent way, that is able for the public to comprehend.⁴⁸² A few years ago, there was a scandal in Germany relating to the side jobs of politicians and what limits regarding remuneration existed. Therefore, MPs now have to publish the fact once they take up a job that pays more than 1000€ monthly or 10.000€ yearly.⁴⁸³ However, it is still required that the main focus of an MP is his work in parliament and any side jobs should not interfere with their political post.

2. Which standard is chosen? What is the standard based on?

a. What is the precise point of reference of the standard?

There are several laws dealing with the remuneration of top civil servants in Germany. These laws are the *Bundesbesoldungsetz*⁴⁸⁴ and the *Bundesministergesetz*,⁴⁸⁵ as well as art. 33(4) of the Constitution. This article stipulates that civil servants have a right, due to their service to the country, to be remunerated for their efforts. In Germany, payment is laid out according to different tariff groups. Each civil servant belongs to one level of a tariff group and his salary is adjusted accordingly. It depends on the level of education, work experience, field of

⁴⁸⁰ Salomon, H. (2013). Setting your own wage: The debate surrounding remuneration of Members of Parliament in Germany, p. 48

⁴⁸¹ BVerfG Urteil vom 5. November 1975: 2 BvR 193/74 ('Diätenurteil')

⁴⁸² Deutscher Bundestag (n.d.). *Höhe der Abgeordnetenentschädigung*.

⁴⁸³ Deutscher Bundestag (n.d.). *Tätigkeiten und Einkünfte neben dem Mandat*.

⁴⁸⁴ Bundesbesoldungsgesetz (BBesG) vom 19. Juni 2009

⁴⁸⁵ Gesetz über die Rechtsverhältnisse der Mitglieder der Bundesregierung (BMinG) vom 27. Juli 1971

employment (military/police e.g.) and rank of service how much one gets paid. In these schedules, one can say that top civil servants fall under schedule A13-16 and B1-B11. There is furthermore the *Bundesministergesetz*, the law regulating the pay of the civil servants in government. Most of the salaries of top civil servants in Germany are coupled to the pay set out in these schedules, the final pay for the chancellor for example constituting 166% of the pay of a B11 official. For judges, the pay is laid out in a schedule, also to be found in the *Bundesbesoldungsgesetz*, the schedule is called R.

In the following, the pay will be set out for each top civil servant post.⁴⁸⁶

Federal President (*Bundespräsident*)

The federal president is remunerated to 5/3rd of the remuneration class B11, this is the same as for the chancellor, and he gets a fully staffed office paid for out of the “*Aufwandsentschädigung*” (effort compensation) of 78.000€ gross a year. Additionally, the president gets paid after his exit from office, the so-called “*Ehrenbesoldung*”, this is currently 214.000€ gross a year.⁴⁸⁷

Chancellor (*Kanzler(in)*)

The German chancellor’s income is tied to the tariff group B11, he/she receives 166% of that pay. Consequently, she receives a payment of 203.072,04€ gross per year. Additionally, he/she receives a one-off payment each year of 12.270,96, the so-called *Dienstaufwandsentschädigung*, a “service effort compensation” (which is not subject to tax); and she is eligible to receive up to 1.840,65€ gross compensation a year, if he/she is unable to move his/her household to the capital.

Ministers (*Minister*)

The German ministers’ income is tied to the tariff group B11, he/she receives 133% of that pay. Consequently, he/she receives a payment of 162.458,04 € gross per year. Additionally, he/she receives a one-off payment each year of 3.681,36 € the so-called *Dienstaufwandsentschädigung*, a “service effort compensation” (which is not subject to tax); and she is eligible to receive up to 1.840,65€ gross compensation a year, if he/she is unable to move his/her household to the capital.

⁴⁸⁶ I have calculated the annual pay myself, since only the monthly pay is set out in the law.

⁴⁸⁷ Section 1 of the Gesetz über die Ruhebezüge des Präsidenten (BPräsRuhebezG) vom 17. Juni 1953

State Secretaries (*Staatssekretäre*)

They get paid according to tariff group B10 (see also below the section on High Civil Servants). Additionally, he/she receives a one-off gross payment each year of 2.760,96€ the so-called *Dienstaufwandsentschädigung*, a “service effort compensation” (which is not subject to tax); and he/she is eligible to receive up to 1.840,65€ gross compensation a year (not subject to taxation), if he/she is unable to move his/her household to the capital.

Members of Parliament (*Bundestagsabgeordnete*)

Members of Parliament are able to regulate their own pay, and have a right to be paid appropriately to ensure their independence, which is laid down in § 48 (3) *Grundgesetz*. The amount of compensation is coupled to that of an ordinary judge at a Federal Court (MPs are paid according to schedule R6) since MPs and this group face similar responsibilities and tasks. The amount is 108.984 € gross per year; subject to income tax. No additional payments are made. The compensation is adjusted annually, according to the *Nominallohnindex*, the nominal wage index, and is only valid for one term, and only if it has been decided so within three months of the constitutive meeting (which happens regularly every four years, since the elections for parliament occur every four years).⁴⁸⁸ The current *Nominallohnindex* is 106,7.⁴⁸⁹

Supreme Judges (*Bundes(verfassungs)richter*)

For judges at the federal courts (General Federal Court, Federal Tax Court, Federal Labour Court, Federal Administrative Court, Federal Social Court), the base salary is regulated in the *Besoldungsordnung R*, the tariff group R. Their salary constitutes the base line of salaries from which the levels of pay for all political and bureaucratic officials are derived from and is therefore determining for the pay system of the German public administration. For judges at the Constitutional Court, the *Gesetz über das Amtsgehalt der Mitglieder des Bundesverfassungsgerichts*,⁴⁹⁰ regulates the pay.

Federal Court judges

President of the Federal Courts gets paid according to tariff group R10.

Federal Attorney General gets paid according to tariff group R9.

Vice-President of the Federal Courts gets paid according to tariff group R8.

⁴⁸⁸ Deutscher Bundestag (n.d.). Höhe der Abgeordnetenentschädigung.

⁴⁸⁹ Statistisches Bundesamt (2015, July). Verdienste und Arbeitskosten: Reallohnindex und Nominallohnindex.

⁴⁹⁰ Gesetz über das Amtsgehalt der Mitglieder des Bundesverfassungsgerichts (BVerfGAmtsGehG) vom 28. Februar 1964

Other judges at the Federal Courts get paid according to tariff group R6.

Constitutional Court judges

President of the Constitutional Court gets paid 4/3 of tariff group B11.

Vice-President of the Constitutional Court gets paid 7/6 of tariff group B11.

Other judges at the Constitutional Court get paid according to tariff group R10.

Actual amount received gross, still subject to tax:

	monthly	yearly
<u>R6</u>	9167,62€	110.011,44€
<u>R8</u>	10.133,77€	121.605,24€
<u>R9</u>	10.746,50€	128.985,00€
<u>R10</u>	13.193,93€	158.327,16€

From this it follows that all judges at the Constitutional Court, and the presidents of the Federal Courts get paid more than the top civil servant in Germany (the state secretary in schedule B11).

High Civil Servants (*Beamte des höheren Dienstes*)

High Civil Servant's pay in Germany is organised according to *Besoldungsordnung*, these are "tariff groups," in which the payment is staggered according to level of service and experience.

High Civil Servants, the so called *Beamte des höheren Dienstes*, get paid according to *Besoldungsordnung A*, and are in group A13-16, which is itself separated into several levels (*Stufen*). There is also the *Besoldungsordnung B*, which regulates the pay for special higher civil servants, such as ambassadors, state secretaries and directorate-generals of ministries. In the *Besoldungsordnung B*, there are only fixed payment groups, which are not separated into levels anymore.

The actual gross amount received per month in € will be outlined in the following table.

	<u>Level 1</u>	<u>Level 2</u>	<u>Level 3</u>	<u>Level 4</u>	<u>Level 5</u>	<u>Level 6</u>	<u>Level 7</u>	<u>Level 8</u>
<u>A13</u>	3.971,6 6	4.169,3 2	4.365,8 0	4.563,4 5	4.699,4 9	4.836,6 9	4.972,7 0	5.106,4 1
<u>A14</u>	4.084,4 4	4.339,0 5	4.594,8 5	4.849,4 6	5.025,0 1	5.201,7 6	5.377,3 1	5.554,0 5
<u>A15</u>	4.992,4 8	5.222,7 0	5.398,2 4	5.573,8 1	5.749,3 8	5.923,7 8	6.098,1 7	6.271,4 0
<u>A16</u>	5.507,5 3	5.774,9 6	5.977,2 5	6.179,5 6	6.380,7 0	6.584,1 8	6.786,4 8	6.986,4 6
<u>B1</u>	6.271,40							
<u>B2</u>	7.285,26							
<u>B3</u>	7.714,27							
<u>B4</u>	8.163,05							
<u>B5</u>	8.678,13							
<u>B6</u>	9.167,62							
<u>B7</u>	9.639,65							
<u>B8</u>	10.133,77							
<u>B9</u>	10.746,50							
<u>B</u> <u>10</u>	12.649,78							
<u>B</u> <u>11</u>	13.141,59							

b. What is the scope of the standard?

There is no “cap” in the proper sense for the pay of high civil servants in Germany. However, due to the schedule system, the payment is fixed, and it is not easy for civil servants to climb along the schedule. The position they will be in depends on their experience and level of education. The cap in a sense is then that civil servants are arranged according to schedule, and they do have to show good work in order to be promoted. There is also an inherent stop in promotions, since, for example, the highest pay schedule is reserved for the state secretaries.

In 2007, Germany underwent a federalism reform. After that, the different states of Germany could decide themselves what to pay their civil servants; however as long as they had not made their own schedule, the former federal schedule would apply. All states have now made their own schedules.⁴⁹¹ However, calls have been made to take away this competence from the states again, since “poorer” states could only pay their civil servants less than what was offered through the federal schedule, and it was not attractive for young people to become a civil servant in these states, and they moved elsewhere. Now some of these “poor” states (especially states of the former GDR) have problems filling their vacancies and want to return to the old mandatory federal schedule.⁴⁹² Additionally, civil servants can receive merit-based pay in the amount of 7% of their monthly salary, for the period of up to 12 months. There is a special budget for this.⁴⁹³

d. Do specific or special (external) contexts/circumstances (e.g. legal or economic) play a role in the explanation or justification of the top incomes policy?

Members of the government (Ministers, Chancellors, State Secretaries) have regularly not increased their pay in line with the civil servants. This happened in 1992–1994, 2003–2004, 2008–2009, 2010–2011. Consequently, the amount of remuneration they actually receive is 25% below the amount they *should* receive.⁴⁹⁴ There is also no more 13th salary (*Weihnachtsgeld*) for the members of government, since 2006. They have done this to show the solidarity with the people during the regression, and also to help consolidate the budget.⁴⁹⁵ The amount in percentage of GDP Germany spends on the remuneration of its civil servants has steadily declined since 1970, it started out at 16.5% and is now, 2014, at 9.3%.⁴⁹⁶

3. What is the scope of the executive pay policy?

⁴⁹¹ Beamtenbesoldung.org (2012, May). *Beamtenrecht und Besoldung nach der Föderalismusreform*.

⁴⁹² *Ibid.*

⁴⁹³ Bundesministerium des Innern (2014, December). *Der öffentliche Dienst des Bundes: Ein attraktiver und moderner Arbeitgeber*, p. 99.

⁴⁹⁴ Bundesministerium des Innern (2014, December). *Der öffentliche Dienst des Bundes: Ein attraktiver und moderner Arbeitgeber*, p. 111.

⁴⁹⁵ *Ibid.*

⁴⁹⁶ Bundesministerium des Innern (2014, December). *Der öffentliche Dienst des Bundes: Ein attraktiver und moderner Arbeitgeber*, p. 113.

**a. For which sectors and levels of government do the top income policy apply?
(public/semi – public, including / excluding autonomous units, national / ...)**

The *Besoldungsordnung* mentions specifically in each section for which group of civil servants the remuneration applies. High Civil Servants, the so-called *Beamte des höheren Dienstes*, get paid according to *Besoldungsordnung A*, and are in group A13-16, which is itself separated into several levels (Stufen). There is also the *Besoldungsordnung B*, which regulates the pay for special higher civil servants, such as Ambassadors, State secretaries and Directorate-Generals of Ministries. In the *Besoldungsordnung B*, there are only fixed payment groups, which are not separated into levels anymore. The military also gets paid according to the *Besoldungsordnung*, schedule A and B, just like civil servants.⁴⁹⁷ In the health sector, nurses get paid according to Schedule A7 and the head doctor of a ward gets paid according to schedule A16, it is also possible to be somewhere in between. In the education sector, professors get paid according to schedule W in the *Besoldungsordnung* and teachers which were made civil servants (not all teachers are civil servants) get paid according to Schedules A12-A16 in the *Besoldungsordnung*. It can be seen from this, that in Germany, everyone gets paid according to one level in the *Besoldungsordnung*. It is according to the level they get assigned by their State or Germany that their payment is constituted, see section 19 *Bundesbesoldungsgesetz*.

b. Which organizations are categorized as the public and semi-public sector?

The government constitutes the public sector and any enterprise, in which a public agency (the federation, the state, cities, etc.) holds more than 50% of the shares, is a public enterprise, according to Section 2(3) *Finanzstatistikgesetz*.⁴⁹⁸ In German law, there is no difference in law between public or semi-public companies; they have to follow the same rules. Public companies therefore have the purpose to bring an advance to society, and not just maximise profit, and a public agency can only invest in an enterprise if this is given, according to Section 65 of the *Bundshaushaltsordnung*. Examples for public enterprises in Germany are: Deutsche Bahn AG (railway), Deutsche Telekom AG (telecommunications), Deutsche Post AG (mail).

⁴⁹⁷ Bundeswehr.de. (2015, February). Grundgehälter von Soldaten und Beamten.

⁴⁹⁸ Gesetz über die Statistiken der öffentlichen Finanzen und des Personals im öffentlichen Dienst (FPStatG) vom 22. Februar 2006

d. To what extent are the hourly rates or the remuneration of interim staff, consultants, etc. that are hired by the government on a temporary basis, also regulated by a standard?

There were no special provisions relating to the payment of external staff found. There is a programme called “*Personalaustauschprogramm Seitenwechsel*”, where employees of companies go to work in ministries etc. for a while, but still get paid by their employer, while at the same time, another person from the ministry goes to work for their employer. It was founded in order to improve the exchange of knowledge between the business world and the state. It is regulated in the *Allgemeine Verwaltungsvorschrift zum Einsatz von außerhalb des öffentlichen Dienstes Beschäftigten (externen Personen) in der Bundesverwaltung* from June 28, 2008.

e. To what extent do exemptions under private law to the application of the standard exist? To what extent do exemptions under private law undermine the application of the standard?

There are no exemptions allowed under private law. It may be interesting to stress in this context however, that MPs may have side-jobs in the private sector, have the obligation to publish their earnings from side-jobs, this is stipulated in the *Verhaltensregeln der Geschäftsordnung des deutschen Bundestages*. In case the MPs do not follow the procedure in publishing their earnings, the *Bundestag* can fine them.

4. Which instrument is used on the control of executive pay? (What are the relevant similarities and differences with the WNT?)

a. Is data on salaries collected systematically in the same way as in the Dutch case? If so, by which bodies and how?

The data on salaries is contained in the law on the *Besoldungsordnung* and *Bundesministergesetz*, which can be amended at request at any time. There is therefore no systematic collection of the data on salaries, although the Federal Ministry of the Interior does collect data on how many people are employed in each salary group.

b. What is the role of accountants in the management of executive pay?

Accountants play no specific role in the management of executive pay of top officials of the high civil servants. State officials have to annually submit a tax statement, since every employee in Germany is required to submit a tax statement, according to Section 25(3) *Einkommenssteuergesetz* in conj. with Section 56 and 60 *Einkommenssteuerdurchführungsverordnung*.

c. To what extent are there installed mechanisms of self-regulation?

The mechanisms for self-regulation mainly come into effect in the sense that MPs have the obligation to publish their earnings from side-jobs.⁴⁹⁹ There is no other self-regulation in effect, since according to section 14(1) *Bundesbesoldungsgesetz* the remuneration gets amended regularly according to the financial and economic circumstances prevalent in Germany, most importantly the *Nominallohnindex*.

5. How is the monitoring regarding the compliance with the standards organised? Who exercises this monitoring role?

In the public sector, there is no specific monitoring body. Since the remuneration is contained in a law, there is no way of not complying with the standard. In addition, tax statements are submitted yearly to the tax authorities, since every employee in Germany is required to submit a tax statement, according to Section 25(3) *Einkommenssteuergesetz*⁵⁰⁰ in conj. with Section 56 and 60 *Einkommenssteuer-durchführungsverordnung*.⁵⁰¹ With regard to the earnings of MPs, they have to report these to the *Bundestagspräsident* in written form within three months of taking up a position or when they already hold a position upon becoming MP, immediately.

12.2 Semi-Public Sector

1. To what extent is there a (political) discussion in EU countries about policies controlling top income? In/On which political context is the policy set/based on, out of/based on political theory and with what arguments?

⁴⁹⁹ Deutscher Bundestag (n.d.). Tätigkeiten und Einkünfte neben dem Mandat.

⁵⁰⁰ Einkommenssteuergesetz (EStG) vom 8. Oktober 2009

⁵⁰¹ Einkommenssteuerdurchführungsverordnung (EStDV) vom 10. Mai 2000

In the semi-public sector, there are several companies, which are more and more being privatized. These companies are: *Deutsche Bahn AG* (transport), *Deutsche Post AG* (post), *Deutsche Telekom AG* (Telecommunications). The federal government has tried to decrease its shares in these companies for some time now, in order to leave business to the free market, and only secure some influence in strategically important businesses.⁵⁰² For a long time in Germany, the public did not care about the salary of top executives, and thought salaries to be normal also from an international perspective. Only when a few scandals came to light, which showed that managers increased their salary even though the company turned less profit or even had to let people go, this mentality changed.⁵⁰³ As a consequence of this debate, the *law forcing top executives of companies indexed on the German stock exchange to publish their salaries* was introduced, since the companies did not want to commit to a voluntary publication.⁵⁰⁴ Nowadays, three states of Germany (North-Rhine Westphalia, Schleswig-Holstein, Hessen) have thought about introducing laws to make the manager's payment of smaller, not stock-exchange companies public, but only in NRW has this led to success so far.⁵⁰⁵

2. Which standard is chosen? What is the standard based on?

a. What is the precise point of reference of the standard?

In Germany, since 2005, the official companies trading on the German stock exchange, the DAX (all the above mentioned companies are on the stock exchange), have to publish the salary of their CEOs and Boards once a year. This is stipulated in the so-called *Gesetz über die Offenlegung der Vorstandsvergütungen*.⁵⁰⁶ The law relating to this issue was tightened three years later, in 2009, with the *Gesetz zur Angemessenheit der Vorstandsvergütung*,⁵⁰⁷ which laid down that each member supervisory board of companies was now personally responsible for the appropriateness of the salary, which is tied to a horizontal comparison with the usual remuneration of managers in the same field, and the specific relation in pay within that company between low-level and higher-level employees (vertical comparison). The supervisory board needs to take these comparisons into account when determining the salary. In general, salaries

⁵⁰² Bundesministerium der Finanzen (n.d.). Bericht zur Verringerung von Beteiligungen des Bundes – Fortschreibung 2014, p. 1

⁵⁰³ Hans-Böckler-Stiftung (2006, July). Informationen zur Bemessung der Vorstandsvergütungen, p. 11

⁵⁰⁴ Handelsblatt.de. (2005, June 30). Bundestag nickt Managergehälter-Gesetz ab. Handelsblatt.

⁵⁰⁵ Weckbrodt, H. (2015, April 7). Nur jedes 3. öffentliche Unternehmen legt Manager-Bezüge offen. Oiger.

⁵⁰⁶ Gesetz über die Offenlegung von Vorstandsvergütungen (VorstOG) vom 11. August 2005

⁵⁰⁷ Gesetz zur Angemessenheit der Vorstandsvergütung (VorstAG) vom 5. August 2009

of executives in these companies are always higher than those of top civil servants, as can be seen from the published salaries of the CEOs.

Additionally, in the *Public Corporate Governance Code*⁵⁰⁸, which is an instrument applicable to all companies in which Germany hold shares, section 4.3 sets out the way in which the pay of CEO's shall be determined. It shall be done in an appropriate way that takes into account the current financial situation of the undertaking and the business prospects of the undertaking. However, this instrument is non-binding and may rather be regarded as a forerunner to the Law introduced in 2009.

b. What is the scope of the standard?

The obligation to publish the salary of the CEOs is only valid for those companies traded on the stock exchange. Their CEOs are furthermore not top civil servants, but private managers. There is no obligation to publish the salary for companies not on the stock-exchange (public and private companies), according to § 286 (5) *Handelsgesetzbuch*.⁵⁰⁹ However, some companies are operating in the semi-public sector (health insurances, hospitals, swimming pools, sports areas, etc.), where it would also be beneficial if the pay was known.

d. Do specific or special (external) contexts/circumstances (e.g. legal or economic) play a role in the explanation or justification of the top incomes policy?

According to the official explanation for the laws relating to the publication of top executive salaries, the law was introduced because a voluntary commitment according to the *Public Corporate Governance Code* was not enough. It is necessary for the public to understand the salaries of top executives to decrease the politicization of the issue, and it is important for investor protection to keep the enterprise in financial health.⁵¹⁰

Three states of Germany (North-Rhine Westphalia, Schleswig-Holstein, Hessen) have thought about introducing laws to make the manager's payment of smaller, not stock-exchange

⁵⁰⁸ Bundesministerium der Finanzen (2009, June). Grundsätze guter Unternehmens- und Beteiligungsführung.

⁵⁰⁹ Handelsgesetzbuch (HGB) vom 10. Mai 1897

⁵¹⁰ Deutscher Bundestag (2005, May). Drucksache 15/5577: Entwurf eines Gesetzes über die Offenlegung der Vorstandsvergütungen, p. 1

companies public, but only in NRW has this led to success so far.⁵¹¹ In the *Public Corporate Governance Code*, which is an instrument applicable to all companies in which Germany hold shares, section 4.3 sets out the way in which the pay of CEO's shall be determined. It shall be done in an appropriate way that takes into account the current financial situation of the undertaking and the business prospects of the undertaking. However, this instrument is non-binding.

4. What is the scope of the executive pay policy?

a. For which sectors and levels of government do the top income policy apply? (public/semi – public, including / excluding autonomous units, national / ...)

For the semi-public companies, it would be helpful if not only those companies operating on the stock exchange had to make their salaries known, but also health care providers, insurers, hospitals, swimming pools and sports arenas, since also these companies are subsidised by tax payer money. The publication of salaries is valid for the executives of the following companies, since they are indexed at the German stock exchange:

- *Deutsche Post AG*
- *Deutsche Bahn AG*
- *Deutsche Telekom AG*
-

These are the most important ones. A list of all companies in which Germany holds a stake can be found in the *Beteiligungsbericht des Bundes*. It gets published every year.⁵¹²

b. Which organizations/groups are categorized as the public and semi-public sector?

There is no distinction between public and semi-public companies in Germany. All companies in which a federal agency holds a stake are categorised as “*öffentliche Unternehmen*”, which is a public company, according to Section 2(3) *Finanzstatistikgesetz*.

⁵¹¹ Weckbrodt, H. (2015, April 7). Nur jedes 3. öffentliche Unternehmen legt Manager-Bezüge offen. Oiger.

⁵¹² Bundesministerium der Finanzen (2013, December). Alphabetische Zusammenstellung der Unternehmen, die mit der Bundesrepublik Deutschland i.S.d. § 15 AktG verbunden sind sowie alphabetische Zusammenstellung der rechtlich unselbstständigen Einrichtungen des Bundes, die dem Bund als herrschendem Unternehmen zuzurechnen sind.

e. To what extent do exemptions under private law to the application of the standard exist?

To what extent do exemptions under private law undermine the application of the standard?

See question 5.

4. Which instrument is used on the control of executive pay? (What are the relevant similarities and differences with the WNT?)

4a. Is the data on the salaries collected systematically?

Public companies are obliged to publish their earnings yearly in the *Vergütungsregister*. This data is then collected systematically and can be accessed publicly on their website: <http://www.bundesanzeiger-verlag.de/betrifft-unternehmen/steuern-finanzen/verguetungsregister/>.

4b. What is the role of accountants in the management of executive pay?

Accountants do not play a special role in the management or the control of executive pay of managers and CEO's of public companies. In Germany, it is more relevant that the supervisory board manages the executive pay, and the supervisory board can be liable if it does not follow the rules laid out in the *Gesetz über die Angemessenheit von Vorstandsbezügen*. The shareholder assembly also can "ratify" the payment, but they are not liable in case the payment is not considered inappropriate, nor must the supervisory board follow their recommendation.⁵¹³ Every top executive in Germany has to submit a tax statement, for them the same rules regarding taxes apply as has been set out in the part about the public sector.

4c. To what extent are there installed mechanisms of self-regulation?

There are no other mechanisms of self-regulation. What could be regarded as a sort of indirect control might be the cross horizontal comparison as well as the *Public Corporate Governance Code*, however the latter is not binding.

In addition, currently, a new law is being developed in Germany, which regulates the switch of former civil servants in government to working in the private sector. This law is not yet ratified

⁵¹³ Hans-Böckler-Stiftung (2011, September). Arbeitspapier 239: Kriterien für die Vorstandsvergütung in deutschen Unternehmen nach Einführung des Gesetzes zur Angemessenheit der Vorstandsvergütung, p. 13

or in force. A current draft states that there needs to be a mandatory disclosure requirement if somebody switches jobs to the private sector within 18 months of leaving the position in government. Only present or former Ministers or State secretaries have to follow this law. The government can forbid them to take up their new job within a period of 1 year or up to 18 months, if it goes against the public interest.⁵¹⁴

5. How is the monitoring regarding the compliance with the standards organised? Who exercises this monitoring role?

The annual gross payment of managers and CEO's is published in the *Vergütungsregister*. If it becomes evident, that a mismanagement regarding salaries has happened, the supervisory board is liable towards the shareholders, see section 116(3) *Aktiengesetz*.⁵¹⁵ The executives still have the right to the payment they were "promised" though, they do not lose this right, unless it becomes obvious that there was an immoral contract obviously against common sense, according to section 138 German Civil Code.⁵¹⁶

⁵¹⁴ Gathmann, F. (2015, February 3). Politiker in die Wirtschaft: Wie die Koalition Seitenwechsel regeln will. *Spiegel Online*.

⁵¹⁵ Aktiengesetz (AktG) vom 6. September 1965

⁵¹⁶ Haufe.de (n.d.). *Vorstand und Aufsichtsrat / 1.9.3.7 Rechtsfolgen unangemessener Vorstandsbezüge*.

13. Italy

13.1 Public Sector

1. To what extent is there a (political) discussion in EU countries about policies controlling top income? In/On which political context is the policy set/based on, out of/based on political theory and with what arguments?

The remuneration of top public officials in Italy has been a controversial topic for decades. However, since the economic crisis starting in 2008, the issue of salaries in jobs of the public administration has become a very relevant and debated issue. Controversies are particularly sparked by the fact that salaries in the public administration are paid with tax-payers' money. Scandals have been heightened by the very high amounts of rewards given to top public officials, coupled with a well-known inefficiency of the Italian public administration. In 2011, with the commencement of the technocratic government led by Monti – a renowned economist – the Italian public administration was subject to a series of reforms aiming at reducing the enormous public debt which was crippling the economy. In particular, one of the ways in which Monti attempted to reduce public debt was to cut salaries of public administration employees. In fact, the decree named “Salva Italia” (“Save Italy”) had the objective of reducing public debt and contained a reform which established a cap for the salaries of officials of the public administration.⁵¹⁷ Further, in 2014 the newly formed government with Matteo Renzi as Prime Minister announced a cut in the high salaries of top managers in the public administration in the name of “social justice”.⁵¹⁸

2. Which standard is chosen? What is the standard based on?

a. What is the precise point of reference of the standard?

In the Italian public administration managers are divided in different levels (*fasce*); for each sector there are managers of level I or II.⁵¹⁹ Top officials – who are the subject of this report – are *dirigenti di I fascia* (managers of level I).

⁵¹⁷ Article 23 ter of the Legislative Decree of 201/2011 converted in Law 214/2011 (also called decree “Salva Italia”)

⁵¹⁸ See news article from March 2014 in which Prime Minister Matteo Renzi announces cuts to top managers in public administration in the name of “social justice”. Retrieved at <http://www.ilgiornale.it/news/interni/stipendi-valle-moretti-abbia-dignit-andarsene-1004106.html> (Last access on June 30 2015).

⁵¹⁹ Pursuant to Article 15 and 23 of Legislative Decree n. 165/2001.

It is important to notice that in the public administration of Italy there are no differences between different levels of managers with regard to the rules that apply; all are called *public managers* and paid according to the same rules⁵²⁰. As a result, in the rest of the report **the expression *top managers* is to be interpreted as meaning *high-level civil servants in the Italian public administration***. Further salary specifications at both national and regional level are negotiated by the *Agenzia per la Rappresentanza Negoziabile delle Pubbliche Amministrazioni* (Agency for the Negotiating Representation of Public Administration) (ARAN) for each contract.⁵²¹ In addition, all public contracts – from those of civil servants to those of ministers – are contracted through the *Agency for the Negotiating Representation of Public Administration*, too. The Agency was created through the Legislative Decree 29/1993 and was later re-confirmed in its functions by the Legislative Decrees 150/1993 and 165/2001. It is a technical agency – having legal personality in public law and autonomy in organizational and accounting activities – which represents the public administration in the national negotiations of labour contracts. The agency performs all activities related to the negotiation and definition of collective contracts in various compartments of public labour.

National public administration

As of 2012, all salaries of public administration managers – including those of top officials – have become subject to a cap imposed on the salary of the first President of the Court of Cassation. As of 2014 the cap has been set at 240.000 EUR gross per year. As a result, no top manager of the public administration in Italy – including the Prime Minister – will be able to earn more than 240.000 EUR gross per year. Below the legal basis of such cap is explained.

Legal basis

Article 23 ter of the Legislative Decree of 201/2011 converted in Law 214/2011 (also called decree “Salva Italia”) established that the maximum parameter for remunerations for public administration managers is the salary of the first President of the Court of Cassation (primo Presidente della Corte di Cassazione). Further, the Law 214/2011 sets a limitation to cumulative salaries; when holding two appointments in public administration and in – for instance – a Ministry, one cannot receive more than 25% of the total amount of the salary perceived for the first appointment (including bonuses and reimbursements). In 2012, the maximum cap was set at 301.320,29 EUR gross per year, as published in note n. 78084 of the 17th of July 2013. As a

⁵²⁰ Article 23 ter of the Legislative Decree of 201/2011 converted in Law 214/2011 (also called decree “Salva Italia”).

