

# Annual Report

*"To ensure, through ongoing monitoring and scrutiny, the provision of excellent public services in a delegated environment through an efficient public appointment process which upholds the principles of merit and equity, and the exercise of just and efficient disciplinary procedures in the public service."*

## 2014



**Public Service Commission**

**ANNUAL REPORT  
2014**

**MALTA**

Public Service Commission  
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Cover photo: Official opening of the new offices of the Public Service Commission by H.E the President, Marie-Louise Coleiro Preca

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## Acronyms

H.E.	Her Excellency
MEDE	Ministry for Education and Employment
PAHRO	Public Administration Human Resources Office
PAA	Public Administration Act
PSC	Public Service Commission
PSMC	Public Service Management Code
SAAC	Senior Appointments Advisory Committee



## Abstract

The Public Service Commission is set up in terms of article 109 of the Constitution.

This is the fifty-fifth annual report of the Commission, submitted to the Prime Minister in terms of regulation 33 of the Public Service Commission Regulations.

The report provides a brief description of the main activities of the Commission during the year 2014 in the execution of its constitutional functions of giving advice and making recommendations to the Prime Minister on matters relating to appointments, promotions, removal from office and discipline within the Public Service.

## Foreword



*Mr Louis P Naudi (Chairman, Public Service Commission)*

The year 2014 was characterized not only by the appointment of Ms Christine Schembri as the Commission's first ever female Executive Secretary, but also, mainly as a result of her resolute direction, by the transfer of the offices of the Commission from The Palace, where it had traditionally been functioning for a considerable number of decades, to better, first-class offices at Palazzo Spinola. The changeover was carried out smoothly, marshalled as it was by Ms Angela Portelli's endeavours. My feedback from the staff leaves me in no doubt as to their contentment.

While these activities were going on, the thrust of the principal functions of the Commission were left within the very capable hands of Ms Jacqueline Bonnici, who kept the Commission supplied with agenda items which, as usual, were mostly not always easy to deal with. As usual Christine and Jacqueline saw us through.

The fundamental role of the Public Service Commission is to make recommendations or to tender advice, as appropriate, to the Prime Minister, in the making of appointments to public office, the removal of staff from public office, and the exercise of discipline over public officers. The Commission, in 2014, geared itself to an upheaval of this mission statement. An altogether new objective has been set and targets fixed which would delegate much of its core activities to Permanent Secretaries and down the line. But more of this will be reported in the Annual Report for 2015.

What has not changed at all is the high proportion of female employees at the office of the Commission and the efficient way they go about their work. For employees, female or male,

wherever they may be employed, whether with the Commission or elsewhere in the Public Service, have objectives too. In saying that these must be fully taken into account, it would be wrong to assume that one is paying the appropriate lip service to the accepted conventions of the day. There is more to it than that. Employees with high morale help to make an efficient organization; they have a pride in it, a care for its reputation. There is no conflict of ends. In so far as employees of low morale who are fighting for more in exchange for less, there is a clear conflict of ends.

I can safely say that no such conflict exists at the Public Service Commission. The staff are a tight-knit group helping out each other whenever the need arises and are ably led by the Executive Secretary and her senior staff, who, I am proud to say, work very long hours, summer or winter, to ensure that service-wide bureaucratic processes are reduced as much as possible to the barest minimum.

In my early years in the Civil Service, as it was then known, that is the middle to late sixties, offices usually contained a preponderance of grey hair and cardigans and a distinct scarcity of women. On joining the Service you were hurriedly introduced to a variety of people whose names you could not remember and whose functions you could not comprehend. Your welcoming guide – if there was one – would simply say that he (and I stress it was a male) could not stand the place any more. Some welcome! People hammered away on typewriters and, if you were someone up the ladder, dictated to secretaries.

What a hospitable change! At the PSC the preponderance has shifted heavily to women and youth, and I mean women in high office. The trend, I gather, is the same in most ministries. Grey hair is generally reserved for Thursday Commission meetings and, thankfully, the rest of the week is a spectrum of colour. Typewriters are now museum pieces which have given way to word processors, sometimes called computers. Whereas, in the not too distant past, the offices dealt with mundane matters and budgets of insignificance, today Government has become the domain of EU related problems running into millions. The Euro, of course, has not helped in this matter.

Reality is today: more collegiality, instant decisions and I feel by what I see that, as time goes by, more women and youths will be thrust into higher positions.

In short, over the past fifty-odd years I have witnessed, and sometimes presided over, a cultural upheaval of a magnitude which will shortly itself be surpassed in an even lesser time.

## **I. The Remit of the Public Service Commission**

### **Mission statement**

*“To ensure, through ongoing monitoring and scrutiny, the provision of excellent public services in a delegated environment, through an efficient public appointment process which upholds the principles of merit and equity, and the exercise of just and efficient disciplinary procedures in the Public Service.”*

### **Statutory basis**

The Public Service Commission is an independent and autonomous body established under article 109 of the Constitution of the Republic of Malta. It derives its authority and functions from articles 86, 92, 110, 111, 112, 114, 115 and 121 of the Constitution.

The fundamental role of the Commission is to make recommendations or to tender advice, as appropriate, to the Prime Minister, in the making of appointments to public offices, the removal of staff from public office, and the exercise of discipline over public officers (or, in other words, Public Service employees).

In fulfilling its role, the Commission is guided by the principles of merit, equality of opportunity, impartiality, non-discrimination, transparency, the exclusion of patronage (political or otherwise), and fair and open competition, the latter within the parameters of agreements that exist between the Government and trade unions.

The procedures governing these functions are set out in the Public Service Commission Regulations, and in the Disciplinary Procedure in the Public Service Commission Regulations.

The regulations of the Commission are made by the Commission with the consent of the Prime Minister in accordance with article 121(1) of the Constitution.

## II. Membership and Staff of the Commission

### Composition

Article 109 of the Constitution of Malta states that the Public Service Commission shall consist of a Chairman, a Deputy Chairman, and from one to three other members.

Members of the Commission are appointed by the President, acting on the advice given by the Prime Minister after consultation with the Leader of the Opposition.

### Membership

The President of Malta approved the appointment of the present Commission for a term running for three years up to 17 June 2016. A notice to this effect, dated 28 June 2013, was published in the Government Gazette. Table 1 shows the present membership of the Commission.

