

Institutional Requirements and Problem Solving in the Public Administrations of the Enlarged European Union and Its Neighbours

Edited by:
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NISPAcee

THE NETWORK OF INSTITUTES AND
SCHOOLS OF PUBLIC ADMINISTRATION
IN CENTRAL AND EASTERN EUROPE

Institutional Requirements and Problem Solving in the Public
Administrations of the Enlarged European Union and Its Neighbours

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Table of Contents

Preface	
<i>Bob Bonwitt</i>	9
Section I:	
Policy-Making and Policy Performance: Governance Reform in Central and Eastern Europe: Discourse, Political Interests and Institutional Determinants	
Introduction	
<i>Izabella Barati-Stec</i>	23
Policy-making in Central and Eastern Europe: A Cross-Sectional Sector Perspective.	
<i>Lars Johannsen and Ole Norgaard</i>	27
Multi-level Governance in Post-Communist Conditions: Challenges in Governability for the New EU Member States	
<i>Krzysztof Szczerski</i>	49
The Governance Discourse in Three Countries. A Comparison of Administrative Reform Activities in Finland, Estonia and Russia	
<i>Markku Temmes, B. Guy Peters and Georg Sootla</i>	66
The Territorial–Administrative Reform in Moldova: How Different Political Interests and Groups Influences Public Policies	
<i>Valeriu Mosneaga and Valerian Tabirta</i>	83
Central – Local Politico-Administrative and Governance Relationships in Two Ukrainian Cities: Kyiv and Odessa	
<i>Natalya Kolisnichenko and Allan Rosenbaum</i>	101
The Role of Experts in Local Government in Transitional Countries	
<i>Michiel S. de de Vries – Iwona Sobis</i>	119
The Use of Socio-Legal Information in the Draft Acts’ Explanatory Memoranda: A Pre-condition for Good Governance	
<i>Aare Kasemets and Mari-Liis Liiv</i>	142
Governing by Default: Failures of Policy Process in Romania	
<i>Sorin Ionita</i>	166
The Policy-Making Process: Experience in Bulgarian Administrative Reform	
<i>Mina Shoylekova</i>	193

The Case of STRATEK: Development of an Organizational Unit at the Prime Minister's Office in Hungary for Enhancing Strategic Leadership <i>László Vass</i>	214
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Strategic Orientation in Hungarian Central Government Organisations: The Role of Organisational Culture <i>György Hajnal</i>	237
---	-----

**Section II:
The Personal Factor: Educating and Training Civil Servants for Better Public Administration**

Introduction <i>Alexei Barabasev</i>	257
---	-----

Quality of Expertise: Securing Common Knowledge and Competencies of Public Servants in Decentralised Public Service Training Systems. The Case of Estonian Civil Service. <i>Kristiina Tonnisson, Kaido Paabusk</i>	262
--	-----

Public Administration Education in Macedonia: Accelerating the Process <i>Philip Murphy, Jacqueline Saslawski, Veli Kreci and Ivica Bocevski</i>	279
---	-----

Multiculturalism in the Regional Civil Service in Russia (the case of Saratov region) <i>Victoria K. Antonova</i>	294
--	-----

**Section III:
Providing a Moral Common Ground: Fighting Corruption in the New Member States**

Introduction <i>Frits Van den Berg, Henriette F. Schatz</i>	313
--	-----

Preventing Corruption and Conflict of Interest: Necessity or Fashion? The Case of Poland <i>Patrycja Joanna Suwaj</i>	318
--	-----

How to Fight Corruption with Particular Reference to the New EU Member Countries <i>Olga Vidlakova</i>	345
---	-----

Transparency and Integrity of Public Administration (The Phenomenon of Corruption and Its Perception) <i>Mihaela Carausan</i>	357
--	-----

Section IV:

Governance and Policy Implementation in the Context of the European Union: The Management of EU Structural Funds

Introduction <i>Frans Grobbe, Frits van den Berg</i>	375
The Capacities of New Member States to Manage EU Funds: From Absorption to Value-Added <i>Vitalis Nakrosis</i>	381
EU Membership and Growing Regional Disparities: Poland's Strategy Options to Optimise Structural Transfers from the Union <i>Andrei I.Lobatch</i>	394
The Failure of the EU Regional Policy in Estonia? Administration and Control Mechanisms of the Use of EU Funds in Local Governments of New Member States (NMS): The Case of Estonia <i>Tanel Oppi and Erik Moora</i>	416
The Problem of So-Called Readiness as the Determinant of the Effective Absorption of Structural Funds, Based on the Example of the Podlaskie Region in Poland <i>Anna Daszuta</i>	433
EU Funds: Absorption Capacity and Effectiveness of Their Use, With Focus on Regional Level in the Czech Republic <i>Markéta Šumpíková, Jan Pavel, Stanislav Klazar, Oto Potluka</i>	450

Appendix

Alena Brunovská Award Lecture Public Policy: Bridge over Troubled Water? <i>Martin Potůček</i>	487
About the Authors	493
Index	499

Preface

Risk of a new divide

Bob Bonwitt*

The 12th annual NISPAcee conference took place at a turning point in European history – the accession of eight countries of Central and Eastern Europe to the European Union. For half a century, these countries had been distanced from the evolving economic, social and cognitive universes of citizens in Western Europe. For those countries who joined the Union on May 1, 2004 as new member states, it was the start of a new life. But only the start, for there is still a risk that they will not be able to fully integrate into the EU unless they make strenuous efforts to further improve their administrative capacities. The new entrants are learning that the time-bound administrative challenge of becoming a member was easier than the ongoing challenge of being a member – of ensuring continuous, effective participation in European policy-making and continuous, effective implementation of European policy.

Other countries will follow in successive waves: Bulgaria, Romania, Turkey, the Balkans. They still have much to do before their administrations are ready for the challenge of accession. The Union has made it clear that, for the next round (s) of accession, administrative capacities will be an even more important criterion than before, and the Commission has announced that it will closely monitor the reality of administrative development.

Yet other countries on the periphery of the new Union will have to develop a new relationship with the giant next door. The European Neighbourhood Policy (ENP) extends to these countries the offer of political dialogue, of sustained assistance and above all of economic privilege. But the *quid pro quo* is clear – there must be approximation to the Copenhagen criteria, including to the *acquis communautaire*, and countries must develop the necessary administrative capacities to implement it.

* “Sigma is a joint initiative of the OECD and the EU principally financed by the EU”, “This paper represents the personal views of the author. The views expressed therein can in no way be taken to reflect the official opinion of the European Union. Neither do they necessarily reflect the views of the OECD, its member countries nor the beneficiaries participating in the Sigma Programme“

As the Union expands it is also deepening, giving lie to those who claimed that “widening” and “deepening” were antithetical goals. During the period of European re-alignment, we have seen the introduction of a new Europe-wide currency, further economic integration, expansion of the scope of EU activity into Foreign and Security Policy and into Justice and Home Affairs, as well as agreement on the draft of a new constitution, which, if ratified, will change the Union even further. As the Union enlarges its membership, policy space and sphere of influence, the “old member states” must also adjust to new realities – their administrations and policy machinery must be upgraded for new tasks and for operating in a Europe of 25+ members. All of Europe is thus engaged in a common endeavour to develop new forms of governance. justice and administration.

National administrative, judicial and political systems must adapt to the emerging new Europe. The effectiveness of each member’s ability to prosper in the increasingly competitive internal market, to promote its own interests and to sustain the “Construction Européenne” as a whole, will depend on the adaptive capacity of its administration. Equally the performance of the Union as a whole will depend on the quality of the administrative networks within and amongst the members.

Broadly, there are three core administrative competences which a country needs in order to profit from membership in the Union:

- Ability to participate effectively in European policy-making, which is increasingly – though not only – a technocratic task;
- Ability to implement and enforce the *acquis*;
- Ability to ensure the sound and efficient administration of European funds and their “own resources”

And because Europe is a “space” characterised by interdependency, each countries’ well-being depends critically on the administrative capacities of all its partners. Public administration in Europe must be understood as a system containing supra-national, national and sub-national administration.

The draft Constitution recognises the key role of national administrations in the functioning of the Union. For the first time, the Union would be provided with legitimacy to devise policies and actions aimed at improving national public administrations, which, up to now, have been the preserve of national sovereignty.

*Treaty Establishing a Constitution for Europe
Part III – The Policies and Functioning of the Union
Section 7
Administrative Cooperation*

Article III-285

- 1. Effective implementation of Union law by the Member States, which is essential for the proper functioning of the Union, shall be regarded as a matter of common interest.*
- 2. The Union may support the efforts of Member States to improve their administrative capacity to implement Union law. Such action may include facilitating the exchange of information and of civil servants as well as supporting training schemes. No Member State shall be obliged to avail itself of such support. European laws shall establish the necessary measures to this end, excluding any harmonisation of the laws and regulations of the Member States.*

(Quoted from 16.12.2004 EN Official Journal of the European Union C 310/183)

This Article is reinforced by the creation of a new “right” with enforceable characteristics.

Part II – The Charter Of Fundamental Rights Of The Union

Article II-101

Right to good administration

- 1. Every person has the right to have his or her affairs handled impartially, fairly and within a reasonable time by the institutions, bodies, offices and agencies of the Union.*
- 2. This right includes:*
 - (a) the right of every person to be heard, before any individual measure which would affect him or her adversely is taken;*
 - (b) the right of every person to have access to his or her file, while respecting the legitimate interests of confidentiality and of professional and business secrecy;*
 - (c) the obligation of the administration to give reasons for its decisions.*
- 3. Every person has the right to have the Union make good any damage caused by its institutions or by its servants in the performance of their duties, in accordance with the general principles common to the laws of the Member States.*
- 4. Every person may write to the institutions of the Union in one of the languages of the Constitution and must have an answer in the same language.*

Article II-102

Right of access to documents

Any citizen of the Union, and any natural or legal person residing or having its registered office in a Member State, has a right of access to documents of the institutions, bodies, offices and agencies of the Union, whatever their medium.

(Quoted from C 310/50 EN Official Journal of the European Union 16.12.2004)

These constitutional provisions are of the utmost importance for the public administration community, including, of course, NISPAcee. They will no doubt frame the future of administrative cooperation in the Union and significantly affect the evolutionary dynamics of both national and Union administrations.

However, it must also be understood that the European Administrative Space, which was first discussed in Rotterdam under the 1997 Dutch presidency, is primarily a social construction. It is mostly the product of the intense interaction of bureaucrats throughout the Union and with future member and partner countries. NISPAcee contributes to this social interaction directly as a network of PA institutes and training bodies; it also contributes by stimulating thinking about public administration across the continent.

The 12th Annual Conference of NISPAcee was held under the general theme of “Inside and Outside the European Union: Avoiding a New Divide”. However as usual, most of the work at the conference was taken up by the working groups pursuing their own long-term agendas. Although the working groups spun off ideas relevant to the conference theme, their main work was on the hard issues of “Institutional Requirements and Problem Solving” in the context of membership/association with the European Union. The title of this book of proceedings reflects both the content of the conference and the administrative reform agenda before the schools and institutes of the NISPAcee network.

The conference theme itself is nonetheless important. Since the end of the Second World War, Europe has suffered from divisions. The effects of those divisions have not yet healed; they are evident in the economic, social and institutional difficulties facing the countries. Perhaps even more important, the divide is still present in mentalities, especially of the generation of people who grew up under a different system and were not exposed to the evolution of “Western” values. The case of East Germany is particularly telling: Fifteen years after unification, all the economic and social parameters as well as attitudes suggest that the divide is still there – summed up by the German phrase

“Der Mauer im Kopf”
[The Wall In The Head]

It is appropriate that the first “post-enlargement” conference of NISPAcee took place in a new member state, and addressed an issue that is crucial for the future of the continent – how to prevent new divides from appearing in Europe. The theme title makes it clear that the problem is relevant not just for the “ins” (current and future members) versus the “outs” (neighbourhood or ENP countries), but also within the Union. The Union will be less stable if, within its territory, it carries deep and long-term fractures. Administrative differentials are one such potential fault line. They are important because of the interdependence of European administrative systems, and because administration is so important to economic development. Administrative differentials can foster economic and social differentials; economic distress can lead to administrative failure.

What are the risks of a new divide?

The European Union was born to prevent future conflict. It is useful to remember the opening phrases of the Treaty of Rome (1957)

[The Heads of State of the founding countries]...

RESOLVED by thus pooling their resources to preserve and strengthen peace and liberty, and calling upon the other peoples of Europe who share their ideal to join in their efforts,
HAVE DECIDED to create a EUROPEAN COMMUNITY.¹

To put it crudely, after the War, internal security was concerned with Germany and revolutionary movements in Europe (e.g., Greece); external security with the Soviet Union, which sponsored some of the internal threats. Europe is not just “Cassis de Dijon”²; it is an attempt to order European affairs after centuries of war, and to promote peace and prosperity throughout the continent. That it started only with the “peoples” of Western Europe was a tragic accident of history. That it started with iron and coal, major inputs to the arms industry, was an issue of tactics that should not obscure the higher purpose. The main recent steps forward in the development of Europe – Euro, enlargement, etc. – were driven by the generation of leaders for whom war was the formative experience. Today, the threats are changing and becoming more interlinked. Security is driven less by yesterday’s crises than by tomorrow’s potential threats.

The countries which have just joined the Union or which are queuing up to join are still motivated, in part, by security concerns. Behind the desks of senior officials in the NMS, it is common to find three flags – the national flag, the gold stars of Europe and the flag of NATO, which would be highly unusual in old

1 <http://europa.eu.int/abc/obj/treaties/en/entr6a.htm#TOPFILE>

2 This was a famous judgement of the European Court of Justice which established the mutual recognition principle, and was vitally important in the evolution of the internal market.

member states except, perhaps, in the Ministry of Defence. Again, the threats are both internal (preservation of democratic stability) and external (potential developments in the neighbourhood (ENP) area and threats to vital supply lines, primarily energy). Inside the Union, with the ever more intense integration including the transfer of control over borders, systemic risks have grown to our economies and social systems. But external threats are also present. The security risks are not just state/state aggression as characterised the Cold War period, but are more diffuse and involve difficult-to-control non-state actors. Overall the risks to the future prosperity, peace and stability in the European continent include:

- Security (geopolitical threats, terrorism, spill-over effects, organised crime ...)
- Economic (social fractures, spill-overs, control over essential supplies, loss of location based control, powerful non-state actors)
- Internal and cross-border minorities
- Often cross-border, environmental threats
- Ill-managed migration/trafficking
- Health (importation of disease, pests...)
- Weakened democratic legitimacy often accompanied by increased heterogeneity of populations

In addition, many observers identify a long-term secular decline in the effectiveness and legitimacy of the European system of governance at both the national and European levels which reinforce each other in a vicious circle. Thus the state is facing threats which call for a forthright response, even as it is losing its capacity to govern.

Europe's reply

At the general level of European developments, Europe has responded imaginatively and proactively to the changing situation. It has proceeded along several tracks.

At a geopolitical level, the Union has followed a policy of enlargement and engagement. The latter contains one process (the SAP) for the Balkans, which are seen as having a European vocation, and one policy (the ENP) for the new border states.

Internally, the Union has rapidly moved forward to consolidate its institutional structure through the constitutional process, extension into new policy fields – including foreign policy, internal and external security as well as deeper economic integration (internal market and the Euro).

The instruments the Union has chosen to avoid new divides are “administration-intensive; that is, they require high administrative capacities at the Union level, within the member states and in the partner ENP” countries.

Role of administration

The evolution of Europe and the response to the threats faced by European states place a heavy burden on public administration. Public administration is challenged in two ways:

- To counter the challenges, higher administrative capacities are needed
- Inadequate public administration increases the probability of negative outcomes and, as with a chain, the weakest link – i.e., the weakest national administration – determines the overall robustness of the system.

The Union's recognition of the importance of administrative capacities can be seen in the weight given to it in the enlargement process. At the beginning it was relatively implicit, but as the issues and dangers became clearer the need to upgrade administrative competences became more explicit:

- Copenhagen 1993: "Stability of institutions guaranteeing democracy, rule of law and human rights"... and "shouldering the burdens of membership";
- Madrid 1995: Administrative and judicial structures adjusted so as to be able to transpose EC Law and effectively implement it;
- Luxembourg 1997: Institutions strengthened and improved and made dependable;
- Helsinki 1999: Candidate must share the values and objectives of the European Union as set out in the treaties.

The new Enlargement Commissioner has gone even further in saying that during the next rounds of accession the commission will monitor performance of administrative reform even more closely.

The challenge of enlargement has been a crucial factor in raising awareness of the nature (and weaknesses) of the European administrative system. The legal base for the Union to address shortcomings in national administrations is weak, and the Union's capacity to consider administrative issues is underdeveloped; for example, even the regular meetings of directors-general of the civil service are organised informally by the presidency. However, enlargement posed new challenges, and the commission developed a pragmatic response through its monitoring and assistance instruments. This experience will undoubtedly affect the next wave of accession. More significantly for the future, it has affected how the Union thinks about its networked administrative system. This certainly provided at least part of the impetus for the constitutional provision, which will provide legitimacy for the Union to engage national administration.

The ENP countries are being invited to approximate to the *acquis communautaire*, which will require transformations as profound as those of the NMS and current candidates.

In all democratic countries, there is a symbiotic relationship between administration and justice – the one reinforcing the other. Consequently, there is a general correlation between weak administration and weak justice. Because the Union is essentially a legal construction, it relies on national systems of justice as much as on national administrations to “carry” European law. The administrative divide should be interpreted as covering both administration and justice.

The Administrative Divide

Differences in administrative capability amongst the member states have existed since the beginning. As the administrative burden of membership grows, the administrative differential has increased and so have the risks and costs. The NMS present different problems to the OMS, but it should not be automatically assumed that each NMS presents a higher risk than any of the OMS. The performance of the NMS in meeting the accession criteria and profoundly transforming their public institutions in only a few short years is a tribute to their administrative capacities; it is an achievement which probably none of the OMS could have matched.

However, mentalities are slower to change than formal arrangements. The East German experience shows how difficult this change is. The transition in East Germany took place under relatively favourable circumstances. Overnight, the East acquired:

- A ready-made, complete and consistent system of law and justice;
- Political and voting system and parties;
- Immediate “trade” access to the Union;
- Massive administration plus civil servant transfers;
- Framing by an experienced federal administration;
- Financial assistance (€80bn over ten years);
- Immediate coverage by a reputable financial system, and currency with exchange at a very favourable rate.

And the transition took place with the advantages of a common language. Yet 15 years later, all economic and sociological indicators show that East and West are still unequal and attitudes differ profoundly.

Within the Europe of 25, the administrative differential cannot be reduced to an old/new dimension. However, the subsequent enlargements are likely to be more problematic. The Union has already introduced additional safeguard clauses for Bulgaria and Romania, specifically addressed to administrative capacity issues.

The situation in the Balkan States is probably worse than in any of the NMS at an equivalent time. It should not be forgotten that the main Yugoslav war stopped only ten years ago, and that two of the key protagonists – both of whom severely weakened their public institutions even beyond the damage caused by

Tito-ism – were only removed from power (through death and armed intervention) in the last few years. Some of the Balkan states also have different pre-Communist administrative and social traditions which reduce their adaptive potential. Despite the differences among them based on historical heritage, economic possibilities and geopolitical orientation, most Balkan states can be characterised as weak or fragile. In five of the ten entities³, there is an international presence to ensure continued stability; final status and international borders of some entities are still not settled. Recent assessments by Sigma point to common weaknesses of administrative systems; in particular, policy-making and coordination capacities, articulation between professional and political governance, professionalisation of the civil service, justice, and management and control of public funds.

Finally, the ENP countries which comprise the southern and eastern Mediterranean littoral states, the Caucasus, and four NIS states – Belarus, Moldova, Russia, and Ukraine – have very different administrative traditions, politics and current experiences. The ENP invites them to approximate to EU law and implies concomitant administrative adaptation. This will present a huge challenge for the countries as well as for assistance methodologies and organisation. The issues go well beyond incremental adjustments to administration; they address the nature of the state and, in several cases, the introduction of basic democratic principles and the rule of law, as well as economic transformation.

Risks inherent in the administrative divide

There are several types of administrative dysfunctionality which produce risks in the context of enlargement or close engagement (ENP) with weak administrations. These are likely to become more serious with the increase in interdependence, with the challenges of the new constitution, and with the increase in substantive scope of the Union and its geographic ambitions.

- **Acquis enforcement:** The principle of mutual recognition and the weakening of border controls create the scope for failure to have repercussions throughout the European Economic and Judicial Spaces. The presence of administrations that are not capable of ensuring consistent application of the *acquis*, creates risks for the entire system. The potential cost of failure of border controls or of veterinary inspection far outweighs the potential losses of poor management of the funds.

³ In EU terminology, there are five Balkan states – “Albania”, “Bosnia and Herzegovina”, “Croatia”, “former Yugoslav Republic of Macedonia”, “Serbia and Montenegro”. Counting these at the federal level, and adding the Federation of Bosnia and Herzegovina, Kosovo, Montenegro, Republika Srpska and Serbia, all of which have distinct governance systems makes ten entities. And this total does not take into account the cantons in the Federation of BiH which have separate governance systems or the Brcko District.

- Policy/negotiation paralysis: The EU policy system relies on MS and partners having strong professional policy capacities, capable of interacting continuously on technical issues. Poor policy capacities will create difficulties during entry negotiations and in the case of members can severely impede the functioning of the union.
- Waste, fraud and corruption: In NMS, Candidates, SAP and ENP countries, large volumes of EU monies flow to the countries through various financing instruments. Poor management and control systems permit fraud and theft.
- Economic and democratic weakness: Administration is a key factor in national productivity. Poor administration will reduce the ability of a country to prosper in the context of the internal market. Administration is also a key factor in the functioning of democratic systems and a constitutional bulwark against illegal activity by state and elected officials. Poor administration will enfeeble a country's ability to satisfy, over time, the Copenhagen criteria in terms of rule of law, economic strength, human rights, etc. This creates spill-over risks such as enhanced migration.
- Contagion: If countries can prosper, even for short periods, with lower administrative costs than others due to lower quality levels, competitive pressure and information transfers might cause poor administration to spread through the system. For example, if a country is accepted for membership or entry negotiations when its administrative system is known to be inadequate to the task, this may change the incentives for other countries in similar positions.