⁵²¹ As established by Legislative Decrees 29/1993, 165/2001 and 150/2009.

result, in 2012 no salary in the national public administration should exceed 301.320,29 EUR gross. Moreover, Article 13 of the Legislative Decree n. 66 of 24th of April 2014 establishes the maximum limit for the remuneration of the first President of the Court of Cassation at 240.000 EUR gross per year. Therefore, as of 2014, no national public administration salary can exceed 240.000 EUR gross per year.

Instances of executive pay of top managers in the Italian public administration as of 2013

In the following section, the executive pay of top managers for different sections of national public administration will be set out. The categories of top managers have been selected following the categorization provided by the *Agenzia per la Rappresentanza Negoziabile delle Pubbliche Amministrazioni*. Further, the salaries that are analysed are from 2013, as this is the most recently published statistic. As a result, the cap of 240.000 EUR gross per year as maximum salary had not yet been implemented.

Enti Pubblici Non-Economici (Non-Economic Public Agencies)

The medium salary in 2013 for top managers (managers of 1st level) has been 220.160 EUR gross per year. The salary was composed of 63.670 EUR gross in basic salary and 156.490 EUR gross in accessory remuneration tied to the office held and performance. In particular, 104.792 EUR gross was the amount of accessory salary tied to the position held and 49.106 EUR gross was the amount of performance related bonus. As a result, performance only accounts for less than one fourth of the total salary perceived by the top managers.⁵²²

Public research institutions

The medium salary in 2013 for top managers (managers of 1st level) has been 151.176 EUR gross per year. The salary was composed of 59.332 EUR gross in basic salary and 91.844 EUR gross in accessory remuneration tied to the office held and performance. In particular, 82.252 EUR gross was the amount of accessory salary tied to the position held and 9.212 EUR gross was the amount of performance related bonus. As a result, performance only accounts for a small fraction of the total salary perceived by the top managers.⁵²³

⁵²² See report for 2013 of ARAN for Managers of I level in the Non-Economic Public Agencies. Retrieved at: https://www.aranagenzia.it/attachments/article/5152/Retribuzioni%20medie%20PA%20per%20macrovoce_SITO.pdf (last access on 25th of May 2015).

⁵²³ See report for 2013 of ARAN for Managers of I level in Research Institutions. Retrieved at: https://www.aranagenzia.it/attachments/article/5152/Retribuzioni%20medie%20PA%20per%20macrovoce_SITO.pdf (last access on 25th of May 2015).

Ministries

The medium salary in 2013 for top managers (managers of 1st level) has been 188.104 EUR gross per year. The salary was composed of 65.292 EUR gross in basic salary and 122.812 EUR gross in accessory remuneration tied to the office held and performance. In particular, 96.975 EUR gross was the amount of accessory salary tied to the position held and 22.448 EUR gross was the amount of performance related bonus. As a result, performance only accounts for a small portion of the total salary perceived by the top managers.⁵²⁴

Presidency of the Council of Ministers

The medium salary in 2013 for top managers (managers of 1st level) has been 188.603 EUR gross per year. The salary was composed of 66.701 EUR gross in basic salary and 121.902 EUR gross in accessory remuneration tied to the office held and performance. In particular, 95.805 EUR gross was the amount of accessory salary tied to the position held and 23.381 EUR gross was the amount of performance related bonus. As a result, performance only accounts for a small portion of the total salary perceived by the top managers.⁵²⁵

President of the Italian Republic

Pursuant to Article 84, last paragraph of the Italian Constitution and pursuant to Law 177 of 1985, the President of the Italian Republic does not perceive remuneration or salary but a personal compensation. As a result, the salary of the President of the Republic is not caught by the afore-mentioned cap in salary. In 2014, the compensation received by the President of the Republic was 239.181 EUR gross per year, including all additional bonuses.⁵²⁶

Regional public administration

Regional administrations are governed by different legislation and standards than national administrations. In particular, regional managers of 1st level (*dirigenti regionali di prima fascia*) perceive salaries well above the national average. For instance, in 2013 regional managers of

⁵²⁴ See report for 2013 of ARAN for Managers of I level in the Ministries. Retrieved at: https://www.aranagenzia.it/attachments/article/5152/Retribuzioni%20medie%20PA%20per%20macrovoce_SITO.pdf (last access on 25th of May 2015).

⁵²⁵ See report for 2013 of ARAN for Managers of I level in the Presidency of the Council of Ministers. Retrieved at: https://www.aranagenzia.it/attachments/article/5152/Retribuzioni%20medie%20PA%20per%20macrovoce_SITO.pdf (last access on 25th of May 2015).

⁵²⁶ As disclosed in an official note of the Presidency of the Republic on April 16 2014. Retrieved at <http://presidenti.quirinale.it/elementi/Continua.aspx?tipo=Comunicato&key=16464> (Last access June 30 2015).

1st level earned 96.682 EUR gross per year, of which only 11.926 EUR gross per year was performance related pay (see Appendix 1).⁵²⁷

The Legislative Decree of the 4th of October 2012 passed by the Monti government establishes a cap for the salaries of regional administrations set at the remuneration given by councillors in the most efficient administration. Further, the Decree establishes the elimination of bonuses and additions to the perceived salary. Moreover, Article 34 of the *Disegno Di Legge Boschi* (DDL - planned legislative decree) intends to limit the remuneration of regional administrators to that attributed to the mayors of the chief-towns of the region itself. This legislation affects managers working in regional public administration; this includes the managers of 1st level who are the top officials in regional public administration.

b. What is the scope of the standard?

- Article 23 ter of the Legislative Decree of 201/2011 converted in Law 214/2011 in conjunction with Article 13 of the Legislative Decree n. 66 of 24th of April 2014 establish a cap of 240.000 EUR gross per year (maximum salary of the first president of the Court of Cassation) to all managers working in **national public administrations**. This includes managers of 1st level (top managers) in the ministries, presidency of the Council of Ministers, public research institutions and non-economic public agencies.
- Article 84, last paragraph of the Italian Constitution and Law 177 of 1985 establish the rules for the compensation of the **President of the Italian Republic**.
- The legislative Decree of the 4th of October 2012 establishes the rules to determine the salaries of all managers working in **regional public administrations**. This includes managers of 1st level (top managers).

d. Do specific, special aspects play a role in the explanation or justification of the top income policy?

⁵²⁷ See report for 2013 of ARAN for Managers of I level in regional administrations. Retrieved at: https://www.aranagenzia.it/attachments/article/5152/Retribuzioni%20medie%20PA%20per%20macrovoce_SITO.pdf (last access on 25th of May 2015).

The context of the policy of subjecting top officials remunerations to a cap tied to the salary awarded to the first President of the Court of Cassation is that of the economic crisis and the public debt Italy has been facing. In particular, the imposition of a limitation to remuneration of high-level officials and civil servants (all called public managers) in the public administration served to contain public expenses and to reduce public debt. In fact, the new rules on the salaries of managers in public administration were part of a bill passed with the purpose of containing Italy's public debt in light of the financial crisis of the Eurozone.⁵²⁸ Matteo Renzi – the current Italian Prime Minister – has announced the cut to salaries of top managers in the Italian public administration as an issue of “social justice”.⁵²⁹ During the crisis the Italian economy has faced in the last seven years, the amount of salaries top managers received seemed excessive and indelicate towards the rest of the Italian population.

3. What is the scope of the executive pay policy?

a. For which sectors and levels of government does the top income policy apply?

- Article 23 ter of the Legislative Decree of 201/2011 converted in Law 214/2011 in conjunction with Article 13 of the Legislative Decree n. 66 of 24th of April 2014 establish a cap of 240.000 EUR gross per year (maximum salary of the first president of the Court of Cassation) to all managers working in **national public administrations**. This includes managers of 1st level (top managers) in the ministries, presidency of the Council of Ministers, public research institutions and non-economic public agencies.
- Article 84, last paragraph of the Italian Constitution and Law 177 of 1985 establish the rules for the compensation of the **President of the Italian Republic**.
- Legislative Decree of the 4th of October 2012 establishes the rules to determine the salaries of all managers working in **regional public administrations**. This includes managers of 1st level (top managers).

b. Which organizations are categorized as the public sector?

⁵²⁸ See Legislative Decree of 201/2011 converted in Law 214/2011 (also called decree “Salva Italia”)

⁵²⁹ See news article from March 2014 in which Prime Minister Matteo Renzi announces cuts to top managers in public administration in the name of “social justice”. Retrieved at <http://www.ilgiornale.it/news/interni/stipendi-valle-moretti-abbia-dignit-andarsene-1004106.html> (Last access on June 30 2015).

The **public sector** in Italy comprises all bodies and institutions that fulfil the following criteria:

- Organizations that pursue public objectives
- Organizations that embody authoritative powers
- Organizations instituted by the State or other public bodies
- Organizations funded through public money
- Organizations controlled by public powers

This includes the following bodies and institutions:⁵³⁰

- National Health Service
- Non-economic public agencies
- Research institutions
- Regions and local autonomies
- Ministries
- Fiscal agencies
- Presidency of the Council of Ministers
- Educational institutions
- Public Universities
- Agencies defined in Article 70 paragraph 4 of Legislative Decree 165/01
- Agencies defined in Article 60 paragraph 3 of Legislative Decree 165/01
- Independent authorities
- Police corps
- Armed forces
- Fire-fighting services

c. For which groups of senior officials does the standard apply?

⁵³⁰Information retrieved at:
https://www.aranagenzia.it/attachments/article/5152/Retribuzioni%20medie%20PA%20per%20macrovoce_SITO.pdf (last access on 25th of May 2015).

In the Italian public administration managers are divided in different levels (*fasce*); for each sector there are managers of I or II level.⁵³¹ High-level civil servants – who are the subject of this report – are *dirigenti di I fascia* (managers of I level or top managers).

It is important to notice that in Italy public administration there are no differences between different levels of managers with regard to the rules that apply; all are called *public managers* and paid according to the same set of rules⁵³². Furthermore salary specifications at both national and regional level are negotiated by the *Agenzia per la Rappresentanza Negoziabile delle Pubbliche Amministrazioni* for each contract.⁵³³

The standards outlined in the previous question apply to all employees of the public administration who are hired as *dirigenti* (managers). Depending on the managerial level, one may earn more or less on a sliding scale which sees the salary of the First President of the Court of Cassation as the absolute maximum. Due to the fact that top managers (or high-level civil servants) are the ones who earn more on the managerial scale, they are the ones who have been the most affected by the cap on managers' salaries in the public administration.

d. To what extent are the hourly rates or the remuneration of interim staff or temporary staff also regulated by a standard?

The standards explained above do not regulate hourly rates but only set standards that tie the maximum remuneration that can be received by top managers in public administrations. Salary specifications (including hourly rates) at both national and regional level are negotiated by the *Agenzia per la Rappresentanza Negoziabile delle Pubbliche Amministrazioni* for each contract.⁵³⁴ Salaries are contracted individually for each public administration manager.⁵³⁵ The salary will be composed of three parts; a basic remuneration, a remuneration based on the position held and a performance-related remuneration.⁵³⁶

e. To what extent does a circumvention to the application of the standard make a difference to the norm?

⁵³¹ Pursuant to Article 15 and 23 of Legislative Decree n. 165/2001.

⁵³² Article 23 ter of the Legislative Decree of 201/2011 converted in Law 214/2011 (also called decree "Salva Italia").

⁵³³ As established by Legislative Decrees 29/1993, 165/2001 and 150/2009.

⁵³⁴ As established by Legislative Decrees 29/1993, 165/2001 and 150/2009.

⁵³⁵ Legislative Decree 165/2001.

⁵³⁶ Ibid.

The limits and standards established by law for the remuneration of top managers in national and regional public administrations and for the compensation of the President of the Italian Republic only concern the salary paid by the State. For instance, Law 214/2011 sets a limitation to cumulative salaries in public administrations only. When holding two appointments in public administration and in – for instance – a Ministry, one cannot receive more than 25% of the total amount of the salary perceived for the first appointment (including bonuses and reimbursements).

As a result, top managers are not prohibited from perceiving salaries and compensations paid by private institutions or owning private assets. Although there is no law imposing the disclosure of the full assets of top managers in public administration, those holding political offices (such as ministers and the Prime Minister) often have their income disclosed by national media.⁵³⁷ Additionally, pursuant to Article 5 of Legislative Decree 149/2013 converted in Law 13/2014 the Italian Parliament is obliged to publicly disclose on its official website all information related to the assets and income of the members of the Parliament.

f. What policy will be pursued with regard to the salaries of political office holders?

The **Presidency of the Council of Ministers, the Ministries, Regional and other local councils** are considered parts of the Italian public administration.⁵³⁸ However, the political representatives included in the public administration have different function than those of the other managers. Ministers and other political representatives have a guiding role whereas other managers have an executing role.⁵³⁹ Nevertheless, political representatives are included in the legislation for managers of the public administration.

- Article 23 ter of the Legislative Decree of 201/2011 converted in Law 214/2011 in conjunction with Article 13 of the Legislative Decree n. 66 of 24th of April 2014 establish a cap of 240.000 EUR gross per year (maximum salary of the first President of the Court of

⁵³⁷ See for instance the news item published on a National newspaper disclosing the assets and income of members of the government. Information retrieved at: <http://www.repubblica.it/politica/2014/05/22/news/guadagni-86831697/#gallery-slider=86808412> (Last access on June 30 2015).

⁵³⁸ Article 1 of the Legislative Decree 165 of 2001.

⁵³⁹ Article 4(1) and (2) of the Legislative Decree 165 of 2001.

Cassation) to the salaries perceived by members of the government and members of the Senate and the Parliament.

- Legislative Decree of the 4th of October 2012 establishes the rules to determine the salaries of regional Councillors, Mayors and Presidents of the regions.

As for the **President of the Republic**, other legislation applies to its salary. Article 84, last paragraph of the Italian Constitution and Law 177 of 1985 establish the rules for the compensation of the President of the Italian Republic.

With regard to **Members of Parliament** (the Chamber of Deputies and Senate), salaries are regulated by Article 69 of the Constitution, which establishes a compensation to enable parliamentarians to freely execute their electoral mandate. Law 1261 of 31 of October 1965 determines that this compensation shall not exceed the salary perceived by the President of Section of the Court of Cassation. As of January 1 2012, the amount of compensation of Members of the Chamber of Deputies is 10.435.00 EUR gross per month.⁵⁴⁰ The compensation for Members of the Senate is 10.385,31 EUR gross per month.⁵⁴¹ Further, Members of Parliament receive a monthly compensation for living expenses amounting to 3.503,11 EUR gross per month, from which 206,58 EUR are deducted for each voting day the Member of Parliament is absent.⁵⁴²

4. Which instrument is used on the control of executive pay?

a. Is data on salaries collected systematically? If so, by which bodies and how?

Data on the salaries of all managers of the Public Administration is collected annually by the *Agency for the Negotiating Representation of Public Administration*. This agency was created through the Legislative Decree 29/1993 and was later re-confirmed in its functions by the Legislative Decrees 150/1993 and 165/2001. It is the technical agency – having legal personality in public law and autonomy in organizational and accounting activities – which represents the public administrations in the national negotiations of labour contracts. The

⁵⁴⁰ Information retrieved from the website of the Chamber of Deputies at: <http://leg16.camera.it/383?conoscereIacamera=4> (Last accessed on July 14 2015).

⁵⁴¹ Information retrieved from the website of the Senate at: https://www.senato.it/leg17/1075?voce_sommario=61 (Last accessed on July 14 2015).

⁵⁴² Ibid.

agency performs all activities related to the negotiation and definition of collective contracts in various compartments of public labour.

Furthermore, each public administration body is required to constitute an *Organismo Indipendente di Valutazione* (independent evaluation body). Such independent bodies have the duty to evaluate the over-all performance and compliance with the law of the public administration organization in question.⁵⁴³

b. What is the role of accountants in the management of executive pay?

The Agency for the Negotiating Representation of Public Administration is the agency that performs all activities related to the negotiation and definition of collective contracts in various compartments of public labour. The agency presents in its organizational structure various departments which have legal and accounting responsibilities in the negotiation and definition of contracts in the public administration, including those of top managers.⁵⁴⁴ Hence, there is no role of accountants in the management of executive pay.

c. To what extent are there installed mechanisms for self-regulation?

The Agency for the Negotiating Representation of Public Administration has the competency to monitor the application of collective contracts in the public administration and to present annual reports to the Department of Public Functions and the Ministry of Economics a report in which the effectivity of contracts is evaluated.⁵⁴⁵

National public administrations

Further, with regard to the standard established by Article 23 ter of the Legislative Decree of 201/2011 converted in Law 214/2011, a memo of July 2013 of the Presidency of the Council of Ministers invited all bodies concerned to report to the government whether:

- There has been a deviation from the standard imposed by Article 23 ter of the Legislative Decree of 201/2011 converted in Law 214/2011.
- The deviation has been corrected to fall within the afore-mentioned standard.

⁵⁴³ Legislative Decree 150 of 2009 article 14.

⁵⁴⁴ Information retrieved at <http://www.aranagenzia.it/index.php/lagenzia/uffici-e-struttura> (Last access on June 30 2015).

⁵⁴⁵ Information retrieved at <https://www.aranagenzia.it/index.php/lagenzia/laran> (Last access on June 30 2015).

- The body has established internal regulations to classify all salaries issued to managers and determine whether a deviation from the standard is registered.⁵⁴⁶

Presidency of the Republic

No monitoring mechanism is established by law.⁵⁴⁷

Regional public administrations

No legislation or enacting legislation has been found which establishes a monitoring system to ensure that the standards set out in Legislative Decree of the 4th of October 2012 are respected.

d. What sanctions exist in case of excessive the norm? What powers do supervisors have to ask back salary that was paid too much?

The legislation enacted so far to support the provisions of Article 23 ter of the Legislative Decree of 201/2011 converted in Law 214/2011 in conjunction with Article 13 of the Legislative Decree n. 66 of 24th of April 2014 (for national public administrations) and Legislative Decree of the 4th of October 2012 (for regional public administrations) do not present any sanctions that would exist in case of exceeding salaries.

e. To what extent is there a system of disclosure of executive pay provided?

Currently there is no encompassing system of disclosure. Data on the salaries of all managers of the Public Administration is collected by the Agency for the Negotiating Representation of Public Administration – ARAN. However, this data only concerns the salary perceived by top officials in their public function and does not show additional private income or assets.

Although there is no law imposing the disclosure of the full assets of top managers in public administration, those holding political offices (such as ministers and the Prime Minister) often have their income disclosed by the national media.⁵⁴⁸ Additionally, pursuant to Article 5 of the

⁵⁴⁶ Information retrieved from the official document circulated by the Presidency of the Council of Ministers: <http://www.funzionepubblica.gov.it/media/1084356/nt%2033516%20del%2015-7-2013-disposizioni%20su%20trattamenti%20economici-monitoraggio%202013.pdf> (Last access on June 30 2015).

⁵⁴⁷ Article 84 of the Italian Constitution and Law 177 of 1985.

⁵⁴⁸ See for instance the news item published on a National newspaper disclosing the assets and income of members of the government. Information retrieved at: <http://www.repubblica.it/politica/2014/05/22/news/guadagni-86831697/#gallery-slider=86808412> (Last access on June 30 2015).

Legislative Decree 149/2013 converted in Law 13/2014 the Italian Parliament is obliged to publicly disclose on its official website all information related to the assets and income of the members of the Parliament.

5. How is the monitoring regarding the compliance with the standards organized? Who exercises this monitoring?

The Agency for the Negotiating Representation of Public Administration has the competency to monitor the application of collective contracts in the public administration and to present annual reports to the Department of Public Functions and the Ministry of Economics a report in which the effectivity of contracts is evaluated.⁵⁴⁹ However, the laws establishing the new standards do not mention possible future consequences in cases of non-compliance with the standard.

National public administrations

Further, with regard to the standard established by Article 23 ter of the Legislative Decree of 201/2011 converted in Law 214/2011, a memo of July 2013 of the Presidency of the Council of Ministers invited all bodies concerned to report to the government whether:

- There has been a deviation from the standard imposed by Article 23 ter of the Legislative Decree of 201/2011 converted in Law 214/2011.
- The deviation has been corrected to fall within the afore-mentioned standard.
- The body has established internal regulations to classify all salaries issued to managers and determine whether and deviation from the standard is registered.⁵⁵⁰

It may be derived from the guidelines that there does not seem to be a sanction per se. However, public administration bodies are encouraged to rectify deviations from the standards. This seems to imply having the manager in question return the portion of the salary exceeding the cap. Each public administration body is encouraged to monitor the compliance of the salaries of its officials with the new standards established in Article 23 ter of the Legislative Decree of 201/2011 converted in Law 214/2011. Monitoring is assigned to each single public

⁵⁴⁹ Information retrieved at <https://www.aranagenzia.it/index.php/lagenzia/laran> (Last access on June 30 2015).

⁵⁵⁰ Information retrieved from the official document circulated by the Presidency of the Council of Ministers: <http://www.funzionepubblica.gov.it/media/1084356/nt%2033516%20del%2015-7-2013-disposizioni%20su%20trattamenti%20economici-monitoraggio%202013.pdf> (Last access on June 30 2015).

administration body rather than to one national monitoring agency. The reason for this might be to ensure a more effective and capillary self-monitoring mechanism while at the same time saving resources that would be needed if a new central monitoring agency would need to be established.

Presidency of the Republic

No monitoring mechanism is established by law.⁵⁵¹

Regional public administrations

No legislation or enacting legislation has been found which establishes a monitoring system to ensure that the standards set out in Legislative Decree of the 4th of October 2012 are respected.

⁵⁵¹ Article 84 of the Italian Constitution and Law 177 of 1985.

13.2 Semi-Public Sector

1. To what extent is there a debate about a policy to control executive pay in EU countries?

From which political context is that policy executed, from a policy theory and on what grounds?

The remuneration of top public officials in Italy has been a controversial topic for decades, also in the semi-public sector. However, since the economic crisis starting in 2008, the salaries of managers of public companies became a relevant and hotly debated issue again. In 2011, with the commencement of the technocratic government led by Monti, the Italian public administration has become subject to a series of reforms aiming at reducing the public debt which was crippling the economy. In particular, one of the ways in which the government attempted to reduce public debt was to cut the salaries in public administration. In fact, the decree named “Salva Italia” (“Save Italy”) had the objective of reducing public debt and contained a reform which established a cap for the salaries of public administration officials.⁵⁵² However, the salaries of top managers of certain companies of the semi-public sector – namely, companies which have a part of their shares owned by the State but which exclusively issue financial instruments other than shares – have been excluded from the reform.⁵⁵³

Further, in 2014 the newly formed government with Matteo Renzi as Prime Minister announced a cut in the high salaries of top managers in the public administration in the name of “social justice”.⁵⁵⁴ Nevertheless, again top managers in the semi-public sector have been excluded from the cut. This has caused a heated public debate between the Prime Minister Matteo Renzi and the CEO of Ferrovie dello Stato (the Italian railway services). In fact, the CEO has argued on national news that if salaries of top managers in the semi-public sector would be cut, the best managers would work for fully private companies.⁵⁵⁵ As a result of the controversy, the cap established by Article 13 of the Legislative Decree n. 66 of 24th of April 2014 excludes manager of companies with direct or indirect public control which are present or not present in the stock market and which issue exclusively “financial instruments” which are different from shares.

⁵⁵² Article 23 ter of the Legislative Decree of 201/2011 converted in Law 214/2011 (also called decree “Salva Italia”)

⁵⁵³ Amendments have excluded the application of Article 23 ter of the Legislative Decree of 201/2011 converted in Law 214/2011 to semi-public companies which issue exclusively “financial instruments” different from shares.

⁵⁵⁴ See news article from March 2014 in which Prime Minister Matteo Renzi announces cuts to top managers in public administration in the name of “social justice”. Retrieved at <http://www.ilgiornale.it/news/interni/stipendi-valle-moretti-abbia-dignit-andarsene-1004106.html> (Last access on June 30 2015).

⁵⁵⁵ Information retrieved at: <http://www.ilgiornale.it/news/interni/minaccia-moretti-renzi-se-mi-tagli-stipendio-vado-1003855.html> (Last access on June 30 2015).

2. Which standard is chosen? What is the standard based on?

a. What is the precise point of reference of the standard?

Article 23 ter of the Legislative Decree of 201/2011 converted in Law 214/2011 in conjunction with Article 13 of the Legislative Decree n. 66 of 24th of April 2014 applies to the salaries of managers of **companies partially owned by the State which issue shares as well as other financial instruments**.⁵⁵⁶ As a result, the salaries of the CEOs of such companies are capped at a maximum of 240.000 EUR gross per year (which is the maximum salary perceived by the first President of the Court of Cassation).

The cap **does not apply** to the salaries of managers of companies with direct or indirect public control which are present or not present in the stock market and **which do not publicly issue shares but exclusively other types of financial instruments**.⁵⁵⁷ However, the Ministerial Decree 166 of 2013 establishes that the salary of CEOs of such semi-public companies should not be increased by more than 75% of the previous salary. Further, the composition of their salary does not need to conform to the dispositions of Legislative Decree 165 of 2001. As a result, their salaries vary greatly as they are established by individual contracts and are much higher than those of top officials in the public administration (for instance, in 2012 the CEO of the National Railway Service has perceived a salary of 873.666 EUR).⁵⁵⁸

Due to the restriction in its application, the cap seems to apply to only a handful of semi-public companies, and certainly not to the biggest ones. Indeed, Eni (the company controlling the flow of gas and other fossil energies in Italy), Enel (the company controlling electric energy in Italy), Finmeccanica (the biggest IT group in Italy), Cdp (the agency specialized in deposits in Italy), Poste Italiane (the National Postal Services) and Ferrovie dello Stato (the National Railway Service) are excluded from the cap.

b. What is the scope of the standard?

⁵⁵⁶ Ministerial decree 166 of 2013.

⁵⁵⁷ Article 23 ter of the Legislative Decree of 201/2011 converted in Law 214/2011 in conjunction with Article 13 of the Legislative Decree n. 66 of 24th of April 2014

⁵⁵⁸ Information retrieved at: <http://www.ilgiornale.it/news/interni/ecco-stipendi-dei-manager-pubblici-1003908.html> (Last access on June 30 2015).

The cap solely applies to the salaries of managers of companies partially owned by the State which **issue shares as well as other financial instruments**.⁵⁵⁹ The salaries of CEOs of companies **who do not publicly issue shares but exclusively other types of financial instruments are not** subject to any cap. However, the Ministerial Decree 166 of 2013 establishes that the salary of CEOs of such semi-public companies should not be increased by more than 75% of the previous salary.

d. Do specific, special aspects play a role in the explanation or justification of the top income policy?

The context of the policy of subjecting top managers' remuneration to a cap tied to the salary awarded to the first President of the Court of Cassation is of the economic and public debt crisis that Italy has faced after the economic crisis in 2008. In particular, the imposition of a limitation of the remuneration of managers in the public administration served to contain public expenses and reduce public debt. In fact, the new rules on the salaries of high level civil servants which all fall under the term "managers in public administration" were part of a bill passed with the purpose of containing Italy's public debt in light of the financial crisis of the Eurozone.⁵⁶⁰ Furthermore, Matteo Renzi has announced the cut to salaries of top managers in Italian public administration as an issue of "social justice".⁵⁶¹ During the crisis the Italian economy has faced in the last seven years, the amount of salaries top managers received seemed excessive and indelicate towards the rest of the Italian population.

3. What is the scope of the executive pay policy?

a. For which levels of the semi-public sector does the top income policy apply?

Article 23 ter of the Legislative Decree of 201/2011 converted in Law 214/2011 in conjunction with Article 13 of the Legislative Decree n. 66 of 24th of April 2014 applies to the salaries of managers of companies partially owned by the State which **issue shares as well as other**

⁵⁵⁹ Article 23 ter of the Legislative Decree of 201/2011 converted in Law 214/2011 in conjunction with Article 13 of the Legislative Decree n. 66 of 24th of April 2014

⁵⁶⁰ See Legislative Decree of 201/2011 converted in Law 214/2011 (also called decree "Salva Italia")

⁵⁶¹ See news article from March 2014 in which Prime Minister Matteo Renzi announces cuts to top managers in public administration in the name of "social justice". Retrieved at <http://www.ilgiornale.it/news/interni/stipendi-valle-moretti-abbia-dignit-andarsene-1004106.html> (Last access on June 30 2015).

financial instruments.⁵⁶² As a result, the salaries of the CEOs of such companies would be capped at a maximum of 240.000 EUR gross per year.

However, the salaries of CEOs of companies **do not publicly issue shares but exclusively other types of financial instruments** are not subject to any cap. Nevertheless, the Ministerial Decree 166 of 2013 establishes that the salary of CEOs of such semi-public companies should not be increased by more than 75% of the previous salary. As a result, their salaries vary greatly as they are established by individual contracts and are much higher than those of top officials in the public administration (for instance, in 2012 the CEO of the National Railway Service has perceived a salary of 873.666 EUR).⁵⁶³

b. Which organizations are categorized as the semi-public sector?

The semi-public sector in Italy comprises all companies with a public participation (where shares are owned by the state or by public institutions). In particular, such companies pursue a public goal and perceive funds issued from the state using public money.⁵⁶⁴ The organizational structure of the companies in the semi-public sector is also of importance. In fact, pursuant to Article 2449 of the Italian Civil Code, if the State or Public Institutions participate in a company, the statute may entitle the State or participating Public Institution to nominate of one or more members of the Supervisory Body.

c. For which groups of senior officials does the standard apply?

Article 23 ter of the Legislative Decree of 201/2011 converted in Law 214/2011 in conjunction with Article 13 of the Legislative Decree n. 66 of 24th of April 2014 applies to the salaries of **managers** of companies partially owned by the State **issue shares as well as other financial instruments**. As a result, the salaries of the CEOs of such companies would be capped at a maximum of 240.000 EUR gross per year. The legislation defines *managers* as CEOs and top executives. As a result, directors of semi-public companies which do not exercise executive functions are not affected by the cap.

⁵⁶² Article 13 of the Legislative Decree n. 66 of 24th of April 2014 extends the cap of top officials in the public administration established by Article 23 ter of the Legislative Decree of 20172011 converted in Law 21472011 to the CEOs of companies belonging to the semi-public sector that issue shares as well as other financial instruments.

⁵⁶³ Information retrieved at: <http://www.ilgiornale.it/news/interni/ecco-stipendi-dei-manager-pubblici-1003908.html> (Last access on June 30 2015).

⁵⁶⁴ As established in Article 2247 of the Italian Civil Code.

Further, the salaries of CEOs of companies which **do not publicly issue shares but exclusively other types of financial instruments** are not subject to any cap. However, Ministerial Decree 166 of 2013 establishes that the salary of CEOs of such semi-public companies should not be increased by more than 75% of the previous salary.

d. To what extent are the hourly rates or the remuneration of interim staff or temporary staff also regulated by a standard?