Chairman	Mr Louis P Naudi	(since 18 June 2013)
Deputy Chairman	Mr Salvu Fenech	(since 18 June 2013)
Members	Mr Franco Masini	(since 18 June 2013)
	Mr Vincent Piccinino	(since 18 June 2013)
	Mr Carmel Herrera	(since 18 June 2013)

Short biographies of the present Chairman, Deputy Chairman and Members of the Commission are shown in *Appendix 1*, while a list of the previous Chairmen of the Public Service Commission is found in *Appendix 2*.

### Number of meetings held

During the year 2014, the Commission held a total of 54 meetings during which it dealt with various matters and issues relating to appointments, promotions and discipline, as outlined in more detail in this report.

## **The Office of the Public Service Commission**

The Commission is served by a small team of dedicated public officers headed by the Executive Secretary, (Public Service Commission), who is a senior public officer appointed to the position on a performance agreement for three years.

Ms Christine Schembri was appointed as Executive Secretary (PSC) on 1 March 2014. Throughout the year under review, she was assisted by Ms Jacqueline Bonnici, Assistant Director (PSC) and by Ms Angela Portelli who was appointed as Assistant Director (Support Services) on 9 September 2014.

A list of the previous Secretaries of the Public Service Commission is found in *Appendix 3*, while the staff complement and the total expenditure incurred in the running of the Office of the Public Service Commission for the year 2014 are shown in *Appendix 4*.

## **Method of work of the Commission**

The business of the Commission is conducted either through the circulation of files, or during Commission meetings, generally held every Thursday with an agenda that covers policy issues and less clear-cut cases concerning selection, promotions, or disciplinary matters, that require discussion.

The Commission holds oral hearings in serious disciplinary cases that may lead to dismissal. As laid down in the Disciplinary Regulations, during these hearings, the accused officer and the representative of the department concerned, together with their respective counsels, if they so wish, are given the opportunity to present their case before the Commission before it decides on the case. Oral hearings are also held when an officer appeals before the Commission, as provided for by regulation 30 of the Disciplinary Regulations, after being found guilty in disciplinary proceedings that are decided at departmental level. An oral hearing may also be granted by the Commission, at its discretion, before a decision is taken on serious issues like the withholding of progression or the revocation of an appointment.

Meetings are occasionally held with the Principal Permanent Secretary to discuss Public Service policies and issues of common interest and concern, in order to promote mutual understanding and support, while fully respecting the constitutional position of the PSC. Senior public officers are at times invited to the meetings of the Commission, or for meetings with the Chairman and key members of staff, to discuss specific departmental or ministry issues related to particular cases or procedures. Their input on matters of interest or concern helps the Commission to understand better the difficulties and the problems faced by the Administration.

### **References back by the Prime Minister**

The Prime Minister may, acting in accordance with article 86(1)(a) of the Constitution, refer a recommendation back, once, to the Commission for reconsideration. During 2014 the Commission considered three such referrals. In two cases the Commission agreed to withdraw its recommendation as the circumstances pertaining to each case changed since the making of its recommendation. In the other case the Commission submitted a modified recommendation and the Prime Minister approved the latter, as required by article 86(1) of the Constitution.

### **PSC Website**

The website of the Public Service Commission can be found at <http://www.psc.gov.mt>. The website provides basic information on the Commission's role and functions, its current membership, how the Commission conducts its business, and the organisation of the Office of the Public Service Commission.

Various documents and templates are uploaded on the website periodically, mostly concerning instructions and guidelines issued by the Commission. The current annual report, as well as reports for the years 2004 to 2013, can also be viewed and downloaded from the site.

A popular feature of the PSC website is the section entitled "Latest Selection Results", which is found at the top right side of the home page. Notifications appear in this section when selection results are published following approval by the Public Service Commission. This section is updated immediately following the publication of new selection results, which usually takes place on Thursdays or Fridays.

During 2014 the website's layout has undergone several significant changes so that it has become more in line with, and similar to, other internet sites pertaining to Departments within the Office of the Prime Minister, thus making it more user-friendly to all those who access it.



### **III. Recruitment and Promotions**

#### **Functions of the Commission relating to appointments**

The functions of the Commission in relation to appointments are:

- to note the composition of selection boards nominated by Heads of Department;
- to approve the participation of non public officers sitting on selection boards;
- to approve selection methods and criteria, as appropriate;
- to give rulings on queries raised by selection boards on such questions as the eligibility of candidates;
- to verify and approve reports submitted by selection boards, and to publish selection results once approved by it;
- to make, to postpone and to revoke appointments to public offices in Salary Scales 6 to 20;
- to make recommendations to and to advise the Prime Minister in the making of appointments in the Public Service;
- to make recommendations to or to advise the Prime Minister, as appropriate, on the removal of staff from office and on the termination of appointments and performance agreements;
- to make recommendations to the Prime Minister regarding the extension of probationary periods and performance agreements;
- to withhold the progression of public officers in Salary Scales 6 to 20 from one scale to the next within the same grade;
- to consider petitions made in terms of section 1.1.17 of the Public Service Management Code in respect of appointments;
- to deal with other representations made to the Commission; and
- to summon Heads of Department and selection boards to deal with any issue where necessary.

The role of the Commission, in line with its obligations, is to ensure that recruitment and promotions within the Public Service are made in an equitable, transparent, and impartial manner, free from patronage and discrimination, and based on the principle of merit.

## Calls for applications

During 2014, 641 calls for applications were issued for the filling of vacancies in the Public Service. Out of these 641 calls, 245 were calls for applications open to applicants from outside the Public Service and were therefore advertised in the Government Gazette, while two advertisements were published in the British Medical Journal and another one in the Journal of the European Federation of Organisations for Medical Physics. 274 calls were restricted to serving public officers (Public Service employees) and were published through service-wide circulars issued by line ministries or departments. 18 calls were open both to employees of the Public Service and employees of the wider Public Sector. The remaining 101 calls, relating to positions of Assistant Director, were advertised through circulars issued by the respective ministry.