What to do?

It has been suggested that new divides will open up in Europe as it pursues its enlargement, engagement and deepening agendas. One such divide is public administration. PA differentials can reinforce other divides such as economic performance. Thus, one answer to the conference question – Avoiding a new divide? – is to focus on public administration. Administrative differentials are likely to get worse as the pressure on administrative systems increases. How can PA differentials be reduced? To what extent can it now be asserted that there is convergence of public administration in Europe – that a European Administrative Space in fact exists? What mechanisms led to its creation? How successful have administrative assistance efforts been? What are the main lessons to draw from the reform histories of the more advanced countries?

Such questions are beyond the scope of this short paper, but some tentative conclusions can be drawn. As is typical of the “*méthode Monnet*”, the European Administrative Space will be forged through a mix informal and formal elements.

Sociological	Foster professional networks as communities and work groups; mobilise peers as a main source of expertise, but allow flexibility in delivery (do not force elaborate and potentially inappropriate delivery mechanisms); set up services rather than projects; improve training so that it becomes cross-cultural and experiential rather than knowledge acquisition; develop common elite-building streams
Procedural	Strengthen and raise the quality of administrative monitoring and signalling procedures; develop more robust and appropriate forms of conditionality; develop performance standards, benchmarks and baselines
Valuing civil servants	Improve the salary market by relaxing financial constraints Build esteem for public servants and bureaucracy across the EU Invest in long-term professionalism of civil services
Judicial	Reinforce administrative justice; strengthen integrity systems; and extend common standards of behaviour for public life
Institutional	Pursue the constitutional reforms and develop mechanisms to give life to the constitutional provisions concerning administration; use the ECA and the ECJ to promote European standards of performance and professional behaviour
PA reform	As first priority in administrative reform, pursue regularity, then move into efficiency and service-oriented reforms; create damping mechanisms so that leaders are less driven by fads; strengthen Ministries of Finance and of Public Administration (they are the horizontal forces pursuing the reform agenda within the government); and capitalise on the budget to drive reforms
Political	Ensure timely settlement of outstanding issues especially in Bosnia and Kosovo

This provides a strong agenda for NISPAce which, like the administrations it serves, must rise to new challenges.

Section I

Policy-Making and Policy Performance: Governance Reform in Central and Eastern Europe: Discourse, Political Interests and Institutional Determinants



Introduction

Izabella Barati-Stec

The topic of the following chapter is Institutional Requirements and Problem-Solving in the Public Administrations of the Enlarged European Union and Its Neighbours. Nine papers were selected to be included in this chapter, based on the adequacy and thorough elaboration of the analysed cases and the high quality and professionalism of the experts presenting them.

Through the examples of differently developed countries, the studies selected in this chapter give a broad picture of how the issues of decentralization and the role of local units in democracies are dealt with under different circumstances, what the main obstacles are when building a democratic society and changes in the system of political administration. Some of the papers presented focus on the effect of organizational culture and the existence of a strategic coordination unit on the performance of the institutions and the government itself.

Natalya Kolisnichenko and Allan Rosenbaum, through the example of the Ukraine discuss in their paper the complex task of public administration development. They state that in countries as large and diverse as the Ukraine “the process of municipal reform will not be simple, smooth and non-conflictual”. **Sorin Ionita** also writes about the complexity of the issues related to “good governance”. His paper suggests that the poor performance of some CEE countries is related to the failure of reforms in public administration and/or in decision-making. Countries that joined the European Union and countries that are still candidates face the paradoxical situation that due to expected public service reforms, their public sector became immense and diverse, but at the same time with this expanded and complicated system, are primarily responsible for delivering services and managing their operation.

The same issue is examined by **Mina Shoylekova’s** paper. Her paper says that a country’s public policy is required to be more stable and coherent when integrating into the European Union, but at the same time this integration process makes policy issues more complicated, thus putting a substantial burden on the country. She presents a case from Bulgaria, and concludes that policy failures

are mainly due to bad interconnection between political leadership and administrative performance rather than the failure of these components separately (weak leadership or inadequate administrative performance). In her paper she examines the capacity for political leadership, the changes in the administrative system related to policy formulation process, and the formulation and drafting of procedures.

Staying at the same topic – or rather at the back-side of the same topic – **Mosneaga Valeriu and Tabirta Valerian** write about the re-centralization efforts and interests of countries. Their example is Moldova, where policy-makers are reducing the autonomy of local authorities by creating arms of state offices at the local level, increasingly supervising local activities and making territorial units smaller and unable to self-finance. Their study analyzes the effect of a politicized state administration on reform decisions. One important aspect of decentralization and re-centralization is to what extent the local level is dependent on the central level, and to what extent they are able to manage discretionally their own business. They analyze the bad effect of central governments that maintain full dependence of localities on the central budget.

Iwona Sobis and Michiel S. de Vries address in their paper the effect of experts and consultants on the preparation of different laws, and their relationship in general with policy-makers. The role of experts has been well discussed and debated in literature. They are sometimes seen as people who promote professionalism in policy-making, but there are also some views that question their real added value, and say they are just instruments in the hands of politicians. Sobis and de Vries differentiate among inside and outside experts, and say that if “experts do not take the contingencies of the local situation, culture and structure into account, their advice is likely to be ignored”. They also say that policy-makers still make decisions on their own – although in Eastern-Europe there is a tendency to follow, to copy the expert’s advice – and they only base their opinion on the advice if it is sound. **Anne Kasemets and Mari-Liis Liiv** also examine the role of professionals in preparing the explanatory memoranda of draft acts. Their assumption is that there is a great difference between the community of scientists and the community of politicians. They operate under substantially different conceptions and world views, and the researchers need to be more concerned about the information needs of policy-making and the relevance of research to the needs.

Lars Johannsen and Ole Norgaard addresses the differences between the administrative sectors of EU-acceding and non-acceding countries among three dimensions. The first is how central administrations relate to peak organizations in the different countries; the second is the level of autonomy of central institutions; and the third is the character of the obstacles faced during the policy implementation process. Their findings show that although one can notice the

remnants of the old Communist regimes in how these governments work, the accession to the European Union was able to break institutional path dependencies. However, they also note that differences between acceding and non-acceding countries are partially due to the pre-selection process of the EU. (Those that became members were “likely to be candidates” before because they already had started to break down the bonds of the past.) Governments in EU-acceding countries have numerous interactions with society, the institutions have less autonomy and there is a stronger coordination among the different units of government. **Laszlo Vass** focuses on how important is the setting up of a strategic unit in the government. This is the unit that will be responsible for cohesion among the institutions, and it will ensure the coordination of works of the government. Vass presents the different levels of coordination in public policy, and the emerging necessity and step-by-step process of creating such units.

The paper written by **Krzysztof Szczerski** focuses on institutional challenges in post-Communist countries. Their question is “to what extent the model of multi-level governance presents a suitable tool to new member states of the European Union in their efforts in building a functional ... administrative system and at the same time plugging in the common space of the EU”. **Szczerski** assesses the results of introducing the model of multi-level governance in the countries of transition, under post-Communist conditions. At the same time, he also provides a strong criticism of the – and in some areas, still existing – practice of “old-governance” of the EU. He suggests that in post-Communist countries, the main limitations for multi-level governance are the lack of common standards among actors and the weakness of instruments of steering and controlling multiple networks.

Gyorgy Hajnal studies the effect of organizational culture on organizational effectiveness and performance. Hajnal presents research conducted among Hungarian ministries, supported by multi-variable data analysis. He assumes that values shared across an organization affect the behavioural patterns of the organization, which lead to a particular organizational outcome. He concludes that in Hungarian public administration hierarchical ties dominate the organizational culture, and that the values shared among the ministries are rather homogenous. When examining which element of the organizational culture is more relevant from an organizational performance point of view, he found that it is the stability (or flexibility) of the organization rather than the internal or external focus of the organization.

Markku Temmes, B. Guy Peters and Georg Sootla give us a comparative analysis of public administration reform units through the examples of three differently developed countries: Finland, Estonia and Russia. They describe the international networking activities during administration reforms as an activity that opens new channels for administration reforms in these countries, an op-

portunity to gain needed expertise, to enable actors in society to raise voice and to press the government to act. Their conclusion is that three networking models can be identified based on the practices of the three countries. In the balanced model (Finland), the above-mentioned tasks are in balance. The political model (Estonia) is where the balance between the domestic and foreign sources depends on the political development which, because of that, can be unstable. The third, bureaucratic model (Russia) is where balance between the democratic forces in the society and the state apparatus is working based on the latter one.

Governance in Central and Eastern Europe: A cross-sectional perspective.

How the EU accession broke institutional path dependencies in post-Communist regimes

Lars Johannsen* and Ole Nørgaard**

Abstract

Has the EU accession strategy been effective in breaking the institutional path dependencies of public administrations in the new and acceding EU member states with a Communist past? Applying the results from a survey of high-ranking civil servants and politicians in 15 post-Communist countries, the present paper first demonstrates that institutional path dependencies in public administrations persist. There are, across the subset of countries, significant differences between how five types of public administrations relate to peak organisations in society, their degree of internal administrative autonomy and the scope and character of obstacles they face during policy implementation. Second, when the subset of countries is divided into those who have acceded (or are acceding) to the EU and those who do not have such a prospect, the survey results indicate that the EU-acceding countries are in the process of breaking the bonds of the past. Their numerous interactions with organizations in society are less institutionalized, departments have less autonomy, reflecting the existence of (stronger) coordination units within government, and they face a larger number of complex implementation issues because they have launched new policies and procedures. The results indicate that the EU strategy of “soft” conditionality is effective in promoting administrative change in the new and prospective member states.

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The DEMSTAR¹ survey of core national administrative elites in 15 post-Communist countries reveals apparent sectoral differences of governance in how central administrations relate to peak organizations in society, the autonomy of separate types of administration, and in the character of obstacles faced during policy implementation. Furthermore, observed national differences do, of course, demonstrate that post-Communist regimes are not uniform and insulated institutions designing and implementing blueprint policies of whatever sort. If this was the case, we would not expect the systematic differences between countries that we have observed. Nor are post-Communist governments passive reflections of vectors in the societal context within which they are located, be it interests, cultures or personalities. If this were so, we would not find systematic similarities and differences between policy sectors across countries. The observed patterns on the contrary demonstrate that central administrations and the tasks they perform are also to a significant extent (even in the statistical sense of the word) formed by the nature of the tasks they are performing, replicating what Page and Goldsmith (1987, quoted in Peters, 1996, p. 27) found when they showed “that particular policies administered in different countries were more similar than different policies administered in the same country; policy rather than country was the better predictor”. This “task-dependency”, however, raises new questions. First, how do we establish a typology of administrations that renders comparisons between administrative and policy sectors feasible and meaningful? Second, what explains the observed differences between administrative sectors, i.e., treating the differences as the dependent variable? Third, to what extent does capacity building to manage the process and general modernization of the administration to adapt to EU-standards imply systematic differences between EU-acceding and non-acceding countries?

This paper takes a first step in solving these puzzles by focusing on two sets of differences (between administrative sectors and between acceding and non-acceding countries) on three dimensions; (1) the way central administrations relate to peak organisations; (2) the autonomy of government institutions; and (3) the character of the obstacles faced during policy implementation. This journey into unknown territory begins with a brief discussion and identification of typologies, concepts and theories that may be applied to a comparison of public administration sectors in post-Communist regimes. Section two presents the survey methodology and findings of sectoral differences along the three dimensions. In section three, we test the flip side of the data: the EU perspective, whether the demands of the EU (Europeanization) have been able to break the institutional path depend-

1 The DEMSTAR Program, Democracy, the State, and Administrative Reform, was launched by the Danish Social Science Research Council under its priority area ‘Democracy, Institutional Change and Political Regimes’. Research activities were initiated in the spring of 2000 and will run until 2005. The program is based at the Department of Political Science, University of Aarhus, Denmark. See website: www.demstar.dk.

encies of past practises in acceding countries on the three dimensions. In the final concluding section, we discuss the politico-strategic implications of the findings. The paper shows that while Communist regimes have indeed left a discernible legacy in how the central government works, EU accession conditionality has been effective in breaking institutional path-dependencies.

The survey: theory and methodology

“Science depends on its concepts. These are the ideas which receive names. They determine the questions one asks, and the answers one gets. They are more fundamental than theories which are stated in terms of them” (Thompson, 1961, p. 4). This observation, put forth more than 40 years ago, is equally important when trying to understand contemporary puzzling data. Defining typologies of group phenomena across countries and time in comparable categories is what makes meaningful comparison possible. Further, “systematic comparison makes use of comparable, or at least functionally equivalent, units of analysis” (Rose, 1991, p. 448). In this perspective, the establishment of theoretically meaningful classification schemes is, as in any other part of comparative politics, an important aspect of the empirical and theoretical development in comparative public administration (Peters, 1988: 7-8). A typology is more than a question of measurement and systematic comparison, however. The categories we establish reflect the questions we want to ask, and the questions we ask are again based on our *ex ante* expectations. In this sense, a typology is “the initial stage of a theory of politics” (*ibid.*, p. 95).

Turning to the data at hand, a meaningful typology related to our first set of research questions should therefore reflect our initial expectations about what influences or determines the position of the administration between the political and societal levels. In particular, we should define categories along the anticipated causal mechanisms that form the (central) administration’s exposure to peak organisations in society, its autonomy and the scope and character of the obstacles encountered during implementation of its decisions. Dealing here with administrations that are the outcome of transformations from incumbent Communist systems, we may expect that habituated patterns of behaviour formed by the functional needs of the old regime to have survived as concluded, for example, by Nunberg (2000, p. 254), who states that “In the main, administrative practice from the Communist era has survived remarkably undisturbed, though, by and large, in a de-ideologized form”. Hence, our assumption of a certain path dependency leads us to apply a functional perspective similar to Jrisat’s (2002, p. 18) in his identification of “... comparative studies [that] establish patterns of functional administrative processes. These efforts focus on one or more aspects of management in several cultural settings”.

The homeostasis² of the incumbent politico-administrative Communist systems implies that the patterns of governance under Communism have to various degrees reproduced themselves in the changed context, as observed by Nunberg. Hence, the authoritarian meso-corporatist (Bunce, 1983) or network system (Stark and Bruszt, 1998) born under the old regime will, to varying degrees have survived in individual countries, constraining (and enabling!) the choices of present reformers. As formulated by Stark and Bruszt (*ibid.*, p. 83), this implies that:

Actors who seek to move in new directions find that their choices are constrained by the existing set of institutional resources. Institutions limit the field of action, preclude some directions, and constrain certain courses. But institutions also favour the perception and selection of some strategies over others. Actors who seek to introduce change require resources to overcome obstacles to change.

Proceeding from the understanding of Communist politico-administrative systems of governance as a blend of (authoritarian) meso-corporatism or network systems, evidence of path dependencies requires that we establish a typology that features the properties of the incumbent system. In particular, a typology must discriminate between the positions of functional units in relation to society, in the degree of autonomy in the decision-making process and the constraints involved when implementing their assigned tasks. One such typology based on the functions performed by the administrations was proposed by Christensen (1984, p. 314). In this typology, he distinguishes between administrations with production functions and those with regulatory functions. The regulatory administrations are again divided according to general, sectoral and internal regulatory tasks. In the following we will apply this typology with one important addition: the presidential administration. Under Communism, the central committees of the Communist parties had extensive controlling and supervisory tasks, in effect functioning as a sort of general (political) regulatory and supervisory agency. There are clear indications that this function has been adopted by a number of presidential administrations, where a name change has been the most important reform. Presidential administrations are therefore separated out as a distinct category. The selected typology is illustrated in Fig. 1, establishing five types of central administrations and examples.

2 Homeostasis is one of the most remarkable and most typical properties of highly complex open systems. A homeostatic system (an industrial firm, a large organization, a cell) is an open system that maintains its structure and functions by means of a multiplicity of dynamic equilibriums rigorously controlled by interdependent regulation mechanisms. Such a system reacts to every change in the environment, or to every random disturbance, through a series of modifications of equal size and opposite direction to those that created the disturbance. The goal of these modifications is to maintain the internal balances. (Principia Cybernetica Web: <http://pespmc1.vub.ac.be/HOMEOSTA.html>)

Fig. 1.

A functional typology of central administrations in post-Communist regimes.

	Regulatory functions	Production functions
General	Type 3: ministries or departments of justice, environment, tax, etc.	
Sectoral	Type 1: ministries or departments of agriculture, trade, industry, trade, etc.	Type 2: ministries or departments of, e.g., welfare, health, education but also ministries responsible for production of goods, where state production enterprises remain
Internal	Type 4: the foreign ministry, prime minister's office, ministry of finance, etc.	
Presidential administration	Type 5	

Based on the hypothesized survival of past practices we would ex ante expect the following patterns to apply to our data on the position of the different types of administrations between society and politicians.

I. On the exposure to demands from peak organizations:

1. Ministries with sectoral regulatory functions (branch ministries or departments) (type 1 administrations) or with production functions (type 2 administrations) are more exposed to interactions with peak organizations than are
2. Ministries with general regulatory tasks (type 3 administrations) or ministries with regulating or coordinating tasks inside government (type 4 administrations);
3. Presidential administrations are in many of these countries the institutional leftovers of the central committees of the Communist parties (type 5 administrations). In general, we would expect these to be close to general coordinating institutions with limited external connections.

II. On the autonomy of the administration:

1. Ministries with sectoral regulatory functions and production functions (type 1 and 2 administrations) should, because of the specialist nature of their tasks, be less exposed to external interference from other government agencies than type 3 and 4 administrations;
2. To the extent that past practises have survived in presidential administrations (where they exist), they will have a major effect in all types of administrations;

III. On the scope and nature of implementation problems

1. Ministries with sectoral regulatory functions and production functions (type 1 and 2) face a whole range of obstacles commonly discussed within the literature.
2. Ministries with general regulatory tasks and ministries with coordinating tasks (type 3 and 4) face a number of implementation problems typically related to oversight, coordination and evaluation.
3. Presidential administrations face fewer obstacles as they are the farthest away from actual implementation. However, we still expect them to face a considerable number of obstacles in line with Communist practices of meddling in the affairs of implementing agencies.

These questions were tested on the data collected in a survey of ministers (former and current) and central government officials in 15 post-Communist countries.³ The ambition in all the country surveys was to reach a subset of executive officials placed as high as possible in the administrative hierarchies in core agencies. This strategy produced some differences concerning what kinds of executives we actually reached, depending of the country's openness and constitutional structure. The surveys were conducted on the basis of a standardized questionnaire supplemented by a number of open questions subsequently reported to us by the interviewers and, in some cases, validated by a limited number of in-depth interviews.

The use of responses from the surveys is based on three assumptions:

1. Our choice of high-ranking officials (department heads) in core administrations is based on the assumption that they are in a relatively more privileged position to understand structures, processes and power in government. Nevertheless, we are of course mindful of the pitfalls associated with selecting by position and asking reputation-related questions.⁴
2. We assume that our respondents are telling the truth (about how "things really are") or that there is a systematic deviation from the truth among all sectors and countries.⁵

3 Estonia, Latvia, Lithuania, Poland, Moldova, The Czech Republic, Hungary, Slovenia, Bulgaria, Georgia, Armenia, Azerbaijan, Kazakhstan, Kyrgyzstan and Mongolia,

4 As summarized by Putnam (1976), such weaknesses may arise if the informants have no access to inside information, or if the knowledge is limited to a particular sphere of public affairs, because they may then "innocently purvey a distorted picture of power relations. Moreover, informants are often more confused than social scientists about what power is and who has it. More cautious reputational analysts ask their informants only about influence relations they have personally witnessed, but the reconstruction of overall patterns of power from a myriad of such individual reports remains a terrifically complex task" (pp. 16-17).

5 We further assume that if they provide honest answers (compared to other sources of information) in relation to sensitive questions (for example, corruption), they will also be honest in relation to less sensitive issues. When we compared the corruption estimate in our survey it correlates with the corruption estimate in the Nations in Transit Report. The ordinal correlation is 0.6, with a P-value of 0.009. Based on these criteria our responses seem, when Azerbaijan and Armenia are excluded, to be reliable.

3. We also assume that the subset of respondents (or the answers they provided) represents a critical case subset (and not a sample) of the answers we would have obtained if we had asked the entire population of government officials.

Sectoral Governance

Below we report the results of the survey as it relates to sectoral differences. First, we look into the exposure of different types of administrations to the perceived peak organizations in society and to international actors. Second, we explore the autonomy of the different types of administrations in relation to their political and administrative superiors. Third, we look into the kinds of obstacles the administrations face when implementing policies.

Exposure to demands from peak organizations.

Table 1 reports the activity of organizations in society vis-à-vis state administrations as experienced by the ministries. Following the OECD classification, we distinguish between three sets of state–society relations: information (a one-way relationship where government provides information to society), consultation (a two-way relationship in which society provides feedback to government, but where government sets the agenda), and participation (partnership and policy dialogue) (OECD, 2001). Below, we consider and merge the two latter categories because of the inability in the present survey to distinguish empirically between cases of consultation and participation. In making a valid measurement of “organized interests” or “interests” in society, we are obviously dependent upon how this term, in different translations and national institutional contexts, was understood by our respondents. Referring to Jones’ (2000) classification in his treatise on organized interests in post-Soviet Georgia, interest groups, as we intended, were essentially perceived as either legitimate organizations or indigenous or transnational non-governmental organizations. Amorphous interest groups, exposed by individual grievances or patronage networks, were not perceived as belonging to these categories.

Table 1.
Pressure from outside actors by sectoral type (percent).

	Sectoral regulatory functions (Type 1)	Production functions (Type 2)	General regulatory functions (Type 3)	Intra-government coordination functions (Type 4)	Presidential administration (Type 5)
Often	17.4	11.0	12.3	16.9	5.9
Sometimes ¹	34.8	28.2	29.7	34.7	20.7
Rarely or never	47.8	60.8	58.1	48.4	7.4
Total (percent)	100	100	100	100	100
Total (N)	161	209	155	213	203

1. Answers to the category; “Often, but only concerning really important issues” are included in the category “Sometimes”

** 14 missing cases distributed evenly among the ministries/departments.*

Responses to question 24: “Have you ever felt under pressure from outside actors (non-state organizations, peak level business, etc.) to change the existing new legislation?”