The standards enunciated above do not regulate hourly rates but only set a cap that ties the maximum remuneration that can be received by top managers in semi-public companies which issue bonds. Hourly rates are to be negotiated individually in each contract. Further, the salaries of CEOs of companies which **do not publicly issue shares but exclusively other types of financial instruments** are not subject to any cap. However, the Ministerial Decree 166 of 2013 establishes that the salary of CEOs of such semi-public companies should not be increased by more than 75% of the previous salary. Moreover, the salaries of top executives of semi-public companies are contracted individually between the person who will hold the position and the company itself. As a result, the hourly rates and remuneration arrangements are also contracted individually.

e. To what extent does a circumvention to the application of the standard make a difference to the norm?

The limits and standards established by law for the remuneration of top executives (CEOs) in semi-public companies **issue shares as well as other financial instruments**, only concern the salary which the State contributes in paying by virtue of holding shares of the company. Top executives are not prohibited from perceiving salaries and compensations paid by private institutions or owning private assets annually. Although there is no law imposing the disclosure of the full assets of top managers in semi-public companies, CEOs often have their income disclosed by the national media due to the controversies revolving around the salaries they perceive.⁵⁶⁵

⁵⁶⁵ See for instance the news item published on a National newspaper disclosing the assets and income of CEOs of several semi-public companies. Information retrieved at: <http://www.ilgiornale.it/news/interni/ecco-stipendi-dei-manager-pubblici-1003908.html> (Last access on June 30 2015).

Furthermore, the cap established only applies to managers or top executives of public companies that hold public shares. As a result, directors **who do not exercise executive powers** in semi-public companies which issue shares as well as other financial instruments are not affected by the cap. Also, the salaries of CEOs of companies which **do not publicly issue shares but exclusively other types of financial instruments** are not subject to any cap. However, the Ministerial Decree 166 of 2013 establishes that the salary of CEOs of such semi-public companies should not be increased by more than 75% of the previous salary.

4. Which instrument is used on the control of executive pay?

a. Is data on salaries collected systematically? If so, by which bodies and how?

Unlike in the public administration, in the semi-public sector there is not an agency that collects all data regarding salaries. However, the information can be retrieved as every natural person needs to disclose its income by law to the *Agenzia delle Entrate* (the agency which collects taxes in Italy).⁵⁶⁶ Indeed, media channels often publish the statistics and amounts of salaries of top executives of semi-public companies.⁵⁶⁷

b. What is the role of accountants in the management of executive pay?

The law does not refer to any monitoring mechanism which would involve accountants. However, due to the fact that the salaries of top executives of semi-public companies are contracted individually between the person who will hold the position and the company itself it is possible that the company monitors the management of executive pay through accountants. For instance, in companies that have a two-tier structure, the supervisory board may hold this function. In companies with a one-tier structure, the shareholders may exercise a monitoring function over the appointed CEOs.⁵⁶⁸

c. To what extent are there installed mechanisms for self-regulation?

CEOs of companies (including semi-public ones) need to report to their share-holders and – in case of a two-tier structure – to the supervisory board. Due to the fact that the state or public

⁵⁶⁶ D.P.R. 22/12/1986, n. 917; Law 27/12/2006, n. 296; Legislative Decree 21/11/2014, n. 175

⁵⁶⁷ Ibid.

⁵⁶⁸ Dorresteijn A., Monteiro T., Teichmann C., Werlauff E., *European Corporate Law*, Second Edition, Kluwer Law International (2009).

bodies hold shares in semi-public companies, CEOs need to report their actions also to them as share-holders sitting in the board.⁵⁶⁹ Further, pursuant to Article 2449 of the Italian Civil Code, if the State or Public Institutions participate in a company, the statute may entitle them to nominate members in one or more of the Supervisory Bodies.

d. What sanctions exist in case of excessive the norm? What powers do supervisors have to ask back salary that was paid too much?

The legislation enacted so far to support the provisions of Article 23 ter of the Legislative Decree of 201/2011 converted in Law 214/2011 in conjunction with Article 13 of the Legislative Decree n. 66 of 24th of April 2014 (for semi-public companies which **issue shares as well as other financial instruments**) do not present any sanctions that would exist in case of exceeding salaries.

e. To what extent is there a system of disclosure of executive pay provided?

Currently there is no encompassing system of disclosure specifically for top executives in the semi-public sector. However, the information can be retrieved as every natural person needs to disclose its income by law annually.⁵⁷⁰ Although there is no law imposing the disclosure of the full assets of top managers in public administration, media channels often publish the statistics and amounts of salaries of top executives of semi-public companies.⁵⁷¹

5. How is the monitoring regarding the compliance with the standards organized? Who exercises this monitoring?

With regard to the standard established by Article 23 ter of the Legislative Decree of 201/2011 converted in Law 214/2011, a memo of July 2013 of the Presidency of the Council of Ministers invited all bodies concerned to report to the government whether:

- There has been a deviation from the standard imposed by Article 23 ter of the Legislative Decree of 201/2011 converted in Law 214/2011.

⁵⁶⁹ Dorresteijn A., Monteiro T., Teichmann C., Werlauff E., *European Corporate Law*, Second Edition, Kluwer Law International (2009).

⁵⁷⁰ D.P.R. 22/12/1986, n. 917; Law 27/12/2006, n. 296; Legislative Decree 21/11/2014, n. 175

⁵⁷¹ See for instance the news item published on a National newspaper disclosing the assets and income of CEOs of several semi-public companies. Information retrieved at: <http://www.ilgiornale.it/news/interni/ecco-stipendi-dei-manager-pubblici-1003908.html> (Last access on June 30 2015).

- The deviation has been corrected to fall within the afore-mentioned standard.
- The body has established internal regulations to classify all salaries issued to managers and determine whether a deviation from the standard is registered.⁵⁷²

From the above guidelines there does not seem to be a sanction per se. However, companies are encouraged to rectify deviations from the standards. This may imply having the manager in question return the portion of the salary exceeding the cap. Each semi-public company which **issues shares as well as other financial instruments** is encouraged to monitor the compliance of the salaries of its officials with the new standards established in Article 23 ter of the Legislative Decree of 201/2011 converted in Law 214/2011. Monitoring is assigned to each company rather than to one national monitoring agency.

⁵⁷² Information retrieved from the official document circulated by the Presidency of the Council of Ministers: <http://www.funzionepubblica.gov.it/media/1084356/nt%2033516%20del%2015-7-2013-disposizioni%20su%20trattamenti%20economici-monitoraggio%202013.pdf> (Last access on June 30 2015).

14. Poland

14.1 Public sector

1. To what extent is there a (political) discussion in EU countries about policies controlling top income? In/On which political context is the policy set/based on, out of/based on political theory and with what arguments?

The *Law on the Salaries of Persons holding Managerial Public Posts* dates back to 1981. The economic crisis of 2008, however, was one of the reasons to open the debate on the salaries of high-level officials in the public sector. It was debated whether to freeze the salary levels of the top officials, which was done in 2008.⁵⁷³ Currently there is no regulation by law in the sense of a cap policy to regulate the salaries of top officials in the public sector. Rather salaries are determined by the pay system which regulates remuneration determined on a base salary with a multiple and a variable part such as benefits with another multiple. These will be further investigated below.

2. Which standard is chosen? What is the standard based on?

a. What is the precise point of reference of the standard?

The *Law on the Salaries of Persons holding Managerial Public Posts* provides for a point of reference which is a base salary. This base salary is established by the law on the budget.⁵⁷⁴ In 2015, the base salary was 1766,46 zł (425 Euro), amounting to 5100 Euro annually.⁵⁷⁵ This base salary is further multiplied by a relevant number according to the position.

b. What is the scope of the standard?

According to Art. 1 of the *Law on the Salaries of Persons Holding Managerial Public Posts*, the law covers the following positions: the President of the Republic of Poland, the Marshall and the Vice-Marshall of the Sejm (the lower chamber of the Parliament), the Marshall and the

⁵⁷³ <http://serwisy.gazetaprawna.pl/praca-i-kariera/artykuly/868947,wyborcze-podwyzki-w-budzetowce-pensje-urzednikow-wyzsze-nawet-o-20-procent.html>

⁵⁷⁴ Art. 2(a), 3(2) of the Ustawa z dnia 31 lipca 1981 r. o wynagrodzeniu osób zajmujących kierownicze stanowiska państwowe

⁵⁷⁵ Art. 9(1)2a Ustawa budżetowa na rok 2015.

Vice-Marshall of the Senat (the upper chamber of the Parliament), the President of the Council of Ministers (the Prime Minister), the Minister, the Vice-President of the Council of Ministers, the President of the Supreme Chamber of Control, the President of the National Bank of Poland, the Ombudsman, the Child's Ombudsman, the General Inspector of the Protection of Personal Data, the President of the Institute of National Memory – the Commission Persecuting Felonies Against the Polish Nation, the President of the National Council of Radio and Television, the President of the Attorney General of the State Treasury, the Vice-President of the Supreme Chamber of Control, the Chief and the Vice Chief of the Sejm's and Senat's Chancellery, the Chief of the Prime Minister's Chancellery, the Chief of the Civil Service, the Chief and the Vice-Chief Labour Inspector, the Head of the National Election Office, The Minister of State, the Chief and the Vice-Chief of the President's Chancellery, the Vice-Attorney General, the Vice- President of the Attorney General of the State Treasury, the President of the Polish Academy of Sciences, the State Secretary, the member of the National Council of Radio and Television, the first Deputy of the President of the National Bank of Poland, the Vice-Secretary of State, the first Vice-President of the National Bank of Poland, the Ombudsman Deputy, the Child's Ombudsman Deputy, the Deputy of the General Inspector of the Protection of Personal Data, the Insurance Ombudsman, the Head of the Central Planning Office, the Vice-President of the Polish Academy of Sciences, the Voivode, the Deputy Head of the Central Planning Office, and the Vice-Voivode.

The salary of the top public officials is a multiple of the base reference wage provided by the budget every year.⁵⁷⁶ The President acting with the power granted by the Law on the Supreme Court will act via a Decree to establish the multiple for the judges.⁵⁷⁷

The *Law on the salaries of persons holding managerial public posts* establishes the salary of the President of the Republic of Poland to be composed of 7 base salaries and a benefit composing of 3 base salaries, amounting to 51 000 euro annually.⁵⁷⁸ The Members of Parliament as well as the Senators will get the same amount of money as the Vice-Secretary of State. This is regulated by the *Law on Execution of the Parliamentary Mandate*.⁵⁷⁹ The salary

⁵⁷⁶Ustawa z dnia 31 lipca 1981 r. o wynagrodzeniu osób zajmujących kierownicze stanowiska państwowe, Art. 2, 2a.

⁵⁷⁷Ustawa z dnia 23 listopada 2002 r. o Sądzie Najwyższym., Art. 42(5).

⁵⁷⁸ Ustawa z dnia 31 lipca 1981 r. o wynagrodzeniu osób zajmujących kierownicze stanowiska państwowe, Art. 2, 2a.

⁵⁷⁹ Ustawa z dnia 9 maja 1996r. O Wykonywaniu mandatu Posła i Senatora, Art. 5(2).

of the public officials comprises a multiple of a base salary as well as an additional benefits established as for the respective position (Art. 3(1)).

The President of the Republic of Poland provides a decree which gives the value of the multiples for the aforementioned top public officials enlisted.⁵⁸⁰ The following table presents the multiples for the different posts as well as the annual gross salaries including the benefit:

The post	Multiple for the base salary	Multiple for the benefit	Annual gross salary with benefit in euro⁵⁸¹
Marshall of the Sejm, Marshall of the Senat; the Prime Minister	6,2	2,0	41 820
Vice-Marshall of the Sejm, Vice-Marshall of the Senat, the President of the Supreme Chamber of Control	5,7	1,6	37 230
The Chief of the President's Chancery, the minister, the Ombudsman, the Chief of the Sejm's Chancery, the Chief of the Senat's Chancery, the Chief of the Prime Minister's Chancery, the President of the Institute of National Memory – the Commission Persecuting Felonies Against the Polish Nation, the President of the National Council of Radio and Television, the Vice-President of the Supreme Chamber of Control	5,6	1,5	36 210
the Child's Ombudsman, the General Inspector of the Protection of Personal Data, President of the Polish Academy of Sciences	5,0	1,3	32 130
Vice-Chief of the President's Chancery, Vice-Chief of the Sejm's Chancery, Vice-	4,9	1,2	31 110

⁵⁸⁰ § 2. Rozporządzenie Prezydenta Rzeczypospolitej Polskiej z dnia 25 stycznia 2002 r. w sprawie szczegółowych zasad wynagradzania osób zajmujących kierownicze stanowiska państwowe.

⁵⁸¹ Calculated by the researcher

Chief of the Senat's Chancery, the Secretary of State, the Ombudsman Deputy, the Deputy General Inspector of the Protection of Personal Data, the Head of the National Election Office, the member of the National Council of Radio and Television			
The Chief Labour Inspector, the Vice-Attorney General, the Vice-Secretary of State, the Vice-President of the Polish Academy of Sciences, the Voivode, the Member of Parliament, the Senator	4,4	1,2	28 560
Vice-Chief Labour Inspector, the Vice-Voivode, the Insurance Ombudsman	4,0	1,2	26 520
the President of the Attorney General of the State Treasury, the Vice-President of the Attorney General of the State Treasury, the Head of the Central Planning Office, the Chief of the Civil Service	1,0-6,5	1,0-2,0	
The President of the Constitutional Tribunal	5,7	1,8	38 250
The Vice- President of the Constitutional Tribunal	5,7	1,6	37 230
The President of the National Bank of Poland	6,2	2,0	41 820
The first Deputy of the President of the National Bank of Poland	5,7	1,6	37 230
The first Vice-President of the National Bank of Poland	5,6	1,5	36 210

c. To which extent are the norms related to the situation of the labour market? Is this relationship dynamic?

The salary of the top public officials is a multiple of the base reference wage provided by the budget every year.⁵⁸² Therefore, it differs every year.

d. Do specific or special (external) contexts/circumstances (e.g. legal or economic) play a role in the explanation or justification of the top incomes policy?

Due to the economic crisis of 2008 the salary of the persons covered by the *Law on the Salaries of Persons Holding Managerial Public Posts* were frozen on the level of 2008 in the years 2009-2011.⁵⁸³ In addition, the overall reform of the pay system of the public administration in 2009 necessitated a reincorporation of top civil servant into the bureaucratic corps.

3. What is the scope of the executive pay policy?

a. For which sectors and levels of government does the topic income policy apply?

The *Law on the Salaries of Persons Holding Managerial Public Posts* applies to the highest level of the state's executive branch, namely, the President of the Council of Ministers (the Prime Minister), the Minister, the Vice-President of the Council of Ministers; but also the Voivode and the Vice-Voivode being a regional representative (reference).

b. Which organizations are categorized as public and semi-public sector?

Art. 1 of the *Law on State Enterprises* says that state enterprises are independent, self-governing and self-financing enterprises possessing legal personality.⁵⁸⁴ State enterprises are formed by the chief and central organs of public administration, the National Bank of Poland and public banks (Art. 7). The aim of enterprises of public utility is to fulfil human needs such as producing and providing services in sanitary engineering, public transport, providing people with electric, gas and heat energy, etc. (Art.6(1)). The *Law on the Salaries of Persons Holding Managerial Public Posts* covers the President of the National Bank of Poland as well as its Deputy and the Vice-President.

c. For which groups of senior/top officials does the standard apply?

⁵⁸²Ustawa z dnia 31 lipca 1981 r. o wynagrodzeniu osób zajmujących kierownicze stanowiska państwowe, Art. 2, 2a.

⁵⁸³ Ibid., Art. 2a(5-7); 3(2d-2f).

⁵⁸⁴Ustawa z dnia 25 września 1981r. o przedsiębiorstwach państwowych

Art. 1 of the *Law on the Salaries of Persons Holding Managerial Public Posts* covers the President of the Republic of Poland, the Marshall and the Vice-Marshall of the Sejm (the lower chamber of the Parliament), the Marshall and the Vice-Marshall of the Senat (the upper chamber of the Parliament), the President of the Council of Ministers (the Prime Minister), the minister, the Vice-President of the Council of Ministers, the President of the Supreme Chamber of Control, the President of the National Bank of Poland, the Ombudsman, the Child's Ombudsman, the General Inspector of the Protection of Personal Data, the President of the Institute of National Memory – the Commission Persecuting Felonies Against the Polish Nation, the President of the National Council of Radio and Television, the President of the Attorney General of the State Treasury, the Vice-President of the Supreme Chamber of Control, the Chief and the Vice Chief of the Sejm's and Senat's Chancellery, the Chief of the Prime Minister's Chancellery, the Chief of the Civil Servants, the Chief and the Vice-Chief Labour Inspector, the Head of the National Election Office, The Minister of State, the Chief and the Vice-Chief of the President's Chancellery, the Vice-Attorney General, the Vice- President of the Attorney General of the State Treasury, the President of the Polish Academy of Sciences, the State Secretary, the member of the National Council of Radio and Television, the first Deputy of the President of the National Bank of Poland, the Vice-Secretary of State, the first Vice-President of the National Bank of Poland, the Ombudsman Deputy, the Child's Ombudsman Deputy, the Deputy of the General Inspector of the Protection of Personal Data, the Insurance Ombudsman, the Head of the Central Planning Office, the Vice-President of the Polish Academy of Sciences, the Voivode, the Deputy Head of the Central Planning Office, and the Vice-Voivode.

d. To what extent are the hourly rates or the remuneration of interim staff, consultants, etc. that are hired by the government on a temporary basis, also regulated by a standard?

Hourly rates or interim staff are not mentioned by the Law.

e. To what extent do exemptions under private law to the application of the standard exist? To what extent do exemptions under private law undermine the application of the standard?

No information could be found.

4 Which instrument is used on the control executive pay?

a. Is the data on the salaries collected systematically?

It is not mentioned that the data is collected systematically. Neither is it published.

b. What is the role of accountants in the management of executive pay?

The accountants do not play a role in the management of executive pay.

c. To what extent are there installed mechanisms of self-regulation?

No information could be found.

d. What sanctions exist in case of exceeding the norm? What powers do supervisors have?

No sanctioning rules are mentioned in any other law and there is no cap law in existence.

e. To what extent is there a system of disclosure of executive pay provided/ foreseen? Based on what arguments?

The data on salaries of civil servants is public in accordance with the *Law on Access to the Public Information* in the Public Information Bulletin which is updated irregularly.⁵⁸⁵ When it comes to the top public officials their salaries are widely known due to the specifications in the *Law on the Salaries of Persons Holding Managerial Public Posts*.

5. How is the monitoring regarding the compliance with the standards organised? Who exercises this monitoring role?

Art. 202(1) of the Constitution establishes the Supreme Chamber of Control as the highest controlling, auditing organ of the state. The *Law on the Supreme Chamber of Control* gives the

⁵⁸⁵ Ustawa z dnia 6 września 2001 r. O dostępie do informacji publicznej, Art. 1(1), Art. 8.

power to the Chamber which is the highest external entity that controls the organs of public administration, to audit the Sejm's Chancery, the President's Chancery, the Highest Court, the Ombudsman, the Senat's Chancery, National Council of Radio and Television, the Institute of National Memory – the Commission Persecuting Felonies Against the Polish Nation, the General Inspector of the Protection of Personal Data, the Constitutional Tribunal, the National Election Office, the Labour Inspector's Office.⁵⁸⁶ The institutions enlisted need to give in the disposition of the Supreme Chamber of Control all the documents requested.⁵⁸⁷ The authorized members of the Supreme Chamber of Control can enter the premises of the offices under control freely, collect the relevant documentation, hear witnesses, demand information from third parties, using the help of specialists.⁵⁸⁸

⁵⁸⁶ Art. 4(1) Ustawa z dnia 23 grudnia 1994 r. o Najwyższej Izbie Kontroli.

⁵⁸⁷ Ibid., Art. 29(1)(1).

⁵⁸⁸ Ibid. Art. 29(2).

14.2 Semi-public sector

1. To what extent is there a (political) discussion in EU countries about policies controlling top income? In/On which political context is the policy set/based on, out of/based on political theory and with what arguments?

In view of the 2008 crisis the topic of the salaries of top officials of the semi-public as well as public sector is vivid. In the public sector corporate governance is a relevant issue as the public interest criticizes situations where the managers could become too big beneficiaries at the cost of the investors, both public and private.⁵⁸⁹ Since 2011 the base salary has been frozen on the same level due to a bad state of public finances.⁵⁹⁰ Nowadays, the *Law on Salaries of People Managing Certain Legal Entities*⁵⁹¹ is being criticized for not being flexible because of the lack of the flexibility of salaries as it is impossible to adjust the salary to the enterprise's needs, the responsibilities of the manager, as well as the results the manager reaches.⁵⁹²

2. Which standard is chosen? What is the standard based on?

a. What is the precise point of reference of the standard?

In the framework of the *Law on Salaries of People Managing Certain Legal Entities* a base salary policy for the semi-public sector was introduced in 2000. The base salary is the medium monthly salary in the enterprise sector (without any additional rewards (which are based on profit)) from the fourth quarter of the previous year as given by the President of the Central Statistical Office.⁵⁹³ The salary for the top officials employed in the companies (enlisted in point 3) can be a multiple (depending on the position: max. 6 times) of the base salary.⁵⁹⁴ The law provides for the limits to the salaries, therefore, such a salary is a maximum. This entails that a company can propose lower salaries. However, an amendment to the law was introduced in 2011, and reintroduced ever since, the base salary from year 2009 as reference point, and no

⁵⁸⁹<http://biuletyn.piszc.pl/component/content/article/98-archiwum-biuletynu/biuletyn-20-luty-2013/375-kominowka-wci-budzi-wtpliwoi192>

⁵⁹⁰http://wiadomosci.gazeta.pl/wiadomosci/1,114871,17324802,Muzycy_z_Filharmonii_Narodowej_zarabiamy_za_malo_.html;
<http://bytow.naszemiasto.pl/artykul/czy-w-szpitalu-doszlo-do-zlamania-ustawy-kominowej-urzed,1417025.art.t.id.tm.html>

⁵⁹¹ Ustawa z dnia 3 marca 2000 r. o wynagradzaniu osób kierujących niektórymi podmiotami prawnymi,

⁵⁹²<http://biuletyn.piszc.pl/component/content/article/98-archiwum-biuletynu/biuletyn-20-luty-2013/375-kominowka-wci-budzi-wtpliwoi192>

⁵⁹³ Ustawa z dnia 3 marca 2000 r. o wynagradzaniu osób kierujących niektórymi podmiotami prawnymi, Art. 8(1), 8(3).

⁵⁹⁴ Ustawa z dnia 3 marca 2000 r. o wynagradzaniu osób kierujących niektórymi podmiotami prawnymi, Art. 8(1), 8(3).

longer the one of the previous year (Art. 29b-f(1)). The base salary in 2009 was 3453,58 zł monthly (around 830 Euro), amounting to 9960 Euro annually, and in 2014 4138,58 zł monthly (around 999 Euro), amounting to 11988 Euro annually. This means that for 2015 instead of taking the salary base from 2014, the base is taken from year 2009 and entails a 17% difference.⁵⁹⁵

According to Art. 29f(2) of the *Law on Salaries of People Managing Certain Legal Entities* in the Supervisory Boards and Audit Committees in State Agencies the base for 2015 is a medium monthly salary in the enterprise sector (without the prizes based on profit) from the fourth quarter of 2011. In 2011 the base amounted to 3875,35 zł (around 910 Euro), amounting to 10920 Euro annually.⁵⁹⁶ It can be observed that the difference between what the officials should get if the salary base was taken from 2014 and from which it is actually taken now (2011) amounts to 10%.

b. What is the scope of the standard?

Art. 1 of the *Law on State Enterprises*⁵⁹⁷ stipulates that state enterprises are independent, self-governing and self-financing enterprise possessing legal personality. State enterprises are formed by chief and central organs of public administration, National Bank of Poland and public banks (Art. 7). The aim of enterprises of public utility is the fulfilling of human needs, especially to produce and provide services in sanitary engineering, public transport, and providing people with electric, gas and heat energy (Art.6(1)).

The *Law on Salaries of People Managing Certain Legal Entities* covers state-owned companies(Art.1(1))⁵⁹⁸. These are defined as state organizational entities that have legal personality but are not a legal subject (Art.1(2)), self-governing organizational entities having legal personality but not being legal subject(Art.1(3)); one-person companies subject to commercial law created by the State Treasury or entities of local self-government (Art. 1(4)); companies subject to commercial law in which state's capital exceeds 50% or of which at least 50% of the shares belongs to the state (Art.1(5)), companies subject to commercial law in which

⁵⁹⁵ <http://dziennikigus.stat.gov.pl/dzienniki-urzedowe-gus/> position 2

⁵⁹⁶ <http://stat.gov.pl/sygnalne/komunikaty-i-obwieszczenia/lista-komunikatow-i-obwieszczen/obwieszczenie-w-sprawie-przecietnego-miesiecznego-wynagrodzenia-w-sektorze-przedsiębiorstw-bez-wyplat-nagrod-z-zysku-w-czwartym-kwartale-2012-r-,35,1.html>

⁵⁹⁷ Ustawa z dnia 25 września 1981r. O przedsiębiorstwach państwowych.

⁵⁹⁸ Art. 1(1)

state's capital exceeds 50% or of which at least 50% of the shares belongs to the local self-government (Art. 1(6)); companies subject to commercial law in which company's capital exceeds 50% or of which at least 50% of the shares belongs to a company from points (4-6) (Art. 1(7)); state agencies (Art. 1(8)); research institutes or subjects to which provisions on research institutes is applied (Art. 1(9)); foundations in which public means exceed 25% of annual income or where property coming from public means exceed 25% of the foundation's property at the end of the year and its value exceeds 10% of the income of the foundation (Art. 1 (10)), national budget entities excluding the public administration organs, courts and persons that are covered by the *Law on Salaries of Persons Holding Managerial State Posts* (Art. 1(12))⁵⁹⁹, and independent public health institutions (Art. 1(16)).⁶⁰⁰

There is a base salary and it is multiplied by a relevant number (see the table below) regulated by the Law. The law is applied to directors, presidents including temporary ones, vice-directors, vice-presidents members of the managing organs- especially board members, main accountants of the aforementioned entities and also persons managing employed based on a civil law contract (excluding the independent public health institutions); liquidators of state-owned companies; members of the supervisory board and audit committees of state organizational entities having legal personality but not being a legal subjects; self-governing organizational entities having legal personality but not being a legal subject, one-person companies subject to commercial law created by the State Treasury or entities of local self-government; companies subject to commercial law in which state's capital exceeds 50% or of which at least 50% of the shares belongs to the state, companies subject to commercial law in which state's capital exceeds 50% or of which at least 50% of the shares belongs to the local self-government; state agencies; executives of the independent public health institutions (Art.2).

The Prime Minister may, through a decree, raise the maximum salary by 50% of the officials regulated by the Law in cases when the entity is of special importance to the state, taking into account: the type of services rendered or product delivered; the scope of activity; turnover; the number of employees (Art. 9).

⁵⁹⁹Ustawa z dnia 31 lipca 1981 r. o wynagrodzeniu osób zajmujących kierownicze stanowiska państwowe
⁶⁰⁰ Art. 1.

Some top officials can get an annual award according to Art. 10 of the law, these posts include: directors, presidents including temporary ones, vice-directors, vice-presidents members of the managing organs - especially board members, main accountants and also persons managing employed based on a civil law contract of state-owned companies; state organisational entities having legal personality but not being a legal subject; self-governing organisational entities having legal personality but not being a legal subject; one-person companies subject to commercial law created by the State Treasury or entities of local self-government; companies subject to commercial law in which state's capital exceeds 50% or of which at least 50% of the shares belongs to the state, companies subject to commercial law in which state's capital exceeds 50% or of which at least 50% of the shares belongs to the local self-government; state agencies; research institutes or subjects to which provisions on research institutes is applied; foundations in which public means exceed 25% of annual income or where property coming from public means exceeds 25% of the foundation's property at the end of the year and its value exceeds 10% of the income of the foundation, national budget entities excluding the public administration organs, courts and persons that are covered by *the Law on Salaries of Persons Holding Managerial State Posts*.⁶⁰¹

The following table presents the multipliers for the maximum salary for semi-public officials:

Persons employed in	The multiply of the base salary	Annual gross in euro with the base taken from 2009 (current base salary used)
State-owned companies(Art.1(1)), State organisational entities having legal Personality but not being legal subject(Art.1(2))	6	59 760
Self-governing organisational entities having legal personality but not being legal subject(Art.1(3))	4	39 840
One-person companies subject to commercial law created by the State Treasury or entities of local self-government (Art. 1(4)); companies subject to commercial law in which state's capital exceeds 50% or of which at least 50% of the	6	59 760

⁶⁰¹ Ustawa z dnia 31 lipca 1981 r. o wynagrodzeniu osób zajmujących kierownicze stanowiska państwowe

shares belongs to the state (Art.1(5)), companies subject to commercial law in which state's capital exceeds 50% or of which at least 50% of the shares belongs to the local self-government (Art. 1(6))		
Companies subject to commercial law in which company's capital exceeds 50% or of which at least 50% of the shares belongs to a company from points (4-6) (Art. 1(7))	4	39 840
State agencies (Art. 1(8)); research institutes or subjects to which provisions on research institutes is applied (Art. 1(9)); foundations in which public means exceed 25% of annual income or where property coming from public means exceed 25% of the foundation's property at the end of the year and its value exceeds 10% of the income of the foundation (Art. 1 (10))		
-if created or supervised by a minister or a central organ of governmental administration	6	59 760
-if created or supervised by a local self-government or a territorial organ of governmental administration	4	39 840
National budget entities excluding the public administration organs, courts and persons that are covered by the <i>Law on Salaries of Persons Holding Managerial State Posts</i> (Art. 1(12))	3	29 880
Liquidators, syndics and managers of the bankruptcy estate of entities enlisted in art. 1	4	39 840
Members of the supervisory entities, in particular members of the supervisory board and audit committees	1	9960/10 920 ⁶⁰²
Executives of independent public health institutions	4	39 840

⁶⁰² The higher value applying to Supervisory Boards and Audit Committees in State Agencies as explained in section 2a

c. To which extent are the norms related to the situation of the labour market? Is this relationship dynamic?

The semi-public sectors' salaries are dependent upon the statistics taken from the labour market.⁶⁰³ Indeed, it is a multiple of a medium monthly salary in the enterprise sector (without the rewards based on profit) as given by the President of the Central Statistical Office. It used to be of the previous year which made it dynamic as it would change in line with the private sector's trends but it was changed with the amendment which set the date of reference to the amount of 2009 or 2011 (as explained above).

d. Do specific or special (external) contexts/circumstances (e.g. legal or economic) play a role in the explanation or justification of the top incomes policy?

The salaries of semi-public officials are regulated by *Law on Salaries of People Managing Certain Legal Entities* introduced in 2000.⁶⁰⁴ It was introduced in order to provide for one holistic system of regulating such salaries.⁶⁰⁵ It is also regarded as a tool to make the system of payments more transparent and to lower the salaries.⁶⁰⁶ The financial crisis of 2008 has influenced the base salary of managers in the semi-public sector which is taken into account to establish the salaries of top officials. The reason was the state of public finances and government's attempt to fight the crisis.