**Comparative figures concerning calls for applications for the last five years are given in Table 2 below:**

		2010	2011	2012	2013	2014
Open calls	Government Gazette	185	148	190	171	245
	British Medical Journal	1	1	-	1	2
	Placement Service Circular of the Institute of Physics and Engineering in Medicine (IPEM) of UK	1	-	-	-	-
	International Journal of Audiology	-	-	1	-	-
	Journal of the European Federation of Organisations for Medical Physics	-	-	-	-	1
Internal calls	Service-wide circulars	70	67	209	253	254
	Departmental circulars	6	12	10	17	20
	Circulars including the wider Public Sector	-	-	-	-	18
Calls for Assistant Directors	Service-wide circulars	55	62	134	42	101
<b>Totals</b>		<b>318</b>	<b>290</b>	<b>544</b>	<b>484</b>	<b>641</b>

## Selection processes

During 2014, selection processes for posts/positions in the Public Service attracted 15,077 applicants, of whom 7,950 were male and 7,127 were female. The selection boards interviewed 4,655 males and 4,103 females, a total of 8,758 candidates. The remaining 6,319 applicants were found to be ineligible, or withdrew their applications, or else failed to appear before the interviewing board.

## Recommendations and advice to the Prime Minister

The Commission addressed 275 recommendations to the Prime Minister relating to appointments in terms of article 110 of the Constitution. These recommendations covered a total of 907 appointments. A statistical breakdown of these recommendations is given in Table 3 below:

Table 3 - Recommendations for Appointments and Promotions in 2014				
		Males	Females	Total
1.	Appointments following public calls for applications published in the Government Gazette	31	22	53
2.	Appointments following service-wide calls for applications	105	91	196
3.	Appointments following calls for applications open also to employees of the wider Public Sector	2	3	5
4.	Appointments following internal departmental calls for applications	12	1	13
5.	Appointments of Assistant Directors following service-wide calls for applications	36	29	65
6.	Other appointments (e.g. Regularisation of employment, promotion on the basis of length of service in terms of agreements with unions, granting of officer in scale status, appointment to a higher substantive grade, re-employment/reinstatement, employment on contract, acting appointments, etc)	133	442	575
<b>Totals</b>		<b>319</b>	<b>588</b>	<b>907</b>

Furthermore, the Commission made a total of 123 recommendations relating to the extension of performance agreements, renewal of contracts of employment, postponement of appointments, backdating of appointments, termination of performance agreements on appointment to other positions, revocation of appointments and withholding of promotions.

The Commission gave advice to the Prime Minister in terms of articles 92(3), 92(4) and 111(1) of the Constitution on 26 occasions relating to the appointment, renewal of appointment or termination of appointment of Permanent Secretaries, Heads or Acting Heads of Department, and the appointment of Resident Ambassadors abroad.

## Notifications

The Commission issued 589 notifications relating to appointments in scales 6 to 20. These notifications covered a total of 3,728 appointments. A statistical breakdown of these notifications is in Table 4 below:

Table 4 - Appointments through notification				
		Males	Females	Total
1	Appointments following public calls for applications published in the Government Gazette	721	1651	2,372
2	Appointments following service-wide calls for applications	633	627	1,260
3	Appointments following calls for applications open also to employees of the wider Public Sector	5	5	10
4	Appointments following internal departmental calls for applications (departmental circulars)	63	23	86
	<b>Totals</b>	<b>1,422</b>	<b>2,306</b>	<b>3,728</b>

In addition, the Commission issued 254 notifications relating to the grant of indefinite status, promotions on the basis of length of service in terms of classification agreements, re-employment/reinstatement, postponement/backdating of appointment, renewal of contracts, revocation of appointment, withholding of progression and re-designation. These notifications concerned 1,967 officers.

## **Representations made to the Commission**

During the year 2014, the Commission considered a total of 34 representations made directly to the PSC on matters relating to appointments in the Public Service as provided for by the Public Service Commission Regulations.

These representations were submitted in writing by applicants and mainly involved complaints by persons who had been found ineligible by selection boards after submitting their applications for the vacancies concerned.

In four cases applicants were found to be eligible.

In the remaining 30 complaints ineligibility was upheld.

## **Petitions relating to selection results**

The Commission received 127 petitions in respect of the results obtained by individuals who believed that the result of the selection process was not a fair reflection of their merits.

One of these petitions was not made within the period of 10 working days allowed for this purpose in terms of paragraph 1.1.17.5 of the Public Service Management Code (PSMC). Therefore, this petition was not considered by the Commission. The period of 10 working days starts to count from the date when a notice is published to inform the public that the result has been issued. This notice is published on the website of the Public Service Commission. However, in the case of vacancies in scale 5 or higher, where results are sent directly to applicants by post, the ten working days start to count from the date on which the result is received by the applicant concerned.

The Commission therefore considered 126 petitions.

In 13 cases the Commission approved the publication of revised results. In another instance, the Commission directed that the result be amended due to arithmetical errors.

While investigating a petition made by a candidate who had sat for three selection processes within the same Ministry, the Commission noted that the Selection Board took into account the number of days the applicants had been away on sick leave. The Commission stated that the Selection Board should not have been prejudiced by the amount of sick leave utilised by the candidates as highlighted in paragraph 9 of the **PSC Guidelines to Selection Boards**, stating the following:

*“Selection Boards should assess candidates on the basis of the selection criteria and sub-criteria, respectively approved and noted by the Commission. A Selection Board should not deviate from the established criteria and sub-criteria by taking into consideration extraneous factors, such as candidates’ utilisation of sick leave”.*

For this reason, the Commission directed the Selection Board to allocate full marks to all the candidates under the **Leave Record** criterion and to revise the respective results.

In another case, following the publication of the result of a particular selection process, the Commission found in favour of two petitioners and ordered that applicants were to be considered as eligible. Consequently, the Selection Board was enjoined to interview the two candidates and to submit a revised result for the Commission’s approval.

The Commission also considered three petitions relating to the selection process of a particular professional position, the results of which were annulled by the Commission. The petitioners mainly complained about the composition of the Selection Board and the lack of knowledge and experience in the relative field of two out of the three members. The Commission ruled out that the selection process should be repeated afresh with a new Selection Board comprising of, at least, two professional members.

Following the publication of two separate selection processes, the Commission ruled that two applicants should have been considered ineligible and were to be disqualified from the selection process in terms of regulation 23(1)(b) of the PSC Regulations.

One investigation resulted in the revocation of appointment due to *ab initio* ineligibility in terms of Regulation 23(2)(b) of the PSC Regulations.

In the remaining 102 complaints the original result was upheld.

## IV. Discipline

### **Functions of the Commission relating to discipline**

In terms of the Disciplinary Procedure in the Public Service Commission Regulations, the exercise of discipline in the Public Service is, subject to appropriate safeguards, largely delegated to heads of Government departments.