As seen in Table 1, it would be a mistake to generally describe society as docile. In addition, the results confirm our expectation that type 1 ministries (with sectoral regulatory functions) are prime targets. It is however surprising that type 4 ministries (with intra-government coordination functions) come second. Actors in society seem to reach high in the administrative hierarchy when attempting to influence decision-making.

Table 2 reports experienced pressure from international actors. The sectoral ministries demonstrate the same tendencies as domestic actors do: executives in type 1 and type 4 ministries feel most exposed to pressures from international actors. Hence, old habits not only survive in the domestic context but also among international actors!

Table 2.
Frequency of contacts with interest organizations by sectoral type (percent).

	Sectoral regulatory functions (Type 1)	Production functions (Type 2)	General regulatory functions (Type 3)	Intra-government coordination functions (Type 4)	Presidential administration (Type 5)
Yes	41.6	31.1	41.7	39.7	19.6
No	58.4	68.9	58.3	60.3	80.4
Total (N)	161	209	156	214	204
Total (Percent)	100.0	100.0	100.0	100.0	100.0

Responses to question 22: “During your time in government, did foreign actors try to influence policy and regulations in your ministry?”

The clearest indication that consultation and participation are not unknown concepts in the post-Communist world comes from Table 3, reporting the frequency of contacts with interest organizations. First, nearly all countries report a very high interaction rate with organized institutions, although the average rate is highest in Central Europe, and Central Asia is higher than the Baltics and Caucasus. The interaction differentiated by type of ministries indicates the expected picture with type 1 and 2 ministries being closer to organizations than types 3 and 4, although differences are not significant. The presidential administrations are close to the type 4 administrations.

Table 3.
Contact with outside actors by sectoral type (percent).

	Sectoral regulatory functions (Type 1)	Production functions (Type 2)	General regulatory functions (Type 3)	Intra-government coordination functions (Type 4)	Presidential administration (Type 5)
Yes, most of the time	55.7	47.1	43.1	44.9	42.8
Yes, on important issues	35.4	45.6	41.8	42.0	42.8
No	8.9	7.4	15.0	13.2	14.4
Total (percent)	100	100	100	100	100
Total (N)	158	204	153	205	201

**Note: 34 missing cases distributed evenly among the ministries.*

Responses to question 26: ‘Do civil servants in your ministry have close working relationships with major interest organizations within the ministry’s resort?’

Also, the reasons given in response to open questions in relation to close interaction reveal a picture similar to what we may hear from Western officials: functional need for additional information and perspectives and better prospects for implementation if concerned interests are involved in the policy stage; political need to “appease social unrests” (Polish respondent) and communicate policies to the public.

On the mode of state-society interaction (Table 4), institutionalized interaction is most prevalent in ministries with sectoral regulatory functions. For presidential administrations, the picture is more complex. In the more liberal systems (Kyrgyzstan, Mongolia and Georgia) 56, 82 and 46 percent of respondents in presidential administrations claim that institutional fora exist for interaction with organizations, while none reported this form of interaction in Armenia and Azerbaijan. In general, presidential administrations place greater emphasis on informal networks.

Table 4.
State-society interaction by sectoral type (percent).

	Sectoral regulatory functions (Type 1)	Production functions (Type 2)	General regulatory functions (Type 3)	Intra-government coordination functions (Type 4)	Presidential administration (Type 5)
Institutional forum for discussion and cooperation	42.0	34.3	29.9	31.6	31.2
Institutional forums on ad hoc basis	37.8	35.4	29.9	29.3	12.2
Informal forums depending on character of the case	20.2	30.4	40.2	39.1	56.6
Total (percent)	100	100	100	100	100
Total (N)	119	181	127	133	189

**102 missing cases of which the type of ministry/department Intra-government coordination functions has 39 missing*

Responses to question 28a: "In which form is/was the concerned interests incorporated or consulted in the process of formulation?"

In conclusion, our initial expectation was that line ministries with sectoral regulatory or production functions would be more exposed to demands and influence from peak organizations than ministries with general or internal regulatory functions, including presidential administrations. The picture presented by the data, however, deviates from these expectations. While the high exposure of the sectoral regulatory ministries (type 1 administrations) is in accordance with our expectations, it is surprising that type 4 and type 5 administrations (internal regulatory and presidential administrations) score relatively high. A first explanation could be that we here witness the expected institutional path dependency: the attempt by external actors to reach high in the administrative hierarchy when advocating their cause is a legacy of the incumbent centralized Communist systems.

Administrative autonomy

Table 5 illustrates the perceived institutional autonomy of the sectoral administrations. Autonomy was calculated as the percentage of respondents within the administration who referred to their own minister as the most important decision-maker for activities – in contrast to those who named either other institutions or political actors. The table shows the autonomy of presidential administrations, but also that administrations with production functions continue the established practice of relative autonomy from outside interference.

Table 5.
Institutional autonomy by sectoral type (percent).

	Sectoral regulatory functions (Type 1)	Production functions (Type 2)	General regulatory functions (Type 3)	Intra-government coordination functions (Type 4)	Presidential administration (Type 5)
No autonomy	41.6	31.1	41.7	39.7	19.6
Autonomy	58.4	68.9	58.3	60.3	80.4
Total (N)	161	209	156	214	204
Total (Percent)	100.0	100.0	100.0	100.0	100.0

Recoding of question 29.1: “Who is the most important formal decisionmaker affecting decisions in your ministry?”

Implementation

It would be an understatement to describe implementation as “difficult”. In our survey, we confronted the interviewees with eight implementation problems commonly discussed within the literature (Hogwood and Gunn, 1984). Of the 888 interviewees that responded to these questions, only 0.7 percent did not recognize any of the problems, while 2.3 percent of respondents were familiar with the full range of problems associated with making policy work on the ground. On average, three problems were recognized.

These results are listed in Table 6, which shows the distribution on the number of problems recognized by country subset. The table is also evidence that the total number and average number of implementation problems reported vary from country to country. Implementation thus appears to run more smoothly in Armenia with an average of 1.6 than in the Czech Republic, where the administration is in severe distress, reporting an average of 4.8 problems.

Table 6.
Number of implementation problems by country.

Number of problems	Estonia	Lithuania	Hungary	Kazakhstan	Kyrgyzstan	Mongolian	Poland	Georgia	Armenia	Azerbaijan	Moldova	Slovenia	Czech Republic	Bulgaria	Total
0			6.3						1.0		2.5	2.0			0.7
1	6.0	7.5	6.3	13.3	19.4	13.7	5.6	28.0	58.0	28.0	16.5	3.9	2.3	7.9	19.4
2	26.0	13.2	9.4	20.0	13.9	27.5	11.1	24.0	30.0	32.0	17.7	13.7	4.7	27.6	22.1
3	24.0	17.0	21.9	30.0	44.4	32.4	22.2	23.0	7.0	35.0	31.6	15.7	16.3	27.6	24.8
4	12.0	22.6	28.1	20.0	5.6	11.8	41.7	19.0	3.0	4.0	15.2	31.4	18.6	11.8	15.0
5	10.0	17.0	12.5	3.3	8.3	8.8	11.1	6.0	1.0	1.0	5.1	15.7	20.9	7.9	7.9
6	8.0	13.2	9.4	6.7	5.6	2.9	8.3				5.1	13.7	23.3	13.2	6.2
7	8.0	3.8	6.3			1.0					2.5	2.0	7.0	1.3	1.8
8	6.0	5.7		6.7	2.8	2.0					3.8	2.0	7.0	2.6	2.3
Total (N)	50	53	32	30	36	102	36	100	100	100	79	51	43	76	888
Total (Percent)	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Mean	3.8	4.1	3.7	3.3	3.0	3.0	3.7	2.5	1.6	2.2	3.1	3.9	4.8	3.4	3.0

Recoding of 39.1-39.8 in to an additive index: "Have you experienced ... as an obstacle to having a policy implemented effectively in your ministry?"

Turning now to the type of administration, Table 7 shows less variation than expected. The differences between the types of administration unequivocally confirm our expectation that presidential administrations experience fewer obstacles than any other type of administration. However, the baseline is comparatively high with an average of 2.5 recognized obstacles. Agencies charged with sectoral regulations and those with production functions are at or above the overall mean. Thus, the deviance from the expectations is related to ministries that handle the internal coordination within governments.

Table 7.
Number of implementation problems by sector.

Number of problems	Sectoral regulatory functions (Type 1)	Production functions (Type 2)	General regulatory functions (Type 3)	Intra-government coordination functions (Type 4)	Presidential administration (Type 5)	Total
0		0.5	1.4	1.6		0.7
1	15.6	19.5	16.3	16.9	26.6	19.4
2	19.7	22.0	23.1	19.7	25.1	22.0
3	21.8	21.0	27.2	17.5	35.0	24.7
4	21.1	15.5	17.0	15.8	8.4	15.1
5	10.2	9.5	6.8	10.9	2.0	7.7
6	6.8	8.0	6.8	8.7	1.5	6.3
7	2.0	2.5		3.8	0.5	1.8
8	2.7	1.5	1.4	4.9	1.0	2.3
Total (N)	147	200	147	183	203	880
Total (Percent)	100.0	100.0	100.0	100.0	100.0	100.0
Mean	3.3	3.1	3.0	3.5	2.5	3.1

Recoding of 39.1-39.8 in to an additive index: "Have you experienced ... as an obstacle to having a policy implemented effectively in your ministry?"

A separate test in which the intra-governmental coordination units are narrowed down to the ECOFIN ministries (the Ministry of Finance and the Ministry of Economics) shows that these alone have encountered an average of 3.6 problems.⁶ The ECOFIN ministries thus appear not only to be burdened, but also to be a distinct group type among the ministries. This is quite understandable as ECOFIN ministries are typically responsible for administrative and budgetary oversight. Moreover, when respondents are asked to name a core agency within the government, they very often name the Ministry of Finance.⁷ In addition to this explanation, many of the implementation problems encountered concern monitoring and evaluation, co-

⁶ N = 85.

⁷ See Johannsen (2004) for a calculation of the effective number of core agencies.

ordination and information and the perceived lack of understanding and agreement among the partners involved in implementing a policy. This is clearly reflected in Table 8 that reports the specific implementation problems mentioned.

Table 8.
Type of implementation problem by sectoral type (percent).

	Sectoral regulatory functions (Type 1)	Production functions (Type 2)	General regulatory functions (Type 3)	Intra-government coordination functions (Type 4)	Presidential administration (Type 5)	Total	Total (N)
Inadequate resources	86.9	89.6	83.1	80.4	84.7	85.0	889
Lack of understanding /agreement	38.4	36.0	26.4	32.1	24.1	31.3	886
Poor policy design	34.7	27.5	29.1	33.2	19.7	28.4	885
Lack of coordination and information	48.7	51.5	52.0	61.4	44.3	51.5	887
Lack of monitoring and evaluation	36.8	33.5	35.4	38.0	28.1	34.1	886
Insufficiently specified tasks	22.9	20.5	19.6	31.0	9.4	20.4	888
Interference from outside actors	28.1	19.0	15.5	31.1	8.9	20.2	887
Insufficient staff motivation	39.9	36.0	36.1	39.1	26.1	35.1	887

Responses to questions 39.1-39.8: "Have you experienced any of the following as an obstacle to implementation?"

At first glance, it is not surprising that the most commonly mentioned obstacle across all types of administration is a lack of adequate resources. This partly reflects the realities of transition and the dire state of the economies, and partly the automatic response of administrators and politicians when asked about policy failures. However, as we expected, resources present a greater problem for agencies with production functions and for those charged with sectoral regulation than for other types of administration. A second glance reveals both differences and similarities across types of administration. For example, a lack of coordination and information among agencies is the second most frequently identified obstacle, not only by all but also within each type of administration. However, stark contrasts can also be found. Lack of coordination and information are high on the agenda in the coordinating ministries. More than 60 percent specifically mention this obstacle, almost a ten-point difference compared to the ministries responsible for general regulation. Since presidential administrations,

in countries where such exist, are generally preoccupied with the higher echelons and grand designs of policy, it is not surprising that few identify insufficiently specified tasks as an obstacle. Not specifying tasks may even be a strategy that helps protect the administration in case of policy failure, in the sense that the “do-gooders” in the administration have simply been let down by the agencies charged with realizing the plans.

In conclusion, the patterns described above demonstrate that not only is there a high degree of similarity in the problems experienced across types of administration, there are also important differences that reflect the tasks associated with the type of administration. As expected, presidential administrations face fewer implementation problems than any other type of administration, but the number of implementation problems indicates that presidential administrations still meddle in specific policies. Administrations with regulatory and production functions face numerous obstacles in implementation, but in particular the ECOFIN ministries deviate from the expected pattern. That is, the number of problems associated with administrative oversight and coordination, in effect setting up a core agency within government, is apparently not a smooth process. Resistance from other agencies that also complain about interference from outside and lack of coordination could be part of the explanation. Finally, there are differences among the countries with respect to the numbers of obstacles encountered in implementation. Whether, and if so, how these differences can be explained is explored in the next section.

EU-accession and governance

The starting point for the evaluation and the pressure to reform stem from the Copenhagen criteria for membership, which intertwine democracy and human rights with a functioning market economy and the ability to undertake the obligations of membership. The Madrid declaration (1995) took the requirements a step further by stipulating that the accession country must adjust its administrative structure not only to transpose community legislation but, even more importantly, to implement legislation effectively through appropriate administrative and judicial structures. As the enlargement came closer, the European Commission has, however, become more concerned, reflecting that the European project might fail if common standards are not assured (Pedersen and Johannsen, forthcoming 2004). Thus, they continuously monitored developments in order to press for change. The 2002 progress report (sec (2002) 1400 – 1412) notes that progress in general has been made with respect to the education and status of civil servants and specifically in terms of separation of the political and administrative spheres of responsibility, transparency and access to public information.

However, and as Nunberg (2000, p. 68) makes clear, the European Commission has neither formulated standards nor clarified the means by which they are to be attained. As the countries face a dual administrative challenge stemming from the need to manage the process of accession and to lift the general level of administrative capacity in order to enter on an “equal footing” with the current members and the continuous monitoring from the Commission, there is good reason to believe that the process itself and the prospect of not passing the threshold have changed the administrative landscape in the accession-countries.

Different criteria nevertheless lead us to form expectations in relation to the administrations’ relations to interests in society, the degree of autonomy perceived within the different departments and the implementation problems encountered. In doing so, we are aware that correlation is not causation, and that the differences between acceding and non-acceding countries are partly due to the pre-selection of the European Union; that is, the acceding countries already possessed some characteristics (economically, socially, politically) that made them likely candidates. However, as demonstrated in the previous section, the flip side is that the task dependency among all post-Communist countries remains high, and hence neither national nor subgroup differences tell the whole story.

First, we expect that the administrations in the accession countries, if only to demonstrate consensus and consolidation of democracy, will develop numerous contact points with interests in society. Whether these contacts are institutionalized will depend more on national tradition and the legacy of Communism than on the prospect of becoming a member of the European Union. Second, we expect the departments in the acceding countries to have less autonomy than those in the non-acceding countries as the demand to develop the capacity needed to steer the EU integration process is in effect also a demand to strengthen intra-government coordination. Third, we expect that the number of implementation obstacles is significantly higher in acceding countries than in non-acceding countries. Not because the EU candidates are not as good at realizing policies on the ground as their compatriots further to the east, but simply because the project of European integration is more far-reaching than any project found in the other countries. Moreover, given the emphasis on implementation capacity by the Commission, one could also expect the acceding countries to espouse greater awareness about the actual obstacles.

Exposure

Administrators and ministers in the EU-accession countries fell to a greater extent the heat from non-state actors, be they domestic or foreign (Tables 9 and 10). Thus, 28 percent of the interviewees in EU-accession countries stated that they have been pressed by outside actors to initiate new legislation, and more than 65 percent recognize that foreign actors have tried to influence policy and regulation. In compari-

son, less than five percent have felt under pressure from NGOs and (only) one-third in the non-accession countries have experienced pressure from foreign actors.

Table 9.

Pressure from outside actors in EU and Non-EU countries (percent).

	EU	Non EU	Total
Often	28.2	4.8	12.7
Often, but not concerning really important issues	6.5	2.9	4.1
Sometimes	40.6	17.4	25.2
Rarely	13.6	17.7	16.3
Never	11.1	57.3	41.6
Total (N)	323	628	951
Total (Percent)	100.0	100.0	100.0

Responses to question 24: "Have you ever felt under pressure from outside actors (non-state organizations, peak level business etc.) to change the existing new legislation?"

Table 10.

Frequency of contacts with interest organizations in EU and Non-EU countries (percent).

	EU	Non EU	Total
Yes	65.6	33.4	43.1
No	34.4	66.6	56.9
Total (N)	270	628	898
Total (Percent)	100.0	100.0	100.0

Responses to question 22: "During your time in government, did foreign actors try to influence policy and regulations in your ministry?"

These figures imply that the much-talked-about civil society is indeed active and that the EU and other international actors have sought influence to a much greater extent in EU-accession countries. This is to be expected as the accession process is, after all, not only integration but also adaptation to preset standards formulated by the EU.

Proactive non-state actors in the accession countries have, however, been less successful in institutionalizing cooperation with the administration. Thus, there is little difference, and the margin of error is actually in favor of the non-accession countries when judging whether the administrations have close working relationships with major interests organizations (Table 11) and whether this cooperation is institutionalized (Table 12).

Table 11.

Contact with outside actors in EU and Non-EU countries (percent).

	EU	Non EU	Total
Yes, most of the time	40.2	49.7	46.6
Yes, but only concerning important issues	43.5	40.6	41.5
No	16.3	9.7	11.9
Total (N)	306	626	932
Total (Percent)	100.0	100.0	100.0

Responses to question 26: 'Do civil servants in your ministry have close working relationships with major interest organizations within the ministry's resort?'

Table 12.

State-society interaction in EU and Non-EU countries (percent).

	EU	Non EU	Total
Institutional forum for discussion and cooperation	32.2	34.7	34.1
Institutional forums on an ad hoc basis	31.1	26.6	27.6
Informal forums depending on character of the case	36.7	38.7	38.2
Total (N)	177	579	756
Total (Percent)	100.0	100.0	100.0

Responses to question 28a: "In which form is/was the concerned interests incorporated or consulted in the process of formulation?"

In sum, the administrations in EU accession countries are under increased pressure, not only from domestic but also foreign actors, but the channels and the routines that allow the administration to cope with such pressure are perhaps undeveloped. This pressure may contribute to creating a critical juncture where paths are broken.

Autonomy

As the Communist party used to be the de facto coordinator of government, one challenge for post-Communist governments has been to create the necessary institutions at the centre of government to coordinate and formulate policy (Nunberg, 2000, p. 2). As pointed out by Johannsen (2004), the Ministry of Finance has in the EU-accession countries come to serve as a core ministry that frequently interferes in the work of other ministries. With the recreation of a coordinating unit of sufficient strength to overcome the segregation into various portfolios and chiefdoms and to generally oversee that the accession criteria are observed, including the ability to sustain a commitment for the political and economic union,

it is quite understandable that the interviewees in the accession countries feel less autonomous than their colleagues further to east (Table 13).

Table 13.

Institutional autonomy in EU and Non-EU countries (percent).

	EU	Non EU	Total
No autonomy	43.4	29.0	33.9
Autonomy	56.6*	71.0*	66.1
Total (N)	325	630	955
Total (Percent)	100.0	100.0	100.0

**The proportion difference is significant at the 0.05 level.*

Recoding of question 29.1: “Who is the most important formal decision-maker affecting decisions in your ministry?”.

Implementation

The EU accession countries do feel the pressure for change. The number of obstacles experienced in the process of implementation in these is on average 4.0 compared to 2.6 among non-accession respondents (Table 14) and, as evident from Table 15, there is a significant difference on virtually all hindrances. The two Eastern Europes agree only with respect to the lack of resources, a fundamental problem.

Table 14.

Number of implementation problems in EU and Non-EU countries.

Number of problems	EU	Non-EU	Total
0	1.1	0.5	0.7
1	5.3	25.4	19.4
2	13.6	25.7	22.1
3	19.2	27.1	24.8
4	24.9	10.8	15.0
5	14.7	5.0	7.9
6	12.8	3.4	6.2
7	4.5	0.6	1.8
8	3.8	1.6	2.3
Total (N)	265	623	888
Total (Percent)	100.0	100.0	100.0
Mean	4.0*	2.6*	3.0

**The mean difference is significant at the 0.05 level.*

Recoding of 39.1-39.8 in to an additive index: “Have you experienced ... as an obstacle to having a policy implemented effectively in your ministry?”

The differences can be partly explained by the progress already made by EU-accession countries. The demand for change and the number of new (EU) policies are far greater in the accession countries. These countries have to a much higher degree had to introduce policies, regulations and institutions that have roots in neither their own societies nor in their Communist past, but which originate in the western EU countries. In this sense, the numerous problems associated with implementation are to be expected, but they are probably also evidence of both progress and awareness. Ultimately, the implementation of EU policies provides a catalyst for reform and administrative capacity-building, not only because of the scale of the project but also because the administration may easily be squeezed if it fails to deliver in the eyes of the two constituencies, the electorate and the monitoring eye of the Commission.

Table 15.
Type of implementation problem in EU and Non-EU countries (percent).

	EU	Non-EU	Total	Total (N)
Inadequate resources	239	524	763	897
	88.2	83.7	85.1	
Lack of understanding /agreement	122	160	282	894
	45.2*	25.6	31.5	
Poor policy design	100	153	253	893
	37.3*	24.5	28.3	
Lack of coordination and information	174	286	460	895
	64.4*	45.8	51.4	
Lack of monitoring and evaluation	133	172	305	894
	49.3*	27.6	34.1	
Insufficiently specified tasks	89	93	182	896
	32.8*	14.9	20.3	
Interference from outside	102	77	179	895
	37.8*	12.3	20.0	
Insufficient staff motivation	127	187	314	895
	47.0*	29.9	35.1	

**The proportion difference between EU and non EU is significant at the 0.05 level.*

Responses to questions 39.1-39.8: "Have you experienced any of the following as an obstacle to implementation?"