3. What is the scope of the executive pay policy?

a. For which sectors and levels of government does the topic income policy apply? Please list what is states in the law or code, is it the definition mentioned above?

The *Law on Salaries of People Managing Certain Legal Entities* applies to self-governing organisational entities having legal personality but not being legal subject and entities of local self-government.

⁶⁰³ Law on Salaries of People Managing Certain Legal Entities, Art. 8.

⁶⁰⁴ Ustawa z dnia 3 marca 2000 r. o wynagradzaniu osób kierujących niektórymi podmiotami prawnymi

⁶⁰⁵ 22-12-1999 Extraordinary Commission , 2354/III

<http://orka.sejm.gov.pl/Biuletyn.nsf/595effc1afbb8582c1256b6e0044a58a/23fc3cb3f7498e63c1256b73003b52c2?OpenDocument>

⁶⁰⁶ Interviews with lawyers on 06.06.2015, 11.06.2015 via phone and in person conducted in Katowice, Poland.

b. Which organizations are categorized as public and semi-public sector?

Art. 1 of the Law on State Enterprises says that state enterprises are independent, self-governing and self-financing enterprise possessing legal personality.⁶⁰⁷ State enterprises are formed by chief and central organs of public administration, the National Bank of Poland and public banks (Art. 7). The aim of enterprises of public utility is to fulfil human needs, especially, to produce and provide services in sanitary engineering, public transport, providing people with electric, gas and heat and energy, etc. (Art.6(1)).

The *Law on Salaries of People Managing Certain Legal Entities* covers state-owned companies (1)⁶⁰⁸, state organisational entities having legal personality but not being legal subject (2); self-governing organisational entities having legal personality but not being legal subject (3); one-person companies subject to commercial law created by the State Treasury or entities of local self-government (4); companies subject to commercial law in which state's capital exceeds 50% or of which at least 50% of the shares belongs to the state (5), companies subject to commercial law in which state's capital exceeds 50% or of which at least 50% of the shares belongs to the local self-government (6); companies subject to commercial law in which a company's capital exceeds 50% or of which at least 50% of the shares belongs to a company from points (4-6) (7); state agencies (8); research institutes or subjects to which provisions on research institutes is applied (9); foundations in which public means exceed 25% of annual income or where property coming from public means exceed 25% of the foundation's property at the end of the year and its value exceeds 10% of the income of the foundation (10), national budget entities excluding the public administration organs, courts and persons that are covered by the *Law on Salaries of Persons Holding Managerial State Posts* (12)⁶⁰⁹, and independent public health institutions (16).⁶¹⁰

c. For which groups of senior/top officials does the standard apply?

The law is applied to directors, presidents including temporary ones, vice-directors, vice-presidents members of the managing organs - especially board members, main accountants of the aforementioned entities and also persons managing employed based on a civil law contract

⁶⁰⁷Ustawa z dnia 25 września 1981r. o przedsiębiorstwach państwowych

⁶⁰⁸Art. 1(1)

⁶⁰⁹Ustawa z dnia 31 lipca 1981 r. o wynagrodzeniu osób zajmujących kierownicze stanowiska państwowe

⁶¹⁰Art. 1.

(excluding the independent public health institutions); liquidators of state-owned companies; members of the supervisory board and audit committees of state organizational entities having legal personality but not being legal subjects; executives of the independent public health institutions (Art.2).

d. To what extent are the hourly rates or the remuneration of interim staff, consultants, etc. that are hired by the government on a temporary basis, also regulated by a standard?

The Law on Salaries of People Managing Certain Legal Entities applies equally to temporary directors (Art. 2).

**e. To what extent do exemptions under private law to the application of the standard exist?
To what extent do exemptions under private law undermine the application of the standard?**

In 2013 a number of managers left public companies because when the companies were bought by the state the salaries went down.⁶¹¹ This was a consequence of the implementation of the *Law on Salaries of People Managing Certain Legal Entities*. The companies that used to be private, with salaries negotiated secretly orientated towards the market value of the private sector became public companies that had to adhere to a certain limit of salaries as well as the publicity requirement.

However, in order to avoid the application of the *Law on Salaries of People Managing Certain Legal Entities* there is a possibility for public companies to employ top officials based on a different contract form which is the manager's contract (in contrast to a usual contract for employment) which renders them equal to external employees. This makes the Law inapplicable for these positions. For that reason the provisions of the contracts as well as salaries are not publicly known. A good example can be given by the introduction of such contracts in Polskie Koleje Państwowe – Polish State Railways company which is 100% owned by the state,

⁶¹¹<http://tvn24bis.pl/wiadomosci-gospodarcze.71/odprawy-odszkodowania-szefom-panstwowych-spolek-ustawa-kominowa-niestraszna.416478.html>

where such contracts were introduced in order to avoid the application of the law.⁶¹² In addition, an interpellation about these special arrangements of managerial contracts was made to the Ministry of Administration and Digitization on the salaries of the members of the Supervisory Board of the Poczta Polska (Polish Post) – a state-owned company.⁶¹³ The Ministry replied that the salaries do not have to be disclosed in this setting even though it is a state-owned company. The *Law on Salaries of People Managing Certain Legal Entities* was not mentioned in the response. It seems that because those contracts make the employees similar to external employees, the law is not taken into account and becomes inapplicable. Another interpellation was posed on the topic of the pay of the managers in the Grupa Kapitałowa Energa SA. The response gives an explanation that the *Law on Salaries of People Managing Certain Legal Entities* does not cover the managerial contracts therefore the salaries can be higher than the limits given in the law and secret.⁶¹⁴

4. Which instrument is used on the control executive pay?

a. Is the data on the salaries collected systematically?

No information was found on the topic of collection of the salaries.

b. What is the role of accountants in the management executive pay?

Auditors check the annual financial report of the mentioned enterprises and shall inform about any inconsistencies with the law in the report (Art. 65(7) of the Law on Accounting).⁶¹⁵ The annual financial report alongside the auditors' report are given to the relevant court registry (Art. 69 (1) of the Law on Accounting).

c. To what extent are there installed mechanisms of self-regulation?

Art. 13 of the law states that if the salary, the annual award, severance package as well as the value of additional benefits exceed the limits given by the law, it means that the surplus given is *de iure* void.

⁶¹² http://wyborcza.biz/biznes/1,100896,16694017,Maria_Wasiak_od_PKP_dostanie_510_tys_zl_odprawy.html

⁶¹³ <http://www.sejm.gov.pl/sejm7.nsf/InterpelacjaTresc.xsp?key=0F1E59D1>

⁶¹⁴ <http://www.sejm.gov.pl/Sejm7.nsf/InterpelacjaTresc.xsp?key=16ADCB16>

⁶¹⁵ Ustawa z 29 września 1994 r. o rachunkowości

d. What sanctions exist in case of exceeding the norm? What powers do supervisors have?

According to Art. 14 (1) of the law if the supervisory bodies of entities such as: state organizational entities having legal personality but not being legal subject; one-person companies subject to commercial law created by the State Treasury or companies subject to commercial law in which state's capital exceeds 50% or of which at least 50% of the shares belongs to the state, companies subject to commercial law in which state's capital exceeds 50% or of which at least 50% of the shares belongs to the self-government, break the provisions of the Law, the supervisory organ is summoned to be dissolved. Art. 14(2) prohibits the appointment of the persons having been a part of the supervisory body when Art. 14(1) was infringed for the next term.

e. To what extent is there a system of disclosure of executive pay provided/ foreseen? Based on what arguments?

Art. 15 of the *Law on Salaries of People Managing Certain Legal Entities* states that the salaries have to be published and are not covered by the law on the protection of personal data.

5. How is the monitoring regarding the compliance with the standards organised? Who exercises this monitoring role?

According to Art. 202(1) of the Constitution the Supreme Chamber of Control is established as the highest controlling, auditing organ of the state. The Law on the Supreme Chamber of Control gives the power to the Chamber which is the highest external entity that controls the organs of public administration, the National Bank of Poland, the state legal persons,⁶¹⁶ the organs of the local self-government, self-governing legal persons,⁶¹⁷ and other self-governing entities as well as other entities such as enterprises in which public means are used.⁶¹⁸ Art. 10 of the law prescribes that the documents produced by the Supreme Chamber of Control are made public except for those protected by the law of secrecy.

15. Sweden

⁶¹⁶ Art. 2(1) Ustawa z dnia 23 grudnia 1994 r. o Najwyższej Izbie Kontroli.

⁶¹⁷ Art. 2(2).

⁶¹⁸ Art. 2(3).

15.1 Public Sector

1. To what extent is there a (political) discussion in EU countries about policies controlling top income? In/On which political context is the policy set/based on, out of/based on political theory and with what arguments?

At the moment there is no political discussion about the policies that control the top income in the public sector of Sweden. These types of discussions were held extensively before the 1990s. The latest discussion was held in 2009, which was mainly due to political debate before the elections as a consequence of the economic crisis. Before 1990, the discussions in Sweden were for a long time about how the public pay sector is regulated. There was the understanding that the former system did not create incentives for top talented people to work in the public sector which was regarded to render the public sector is ineffective. One of the dominant views was that the public sector should implement the model used in the private sector to encourage the flexibility of the remuneration of employees in the public administration.⁶¹⁹

In order to increase the motivation for employees in the public sector, Sweden introduced an individual setting of salary method in the beginning of the 1990. The method was influenced by the private sector and their way of setting salaries was changed to performance-related pay.⁶²⁰ This change led to a decrease in the disparity between the salaries of the public and the private sector. Since then the market value of efficiency decides upon the wages of such employees. There is an individual and differentiated pay system related to level of responsibility, profession, market price, performance and results. The pay is connected to the individual employment rather than the post. As in the private market, the pay is revised annually and factors such as individual results and performance are considered.⁶²¹ The civil servants have the opportunity to negotiate higher salaries than their peers, based on how they perform, or how they have performed in earlier employment. Further also, in principle, the same labour law applies to the public sector as to others in the labour market.⁶²²

In 2006 to 2009 discussions about the top income of the public sector reemerged but this time they were led by the media and by political parties. Some politicians as well as the public argued that high civil servants had a too high salary and this was not in accordance with the wage level

⁶¹⁹ Sjölund et al 1997, p 12.

⁶²⁰ Pihlgren & Svensson 1992, p 85-86.

⁶²¹ OECD country profiles 2012.

⁶²² Öberg 2012, p 175.

of the larger population in Sweden. Since these high civil servants are there to represent the people they should have lower salaries according to some politicians. Some individuals voluntarily changed their salaries but further than this nothing changed.⁶²³ These types of developments are due to Swedish egalitarian culture which is based on solidarity and aims at equity and equality.⁶²⁴

2. Which standard is chosen? What is the standard based on?

a. What is the precise point of reference of the standard?

It is important to point out that in Sweden there is no base or cap salary system applicable for either public or private sectors. Remuneration of top officials is determined by the general pay system of the public administration. The Swedish state model can be regarded as referring to a special way of reaching decisions by means of consensus seeking within a corporatist arrangement. The cultural gain of Sweden, in this framework can be understood as a firm belief in ongoing economic growth and a positive belief that the “good state” will distribute the surplus fairly among its citizens. Three distinctive features can characterize the Swedish labour market: first, they have an active labour market policy, which is aimed at achieving full employment. Second, they have a strong independent central organization, which negotiate independently without government interference and about income policies. Third, an egalitarian wage policy is based upon solidarity with the two principles of equity and equality.⁶²⁵

Consequently, employment legislation in Sweden is very similar for the public and private sector but there are additional provisions regarding the misuse of public power, and similar issues, applying to the public sector.⁶²⁶ In order to provide a better understanding of how the remuneration of senior civil servants and top officials in the public sector is determined the Swedish pay system will be investigated in more detail in the following:

Prime- Minister, Ministers and Members of Parliament

The remuneration of all the ministers; including the Prime Minister and other ministers is determined by the Board on Remuneration of Ministers (Riksdagens arvodesnämnd). The Board has to decide on the remuneration in accordance with the *Law of Remuneration of*

⁶²³ Öberg 2012, p 177.

⁶²⁴ Hood and Peters 1994, p 120.

⁶²⁵ Hood and Peters 1994, p 120.

⁶²⁶ OECD Country profiles 2012.

Ministers etc.⁶²⁷. Under this law no calculation nor base salary is provided. This means that the Committee determines the level set for the payment of such remuneration. The Board has the sole task to decide the size of the minister's salaries. The Board consists of three persons appointed by the Administrative Office of the Parliament. The rules governing the remuneration that the ministers get are based on the assumption that they work all year and every hour each day.⁶²⁸ The Members of Parliament have their remuneration regulated by the *law on the Economic Conditions of MPs*⁶²⁹. Their remuneration is determined by the Parliamentary Remuneration Committee according to chapter 3 §1.

Supreme Court Judges

There are two parallel court systems whereby the Supreme Court is the highest court of general jurisdiction and the Supreme Administrative Court is the highest administrative court. Before 2006 the judges were exempt from person-based salaries. The argument was that it would be unethical to differentiate the salaries based on the work they do, since it could create an unwanted incentive which could harm the state governed by law.⁶³⁰ However this was not supported and since 2006 the Swedish government has introduced a system of person-based salaries, which means that income is negotiated individually.

High Civil Servants

The key posts in the public sector such as ambassadors, Director General of government agencies, boards of state-owned companies etc. are appointed by the Government. Such professions have their salary level proposed by the responsible ministry, which is also negotiated with the Ministry of Finance and then finally decided by the Cabinet collectively.⁶³¹

b. What is the scope of the standard?

High Civil Servants

The conditions for the central governments employees are established in collective agreements. The wages of the Director-General are the highest compared to other high public officials. The

⁶²⁷ *Law of Remuneration of Ministers* etc. 1991: 359

⁶²⁸ <http://www.riksdagen.se/sv/Sa-funkar-riksdagen/Sa-arbetar-ledamoterna/Ekonomiska-villkor/>

⁶²⁹ *Law on the Economic Conditions of MPs* 1994:1065

⁶³⁰ Öberg 2012, p 186.

⁶³¹ Öberg 2012, p 184.

argument for the high salaries is that it would otherwise be impossible to recruit competent persons for the positions.⁶³² High/senior civil servants have their salary level proposed by the responsible ministry, which is also negotiated with the Ministry of Finance and then finally decided by the Cabinet collectively.⁶³³

Prime-Minister and Ministers

The Board on Remuneration of Ministers (from here on called the Board) reevaluates the amount of remuneration every year. This year the salary of the Prime Minister is 199860 Euro per year and for other ministers from 78.144 – 158.868 Euro per year. The base remuneration is 6.512 Euro, which is subject to taxation. The level of remuneration that exceeds the base level is decided by the Board.

The ministers also have a right to compensation for increased living costs when working in another city or when they have dual residence or for travel expenses connected to their work, 5§.⁶³⁴ Further they also get seasonal train and air tickets for work related use as well as to getting from their home to work. They enjoy chauffeured cars for official use, free lunch during cabinetwork as well as a card, which they can charge for work.⁶³⁵ Equipment such as phone and computer is also provided for them. The Prime Minister also has access to an official residence which is not subject to any taxation as benefit on kind, Chapter 11 §10 of the Income tax Act.⁶³⁶ If a minister decides to resign they have a right to get a severance allowance, which is also decided by the Board, 1§.⁶³⁷

From the Board's guidelines it is clear that the severance allowance should be the same amount, which the minister would have earned for a year if he had not resigned. The remuneration is also pensionable so the national pension system applies to the ministers as well as a supplementary (occupational) pension. Their remuneration is not subject to the normal rules of health insurance, parental insurance and vacation since they are assumed to be for service all the time. If the minister is sick and cannot be at service a deduction on their normal remuneration will be made, 2§.⁶³⁸

⁶³² Öberg 2012, p 184.

⁶³³ Öberg 2012, p 184.

⁶³⁴ *Law of Remuneration of Ministers etc.* 1991: 359

⁶³⁵ Öberg 2012, p 183.

⁶³⁶ *Income tax Act* 1999:1229

⁶³⁷ *Law of Remuneration of Ministers etc.* 1991: 359

⁶³⁸ *Law of Remuneration of Ministers etc.* 1991: 359

Members of Parliament

With regard to Members of Parliament, their remuneration is regulated on a similar basis. They get a monthly remuneration, which is decided by the Committee as stated in chapter 2 §1.⁶³⁹ They are eligible to the same rights/obligations as every employee under the *Social Code* and the *Act on Sick Pay*, chapter 3 §3. They have the right to get travel cost compensations under chapter 4 and compensations for extra living costs under chapter 5. They get technical equipment under chapter 6 which is relevant for their work. Chapter 8 provides that they have the right to pension and how this is calculated. Chapter 11 and 12 provide that there is an income guaranty for the family of a person who was a MP in case that person died and the size of such remuneration for the family.

Supreme Court Judges

The government sets the wages for the President of the Supreme Court and the Supreme Administrative Court. All the other judges have their wages set by a collective bargaining at the local level. However at the moment there is no room for individualization since the agreements made by the Swedish National Court and the trade union do not leave any such.⁶⁴⁰

d. Do specific or special (external) contexts/circumstances (e.g. legal or economic) play a role in the explanation or justification of the top incomes policy?

The Swedish political context is to a large extent characterized by egalitarian ideals. There is an expectation from the public that the top politicians and officials should not constitute an elite but that they should reflect the Swedish society. So the public officials should get paid for their job, but there should not be any lavish rewards provided via public means. Further, due to the principle of public access whereby the general public and the mass media are allowed to unimpededly view the activities pursued by the government, get information about the wage levels and other rewards of all employees, including government employees, there is a high degree of transparency that allows for the disclosure of their rewards.

3. What is the scope of the executive pay policy?

⁶³⁹ Law on the Economic Conditions of MPs 1994:1065

⁶⁴⁰ Öberg 2012, p 187.

a. For which sectors and levels of government does the topic income policy apply? Please list what is states in the law or code, is it the definition mentioned above?

High/senior civil servants have their salary level proposed by the responsible ministry, which is also negotiated with the Ministry of Finance and then finally decided by the Cabinet collectively.⁶⁴¹ Ministers of the government have their remuneration established by the *Law of Remuneration of Ministers* etc. 1991: 359 in 1§. The Members of Parliament have their remuneration regulated by *Law on the Economic Conditions* of MPs 1994:1065. The Supreme Court judges have their remuneration determined on an individual basis.

b. Which organizations are categorized as/recognized as the public sector?

The organizations which are recognized as the public sector are those which are funded by tax revenue and which have a societal importance, such as government, healthcare, tax authorities, military, and education.

c. For which groups of senior/top officials does the standard apply? (top executives, internal regulators, interimmers...)? Based on which arguments?

In 1§ 1991:359 it is stated that the *Law of Remuneration of Ministers* is applicable for all ministers of the government. The Members of Parliament have their remuneration regulated by the law 1994:1065 on the economic conditions of MPs. The Supreme Court judges have their remuneration determined on an individual basis. High civil servants have their remuneration established by the ministers, which set their remuneration based on an individual assessment. Their salary level is proposed by the responsible ministry, which is also negotiated with the Ministry of Finance and then finally decided by the Cabinet collectively.⁶⁴² In the laws of this section, there is no other information regarding interim posts etc. neither is there any information about this in other available laws.

d. To what extent are the hourly rates or the remuneration of interim staff, consultant etc. that are hired by the government on a temporary basis, also regulated by a standard?

No information about this question was found in the laws.

⁶⁴¹ Öberg 2012, p 184.

⁶⁴² Öberg 2012, p 184.

e. To what extent do exemptions under private law to the application of the standard exist?

No information was found regarding how the remuneration of high civil servants is exempted from the private law standards, which exists. The rules specified in the *Law of Remuneration of Ministers* etc. 1991: 359 and the *Law on the Economic Conditions* of MPs 1994:1065 are the exemptions to the main rules of private law. Matters which are not regulated specifically in the exceptional rules provided for, will fall under the general rules of public law. Some specific examples of references to private law are the rules on social security and sick relief which will even for the top officials be regulated under the main rules unless some exception to that is stated in the law.

4. Which instrument is used on the control of executive pay?

a. s data on salaries collected systematically in the same way as in the Dutch case? If so, by which bodies and how?

Every taxable person has to declare his or her income. This information is then provided to the tax authorities, which store such information and then assess the taxable income of a person. Since the top officials also are taxable persons they have to provide their income information to the tax authorities. This information is accessible in the database of the tax authorities to the public due to the principle of free access to public records.

b. What is the role of accountants in the management of executive pay?

No information on a special role of accountants was found

c. To what extent are there installed mechanisms for self- regulation?

Sweden is characterized by an egalitarian wage policy system, which is based upon solidarity with the two principles of equity and equality. This principle is in itself a mechanism for self-regulation among the top officials since they want to adhere to the public perception of what remuneration based on solidarity is and thus they do not tend to step away from the standard

set in society. Further due the principle of free access to public records information, which is provided to the state, is unless it is restricted based on public interest, accessible. This allows everyone to access any information, also including remuneration of top public officials.

d. What sanctions exists in case of excessing the norm? what powers do supervisors have?, for example, to ask back salary that was paid too much?

Since the wages are either set by Committees or the government collectively there is no supervision beside their assessments.

e. To what extent is there a system of disclosure of executive pay provided/foreseen? Based on what arguments?

Due the principle of free access to public records every information, which is provided to the state, is, unless it is restricted based on public interest, accessible. This allows everyone to access any information, also including remuneration of top public officials.

5. How is the monitoring regarding the compliance with the standards organized? Who exercises this monitoring role?

In the *Law on the Economic Conditions of MPs* chapter 16 2§ it is stated that the committees decision on regular remuneration cannot be appealed to the Administrative Court. In the *Law of Remuneration of Ministers* etc. it is stated in 1§ that the decision of the committee cannot be appealed.

15.2 Semi-Public Sector

1. To what extent is there a (political) discussion in EU countries about policies controlling top income? In/On which political context is the policy set/based on, out of/based on political theory and with what arguments?

The level of remuneration that high positioned persons in the semi-public sector are receiving has been debated in the Swedish media for a long time. It has been shown that the salaries of CEO's of large companies are increasing in a much faster speed than the average worker. This development is also applicable to the CEO's of state owned companies. In 2009 the government provided new guidelines on the remuneration for CEO's and other high level position holders in the (semi) public sector.

2. Which standard is chosen? What is the standard based on?

a. What is the precise point of reference of the standard?

Semi-publicly held companies are governed firstly by the states ownership policy guidelines which give them the guidance on how to structure and what the aims are of the company. The government has issued several policy guidelines. The last one from 2014 *Statens ägarpolicy och riktlinjer för företag med statligt ägande* (from here on called the 2014 Guidelines) mention the 2009 guidelines for the remuneration of CEOs and others. It is stated that a reasonable remuneration is important since there has to be confidence in the business community and that the remuneration is an important issue for the government. However, in the end, it is the general meeting that decides on how CEO's are to be remunerated.

b. What is the scope of the standard?

Under paragraph 2.7.2 of the 2014 Guidelines it is stated that CEO's remuneration is to follow the guidelines provided in 2009. It is the Board's responsibility to fix the remuneration of the CEO. This has to be done in a conscious, responsible and transparent way and it has to be ensured that the remuneration is reasonable and balanced. The remuneration also should be competitive, have a ceiling and contribute to good ethics and corporate culture. The remuneration should not be higher than what it is in other comparable companies but it should be characterized by moderation. On page 9 it is further stated that bonuses are not to be given

to CEOs of such companies. Pension benefits are to be carried by the employee himself if they are above the collective pension plan. If the CEO is dismissed then max 18 monthly salaries can be paid.

c. Do specific or special (external) contexts/circumstances (e.g. legal or economic) play a role in the explanation or justification of the top incomes policy?

As stated above, the remuneration for the positions of managers and CEOs of public companies have a two-folded aim: Firstly, they need to be competitive to the private market salaries and secondly they must contribute to setting the standard of the level of remuneration, which is acceptable in for the community at large.

3. What is the scope of the executive pay policy?

a. For which sectors and levels of government does the topic income policy apply? Please list what is states in the law or code, is it the definition mentioned above?

Any company, which is partly of entirely owned by the government, is subject to the 2014 Guidelines as provided in paragraph 1.1.

b. Which organizations are categorized as/recognized as the semi- public sector?

The 2014 Guidelines are applicable to companies which are owned partly or entirely by the government as stated in paragraph 1.1 of the 2014 guidelines. If they are partly owned by the government this entails that the government have 50% of the votes in the company.

c. For which groups of senior/top officials does the standard apply? (top executives, internal regulators, interimmers...)? Based on which arguments?

The 2014 Guidelines are applicable to top executives within the semi-public company in which the state holds at least 50% of shares.⁶⁴³ The remuneration guidelines are based on arguments supporting the importance of setting a good standard for the business world but also to set a standard which is competitive in order to be able to attract talented persons.⁶⁴⁴

⁶⁴³ 2014 Guidelines p, 9

⁶⁴⁴ 2014 Guidelines p, 9

d. To what extent are the hourly rates or the remuneration of interim staff, consultant etc. that are hired by the government on a temporary basis, also regulated by a standard?

No information was found on these posts.

e. To what extent do exemptions under private law to the application of the standard exist?

Such positions are not exempted to any rules under public law. The same rules apply to them as to any other employee. They also have the same rights as any other employee with regard to sickness benefits, maternity/parent leave, pensions and resignation.

4. Which instrument is used on the control of executive pay?

a. Is data on salaries collected systematically?

The remuneration of top executives are published in the annual accounts in the same way as it is done for public limited companies. This means that the remuneration is governed by the rules of accounting as public limited companies under the *Publicly Limited Company Act*.⁶⁴⁵ There are further rules, which apply to these remunerations: they are to be presented for each single executive in detail (remuneration, bonuses and benefits in kinds).⁶⁴⁶

b. What is the role of accountants in the management of executive pay?

The accountant is required to sign and affirm in written that the Board has adhered to the guidelines in each of the annual accounts with regard to the remuneration of the top executives.⁶⁴⁷

c. To what extent are there installed mechanisms for self- regulation?

⁶⁴⁵ Publicly Limited Company act 2005:551

⁶⁴⁶ 2014 Guidelines p, 9.

⁶⁴⁷ 2014 Guidelines p, 9.

The board is required to disclosure and explain each decision which they have been taking with regard to the remunerations of. If there is any deviation from the guidelines this has to be explained.⁶⁴⁸ The Board is responsible to its shareholders.

d. What sanctions exists in case of excessing the norm? what powers do supervisors have?, for example, to ask back salary that was paid too much?

No information was found about sanctions in the Act .

e. To what extent is there a system of disclosure of executive pay provided/foreseen? Based on what arguments?

The remunerations are provided in the annual accounts of the companies and the income is also available to the public via the principle of free access to public records. This allows everyone to access any information, also including remuneration of top public officials.

5. How is the monitoring regarding the compliance with the standards organized? Who exercises this monitoring role?

The monitoring is done by the accountants as explained in question 4b and by the annual reports as well as the explanations which are required by the Board at the annual meetings with regard to the matter.

⁶⁴⁸ 2014 Guidelines p, 9.

16. UK

16.1 (Semi-)Public Sector

1. To what extent is there a (political) discussion in EU countries about policies controlling top income? In/On which political context is the policy set/based on, out of/based on political theory and with what arguments?

The approach of the British government in regard to public sector pay has been based on an increase in transparency and more information readily available to the public. It was found that people are largely unaware of the work of Members of Parliament (henceforth referred to as MPs) and this has led to misunderstandings and public animosity when MPs are paid more.⁶⁴⁹ The debate in the UK is largely focused on the government and much less on the top/senior officials. The public perception of high government salaries has become subject to political controversy by both of the main parties in the UK: Labour and the Conservatives. Instances include Ministers declining pay increases in 2008 and 2009.⁶⁵⁰ The former Prime Minister, Gordon Brown, also announced on BBC Radio 1 in April 2010 that he would cut his own pay by 25%, in response to questions posed to him about the MP expenses scandals.⁶⁵¹ Also the Liberal Democrat-Conservative Coalition government continued the civil service pay freezes and the rhetoric of austerity: “We are all in it together”⁶⁵². This rhetoric was used to explain the cuts in the public sector as being vital for the success of the austerity measures, which were imposed in the parliamentary budget of 2010,⁶⁵³⁶⁵⁴ and extended by the Treasury in 2014 and 2015. The government introduced these measures to help to reduce the national debt deficit.⁶⁵⁵

Political posts were largely the focus of the cuts in pay. However, it can be seen that the Senior Civil Service are often paid much more even than the Prime Minister. For instance, the top pay band is £180,000-£200,000 for permanent secretaries and £104,000-£208,100 as a general pay band for the senior civil service.⁶⁵⁶ This demonstrates that the potential pay of the senior civil

⁶⁴⁹ The Independent Parliamentary Standards Authority. (2013, December). MP’s Pay and Pensions, Final Report, p. 29.

⁶⁵⁰ Kelly, R. (2013, April 1). Member’s Pay and Expenses, Current rates. Research Paper 13/33, p. 17

⁶⁵¹ *Ibid.*, p. 18.

⁶⁵² Brady, B., Dugan, E., & Merrick, J. (2012, January 29). We’re all in this together, says PM. Really, Mr Cameron? *The Independent*.

⁶⁵³ BBC News. (2010, May 17). Emergency Budget: Coalition government sets June date.

⁶⁵⁴ BBC News. (2010, June 22). Budget key points: At-a-glance.

⁶⁵⁵ Gentleman, A. (2015, January 1). Austerity cuts will bite even harder in 2015 – another £12bn will go. *The Guardian*.

⁶⁵⁶ Cabinet Office (2014, December). Government Evidence to the Senior Salaries Review Body on the Pay of the Senior Civil Service, p. 4

service can be much higher than the £142,500 of the Prime Minister. The Prime Minister's salary is not used as a cap for all public-sector workers for several reasons. Firstly, public-sector workers are operating in a vast number of different markets where the pay varies a greatly; therefore the remuneration even in the public sector needs to reflect this pay.⁶⁵⁷ Secondly, the Prime Minister's pay depends more on politics than on his level of responsibility and this determines his salary. Therefore, if the political situation warrants a lower salary then that is appropriate.⁶⁵⁸ Thirdly, there is a large amount of evidence to suggest that the Prime Minister is more than able to attain a high-paying job after leaving office.⁶⁵⁹ In that sense the Prime Minister's pay is less economic and more politically motivated, and the opposite is the case for the Public Administration and senior civil service – these salaries are more economically justified – therefore they are higher and are less susceptible to changes due to political climate.

2. Which standard is chosen? What is the standard based on?

a. What is the precise point of reference of the standard?

There is no additional regulatory policy such as a cap. Therefore the general pay system of the UK will be investigated in detail to better understand how executive pay of high-level officials is determined and regulated.