However, the following matters remain the direct responsibility of the Commission:

- The temporary suspension of public officers from the exercise of the powers and functions of their office; that is to say, suspension from work on half salary pending the conclusion of disciplinary or criminal proceedings against those officers. Temporary suspension is imposed where it is considered that, because of the nature of the charges against the officer, he or she should not continue to attend for work until the case against him or her is concluded. Temporary suspension is not a disciplinary penalty, but a precautionary measure in the public interest, which does not imply any judgement as to the guilt or innocence of the officer facing charges. If the officer is acquitted of the charges, he or she is reimbursed the half-salary withheld during his or her suspension. If the officer is found guilty, the half-salary withheld is forfeited.
- The imposition of disciplinary penalties against public officers who are found guilty of a criminal offence by the Courts.
- Decisions as to the guilt or innocence of officers, and as to the penalties to be imposed on those officers, in disciplinary cases where the officers were notified by their Heads of Department that the charges against them could, if proved, lead to dismissal. After such cases are heard by a disciplinary board, they are referred to the Commission under regulation 26(2) of the Disciplinary Regulations, since a Head of Department does not have the authority to dismiss an employee on disciplinary grounds. However, a guilty verdict in such a case does not automatically result in the dismissal of the officer; the Commission has the discretion to recommend a more lenient penalty even if it upholds the guilty verdict reached by the disciplinary board.



- Appeals from public officers against decisions taken by Heads of Department under delegated authority, in terms of regulation 30(1) of the Disciplinary Regulations.
- Representations by Heads of Department against the findings of departmental disciplinary boards, in terms of regulation 32.

During 2014, the Commission delivered several rulings on issues relating to disciplinary proceedings conducted under delegated authority or other proceedings held directly before the Commission, as provided by the Disciplinary Regulations.

## Disciplinary cases involving criminal proceedings against public officers

In terms of article 110 of the Constitution, the Commission made the following recommendations to the Prime Minister in respect of 83 cases involving criminal proceedings against public officers:

<b>TABLE 5 - Recommendations concerning criminal cases</b>	
Temporary suspension pending outcome of Criminal Court Cases	17
Lifting of temporary suspension "without prejudice" before conclusion of proceedings	8
<b>PSC action following a "guilty" verdict by the Courts:</b>	
• Dismissal	5
• Dismissal and forfeiture of salary	5
• Warning of dismissal and definite suspension without pay (1, 2, 3, or 5 days)	15
• Warning of dismissal, definite suspension without pay (1, 3 or 5 days) and forfeiture of salary	2
• Warning of dismissal	16
• Warning of dismissal and forfeiture of salary	5
• Definite suspension without pay (1 day)	5
<b>Restitution of rights following a "not-guilty" verdict by the Courts</b>	
• Refund of salary withheld	5
<b>Total</b>	<b>83</b>

The ten cases involving dismissal as shown in Table 5 include one case where the court had imposed a general interdiction in terms of article 10 of the Criminal Code. A person under a general interdiction in terms of the Criminal Code cannot hold Government employment, and has to be dismissed from such employment.

In 3 other cases involving criminal proceedings, the employees concerned were acquitted. These employees had not been temporarily suspended on half salary, so no action was necessary on the Commission's part as a result of the court verdicts. The Commission noted the court sentence in each instance and agreed to consider the case closed.

## Oral Hearings

The Disciplinary Procedure in the Public Service Commission Regulations (S.L. Const.03) provides that, in its consideration of a case under certain circumstances, the Commission may give the opportunity of an oral hearing to the parties involved.

Regulation 16(2), which deals with disciplinary action after conviction on a criminal charge, stipulates that, if the Commission considers that the appropriate penalty following conviction on a criminal charge shall be dismissal, or a warning of dismissal, or the forfeiture of any salary, in whole or in part, withheld during any period of suspension or temporary suspension, it shall inform the officer of his/her right to make written representations to the Commission within a period of ten working days from such notification. The Commission shall consider such representations and it may give the officer the opportunity of an oral hearing before making a recommendation to the Prime Minister.

Whenever the Head of Department had given notice to the officer charged of a serious offence that, if proved, the charge could potentially lead to dismissal, the Commission gives an opportunity to the officer charged and to the Head of Department to make oral representations before it, as required by regulation 26(2)(b).

Regulation 30(6), in Part VI of the Disciplinary Procedure in the Public Service Commission Regulations, entitled *Appeals from Disciplinary Decisions and Review of Past Recommendations of the Commission*, also requires that, in giving consideration to an appeal under this regulation, the Commission shall give an opportunity to the Head of Department and to the appellant to make oral representations.

One other instance where the Commission is required to give the opportunity of an oral hearing is when a Head of Department considers that that an officer should be retired from the service in the public interest, in terms of regulation 35.

On its own initiative, the Commission also gives the opportunity of an oral hearing when it is informed by the Head of Department of the intention to terminate an officer's contract of engagement under the proviso of regulation 34. Although the Commission is not bound by the Disciplinary Regulations to allow an oral hearing in such cases, it considers that such good practice upholds the principle of natural justice.

## **Serious disciplinary cases with the possibility of dismissal**

During 2014, the Commission considered 2 disciplinary cases which were referred to it in terms of regulation 26(2) of the Disciplinary Procedure in the Public Service Commission Regulations, since the officers facing charges in these cases had been notified that the charges, if proven, could lead to their dismissal.

After giving both the officers involved and their respective Head of Department an opportunity to make oral representations, the Commission submitted the following recommendations to the Prime Minister:

<b>Table 6 - Penalties recommended by the Commission in serious disciplinary cases</b>	
Dismissal	<b>1</b>
Warning of dismissal (indefinite) and suspension without pay (5 days)	<b>1</b>
Suspension without pay for one day	<b>1</b>
Downgrading of charge from serious to minor and given a written warning	<b>2</b>
<b>Total</b>	<b>5</b>

Apart from the 5 cases listed in Table 6 above, there was one case where the Commission recommended that the disciplinary proceedings be invalidated on account of gross disregard of procedures. The Commission also recommended that the penalty imposed by the Head of Department be revoked.

In two other cases the Commission recommended the temporary suspension of the officers concerned.