Conclusion

This paper addressed three issues about sectoral governance in post-Communist countries. First, we developed a typology of central administration to make cross-sectional comparison across countries meaningful and feasible. Second, when applying this typology, we asked whether different types of sectoral governance

(what we term “task dependency”) developed under the incumbent regimes that are still alive under the changed political and economic circumstances. Third, we asked if the EU accession strategy has been effective in breaking the path dependencies of public administrations in the new and acceding EU member states with a Communist past. Drawing on the results from a survey among high-ranking civil servants and politicians in 15 post-Communist countries, the paper demonstrates that institutional path and task dependencies in public administrations persist. The subset of countries show significant differences between how five types of public administrations relate to peak organizations in society, in their degree of internal administrative autonomy and in the scope and character of the obstacles they face during policy implementation. In addition, when the subset of countries is divided between those who have acceded (or are acceding) to the EU and those who do not have that prospect, the survey results indicate that EU-acceding countries are in the process of breaking the bonds of the past: they do have numerous interactions with organizations in society but not in an institutionalized manner, departments have lesser autonomy, reflecting the existence of (stronger) coordinating units within government, and they are up against a greater number of complex implementation issues because they have launched new policies and procedures. The results indicate that the EU strategy of “soft” conditionality is effective in promoting administrative change in the new and prospective member states.

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The EU Multi-level Governance in Post-Communist Conditions – Institutional Challenges

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Abstract

The paper discusses the adequacy of the concept of multi-level governance for describing politics in the conditions of the post-Communist state. It focuses on the case of Poland joining the European Union. Compared with the basic assumption of the concept, political science analysis shows that one can observe the serious limitations of Poland's capability to connect itself effectively to the EU system. At the same time – domestically important distortions of multi-level governance can be observed. These distortions can be identified as “asymmetric rationality” and “inner-network state”. The conclusion suggests that more efforts should be placed in public administration reforms that head towards solidity of core government obligations and building steering capacities in other constitutionally guaranteed functions.

Chapter 1: Multi-Level Governance as a Political Model

One of the leading models of politics in integrated Europe is the concept of multi-level governance. It is supposed to generate a functional division of competences between all actors involved in the common political system of the EU [Marks et al.1996, Kohler-Koch, Eising 1999, Sandholtz, Stone Sweet 1998]. It is also a model for state system reform which should address the main challenges that a state such as Poland is now facing, namely an external pressure of globalisation and internal pressure of further decentralisation [Pierre, Peters, 2000, Pierre 2000].

From this perspective, it is worth asking the question: To what extent does the model of multi-level governance presents a suitable tool to new member

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states of the European Union in their efforts at building a functional, internal administrative system while at the same time “plugging in” the common administrative space of the EU. Furthermore, it is important to discuss the possible consequences that this model may bring into post-Communist states.

The paper is build around four major problems: modelling multi-level governance in the EU, discussing pre-conditions for this model vs. post-Communist state, assessing the results of introducing the model into post-Communist conditions and sketching possible further developments. All that is being done in the light of the EU enlargement, being perceived as a driving force of the shifting post-Communist administration into the form of multi-level governance of its own.

1.1 Main features of multi-level governance

Multi-level governance as a model is well-described in the literature of politics and public administration. The notion of “governance” signifies a change in the meaning of government, referring to a new process of governing. Taking into consideration a basic difference between a concept of government, an idea of governance as a exclusive and the inclusive nature of relations among the hard-core of the state and different networks, governance can be summarised by the following descriptions.

Rhodes proposes seven definitions of the term “governance” as a notion for reforming public administration, each of them emphasizes different priorities [Rhodes 2000: 56-64]. The first – *governance as corporate behaviour* – “translates” the meaning used in business corporation into public sector and seeks greater efficiency in this sector through openness, integrity and completeness as well as accountability with a clear definition and allocation of roles and individual responsibilities [CIPFA, 1994: 6]. The second – *governance as the New Public Management* – has two meanings: corporate management and marketization of public administration, both with the key role of the word steering as a antonym of rowing (service delivery) [Osborne, Gaebler 1992: 20, OECD 1995]. The third definition – *governance as good governance* – is taken from the works of the experts of World Bank and tries to mix NPM with the idea of liberal democracy, identifying standards of high-quality political action by advocating “efficient, open, accountable and audited public service” [World Bank 1992: 611] to be achieved *inter alia* through reduction of staff, the introduction of budgetary discipline, decentralization and wider cooperation with non-governmental organizations [Williams, Young 1994: 87]. The fourth definition – *governance as a Socio-Cybernetic System* – highlights the limits to governing by a central actor claiming there is no longer a single sovereign authority, and introducing the terms of interactive political-administrative polycentric system in which government is no longer a supreme actor and society is “centreless” [Luhmann 1992: xv]. The fifth definition

– *governance as the New Political Economy* – re-examines the government of the economy and its interrelations by underlining the state role as a gatekeeper and coordinator of economic actors' activities to secure its presence within economic exchange.

The last two – the sixth and seventh – meanings of “governance” are of special relevance to the topic of this article. One refers to governing “with and through networks or, to employ shorthand, it refers to steering networks” [Rhodes 2003: 65], and the latter approach to governance can be described as international interdependence. Let us focus on these two and their significance.

Policy networks, as described by Rhodes, are sets of organizations clustered around a major government function or department. Networks are a distinctive coordinating mechanism and, therefore, they are separate from markets and hierarchies. Shared values and norms – to form a trust within networks – are the glue which holds the complex set of relationships together. Trust is essential for cooperative behaviour and, therefore, the existence of the network. Governance leads to fragmentation of public activities through new networks but it also increases the membership of existing networks, incorporating both the private and voluntary sectors. Therefore, the government swapped from a direct to an indirect mode of controlling. At the same time, the government can set the limits to network actions through funds, legal and operational frameworks. The literature on governance explores how the informal authority of networks supplements and supplants the formal authority of government. It explores the limits to the state and seeks to develop a more diverse view of state authority and its exercise.

Governance through networks as a self-organizing set of actors drawn both from public and private sectors is characterised by interdependence among organizations, a continuity of interactions caused by the need to exchange resources and negotiate shared purposes, a game-like mode of interactions regulated by commonly accepted rules and the significant autonomy of networks form the state [Rhodes 1996: 660].

From the post-Communist perspective several of the conditions mentioned above seem to be of crucial importance as they form a challenge which can lead to serious distortions explained in the following chapters. Governance models work only in situations when networks are separated from state hierarchies and enjoy significant independence (including financial capacities); their relations with public institutions are built on mutual trust and values and secured by the rule of law. In this case, the state maintains the position of a controlling agent (although indirect).

The second approach (international interdependence), is important from our perspective as it highlights the question – very much relevant to Poland – of “hollowing-out” the state through multi-level governance. The thesis of hollow-

ing-out is made by several authors [Held 1991, Pierre, Peters 2000] who argue that the authority of the state erodes through internationalisation of production and financial transactions, internationally regulated trade, international organizations, binding international law, hegemonic powers and power blocs. The multi-level challenge comes from trans-national and self-government policy networks emerging in the EU. There are three different types of displacement of state power and control: upward, towards international actors and organizations; downward, towards regions, cities and communities; and outward, to institutions operating under considerable discretion from the state (market, NGOs) [Pierre, Peters 2000: 77].

From the post-Communist perspective this process, combined with the dynamics of European integration, may lead to another serious dysfunctional development, which is later defined as “asymmetric rationality”. The multi-level governance model as international interdependence is valid only when the whole system, from local governments to the supra-national level, is built on similar concepts and political ideas. This has been achieved in Western Europe thanks to many years of gradual state system reforms and the “spill-over” mechanism of the European integration. The post-Communist states had to adopt shock therapy in both economic and political institutions, and they entered the EU at a very deep stage of its internal integration. That is why the concept of multi-level governance as interdependence may form the extra pressure on the political system of those states which can significantly weaken their steering capacities.

1.2 Aims of multi-level governance

To sum up, one may point out that the model of multi-level governance is expected to guarantee five major supporting conditions for stability in changing political environment in Europe [Szczerki, 2004].

They are as follows:

- 1 A connection between a growing number of semi-independent centres of self-organisational power to built stable political system seen as meta-network regulated by common rule of law and basic procedural agreement;
- 2 The active involvement of decentralised self-government and autonomous units while respecting their identity;
- 3 The inclusion of non-controlled economic networks (“grey zones”) into public sphere and new descriptions of relations between markets and politics which should broaden the area of free choice;
- 4 The revitalisation of the representative nature of a political system through a narrowing of the democratic gap between citizens and institutions while opening public administration to civic society;
- 5 A new form of international integration.

In this sense the state is left with two distinctive roles. One is to set goals and make priorities, the other to achieve some degree of coordination of resources. So the state remains an active player but with different expectations to fulfil. They can be named as: political leadership (securing common good), guaranteeing social peace, guaranteeing rule of law and objective conditions for all actors (a monopoly on the use of force) and establishing communication channels through the freedom of information and pluralism of ideas.

As it will be discussed in the following chapters, those roles of the modern state may be seen in post-Communist conditions as being under a considerable challenge, a challenge that, paradoxically, comes from the multi-level governance model itself, which was supposed to solve them.

Chapter 2: Multi-Level Governance and the European Union

Before pointing out the problems of the present Polish political system (as an example of a post-Communist state) with regard to the multi-level governance, it is worth focusing for a moment on the most important factor influencing the system, which is, of course, the European Union. It is important because we can observe relations of “symbiosis” and “osmosis” between national political systems and the supra-national system of the EU, which means that they influence each other in many ways.

Depicting the European Union as a political system is a topic of debate [Szczerki 2003a]. For this paper, it is important that one of the prominent examples of the application of governance thinking to the European Union is seen with the concept of multi-level governance [Nugent, Paterson 2003: 101-102] In that sense, it is described as “new governance” meaning “multi-level, non-hierarchical, deliberative and apolitical governance, via a complex of public/private networks and quasi-autonomous executive agencies” [Hix 1998: 54]. It is worth mentioning that Sbagia argues that the EU also exhibits a good deal of “old governance” – steering and control which takes place via the institutionalised exercise of judicial authority operationalising and enforcing a policy norm, the operation of an institution designed to make strategic use of information unavailable to other actors (European Commission) and institutionalised lack of public money [Sbagia 2000: 221].

The idea of the EU as a multi-level governance system starts with observing “the existence of overlapping competencies among multiple levels of governments and the interaction of political actors across those levels. Member state executives, while powerful, are only one set among a variety of actors in the European polity. States are not an exclusive link between domestic politics and inter-governmental bargaining in the European Union” [Marks et al. 1996: 41]. This

multi-level governance approach avoids the assumption that the European Union is only a Brussels-level game, and it avoids also a reductionist state centrism.

The EU has also been described as “a system of shared sovereignty, partial and uncertain policy autonomy between levels of governance, and patterns of contention combining territorial with substantive issues” [Tarrow, 1998: 1].

Another important aspect of perceiving the EU as the multi-level governance system comes from the observation of ambiguity of political space as the Union is a *sui generis* political system which makes binding decisions in those policy areas where powers of the traditional state arrived rather late and is much weaker in those areas in which the traditional state first demonstrated its ability to use coercive power [Sbargia 2000: 220-221]. It is important, however, that those binding decision are made on a supranational level having, in many cases, an important influence on member states’ economies.

It is also important to notice that from the EU point of view, represented by the Commission, networks are seen as assets rather than impediments to the extent that “some networks are deliberately created by the Commission in order to implement policy more effectively, to increase awareness of certain problems at the national level, or give a ‘European’ dimension to a problem which is still in the policy competence of national governments” [Sbargia 2000: 234]. In other words, “policy networks help the Union steer” [Sbargia 2000: 235].

The latter is combined with the semi-administrative autonomy of the Commission. From one perspective, it can be seen as a nucleus of an emerging “regulatory regime” where constitutional logic is rooted in the separation of “efficiency-oriented” policy-making from the liabilities of political expediency and partisanship. On the other hand, the Commission is increasingly embedded in the plural networks of interest intermediation and is dependent on its action taken on national administrations [Ludlow 2001: 4].

2.1 Europeanisation of public administration

Therefore, one of the most important questions arising from the concept of multi-level governance in the EU is the notion of “Europeanisation” of public administration, meaning the increase in two-way reliance between the national and EU bureaucracies. It is not about homogenisation but adjustment. This forms one of the best examples of “osmotic” relations between the two systems.

The process is seen through several functional channels [Page 2003: 166].

The first is a coercive mechanism resulting from the fact that the European Union can issue orders. The European Union is the source of initiatives which have the force of law and therefore produce homogeneity.

The second is an imitation model resulting from EU policy transfer. One can observe different EU-level initiatives, individual national practices, or syntheses of different national practices which are imitated by other member states. The imitation may come from the inherent qualities of a particular model or as the result of “the development of a mainstream consensus of common paradigms” and the “development of joint preferences and even identities under the conditions of close political cooperation” which is “an important element of Europeanization” [Falkner et al. 1999: 512]. It is driven by exchanges between national authorities who share a common concern for solving policy problems as well as causal understandings and technical expertise.

The third proposed approach is an adjustment model based on the fact that member states react in similar ways to conditions created by the European Union as the effect of “adaptive pressures resulting from the lack of fit between the EU level institutional and the policy arrangement” [Hix and Goetz 2000: 20].

The fourth channel is a poly-diffusion model executed by variety of actors and institutions involved in transfer of ideas and practices in different ways.

The history of Poland entering the EU system, for many political and economic reasons reaching far beyond the limits of this paper, can be seen as dominated by coercive and adjustment mechanisms. This means it was primarily one-way harmonisation which gives ground for certain distortions in the creation of working multi-level governance models.

At the end, it is also worth discussing what features of nation states prevent homogenisation which, in our sense, is a question of where to find potential barriers for embedding Polish public administration in the EU multi-level governance system. It seems that one can find three major conditions averting the homogenisation [Wright 1994].

The first would refer to the immediate political interests and constellations. Parties' political ideologies, their influence and relationships with interest groups form immediate political pressures. The other example of this kind is the pattern of intra-governmental power games, reflecting the bargaining between different ministers at the political level or different ministries or sections of ministries at the administrative level.

The second is the path dependence, meaning that, when it comes to the consideration of possible types of reform, the starting point limits the range of alternatives to those allowed by current institutional patterns.

The third are the basic administrative philosophies, different conceptions of the role of the public sector in society, the relationship between politicians and bureaucrats, and even wider conceptions of the nature of authority.

All of those can be seen in Polish politics which is a sort of conglomerate of the path dependence from “the ghosts of the past” (socioeconomic situation), thus providing the base for current political parties’ strategies and interest groups constellations, one of which is a bureaucratic pressure group unwilling to change its way of working.

Chapter 3: **Problems facing New Member States – The Case of Poland**

Analyses of the operational modes in multi-level governance, especially focusing on the European Union, poses certain problems concerning the ability of new member states for a successful connection to the EU system by building functional bridges. To large extent, those problems are rooted in two processes – the different paths of evolution in state and social systems between Central and Western Europe in the past, and the unique systemic conglomerate emerging nowadays in our part of Europe (I will speak for Poland) as a result of chaotic modernization in the 1990s. To sum up: The problems are characteristic of post-Communist political systems conditions.

In this respect, the challenges for Poland can be recapitulated in two main questions. What are the preconditions which must be fulfilled beforehand to secure stability of the system and to facilitate the emergence of the multi-level governance model? What are the main challenges for the public administration and, therefore, what reforms in public sphere are needed?

In my view, the crucial point of concern for the post-Communist political system in the view of multi-level governance is the lack of common standards and rationality among all actors and the weakness of instruments of steering and control of multiple networks. Those challenges can be named as: “building bridges”, “building gates” and “defining actors”. The operational quality of the multi-level governance system depends on the “bridges” that can be established between major “actors” as well the “gates” which control the relations with the outer world and within the system.

The problems discussed in this chapter may be seen as general challenges for good governance as such, but in the conditions of the multi-level system, they should be regarded not only as possible-to-overcome barriers but as major obstacles as they go straight against this model. These problems could have probably been less severe in a system of looser interdependence between member states, in which “osmotic” and “symbiotic” relations between supra-national level and state systems are rare.

3.1 Preconditions for multi-level governance and the Polish public sphere

The multi-level governance model, as discussed in the first chapter, is based on certain assumptions which are to guarantee its operational capacity. For Poland, they still can be seen as a challenge rather than a resource.

The first major assumption is the ‘teleological consistency’. Some reforms undertaken in Poland, although being rational in their own sphere, have been orientated toward achieving contradictory goals since there was no common agreement on the question about what state was supposed to arise from the transformation. Reforms have also been, as always, under the pressure of changing political backgrounds of different governments. This has prevented the Polish political elites from clearly defining the role of the state and its responsibilities in changing political, social and economic environments, and has been a major obstacle in building a multi-level governance system in Poland. The problem came out forcefully during the constitutional debate which ended with many social rights being put into the text of the Polish Constitution without any real guarantees [Sztompka 1999, Antoszewski, Herbut 1999].

This situation is not new for any political system, but it is different in the conditions of rapid and fundamental changes called “refolution” – the word a composition of reforms and revolution. In this situation we cannot expect a “spontaneous order” to materialize, but the politicians have to have a clear vision of a common good and *raison d'état*.

From the point of view of multi-level governance, the most important were the struggles for the decentralization and reconstruction of guaranteed social function of the state. In neither case do we have a clear answer as to whether we are consequently orientated towards a network state or a traditional core welfare state, the latter, which for the time being, is poor so it cannot deliver public services at an expected level though it is not retreating from its role. This leads to a situation where the state “is playing against itself”. At the same time, the state is still the main architect of change with its state apparatus growing in importance [Gawryś 1999]. Contradictory to that, the multi-level governance, as described before, needs a clear distinction of what should be done by “rowing” (services delivered by public authorities) and by “steering” (self-organising networks). This question is still open in Poland.

The second precondition for multi-level governance, which is still problematic in Poland, is a notion of “citizenship”, meaning active involvement in the public sphere as a consequence of stable and independent private milieu where secured private property is a crucial dimension [Sunstein 1993: 914-915]. The active society and “thick public layer” is a condition *sine qua non* for the multi-level governance model. In this field, a certain democratic deficit is observed. On one hand, Poles are dissatisfied with politicians and politics as such. In consequence,

political parties seem not to act as intermediate bodies. On the other hand, civic networks are still very weak due to improper law and social disinterest. Another important problem is the lack of political leadership which can set goals and make priorities while at the same time observing the growing influence of counter-organisations.

The third provision to forming multi-level governance is the transparency of the public sphere. This is still in very much a starting point as the bill of “freedom of information” is not yet smoothly functioning. It is especially important in the reformation countries where profound changes and especially state system reforms are not subject to public monitoring or scrutiny.

3.2. The challenge of common rationality and the governability in public sphere

The lack of solid preconditions for multi-level governance co-exists in Poland with serious distortions in the state operational system. This is because the post-Communist system can be described as a chaotic rationalisation in both internal and external linkages. This is due to five decisive circumstances.

We can observe a progression of state steering incapacity caused by the diminution of political instruments of control [Staniszki 2003]. Understanding of the importance of “procedural bridges” based on the rule of law and meta-regulations is very weak in Polish political elites. Instead, nowadays, there is a certain pressure to re-centralize a system as a way to stabilize it. This is proving to be counter-productive. The case of Polish healthcare system reform is the most appalling example. The system which has been decentralised through the introduction of regional Sickness Funds under the supervision of regional self-governments has been abolished and the central-run National Healthcare Fund was established. This has produced ruin from both functional and financial perspectives, and it was finally declared unconstitutional by the Constitution Court. At the same time, re-nationalisation of certain companies was proposed as a way of securing their existence.

The second problem is the virtual lack of the self-control instruments among different actors in the public sphere. Existing networks are very weak in the execution of common standards, and are primarily seen as “mafia-type” organisations for which the first and major goal is to protect its own economical or legal positions. The public sphere is seen as a “zero-sum” game where there can be only one winner. This is valid for self-governing bodies of doctors and lawyers as well as for different sectors of the economy starting with the media and ending with breweries. This non-existence of common interest in procedural bridges and standards of the game among networks mirrors perfectly the lack of interest from the government.

The third negative process is the “commercialisation of the state” which is an improper post-Communist modification of the notion of “managerialism” in public administration. It leads to the situation when new form of quangos arises mostly in the form of agencies operating with public money but without strict parliamentary control (so-called “off-the-budget funds”). To illustrate this phenomenon, Staniszkis proposes concepts of “political capitalism” and “capitalism of public sector” [Staniszkis 2001]. The first corresponds to the early stage of redeployment of wealth from the state-owned sector to private actors through the networks of Communist-party executive members, personal loyalties, access to information and resources. It has formed Poland’s first business elite based on a “rent of position“. The latter is a characteristic of the current stage of politics and can be describe as a “colonisation” of public funds by political and business interest groups.

Fourth, unsettled relations between political authorities and economic actors are leading to corruption which becomes the sole method of the “inter-connection of networks” while lobbying is still a “grey zone”.

And finally, the lack of good practising and weak law systems as well as instability of the law question the key importance of inter-network connections through the rule of law and procedural agreementst.

All those problems impair the possibility of building the multi-level governance model as illustrated in the seven definitions proposed in the chapter 1.

Adding to that, a question of hollowing out the state is emerging. Polish experience is thus far one of the passive involvement in the process of European integration which is steered by the notion of “harmonization”. In this case, the only engine used in the process is a “coercive” one, the least efficient one.

The problems mentioned above lead to a formulation of the main description of the current situation in Poland as a model of “asymmetric rationality” and “inner-network state”.

Asymmetric rationality may be seen as a deformed multi-level approach. It shows that in the same political system we can observe double standards of rationality with a vacuum in the sphere of meta-regulations and non-existence of functional bridges. The first set of standards comes from the global and European levels, and is heading towards modernisation and harmonisation of economy according to the corporate governance. Commercialised public bodies and the process of privatisation are perfectly suitable tools for finding common interests between public administration and the business elite to form a joint venture in this logic. Completely opposite is the logic of the traditional sphere of state responsibilities and social functions which is left to the “local circumstances“; i.e., an over-staffed, badly managed, traditional bureaucracy. Consequently, we can observe an irrational clash between two logical orders in one system.