Public Sector:

Senior Civil Servants:

The Review Body on Senior Salaries also makes recommendations and gives independent advice to the government for ministerial pay and also High Civil Servants. The recommendations given by the Senior Salaries Review Body are not legally binding like the Independent Parliamentary Standards Authority, but they are strongly taken into consideration by Parliament. The Review Body on Senior Salaries also review pay for Senior Civil Servants (SCS), senior officials in the armed forces, judiciary, very senior managers (VSM) in the National Health Service and Police and Crime Commissioners.⁶⁶⁰ The median Senior Civil

⁶⁵⁷ House of Commons, Public Administration Select Committee. (2009, December 15). Top Pay in the Public Sector, Sixth Report of 2009-10, Volume 1, p. 55

⁶⁵⁸ *ibid.*, p. 55

⁶⁵⁹ *ibid.*, p. 55

⁶⁶⁰ Review Body on Senior Salaries (2015). Thirty-Seventh Annual Report on Senior Salaries Report no. 83, see Foreword.

Service pay is used for the uprating in Minister's pay, therefore it can be seen as a type of standard for other governmental departments.

Members of Parliament:

A standard salary applies for Members of Parliament (£67,060 annual gross) and is now set by the Independent Parliamentary Standards Authority. According to the Parliamentary Standards Act 2009 (which gained Royal Assent on 21 July 2009), the Independent Parliamentary Standards Authority is a fully independent standards authority. Following the amendment of this act by the Constitutional Reform and Governance Act in 2010,⁶⁶¹ the responsibility for determining MPs pay was given fully to the Independent Parliamentary Standards Authority and is effective since May 2011.⁶⁶² The annual gross salary for an MP from April 1st 2014 is £67,060.⁶⁶³

As of 2015, the Independent Parliamentary Standards Authority recommended a pay increase for Members of Parliament of 9.3%, bringing pay up to £74,000 annual gross salary.⁶⁶⁴ The Prime Minister, David Cameron, has asked the Independent Parliamentary Standards Authority to reconsider this recommendation, as the proposal is still being implemented and peer-reviewed.⁶⁶⁵ However, the Independent Parliamentary Standards Authority has binding effect after consultation of other actors, therefore if the proposal is accepted in the consultation then it will come into effect and MP pay will rise. This is demonstrative of the Independent Parliamentary Standards Authority's independent nature.⁶⁶⁶

Prime Minister:

The Prime Minister is the highest paid Minister, as can be seen below in the table of minister's pay. After the pay cut and subsequent freeze of 2010, the Prime Minister has a combined MP and Ministerial annual gross salary of £142,500.⁶⁶⁷

Ministers:

⁶⁶¹ British National Archives. (2010, April 8). Constitutional Reform and Governance Act 2010.

⁶⁶² The Independent Parliamentary Standards Authority. (2013, December). MP's Pay and Pensions, Final Report, p.17

⁶⁶³ Parliament UK. (2010, April 21). Pay and expenses for MPs. Retrieved 1 July 2015, from

<http://www.parliament.uk/about/mps-and-lords/members/pay-mps/>

⁶⁶⁴ The Independent Parliamentary Standards Authority (2013, December). MP's Pay and Pensions, Final Report, p. 8

⁶⁶⁵ MacLellan, K. (2015, May 24). Cameron says to freeze government ministers' pay for five years. *Reuters*.

⁶⁶⁶ The Independent Parliamentary Standards Authority (2015, June). MP's Pay in the 2015 Parliament: A Consultation, p. 4

⁶⁶⁷ Kelly, R. (2013, April 1). Member's Pay and Expenses, Current rates. Research Paper 13/33, p. 19

All Ministers of the House of Commons, as sitting Members of Parliament, receive an MP gross annual base salary (£67,060) with an additional ministerial salary. Members of the House of Lords receive only a ministerial salary. Ministerial salaries are calculated in a process known as “uprating”, which is done in accordance with MPs’ salaries. Prior to 1996, this process had always been carried out without any legislation or parliamentary resolution underpinning it.

In a report by the Review Body on Senior Salaries in 1996, a formula for the uprating was recommended. The Senior Salaries Review Body is an independent advisory body and they provide advice on the salary for holders of judicial office, senior civil servants, senior officers of the armed forces, and other public offices that fall under their scope in certain times.⁶⁶⁸ The uprating formula was then implemented in the Ministerial and Other Salaries Act 1997, which replaced the 1975 Act with the same name.

The pay increases have since continued in the same way (in accordance with the aforementioned formula). The formula follows “the average percentage by which the mid-points [median] of the Senior Civil Service pay bands having effect from 1st April of the year concerned have increased compared with the previous 1st April.”⁶⁶⁹ Therefore, the Ministerial pay falls in line with the median of Senior Civil Service pay bands. However, in 2008-2011 a pay freeze was introduced which is detailed in the table below and changes the formula slightly with a new 1% pay increase.

b. What is the scope of the standard?

There is no pay cap in existence for the Senior Civil Service as well as MP and Minister’s salary in the United Kingdom. There was a pay freeze which was done in the spirit of solidarity after the financial crisis in/after 2008, but there is no specific cap or standard. The UK is a centralized and unitary state, therefore much of the public sector, administration and civil service are centred in London and there are not many degrees of payment throughout the country. For the Senior Civil Service (including high judiciary, senior national health service etc., as will be discussed) there is **a minimum and a maximum salary for each pay band, which is determined by performance**. This is also reflected in the MP pay grid, as all are paid the same

⁶⁶⁸ British Government Website. (2009, March 31). Review Bodies on Senior Salaries March 2009. Retrieved 1 July 2015, from <https://www.gov.uk/government/organisations/review-body-on-senior-salaries/about>

⁶⁶⁹ British Archive (1997). Ministerial and Other Salaries Act (1997), Section 1 (2) (1A)

and it does not depend on a particular region. For MPs the annual gross salary stays the same each year £67,060 (due to the pay freeze) and only changes when the Independent Parliamentary Standards Authority decides to change it – as regulated by statute. However, for the public sector, non-departmental public bodies, and NHS, the pay is decided with a **board structure or through the relevant Ministry**. It is also relevant to specify that the **boards of these organisations generally set their own executive pay levels autonomously** and only need to get the **approval of a Minister** when the **government holds shares in the company**.⁶⁷⁰ In regard to public corporations, the Board remuneration committee of each corporation set the senior/executive pay levels. The government shareholders (of the respective department) oversee the remuneration boards of these public corporations.

Senior Civil Servants:

Senior Civil Servants are paid in accordance with a band structure that provides the following annual gross base salary across the senior civil service⁶⁷¹:

Pay Band	Minimum (£)	Maximum (£)
3	104,000	208,100
2	85,000	162,500
1A	67,600	128,900
1	62,000	117,800

A different pay band exists for the Permanent-Secretaries of the senior civil service⁶⁷²:

Tier	Minimum gross annual (£)	Maximum gross annual (£)
1	£180,000	£200,000
2	£160,000	£180,000
3	£142,000	£160,000

The payment works on the basis of a **reward system that varies depending on the department**. As can be seen, on a particular band there is a minimum and maximum gross annual income that can be awarded depending on the performance of the civil servant in

⁶⁷⁰ House of Commons, Public Administration Select Committee (2009), ‘Top Pay in the Public Sector’, Sixth Report of 2009-10, Volume 1. p. 35, 63.

⁶⁷¹ Cabinet Office (2014, December). Government Evidence to the Senior Salaries Review Body on the Pay of the Senior Civil Service, p. 4

⁶⁷² *ibid.*, p.4

question. **However, annual salaries of more than the minimum of £142,200 annual gross and bonus awards of more than £17,500 need to be signed off by the Chief Secretary.**⁶⁷³

Annual pay increases have been limited at 1% for the senior civil servants in 2014/15 for only the highest performing civil servants.⁶⁷⁴ Those in the bottom 10% of performers do not receive any such pay increases.⁶⁷⁵

Very Senior Managers (VSM) in the National Health Service:

In the National Health Service Foundation Trusts, their boards usually set executive pay, respectively.⁶⁷⁶ It is estimated that there are currently 424 Very Senior Managers employed under National Health Service England (after the reorganisation of the National Health Service after the Health and Social Care Act of 2012).⁶⁷⁷ A 1% pay increase for the Very Senior Managers was also recommended by the Senior Salaries Review Body and subsequently accepted in April 2013 (this is also in line with the increase for other public sector positions mentioned previously – such as the civil service and the judiciary).⁶⁷⁸

The general pay of the National Health Service very senior managers is very difficult to establish because there are many different frameworks for the establishment of the pay of very senior managers in the sector (foundation trusts, non-foundation trusts and other overarching systems).⁶⁷⁹ There were calls from the Senior Salaries Review Body to assimilate all of the Very Senior Managers pay in the UK to remove the discrepancy around the different frameworks, but this recommendation was not accepted.⁶⁸⁰ Furthermore, gathering information about Very Senior Managers in the National Health Service is very problematic due to data-protection rules as they are not fully public companies, and the trust status makes data collection difficult), these data protection rules limit the amount of information that can be specifically released about Very Senior Managers. The Senior Salaries Review Body finds it very difficult

⁶⁷³ Cabinet Office (2014, December). Government Evidence to the Senior Salaries Review Body on the Pay of the Senior Civil Service, p. 5

⁶⁷⁴ *Ibid.*, p. 3

⁶⁷⁵ *Ibid.*, p. 3

⁶⁷⁶ House of Commons, Public Administration Select Committee. (2009, December 15). Top Pay in the Public Sector, Sixth Report of 2009-10, Volume 1, p. 63

⁶⁷⁷ Review Body on Senior Salaries, Cockburn, B (2014, March). Thirty-Sixth Annual Report on Senior Salaries 2014. Report No. 82, p. 45

⁶⁷⁸ Review Body on Senior Salaries, Cockburn, B (2014, March). Thirty-Sixth Annual Report on Senior Salaries 2014. Report No. 82, p. 45

⁶⁷⁹ *Ibid.*, p. 45

⁶⁸⁰ *Ibid.*, p. 45

to collect data on Very Senior Managers' salaries.⁶⁸¹ Only non-specific bands are feasible to collect due to the Data Protection Act:⁶⁸²

The 2012 VSM pay framework – salary bands for the organisations' chief executives 1 April 2013

Organisation	SSRB Band	Floor £	Ceiling £
Care Quality Commission Monitor	F	175,000	225,000
NHS England			
Health Education England National Institute for Health and Clinical Excellence NHS Blood and Transplant Authority NHS Business Services Authority NHS Litigation Authority	E	150,000	200,000
NHS Health and Social Care Information Centre NHS Trust Development Authority			
Human Fertilisation and Embryology Authority	D	125,000	175,000
Health Research Authority Human Tissue Authority	C	100,000	150,000

Source: Department of Health.

Ministers and MP Salaries:

Pay for Members of Parliament (House of Commons) as of 2014 is: £67,060⁶⁸³ annual gross. The pay freeze was enacted in the Ministerial and Other Salaries Act 1975 with the amendment Order 2011.⁶⁸⁴ This pay freeze is still in effect as of 2015 to Ministerial salaries.⁶⁸⁵ Therefore the pay scheme provides the following base salaries of the different ministers and members of parliament:

⁶⁸¹ *Ibid.*, p. 51

⁶⁸² *Ibid.*, p. 75

⁶⁸³ Parliament UK. (2010, April 21). Pay and expenses for MPs. Retrieved 1 July 2015, from <http://www.parliament.uk/about/mps-and-lords/members/pay-mps/>

⁶⁸⁴ *Ibid.*, p. 20

⁶⁸⁵ MacLellan, K. (2015, May 24). Cameron says to freeze government ministers' pay for five years. *Reuters*.

Office ⁶⁸⁶	Combined Ministerial and MP salary in previous administration	Combined Ministerial and MP salary as <u>after</u> the cut and pay freeze (2010)*	Annual pay cut 2010
Ministers in the House of Commons			
Prime Minister	£150,000	£142,500	£7,500
Cabinet Minister	£141,647	£134,565	£7,082
Minister of State	£103,937	£98,740	£5,197
Parliamentary Under-Secretary of State	£94,142	£89,435	£4,707
Ministers in the House of Lords			
Cabinet Minister	£106,356	£101,038	£5,318
Minister of State	£83,043	£78,891	£4,152
Parliamentary Under-Secretary of State	£72,326	£68,710	£3,616

Additionally, due to the lack of private law restraints (which will be discussed in question 3e), some Members of Parliament are able to earn more than the Prime Minister in practice, taking into account professions they hold in parallel to out-of-Parliament work.

Judiciary:

Table 5.1: Judicial salaries and numbers in post

Salary group ¹	Salary from 1 April 2013	Numbers in post ²					Change between 2012 and 2013
		2009	2010	2011	2012	2013	
1	£242,243	1	1	1	1	1	0
1.1	£216,307	4	4	4	4	4	0
2	£208,926	15	15	15	15	14	-1
3	£198,674	49	49	47	48	44	-4
4	£174,481	143	140	141	140	141	+1
5	£139,933	88	96	96	96	97	+1
6.1	£129,579	824	860	831	823	812	-11
6.2	£121,993	20	36	37	41	40	-1
7	£103,950	1,007	1,039	1,036	1,041	1,024	-17
Salaried medical members ³	£82,500	n/a	n/a	n/a	6	7	+1
Stipendiary magistrates ⁴	£71,268	n/a	n/a	4	4	4	0
Total		2,151	2,240	2,212	2,219	2,188	-31

Sources: Ministry of Justice, Scottish Government and Northern Ireland Department of Justice.

Notes:

¹ A list of roles within each salary group is at Appendix K.

² Numbers as at 31 March.

³ Salaried medical members were added to the remit group in October 2011.

⁴ Stipendiary magistrates (in Glasgow) were added to the remit on 12 July 2011.

This table sets out the salaries of the Judiciary.⁶⁸⁷ The responsibility for judicial salaries lies with the UK government and specifically the Chancellor of the Exchequer.⁶⁸⁸ The salaries of the judiciary were

⁶⁸⁶ Kelly, R. (2013, April 1). Member's Pay and Expenses, Current rates. Research Paper 13/33, p. 19

⁶⁸⁷ Review Body on Senior Salaries, Cockburn, B (2014, March). Thirty-Sixth Annual Report on Senior Salaries 2014. Report No. 82, p. 33

⁶⁸⁸ *Ibid.*, p. 35

frozen from April 2010 and then increased by 1% in 2013,⁶⁸⁹ similar to the increase seen recently in the Senior Civil Service.⁶⁹⁰

d. Do specific or special (external) contexts/circumstances (e.g. legal or economic) play a role in the explanation or justification of the top incomes policy?

It can be said that the economic situation after the financial crisis was one of the major reasons for many changes in the top income policy decisions in the public sector. The pay freezes and general cuts in government and public administration salaries are in response to the nationwide austerity measures. This is a sign of solidarity, which was important with the Conservative party's push for austerity in the UK: "I've decided to freeze the pay of the ministers in the government ... as we continue knuckling down as country; we will all play our part."⁶⁹¹ Therefore, the cuts and pay freezes are a consequence of the economic policy of the time; it is politically sensitive for the government to sanction large pay increases in the public sector when the UK is undergoing austerity measures.

As can be seen in the salary grids above, particularly that of the Senior Civil Service, a **reward for performance system is being used in the non-political posts**. This is done in the hope to encourage higher performance in the civil service and incentivise good working culture. In particular, this then permits some civil servants, public sector executives and non-departmental public body workers having a higher salary than the Prime Minister. This, though, is seen as acceptable by most commentators in the UK, as the position of Prime Minister has other benefits and it is also seen as a necessary compromise for the political impact a lower salary can have in such a position.⁶⁹²

3. What is the scope of the executive pay policy?

a. For which sectors and levels of government does the topic income policy apply? Please list what is states in the law or code, is it the definition mentioned above?

The UK is a centralised unitary state, so the levels of government are the same for the entire country, except for some branches of local government and administration.⁶⁹³ The same applies

⁶⁸⁹ *Ibid.*, p. 35

⁶⁹⁰ *Ibid.*, p. 33

⁶⁹¹ *Ibid.*, p. 3

⁶⁹² House of Commons, Public Administration Select Committee. (2009, December 15). Top Pay in the Public Sector, Sixth Report of 2009-10, Volume 1, p. 55

⁶⁹³ BBC 2010, See: <http://www.bbc.co.uk/news/uk-11333472>

for the civil service; the centralised pay structure applies for the whole country. For the public sector, non-departmental public bodies, and NHS, the pay is decided with a board structure or through the Ministry.

b. Which organizations are categorized as the public and semi-public sector?

Public Sector:

The House of Commons Public Administration Select Committee best explains the situation of the definitions and the confusion and lack of clarity between public, semi-public and private companies in the UK: *“There are parts of the public sector which receive none of their income from tax revenues; equally, there are parts of the private sector which receive all or nearly all of their income from public sources. In addition, there are organisations, which to some eyes fall within the public sector, but not to others. Public private partnerships and the nationalised banks only add to this complexity.”*⁶⁹⁴ Therefore, it is very difficult to draw general conclusions about comparisons between UK companies, let alone with the clear definition of (semi-) public companies in the Netherlands.

The public sector itself is also difficult to define in the UK system. A clear distinction can be made to civil service and publicly appointed posts, issued by Ministers or the Crown, which can be definitely seen as the public sector.⁶⁹⁵ However, it is not as simple as there are posts that are paid from public taxes that are not what one would traditionally consider a public sector company or position and the opposite also applies, as some posts may be considered to be in the public sector but they are not paid from public taxes.⁶⁹⁶ For example, the Met Office and Ordnance Survey are considered part of the public sector, but they are funded on a purely commercial basis with absolutely no recourse from taxpayers' funds. There are numerous other examples such as Ofcom – The regulatory office of communications, which is considered public sector, but receives taxpayers' money in combination with commercial funding.⁶⁹⁷ These are examples of the difficulties with definitions between public and semi-public companies in the

⁶⁹⁴ House of Commons, Public Administration Select Committee. (2009, December 15). Top Pay in the Public Sector, Sixth Report of 2009-10, Volume 1, p. 8

⁶⁹⁵ Cabinet Office (2014, December). Government Evidence to the Senior Salaries Review Body on the Pay of the Senior Civil Service, p. 9

⁶⁹⁶ House of Commons, Public Administration Select Committee. (2009, December 15). Top Pay in the Public Sector, Sixth Report of 2009-10, Volume 1, p. 9

⁶⁹⁷ *ibid.*, p.9

UK, and they are further elaborated on in the source House of Commons, Public Administration Select Committee. (2009, December 15), Top Pay in the Public Sector, Sixth Report of 2009-10. Therefore, in the UK the distinction is not based on whether there is public money being spent on a company, but rather on the public service they provide. Thus, even if a company has 0% public tax investment, if they provide a service to the public (such as the Royal Mail), then they are still classed as public sector. Some argue that nobody even knows how many non-departmental public bodies (or quangos) exist in the UK.⁶⁹⁸ Information could be mostly only attained through freedom of information petitions or sometimes the information is transparently released, but this differs depending on the public company or non-departmental public body. The full list of all of the salaries was discovered through the Freedom of Information Act and can be found online.⁶⁹⁹ The highest salary as of September 2010 was the Chief Executive of the Olympic Delivery Authority with an annual gross salary of £390,000.⁷⁰⁰

Problems defining the semi-public sector in the UK:

The idea of semi-public companies does exist to an extent in the UK, but the term is rarely or never used in practice because even when companies are not fully public or private, they can still be defined as ‘public companies’. These companies that would normally be considered semi-public in other countries are classed as non-departmental public bodies or generally as public companies in the UK. Furthermore, because of the decentralisation and a large amount of trusts and businesses with different statuses arising from these developments, it is not possible to attain a standardised pay-scale for each semi-public, non-departmental public body, trust or foundation (such as with the National Health Service) and other public companies.

At present, there is a wide delegation of powers to the public corporations and National Health Security Foundation Trusts. The boards of these organisations generally set their own executive pay levels autonomously and only need to get the approval of a Minister when the government holds shares in the company.⁷⁰¹ The way that executives are paid are in line with the Senior Civil Service and there is generally a push towards a competitive salary to attract high skill managers, but not limitless in scope like in the private sector due to the current socio-economic

⁶⁹⁸ BBC News, see: <http://www.bbc.co.uk/news/uk-11333472>

⁶⁹⁹ For salary specifications see:

http://downloads.bbc.co.uk/news/nol/shared/spl/hi/uk/10/public_sector_pay/inc/xls/public_pay_database5.csv

⁷⁰⁰ BBC News, see: <http://www.bbc.co.uk/news/uk-11333472>

⁷⁰¹ House of Commons, Public Administration Select Committee (2009), ‘Top Pay in the Public Sector’, Sixth Report of 2009-10, Volume 1. p. 35, 63.

situation. In regard to semi-public companies there are a very large amount of classifications of companies and each has a specific coordination of the pay levels⁷⁰² – for instance, see table in question 4c below. There are calls for reforms to executive remuneration and recommendations made about pay to accommodate the changes after the financial crisis, often with a focus on transparency, and promoting good practice.⁷⁰³

d. To what extent are the hourly rates or the remuneration of interim staff, consultants, etc. that are hired by the government on a temporary basis, also regulated by a standard?

So-called “temporary staff” or interim workers are to be treated in the same way as direct workers in the United Kingdom. This is enforced by the Temporary and Agency Workers (Prevention of Less Favourable Treatment) Bill of 2007.⁷⁰⁴ This bill is based on the European Directive 2008/104/EC.⁷⁰⁵ This applies to political and Senior Civil Servants, as well as to managers of public companies.

e. To what extent do exemptions under private law to the application of the standard exist?

In the UK system, there appears to be no limit to the earnings of high-level civil servants, or Very Senior Managers in the National Health Service, or Members of Parliament, or managers of public companies when taking into account their private commitments. Consequently, there might be large exemptions to the earning standards discussed above in question 2. This falls under the discussion of freedom of contract, which is a right, ensured to all private citizens under law. However, there is the so-called “Register of Members’ Financial Interests”, which was established in 1974 through a resolution in the House of Commons.⁷⁰⁶ Following the rules of this resolution the Members of Parliament who were elected in 2015, for example, had to declare their own financial interests and any changes have to be registered within 28 days.⁷⁰⁷

⁷⁰² ONS.gov. (n.d.). See spreadsheet of all semi-public company classifications. Retrieved 9 March 2015, from <http://www.ons.gov.uk/ons/guide-method/classifications/na-classifications/the-ONS-classification-process/sector-classification-index.xls>

⁷⁰³ Department for Business Innovation and Skills (2011, September). Executive Remuneration, Discussion Paper.

⁷⁰⁴ House of Commons. (2006). Temporary and Agency Workers (Prevention of Less Favourable Treatment) Bill.

⁷⁰⁵ European Parliament and the Council (2008, December 19). Directive 2008/104/EC, On Temporary Agency Work, L-327/9.

⁷⁰⁶ Hudson, K (2015, June 29). Register of Members’ Financial Interests: Introduction to the Registers for the 2015 Parliament.

⁷⁰⁷ *Ibid.* p. 1.

The aim of this registry is to keep track of any interests that Parliamentarians may have that could potentially influence their decisions in public office.⁷⁰⁸

The type of registry exists for the civil service, as was declared by the Civil Service Commission's Code of Practice in 2010.⁷⁰⁹ In articles 10, 12 and 14 in this Code of Practice, there is an explicit prevention of previous, subsequent and current interests having an impact on the conduct of civil servants through a registry and review by the Commission.⁷¹⁰ If a MP or civil service worker wishes to engage in activities other than their duty of public office, this right is largely afforded to them in the UK, as long as their interests are declared beforehand. There has been discussion of so-called extra pay in the British media, as many MPs earn very large amounts through private commitments, vastly exceeding the MP pay standards of £67,060.⁷¹¹ As of 2013, there were 20 MPs who earned more money from outside ventures than they did from their government salary.⁷¹² In total, British MPs earned more than £7 million in out of Parliament work in 2014.⁷¹³

It could be argued that the standard pay for MPs and other public sector workers is superfluous if they are able to earn large amounts of money by working as consultants or directors alongside their duties as public servants. Ed Miliband, the now former leader of the Labour Party, called for outside of Parliament earnings to be capped.⁷¹⁴ He and others argue that the interests of public servants are potentially divided when they have other business commitments, not to mention the fact that some spent more than 1,000 hours working on projects other than their parliamentary commitments in 2013.⁷¹⁵ David Cameron, Prime Minister of the UK, rejected Ed Miliband's call for a cap on extra-parliamentary work, stating that he sees it as important to have public sector workers involved in private affairs, as he does not want a parliament full of "professional politicians" with no experience.⁷¹⁶

4. Which instruments are used in the control of executive pay?

a. Is the data on the salaries collected systematically?

⁷⁰⁸ *Ibid.*, p. 1.

⁷⁰⁹ British Government, Civil Service Commission (2010, November). Code of Practice for Commissioners.

⁷¹⁰ *Ibid.*, p. 3.

⁷¹¹ Telford, L., & Heighton, L. (2015, February 22). The MPs who topped up their salaries with £1,600-an-hour second jobs. *The Telegraph*.

⁷¹² Ball, J. (2013, May 27). MPs' outside jobs and interests: get the data. *The Guardian*.

⁷¹³ Dearden, L. (2015, February 24). Revealed: British MPs earned more than £7m outside of Parliament in 2014. *The Independent*.

⁷¹⁴ *Ibid.*

⁷¹⁵ Ball, J. (2013, May 27). MPs' outside jobs and interests: get the data. *The Guardian*.

⁷¹⁶ Stone, J. (2015, February 23). David Cameron rejects call to ban MPs from earning money on the side as paid 'consultants'. *The Independent*.

The data on semi-public and public companies is not collected systematically or in any particular way. There is a general possibility for outside parties to ask for information in regard to general characteristics of salaries, but it often depends on the type of company and the extent of whether it is public or semi-public. Indeed, the BBC (British Broadcast Channel) undertook research into the executive pay of semi-public and public workers and there were issues with the Freedom of Information Act. It was often required that the BBC applied through the Bureau of Investigative Journalism and many cases of Freedom of Information applications are still ongoing.⁷¹⁷ This underlines the situation that the UK pay system for non-departmental public bodies is not very transparent and it is difficult to attain specific details of executive pay – even when consulting the Freedom of Information Act.

b. What role do accountants play in the management of executive pay?

Accountants are known as Internal Audit Staff. They are regulated in general by the Public Sector Internal Audit Standards. This is to promote the code of ethics for the internal audit staff and to promote consistent application of integrity standards in the UK public sector.⁷¹⁸ The standards have been adopted as of April 2013. It is applicable across the UK government departments, their executive agencies and non-departmental public bodies.⁷¹⁹ The rules inside the code of ethics give a wide discretion for disciplinary action if an auditor is in violation of the regulations.⁷²⁰ These regulations generally include principles of: Integrity, objectivity, confidentiality, and competency.⁷²¹ With these codes of conduct in mind, the internal auditor has a duty to report issues with executive pay, should they arise, the UK government recognises this as crucial for good governance.⁷²² Accountants and auditors that are part of the government departments and non-departmental public bodies have to apply the same code of practice, which is centralised by the Public Sector Internal Audit Standards. This therefore applies to public enterprises with government shareholders.

c. To what extent are there installed mechanisms of self-regulation?

⁷¹⁷ BBC News, Public Sector Salaries: Methodology. <http://www.bbc.co.uk/news/uk-11369278>

⁷¹⁸ Public Sector Internal Audit Standards 2013, p. 4

⁷¹⁹ *ibid.*, p. 7

⁷²⁰ *ibid.*, p. 10

⁷²¹ *ibid.*, p. 11-12

⁷²² *ibid.*, p. 3

For the Civil Service there is the Senior Salaries Review Board, which has an advisory role in checking executive pay.⁷²³ The mechanisms for setting the pay for the Senior Civil Service and other semi-public and public companies is largely established autonomously by the boards of those companies or by the relevant Ministries.⁷²⁴ For Parliament there is the Independent Parliamentary Standards Authority that regulates the pay and reimbursement, this is not self-regulation as it is a completely independent board.

The following tables show the mechanisms for self-regulation in the different public and semi-public entities. The Senior Salaries Review Body inspects some governmental departments, and others are rather autonomous in their approach (for instance non-departmental public bodies and public companies) – which largely shape their own payment policies in boards.

Type of Body⁷²⁵	Who sets Senior Pay	Advised by	Advisers Appointed by	Comments
Civil Service	Prime Minister	Senior Salaries Review Body	Prime Minister, following fair and open competition	
(Non-Departmental Public Bodies) NDPBs	Ministers across Government	Board of each respective NDPB	Ministers across government, following fair and open competition	In practice, NDPB boards often take the lead
Public Corporations	Board remuneration committee of each corporation	Government Department, where these are shareholders		Boards appointed by Ministers, following fair and open Competition
National Health Service (Foundation status)	Board of Directors			

⁷²³ *Ibid.*, p. 34

⁷²⁴ *Ibid.*, p. 34

⁷²⁵ House of Commons, Public Administration Select Committee. (2009, December 15). Top Pay in the Public Sector, Sixth Report of 2009-10, Volume 1, p. 35

National Health Service (non-foundation status)	Ministers	Senior Salaries Review Body	Ministers, following fair and open competition	Applies only to posts within the very senior manager's (VSM) network
National Health Service (Doctors and Dentists)	Ministers	Review Body on Doctors' and Dentists' remuneration	Ministers, following fair and open competition	

There is no overarching regulatory or advisory board for all public companies. Instead the public and non-departmental public bodies' pay are established by review boards and ministers, and not in a uniform way. This leads to a general lack of clarity that the UK government has pledged to improve with the Public Bodies Bill⁷²⁶ – which will be done to include some of the non-departmental public bodies back into the government sector to improve the lack of clarity that has largely been discussed in this present report on the UK executive pay.

d. What sanctions exist in case of exceeding the norm? What powers do supervisors have?

The Senior Salaries Review Board for the Senior Civil Service only has soft/advisory power to recommend payment changes, but the Independent Parliamentary Salaries Authority has binding authority to declare the pay scales of MPs. In general, the norms are set out largely by statute including procedures such as the uprating formula for the Senior Civil Service. Therefore, the supervisors (such as the relevant ministers or in some situations the boards: see table above) have discretionary power through a statutory endowment to sanction those who go in excess of the given norms for each sector. The power to enforce Parliamentary standards is given to them by the Constitutional Reform and Governance Act of 2010, which, in paragraph 33, gives them the power to investigate and prosecute members falling outside of their agreed salary.⁷²⁷ The same code of conduct applies to the Senior Civil Service and is reviewed by the relevant supervisors (such as the relevant Ministry or boards). For managers of public companies there are no limits to the salaries, they are only established by boards or the relevant

⁷²⁶ UK Government website: <https://www.gov.uk/government/news/new-legislation-introduced-to-enable-quango-reforms>

⁷²⁷ British National Archives. (2010, April 8). Constitutional Reform and Governance Act 2010.

ministries and paid accordingly. There is no sanction for board decisions on this matter because they answer to the Ministry, which has the final say on pay levels.

e. To what extent is there a system of disclosure of executive pay provided/foreseen? Based on what arguments?