**Analysis of offences and penalties in cases decided by the Commission (criminal cases and cases potentially leading to dismissal)**

The 83 criminal cases referred to in Table 5 (on page 15) include 17 cases where the Commission recommended the temporary suspension of the officers concerned; 8 cases where the Commission recommended the lifting of temporary suspension pending any potential penalties that may appropriately be imposed; and 5 cases where the officers concerned were not found guilty. The remaining criminal cases were all served with a penalty as indicated in Table 5. Thus, taking into account the 5 disciplinary cases listed in Table 6, the total number of cases in which officers were served with a penalty by the Commission amounted to 58.

## The exercise of discipline through delegated authority

The Commission continued to monitor the exercise of discipline by Heads of Department under delegated authority. This was done through reports which Heads of Department were required to submit regularly to the Commission, and which contained information about all disciplinary measures taken by them against public officers in terms of the Disciplinary Regulations.

The following table gives a breakdown of disciplinary action taken by Heads of Department during 2014:

<b>TABLE 7 - Disciplinary action by Heads of Department</b>		
<b>Outcome:</b>	<b>2014</b>	
Warning of dismissal and suspension from duty without pay	52	
Suspension from duty without pay	33	
Written warning (Regulation 20)	32	
Written warning (Regulation 19)	362	
<i>Subtotal: cases served with a penalty</i>	<b>479</b>	<b>64.73%</b>
Discontinued cases	16	
Officer charged resigned while case still pending (regulation 37)	19	
Verdict of 'not guilty'	37	
<i>Subtotal: cases not served with a penalty</i>	<b>72</b>	<b>9.73%</b>
<i>Pending Cases:</i>	<b>189</b>	<b>25.54%</b>
<b>Total</b>	<b>740</b>	

## **V. Selected Issues and Rulings by the Commission**

### **A. Policy Matters and issues relating to recruitment and appointments:**

#### **Delegation of the recruitment/selection process in the Public Service**

During 2014, the Commission considered rigorously the proposal by the Administration to have the remaining stages of the recruitment process delegated to the heads of department.

The Commission agreed that, in order to proceed to add value to and expedite the recruitment process, the stages of the recruitment process outlined below were to be delegated to the heads of department:

- The approval of selection criteria and weightings.
- The approval of the selection board report and publication of the result.
- The approval and making of the respective appointment/s without the need, on the part of the head of department, to submit a recommendation to the Commission and copying the Public Administration HR Office (PAHRO). This would, in turn, dispense with the requirement, on the part of PAHRO, to verify the availability of vacancies before appointments were made.

Selection Boards would still be required to draw up sub-criteria and to include them in their reports. However, Selection Boards would not be required to submit sub-criteria for the consideration of the Commission, but to the respective authority.

Petitions by candidates contesting a result would continue to be submitted for the Commission's consideration. The Public Service Commission would thereby strengthen its role as an appeals board.

Another proposal forwarded to the Commission for its consideration was to bring article 25 of the Public Administration Act (PAA) into force. This would be exercisable by the head of department without the need to

present a recommendation to the Commission. Article 25 of the PAA states:

*'(1) A head of department may opt to fill a position through the appointment of a public officer who holds a grade or position at a level comparable to the vacant position, such that the officer so appointed shall not obtain better terms and conditions, including salary, than those pertaining to his grade or to his previous position solely by virtue of this lateral appointment.*

*(2) Where a position is filled in terms of sub article (1), a competitive selection need not be carried out and in this respect article 21 shall not apply to appointments made in accordance with this article.'*

The Commission noted that this phase of the proposed delegated selection and appointments process and the filling of positions through lateral appointment by the head of department, would need to be implemented by way of an Instrument of Delegation issued in terms of sub-article 110(1) of the Constitution and, as contemplated in sub-article 1(2) of the Public Administration Act (PAA). Also, each stage would need to be complemented by guidelines and directives to be issued or approved by the Commission and eventually featured in the Public Service Management Code (PSMC). To this end, the Commission directed that a working party be set up to develop the draft guidelines. The working party was also entrusted with the drafting of the new Public Service Commission Regulations which would be necessary for the delegation of authority of the selection and appointments process.

The proposed delegation of authority concerned all grades and positions in the Public Service, except for positions which were filled following a selection exercise by the Senior Appointments Advisory Committee (SAAC).



## **Appointment of selection boards, selection process, procedures and methods in the Public Service: revised 'Guidelines to Selection Boards'**

The Commission considered a revision of its '*Guidelines to Selection Boards*'. Proposed amendments referred to confidentiality, selection criteria and specification of sub-criteria, adjustment of the maximum mark, the screening of candidates according to eligibility, the computation of length of service or years of relevant experience for eligibility purposes, the waiver of eligibility requirements in the case of disabled applicants, the waiver of eligibility requirements due to administrative errors and conduct certificates. New additions related to the use of supplementary selection mechanisms, equality of opportunity, letters of reference by public officers, notification of interviews, compilation of results, the selection board's report, petitions, and links to additional instructions.

The new '*Instructions to Selection Boards*' were disseminated to all Selection Boards and uploaded on the Commission's website.

## **Request for information from the Grievances Units**

The Commission was aware that, in view of the setting up of Grievances Units in ministries, information affecting particular selection and disciplinary processes was likely to be requested from its office. In the circumstances, the Commission agreed that Grievances Units were to be provided with the information requested on an *ad hoc* basis. It also directed that prior to giving any information, Ministries were to submit the composition of their respective Grievances Unit.

The Commission made it clear that files pertaining to the Commission were not to leave its premises. If verification of the file was deemed imperative, the files were to be viewed in the presence of staff within the Office of the Commission. The Commission also emphasised the need for Grievances Units to exercise discretion and to never divulge information relating to third parties.

## **Applications for Government posts**

The Commission received a request to have calls for applications advertised through social media. The Commission considered that this would provide a broader dissemination of notice for calls for applications. For this reason, it submitted its agreement to the use of social media for advertising calls for application, subject to such methods being in addition to, and not in replacement of, the usual methods for advertising calls for applications.

## **Standing selection panels in terms of regulation 14 of the PSC Regulations**

The Commission considered that selection boards set up to assess candidates for a professional/technical post or position should have, at least, two of its members (one of whom would be the Chairperson) with expertise in the area. This would render the selection process more transparent and even-handed.