Inner-network state is a distorted governance model connected with the previous one. Here, one can look at a reversed pattern of this model. Instead of networking the social sphere and profiting from self-organising pluralism among economic and social actors while keeping the state capabilities in steering, politics is doing just opposite. Networks have been introduced into the very core of the state to commercialise public funds so that they are no longer part of an external environment. This leads to the situation in which there is no place for the traditional function of the state in its core government. Instead “rowing” logic is still present in many spheres of economy and public life.

3.3 Administration non-accountability and multi-level governance

The institutional capacity of public administration to establish functioning linkages with the European multi-level governance system can be measured in two dimensions: one is general and the latter specific.

The general institutional challenge comes from the internal structure of public administration, the role of regulatory agencies, the organisation of the decision-making process, the ineffective cooperation with civic society and the need for the “Europeanisation” of Polish administration.

Specific problems are due to the incorrect allocation of basic resources in Polish public administration.

From the first point of view, there is a certain gap in the institutionalised “meeting-points” of different networks which leads to vulnerability for shocks and crises. This includes three problems: the lack of a clear division of competences within governmental structures responsible for EU matters, the urgent need to establish functional links between different levels of public authorities – central government and self-governments – and the urgent need to establish functional bridges in the social dialogue.

The wrongly organized and improperly designed role of non-majoritarian and quasi-market institutions can create a problem of over-bureaucracy. This is especially valid for the Common Agricultural Policy and Structural Funds administrations. At the same time, there is a question of guaranteeing solid institutional “front gates” in border control, veterinary inspections, sanitary inspections, medical and chemical products registration, etc.

Alongside, there are organisational failures in public administration which lead to ineffectiveness and open up a floor for misbehaviours. Just to name a few:

1. A concentration of power in the hands of individual officials with sufficient room for uncontrolled manoeuvres due to the bad quality of legislation;
2. Responsibilities attributed to single person can be considerable and block the participation of others in his/her decision-making (custom officers, bureaucracy in the privatisation processes, police officers);

3. The arbitrariness of decision-making, especially in market regulation agencies and tax administration;
4. The lack of procedural scrutiny and insufficient attention paid to documentation and reporting even during the law-making process in the central government;
5. The weakness of external control and internal monitoring due to the absence of valuable supervision by special bodies;
6. Less attention paid to personal responsibilities of an individual official. [NIK 2000]

The Europeanisation of public administration, as far as the EU multi-level governance is concerned, is the Hamletic problem of “to be or not to be” for Polish bureaucracy. It is a question of whether we will be able to join the European Administrative Space or not. In this respect, certain problems seem to be the most important [Rabska 2004: 58]. First is the matter of adequate structures to form the basis for linkages with EU counterparts. Second is the dilemma that concerns the abilities of those structures to fulfil duties according to the Treaties and the body of *acquis communautaire*. Third is the question of relations between public administration and citizens so as to be able to come up with the European standard of a “good administration”, access to which is a right of any EU citizen.

As far as the structures are concerned, there is a certain need to create new bodies and modernize existing ones. In this respect, the problem of clear division of competences arises again and includes relations between the central government and local and regional self-governments. From the EU point of view two main goals have to be achieved: the safekeeping of the process of integration of the *acquis* to the daily working of public administration, and mutual trust based on joint procedures. From the Polish perspective, the most important aspect is to achieve a functional capacity to integrate into different dimensions of European politics on each level of public authority. Successful performance of new duties of public administration depends on both the proper allocation of responsibilities according to the principle of subsidiarity as well as the ability to build effective partnerships with social and economic partners. The citizens’ right to a “good administration” includes some conditions which are still to be guaranteed in Poland, among them: “the right to have his or her affairs handled impartially, fairly and within a reasonable time (...), the right to be heard before any individual measure which would affect him or her is adversely taken and the right to have access to his or her files”. In a broad sense, it combines the right to effective administration with the ethical standards for public servants.

From the perspective of daily work of the public administration, we can also observe certain limitations of capacities. These we can see in the following spheres of administration activities:

- 1 Organisational scarcity with the main problems being information resources and information circulation, bad coordination between different offices, little experience;
- 2 Human resources whose problems include inadequate level of knowledge (including foreign languages) among senior officials, a passive manner of working, a bad procedural culture;
- 3 Technical shortages. [Chodor, 2002: 104-105].

Having the problems in most of the administration spheres concerning multi-level governance in the EU context brings us to the challenge of ‘administrative non-accountability’ [Hausner, Marody 2000] which can be observed in the worsening of the quality of administrative decisions and the low quality of human resources.

The problem of structural non-accountability is especially important in the EU context where the principle of accountability is regarded as one of the major aspects of good governance. The White Paper on European Governance defines ‘accountability’ by saying that ‘there is (...) a need for greater clarity and responsibility from Member States and all those involved in developing and implementing EU policy at whatever level’ [EC 2001: 10]. In this sense ‘non-accountability’ can be defined as development opposite to the multi-level governance principles.

3.4. Functional conditions for multi-level governance and the case of Poland

Apart from the structural conditions, an effective multi-level governance system needs several functional provisions. These include common knowledge, active involvement, proper legislation, training and information.

First, all partners should acquire a deeper knowledge and understanding of the operational models of all actors on all levels.

Second, networks should have an opportunity to be involved in planning services and policy-making with public authorities at all levels. Relationships between different actors and public authorities should be clear and involve contractual arrangements. But whatever relationship they may have with governments, networks must remain independent of the government. Public authorities should review public policy and make proposals on what would need to be done for a policy to help the networks increase their capacity and to improve their skills in order to fulfil the new roles they are being called on to address.

There is a strong need for clarifying and adjusting legal frameworks so that they are conducive to the networks fulfilling their full potential at national, regional and local levels. [Szczerki 2003b].

Conclusions

The above mentioned problems are not questioning the basic opportunities for the post-Communist state to reform its political system along the idea of multi-level governance. They simply point out that it cannot be done without a certain caution.

In this respect, one can argue that Poland needs the second generation of state system reforms heading towards reconstruction of the public sphere by revitalisation of the core functions of the state on the one hand, and embedding social and economic networks in discursive self-learning governance system on the other.

It is to secure the bridges and gates by guaranteeing just and fair conditions for each partner and the rule of law. These reforms should be aimed at effectiveness of police, judicial and control systems accompanied by accountability of inspections responsible for security of market products and agencies regulating economic activities.

The latter is to open up the system to the innovative actions and international resources by the active involvement of Polish public administration in internal steering and European governance.

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The Governance Discourse in Three Countries: A Comparison of Administrative Reform Activities in Finland, Estonia and Russia

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1. Introduction

This paper will make a comparative analysis of the administrative reform units and their networks in three countries – Finland, Estonia and Russia. The paper is based on the comparative research project implemented by the experts from Helsinki University and Tallinn Pedagogic University. The Russian material is collected with support of the Academy of the Administration (RAGS) (Temmes, Sootla, Larjavaara, 2004). The idea is to relate this structural comparison to the themes in the governance discussion.

The basic institutional comparison shows how differently these countries have institutionalised their administrative development issues during the last decades. This paper will concentrate first on national discourses concerning the elements of governance. Second, we will describe the networking of these national administrative reform units as a basic activity to develop new channels into civic society, abroad, etc. These channels are both national and international. Currently, the latter channels are exceptionally important to the strategies of administrative reform in the transition countries.

One basic question concerning the possibility of developing modern governance in Central and Eastern European countries is how much need there is to first create the basics of conventional public administration (described recently

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by B. Guy Peters in the article: *The Changing Nature of Public Administration: From Easy Answers to hard Questions*, *Viesoji politika ir administravimas*, 2003.nr. 5). In recent years, the NPM doctrine has been an important factor in the most developed administrations including Finland. The contemporary focus on governance seems to have connections into the development level of the politico-administrative systems of the target countries. In this paper, the focus of the comparison as well the analysis of the discourse concerning the possibility of modern governance-type development in the transition countries will be done comparatively, using an above-mentioned research report and adding more information on the recent discourse around the governance in these countries.

The theoretical section contains a brief analysis of the relevant discussion on administrative development units and their networking as a part of national governance activities. In the comparative chapter, developments in the three target countries are described and analysed. The main focus of this analysis is networking and other activities for creating the knowledge base, cooperation and trust needed for reform. The NPM-type reforms play an important role in this comparison in checking managerial development levels of politico-administrative systems. On the other hand, the basic level of conventional administration, especially the Weberian neutrality of the administrative machinery, is an obligatory precondition to proper adoption of the NPM or modern governance reforms. The stakeholder analysis of the reform units will be done on both the national and international levels. The styles of participation and involvement are also studied from the view of the reform units along with the roles of the consultations and training activities.

There will be considerations and conclusions from the comparative analysis concerning the institutionalisation of administrative reform. The main focus will be the possibilities and preconditions of developing conventional administrative machinery and the legal state (a comparison using Weberian bureaucracy model as a basis) and the possibilities and preconditions of adopting NPM-type reforms (using the NPM doctrine as a basis) in the transition countries. The national governance discussion is analysed on the basis of the development level created by sustainable reform policy. The comparison of the three countries enables us to recognise the interesting aspects of adopting the basics of the conventional administration, the NPM-type reforms and the modern governance in the Central and Eastern European countries (Estonia and Russia) and to compare the situation of a developed welfare state like Finland to them.

2. Theoretical background

The modern process of the governance has been a primary focus in recent debates at the administrative sciences following the debate on NPM-type reforms

in the 1980s and 1990s. The challenges of the complex and fragmented developed societies has been central in the scientific debate on how governments can govern the societies with the more and more complicated structures and social problems. In transition countries, these challenges are, however, only a part of the development problems. Modern social complexity is also typical to many transition societies, but the most urgent political and administrative problems are due primarily to the rapid transformation of society from the communistic models toward a liberal democracy, a market economy and a legal state. Thus, the governance of the transition society is a multi-dimensional task in which the government must govern both social complexity and rapid change. The most serious threat to the transition is the regression of the society from the levels of education, industrialization and other attributes of modernity that had been reached under communistic regimes. This implies the need to use different theoretical models in the analysis.

First, we must consider general societal development from the diffuse and underdeveloped level toward a differentiated complex modern society. The view of Riggs provides scientific tools to analyse this change (Riggs, 1964). Riggs' prismatic model of change, which describes the fragmentation of transforming societies, can be one starting point for analysis. The pressure between the new models from a liberal democracy and a modern market economy and the old models of the Communist regime or the historical models used before the Communist revolution seem to be opposed to each other, yet at same time linked. We can speak of a prismatic and fragmented society in many transition countries.

Second, in most developed countries the general trend of change has been toward more flexible yet more complex social structures. The NPM doctrine has directed administrative reforms toward decentralisation and more flexible structures and steering systems. The recent governance debate by Bouckaert, Ormond, Peters, Kickert, Pollitt, and Tiihonen etc. (Bouckaert, Ormond and Peters, 2000, Kickert, 1993, Pollitt and Bouckaert, 2000, Peters, 1999 and Tiihonen, 2004) represents a macro-level change analysis in the societies adopting transformation from the conventional model using NPM-type reforms in their politico-administrative systems. The governance problems arise from the challenges of governing these societies which are more fragmented and more decentralised. In transition countries, the main development can also be toward radical decentralisation. This can be badly balanced with administrative development in the country, thus producing decentralised market societies in which the problems of regulation are crucial.

Third, administrative reform as such can vary depending on the development level of the society or on the speed and tempo of societal change. The administrative reforms of the transition society are fast, and their weight in the agenda of the government is normally remarkable. At the same time, institutional

arrangements and the intellectual and expertise levels of the administrative reform activities can be insufficient. The institutionalisation of administrative reform units and their activities is a partial solution for governance. The general view of Pollitt and Bouckaert (Pollitt and Bouckaert, 2000) in analysing public management reforms is one possibility in seeking the tools of the modern administrative policy. The idea of “the lead agency” by Corkery et al is another and more specific way to study the institutional preconditions of the sustainable administrative reforms (Corkery et al., 1998). In a transition environment, this kind of institutionalisation is tightly connected to internationalisation and foreign aid institutions and activities.

The last general theoretical view in the comparative analysis of administrative reforms can be built on studies concerning networking in complex societies. In administrative reform some kind of networking has been an old tradition, but the increasing complex and decentralised structures in the most developed societies have activated new forms of networking. The modern governance operates in society with many actors and more active, flexible and approved relationships among these actors. Decentralisation, especially vertically between the central, regional and local administrations, is one key question in the governance debate. The recent theory of the networking of complex societies (Rhodes, 2001; Tiihonen, 2004) is one basis of our analysis. In transition countries, one of the most difficult challenges is to build up both public and private actors of the civic society and their networking

In analysing the administrative development in transition countries, some choices of an appropriate theoretical framework must also be made. Many recent analyses concerning the transformation of transition societies have been built on a deterministic, path-dependency approach in which the destiny of the transition development depends on the starting points of change (Sootla, 2004). An evolutionary approach, in which the focus is on the preconditions and possibilities to actively alter the transition society toward the Western models of the welfare society, is in the main role if we are interested in using the framework to recognise the role of the administrative reforms and their social impacts.

The internalisation of transition countries has followed a specific model in which foreign aid, in the form of imported expert knowledge, has had an important role in transition analysis. Thus, international networking and its specific problems are a part of the framework of this analysis. The EU programmes like Tacis, Phare or Twinning and all other activities of donor organisations are important when analysing the whole network of administrative reforms in the transition countries. In fact, coordination of foreign aid programmes and their relationship into the domestic development activities is one of the most interesting issues in networking of the administrative development in the transition environment (Leloup and Jenei, 2002).

3. Networking in three countries

3.1 The criteria of the comparison

The purpose of our comparison is to analyse the stakeholders of administrative reforms and their organisations. Additionally, the comparison will study the channels, means and participation styles in reform planning and implementation. The network analysis is done with concern for both the domestic and international elements of the cooperation.

When countries included in the comparison are at different levels of administrative development policies, it is necessary to use a broad concept of institutionalisation and networking of the administrative reform units and activities. In the basic comparative report mentioned above, which has been used as an empirical source of this analysis, three institutionalisation levels of the administrative reform units are presented: an ad hoc committee model, a permanent reform unit model and a decentralised reform responsibility model (Temmes, Sootla and Larjavaara, 2004).

The three countries in comparison – Finland, Estonia and Russia – are quite different as societies. Finland is a developed Nordic welfare state that has moved from a poor agrarian society to an industrial country during the last 50 years. Because of this long trajectory of administrative development, we can divide the Finland case into two time periods: Finland 1945 – 1991 and Finland since 1991. The turning point of these periods, 1991, is when Finland dropped into a deep economic depression and the heavy NPM-type administrative reforms began. Finland is in this comparison a “basic case” because of the possibility of using it as a model of gradual development, institutionalisation and networking of administrative reform activities.

Estonia and Russia are typical transition countries which have adopted a new constitution and social system at the historic moment of the collapse of the Soviet Union. Estonia is in this comparison a small-scale transition society which has been moving quickly to become a member of the European Union. In a short time, it has had numerous reform experiences, created university education for this kind of the expertise and institutionalised administrative reform units.

Russia differs from the other two countries in levels of development and size. Russia has a long tradition of a centralised regime and, in fact, the Communist regime continued and strengthened this tradition through a command economy and one-party power. The comparison of the three countries allows evaluation of the institutionalisation of administrative development in Russia, which will be an important neighbour and cooperation partner to the EU-Europe.

3.2 Finland

Finland has a long tradition of national administration. Beginning in the Middle Ages during the so-called Swedish era, Finland was culturally influenced by Sweden. In 1809, Finland was unified into Russian empire as an autonomous Grand Duchy, which was a starting point to the development of the administrative machinery of Finland.

Thus, the tradition of the Finnish administration is historically long and stable, with Nordic and European traditions and experiences. The trajectories from the administration of autonomous Finland to the administration of today have been a cumulative development process. In this, Finland has been lucky. The administrative cultural relationship with Sweden has been especially valuable to Finland. After World War II, the geopolitical situation of Finland placed many restrictions on its international cooperation. Until the 1960s and 1970s, the only international active gateway to wider European experiences in administrative policy were via Swedish and Nordic cooperation. The gradual opening of international cooperation, for instance, in the form of Finland's membership in the OECD, started in the 60s. After the collapse of the Soviet Union, more active European cooperation as well as membership in the EU (since 1995) changed the international networks of Finland and its administration.

During this long development, many kinds of the administrative reform tools were used. During the first 100 years, the dominant model of the preparation unit for administrative reforms had been a state ad hoc committee. Founding of specific administrative reform units, first in the Ministry of Finance in 1944 and then in the Finnish Institute of Public Management (at the beginning, as a Training Centre of State) in 1971, started a new era in Finnish administrative development. The units in the Ministry of Interior, specialized in development of regional and local administration since the 70s, have also meant some institutionalisation and deeper specialisation of administrative reform expertise in Finland. We can say that Finland moved with these new units toward a permanent reform unit model. The specific university education of the administrative sciences started in Helsinki University in 1944 and in Tampere University in the mid-60s.

These permanent reform units created during the 80s and 90s have active relationships to international administrative science and public management organisations. Such organisations as the OECD Public Management Committee (PUMA), International Institute of Administrative Sciences (IISA), its European Group (EGPA) and many other more specific international organisations of the civil service training and administrative expertise formed a network in which the reform units could get useful background information for planning and evaluating their activities.

At the domestic level, these units work together with actors from political institutions, ministries, agencies and municipalities. In Finland, administrative reform expertise is divided at the ministerial level between the Ministry of Finance and the Ministry of Interior. The state administration and the municipalities have their own administrative reform and training institutes. Even university education is divided, treating state administration and municipal administration separately. In recent years, cooperation with private expert organisations such as consultancy firms and associations has increased dramatically.

Party political ideas have not had a big influence on public management development in Finland. On the contrary, the reforms have primarily been the work of a fairly small elite of top civil servants and a few key politicians who specialise in the administrative policies of their parties (Pollitt and Bouckaert, 2000, p.219). Since 1987, there has been a special ministerial committee for public management reforms consisting of ministers specialising in administrative issues. This committee has had a remarkable role in directing, coordinating and controlling administrative reform programmes. The experiences of this ministerial committee have been mostly positive. Permanent administrative reforms units have been preparing and advocating reforms, and the civil servants of these units have worked as a secretariat for the ministerial committee. Thus, the Finnish model in administrative reform policy has been strongly built on the internal responsibility of the administrative machinery and its top civil servants, but at the same time there is a clear channel for political steering of the reforms.

Since 1991, Finland has actively applied NPM-type administrative reforms (Temmes, 1998). The remarkable structural reforms in the administrative machinery and new steering systems have created a new governance position in the Finnish politico-administrative system. The actual governance problem is how to govern public sector, which is no longer a homogenous administrative machinery but a network, which consists of numerous actors with different roles and backgrounds. There are the state-owned companies and public corporations and the organisations from the so-called third sector that have official tasks. There also are many kinds of the provider-producer relationships and cooperative administration in organising the welfare services. The wholeness of the administrative machinery of today is much more fragmented, and it consists of heterogeneous units with heterogeneous relationships. In the Finnish case, the remarkable decentralisation from the state administration to the municipalities has increased coordination problems and fragmentation.

3.3 Estonia

The change in Estonian public administration has been tremendous since 1991, when Estonia recovered its independence. The reforms of public administration actually started in Estonia before the true transition (in the mid-80s) when

soft-line Communists intended to improve the worst sides of the administrative command system (Sootla, 2004). The Estonians created momentum in 1991, and effectively create the basic solutions of a liberal democracy, allowing the basic conception of government institutions to quickly grow.

Subsequent development activities in the politico-administrative system have been more difficult. The political as well as technocratic support for administrative reforms has been variable because of frequent alterations of governments and political support. On the other hand, some remarkable reforms have been implemented and civil service training as well the university-level education of lawyers and administrative experts has been begun. The most successful reforms in Estonia have been the administrative reforms in the ministries where the new management practices were implemented. The problems of administrative reform policies due to political instability has caused delays and discontinuity in the reforms (Sootla, 2004). The partly ultra-radical reform policy in some sectors of society – for instance, in agriculture and in taxation – have caused the pressures and the lack of the consensus typical to the prismatic society.

Direct political and technical assistance and even policy transfers from EU countries, later directly from the EU commission in the form the of the Phare and Twinning projects, have been an important source of Estonian reforms. Estonia started its administrative policy from the ideal of “the minimal hollow state” that corresponds to general cultural attitudes (suspect of central authority) and the mood of the main actors – politicians, emerging businesses, the people at large – who were for different reasons not interested in the concentration of authority. International financial organisations as the IMF and the World Bank supported this development (Sootla, 2004).

During the 90s, Estonia did not have a clear lead agency for its administrative reform policy because the Estonian ideology of the governance did not accept the idea of a central coordinative body. Instead of a lead agency, the Estonians used at the 90s *ad hoc* task forces of coalition partners or a commission-type core structure, which were assisted by the certain ministries as a technical supports (Sootla, 2004). At the end of the 90s, the lead agency was established at the State Chancellery, but it was still shadowed by a political commission (Sootla 2004). There has been significant competition between the ministries concerning the leadership of the reforms.

Estonia has chosen an open (position) system for its civil service. The open system in the small state and administration which has followed liberal values, has caused a fluctuation in the core civil service as well as among those who are responsible for administrative reforms (Sootla, 2004). Reform fatigue among civil servants could be also observed due to frequent and unfinished reform attempts. The feeling of ownership of reforms among civil service has been low. Politicians have become more interested in reform, but mostly as a tool for power redistribu-

tion. The Estonian civil service is, however, very motivated about training, both basic and in-service (Sootla, 2004).

Estonia has been especially open to various external impacts. At the beginning, the strategy of “hollow state” was adopted. The IMF, EBRD, World Bank and other sources of economist expertise were among the powerful actors directing the government’s economy policy. There have been many projects on the administrative development that were financed by the EU or the EU member states. From 1997 – 1999, the large PHARE project on Public Administration Development was launched; it was managed by the Finnish HAUS. This cooperation will even strengthen in the near future because of Estonia’s membership in the EU beginning in May 2004.