Public offices such as the senior civil service and Members of Parliament are subject to transparency regulations that provide for the disclosure of their salaries. These can largely be accessed online on the Independent Parliamentary Standards Authority website;⁷²⁸ this includes their expenses and other remunerations.⁷²⁹ The situation is slightly different for other executives in other sectors. Most of the central government sectors are subject to the “Government Financial Reporting Manual” which requires the same disclosure of remuneration as other small and medium sized companies, with a slight adjustment for the public sector context.⁷³⁰ This is done in accordance with Chapter 6 the Companies Act of 2006.⁷³¹ These rules however do not apply to public companies that are not trading funds, National Health Service trusts and National Health Service foundation trusts and local government.⁷³²

5. How is the monitoring regarding the compliance with the standards organised? Who exercises this monitoring role?

The main two bodies in charge of monitoring the compliance with the standards are the Senior Salaries Review Board and the Independent Parliamentary Standards Authority.⁷³³ The Senior Salaries Review Board takes an advisory role and reviews the salaries and can make recommendations. The Senior Salaries Review Board concerns itself with judicial offices,

⁷²⁸ See: <http://www.parliamentary-standards.org.uk/DataDownloads.aspx> for direct annual download

⁷²⁹ Independent Parliamentary Standards Authority. (n.d.). Home - Independent Parliamentary Standards Authority. Retrieved 2 July 2015, from <http://www.parliamentary-standards.org.uk/Default.aspx>

⁷³⁰ House of Commons, Public Administration Select Committee. (2009, December 15). Top Pay in the Public Sector, Sixth Report of 2009-10, Volume 1, p. 29

⁷³¹ British National Archives. (2006, November 8). Companies Act 2006.

⁷³² House of Commons, Public Administration Select Committee. (2009, December 15). Top Pay in the Public Sector, Sixth Report of 2009-10, Volume 1, p. 29

⁷³³ Cabinet Office (2014, December). Government Evidence to the Senior Salaries Review Body on the Pay of the Senior Civil Service, p. 2

senior civil servants, senior officers of the armed forces, and other public offices that come under its mandate.⁷³⁴ On the contrary, the Independent Parliamentary Standards Authority is fully independent and has the authority to check all Parliamentary salaries and expenses and set the levels thereof, it publishes the reimbursements annually.^{735 736}

Annual salaries for the Senior Civil Service of more than the minimum of £142,200 annual gross and bonus awards of more than £17,500 need to be signed off by the Chief Secretary.⁷³⁷ Annual pay increases have been limited at 1% for the senior civil servants in 2014/15 for only the highest performing civil servants.⁷³⁸ Those in the bottom 10% of performers do not receive any such pay increases.⁷³⁹ Therefore, for the senior civil service and permanent secretaries, there are two mechanisms of checking salaries (for awards of over £17,500 and when the minimum of £142,200 is exceeded).

For Non-Departmental Public Bodies, Ministers set the pay and their own respective boards advise the Ministers. In regard to public corporations, the Board remuneration committee of each corporation set the senior/executive pay levels. The government shareholders (of the respective department) oversee the remuneration boards of these public corporations.

Interviews

⁷³⁴ British Government Website. (2009, March 31). Review Bodies on Senior Salaries March 2009. Retrieved 1 July 2015, from <https://www.gov.uk/government/organisations/review-body-on-senior-salaries/about>

⁷³⁵ See: <http://www.parliamentary-standards.org.uk/DataDownloads.aspx>

⁷³⁶ The Independent Parliamentary Standards Authority. (2013, December). MP's Pay and Pensions, Final Report, p. 3

⁷³⁷ Cabinet Office (2014, December). Government Evidence to the Senior Salaries Review Body on the Pay of the Senior Civil Service, p. 5

⁷³⁸ *Ibid.*, p. 3

⁷³⁹ *Ibid.*, p. 3

17. Belgium – Interview recorded 15.07.2015, Brussels
17.1 Public sector

17.2 . Semi-public sector

The topic of top incomes in the public and semi-public sector has been an issue in Belgium too, but only for a very small number of officials. Therefore, the topic has never reached the status of a broad political and societal debate to the extent as it has in The Netherlands and other

countries. The category of individuals for whom remuneration has been debated are the chief executives of Belgian autonomous state-owned corporations. The legal status of these corporations is a Limited Company under public law, and therefore the executives (just like the rest of its personnel) are not civil servants and thereby not subject to the civil service statute. The central government has therefore no legal instruments to regulate or control the level of these individuals' salaries.

Instead, the pay is determined by the outcome of individual negotiation. At the same time, in the public sphere, in the past years there occurred some dissent because the salaries were thought to be too high for people who were working for a publicly owned company. As the government had no formal instruments to intervene or to force the salaries to be adjusted downward, all it could do was to request and persuade the chief executives to agree with a lower salary. Some did, others did not. In some cases, where the publicly owned companies got into financial trouble as a result of the financial and economic crisis and the federal government had to bail them out, the federal government was able to make state bailout conditional on a lowering of the salaries of the chief executive. In one case, this led to the resignation of the chief executive, who decided he no longer wanted to fulfill his duties for the lower salary. So, in times of financial hardship the government can make use of conditionality, and chief executives can agree to lower their salaries in response to public pressure, but for these categories there are no legal limitations in their salaries.

There is a growing number of personnel in the public sector who is employed based on a contract instead of the civil service statute. In this sense, the Flemish government is in some respects more interesting than the Federal government, since the Flemish government has been very active in hiring staff based on a contract, particularly in service delivery jobs. Also, the Flemish government is more interesting than the federal government given that the federal government is becoming smaller and smaller while the regional governments are growing both in competencies and in size, and because the Flemish government is quite active in experimenting with reforms that modernize the position of civil servants, and the incentive structure, whereas in the Walloon region, the government is very old-fashioned and conservative on these issues.

The experience in the Belgian federal government is that performance pay does not have the desired effects, i.e. it does not incentivize top civil servant more than what would already be

the case. Lessons from Belgian attempts to introduce pay for performance have been that people are strongly intrinsically motivated to begin with, and do not perform better if they can earn a little extra as a result. The Belgian government has no problem in attracting highly qualified professionals as a result of this. The pension system for civil servants is still very favorable in the Belgium compared to employees in the private sector, so there is at least this extrinsic factor that may make it more attractive to work in the public sector as well.

Top civil servants are employed on finite mandates, of about 6 years that can be renewed at most 2 times in the same position. The people who get such an appointment were previously either statutory civil servants, or contract employees in the public service, or people who were previously employed in the private sector altogether.

Even though the pension system is still quite good, some measure have been taken to control this in the past years. Pensions in the public sector have been capped to a maximum of E 6.300 per month before tax. However, practical experience is that this rule is not always strictly applied if the individual also enjoys an additional pension from another former employer.

18. France

19. Germany– Interview Report

It is important to note that the discussion on senior civil pay moderation is in some sense the reverse of the discussion in The Netherlands. Where in the Netherlands the concern is that senior civil servants are earning too much more than their political principals, and therefore the salary of the prime minister and ministers are taken as the norm or standard, in Germany there is a base line that is the salary of federal judges, and the level of pay for all political and bureaucrat officials is further derived from that. So a given administrative salary is taken as the

norm, and political officeholders can only earn a certain percentage of that. So administrative pay is used as a means to regulate the pay of politicians rather than the other way around (as is the case in NL).

Secondly, it is safe to say that the level of salaries for senior civil servants has not been an issue of hot political or societal debate in Germany in the last decade. This is because ever since the reunification of Germany, there has been an incremental policy to decrease both the number of federal civil servants as well as the expenditure on civil servants salaries. So, ever since the early 1990s, moderation has been the word. In line with this, German senior civil servants have not received significant pay raises since 2004. At the same time, their salaries have not been adjusted for inflation which means a net decrease in salary. Also, secondary benefits have become less generous in this period. All in all, there are few arguments to make that German high civil servants are earning too much and that additional measures on top of those that are already in place, are necessary to cap the salaries of the senior civil servants.

Thirdly, performance pay is something that is not practiced in Germany. The model still very close to the Weberian approach that each office comes with a certain salary, regardless of the level of performance an individual achieves. The notion is that a senior civil servant gives his time, intellect and loyalty to the state and this is what they are rewarded for.

Fourthly, a very important recent development has been the decentralization of the competence of setting pay levels for state-level senior civil servants in 2006-2007. This has been a real mover and shaker in the system. The state-level parliaments are now in charge of deciding how much a state-level senior civil servants earns and cross-lander variation is thereby allowed. So the differences in the level of pay between richer and poorer states is creating something of a cross-lander labour market where talent and specialisations are travelling from one land to the other. However, this should not be exaggerated, as there are many other considerations than just a higher salary to want to work in a given land. In this sense, the German state has moved into something that looks more like competitive federalism than cooperative federalism, and it is demonstrated in the way senior civil servants are being payed. So the result is that the variation between the best and worst paying lander is about 12-15%. This gap could become larger in the future with the accompanying challenges for poor lander and cities to attract talented people.

Fifthly, there is the specific category of Politische Beamter: they are concerned with their pension rights at the moment. Their careers are much less certain, can be very short-lived as the system is one of musical chairs. This is a problem particularly at the Lander level, given that alternative career options are fewer than at the federal level. Übergangsgelder and pensions for politische Beamte have been curtailed. As the political system has become more volatile, there has been a greater turnover in lander governments and therefore a growing group of dismissed politische Beamte who are entitled to receive Übergangsgeld. This has sparked a societal debate because everyday citizens start wondering how many people must be paid even after they are not performing their job anymore.

All ranks are in a pay scale, it is a very consistent and systematic way of rewards.

There is no system of collective bargaining, but there is the law. So a one-sided appointment. There is bargaining, and then the result is enshrined in the law. This was the model in the 70s-80-90s.

Since the crisis, this agreement has become shaky, and since the mid-200s there have been no pay increases. Also secondary conditions, such as Weihnachtsgeld, health care, pension system have become less generous, closer to what normal people get, but still the primary and secondary labour conditions that civil servants enjoy is considerably more generous than what people in other sector get. It is true that because of the moderation in primary and secondary rewards, the attractiveness of the profession of high civil servants has decreased in relation to what it was before, but still it is attractive enough compared to other sectors to be able to attract and retain the highly talented people. For instance, the civil service still constitutes a lifelong career path, this has never been questioned. There are only a few specialisations where the civil service can no longer easily compete with other sectors, for instance financial specialists can earn much more in the private sector. But it would be too soon to tell if this is really problematic for the civil service.

The Syndicates (Deutscher Beambtenbund) is an important player in the setting of the salaries. They are well informed and have a strong position.

Also the role of Parliament has to be recognized. Parliamentarians set the salaries of top civil servants, but Parliament itself is composed of about 30 - 40 % civil servants. But in spite of

this, the parliament (who, together with the Finance Ministry is the main budget controller) has pulled the salaries tight in recent years.

The degree of public-private labour mobility is quite small. To increase public-private mobility has in Germany also not been a relevant argument to increase or decrease senior civil servant salaries. There is a debate however on the role that ex-politicians perform after their term. Many go on to be lobbyists. Here societal and ethical questions come up about the integrity of these individuals, just like in France where deontology measures have been introduced. These people can make a lot of money in the private sector based on the knowledge and network that they accumulated in their time as politicians. However, the societal criticism is not directed to the fact that they make too much money, but the criticism is directed to the fact that they can make the money based on an essential conflict of interest (public interest vs. private interest). In order to remedy this, a law is in the making that provides for a cool-down period after leaving political office, I think it is called *Karenzzeit* (?).

20. Italy- Interview Report

20.1 Public sector

Background and debate

- 1. To what extent has the level of executive pay in the public and semi-public sector been an issue of societal and/or political debate in recent years (i.e. since 2008)? Can you describe the nature of this debate, the various actors and groups involved in this debate and the main arguments?**

Generally speaking, the level of executive pay in public sector has been an issue of societal and political debate within the larger issue of the reform of public administration and its top management. Since 2009 left-wing and right-wing Governments have sought to reform the system of public managers by introducing stronger link between performance and pay-levels. It is actually undergoing Parliamentary review a new reform bill which focuses again on performance index of public managers. The debate takes place in the media and in Parliament: ONGs and Unions are contributing to the debate stressing the importance of a top public management not bound to political parties and more accountable for the results it achieves.

- 2. To what extent have issues like the legal status of public servants or fiscal considerations played role in this discussion or proposed measures?**

The legal status of public servants has already been reformed during the '90s and later on. Now public managers and public servants are subject to labour law except certain categories like judges, State lawyers and police forces. Basically, the reform focuses on plenty of aspects of public servants but not on their legal status that remain subject to private labour law and statutory law nor on fiscal aspects. On the contrary, taxation will undergo a separate and general reform in the upcoming semesters.

The measure(s)

3. Has this debate led to any proposed new legislation or other types of regulation? If so, can you describe the policy theory (i.e. problem analysis, legal instrument, intended output and outcome) behind these proposals?

The debate has led to present a bill (being currently discussed in Parliament) that bears a delegation law which allows the government to present a legislative decree to reform the whole system of public managers. The underlying analysis has shown the need to promote exchange of managers between different administrations in order to enhance a kind of crossfertilization of expertise and know-how. The intended output of the upcoming system will ensure a shared list of public managers, qualified and trained after formal procedure of public recruitment, who can apply for whatever position in the public administration through a transparent procedure of interview between applying candidates. The intended outcome is to create a pool of managerial competences, striving to find the best matching between a position and a potential candidate and at the same time promoting mobility in the public sector. From the point of view of remuneration, the executive pay will depend more largely on the objectives achieved, beside a fixed component related to the position in charge.

It must be said that the level of executive pay in public sector has been recently regulated by decree law n. 66/2014 that set a maximum standard – a sort of “capping” - for public remuneration to 240,000 euros on a yearly basis, linked to the remuneration of the President of the Supreme Court (Corte suprema di Cassazione).

4. Can you give us some elaboration on the objectives of the regulatory legal text? We're there any additional objectives or considerations at play that you know of, that we don't find in the finalized legal text?

The delegation law is still under discussion in Parliament, therefore the legislative decree will be issued only after the final approval of this bill.

5. To what extent do you feel that the measures that were introduced are flexible in the sense that they allow for adjustments when changes in the labour market would make this desirable?

Once the delegation law and legislative decree are approved, they should enhance mobility and competition in the public management, but the levels of pay might stay independent from changes in labour markets.

6. To what extent do you feel that the newly introduced measures to control executive pay levels are in line with the pre-existing norms and principles with respect to rewards in the public sector? In other words, to what extent is the new policy a breach with the Italy's previously dominant perspective?

It must be said that decree law n. 66/2014 moved a step forward in our public administration to implement more sober standards in rewards and this brought about outstanding results since a large number of top public managers underwent a “haircut” of their yearly remuneration. Whereas, the upcoming reform might ensure a closer link between remuneration and managerial results, as well as a larger competition between public managers.

7. Are there currently any mechanisms for self-regulation or self-restraint (i.e. non-binding guidelines that aim to keep executive pay within bounds) in place? Can you elaborate?

As explained above, the current legislation provides for a maximum standard of remuneration for top public managers (D.L. 66/2014). In addition to that, the system of remuneration is based on fixed and variables components: the latter are related to the type of position and to the achievement of objectives. The reform aims at putting emphasis on the variable component related to managerial performance.

Impact

8. It is now 4 years after the measures have taken effect in Italy. What is your assessment of the effects of the measures so far? Can you distinguish between intended and unintended consequences? What is your overall assessment of the degree to which the set objectives have been attained?

The question refers to legislative decree n. 150/2009 (Brunetta reform). Indeed, it must be said that that first reform tried to introduce a performance management system in the public

administration tightening the link between public executive pays and performance. The new reform bill currently under discussion is intended to strengthen the focus on performance. Generally speaking, the performance system still has to be fully implemented in all the public sector. Undoubtedly, as far as public managers are concerned, they receive monetary rewards related to individual performance that is assessed through a system of appraisal. It must be said that this system is more or less consistent and adequate in different administration. There is a high risk of “bureaucratizing” the process of appraisal since the elaboration of objectives is often not sufficiently

9. Do you feel that the introduced measures have sufficiently addressed the problems in the area of executive pay? Would more be necessary? What additional measures would be desirable? Why? Are additional measures currently in the making?

As explained above, there is a new reform bill currently under parliamentary discussion which is intended to strengthen the focus on performance

10. To what extent can the current level of executive pay for high level officials in the public sector compete with salaries in the private sector?

Since the approval of decree law n. 66/2014 the maximum level of pay for high level officials in the public sector is 240,000 euros on a yearly basis. This makes the current level of executive pay less appealing in public sector compared to private sector, at least as far as high official positions are concerned.

10. To what extent has the new measures increased or decreased the attractiveness of the public sector as an employer for highly talented, qualified and motivated executives?

See also answer 10. On the whole, the attractiveness of public sector revolves around job content, social status, permanent position while the “haircut“ and the “capping” in executive pays make it comparatively less appealing since top managers in private sector are paid by far more.

Lessons learned

11. Based on your experience and possible lessons learned from the new measures, what advice would you offer to other countries?

Financial crisis has made inevitable to enforce measures that limits severely the pay level in public sector. Nevertheless, it appears advisable to strengthen the performance-related pay so that the reductions in rewards fall back primarily on civil servants who do not perform well. The enforcement of performance assessment system is highly demanding in organizations like public administration and the toughest task is to point out measurable and specific objectives as well as implementing a system of monitoring.

12. What would be the best-practices that could be transferred to another country? Or are there any major challenges to be considered?

I gather that setting a maximum standard for all public executive pay has been perceived by Italian public opinion as a reasonable measure of sober administration; this might have helped in restoring the trust between public bodies and citizens.

As explained in answer 12 the major challenge is to implement a consistent system of performance management that allows to link closely executive pay to managerial achievements (and successful public policies)

Other

13. Who would you recommend we should also interview in the framework of our research on regulative policies of executive pay in the public and semi-public sector?

n.a.

20.2 Semi-public sector

NB. Since our Department deals primarily with public sector I am not in position to comment about semi-public sector. I may provide two main pieces of information. Semi-public sector is mainly represented by public companies: they are completely subject to private labour law, yet they are to comply also with D.L. 66/2014 that sets a maximum standard for public executive pay (240,000 euro yearly). Apart from that, the Brunetta reform (legislative decree n. 150/2009) and the upcoming reform do not affect semi-public sector.

21. Poland- Interview Report

21.1 Public sector

Introductory information

The responses provided below apply exclusively to the civil service and partly to the remuneration of ministers.

The civil service constitutes ca. 12% of the broadly understood public administration in Poland and 3,5% of the Polish public sector. At the end of 2014, the civil service employed (FTE) ca. 120.400 persons. The civil service corps members are employed in ca. 2.300 offices (in the Chancellery of the Prime Minister, ministries, central offices, voivodeship /regional/ offices, offices of unified and detached administration).

The group of senior civil servants, at the end of 2014, consisted of 1582 persons (FTE). This group encompasses the posts of directors general, directors of organizational units and their deputies in the Chancellery of the Prime Minister, ministries, central offices and regional offices (see table 2, page 5).

Background and debate

- 1. To what extent has the level of executive pay in the public and semi-public sector been an issue of societal and/or political debate in recent years (i.e. since 2008)? Can you describe the nature of this debate, the various actors and groups involved in this debate and the main arguments?**
- 2. To what extent have issues like the legal status of public servants or fiscal considerations played role in this discussion or proposed measures?**

The pay of persons holding the highest, executive posts in the civil service constituted an element of a wider discussion conducted in 2008 regarding the inclusion of these posts into the civil service system (since 2006 these posts were outside the civil service). In this discussion, in the process of changes' preparation and consultation the government administration

representatives, politicians, experts and social party (trade unions) took part. It was argued i.e. that the inclusion of above-mentioned posts into the civil service corps will give it the right role in the management of the state, will favour the consolidation of the professional nature of the corps as well as the politically neutral execution of the state tasks.

The measure(s)

- 3. Has this debate led to any proposed new legislation or other types of regulation? If so, can you describe the policy theory (i.e. problem analysis, legal instrument, intended output and outcome) behind these proposals?**

- 4. Can you give us some elaboration on the objectives of the regulatory legal text? We're there any additional objectives or considerations at play that you know of, that we don't find in the finalized legal text?**

As a consequence of the discussion conducted in 2008, the proposals of changes in the civil service act has been put forward. The posts of directors general, directors of organizational units and their deputies have been included in the civil service, creating the group of senior posts. The change entered into force in March 2009. It has been decided that the compositions of pay for senior civil servants and other civil service corps members will be the same: basic pay, long-term employment bonus, civil service bonus (paid only to nominated civil servants). The permanent, function bonus for senior civil service has been eliminated. However, the possibility to raise the basic pay was given.

The level of pay is defined by law (ordinance of the Prime Minister). It is based on so called multiplier system. The posts in the civil service are divided into several groups (including the senior one). To each group a range of multipliers (coefficients) is assigned. The pay is the product of a given multiplier and a base reference wage defined each year in the Budget Law (in 2015 it is 1873,84 PLN).

Definition of the multipliers' ranges was preceded by the research and analyses individual remunerations. The information from ca. 120.000 posts in the civil service has been analysed.

5. To what extent do you feel that the measures that were introduced are flexible in the sense that they allow for adjustments when changes in the labour market would make this desirable?

Defined by law multipliers for senior civil servants (2,2-8,0 for central government administration), give the possibility to differentiate their basic pay and allow for adjusting it to the changes in the labour market.

In the process of defining the principles of civil service pay policy the maximum ranges of multipliers have been increased in all posts groups. This applied mainly to senior positions, medium-ranking positions, coordinating and independent positions. The aim was to create the opportunity to reward persons holding executive and other key positions in the civil service similar to the one existing in the job market. It was in accord to the report of the Prime Minister's strategic advisors team called "Poland 2030". The report said that in order to raise the effectiveness of the public resources spent on government employees pay it is needed to connect the pay – more closely – to the conditions in the "commercial" job market.

Concurrently, according to the bidding „Civil Service Human Resources Management Standards”, in the process of pay calculation the conditions of the job market should be taken into account (see p. 7 for more details).

6. To what extent do you feel that the newly introduced measures to control executive pay levels are in line with the pre-existing norms and principles with respect to rewards in the public sector? In other words, to what extent is the new policy a breach with the Poland's previously dominant perspective?

The solutions introduced by the new civil service act of 2008 broke with the solutions implemented in 2006 (exclusion of senior post from the civil service, creation of the state staffing pool). The reference was made to the regulations being in force before 2008 (the civil service act of 1998). The act of 1998 should be regarded as a reference point for the Polish civil service model.

7. Are there currently any mechanisms for self-regulation or self-restraint (i.e. non-binding guidelines that aim to keep executive pay within bounds) in place? Can you elaborate?

The instrument, which introduces the internal mechanisms regulating the pay calculation are „Civil Service Human Resources Management Standards” mentioned above. The standards define the elements which director general should take into consideration while calculating the basic pay of civil service corps member (like: the result of job evaluation, performance, job market determinants). The elements which should not affect the level of pay have been pinpointed as well (competences of the employee, which are not related to his/her tasks or not useful in any other way from the office’s point of view).

As regards the ministers, their pay is also defined by law. In general, it consists of base salary and function bonus. Similarly to the civil service, ministers’ pay is also based on the multiplier system. The multipliers for each ministerial post (group of posts) have been defined in the ordinance of the President of the Republic of Poland. On the other hand, the so called base reference wage (amount to be multiplied) is – as in the civil service – defined in the Budget Law (in 2015 it is 1766,46 PLN).

The calculation of monthly pay for some ministerial posts is shown in the table below.

Table 1: Calculation of monthly pay					
Ministerial posts	Multiplier (1766,46 PLN) of:		Basic pay amount*	Function bonus amount	Total amount
	Basic pay	Function			
Prime Minister	6,2	2,0	10952,10	3533,00	14485,
Deputy Prime	5,7	1,6	10068,90	2826,40	12895,
Minister	5,6	1,5	9892,20	2649,70	12541,
Secretary of State	4,9	1,2	8655,70	2119,80	10775,
Undersecretary	4,4	1,2	7772,50	2119,80	9892,3

*The amounts of basic pay and function bonus are rounded up to 0,10 PLN.

To sum up, in relation to the senior civil service and ministers there is a cap policy – as regards the first group the maximum pay has been defined, as regards the second the pay is fixed.

Impact

8. It is now 15 after the measures have taken effect in Poland. What is your assessment of the effects of the measures so far? Can you distinguish between intended and unintended consequences? What is your overall assessment of the degree to which the set objectives have been attained?

The new solutions function since 2009 (6 years). In line with the plans, the senior posts became the integral part of the civil service system, also in the scope of civil service corps pay policy. Among the unintended effects of the solutions in force we can list:

- Unjustified differenced in pay between offices, including pay on senior posts.
- Formal differentiation of organs authorized to calculate the pay of persons holding the post of director general of office:
 - a. if this person is outside the civil service, the level of pay is decided by the Head of the Civil Service,
 - b. if this post is being held by a person from the civil service, his/her pay is calculated by the political head of office (the change in pay also do not require the involvement of the Head of the Civil Service).
- Considerable differences between the pay of senior civil servants and the persons holding high-ranking state positions (persons outside the civil service, e.g. ministers) at the expense of the latter.

9. Do you feel that the introduced measures have sufficiently addressed the problems in the area of executive pay? Would more be necessary? What additional measures would be desirable? Why? Are additional measures currently in the making?

It is desired to increase the coherence of senior civil servants' pay, in particular directors general. An issue of high importance is to strengthen the position/competences of the Head of the Civil Service in this regard. It would be better also if the pay – to a greater degree – was based on the result of job evaluation.

In the post-crisis era keeping the competent managers in the civil service is a challenge. We can face it by introducing effective instruments built on accountability, performance and

motivation. It is also important to establish a proper relationship between the executive pay in public and private sectors.

At present, the above aspects are being taken into account in conceptual work on improvement of civil service pay policy. The new system is expected to promote and motivate the best employees.

10. To what extent can the current level of executive pay for high level officials in the public sector compete with salaries in the private sector?

11. To what extent has the new measures increased or decreased the attractiveness of the public sector as an employer for highly talented, qualified and motivated executives?

In the light of the research conducted in 2010, the civil service pay is the most competitive on the lowest posts in the each post group, where the medians of basic pay constitutes 71-85% of pay in business, and medians of total pay 84-105%. The experts are of the opinion that the pay on these posts is sufficiently competitive to attract and the officials/candidates possess the right competences and to motivate them effectively.

The lower competitiveness in the civil service is seen in relation to the posts of highly-qualified specialists and senior managers. The medians of their basic pay - in comparison to business - constitute ca. 25-26% (and 33-35% in relation to the total pay median).

It can be a source of a serious risk connected with the possibility to attract and keep the employees with suitable qualifications.

Lessons learned

12. Based on your experience and possible lessons learned from the new measures, what advice would you offer to other countries?

13. What would be the best-practices that could be transferred to another country? Or are there any major challenges to be considered?

- Conducting an in-depth research of pay on various positions before implementing the changes.

- Using statistical tools to model the solutions.
- Applying the evidence base policy principles.
- Conducting broad consultations with stakeholders, particularly with social partners – before making changes.

Other

14. Who would you recommend we should also interview in the framework of our research on regulative policies of executive pay in the public and semi-public sector?

The Ministry of Finance.

The Lower Chamber of Parliament – Sejm.

Table 2. Typical division between political and civil service positions in a Polish ministry			
Position	Explanation		Level
Minister	Member of Council of Ministers	Political positions	Politics
Secretary of State	First Deputy Minister		
Undersecretaries of State	Deputy Ministers		
Minister's political cabinet	Ministerial advisors and assistants		
Director General of Office	Top civil servant	Senior civil service	Civil service
Directors of organizational units	Departments are ministries' basic organizational units		
Deputy Directors of organizational units			
Heads of departments' internal units (e.g. divisions)	Line managers	Positions not included in senior civil service	
Counsellor general, chief/senior specialist, other positions occupied by civil service corps members (civil servants and civil service employees)	Regular employees		

21.2 Semi-Public Sector

Background and debate

1. To what extent has the level of executive pay in the public and semi-public sector been an issue of societal and/or political debate in recent years (i.e. since 2008)? Can you describe the nature of this debate, the various actors and groups involved in this debate and the main arguments?

Pursuant to the Act of 3 March 2000 on remuneration of people in charge of certain legal entities (Journal of Laws of 2013, item 254, as amended) – hereinafter referred to as the Remuneration Act, provisions were introduced which limit the amount of remuneration of people who are in charge of entities in which the State Treasury has a majority stake and of local government units. The aim of the above-mentioned Act was mainly to lower remuneration of managers employed in the public sector.

According to the Remuneration Act, the most important regulations concerning the remuneration amount and rules for remunerating management board members include:

- maximum monthly remuneration amount of such persons may not exceed six times the average monthly remuneration in the enterprise sector (i.e. currently PLN 20,727.48 gross);
- what constitutes the basis for determining the maximum monthly remuneration amount is currently the average monthly remuneration in the enterprise sector in Q4 2009;
- maximum three-month severance pay is applicable,
- depending on the financial results achieved or extent of completion of other tasks an annual bonus may be awarded whose amount may not exceed three times the average monthly remuneration.

Currently, management board members of the vast majority of companies with the State Treasury's stake (including, in particular, small and medium-sized ones) are remunerated in accordance with the rules set out in the Remuneration Act. Frequently, in the case of the company's deteriorating financial situation decisions are made to limit the remuneration amount. In addition, in the case of bad or deteriorating economic and financial results, the annual bonus for the president and members of the management board is not awarded.

The Remuneration Act also allows the possibility to enter into civil law agreements for provision of management services (so-called managerial contracts). This is the case in

approximately 4,4% of the companies which are supervised by the Ministry of State Treasury and are subject to the regulations of the Act in question.

In such a case, a management board member is not employed at the company on the basis of the employment contract, but provides management services conducting one-man business. Regulations stipulate that the pre-condition is, among other things that the management board member needs to conclude, at his own expense, third party liability contract which covers being in charge of the company's affairs. Contracts are concluded for the guarantee sum set out in the insurance document for the amount (even) as high as a few hundred million PLN.

The parties to such agreements are in possession of the knowledge of the terms and conditions under which agreements on provision or management services have been concluded. Their content is a secret protected under the law, and may not be revealed without consent of the interested parties. At the same time, in the case of public companies, full information on the amount of remuneration and other benefits (including, e.g. competition bans paid out to persons who have stopped working for companies' management boards) is included in annual reports of such companies, which are made public.

Another category of companies supervised by the Ministry of State Treasury is companies with the minority stake of the State Treasury, which are not subject to the regulation of the Remuneration Act. In their case, management board members' remuneration is determined by supervisory boards or general meetings. With management board members of such companies a managerial contract, employment contract, civil law agreement, e.g. management agreement, etc. can be concluded, because there are no limitations as to the remuneration form and amount.

In the case of agreements on providing management services, a common practice is: to determine fixed monthly remuneration, variable remuneration which depends on achievement of targets and lack of income/benefits from subsidiaries, etc. In each case, management board members' remuneration amount is determined after the analysis of such criteria, as: the company's financial and economic condition, level of remuneration in the region, sector, company's size, level of remuneration in the company, level of remuneration of management boards in similar companies, qualifications required, etc.