In this regard, the Commission proposed that the administration should be asked to issue a fresh call for expressions of interest for 'professional' persons to serve on Standing Selection Panels (SSPs). In this manner there would be two categories of Standing Selection Panels, one for clerical/executive/administrative, etc, purposes and the other for 'professional' posts/positions.

The Commission considered also that, the number of 'non-professional' officers serving on the current Standing Selection Panels (SSPs) of certain Ministries needed to be increased due to the considerable number of selection processes going on at the same time.

In this regard, in April 2014, the Commission approved a list of experts serving on the Standing Selection Panel of the Ministry for Education and Employment (MEDE). The Commission observed that the list consisted of retired officers who had served within the Department of Education and who had held top positions directly related to the teaching career streams. This augured well since the Standing Selection Panel would be composed of experts in the area of Education. The Commission expressed its inclination to see more line Ministries adopting a similar stance.

Furthermore in June 2014, the Commission approved a list of 68 persons, which included retired Public Officers from various departmental, technical and professional sectors, nominated by Director (Resourcing), PAHRO, to be included in the central list of persons to serve on Standing Selection Panels.

## **B. Issues relating to disciplinary procedure**

### **Delegation of disciplinary authority**

During 2014, the Commission considered two draft Instruments of Delegation formally presented by the Administration for its approval. These instruments of delegation enabled a number of senior officials, both in the public service as well as in the public sector, to institute disciplinary proceedings against public officers attached to their organisations within the framework of the Disciplinary Regulations.

The Commission's recommendations to both instruments were endorsed by the Prime Minister and, the Instruments of Delegation were published accordingly.

### **Rulings by the Commission regarding disciplinary procedures - suspension/warning of dismissal**

In May 2014, the Commission had considered a disciplinary case and it had ruled that the accused public officer was to be suspended for 5 days without pay and be given a warning of dismissal which was to remain valid for a period of two years.

Later, the Commission had a request for clarification from the respective department as to how the penalty was to be implemented. It transpired that the officer concerned worked 11.42 hours daily on a 2-days-in and 2-days-out shift basis, so if the officer were to be suspended for 5 days, his/her suspension would be for an equivalent of 58 hrs 30 min - an amount which exceeded the 5 days recommended by the PSC which was equivalent to 40 hours.

The Commission considered that, in similar circumstances, the officer should be suspended for 5 consecutive days irrespective of the duration of his normal working day.

Likewise, in order to assure consistency in its decisions, the Commission agreed to adopt the following practice when recommending a warning of dismissal for a definite period as a disciplinary measure:

- a warning of dismissal given following conviction of a criminal offence was to be effective from the date the court sentence was *res judicata*;
- a warning of dismissal following a disciplinary case was to be effective from the date the Prime Minister approved the Commission's recommendation.

## **VI. Other Business of the Commission**

### **New premises for the Office of the Public Service Commission**

On 1 November 2014, the Commission vacated its offices at The Palace Valletta, and moved to 46, Spinola Palace Business Centre, St. Christopher Street, Valletta. For a number of years, the Office of the Commission had been looking for alternative premises as the ones in the grounds of the Presidential Palace, from which the Commission had functioned for over 40 years, had become old, rundown and lacked the basic amenities that a modern office required.

The move to the new premises entailed considerable effort and commitment from the staff, which resulted in a seamless transition to the new offices, notwithstanding the multitude of financial, administrative and logistical hurdles that needed to be resolved in the process.

On Wednesday, 17 December 2014, the President of Malta, H.E. Marie-Louise Coleiro Preca, inaugurated the new premises of the Public Service Commission.

Her Excellency was welcomed by the Chairman and members of the Public Service Commission, the Executive Secretary and members of staff.

In his address, the Chairman of the Public Service Commission, Mr Louis P. Naudi, referred to the very strong and direct ties that exist with the Presidency, being one of four Commissions or Authorities established under the Constitution of Malta, that fall under the patronage of the President.

Mr Naudi gave an overview of how the Commission's role evolved throughout the years. The Public Service Commission was first established under the 1939 Constitution (also known as the Macdonald Constitution). With the reorganisation of the 1959 Colonial Constitution, the Public Service Commission changed its nature and composition, in the sense that for the first time the Commission was composed of non-public officers appointed directly by the Governor. By means of this Constitution, the Governor's authority to appoint or remove public officers was now subject to the recommendation of the

Public Service Commission. The composition, empowerments and functions of the Public Service Commission were consolidated and entrenched in the Independence Constitution of 1964. The year under review marked the 50<sup>th</sup> anniversary from this important milestone for the Public Service Commission.

Her Excellency, the President of Malta acknowledged the important role of the Commission to function with a great sense of independence, transparency and impartiality when dealing with appointments, promotions and discipline within the Public Service, for the benefit of the citizens. She concluded that everyone has the right of seeing that justice is being carried out in the public service and the PSC is the institution that can guarantee that this is being done.

A commemorative plaque was later unveiled to mark the occasion. Her Excellency, Marie-Louise Coleiro Preca then presented Ms Josephine Attard, a public officer who has been serving the Commission for over 32 years, with a long-service memento.



*Mr Louis P Naudi, Chairman of the PSC, and H.E. Marie-Louise Coleiro Preca, unveiling the commemorative plaque. Overlooking: Ms Christine Schembri, Executive Secretary, PSC*



*Ms Christine Schembri, Executive Secretary, PSC, presenting H.E. Marie-Louise Coleiro Preca with a donation towards the Community Chest Fund together with a bouquet of flowers, on behalf of the Commission and the staff of the Public Service Commission*



*Mr Louis P Naudi, Chairman, PSC, with H.E. the President, Marie-Louise Coleiro Preca*

*H.E., the President of Malta addressing members of the Public Service Commission, and its executive staff*





*From left: Ms Christine Schembri, Executive Secretary, Mr Vincent Piccinino, Member of the Commission, Mr Louis P Naudi, Chairman of the Commission, H.E. the President, Marie-Louise Coleiro Preca, Mr Franco Masini and Mr Carmel Herrera, Members of the Commission, and Ms Jacqueline Bonnici, Assistant Director, PSC*

*H.E., Marie-Louise Coleiro Preca presenting Ms Josephine Attard with a long-service memento*





## **Retention Policy for files and minutes of the Commission**

As soon as it was formally announced that the office of the Commission was to move to its present location, the Commission considered it appropriate to devise a draft retention and disposal policy of its files and proceedings of past meetings. Since its inception, no such policy was ever formulated.