3.4 Russia

It is difficult to provide a comprehensive picture of administrative reform activities in Russia since 1992. After dramatic changes in the regime, many reform programmes, separate reforms and reform attempts have been targeted to develop Russian administration to better meet the challenges of the new era. In the beginning, these attempts were fragmented, occasional and unsuccessful, but step-by-step the results of administrative reforms have been better. Some of these such as the Civil Service reforms in 1995 and 2004 seem to have been successful. The main background material used to describe these reform activities is found in the new publication: *Models of the Administrative Reform Units* (Temmes, Sootla and Larjavaara, 2004), which includes detailed descriptions of administrative reform activities from 1992 to 2003.

The latest information from Russia shows that there are also some probable and relevant marks of strengthening in the institutionalisation of administrative reform organisations. Through decrees of President Putin (from June 2004), administrative reform activities have a new organisational structure. The main structure for the organisation and responsibilities has been reorganised to be three-level system instead of the former two-level one. In the new constellation, administrative reform activities are separated from the reform of the public services. The most recent idea – to have “the commissioners” from administrative reform units to the ministries steer and control administrative reforms in the ministerial sectors – is really interesting (a piece of news in Helsingin Sanomat 5.11.2004).

The importance of administrative reform is widely accepted in Russia. The traditions of strong centralized political leadership support the implementation of administrative reforms. In a difficult transition environment, the Russian government quickly adopted a market economy and a form of democracy and implemented privatisation. At the same time, reforms in the administrative machinery have been more cautious (Temmes, Sootla and Larjavaara, 2004). The models of

administrative reform, if any, have been indirectly and occasionally taken from countries that have the same size scale and federal structure (in fact, the U.S. has probably been the most important indirect model) as Russia. However, tradition and attitudes in Russian politics and administration prefer highly independent decision-making instead of the easy acceptance of foreign models. The impact of the EU Tacis programme has until now been small, although the financial inputs in the Russian Tacis projects have been remarkable (Sutela and Lainela, 2002). Russia has also been cautious in taking active roles in international organisations for administrative science and practice.

Russian administrative reform activities have until now been rather cautious. There have been several programmes of administrative reforms prepared in ad hoc commissions, but there is no single lead agency organisation which could coordinate the administrative reforms and cumulatively collect the experiences of reform policies (Obolonsky, 2003 and Temmes, Sootla and Larjavaara, 2004). Administrative development belongs mostly to the competence of the presidential administration, but with regard to economic issues the administration is subordinate to the prime minister and some ministries, thus dividing reform competence. The principal implementer of administrative reforms has been the Ministry of Economic Development and Trade in cooperation with the Ministry of Labour and Social Development which is responsible for modernisation of the civil service and personnel management (Temmes, Sootla and Larjavaara, 2004).

In spite of important civil service reforms in 1995 and 2004, we still cannot speak of any comprehensive civil service model in the new Russia because of the many different systems in the various sectors of the administration. For instance, different kinds of the training institutes abound. During the regime of President Putin, an intensive effort has been made to develop merit-based recruitment and career planning. This has been necessary in a society where public institutions were based on personal contacts and networking.

The role of civil servants in administrative reform is controversial. On one hand, civil servants welcome institutional development because they welcome higher salaries and greater stability. On the other hand, institutional changes cause uncertainty. According to many analyses, negative attitudes, especially of mid-level managers, seem to be a real obstacle to reform. Passive attitudes of the civil service have also been a relevant element in the slow development of administrative reforms in Russia (Temmes, Sootla and Larjavaara, 2004).

A weak civil society is also a serious obstacle to necessary administrative reforms. Russian parties and citizen organisations have until now not succeeded in creating enough pressure for a customer-oriented and more effective administration, and concrete reform ideas and proposals are especially lacking. This is necessary before a real breakthrough with a service-oriented administrative culture

The focus of this article and the new book (Temmes, Sootla and Larjavaara, 2004) in which there is a comparison between the administrative reform units in these three countries, was the different models of the institutionalisation in administrative reform activities. The latest news concerning administrative reform activities of President Putin's regime give an impression that a new era of stronger and more professional administrative reform units has started in Russia. The development of these kind of units, however, normally lasts several decades as can be seen in Western European countries.

3.5 Summary of the comparison

In this summary four criteria have been used:

- The institutionalisation of reforms units
- The number and quality of stakeholders in administrative reforms
- The style of participation and involvement in administrative reforms
- International networking in administrative reforms.

Finland

The institutionalisation of reform units

Finland is a typical Western European country with several decades of specific reform units for preparation of administrative reforms. The ministry level department was founded in the Ministry of Finance in 1944 and the State Training Centre in 1971. The municipal administration has its own units in the Ministry of Interior and in the Association of Municipalities. After the heavy NPM-type reform wave in the 1990s, administrative reform activities have also strongly decentralised.

The number and quality of stakeholders in the administrative reforms

The initiatives for the administrative reforms come mainly from top civil servants. The main preparatory tool for reforms was until the 80s a state committee, in which the top civil servants were the main stakeholders. In 1987, the permanent ministerial committee for directing administrative reform programmes was founded. This political steering unit has worked in every government since its founding. Thus, the NPM-type reform wave in the 90s has been politically directed by this ministerial committee. The role of the top civil servants has, however, been remarkable.

The political parties or the organisations of civil society have been passive in the debates concerning administrative reforms. There are only a few cases in which there have been active debates on the needs or problems of administrative reforms. The reforms have been planned and implemented in a wide political consensus of the main parties. The role of civil servants has been remarkable in

Finnish administrative reform policies, especially since 1971 when civil service associations got official negotiating rights.

International networking in administrative reforms

International networking in directing Finnish administrative reform policy has had an important role. First, during the period of constructing welfare reforms from the 60s to the 70s, networking between the colleagues of the Nordic administrations was an important part of the administrative reform preparations. Since the 80s, the OECD PUMA and from the 90s, the European Union, have created new possibilities for increasing networking.

Estonia

The institutionalisation of administrative reform units

Institutionalisation of the reform units expanded in Estonia step-by-step in the 90s. However, political instability and competition between the ministries caused difficulties in creating permanent reform units. At the end of the 90s, there are embryos for all necessary parts of the lead agency institutions. There is a ministerial unit, several training centres for civil servants and university departments that specialise in administrative science and public law, etc.

The number and quality of the stakeholders in administrative reforms

The balance between political and technocratic values and targets has been a problem in Estonian administrative reforms. Short-run political targeting is so dominating that a cumulative and sustainable development of the administration has been difficult. A young generation of new top civil servants has been active in reform policies, but for the most part the civil service has been a passive stakeholder. In this political climate, civil servants have been quite less than active in influencing administrative reform policies.

The style of participation and involvement in administrative reforms

Political participation and involvement has been important in Estonian administrative reform policies. When political changes have been fast, sustainable administrative reform policies have been difficult to plan and implement. The so-called “hollow state model” which describes a passive regulative and intervention policy of the Estonian state, has been caused by the ultra-liberal political climate in the newly independent Estonia.

International networking in administrative reforms

International aid and donor organisations have had a remarkable role in Estonian administrative reform policies during the 90s. The preparatory activities for

membership in the EU have even increased the impact of foreign expertise and aid in administrative reforms.

Generally, cooperation for planning and implementing international projects in Estonian administration has succeeded. This kind of complicated networking always means problems as well, which in the Estonian case have been mainly typical cooperation problems between the national administration and donor organisations. In Estonia, the step-by-step development of a national “lead agency” institution has, however, succeeded in directing and coordinating administrative reform projects to meet national needs.

Russia

The institutionalisation of administrative reform units

In the Russian case, prismatic fragmentation of the politico-administrative system of the new Russia and the size of the country have caused some problems in forming a clear “lead agency” for administrative reform policies. The main tool for planning administrative reform programmes has been an ad hoc committee model, organised either by the presidential administration or by the prime minister. The latest news from Russia which tells of reorganising of the administrative reform units gives an impression that the institutionalisation of reform activities has perhaps reached the next institutionalised level.

The number and quality of stakeholders in the administrative reforms

In Russia, administrative reforms have traditionally been planned using centralised methods. The dualism between the presidential administration and the administration subordinate to the prime minister, the competition between the ministries and the federal system of the country increase difficulties in recognising clear stakeholders in administrative reforms. The role and attitudes of civil servants are also unclear, depending of the benefits and losses of various organisations and groupings in reorganising the civil service.

The style of participation and involvement in administrative reforms

Participation and involvement in contemporary Russia is generally unorganised. Political or civil society support for better administration and good public services and a client orientation is not yet channelled in Russian society, but this development is occurring. Civil society organisations – for instance, green or consumer movements – have started their activities. The development and networking of different professions is also increasing the level of participation.

International networking in administrative reforms

One of the most urgent problems in the transition of the Russian administration is its passive international networking. Russian experts in administrative sciences

and practice are still missing from international fora. International networking from Russia with those organisations which can provide benchmarking information and theoretic and pragmatic experiences on administrative reforms (for instance IISA, International Institute of Administrative Science and EGPA, European Group of Public Administration) is still insufficient.

4. Conclusions

Due to different historical backgrounds, geographical sizes and politico-administrative traditions, these three countries are quite different to each other as regards their administrative reform policies. At the same time, in the institutional and methodological solutions of reform policies, there have been increasing similarities since the beginning of the 90s. However, three different styles of the public administration reforms can be found when comparing Finland, Estonia and Russia.

Finland has followed the Nordic style primarily through consensus and long and patient learning processes, and negotiations among parties, politicians, civil servants and civil society. We can say that the domestic networking around the Finnish administration has been developed over a long period of time. Professional civil servants who specialise in administrative reforms have been the main actors as well the target group of the reforms. This did not lead, however, to the dominance of specific bureaucratic or sectoral interests, but rather resulted in reforms that were well-targeted to public interests. Finnish reforms were also carefully coordinated and balanced by the developed lead agency institution in cooperation with the ministries to avoid implementation failures (Pollitt and Bouckaert, 2000, Pollitt et al., 1997 and Temmes, Sootla and Larjavaara, 2004). The international networking of administrative reforms was a problem until the 80s, but since the 90s, it has become a crucial part of Finnish administrative reform policies. Thus, the fast NPM-type development of the Finnish administrative machinery in the 90s would not have been possible by domestic expertise alone.

The Estonian style of public administration reform has been typical of many transition countries. Administrative reforms are important, and these reforms have been toward the top of the government's agenda. Estonian reforms suffered from the overwhelming role of political actors. Estonia exemplified the Anglo-Saxon managerial and liberal style which was carried out in a ideological and hierarchical manner. Reforms were covertly or openly directed against traditional bureaucratic values. These reforms substantially increased the dependency of higher civil servants on their political head (Temmes, Sootla, and Larjavaara, 2004). International networking, initiated by donor organizations, has influenced the development of Estonian administration since its independence. Especially at the beginning of the 90s, the donor organisations had great impact

in the Estonian choices of reform directions. The Anglo-Saxon model of low state intervention was approved in Estonia with a support of donor organisations such as the World Bank and IMF. Later, the gradually-developed Estonian lead agency institution succeeded in directing the reform policies to follow the national needs and interests of Estonia (Sootla, 2004), with EU impacts increasing already in the mid-90s.

The Russian case has since the beginning of the 90s followed a strong and centralised state intervention. The reform style can also be characterised by the strong position of the bureaucracy that can neutralise most changes perceived as radical and alien to the dominant administrative culture. The overly strong position of the bureaucracy has caused several failures in implementing administrative reforms. Domestic networking among political parties or in civic society is not sufficiently developed to influence reform needs and ideas. The pressures on administration for necessary reforms are not yet channelled from the grassroots sector. Thus, the centralised, top-down model has been adopted almost as the only viable alternative.

Effective international networking could be a valuable possibility in this kind of situation because of high-level information and expertise that can be imported by international cooperation and which is often lacking in domestic institutions under convergence. In a situation where domestic sources cannot produce sufficient expertise or reform ideas, international sources are especially important. This kind of development cooperation must, however, be balanced with effective domestic reform units which can direct changes for national needs. In the case of Russia, international networking is seeking to create more effective and sustainable aid programmes to help Russian development.

The roles of networking in these three public administration reform styles have also been different. Networking around administrative reform policy can have at least three functions. First, it can give information and expertise needed in the reforms. Second, it can channel the reform needs from different actors of society. Third, it can create possibilities for interest groups to press the government and administration to make or avoid reforms or to make corrections to reform plans. The two latter areas are normally domestic and require domestic networking at the central, regional and local levels. The first can be both domestic and international. In the transition environment, when domestic networking in the form of a developed party system and civic society are not fully developed, international networking can temporarily widen to accommodate the domestic areas. The EU accession process is a good example of this. In the process, the Phare and Twinning projects have worked in areas normally belonging to the national reform policy and partly channelled reform needs in the applicant countries.

We can summarise our findings to the three networking models which are some kinds of ideal types when analysing different styles and paths in adminis-

trative reform policies. The first one can be called a balanced model in which the three tasks of the networking of administrative development are balanced between politicians, civil servants and civic society. This model requires high-level developed national institutions and networking in which all these elements are sufficiently developed to reach continuity and cumulative development. Finland and other Nordic countries could in our comparison near this model.

The second model can be called a political one in which the political leadership dominates administrative reform policies. The balance between domestic and foreign sources of the network depends on political development, which in the transition environment can be very unstable. The Estonian case in the 90s could in our comparison near this model.

The third can be called a bureaucratic model in which the balance between liberal democratic forces in society and the state apparatus is clearly working due to the capabilities of the latter group. In this model, the president or prime minister is more a leader of the state machinery than a political leader with a top-down method for planning and implementation. The Russian case in our comparison approaches this model.

The question that this analysis of three cases cannot answer is whether these three patterns of reform are indicative of more general patterns. That is: Do countries that have strong central bureaucracies and limited transitions toward democratic politics retain a more top-down pattern of reform, and do liberal democratic regimes tend toward more balanced approaches? Are there other factors of administrative history or administrative style that may predict the choices? Further, does the style make any difference in the types of reforms selected or the success of an effort at transforming the administrative system? While these results are certainly suggestive, there remains a good deal of work to be done.

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Territorial-administrative Reform in Moldova: How Different Political Interests and Groups Influence Public Policies ¹

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Abstract

This article gives a short overview of territorial-administrative reforms in Moldova between 1998 and 2003. The objective of the paper is the analysis of the role of political interests in influencing the reform. This analysis is based on public discourse in the media, surveys, opinion polls and an analysis of parliamentary election results in different periods in order to have a picture of political leadership at the macro-level. In Moldova, the political commitment to decentralization began to abate as a result of the majority of one party in Parliament, the central government's interest in short-term political gains at the expense of long-term reforms, and the inability of the center to reform and distance itself from the Communist system of governance. Re-centralization is carried out by creating new field offices for the central authorities at the local level, increasing the supervision of local government activities, withholding the passage of essential legislation, and fragmenting the existing territorial-administrative structure by making territorial units smaller and practically incapable of self-financing.

1 Although this paper is somewhat fragmented, the Editorial Board decided to include it in the volume because it provides rare insights into developments in the Republic of Moldova, and describes changes that might be relevant in other CEE countries. By including this paper, the Editorial Board hopes to generate discussion of the presented topics.

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Introduction

One of the priorities on Central and East European countries' internal political agendas after the early 1990s, was the process of decentralization, i.e., the transition from a centralized administrative system to a decentralized one. Since the early 1990s Moldova has gone through a continuous process of political, economic and administrative decentralization. These changes were conditioned partially by domestic needs of the country, but also by external factors and aid agencies.

The importance and, at the same time, the complexity of decentralization can be seen from the fact that it has the potential to transform the most significant actors and relationships, including the development capacity of the state, the behaviour of interest groups and social movements, and the strategies of politicians, non-governmental organizations and voters.² The decision to decentralize is an issue of lengthy debate in almost every country involving various actors and advocacy groups. However, vested interests and advocacy groups influence not only the initial decisions but also their implementation. In Moldova, the Law on Local Public Administration was adopted in 1998 and has been changed 16 times over the past five years. Half of the changes were adopted by the present Parliament during 2002. After the parliamentary elections in 2001, Moldova became the first post-Communist country in which the Communist Party controls both the legislative and executive branches. The party's absolute majority in the 101-seat Parliament has made it the most powerful political actor since Moldova's independence. As a consequence, Moldova is one of the countries that prove the theory that decentralization may suddenly look less attractive to the party that gains unified control over both the executive and legislative branches.³

Over the past 12 years, Moldova has faced one of the greatest challenges of policy implementation in its history, starting with a centralized administrative system inherited from the USSR, experiencing a period of decentralization, and now having a government that has decided to re-centralize the administrative system.

Research Problem and Methodology

Building on the idea that the decision to re-centralize the administrative system in Moldova was based mainly on the political interests of some interests groups and political parties and on the fact that this reform has no real economic or social basis, the research problem is to study why the central government decided to centralize local public administration after a period of decentralization. The objective of the paper is to analyse the role of political interests in influencing re-

2 Eaton K. Political Obstacles to Decentralization: Evidence from Argentina and Philippines, *Public Administration and Development*, vol. 21, no.3, 2000

3 Idem.

form. In order to achieve this objective, we shall give a brief description of background events and actors that required initiating the new reform in the Republic of Moldova. The analysis is based on public discourse in the media. We shall also use data about the results of parliamentary elections in different periods to portray political leadership at the macro-level. Surveys and opinion polls are used to analyze the outcomes of the reform and laws that serve as the basic documents for territorial-administrative reform.

Conceptual framework

In order to facilitate the understating of our analysis, we define:

Decentralization – as both reversing the concentration of administration at a single centre and conferring powers on local government.⁴

Delegation – as passing some authorities and decision-making powers to local officials with the central government retaining the right to overturn local decisions.

Devolution – as granting the decision-making powers to local authorities, thus allowing them to take full responsibility without interference from the central government. This includes financial power as well as the authority to design and execute local development policies.⁵

Re-centralization – as any attempt, formulated in legal terms, by the central government to decrease the level of local autonomy or to abolish it and to establish a system of control over local authorities.

Local Public Administration – as the totality of local public authorities established by legislation to satisfy the general interests of the constituents of an administrative – territorial unit.

Local autonomy – as the right and capacity of the local collectivities to solve, administrate and be responsible for an important part of local public affairs. Autonomy concerns both the organization and the functioning of local public administration.⁶

Chapter I: The Decentralization Reform

Political Aspects. Consistent decentralization within public administration – provided the competence of centrally controlled public administration (to which we

4 Smith, B.C. Decentralization. The territorial Dimension of the State. George Allen & Unwin Ltd, 1985

5 Villaveces M. Decentralization: A mechanism to overcome political crisis? Research Paper ISS, The Hague 1998

6 The law of the Republic of Moldova on Local Public Administration, N. 123-XV from 19.03.2003, art. 1

shall refer as “state administration”) and local self-government is unambiguously and precisely defined – has an important political dimension. The options created by local self-government ensure democratic plurality in the administration of public affairs and create a certain balance in relation to state administration that relies upon appointments. This balance is all the more important if we consider that Moldova has not yet managed to depoliticize state administration to the extent that decisions regarding appointments be based primarily on expertise rather than party affiliation. Investigations focusing on issues of local democracy repeatedly indicate the dominance of political criteria over expertise. Yet the bearer of political accountability for the functioning of local or regional self-governance is – or should be – the relevant self-government and not state administration. The practice of appointing personnel in state administration on the basis of expertise rather than political criteria goes against the existing political culture, which is in fact a more general problem that concerns the entire political spectrum.

Economic Aspects. Local government can be efficient only if it can manage its own economic and financial resources and, through this mechanism, gains effective independence from the central power. Local finances are an issue of heated public debate, and is the primary method for the central government to maintain control over local authorities. In several transitional countries, the central government tends to keep local authorities fully dependent on the central budget, despite the fact that constitutional norms separate the property and finances of central and local administrative authorities.

Social Aspects. The efficiency of social programs can be improved only by using modern methods and forms of implementation provided by a responsible local public administration. These methods and forms must include the delimitation of the functions and responsibilities for solving social problems between public authorities at different levels. The resolution of social issues by an un-modernized administration becomes impossible due to both structural and functional inefficiencies.

1.1 Historical Background and the First period of the Decentralization

Until 1991, Moldova was one of the 15 republics that comprised the former USSR. Its administrative system was a part of the structure that was established throughout the Soviet country. All administrative-territorial units, i.e., the republics, regions, cities and settlements in the Soviet Union were looked upon by the Center – and regarded themselves – as producers. As a common communist legacy, the ruling party exercised a power monopoly over society and the economy. The basic principle of state socialism was unitary power, state ownership that meant political control over all spheres of social life. There was no real separation

of powers or the autonomy of the various social fields and actors, including those of the public sector as in Western countries.

Starting with the Declaration of Independence in 1991, like most of the Central and Eastern European countries, Moldova undertook some concrete actions concerning public administration reform free of the dogmatism of the party-state and the principles of the Soviet administrative system. We can identify three phases of the reform efforts before 1998.

Phase I: 1990 – 1994. In this period, some actions were undertaken by the Parliament to establish the legislation of the future public administration system. However, they remained only at the project level.

Phase II: 1994 – 1997. On 29 June, 1994, the Moldovan Constitution was adopted, defining the fundamental principles and stipulations concerning the basic elements of the new system of public administration. Article 109 fixes the basic principles of local public administration: local autonomy, decentralization of public services, eligibility of the local public authorities and citizens consultation on local problems of special interests.⁷ Based on this legal construction, a legislative framework for local public administration was to be elaborated with the aim of establishing for the authorities their powers and specific competencies.

In December 1994, the Parliament adopted a number of laws necessary for the new system of local public administration and, in May-July 1996, Moldova signed and ratified the “European Charter of Local Self-Government”. Some scholars⁸ argue that in reality it a false impression that a system of local public administration was created because some internal legislation purportedly violated some stipulations of the Constitution and the European Charter, and there were contradictions between the adopted laws as well. As a result, an “original institutional chaos” emerged with a mix of newly established and remaining old institutions. This institutional chaos was and, in some cases, has been more characteristic of the regional level of functional and territorial organizations than of the central level. In most cases, regional administrative units (as divisions of state administration) were reorganized earlier and had more resources than the new regional self-governing units of public administration. As a consequence, they continued to dominate even when the new self-governments had come into being. After the first years of this period, public administration reforms lost momentum everywhere, and the initial ambitious plans were not carried out.⁹

7 The Constitution of the Republic of Moldova. <http://www.elections.md/lex/constitutia.html#109>

8 Popa V. Legal aspects of Local Public administration in Moldova. <http://www.iatp.md/descenzalizare/>

9 Agh A. Public Administration in Central and Eastern Europe <http://lgi.osi.hu/publications/>

Phase III: 1997. In this final phase of the first period of decentralization, the government and civil society undertook efforts to improve the system of local public administration. However, the proposed bills were not considered by Parliament.