On 3 April 2013, the Ministry of State Treasury adopted the document: Good practices in the field of determining remuneration amount and components in the case of entering into managerial contracts with management board members of certain State Treasury companies⁷⁴⁰ - which defines guidelines to be used in determination of remuneration set out and paid out on the basis of managerial contracts. Its main principles include:

- The contract's amount should not differ from the average remuneration level on the market (+/- 10% for a given sector), and consist of two components - fixed (60%) and variable (40%) part.
- The variable part of the remuneration should depend on the achievement of targets and be linked to such ratios and financial results, as: net profit, income, EBITDA, profitability or liquidity, as well as completion of investment processes.
- At fuel and energy sector companies, 50% of the remuneration's variable part should depend on completion of investment processes, with consideration given to, in particular, their scale, innovativeness and timely completion.

The remuneration amount of presidents and members of management boards is determined, in particular, by the scale of the operation conducted, its scope and value of assets.

Since the time when the Act came into force, ineffective attempts have been made at changing the provisions which regulate issues connected with remuneration of members of management boards of State Treasury companies. The bill to amend the Act on commercialisation and privatisation as well as certain other acts prepared in 2008 provided for, among other things, an amendment to the Remuneration Act, which assumed liquidation of the remuneration limits for members of management boards of State Treasury companies, and entrusting the task of determining their amount to supervisory boards. What was supposed to be the main criterion was companies' financial results.

The bill was published on the website of the Ministry of State Treasury and sent to receive opinions from:

- 1) Ogólnopolskie Porozumienie Związków Zawodowych [All-Poland Alliance of Trade Unions];
- 2) Niezależny Samorządny Związek Zawodowy "Solidarność" [Independent Self-governing Trade Union "Solidarity"];

⁷⁴⁰ <http://nadzor.msp.gov.pl/nad/program-profesjonaliza/25353,Dobre-Praktyki-wynagradzania-menedzerow.html>

- 3) Forum Związków Zawodowych [Trade Union Forum];
- 4) Polska Konfederacja Pracodawców Prywatnych „Lewiatan” [Polish Confederation of Private Employers “Lewiatan”];
- 5) Konfederacja Pracodawców Polskich [Confederation of Polish Employers];
- 6) Krajowa Izba Gospodarcza [National Economic Chamber];
- 7) Business Centre Club;
- 8) Fundacja Polski Instytut Dyrektorów [Polish Institute of Directors Foundation];
- 9) Joint Commission of Central Government and Local Government;
- 10) Tripartite Commission for Socio-Economic Affairs;
- 11) Krajowy Związek Plantatorów Buraka Cukrowego [National Association of Sugar Beet Growers];
- 12) Federacja Branżowych Związków Producentów Rolnych [Federation of Sectoral Agricultural Producers Unions];
- 13) Krajowy Związek Stowarzyszeń Producentów Ziemniaków Skrobiowych w Polsce [National Union of Associations of Producers of Starch Potatoes in Poland];
- 14) Krajową Radę Izb Rolniczych [National Agricultural Chambers Council].

The bill regarding the change of the remuneration rules applicable to managerial staff had positive reception by the social side, in particular, as regards strengthening the transparency and lifting limitations applicable to remuneration of members of companies’ management boards.

Negative opinion on the bill, as well as on the general direction of the changes proposed, was expressed by Ogólnopolskie Porozumienie Związków Zawodowych (OPZZ). The act was adopted by the Sejm, but the President of the Republic of Poland vetoed it, and it did not come into force. It needs to be pointed out that the bill was subject to broad public consultations, and visible differences of opinions were present in the discussions it caused. Some of the organisations which expressed their opinion were in favour of complete liquidation of the limits applicable to remuneration of members of management boards of State Treasury companies due to significant disproportion between remuneration of managerial staff at private and state companies. On the other hand, some organisations were in favour of keeping the limitations resulting from the Remuneration Act, arguing that setting remunerations free could deepen social stratification.

2. To what extent have issues like the legal status of public servants or fiscal considerations played role in this discussion or proposed measures?

The issue of the legal status of State Treasury companies, and, consequently, of their managerial staff played an important role in taking decisions on remuneration limits.

In particular, the trade union side expressed opinion that in the public sector remuneration in management boards should be lower than in the private one. At the same time, on the other hand, there were suggestions that such limitations on remuneration result in negative selection to management boards of State Treasury companies.

3. Has this debate led to any proposed new legislation or other types of regulation? If so, can you describe the policy theory (i.e. problem analysis, legal instrument, intended output and outcome) behind these proposals?

Rules for remuneration of managerial staff at State Treasury companies have been subject to numerous analyses which have contributed to taking attempts at changing them. The most important attempt to change the regulations was made in 2008, but it failed (it was discussed in the answer to question 1).

In 2014, the Ministry of State Treasury drew up draft principles (assumptions) of the bill on rules of exercising certain rights of the State Treasury and local government units, which introduces the rule according to which remuneration of management board members of certain companies would be determined by the supervisory board or another statutory supervisory body under remuneration rules (regulations). The conditions of paying out remuneration and awarding other benefits connected with work performed by members of management bodies of crucial entities for the State Treasury would be determined in accordance with separate rules. At the same time, the provisions of the draft principles of the bill are supposed to introduce - for a competent body authorised to exercise the rights from shares or general meeting - the possibility to determine remuneration rules in a different manner than the one set out by the supervisory board or another statutory supervisory body. The above-mentioned bill provides for including authorisation for the Council of Ministers to issue an order in which aspects of minimum requirements to be met by the remuneration rules (regulations) and minimum requirements to be met by the justification to a resolution on setting out remuneration rules will

be made more specific. Determining remuneration in the above mentioned way would not be subject to the limits set out in the Remuneration Act.

4. Can you give us some elaboration on the objectives of the regulatory legal text? We're there any additional objectives or considerations at play that you know of, that we don't find in the finalized legal text?

The Remuneration Act has not been changed and remains the basic legal act applicable to remuneration of managerial staff at State Treasury companies. The aims of this regulation have been indicated in the justification to the above-mentioned act.

5. To what extent do you feel that the measures that were introduced are flexible in the sense that they allow for adjustments when changes in the labour market would make this desirable?

The statutory regulations concerning the amount of the remuneration paid to members of management boards of State Treasury companies are rigid and do not allow its change in the case in which the economy significantly picks up, there are changes on the labour market, etc. A change of the remuneration amount may take place only through a change in the amount of the average monthly remuneration and resignation by the legislator from the pay freeze. It may happen only within the Act.

At the same time, it needs to be pointed out that the provisions of the Remuneration Act allow the possibility of entering into managerial contracts. Such a contract may be signed by a natural person or a person who conducts business activity who will conclude with a company a management services agreement, if the person establishes personal or material security for possible claims arising in connection with non-performance or improper performance of the contract, or at his/her own expense takes out third party liability insurance in connection with management. In the above-mentioned case, the limitation under the Remuneration Act does not apply. The Minister of State Treasury, with consideration given to similar regulations developed, in particular, by participants of the market game and taking into account resolutions of the European Parliament as well as remuneration policy in the financial services sector has drawn up the document: Good practices in the field of determining remuneration amount and

components in the case of entering into managerial contracts with management board members of certain State Treasury companies - referred to in the answer to question 1.

6. To what extent do you feel that the newly introduced measures to control executive pay levels are in line with the pre-existing norms and principles with respect to rewards in the public sector? In other words, to what extent is the new policy a breach with the Poland's previously dominant perspective?

The Remuneration Act has been in force since March 2000, and since that time its main principles have remained unchanged. The Act has changed the state's existing policy, because at certain State Treasury companies management board's remuneration was too high, even in comparison with the private sector.

7. Are there currently any mechanisms for self-regulation or self-restraint (i.e. non-binding guidelines that aim to keep executive pay within bounds) in place? Can you elaborate?

What constitutes mechanisms of self-regulation regarding issues connected with remuneration of managerial staff of State Treasury companies are managerial contracts which offer freedom as regards determination of managerial staff's remuneration and good practices on shaping them described in the answer to questions 1 and 5.

Impact

8. Now, after the measures have taken effect in Poland. What is your assessment of the effects of the measures so far? Can you distinguish between intended and unintended consequences? What is your overall assessment of the degree to which the set objectives have been attained?

The intended effect of introduction of the Remuneration Act was to limit the remuneration costs incurred by State Treasury companies, amount of severance pay and additional benefits for managerial staff.

An unintended consequence of the Act's provisions is sometimes problems with hiring well-qualified managers for positions at management boards of State Treasury companies due to the amount of possible remuneration.

At the same time, it needs to be pointed out that the provisions of the Act have led in certain sectors, (e.g. banking) to very big differences in remuneration of the managerial staff on the public and private market.

However, given the main aim of the introduction of the Act, i.e. limitation of remuneration of managerial staff at public sector companies, it can be said it has been achieved. Increase in remuneration at State Treasury companies has been limited and cannot exceed the thresholds set out in the Act.

9. Do you feel that the introduced measures have sufficiently addressed the problems in the area of executive pay? Would more be necessary? What additional measures would be desirable? Why? Are additional measures currently in the making?

The measures limiting remuneration of managerial staff introduced by the Act have sufficiently protected an excessive increase in their salaries. However, due to the framework set out in the Act as regards remuneration amount of managerial staff, it would be recommendable to take actions aimed at making regulations in this area more flexible.

As was indicated in the answer to question 3, the direction of the changes proposed in this respect aims at making remuneration of managerial staff at State Treasury companies more flexible in such a way, as to make their level depend on, first of all, the economic and financial condition of the individual entities.

10. To what extent can the current level of executive pay for high level officials in the public sector compete with salaries in the private sector?

The provisions of the Remuneration Act have limited the level of remuneration of management boards of State Treasury companies, but have also led to a significant disproportion between remuneration of management board members in the private and public sector.

What may be an attempt at making remuneration of managerial staff at State Treasury companies competitive is the introduction of so-called managerial contracts (described in the answer to questions 1 and 5) to which the limitations under the Remuneration Act do not apply. The guidelines in this respect are included in Good practices in the field of determining remuneration amount and components in the case of entering into managerial contracts with management board members of certain State Treasury companies prepared by the Ministry of State Treasury.

11. To what extent has the new measures increased or decreased the attractiveness of the public sector as an employer for highly talented, qualified and motivated executives?

The entry into force of the Remuneration Act has led to difficulty in finding the best qualified managers and having them accept positions in management boards of State Treasury companies, which is connected with the disproportion of remuneration in the companies of a comparable size from the public and private sector.

Lessons learned

12. Based on your experience and possible lessons learned from the new measures, what advice would you offer to other countries?

It is recommendable to take actions aimed at making the level of remuneration of managerial staff in public sector companies as flexible as possible, e.g. depending on the economic and financial condition of these entities, level of remuneration in a given sector or achievement by the management board of investment plans. In view of the foregoing, remuneration amount of managerial staff should be determined by supervisory boards of these companies.

In order to avoid difficulty in selection of highly-qualified managerial staff at public sector companies, specific actions need to be taken in the area of law-making aimed at making the remuneration system more flexible and reducing the disproportion in the remuneration amount of managerial staff in the public and private sector.

13. What would be the best-practices that could be transferred to another country? Or are there any major challenges to be considered?

Due to the legal status present in Poland since 2000 regarding the way in which remuneration of managerial staff of State Treasury companies is shaped, as well as initiatives undertaken to change that status quo, it is difficult to clearly indicate the best solutions related to the criteria adopted which determine remuneration amount of managerial staff of public sector companies.

In view of the foregoing as well as the direction of the previous solutions proposed in this area, it is currently believed that as flexible guidelines as possible to determine the level of remuneration of managerial staff need to be adopted.

Other

14. Who would you recommend we should also interview in the framework of our research on regulative policies of executive pay in the public and semi-public sector?

Due to the subject of the research it is possible to consider requesting research institutions, independent centres established to carry out research into and analyse public affairs (so-called think tanks), social organisations, NGOs, as well as trade unions, employer organisations and public sector companies themselves.

22. Sweden- Interview Report

Public sector

Background and debate

1. To what extent has the level of executive pay in the public and semi-public sector been an issue of societal and/or political debate in recent years (i.e. since 2008)? Can you describe the nature of this debate, the various actors and groups involved in this debate and the main arguments?

Executive pay has not really been an issue in public debate, only some blue-collar unions pointed out the widening pay-gap between workers and managers. The debate in Sweden today is more about equal pay between men and women and about the existence of a “discrimination by value” between certain (women dominated) occupations in public sector compared with private sector.

2. To what extent have issues like the legal status of public servants or fiscal considerations played role in this discussion or proposed measures?

The employees in the public sector have the same legal status as employees in other sectors and due to that this issue does not influence the discussion. There is, though, an approach that stipulates that the collective pay increase in public sector should not influence the pay increase rates in the competitive export industry.

The measure(s)

3. Has this debate led to any proposed new legislation or other types of regulation? If so, can you describe the policy theory (i.e. problem analysis, legal instrument, intended output and outcome) behind these proposals?

No, according to the general approach the pay formation is seen as a social partners issue and thereby it is out from the political domain. The only legislation today in this field prohibits discrimination of somebody due gender.

4. With regards to the legal texts can you give us some elaboration on the objectives? Were there any additional objectives or considerations at play that you know, or that we don't find in the finalized legal text?

There is no other legislation than the prohibition of gender discrimination, so there are not particular consideration about additional objectives to take into consideration.

5. To what extent do you feel that the measures that were introduced are flexible in the sense that they allow for adjustments when changes in the labour market would make this desirable?

The most relevant aspect is that the Government has created a “Mediation Office” with the mission to be responsible for the official pay statistics, to mediate in case of labour disputes and to promote a healthy pay formation on the Swedish labour market so our competitiveness worldwide is not deteriorated.

6. To what extent do you feel that the newly introduced measures to control executive pay levels are in line with the pre-existing norms and principles with respect to rewards in the public sector? In other words, to what extent is the new policy a breach with the country’s previously dominant perspective?

There are no pre – existing norms so it is impossible to do a comparison.

7. Are there currently any mechanisms for self-regulation or self-restraint (i.e. non-binding guidelines that aim to keep executive pay within bounds) in place? Can you elaborate?

No, not specifically for executive pay.

Impact

8. What is your assessment of the effects of the measures so far? Can you distinguish between intended and unintended consequences? What is your overall assessment of the degree to which the set objectives have been attained?

As stated before the only measure adopted consists in the establishment of the “Mediation Office”, it is very useful for the official pay statistics, the mediation in case of labour disputes and the promotion of a healthy pay formation on the Swedish labour market; so the overall assessment until now is positive.

9. Do you feel that the introduced measures have sufficiently addressed the problems in the area of executive pay? Would more be necessary? What additional measures would be desirable? Why? Are additional measures currently in the making?

We do not see any problems with the current system and we see no interference from the legislature. We also believe that the system with social partners itself has all the ability to manage the entire pay formation process, so at the moment no additional measures are needed.

10. To what extent can the current level of executive pay for high level officials in the public sector compete with salaries in the private sector?

Based on the fact that the pay level in the public sector for high executives often are lower than in the private sector, it can be difficult to recruit human resources from the private sector, although sometimes other exiting benefits measures play a relevant role. Despite this, the public sector has found it most difficult to meet the same top executives’ benefits packages of the private sector, because in the private one better incentive packages to offer.

11. To what extent has the new measures increased or decreased the attractiveness of the public sector as an employer for highly talented, qualified and motivated executives?

There are no new measures; the only and most recent measure introduced was the “Mediation Office”.

Lessons learned

12. Based on your experience and possible lessons learned from the new measures, what advice would you offer to other countries?

We have a well-established system where social partners (employers and unions) take full responsibility for pay formation and the legislature does not interfere. The current model has been successful so far, in the sense that the competitive export industry has managed its competitiveness, and all employees have enjoyed real pay increases since then.

According to the system, we have not a minimum pay recognised by the law. The need to guarantee a minimum pay has always been regulated by the social partners in each sector. This has meant that in the entire public sector there is, in principle, no set minimum pay.

From the employer side, we support our current system as it is working very well and we are fine without the interference by the legislature in this area.

13. What would be the best-practices that could be transferred to another country? Or are there any major challenges to be considered?

It is difficult to point out something specific. The system in Sweden has a very long story and it has been developing slowly over a very long time.

Other

14. Who would you recommend we should also interview in the framework of our research on regulative policies of executive pay in the public and semi-public sector?

The responsible for the pay setting for director generals are the Government, coordinated by the ministry of Finance, the Division of Central Government Employer Policy. The Head of the division is the Deputy Director General Mr. Claes Lindgren: claes.lindgren@regeringskansliet.se

The employer organization dealing with this topic for the municipalities, county councils and regions is the Swedish Association of Local Authorities and Regions (SALAR). The Head of department for Employer policy is Miss. Agneta Jöhnk: agneta.johnk@skl.se

23. UK

List of references

Books & articles:

Ahlbäck Öberg, S. (2012), 'Rewards for high public office in Sweden', in Brans, M. and Peters, B. G. (eds.), *Rewards for High Public Offices in Europe and North America*, New York: Routledge, pp. 174-189.

Beaud, O. (2013), Le Conseil constitutionnel et le traitement du président de la République : une hérésie constitutionnelle, *Jus Politicum*, 9, on: <http://juspoliticum.com/Le-Conseil-constitutionnel-et-le.html> (Last visited on the 29th of September 2015).

Brans, M. (1994), Belgium: Public Office and Private Rewards, in Hood, C. and B.G. Peters (eds.), *Rewards at the top: a comparative study of high public office*, London: Sage, Part 3, chapter 6.

Brans, M. (2012), 'Rewards at the top in Belgium: uneasy struggles with transparency and variability in paying public office', in Brans, M. and Peters, B. G. (eds.), *Rewards for High Public Offices in Europe and North America*, New York: Routledge, pp. 125-140.

Brans, M., De Winter, L. and W. Swenden (eds.) (2013), *The Politics of Belgium: Institutions and Policy under Bipolar and Centrifugal Federalism*, Oxon: Routledge.

Dorresteijn A., Monteiro T., Teichmann C. and E. Werlauff (2009), *European Corporate Law*, Second Edition, Alphen aan de Rijn: Kluwer Law International.

Hood, C and B. G. Peters (1994), *Rewards at the top- A comparative study of High Public Office*, London: SAGE publications.

Kuperus, H. & A. Rode (2008), 'Top Public Managers in Europe: Management and Working Conditions of the Senior Civil Servants in European Union Member States', Study commissioned by the French presidency, *Etudes et Perspectives*, European Institute for Public Administration: Maastricht.

Meer, F. van der, Berg, C. van der, & Dijkstra, G. (2013), 'Rethinking the 'Public Service Bargain: the changing (legal) position of civil servants in Europe', *International Review Of Administrative Sciences*, 79, (1), pp. 91-109.

Philgren G. and A. Svensson Arner (1989), *Målstyrning, 90-talets ledningsform flr offentlig verksamhet*, Malmö: Liber.

Salomon, H. (2013), 'Setting your own wage: The debate surrounding remuneration of Members of Parliament in Germany', In University College Maastricht (eds.), *Lifting the Fog: Exercises in Analytical Discourse Evaluation*, Maastricht: MaRBLe Research Papers, pp. 45-66, on: <http://openjournals.maastrichtuniversity.nl/Marble/article/view/171> (Last visited on the 29th of September 2015).

Sjölund, M., Wise, L. R., Perry, J. L. and A. Sjöström (1997), *Lön för mödan. Lönesättning I offentlig sektor*, Stockholm: Kommentus förlag.

Legislation:

Aktengesetz (AktG) vom (6th of September 1965), BGBl. I S. 1089, on: <http://www.gesetze-im-internet.de/aktg/BJNR010890965.html> (Last visited on the 2nd of 2015).

Arrêté Royal (2nd of October 1937), portant sur le statut des agents de l'état, on : http://www.fedweb.belgium.be/fr/reglementation/19371002_ar_statut (Last visited on the 1st of October 2015).

Arrêté (19th of June 2014) portant extension de la prime de fonctions et de résultats aux membres du corps des inspecteurs généraux et inspecteurs de l'administration du développement durable et fixant les montants de référence de cette prime, on: http://www.legifrance.gouv.fr/affichTexteArticle.do;jsessionid=12A7765656E9A848CA04C76DDBE37A53.tpdila08v_1?cidTexte=JORFTEXT000029175674&idArticle=JORFARTI000029175682&dateTexte=20140702&categorieLien=cid#JORFARTI000029175682 (Last visited on the 1st of October 2015).

Arrêté (30th of June 2015) portant répartition des emplois offerts aux élèves de l'Ecole nationale d'administration achevant leur scolarité en décembre 2015, NOR: PRMG1515849A, on: <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000030824105&fastPos=13&fastReqId=2014208229&&oldAction=rechTexte> (Last visited on the 1st of October 2015).

Article L133-1 Créé par Loi n°94-1040 (2nd of December 1994), on: http://www.legifrance.gouv.fr/affichCodeArticle.do;jsessionid=98E31380DF1710E16F9CEC3399F58904.tpdila12v_3?cidTexte=LEGITEXT000006070249&idArticle=LEGIARTI000006357187&dateTexte=&categorieLien=cid (Last visited on the 1st of October 2015).

Bundesbesoldungsgesetz (19th of June 2009), (BBesG), BGBl. I 2009 S. 1434, on: <http://www.gesetze-im-internet.de/bundesrecht/fpstatg/gesamt.pdf> (Last visited on the 2nd of October 2015).

BVerfG Urteil (5th of November 1975), 2 BvR 193/74 ('Diätenurteil')

Code du travail - Article L3111-2 (1st of May 2008), on: <http://legifrance.gouv.fr/affichCodeArticle.do?cidTexte=LEGITEXT000006072050&idArticle=LEGIARTI000006902439&dateTexte=&categorieLien=cid> (Last visited on the 2nd of October 2015).

Constitution of the Italian Republic (27th of December 1947), Article 69 and 84, on: https://www.senato.it /documenti/repository/istituzione/costituzione_inglese.pdf (Last visited on the 2nd of October 2015).

Cour de cassation, civile, Chambre sociale (31st of January 2012), n° 10-24412, Publié au bulletin, on: http://www.legifrance.gouv.fr/affichJuriJudi.do?_oldAction=rechJuriJudi&idTexte=JURITEXT000025287680&fastReqId=1816798375&fastPos=10 (Last visited on the 2nd of October 2015).

Décret n°48-1108 (10th of July 1948) portant classement hiérarchique des grades et emplois des personnels de l'Etat relevant du régime général des retraites, on: <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000669623> (Last visited on the 1st of October 2015).

Décret n°53-707 du 9 août 1953 relatif au contrôle de l'Etat sur les entreprises publiques nationales et certains organismes ayant un objet d'ordre économique ou social, on: <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000299254> (Last visited on the 1st of October 2015).

Décret n°57-177 (16th of February 1957) Aménageant le 55866 du 30-06-1955 modifié portant remise en ordre des traitements et soldes des personnels civils et militaires de l'état, on: <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000850419&categorieLien=cid> (Last visited on the 1st of October 2015).

Décret n°73-276 du 14 mars 1973 relatif au statut particulier du corps de l'inspection générale des finances, on: <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000682715> (Last visited on the 1st of October 2015).

Décret n°85-1148 (24th of October 1985) modifié relatif à la rémunération des personnels civils et militaires de l'Etat, des personnels des collectivités territoriales et des personnels des établissements publics d'hospitalisation, on: <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=LEGITEXT000006064738> (Last visited on the 1st of October 2015).

Décret n° 86-83 (17th of January 1986) relatif aux dispositions générales applicables aux agents contractuels de l'Etat pris pour l'application de l'article 7 de la loi n° 84-16 (11th of January 1984) portant dispositions statutaires relatives à la fonction publique de l'Etat, on: <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000699956> (Last visited on the 1st of October 2015).

Décret n°2007-658 (2nd May 2007) relatif au cumul d'activités des fonctionnaires, des agents non titulaires de droit public et des ouvriers des établissements industriels de l'Etat, NOR: FPPA0750560D, on: <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000649834> (Last visited on the 1st of October 2015).

Décret n° 2008-1533 du 22 décembre 2008 relatif à la prime de fonctions et de résultats, NOR: BCFF0825391D, on: <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000020019120&fastPos=1&fastReqId=2098625863&categorieLien=cid&oldAction=rechTexte> (Last visited on the 1st of October 2015).

Décret n° 2010-761 (7th of July 2010) portant majoration de la rémunération des personnels civils et militaires de l'Etat, des personnels des collectivités territoriales et des établissements publics d'hospitalisation, NOR: MTSX1017587D, on: <http://www.legifrance.gouv.fr/eli/decret/2010/7/7/MTSX1017587D/jo> (Last visited on the 1st of October 2015).

Décret n° 2012-915 (26th of July 2012) relatif au contrôle de l'Etat sur les rémunérations des dirigeants d'entreprises publiques, NOR: EFIX1228286D, on: <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000026227470&categorieLien=id> (Last visited on the 1st of October 2015).

Décret n° 2012-983 (23rd of August 2012) relatif au traitement du Président de la République et des membres du Gouvernement, NOR: PRMX1232759D, on: <http://www.legifrance.gouv.fr/eli/decret/2012/8/23/PRMX1232759D/jo> (Last visited on the 1st of October 2015).

Décret n° 2014-425 (25th of April 2014) relatif au traitement des secrétaires d'Etat, NOR: PRMX1409669D, on: <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000028879653&categorieLien=id> (Last visited on the 1st of October 2015).

Decreto Del Presidente Della Repubblica (22nd of December 1986), n. 917, Approvazione del testo unico delle imposte sui redditi, (GU n.302 del 31-12-1986 - Suppl. Ordinario), on: <http://www.normattiva.it/uri-res/N2Ls?urn:nir:presidente.repubblica:decreto:1986-12-22:917!vig=> (Last visited on the 5th of October 2015).

Decreto-Legge (6th of December 2011), n. 201, Disposizioni urgenti per la crescita, l'equità e il consolidamento dei conti pubblici, (11G0247) (GU n.284 del 6-12-2011 - Suppl. Ordinario n. 251), on: <http://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.legge:2011;201> (Last visited on the 2nd of October 2015).

Decreto-Legge (24th of April 2014), n. 66, Misure urgenti per la competitività e la giustizia sociale, (14G00079) (GU n.95 del 24-4-2014), on: <http://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.legge:2014-04-24;66!vig=> (Last visited on the 5th of October 2015).

Decreto Legislativo (3rd of February 1993), n. 29, Razionalizzazione della organizzazione delle Amministrazioni pubbliche e revisione della disciplina in materia di pubblico impiego, a norma dell'articolo 2 della legge (23rd of October 1992), n. 421, (GU n.30 del 6-2-1993 - Suppl. Ordinario n. 14), on: <http://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.legislativo:1993-02-03;29> (last visited on the 5th of October 2015).

Decreto Legislativo (30th of March 2001), n. 165, Norme generali sull'ordinamento del lavoro alle dipendenze delle amministrazioni pubbliche, (GU n.106 del 9-5-2001 - Suppl. Ordinario n. 112), on: <http://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.legislativo:2001-03-30;165!vig=> (Last visited on the 5th of October 2015).

Decreto Legislativo (27th of October 2009), n. 150, Attuazione della legge (4th of March 2009), n. 15, in materia di ottimizzazione della produttività del lavoro pubblico e di efficienza e trasparenza delle pubbliche amministrazioni. (09G0164) (GU n.254 del 31-10-2009 - Suppl.

Ordinario n. 197), on: <http://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.legislativo:2009-10-27;150> (Last visited in the 5th of October 2015).

Decreto Legislativo (24th of December 2013), n. 166, Regolamento relativo ai compensi per gli amministratori con deleghe delle societa' controllate dal Ministero dell'economia e delle finanze, ai sensi dell'ex articolo 23-bis del decreto-legge (6th of December 2011), n. 201, convertito, con modificazioni, dalla legge (22nd of December 2011), n. 214, (14G00043) (GU Serie Generale n.63 del 17-3-2014), on: <http://www.gazzettaufficiale.it/eli/id/2014/03/17/14G00043/sg> (Visited on the 5th of October 2015).

Decreto Legislativo (21st of November 2014), n. 175, Semplificazione fiscale e dichiarazione dei redditi precompilata, (14G00190) (GU n.277 del 28-11-2014), on: <http://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.legislativo:2014-11-21;175!vig=2015-05-15> (Last visited on the 5th of October 2015).

Einkommenssteuerdurchführungsverordnung (EStDV) (10th of May 2000), BGBl. I S. 717, Gesetz über die Offenlegung von Vorstandsvergütungen (VorstOG) (11th of August 2005) BGBl. I 2005 S. 2267.

Einkommenssteuergesetz (EStG) (8th of Oktober 2009), BGBl. I S. 3366, on: <http://www.gesetze-im-internet.de/bundesrecht/estg/gesamt.pdf> (Last visited on the 2nd of October 2015).

Gesetz über das Amtsgehalt der Mitglieder des Bundesverfassungsgerichts (BVerfGAmts-GehG) (28th of February 1964), BGBl. I S.133, on: <http://www.gesetze-im-internet.de/bundesrecht/bverfgamtsgeh/gesamt.pdf> (Last visited on the 2nd of October 2015).

Gesetz über die Rechtsverhältnisse der Mitglieder der Bundesregierung (BMinG) (27th of July 1971), BGBl. I 1971 S. 1166, on: <http://www.gesetze-im-internet.de/bundesrecht/bming/gesamt.pdf> (Last visited on the 2nd of October 2015).

Gesetz zur Angemessenheit der Vorstandsvergütung (VorstAG) (5th of August 2009), BGBl. I 2009 S. 2509, on: <http://www.bgbl.de/xaver/bgbl/start.xav?start=%2F%2F%5B%5B>

[40attr_id%3D%27bgb1109s2509.pdf%27%5D#_bgb1_%2F%2F*%5B%40attr_id%3D%27bgb1109s2509.pdf%27%5D_1443793713552](#) (Last visited on the 2nd of October 2015).

Handelsgesetzbuch (HGB) (10th of May 1897), BGBI. III 1897 4100-1, Gesetz über die Ruhebezüge des Präsidenten (BPräsRuhebezG) (17th of June 1953), BGBI. I 1953 S. 406, on: <http://www.gesetze-im-internet.de/hgb/BJNR002190897.html> (Last visited on the 2nd of October 2015).

Lag (23rd of May 1991), 1991:359, om arvoden till statsråden m.m. (Law of Remuneration of Ministers etc.), on: http://www.riksdagen.se/sv/Dokument-Lagar/Lagar/Svenskforfattningssamling/Lag-1991359-om-arvoden-till_sfs-1991-359/ (last visited on the 5th of October 2015).

Lag (9th of June 1994), 1994:1065, om ekonomiska villkor för riksdagens ledamöter, on: http://www.riksdagen.se/sv/Dokument-Lagar/Lagar/Svenskforfattningssamling/Lag-19941065-om-ekonomiska_sfs-1994-1065/?bet=1994:1065 (Last visited on the 6th of October 2015).

Legge (31st of October 1965), n. 1261, Determinazione della indennita' spettante ai membri del Parlamento, (GU n.290 del 20-11-1965), on: <http://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:legge:1965-10-31;1261!vig=> (Last visited 2nd of October 2015).