For this reason, the relevant provisions of the National Archives Act were consulted. The Commission also took into account the '*Retention policy for HR documents*' for the Public Service, which emphasized the importance that personal data should not be kept longer than necessary. This policy had been developed after consultation with the National Archives, and had subsequently been endorsed on 10 April 2012.

The approved retention and disposal policy states, *inter alia*, that:

- Minutes of the Commission's meetings which went back 30 years or more would be transferred to the National Archives Office, or disposed of, as applicable.
- Files of posts or positions for which there had been no eligible candidates would be destroyed after two years from the submission of the Selection Board's report.
- Files of posts or positions to which appointments were made would be retained for 10 years after the retirement age of all applicants for the post or position, provided that such files dating back to 30 years or more would be transferred to the National Archives if these were accepted. Otherwise these would be disposed of.
- The above point would also apply to discipline files of public officers who had been found guilty of a disciplinary or criminal offence.
- Discipline files of public officers who had been found not guilty would be destroyed after two months from the conclusion of the case, in line with the provisions of the '*Retention policy for HR documents*'.

- Prior to disposing of files, the necessary consultation would take place with National Archives Office and their actual destruction would be witnessed by an officer of the PSC. Furthermore, record keeping of the disposal of files as required by the '*Retention policy for HR documents*' would be strictly observed.

### **Meeting with the Ombudsman**

On 18 September 2014, a meeting was held between the Commission and the Ombudsman. The Ombudsman, H.E. Joseph Said Pullicino was accompanied by Mr Carmel Messina, Commissioner for Health, Dr Anthony Vassallo, Administrative Consultant, and Dr Monica Borg Galea, Head of Investigations.

During the encounter, both parties exchanged views on the procedure adopted throughout selection processes and how this could be improved. Both parties deal with petitions of aggrieved candidates, who seek redress in either one of the establishments.

The Ombudsman acknowledged that his office did not have the power to make decisions but it could only give an opinion about a particular case. He agreed that whilst each institution should keep within the parameters of its remit, his office was entrusted with the authority to conduct a review of a selection process if it considered that the process had not been conducted fairly and merit was not rewarded.

The meeting was brought to its conclusion by the Chairman, PSC, who said that the meeting between the two parties was considered to have been fruitful and the Commission would consider the suggestions made by the Ombudsman.

## **Meetings with the Principal Permanent Secretary**

In January 2014, the Principal Permanent Secretary met the Commission in order to provide it with an overview of current issues relating to public administration and the initiatives that were under way in this area. The Principal Permanent Secretary explained in detail the reform throughout the Public Service with its particular focus on the reduction of bureaucracy.

The Principal Permanent Secretary stressed the importance of such meetings so that the Commission is kept informed of issues and policies which the administration deems appropriate to adopt.

In subsequent meetings throughout the year, the Principal Permanent Secretary and the Commission discussed various topics such as the instruments of delegation of powers respecting the Public Service, including the delegation of the recruitment/selection process in the Public Service and the new PSC Regulations.

## **Meeting with experts from the Fiscal Affairs Department of the International Monetary Fund**

On 26 March 2014 the Commission welcomed Mr Torben Steen Hansen and Mr Richard Ian Gordon Allen, two experts from the Fiscal Affairs Department of the International Monetary Fund (IMF).

Mr Hansen stated that they were responsible for the management of budgets, fiscal reporting, and the setting up of operational frameworks and the drafting of related legislation. They also provided technical assistance and advice to countries at the request of the respective governments.

During their visit in Malta, they intended to meet with main stakeholders to obtain a clear picture of the recruitment process in the Public Service of Malta, whether this was regulated centrally by the Public Service Commission or by delegated authority, and whether flexibility/mobility was possible in Public Service employment.

Some of the topics discussed were the recruitment process for the General Service Grades, the delegation of authority of 2012, the career streams within the Public Service and the procedure of transferring public officers from one department to another.

## Appendix 1

### **Biographies of the Chairman, Deputy Chairman and Members of the Public Service Commission**

#### **Mr Louis P Naudi**

*Chairman, Public Service Commission (appointed on 18 June 2013)*

Louis P Naudi is a former public officer. During his long career he occupied various positions in different areas and at different levels until, in 1997, Mr Naudi was appointed Permanent Secretary in the Ministry for Tourism and Culture and Chairman of the Inter-Ministerial Committee on Tourism.

In 1993, he was appointed as the first Director General in the Office of the Prime Minister. He was then principally responsible for drafting legislation and the setting up of Local Councils with the overall responsibility for all the departments falling within the Office of the Prime Minister. He had been previously considerably involved in the setting up of the Public Transport Authority, in the constitutional changes to the citizenship laws and, in the setting up of Malta International Airport Company Ltd. He was also OPM's Coordinator on the Malta-EU Inter-Ministerial Steering Committee .

Earlier, in 1979, Mr Louis P Naudi had been appointed Deputy Director of Civil Aviation where he was mainly responsible for the handover of the airport complex from the British Authorities and for the registration of Air Malta's aircraft in Malta.

He was, at various times, appointed Secretary to the Board of MEDSERV, Member of the Co-Operatives Board, Director on the Boards of Cargo Handling Company Ltd., Tigne' Development Company Ltd., Selmun Palace Hotel Company Ltd., Malta International Airport Company Ltd., the Gaming Board and the Malta Tourism Authority.

#### **Mr Salvu Fenech**

*Deputy Chairman, Public Service Commission, (appointed on 18 June 2013)*

Salvu Fenech retired from the Public Service in 1999 following a career in the Public Service wherein he followed distant learning courses and attended seminars - fellowships at international institutes. He had joined the Malta Civil Service in 1956, and had gained indepth knowledge of civil regulations through attachments at various departments. In 1974, he had been detailed with Telemalta Corporation, wherein his responsibilities as

General Manager included the administration and financial management. In 1983, he reverted back to the General Service where, after a brief tour of duties at the Establishments Division, he was appointed Director of Civil Aviation. There, he had concluded various treaties with third countries on civil aviation matters and represented the Maltese Government at various Organizations - IACO, Eurocontrol and Joint Air Worthinous Authority.