1.3 The New System of Local Public Administration: The Reform after 1998

After the parliamentary elections of 1998, the majority of seats were won by a coalition of three democratic-oriented parties and the government was formed mainly from the members of this coalition. It was an opportune moment in political terms to adopt a new law on local public administration, and to change the administrative reform to a new qualitative dimension.

The new law adopted on 30 December, 1998, changed the regional territorial-administrative structure of the country from 40 to ten administrative units.¹⁰ This law meant the decentralization of public administration in terms of devolution of decision-making powers, and the re-concentration of administrative responsibilities for implementation. The new law contained all the necessary elements for the exercise of local autonomy, stipulating a strict delimitation of competencies between public authorities at different levels.

More importantly, the number of villages was reduced from 925 to 644 which increased the financial capacity of local administrative units. Another important stipulation was the creation of the institution of *prefect*, a territorial representative of the central government. The intention was to make possible the implementation of administrative decentralization reform since the prefect had the right to manage the county's public services without intervention in the activities of local authorities. The prefect was allowed to supervise only the legality and not the timeliness of the adopted acts.

1.4 Advocacy Groups that Influenced Local Public Administration Reform

If we analyse the conditions and factors that had influenced the implementation of the administrative reform before 1998, we can define three advocacy groups:

- 1 **Secessionist movements.** In 1992, secessionist movements emerged in Eastern and Southern Moldova. In Transnistria, a region supported by the Russian Federation that has both a strategic interest and an army located in the area, an armed conflict broke out that lasted almost one year. The government concentrated its efforts on the resolution of this conflict rather than on the implementation of local administrative reforms. It should be noted that this conflict is still not resolved, and the region is practically uncontrolled by the

10 Law of Local Public Administration, 11/6/1998 <http://www.lexinfosys.de/document.asp?id=5539>

central authorities.¹¹ Some scholars argue that this was an additional argument for decentralization because the threat or occurrence of civil war may demand radical decentralization to give ethnic groups a sufficient degree of local autonomy to buy off attempts at secession.¹² In fact, the Southern region of Moldova (Gagauzia) populated by the Gagauzian minority ethnic group has gained a high level of decentralization and local autonomy.

- 2 **Parliamentary majority.** If we look at the distribution of the seats in the parliament after the 1994 elections¹³, we can see that the parliamentary majority was formed by the Democratic-Agrarian Party and some Socialist Bloc, most of whose politicians were former members of the Soviet Communist party. They saw decentralization as the process of losing control over state property
- 3 **Local councilors.** After the local elections in 1995, the most active of the newly elected local council members took on the role of the executives formerly played by party professionals. However, unlike the “politicians” of the Communist party who were strictly subordinated to party discipline and responsible to the political authorities, these new politicians were not controlled by any one. They were responsible only to the public through elections.

After 1998, the following advocacy groups affected the reform of local public administration:

- 4 **International Organizations.** These had a significant impact on the implementation of the reform. The Council of Europe provided Moldova with both the legal framework and basic structure for the new public administration. In 1994, it organized the Congress of Local and Regional Authorities of Europe (CLRAE) as a consultative body that has become vital in public administration reforms for the countries of the former Soviet bloc through its detailed advice in the practical management of public administration. In addition to the Council of Europe and its various assistance programs, the World Bank provided assistance and conducted research on public administration reforms in the Central and Eastern Europe countries. Beyond the Council of Europe and the World Bank assistance programs – but linked to them in many ways – there were other specific programs. For example, the Organization for Economic Cooperation and Development (OECD) supported the SIGMA program (Support for Improvement in Governance and Management in Central and East European Countries).

11 Taranu, A.M. The Concept-plan of the Step-by-step Political Settlement of the Transnistrian Conflict. <http://www.iatp.md/academicreview/1/en/article3.htm>

12 Davey, K. Decentralization in CEE Countries: Obstacles and Opportunities <http://lgi.osi.hu/publications/>

13 The Results of Parliamentary Elections <http://www.elections.md/parlament94>

- 5 **Civil society and local authorities.** In a survey on local public administration conducted in 1997 by IFES Moldova, only five percent of the respondents judged the existing public administration system as good, and 60 percent of the respondents and 85 percent of the mayors and local councilors said that the system needed to be changed. The main pressure to implement reform came from the Council of Europe and other international organizations and donors as well as local elites, elected mayors and councilors who were unable to administer local public interests in the exiting old system which had produced popular distrust in local authorities.¹⁴
- 6 **Political elite.** The newly elected parliament had local public administration reform on its agenda, guaranteeing the political will at the central level to pursue reform.

Chapter II: Re-centralization in Moldova: The reform of 2001

1.1 Political and legal background of re-centralization

During the first decade of its independence, the Republic of Moldova adopted a large number of democratic practices such as independent media, free and fair multiparty elections at national and local level, etc. In the parliamentary elections in February 2001, the Moldovan Communist Party (MCP) won 71 seats in the 101-seat Parliament. Thus, Moldova became the first post-communist country in which the Communist Party controls both the legislative and executive branches. The Communist Party's absolute majority in the 101-seat Parliament made it the most powerful political entity since Moldova's independence.

Contrary to the MCP's electoral promises, Communist leader Vladimir Voronin stated immediately after the elections that his party would not revise Moldova's privatisation program and would cooperate with the World Bank and International Monetary Fund. At the same time, he reaffirmed that the MCP's objectives included joining the proposed Russia-Belarus union and reintroducing Russian as an official language in Moldova along with Romanian. The MCP also said that it would keep its promise to reverse administrative-territorial reforms, reverting to the Soviet system of counties called *rayons*.

The 1994 Constitution contains the principle of the separation of executive, legislative and judicial powers. The July 2000 constitutional amendment brought about a major change in the balance of power. Elected by Parliament, the president nominates the prime minister based on the distribution of party power in Parliament. After the February 2001 parliamentary elections, the

14 Popa V. Legal aspects of Local Public administration in Moldova. <http://www.iatp.md/descenralizare/>

Communists took control of both the legislative and executive branches. In the new political system, there are few real checks and balances. The president faces little difficulty in implementing his party's agenda. As the head of the executive branch, the president has the ability to influence the government and dismiss cabinet members. The government is subordinate to the parliament and president, and has little room to manoeuvre. Members of the new cabinet have to follow the MCP's agenda even if they are not formal party members. The dismissal of some of the ministries is seen as an example of what happens to those who do not follow the rules.

The MCP brought back the Soviet-era administrative layout of the country, consisting of 40 local territorial rayons that had been replaced earlier by ten counties (*judete*) and autonomous regions.

On 28 December, 2001, by the majority vote of the Communist faction and several independent members of the Parliament, the adoption of the Law No. 781 on the modification and completion of the Law on Local Public Administration was secured. The procedure of the mayoral election was changed: they were to be elected by the local councils. In compliance with the newly adopted law, on 5 February, 2002, Parliament issued Resolution no. 807, establishing the date for general local elections on 7 April, 2002.

The Communist Party hoped to satisfy some of their voters' desires to live within the borders of their old district. More importantly, the Communists hope to install their own people in local administrative institutions. Until May 2003, prefects appointed by the central government had acted alongside locally elected officials, most of whom were not MCP members. In June 2001, Parliament amended the Law on Local Public Administration, removing the authority of county councils over local budgets. Government officials stated that the change was made because of the "irresponsibility and carelessness" of elected county councilors. Local councils would approve annual budgets but the county's prefects, who are nominated by the central government, would manage these budgets.

Simultaneously, the parliamentary opposition notified the Council of Europe about problems related to local government in the Republic of Moldova. Through its specialized bodies, the Council of Europe recommended that Moldovan authorities reconsider the modifications in the laws on elections and local government and submit them to experts of the Council of Europe. Pressed by the Constitutional Court and in order to fulfil the Council of Europe Resolution, Parliament restored the direct election of mayors and changed the law adopted in 2001.¹⁵

¹⁵ Revision of Local Public Administration. March 5, 2003 <http://e-democracy.md/comments/political/20030305>

The Law on Local Public Administration adopted on 18 March, 2003, in effect took over all the stipulations of the 1998 law, weakening the initial principles of “the vertical division of powers”. However, two major differences should be emphasized. First, Article 70 suppresses the institution of prefect, and stipulates that the territorial offices of the State Office organize the administrative checks of the legality of the adopted acts as well as the activities of the local authority. The State Office can operate timeliness checks that allow the central power to modify and revoke local administrative acts in such domains as public health, public order and security, and methodical activity in education. Local authorities are obliged to present any data and explanation to the State Office, and the State Office presents the results of the checks to government, Parliament and the president. The second difference is the establishment of a new territorial-system of 35 rayons instead of ten counties as was stipulated in the law adopted in 1998.¹⁶

2.2 Financial interests of the government in re-centralization

The level of local autonomy can be evaluated according to three types of resources that local authorities have in their possession:

1. Financial resources;
 2. Administrative resources;
 3. Material resources.
1. Before December 1998, one could not speak of proper regional development in Moldova because the former rayons (territorial-administrative units of the second level) were too small to be considered regions. Rayons were not designed as regions but as concentrated decision centers of the former regime. On a territory of 33.7 thousand square-kilometers, with a population of 4.3 million, the average population of one territorial-administrative unit of second level was 86,000 citizens, though many of the units have less than that.¹⁷ Counties in comparison with rayons are more endowed economically by having a more developed infrastructure.

The weight of local expenses in the total of public expenses shows the role of local public administration in society or the level of its participation in service delivery. Whereas existing public local authorities spent about 40 percent of the consolidated public budget in 1995, this index decreased to 22 percent in 1999. At the moment, it is at 30 percent.

Figure 1 shows that, although the number of ex-rayons that transferred to the central budget less financial means than the amount of transfers received was

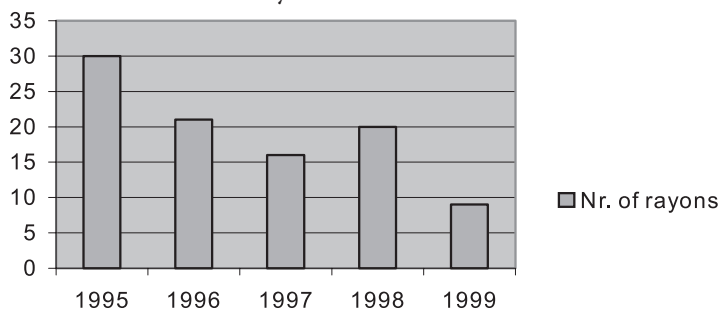
16 Law on Local Public Administration from 18/03/2003 <http://www.docs.md/Asp/frames.asp?Lang=ROM>

17 Popa V. From centralism to decentralization <http://www.iatp.md/descentralizare/ra31.asp>

smaller in 1999 than in 1995 (nine and 30 rayons respectively), the problems are still very serious to be able to regard it as some continuous improvement.¹⁸

Figure 1.

Number of ex-rayons that received more transfer from the central budget than they have allocated



Source: Center for Strategic Studies and Reforms

The structure of local public income. The smaller the communities and the more the economy is oriented to agriculture, the smaller the weight of their own revenues is within the totality of local revenues. This situation is the result of a bias in the financial system of the Republic of Moldova. Most taxes are levied in localities with agricultural production. As a result, budgetary resources move from agrarian to industrial localities.

The right to make decisions on local public finances. In Moldova, local public authorities do not have the right to undertake legal initiatives. In a situation when the tax system is inefficient and local public authorities are not capable of improving it, this right would be essential for them to have. Quotas settled by superior bodies determine the structure of local public expenses and the volume of transfers. This practice reduces the level of local autonomy since local authorities are seriously limited in their decisions;

2. The continental French system of local public administration that exists in the Republic of Moldova is based on administrative guardianship. This guardianship supposes the creation of a proper legal framework for the local public authority's activity and the supervision by central authorities of the legality but not the timeliness of local actions.

The Law on Local Public Administration adopted on 18 March, 2003 stipulates that prefects (see above) have the right to actively manage local finances, which is a direct attempt to restrain local autonomy.

¹⁸ ECONOMIC SURVEY Moldova in Transition No. 4 (December 1999), Center for Strategic Studies and Reforms, <http://cisr-md.org/reports/cont-srv4.html>

3. Public property is usually an important resource for local public administration as it allows local authorities to solve various social issues and represents a stable source of local public revenue. Unfortunately, the weight of revenue from public property is no more than ten percent in Moldova. Local public property was formed by a governmental decision in 2002. The principle of local public autonomy was thus violated from the very beginning since local public authorities had no right to participate in the decision about their future property. Furthermore, local authorities cannot manage local property properly because of a strict system of central regulation.

The main problem is the lack of opportunities of self-financing in the case of rayons as well in the case of counties and the obvious tendencies of centralization that will bring to the liquidation of local autonomy. Similarly to local authorities, the new rayons are more dependent on the central budget because of their smaller economic potential and the lack of means to solve problems of local interest.

The lack of their own revenues for local public authorities, the limits of the expenses established by the central public authorities, excessive regulations and the limitation of self-governance reduces local autonomy and the feasibility of local governance to a minimum.

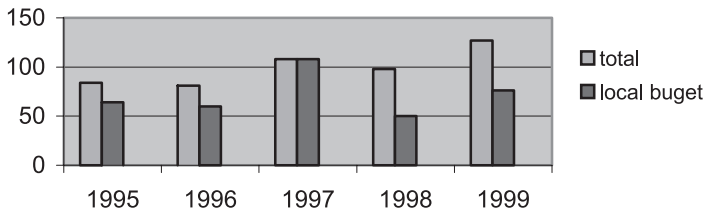
In Moldova, as in other transitional countries, localities face serious problems in managing their affairs effectively: the complexity and confusion of the budgetary process at the local level for elected officials; insufficient technical personnel; dealing with central strategies that “recapture” authority and resources nominally “transferred” to local governments by manipulating and interfering with local budgeting and spending.¹⁹ We can add the legal controversies that are typical of Moldovan legislation and undermine the ability of the regions to self-support and be financially viable.

Figures 2 and 3 show some improvement in local budgets, but fluctuations exist due to the factors mentioned above and the regional economic crisis after 1998 that had a grave impact on the national economy.

19 Wunch, J. S. Decentralization, Local Governance and “Recentralization” in Africa, *Public Administration and Development*, vol. 21, no.1, 2001

Figure 2

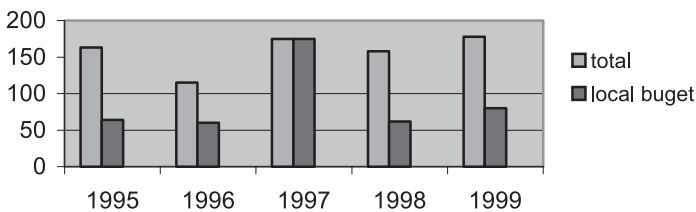
Trends of revenues and spending of the local budget. Total per rayons (%)



Source: Center for Strategic Studies and Reforms ECONOMIC SURVEY Moldova in Transition No. 4 (December 1999)

Figure 3

Trends of local public revenues and spendings. Average at national level (%)



Source: Center for Strategic Studies and Reforms. ECONOMIC SURVEY Moldova in Transition No. 4 (December 1999)

In a situation where the country has large external and internal debts and one of the main objectives of the Communist party is to increase pensions and salaries for budget-dependents, the appropriation of local budgets becomes very attractive for the central government.

2.3 The advocacy groups that influenced the reform

Ruling party. Between 1998 and 2001, the MCP opposed practically all initiatives of the parliamentary majority formed by the Alliance for Democracy and Reforms. One of these was the administrative reform of 1998, implemented with donors' financial support.

The interest of the MCP was to strengthen central control over regional and local government. The main reason the central government wanted to reform existing the local public administration system was autonomy: local communities, being autonomous and able to manage their own problems, do not in principle need state power. However, small communities and localities could never be autonomous entities because they depend on central financial assistance. The country's government therefore decided to implement a new territorial-administrative reform that would decrease the financial capacity of local governments,

thereby making them dependent on the central government economically rather than politically.

The political opposition was formed by two parties: the Social Democratic Alliance and the Popular Christian Democratic Party. They did not participate in the initial policy formulation, but made a significant contribution to policy implementation. Because of their awareness of the fact that it could mean the definitive loss of power both at local level and national levels, they organized mass demonstrations against re-centralization. Opposition parties informed the Council of Europe and the Constitutional Court of Moldova about the fact that the new law contradicted the European Charter and the constitution.

International organizations and aid agencies influenced by the Council of Europe did not oppose the entire territorial-administrative reform, but raised objections to some of the stipulations of the law adopted in 2001. Some authors expect their reaction might come if the new territorial-administrative reform and activity of new administrations do not have a positive effect on the economic development, or if the implementation requires some additional expenditure from the public budget.²⁰ After the elections in 2001, the MCP continued the economic development policies of the former governments which it had previously criticized. This can be explained by the fact that economic reforms have been initiated and coordinated by international financial organizations such as the International Monetary Fund and the World Bank. Administrative reform was not coordinated or monitored by these international institutions. Thus, the MCP may well have wanted to demonstrate to its electors that it was able to fulfil its promises at least in this domain.

Civil society put constant pressure on the government through mass demonstrations. Mass media played an important role in informing public opinion and commenting on the reform, thereby creating a level of awareness of the nature of the reform in civil society. Local public officials, mayors and councilors tried to participate in the policy formulation by creating a number of organizations and organizing some meetings at the national level. They formulated recommendations and carried out an analysis of the impact of the reform. Since they were mostly representatives of the opposition parties and parties that lost the power after the elections, this reform was intended to remove them. In this situation, they could only oppose and try to temporize the reform.

20 Revision of Local Public Administration. <http://e-democracy.md/comments/political/20030305>

Local Government Policy Reform – Pragmatic or Political?

As the experience of other countries shows, the division of competencies between state administration and self-government is relatively flexible and depends upon numerous circumstances which can be categorized into two basic groups:

- Those stemming from pragmatic reasons;
- Those derived from political and power interests.

The relationship between the central government and local government depends upon two circumstances: first, whether it is possible or necessary that central government consciously and voluntarily give away certain competencies; second, whether it is possible or necessary that these competencies, financial resources and public authority be devolved to decentralized bodies that have their boards directly elected by citizens.

Positions and views on these two issues are not universal. In this respect, it is not the historical tradition that is decisive, but rather the importance attached to the values contained within the self-governing model. These values speak about the level of efficiency and democratic nature of public administration. If we put this analysis into the Moldovan context, we can immediately locate the problems in the developing relation of the state and the self-government:

- There is a declared and accepted self-government, but the shift of competencies is not tied to corresponding (competence-related) financial means in all cases. This is the reason why local authorities call for the decentralization of the fiscal system, which is important not only for local government but also for the anticipated self-government of upper-tier territorial units.
- An effort is under way to award municipalities certain competencies but, in contrast to the existing Law of 2003, to keep the decision-making power with the relevant body of the state administration. The tension between the state (represented by the state administration and its competencies) and the anticipated territorial (regional) self-government is revealed even more strongly in regional self-government legislation that has been prepared, where a number of declared competencies are not supported with adequate financial means. Moreover, the actual decision-making competencies are left, to a much greater extent, in the hands of central administration.

In Western Europe, the economic development of regions in particular progressed through several stages:

- 1950s – State control is dominant, tied to a centralistic model of top-down management.
- 1980s – Localism is dominant, tied to a decentralized bottom-up management and approach.

- 1990s – A search for equilibrium is evident: programs of local development cannot be realized without taking account of national interests. Central programs also become inefficient where they do not match local strategic objectives, and where they fail to take account of local cooperation of public and private sectors.

Under Moldovan conditions, these processes are condensed within a shorter time period. They have to address – as part of the natural process of democratization – a revitalized localism in the formation of local government and in the still nonexistent self-government of upper tier territorial units. Simultaneously, they must formulate in a novel way the relation between the state and the above system of self-government, based on an optimal balance of interests with a concurrent distribution of competencies and respect for the autonomy of subjects.

Conclusions

Decentralization is a protracted and difficult process. Vested interests and intractable problems subject reform to long delays and prevarications. Even when a comprehensive package is enacted, as in 1998, operational problems arise which defy solution. A change of government can bring the process to a halt as in 1998, or move it in a wrong direction as happened after 2001.

In Moldova, the political commitment to decentralization began to abate from the beginning, and the anticipated reform of the central government has never materialized. A lack of understanding for the need for local level reform has been obvious, and the level of enthusiasm for reform in the population has decreased over time.

This allowed some political groups to increase their role in local communities by strengthening the influence of the central government. In effect, the central government is “re-centralizing” the political power in Moldova. This is a result of three factors:

- The majority of one party in Parliament;
- The central government’s interest in short-term political gains at the expense of long-term reforms;
- The inability of the center to reform and distance itself from the Communist system of governance.

Early on, it appeared that the local governments would obtain substantial control over their own destiny. However, decisions about local democracy are made in a close circle at the top level. Local actors and groups are used by politicians, and are unable to participate in the development of local government policy. In March 1998, the Law on Local Public Administration was adopted. This law provided local governments with the right to own property, manage their

financial resources, collect certain taxes, and act in all matters concerning the local community. Despite these advances, the central government is now playing a crucial role in re-centralizing political power in Moldova. This is being accomplished by:

- 1 Creating new field offices of the central authorities at the local level;
- 2 Increased supervision of local government activities;
- 3 Withholding the passage of essential legislation;
- 4 Fragmenting the existing territorial-administrative structure, making territorial units smaller and practically unable to self-finance.