Legge (17th of February 1985), n. 17, Conversione in legge, con modificazioni, del decreto-legge (19th of December 1984), n. 853, recante disposizioni in materia di imposta sul valore aggiunto e di imposte sul reddito e disposizioni relative all'Amministrazione finanziaria. (085U0017) (GU n.41 del 17-2-1985), on: <http://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:legge:1985-02-17;17@originale> (Last visited on the 2nd of October 2015).

Legge (27th of December 2006), n. 296, Disposizioni per la formazione del bilancio annuale e pluriennale dello Stato (legge finanziaria 2007) (G.U. n. 299 del 27-12-2006, s.o. n. 244), on: http://www.agenziaentrate.gov.it/wps/file/Nsilib/Nsi/Home/CosaDeviFare/Richiedere/Agevolazioni/Detrazione+riqualificazione+energetica+55/Normativa+e+prassi/Articolo+1+commi+344-345-346-347+296_2006/commi_344_347_finanziaria_2007.pdf (Last visited on the 2nd of October 2015).

Loi n° 83-634 (13th of July 1983) portant droits et obligations des fonctionnaires. Loi dite loi Le Pors, on: <http://legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000504704> (Last visited on the 1st of October 2015).

Loi n° 2000-295 (5th of April 2000) relative à la limitation du cumul des mandats électoraux et des fonctions et à leurs conditions d'exercice, NOR: INTX9800019L, on: <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000216440> (Last visited on the 1st of October 2015).

Loi n° 2002-1050 (6th of August 2002) de Finances rectificative pour 2002, NOR: ECOX0200116L, on: http://www.legifrance.gouv.fr/affichTexte.do;jsessionid=FFD7EEFA57A94175C8D97CB8DFB5B5A0.tpdjo02v_2?cidTexte=JORFTEXT000000774848&dateTexte=20020808&categorieLien=cid (Last visited on the 1st of October 2015).

Loi n° 2007-1822 (24th of December) de finances pour 2008, NOR: BCFX0765271L, on: <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000017853368> (Last visited on the 1st of October 2015).

Loi n° 2009-972 (3rd of August 2009) relative à la mobilité et aux parcours professionnels dans la fonction publique, NOR: BCFX0805620L, on: <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000020954520&categorieLien=id> (Last visited on the 1st of October 2015).

Loi n° 2015-366 (31st of March 2015) visant à faciliter l'exercice, par les élus locaux, de leur mandate, NOR: RDFX1303221L, on: <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000030423022&categorieLien=id> (Last visited on the 1st of October 2015).

Loi portant réforme de certaines entreprises publiques économiques (21st of March 2015), on: http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=fr&la=F&cn=1991032130&table_name=loi (Last visited on the 1st of October 2015).

Ordonnance n° 58-1210 (13th of December 1958) portant loi organique relative à l'indemnité des membres du Parlement, on: <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000705195&categorieLien=cid> (Last visited on the 1st of October 2015).

Projet de loi de finances de finances pour 2015: Le budget de 2015 et son contexte économique et financier (20th of November 2014), on: <http://www.senat.fr/rap/114-108-1/114-108-19.html> (Last visited on the 29th of September 2015).

Regeling van de Minister van Binnenlandse Zaken en Koninkrijksrelaties (10th of December 2014), nr. 2014-0000657970, houdende vaststelling van een controleprotocol voor de naleving van de Wet normering bezoldiging topfunctionarissen publieke en semipublieke sector (Controleprotocol WNT), on: <https://www.nba.nl/Documents/Vaktechnisch-thema/Copr/BZK/COPRO15001-BZKprotocolWNTdefinitief.pdf> (Last visited on the 1st of October 2015).

Rozporządzenie Prezydenta Rzeczypospolitej Polskiej (25th of January 2002), Sprawie szczegółowych zasad wynagradzania osób zajmujących kierownicze stanowiska państwowe on: <http://isap.sejm.gov.pl/DetailsServlet?id=WDU20020100091> (Last visited on the 1st of October 2015).

The Italian Civil code approved by Royal Decree No. 262 (16th of March 1942), Article 2247, on: <http://ceflonline.net/wp-content/uploads/Italy-Parental-Responsibilities-Legislation.pdf> (Last visited on the 2nd of October 2015).

The Swedish Companies Act, 2005:551, on: http://law.au.dk/fileadmin/www.asb.dk/omasb/institutter/erhvervsjuridiskinstitut/EMCA/NationalCompaniesActsMemberStates/Sweden/THE_SWEDISH_COMPANIES_ACT.pdf (Last visited on the 6th of October 2015).

Ustawa (31st of July 1981), O wynagrodzeniu osób zajmujących kierownicze stanowiska państwowe, (Dz.U. 1981 nr 20 poz. 101), on: <http://isap.sejm.gov.pl/DetailsServlet?id=WDU19810200101> (Last visited on the 5th of October 2015).

Ustawa (25th of September 1981), O przedsiębiorstwach państwowych, (Dz.U. 1981 nr 24 poz. 122), on: <http://isap.sejm.gov.pl/DetailsServlet?id=WDU19810240122> (Last visited on the 5th of October 2015).

Ustawa (29th of September 1994), O rachunkowości, (Dz.U. 1994 nr 121 poz. 591), on: <http://isap.sejm.gov.pl/DetailsServlet?id=WDU19941210591> (Last visited on the 5th of October 2015).

Ustawa (23rd of December 1994), O Najwyższej Izbie Kontroli, (Dz.U. 1995 nr 13 poz. 59), on: <http://isap.sejm.gov.pl/DetailsServlet?id=WDU19950130059> (Last visited on the 5th of October 2015).

Ustawa (9th of May 1996), O Wykonywaniu mandatu Posła i Senatora, (Dz.U. 1996 nr 73 poz. 350), on: <http://isap.sejm.gov.pl/DetailsServlet?id=WDU19960730350> (Last visited on the 5th of October 2015).

Ustawa (3rd of March 2000), O wynagradzaniu osób kierujących niektórymi podmiotami prawnymi, (Dz.U. z 2000 r. Nr 26, poz. 306), on: <http://isap.sejm.gov.pl/DetailsServlet?id=WDU20000260306> (Last visited on the 5th of October 2015).

Ustawa (6th of September 2001), O dostępie do informacji publicznej, (Dz.U. 2001 nr 112 poz. 1198), on: <http://isap.sejm.gov.pl/DetailsServlet?id=WDU20011121198> (Last visited on the 5th of October 2015).

Ustawa (23rd of November 2002), O Sądzie Najwyższym, (Dz.U. 2002 nr 240 poz. 2052), on: <http://isap.sejm.gov.pl/DetailsServlet?id=WDU20022402052> (Last visited on the 5th of October 2015).

Ustawa budżetowa na rok 2015 (15th of January 2015) - podpisana przez Prezydenta RP (23rd of January 2015), (Dz. U. z 2015 r., poz. 153), on: http://orka.sejm.gov.pl/proc7.nsf/_ustawy/2772_u.htm (Last visited on the 5th of October 2015).

Wet normering bezoldiging topfunctionarissen publieke en semi publieke sector (15th of November 2012), nr. BWBR0032249, on: http://wetten.overheid.nl/BWBR0032249/geldigheidsdatum_01-10-2015/informatie (Last visited on the 1st of October 2015).

Other sources:

Agence des participations de l'état, *La moralisation et l'encadrement des rémunérations des dirigeants d'entreprises à participation publique*, on: <http://www.economie.gouv.fr/agence-participations-etat/moralisation-et-lencadrement-des-remunerations-des-dirigeants-dentreprise> (Last visited on the 29th of September 2015).

Agnieszka Żółć (2013), *Kominówka wciąż budzi wątpliwości*, on: <http://biuletyn.piszcz.pl/component/content/article/98-archiwum-biuletynu/biuletyn-20-luty-2013/375-kominowka-wci-budzi-wtpliwoci192> (Last visited on the 1st of October 2015).

ARAN (Agenzia per la Rappresentanza Negoziiale delle Pubbliche Amministrazioni), *L'agenzia Aran*, on: <https://www.aranagenzia.it/index.php/lagenzia/aran> (Last visited on the 30th of June 2015).

ARAN (Agenzia per la Rappresentanza Negoziiale delle Pubbliche Amministrazioni) (2013), Report for 2013 of ARAN for Managers of I level in the Non-Economic Public Agencies, on: https://www.aranagenzia.it/attachments/article/5152/Retribuzioni%20medie%20PA%20per%20macrovoce_SITO.pdf (last access on 25th of May 2015).

ARAN (Agenzia per la Rappresentanza Negoziiale delle Pubbliche Amministrazioni), *Uffici e Struttura*, on: <http://www.aranagenzia.it/index.php/lagenzia/uffici-e-struttura> (Last visited on the 30th of June 2015).

Assemblée Nationale (2014), Fiche de synthèse n°17 : La situation matérielle du député, on: <http://www2.assemblee-nationale.fr/decouvrir-l-assemblee/role-et-pouvoirs-de-l-assemblee-nationale/le-depute/la-situation-materielle-du-depute> (Last visited on the 29th of September 2015).

Association of Higher Civil and Public Servants (2014), *Consultation Paper on Strengthening Civil Service Accountability and Performance*, on: <http://webcache.googleusercontent.com/search?q=cache:jj92IopcFmQJ:per.gov.ie/wp-content/uploads/Consultation-Paper-Strengthening-Civil-Service-Accountability-and-Performance1.pdf+&cd=2&hl=nl&ct=clnk&gl=nl> (Last visited on the 29th of September 2015).

Beamtenbesoldung.org (2012), *Beamtenrecht und Besoldung nach der Föderalismusreform*, on: <http://www.beamtenbesoldung.org/besoldung/45-landesbeamte/298-beamtenrecht-nach-der-foederalismusreform.html> (Last visited on the 29th of September 2015).

Belga (2013), *Les patrons des entreprises publiques ont été choisis*, on: <http://www.dhnet.be/actu/belgique/les-patrons-des-entreprises-publiques-ont-ete-choisis-522326b8357060cc093e08ed> (Last visited on the 29th of September 2015).

Bundesministerium der Finanzen (2009), *Grundsätze guter Unternehmens- und Beteiligungsführung*, on: http://www.bundesfinanzministerium.de/Content/DE/Standardartikel/Themen/Bundesvermoegen/Privatisierungs_und_Beteiligungspolitik/Grundsaeetze_guter_Unternehmensfuehrung/unternehmensfuehrung-in-oeffentlichen-unternehmen-anlage.pdf?__blob=publicationFile&v=6 (Last visited on the 29th of September 2015).

Bundesministerium der Finanzen (2014), *Alphabetische Zusammenstellung der Unternehmen, die mit der Bundesrepublik Deutschland i.S.d. § 15 AktG verbunden sind*, on: http://www.bundesfinanzministerium.de/Content/DE/Standardartikel/Themen/Bundesvermoegen/Privatisierungs_und_Beteiligungspolitik/Beteiligungen_des_Bundes/liste_verbundene_unternehmen_mit_dem_bund.pdf?__blob=publicationFile&v=2 (Last visited on the 29th of September 2015).

Bundesministerium der Finanzen (2014), *Bericht zur Verringerung von Beteiligungen des Bundes – Fortschreibung 2014*, on: http://www.bundesfinanzministerium.de/Content/DE/Standardartikel/Themen/Bundesvermoegen/Privatisierungs_und_Beteiligungspolitik/privatisierungspolitik-verringerung_beteiligungen_anl.pdf?__blob=publicationFile&v=7

Bundesministerium des Innern (2014), *Der öffentliche Dienst des Bundes: Ein attraktiver und moderner Arbeitgeber*, on: http://www.bmi.bund.de/SharedDocs/Downloads/DE/Broschueren/2014/oed.pdf?__blob=publicationFile

Bundeswehr.de (2015), *Grundgehälter von Soldaten und Beamten*, on: http://www.bundeswehr.de/portal/a/bwde/!ut/p/c4/DckxDoAgDADAt_gBurv5C3UhRSppIMWUgomvl9x4cMIkODihcRUssMNx8RpeF95IrpksW1ak28gFarXELs13iT4ySbNv_iBtVdMMePK2_JPXem4!/ (Last visited on the 29th of September 2015).

Concours de la fonction Publique, *Les établissements et entreprises semi-publics*, on: http://www.cofop.fr/la_fonction_publicue/service_public/etablissements_publics/ (Last visited on the 29th of September 2015).

Conseil Constitutionnel (2008), *services du Conseil constitutionnel*, on: http://www.conseil-constitutionnel.fr/conseil-constitutionnel/francais/le-conseil-constitutionnel/les-membres-du-conseil/fondements-textuels/fondements-textuels.220.html#_Toc210217161 (Last visited on the 29th of September 2015).

Court des Comptes, *Missions et compétences de la Cour des Comptes*, on: <https://www.ccrek.be/FR/Presentation/MissionsEtCompetences.html> (Last visited on the 29th of September 2015).

Cour des Comptes, *Nos activités*, on: <https://www.ccomptes.fr/Nos-activites/Cour-des-comptes> (Last visited on the 29th of September 2015).

Deutscher Beamtenbund und Tarifunion, *Entgelttabellen und Beamtenbesoldung*, on: <http://www.dbb.de/service/entgelttabellen-und-beamtenbesoldung.html> (Last visited on the 30th of June 2015)

Deutscher Bundestag (2005). *Drucksache 15/5577: Entwurf eines Gesetzes über die Offenlegung der Vorstandsvergütungen*, on: <http://dip21.bundestag.de/dip21/btd/15/055/1505577.pdf> (Last visited on the 30th of June 2015).

Deutscher Bundestag, *Höhe der Abgeordnetenentschädigung*, on: https://www.bundestag.de/bundestag/abgeordnete18/mdb_diaeten/1333/260804 (Last visited on the 30th of June 2015).

Deutscher Bundestag, *Tätigkeiten und Einkünfte neben dem Mandat*, on: <http://www.bundestag.de/bundestag/abgeordnete18/nebentaetigkeit> (Last visited on the 30th of June 2015).

Dipartimento della funzione pubblica (2013), *Nota Circolare = Official document circulated by the Presidency of the Council of Minister*, on: <http://www.funzionepubblica.gov.it/media>

[/1084356/nt%2033516%20del%2015-7-2013-disposizioni%20su%20trattamenti%20economici-monitoraggio%202013.pdf](#) (Last visited on the 30th of June 2015).

Emploithèque (2013), Rémunération des groupes Hors Échelle, on: <http://www.emploitheque.org/traitement-brut-hors-echelle.php> (Last visited on the 29th of September 2015).

European e-Justice Portal 2015), *Judicial systems in Member States: Belgium*, on: https://e-justice.europa.eu/content_judicial_systems_in_member_states-16-be-en.do?member=1 (Last visited on the 20th of June 2015).

Facil Eco (2012), *Les entreprises publiques*, on: <http://www.economie.gouv.fr/facileco/entreprises-publiques> (Last visited on the 29th of September 2015).

Fed Web (2013), *Cour des Comptes*, on: http://www.fedweb.belgium.be/fr/a_propos_de_l_organisation/budget_et_marches_publics/organismes_de_controle/cour_des_comptes/#.VYVjJ_ntmkp (Last visited on the 20th of June 2015).

Fed Web (2014), *Calcul du traitement*, on: http://www.fedweb.belgium.be/fr/remuneration_et_avantages/traitement/calcul_du_traitement/#.VZ41Ifntmkr (Last visited on the 20th of June 2015).

Fed Web (2014), *Rémunération et avantages*, on: http://www.fedweb.belgium.be/fr/remuneration_et_avantages/traitement/calcul_du_traitement/#.VYUbjPntmko (Last visited on the 20th of June 2015).

Gazeta (2015), *Muzycy z Filharmonii Narodowej: "zarabiamy za mało. Nie ma nawet wyrównania inflacyjnego". Będzie strajk?*, on: http://wiadomosci.gazeta.pl/wiadomosci/1,114871,17324802,Muzycy_z_Filharmonii_Narodowej_zarabiamy_za_malo.html (Last visited on the 1st of October 2015).

Gazetaoprawna (2015), *Wyborcze podwyżki w budżetówce: Pensje urzędników wyższe nawet o 20 procent*, on: <http://serwisy.gazetaprawna.pl/praca-i-kariera/artykuly/868947,wyborcze-podwyzki-w-budzetowce-pensje-urzednikow-wyzsze-nawet-o-20-procent.html> (Last visited on the 1st of October 2015).

Główny Urząd Statystyczny (2013), *Obwieszczenie w sprawie przeciętnego miesięcznego wynagrodzenia w sektorze przedsiębiorstw bez wypłat nagród z zysku w czwartym kwartale 2012 r.*, on: <http://stat.gov.pl/sygnalne/komunikaty-i-obwieszczenia/lista-komunikatow-i-obwieszczen/obwieszczenie-w-sprawie-przecietnego-miesiecznego-wynagrodzenia-w-sektorze-przedsiębiorstw-bez-wypłat-nagrod-z-zysku-w-czwartym-kwartale-2012-r-,35,1.html>

(Last visited on the 1st of October 2015).

Główny Urząd Statystyczny (2015), *Dzienniki Urzędowe GUS: 2015, Pozycja 2*, on: <http://dziennikigus.stat.gov.pl/dzienniki-urzedowe-gus/> (Last visited 1st of October 2015).

Handelsblatt (2005), *Bundestag nickt Managergehälter-Gesetz ab*, on: <http://www.handelsblatt.com/politik/deutschland/offenlegung-der-bezuege-bundestag-nickt-managergehaelter-gesetz-ab/2519864.html> (Last visited on the 20th of June 2015).

Hans-Böckler-Stiftung (2006), *Informationen zur Bemessung der Vorstandsvergütungen*, on: http://www.boeckler.de/pdf/p_ah_vorstandsverguetung_14.pdf (Last visited on the 29th of September 2015).

Hans-Böckler-Stiftung (2011), *Arbeitspapier 239: Kriterien für die Vorstandsvergütung in deutschen Unternehmen nach Einführung des Gesetzes zur Angemessenheit der Vorstandsvergütung*, on: http://www.boeckler.de/pdf/p_arbp_239.pdf (Last visited on the 29th of September 2015).

Haufe.de, *Vorstand und Aufsichtsrat / 1.9.3.7 Rechtsfolgen unangemessener Vorstands bezüge*, on: http://www.haufe.de/recht/deutsches-anwalt-office-premium/v-vorstand-und-aufsichtsrat-1937-rechtsfolgen-unangemessener-vorstandsbezüge_idesk_PI17574_HI2296484.html (Last visited on the 29th of September 2015).

Il Giornale (2014), *Ecco gli stipendi dei manager pubblici*, on: <http://www.ilgiornale.it/news/interni/ecco-stipendi-dei-manager-pubblici-1003908.html> (Last visited on the 30th of 2015).

Il Giornale (2014), *La minaccia di Moretti a Renzi: se mi tagli lo stipendio vado via*, on: <http://www.ilgiornale.it/news/interni/minaccia-moretti-renzi-se-mi-tagli-stipendio-vado-1003855.html> (Last visited on the 1st of October 2015).

Il Giornale (2014), *Renzi avvisa i manager pubblici: "Presto i tagli, giustizia sociale"*, on: <http://www.ilgiornale.it/news/interni/stipendi-valle-moretti-abbia-dignit-andarsene-1004106.html> (Last visited on the 1st of October).

Institut National de la Statistique et des Etudes Economique, *Fonction publique*, on: <http://insee.fr/fr/methodes/default.asp?page=definitions/fonction-publique.htm> (Last visited on the 29th of September 2015).

Interviews with lawyers 06.06.2015, 11.06.2015 via phone and in person conducted in Katowice, Poland

Jobat (2013), *Quels cumuls possibles pour un membre du parlement?*, on: <http://www.jobat.be/fr/articles/quels-cumuls-possibles-pour-un-membre-du-parlement/> (Last visited on the 29th of September 2015).

Journal du Net (JDN). (2014), *Tous les salaires des patrons d'entreprise publique*, on : <http://www.journaldunet.com/economie/magazine/salaire-des-dirigeants-d-entreprise-publique.shtml> (Last visited on the 29th of September 2015).

Journal du Net (JDN). (2015), *Conseil constitutionnel: 14 917 euros bruts par an*, on: <http://www.journaldunet.com/economie/magazine/le-salaire-des-politiques-et-des-elus/conseil-constitutionnel.shtml> (Last visited on the 29th of September 2015).

La documentation Francaise (La librairie du citoyen). (2015), *La rémunération des cadres dirigeants dans le Groupe La Poste*, on: <http://www.ladocumentationfrancaise.fr/rapports-publics/154000189/index.shtml> (Last visited on the 29th of September 2015).

La Libre (2013), *Les vrais salaires de la politique belge*, on: <http://www.lalibre.be/actu/politique-belge/les-vrais-salaires-de-la-politique-belge-528d8e773570386f7f3091f2> (Last visited on the 29th of September 2015).

Le Monde (2012), *Le débat sur la transparence des salaires des dirigeants dans le public s'impose*, on: http://www.lemonde.fr/economie/article/2012/05/14/le-debat-sur-la-transparence-des-salaires-des-dirigeants-dans-le-public-s-impose_1700874_3234.html (Last visited on the 29th of September 2015).

Le Monde (2012), *Les rémunérations des dirigeants du public plafonnées*, on: http://www.lemonde.fr/economie/article/2012/07/25/les-remunerations-des-dirigeants-du-public-plafonnees_1738115_3234.html (Last visited on the 29th of September 2015).

Le Monde (2012), *Les salaires des patrons du public seront plafonnés à 450 000 euros annuels*, on: http://www.lemonde.fr/economie/article/2012/06/13/les-salaires-des-patrons-du-public-seront-plafonnees_1717447_3234.html#1O1LD6c7sj1z8kU3.99 (Last visited on the 29th of September 2015).

Le monde (2014), *Non, le salaire des secrétaires d'Etat n'a pas augmenté*, on: http://www.lemonde.fr/les-decodeurs/article/2014/04/29/non-le-salaire-des-secretaires-d-etat-n-a-pas-augmente_4409223_4355770.html (Last visited on the 29th of September 2015).

Le Parti Socialiste (2012), *Le changement c'est maintenant*, on: <http://www.parti-socialiste.fr/dossier/le-projet-de-francois-hollande> (Last visited on the 29th of September 2015).

Les Echos (2015), *Le gouvernement veut revaloriser les carrières des fonctionnaires*, on: <http://www.lesechos.fr/economie-france/budget-fiscalite/021135437561-le-gouvernement-serait-pret-a-augmenter-le-salaire-des-fonctionnaires-1128023.php> (Last visited on the 29th of September 2015).

L'express L'expansion (2011), *Un fonctionnaire peut-il cumuler deux emplois?*, on: http://l'expansion.lexpress.fr/actualite-economique/un-fonctionnaire-peut-il-cumuler-deux-emplois_1367532.html (Last visited on the 29th of September 2015).

Ministère de la Décentralisation et de la Fonction publique (2011), *Emplois supérieurs classés hors échelles*, on: <http://www.fonction-publique.gouv.fr/emplois-superieurs-classes-hors-echelles> (Last visited on the 29th of September 2015).

Ministère de la Décentralisation et de la Fonction publique (2015), *Revalorisation des fonctionnaires*, on: <http://www.action-publique.gouv.fr/revalorisation-fonctionnaires-remunerations> (Last visited on the 29th of September 2015).

‘Ministerie van Binnenlandse Zaken en Koninkrijksrelaties (2015), ‘*Wat betekent de WNT voor u?*’, on: http://www.aedes.nl/binaries/downloads/salarissen-bestuurders/brochure_wnt_versie_1.pdf (Last visited on the 20th of June 2015).

Naszemiasto (2012), *Czy w szpitalu doszło do złamania Ustawy Kominowej? Urząd Wojewódzki to sprawdza*, on: <http://bytow.naszemiasto.pl/artukul/czy-w-szpitalu-doszlo-do-zlamania-ustawy-kominowej-urzad,1417025.art,t,id,tm.html> (Last visited on the 1st of Oktober 2015).

NWP = Extraordinary Commission on public sector remuneration (1999), *Biuletyn 2354/III*, on: <http://orka.sejm.gov.pl/Biuletyn.nsf/595effc1afbb8582c1256b6e0044a58a/23fc3cb3f7498e63c1256b73003b52c2?OpenDocument> (Last visited on: 1st of October 2015).

OECD (2011), *State-Owned Enterprise Governance Reform: An Inventory of Recent Change*, on: <http://www.oecd.org/daf/ca/corporategovernanceofstate-ownedenterprises/48455108.pdf> (Last visited on the 29th of September 2015).

OECD (2012), *Human Resources Management Country Profiles: Sweden*, on: <http://www.oecd.org/gov/pem/OECD%20HRM%20Profile%20-%20Sweden.pdf> (Last visited on the 1st of October 2015)

Oiger (2015), *Nur jedes 3. öffentliche Unternehmen legt Manager-Bezüge offen*, on: <http://computer-oiger.de/2015/04/27/nur-jedes-3-oeffentliche-unternehmen-legt-manager-bezuege-offen/87209> (Last visited on the 29th of September 2015).

Parlamento Italiano, *Il trattamento economico*, on: <http://leg16.camera.it/383?conoscereIacamera=4> (Last visited on the 14th of July 2015).

Presidenza della Repubblica (2014), *Nota sull'emolumento percepito dal Presidente della Repubblica*, on: <http://presidenti.quirinale.it/elementi/Continua.aspx?tipo=Comunicato&key=16464> (Last visited on the 30th of June 2015).

Références (2012), *Combien gagnent nos bourgmestres et échevins?*, on: <http://www.referenc.es.be/carriere/salaires/Combien-gagnent-nos-bourgmestres-et-echevins> (Last visited on the 29th of September 2015).

Références (2012), *Le top 5 des politiciens belges les mieux payés*, on: <http://www.referenc.es.be/carriere/salaires/Le-top-5-des-politiciens-belges-les-mieux-payes> (Last visited on the 29th of September 2015).

Références (2013), *Et si les salaires des patrons d'entreprises publiques étaient limités selon Magonne?*, on: <http://www.references.be/carriere/choisir/Et-si-les-salaires-des-patrons-d-entreprises-publiques-etaient-limites-selon-Magonne> (Last visited on the 29th of September 2015).

Repubblica (2014), *Online i redditi dei ministri, Renzi e Padoan guadagnano meno*, on: <http://www.repubblica.it/politica/2014/05/22/news/guadagni-86831697/#gallery-slider=86808412> (Last access on the 30th of June 2015).

Senato della Repubblica, *Trattamento economico*, on: https://www.senato.it/leg17/1075?voce_sommario=61 (Last visited on the 14th of July 2015).

Service-Publique (2015), *Fonction publique: traitement indiciaire*, on: <http://vosdroits.service-public.fr/particuliers/F461.xhtml> (Last visited on the 29th of September 2015).

Sejm Rzeczypospolitej Polskiej (2013), *Odpowiedź podsekretarza stanu w Ministerstwie Administracji i Cyfryzacji na interpelację nr 20731 w sprawie funkcjonowania Zarządu Poczty Polskiej SA*, on: <http://www.sejm.gov.pl/sejm7.nsf/InterpelacjaTresc.xsp?key=0F1E59D1> (Last visited on the 1st of October 2015).

Sejm Rzeczypospolitej Polskiej (2013), *Odpowiedź podsekretarza stanu w Ministerstwie Skarbu Państwa - z upoważnienia prezesa Rady Ministrów - na interpelację nr 16876 w sprawie wzrostu wynagrodzeń menadżerów w Grupie Kapitałowej Energa SA*, on: <http://>

www.sejm.gov.pl/Sejm7.nsf/InterpelacjaTresc.xsp?key=16ADCB16 (Last visited on the 1st of October 2015).

Slate (2010), *Ce que les politiques peuvent cumuler*, on: www.slate.fr/story/23457/cumul-de-mandat-cumul-de-remuneration (Last visited on the 29th of September 2015).

Spiegel online (2015), *Politiker in die Wirtschaft: Wie die Koalition Seitenwechsel regeln will*, on: <http://www.spiegel.de/politik/deutschland/karenzzeit-gesetz-wie-die-koalition-seitenwechsel-regeln-will-a-1016462.html>

Statistisches Bundesamt (2015), *Verdienste und Arbeitskosten: Reallohnindex und Nominallohnindex*, on: https://www.destatis.de/DE/Publikationen/Thematisch/VerdiensteArbeitskosten/ReallohnNetto/ReallohnindexPDF_5623209.pdf?blob=publicationFile (Last visited on the 20th of June 2015).

Sveriges Riksdag (2015), *Ekonomiska villkor*, on: <http://www.riksdagen.se/sv/Sa-funkar-riksdagen/Sa-arbetar-ledamoterna/Ekonomiska-villkor/> (Last visited on the 6th of October 2015).

Topinkomens.nl (2015), *'Voor WNT-instellingen'*, on: <http://www.topinkomens.nl/voor-wnt-instellingen> (Last visited on the 20th of June 2015).

Topinkomens.nl (2015), *'Wat is de meldplicht?'*, on: <http://www.topinkomens.nl/vraag-antwoord/vraag-en-antwoord/wat-is-de-meldplicht> (Last visited on the 20th of June 2015).

TVN 24bis (2014), *Odprawy, odszkodowania - szefom państwowych spółek ustawa "kominowa" niestraszna*, on: <http://tvn24bis.pl/wiadomosci-gospodarcze,71/odprawy-odszkodowania-szefom-panstwowych-spolek-ustawa-kominowa-niestraszna,416478.html> (Last visited on the 1st of October 2015).

Union des villes et des communes de Wallonie asbl (2014), *Le statut des mandataires communaux*, on: <http://www.uvcw.be/articles/3,17,2,0,2146.htm> (Last visited on the 29th of September 2015).

Vie Publique (2013), *Qu'est-ce qu'un grand corps de l'état ?*, on: <http://www.vie-publique.fr/decouverte-institutions/institutions/administration/acteurs/qu-est-ce-qu-grand-corps-etat.html> (Last visited on the 29th of September 2015).

Vie Publique (2013), *Quels sont grand corps de l'état ?*, on: <http://www.vie-publique.fr/decouverte-institutions/institutions/administration/acteurs/quels-sont-grands-corps-etat.html> (Last visited on the 29th of September 2015).

Vie Publique (2013), *Quelles sont les différentes catégories d'agents dans l'administration ?*, on: <http://www.vie-publique.fr/decouverte-institutions/institutions/administration/acteurs/quelles-sont-differentes-categories-agents-administration.html> (Last visited on the 29th of September 2015).

Wyborcza.biz (2014), *Maria Wasiak od PKP dostanie 510 tys. zł odprawy*, on: http://wyborcza.biz/biznes/1,100896,16694017,Maria_Wasiak_od_PKP_dostanie_510_tys_zl_odprawy.html#ixzz3hh51ZLS9http://wyborcza.biz/biznes/1,100896,16694017,Maria_Wasiak_od_PKP_dostanie_510_tys_zl_odprawy.html (Last visited on the 1st of Oktober).