**Mr Franco Masini**

*Member, Public Service Commission (appointed on 18 June 2013)*

Franco Masini, born in Victoria, Gozo, was educated at St Aloysius' College and the University of Malta where he read Arts (History, Economics and Maltese) and Law (Legal Procurator). He served in senior management and administrative positions in the private sector. He was active in organised business occupying the post of President of the Federation of Industries, the Malta International Fair and the Malta Employers Association. He served on the board of directors of several major public companies including Air Malta plc, Bank of Valletta plc, APS Bank Ltd, Gozo Channel Co. Ltd and companies of the Farsons Group. He is a past member of the Broadcasting Authority, the Council of the University of Malta and, the Malta Council for Social and Economic Development. In 2002, the President of Malta awarded him the Medal for Service to the Republic (MQR) for "exceptional service to Malta".

Mr Masini had already served as a member of the Public Service Commission between 1996 and 1997.

**Mr Vincent Piccinino**

*Member, Public Service Commission (appointed on 18 June 2013)*

Vincent Piccinino is a retired public officer. Following a two-year course at St Michael's Teachers' Training College, he was appointed Teacher in 1969 but chose to take up a career within the Civil Service after obtaining a BA (Hons) degree in Public Administration from the University of Malta in 1983. Mr Piccinino spent over twenty-three years at the Office of the Prime Minister and, between 1996 and 1998, he also served as Private Secretary to the Prime Minister. In 2002, Mr Piccinino was appointed Director (Finance and Administration) at the Education Division, from where he was superannuated in 2006 on reaching retirement age.

**Mr Carmel Herrera**

*Member, Public Service Commission (appointed on 18 June 2103)*

Carmel Herrera joined the Malta Civil Service in September 1968 and retired from the Public Service in August 2011. Between 1972 and 1990, he served at the Department of Social Services from where he moved to the Ministry of Foreign Affairs.

There, he served both at the Bilateral Affairs and Multilateral Affairs Directorate and was Deputy Director of Protocol before moving to the Ministry of Health. He also served at the Ministry for Resources and Rural Affairs only to return to the Ministry of Foreign Affairs in 2008.

He served overseas at the High Commission in Canberra and at the Consulate in Sydney as Consul General.

He also served at the Embassy of Malta in The Hague, the Netherlands, spending the last seven months of his career as Charge' d'Affaires, a.i.

## Appendix 2

### Public Service Commission Chairmen

**Mr Leslie Harold Gorsuch, CBE**

05.08.1960 - 31.10.1963

**Judge William D Harding, CBE, KM, BLitt, LL.D**

05.11.1963 - 04.11.1971

**Dr George Zammit, BA, BA (Hons) Lond, BD (Rome), LL.D**

05.11.1971 - 31.10.1977

**Dr Charles Cassar, MD, MRCP, PhC, KM, CSTJ**

20.01.1978 - 19.01.1980

**Mr Carmel Giuliano**

20.01.1980 - 31.12.1981

**Mr Godfrey Craig**

12.01.1982 - 25.02.1984

**Mr Maurice J V Bonello**

01.04.1984 - 08.08.1986

**Mr Paul V Attard**

01.09.1986 - 11.08.1987

**Dr Albert G Camilleri, BA, LL.D**

12.08.1987 - 11.08.1992

**Prof Edwin Borg Costanzi, BSc, BE&A, A&CE, MA (Oxon)**

12.08.1992 - 11.05.1996

**Mr Anthony Galdes, MOM, BA (Hons)(Econ), FCIB**

12.05.1996 - 28.02.1997

**Mr Joseph J M Curmi, MPA, DPA, FIFD**

12.05.1997 - 11.06.2003

**Mr Alfred Fiorini Lowell**

12.06.2003 - 11.06.2010

**Mr Paul A Attard, Dip Educ (Admin & Mgt)**

12.06.2010 - 17.06.2013

**Mr Louis P Naudi**

18.06.2013 -



## Appendix 3

### Secretaries to the Public Service Commission

**Mr H Miller, Secretary Designate**

06.07.1960 - 16.12.1960

**Mr H Miller, Secretary**

17.12.1960 - 23.03.1969

**Mr G Soler, Secretary**

24.03.1969 - 08.03.1973

**Mr A Piccinino, Acting Secretary**

09.03.1973 - 30.11.1973

**Mr C Vella, Acting Secretary**

01.12.1973 - 21.09.1975

**Mr P Vassallo Cachia, Secretary**

22.09.1975 - 09.09.1983

**Mr P V Attard, Secretary**

01.01.1984 - 16.09.1985

**Mr R V Mifsud, Secretary**

23.12.1985 - 31.12.1988

**Mr N Scicluna, Secretary**

05.01.1989 - 26.11.1993

**Mr J Bonello, Acting Secretary**

27.11.1993 - 15.10.1995

**Mr G Saliba, Acting Secretary**

16.10.1995 - 03.12.1995

**Mr J Bonello, Acting Secretary**

04.12.1995 - 02.05.1996

**Mr N Worley, Acting Secretary**

03.05.1996 - 18.02.1999

**Mr N Worley, Secretary**

19.02.1999 - 12.04.2001

**Mr R Saliba, Acting Secretary**

13.04.2001 - 20.06.2001

**Mr R Saliba, Secretary**  
21.06.2001 - 09.01.2004

**Mr P Sammut, Secretary/Executive Secretary**  
10.01.2004 - 16.04.2010

**Mr C Polidano, Executive Secretary**  
17.04.2010 - 28.02.2014

**Ms C Schembri, Executive Secretary**  
01.03.2014 -

## Appendix 4:

### Office of the Public Service Commission

#### (i) Staff complement

<b>Staff in post as on 31st December 2014</b>	
<b>Category</b>	<b>No of employees in post</b>
Senior management	Executive Secretary and Two Assistant Directors
Compliance and support staff	One Officer in Grade 5 One Research Officer
Administrative staff	Two Principals and two Asst. Principals
Executive staff	Two Executive Officers
Clerical staff	Four Clerks (one on unpaid leave to try alternative employment) and one Casual Substitute Clerk
Messengerial staff	Two Messengers
<b>Total</b>	<b>18</b>

#### (ii) Commission's expenditure

<b>Expenditure for the year 2014</b>	
<b>Item</b>	<b>€</b>
Emoluments of the Chairman, Deputy Chairman and Members of the Commission	85,263
Emoluments of the public officers attached to the Office of the Public Service Commission	262,302
Social security contributions	23,985
Operational and maintenance expenses	91,147
<b>Total</b>	<b>435,697</b>