What are the consequences of the efforts to put self-governments in a position of dependence upon centrally-controlled state administration? Any self-government that has weak competencies and finances demonstrates the following effects:

- Its actual self-governing capacity is limited, which is reflected in its performance and opportunities to influence local social reality.
- There is a mismatch between expectations and objective possibilities that are attributed to a self-governing system, both on the part of self-government institutions and those who are the objects and subjects of self-government (citizens).
- Gradual disillusionment and apathy emerge among civil society actors with regard to the potential of self-government.
- There is a loss of trust in the democratic institution of self-government which discredits them politically.
- Regardless of the actual causes, self-government's performance is not transparent or readily visible to citizens, and therefore creates conditions that are conducive to the revival of a strong and all-encompassing state.

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Central – Local Politico-Administrative and Governance Relationships in Two Ukrainian Cities: Kyiv and Odessa

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Introduction

The institution of local self-government occupies an increasingly important position in Ukrainian society. However, the contemporary system of local self-government in the Ukraine is still not consistent with the principles of the European Charter of Local Self-Government. In areas such as access to sources of revenue, policy initiation and citizen involvement in local governance, municipal governments in the Ukraine frequently fall significantly short of expected European standards. In part, this is due to the lingering influence of the Soviet totalitarian past on the mentality of both Ukrainian legislators and representatives of local governments who are working to create democratic principles of true people's power. Too often, the creation of a independent self-governance authority conflicts with the strong desire of some political forces to transform local self-government into an appendage of state (national government) power under rigid and comprehensive control. In spite of this, democratic principles are finding their way into the re-thinking of the role of local self-government in Ukrainian society.

The growing preoccupation in the Ukraine with the role of local self-government in the building of a democratic society is drawn upon a long tradition of European thinking about the role of local governance in democratic development. Beginning in the 1700s with the writings of the French political

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philosopher Jean Jaques Rousseau about the importance of local government in the development of Swiss democracy and, in the following century, with the observations of another Frenchman, Alexis DeTouqueville, on the centrality of local institutions in the development of democracy on the North American continent, there has been widespread acceptance of the principle that democratic development and meaningful local governance go hand in hand.

Obviously, however, the task of developing effective, democratic local governance has been a complicated one – both historically throughout the world, and contemporarily in Ukraine. Much has been written by students of local government about the relationship of local governments to a country's national government, and the relationship of local governments to their citizens. Not surprisingly, these are issues that are equally central to the development of local government in the Ukraine. Illustrative of this new awareness is Odessa Oblast Governor S. Grinevetsky, who has characterized local government as a two-fold phenomenon. On one hand, it is the natural product of local civil society, an instrument of self-organization and the realization of territorial communities. On the other, it is also an authority which possesses delegated duties and responsibilities. And here are legal collisions – with the result that most Ukrainian cities can not yet be identified as possessing fully developed urban political systems.

A true urban political system is a dynamic unity of formal and informal political structures functioning for the purpose of solving conflicts, providing services according to the local system of values and transforming political demands into social policy, etc. [Sakhanenko S. Politychne upravlinnya mistom v umovah samovryaduvannya (Urban Political Management in Conditions of Self-Government). – Manuscript. – Odessa: ORIPA NAPA Publishing House. – 2001. – p.380. – P.59]. In many cases in the Ukraine, there are still only weak urban systems where the potential elements (bodies of local self-government, non-governmental organizations, etc.) have hardly begun to develop. For the most part, it is only those cities that serve as centers of major regions that have begun to develop as the true urban political systems of the Ukraine: Kyiv, Odessa, Lviv, Dnipropetrovsk and Kharkiv are among them.

The formal goal of public policy in the Ukraine is the strengthening of positive tendencies in cities in order that they may provide “the points of growth” for the whole state. Consequently, the laws of the Ukraine and the decrees of the president of Ukraine are directed towards the development and improvement of the system of local self-government of the Ukraine. In the Ukraine, two legislatively identified types of local government management have begun to develop: the principal system of local governance which is under the authority of the oblast administration (and rayons if it is a small town) and a system which is characterized by the co-existence of the bodies of local self-government and of the national or state power at the urban level. Within the first system, the bodies

of local self-government execute only the predefined competencies of local government and any delegated responsibilities of public power.

Within the second type, local officials form the bodies of local self-government and the bodies of national (or state) power. In such cities, the mayor, elected by the population, is also appointed by the president of the Ukraine to be the head of the local state administration. Thus, the bodies of local self-government and the executive bodies of state power cooperate on the basis of mutual delegation of responsibilities. The second system exists only in two important national cities – the capital city of Kyiv and the autonomous city of Sebastopol. At the same time there are several proposals regarding the giving of such status to other cities, especially ones of over a million populations that are the centers of regions.

Ukrainian Cities in Soviet Time

At the beginning of twentieth century, Ukrainian cities were growing as a result of the influx of great numbers of refugees and the migration of the rural population that was being recruited to enterprises in urban areas. However, the further growth of cities was temporarily limited by revolutionary events, de-industrialization and the famine of the 20s. During that time, the urban population declined by more than a quarter.

In 1923, the population of cities began to grow again and, by 1926, they had reached the pre-revolutionary level. From 1941 to 1945, many cities were severely destroyed and their population declined to 60 percent of pre-war levels. However, by the beginning of the 50s, most cities had reached their level of pre-war population and begun to grow. This period was characterized by the rapid concentration of industry in big cities and the mass movement of the population from rural areas to the cities.

During the 30s and 40s, the idea of self-organization or self-government was not widely accepted. The term “self-government” was even deleted from the scientific lexis. Only in the 50s and 60s did the idea of local councils as bodies of self-government develop in Soviet literature. Even then, however, this concept was understood only as involving the widening of people’s participation in local administration and management, with greater informal influence over the activity of administrative bodies and greater participation in the discussion of draft decisions.

During 60s and 70s in the Ukraine, long-term but fruitful work on the identification of the legal status of local bodies of power was in progress. This was because after 1937, when the Constitution of the Ukrainian Soviet Socialist Republic (which consolidated a new system of local governing bodies) was adopted, not even one legislative act regulating the organization and activity of local coun-

cils was approved. During this time, two laws which defined the legal status of the local authorities, were adopted: the “On Village Councils of People’s Deputies of the Ukrainian SSR” and “On Oblast Councils of People’s Deputies of the Ukrainian SSR”. However, there was no law on city councils. In the 70s and 80s, research in which local councils were studied both as bodies of state power and as bodies of public self-government which represent the interests of people was carried out. Issues of their functioning, status, system, structure and problems were given priority. Thus, at the beginning of the 90s efforts began to develop the draft law on local self-government.

The Local Government Legal Framework

Key sources of municipal government in Ukraine are: the Constitution of Ukraine, the laws of Ukraine (acts of the Verkhovna Rada of Ukraine and the Council of Ministers of the Autonomous Republic of Crimea), the acts of administrative bodies in the sphere of local government, the acts of the local self-government and international acts in the sphere of local self-government.

The Constitution of Ukraine has a provision on the recognition and guaranteeing of local self-government by the state (art. 7); on the power of the citizens through bodies of local self-government (art. 5); on the people’s right to participate in local referendums, to elect freely and to be elected to the bodies of local self-government, to have equal right of access to the services of bodies of local self-government (art. 38); on elements for elections to the bodies of local self-government (art. 71); on responsibilities of the Verkhovna Rada of Ukraine in the sphere of local self-government (item 30; art. 85; item 15, art. 92); and, on other key issues of local self-government such as functions and responsibilities of territorial communities, order of formation and structure of representative bodies of local self-government, their main functions and responsibilities and the mechanisms of local self-government provision (Chapter IX).

There are also important laws on local self-government – general and special (territorial and branch). The law, “On Local Self-Government in Ukraine”, defines the system of local self-government including grounds for organization and activity of local bodies and officials, their functions, duties and responsibility and the guarantees of local self-government. The forms of direct provision of local self-government by territorial communities (local referendums, local initiatives, etc.) are identified in this law as well as the duties of executive bodies of city councils, the status of city mayor and the material and financial grounds for local self-government. The law, “On Cities of Kyiv and Sebastopol”, determines the legal status of local self-government in those cities, as well as in the Autonomous Republic of Crimea.

Among the special laws in the sphere of local self-government is the law, “On Capital of Ukraine – Heroic City Kyiv”, where there are a number of chapters devoted to local self-government (Chapter II: “Organizational and Legal Grounds for Local Self-government and Executive Power in the City of Kyiv”; Chapter III: “Local Self-government and Executive Authorities and Officials in the City of Kyiv, their Functions and Responsibilities”; Chapter IV “Material and Financial Grounds for Local Self-government”, etc.).

Another important source of municipal authority involves acts of bodies of state power: the decrees of the president, regulations of the Cabinet of Ministers of Ukraine, normative-legal acts of the ministries, and other central bodies of executive power, local state administrations, decisions of the Constitutional Court of Ukraine on issues of local self-government; and normative acts of other authorities. One of the first acts of the Cabinet of Ministers in the sphere of local self-government was decree/decision # 311 from November 5, 1991, “On Delimitation of Communal Property Between State Property and the Property of Administrative-territorial units”.

Two important actions of the Constitutional Court of Ukraine are the Decision of the Constitutional Court of Ukraine from February 9, 2000 # 1-рп/2000 (on local self-government, charter of territorial communities of districts in cities and other issues) and from March 27, 1998 # 5-рп/п/98 (on elections in the cities of Kyiv and Sebastopol).

According to article 59 of the law, “On Local Self-government in Ukraine”, the local council has within its duties the authority to make normative and other acts in the form of decisions. The executive committees of the city and the district councils (if they are created) have the responsibilities of making decisions. The city mayor and the head of district councils may make orders which are obligatory for execution within appropriate administrative-territorial units.

As regards the normative-legal acts of the subjects of the system of local self-government, local referendums and acts of representative bodies of local self-government, particularly the charters of cities and other administrative-territorial units, standing orders of councils, rules, regulations, etc. are among the most important. According to article 19 of the law, “On Local Self-government in Ukraine”, the representative body of the local self-government, on the basis of the Constitution of Ukraine, can adopt the charter of the city. The charter is to be registered the Ministry of Justice of Ukraine.

Municipal Charters

The development of the system of local self-government is impossible without an appropriate normative/legislative basis. This action depends in part on the

activity of local governmental bodies. The representative bodies of the territorial communities have to participate in the creation of conditions for the democratic development of municipal self-government through the formation of charters for the local communities.

In part 1, article 19, of the law, “On Local Self-Government in Ukraine”, it is provided that the charter of the territorial community can reflect historical, national-cultural, social and economic and other features of local self-government for the territory. Unlike other documents adopted by city authorities, the charter is to be registered at the Ministry of Justice of Ukraine. The municipal charter is often called “the local constitution” because of its special status. It is the primary document that defines the acceptable acts of the city council, the orders of the city mayor, the decisions of executive bodies, the bodies of self-organization of population and the mutual meetings of residents.

Most urban communities are characterized by a great diversity of interests, many of which are inevitably in conflict. Consequently, it is important for political and governmental power not to be monopolized by any one interest. The municipal charter must be structured so as to insure that:

- different opinions and procedures of conflict-solving can be identified within the administrative-territorial unit;
- mechanisms of local democracy enhance the social activity of population and development of civil society;
- the public interest is defended through description of norms and rules of interaction in the community; and
- there is a guarantee of the succession/continuity of power.

Thus, the charter is a means of self-regulation of the territorial community, a code for citizens’ life in the city, a reflection of the values adopted by local units to give the residents the practical possibility of realizing their needs and the right to participate in building their own life.

The analysis of local laws in recent years testifies that in most places in the Ukraine the charter process is in a very rudimentary state. In part, this is because the development of the local municipal charter creates many conflicts, most of which are connected with the necessity of an accurate definition of its subject and structure, the coordination of charter items with the norms of existing legislation and the non-acceptance of the ideas of charter rights by some local leaders, etc.

The Charter Process in Odessa

Odessa as a multi-functional city which is at the center of a significant regional economic system. Its scientific and cultural functions reach beyond the boundaries of its oblast and spread to several neighboring oblasts, the city centers of

which are less developed. The city possesses the major part of the industrial resources of the region, including complex industries which need highly-qualified cadres, enterprises/institutions and organizations of inter-oblast importance (banks, theatres, institutions of higher education, research institutions, etc.). As the result of the concentration of those functions, Odessa has become an important center of administration, science and culture for both the region and the country.

For Odessa, the “local community charter” process has a special meaning. Odessa initiated the charter process in the Ukraine. The preparation of a draft city charter was started in 1995, well before the adoption of the Law of Ukraine, “On Local Self-Government in Ukraine”. This was even before the time when national law provided for the possibility of adopting a local charter. However, this process was later stalled. Efforts to develop the Charter of Odessa were started again in 1998 – 1999 when three draft charters were presented for the public to discuss. The first, known as “The Charter of Odessa” was developed by a working group of specialists from the Odessa Regional Institute of Public Administration of the National Academy of Public Administration, Office of the President of Ukraine, including Professors O. Yakubovsky, S. Sakhanenko and M. Svirin. It focused upon the administrative-procedural aspects of city life.

The second effort, titled “The Charter of the City of Odessa”, was prepared by A. Muchnik, a member of the Odessa City Council (following the proposal on improvement of city management structure by the steering committee of the city council). This project presupposes that the charter is to be adopted by the decision of city referendum; it is based on a unified concept concerning the historic peculiarities of Odessa’s development and the norms of European law.

The third project, “The Charter of the Territorial Community of the City of Odessa”, was presented at the private initiative of M. Orzikh, the head of the Constitutional Law Department and Protector of the Odessa National Law Academy. This proposed charter has the most detailed historical background of the formation and development of Odessa. The author underlines the territorial development of the city as defined by long-term general plans of city development; the development of the city according to the social, economic, city-building policy of the Ukraine on the basis of a combination of the interests of the city community, the Odessa region, the south of Ukraine and all-national objectives and interests.

All three draft charters have some drawbacks, the principal of which is that they are not coordinated with the norms of existing national legislation. In addition, the efforts have not involved a wide spectrum of citizens and/or local interest groups. Obviously, it is desirable to involve (even at the initial stage) the representatives of political parties, non-governmental organizations and residents’

self-organization bodies, who have the professional skills to execute this kind of work in the discussion of the draft document.

Kyiv: A Case of Complex State-local Relations

Kyiv is the most important administrative political, scientific and cultural center of Ukraine. Its special status is reflected in the rapidity of its development and its multi-functional nature and structure. It is the center of the all-national system of government and of the state administration. It directly influences the territory of Kyiv Oblast and, as a regional center, it also influences the neighboring Zhytomir, Chernigiv, and Cherkassy Oblasts which are closely connected with Kyiv regarding industrial, scientific and cultural concerns.

Because of its complex and central role in the Ukraine, in order to execute its functions, the municipal government of Kyiv needs the support of the key bodies of state power: the Verkhovna Rada, the president and the Cabinet of Ministers. On the whole, relations between the city authorities and the highest bodies of state power are rather dynamic and balanced, and testify to a consensus on key issues regarding the political and social-economic development of the capital. In fact, the municipal authorities and the highest bodies of the state hold positions of political centrism that makes them like-minded on many issues.

The higher bodies guarantee the organizational-legal, material and financial independence of the capital city. Kyiv, in turn, demonstrates a loyal attitude towards these bodies and assists them in their activity. But this situation does not preclude the development of some problems and conflicts between municipal authorities and the higher bodies of state power, which they solve with the help of various legal and political methods.

Regarding democratic development in Kyiv, the relations between municipal authorities and the Parliament of Ukraine are of special interest. According to the constitution and the laws of Ukraine, the Verkhovna Rada possesses responsibilities which have great importance for solving problems of management in the capital. They include the right to define the status of the capital of Ukraine, the borders of the city of Kyiv, etc. That is why Kyiv municipal authorities regularly lobby for the interests of the capital in the Verkhovna Rada. In the past, such lobbying was partially provided through the “Capital” deputy group of People’s Deputies of Ukraine [Kampo V. Upravlinnya stolychnym mistom: polityka i pravo (Governing Capital City: Politics and Law). – Viche.-#5, 2002. – P. 10-17. – P.16]. After the elections of 2002, a Committee of the Verkhovna Rada On Issues of State Building and Local Self-Government, with a sub-committee on Issues of Capital Management was created.

The relations between the capital authorities and the Cabinet of Ministers normally are based on partnership; the guarantor of them de facto is the president of the Ukraine. According to law, the government is to guarantee Kyiv its rights. In its relations with the Cabinet of Ministers, Kyiv from time to time has problems, most of which involve financial matters.

A comparatively new but increasingly important and very active factor in the formation and realization of municipal policy in Kyiv are non-profit NGOs which work on different issues of local life. The attitude of Kyiv municipal authorities towards them is somewhat restrained. However, these organizations not only provide various services for citizens, but, in light of limited municipal bureaucratic capacity, they work to improve the connection and trust between the residents and authorities.

Administrative-territorial Reform

Just as center-local relationships are in the process of development between the national and the local governments in the Ukraine, so too are they being worked out within the Ukraine's major cities. Indeed, one of the more problematic area of local self-government in the Ukraine involves the development of local districts within municipalities. The question of "whose competence it is to solve issues of districts in a city's division" is a complicated one.

According to a March 12, 1981 decree of the Presidium of Verkhovna Rada of the Ukrainian SSR, "On Order of Issues of Solving of Administrative-Territorial Arrangement in Ukrainian SSR", the creation and liquidation of city districts is the responsibility of the Verkhovna Rada of Ukraine. However, the current Constitution of Ukraine while defining the district in a city as an administrative-territorial unit different from the rayon (which is a component of the oblast) gives responsibility for the creation of rayons, but not districts in a city, to the Verkhovna Rada of Ukraine. That implies that the Verkhovna Rada (as implied in the Constitution) has no responsibility to create districts in cities and that this function can belong to other authorities particularly city councils.

On the whole, at the beginning of 2003, there were 113 city districts in 26 cities of the Ukraine. The system of district division which existed in Soviet times had the only one criteria for the division of city territories into districts; that is, the presence of approximately an equal number of Communist party members in each of them. Such a system was convenient for the organization of party activity. [Odesskiy vestnik. – February 8, 2003. – P.5]. The other important indicators of balanced development of inner-city territories were ignored. That is why it was not a surprise that representatives of the Communist Party are the most vigorous defenders of the old system of district administration.

Today, the Law of Ukraine allows the creation of several organizational models of city district management. The existence of district councils in Kyiv, and their executive bodies, is directly defined in the Law of Ukraine: “On the Capital of Ukraine – Heroic City Kyiv”. That means that (contrary to other cities) the Kyiv City Council can not avoid the issue of district council formation. Kyiv city districts co-exist with state administrations and their heads. According to existing practice (which is not clearly identified in law), the head of the district council is appointed to the position of the head of the district state administration.

From Soviet times, Kyiv inherited a rather archaic structure of administrative-territorial arrangements, which complicated the governance of the city and lowered the level of municipal service provision, while increasing local bureaucracy, etc. Kyiv was the first Ukrainian city to realize the realignment of local districts. On the basis of Kyiv City Council decision #162/139 from January 30, 2001, “On Administrative-Territorial Arrangements of the City of Kyiv”, new borderlines for districts were established. Kyiv City Council realized the reform of administrative-territorial arrangement of Kyiv going from 14 to ten districts (Golosiyivsky, Darnutsky, Desnyansky, Dniprovsky, Obolonsky, Pechersky, Podilsky, Svyatoshynsky, Solomyansky, Shevchenkivsky) [On Administrative Arrangement of Kyiv / Decision of Kyiv City Council, January 30, 2001 #162].

Some deputies of the Verkhovna Rada of Ukraine have seen in this decision a breach or infringement of their own prerogatives, and addressed the Constitutional Court of Ukraine regarding this action. The Constitutional Court approved the decision and supported the city council. It took into account two laws of Ukraine, “On Local Self-Government in Ukraine” and “On Capital of Ukraine – Heroic City Kyiv”, where the competence of city councils to make decisions on issues of administrative-territorial arrangement is specified. An analysis of the Constitutional Court decision leads to the conclusion that this particular decision hasn’t a general character for all cities with district division, but applies only to Kyiv because of the consideration of the special constitutional-legal status of Kyiv as the capital of the Ukraine.

The formation of the ten new districts created some political reaction in suburban administrative-territorial units. Often, the members of these communities, either at their meetings or through other forms of local democracy, expressed their wish to join the capital and create with it a capital region/county. But the bodies and officials of local self-government and especially of local state administrations in suburb territorial units took the opposite position. This was because the placing of some of these suburban territories under the jurisdiction of Kyiv would reduce the territory of the Kyiv Oblast, and some of its rayons, and, at the same time, the dependence of Kyiv on these administrative-territorial units.

The current pace of Kyiv’s development requires new plots for housing developments, the moving of industry from the central part of the capital and the

building of modern transport/traffic systems for movement in and out of the city. Today, the perspective development of the city is restrained by the existence of strictly defined city boundaries, behind which the capital local self-government has no rights because it is the area of authority of the Kyiv Oblast Council. Such territorial division creates serious problems for the capital city.

One solution would be the creation of a new unified territorial-administrative unit: the Kyiv capital county. There is however opposition to this from the Kyiv Oblast Council. The creation of a Kyiv capital county could widen the power of the capital city by unifying it with Kyiv oblast into one administrative-territorial unit. In response, some have proposed “dissolving” the city of Kyiv and subordinating it to the oblast. In some state and political circles, which do not like Kyiv Mayor O.Omelchenko, there is considerable support for it.

There are several ways to possibly solve the conflict over Kyiv’s territorial borders”:

1. *Agreement on a Variant of Capital County.* An agreement between the Kyiv Council and Kyiv Oblast Council on bringing some territorial communities (suburb territories) into the capital government would be necessary. The parliament must sanction such a formation.
2. *Agreement-self-government collaborative variant.* The population of the territorial communities of Kyiv suburbs elects bodies of self-government, which support uniting with the territorial community of Kyiv on the grounds of an association of territorial communities similar to the Capital County. In this case, there is no need for amendments to the law.
3. *Political variant.* The president, government and parliament make appropriate political and legislative decisions on formation similar to the Capital County, with appropriate changes in the system of capital management, etc.

The “agreement-self-government collaborative variant,” is a possible starting point because the necessary pre-conditions are already in place in terms of the representative bodies of suburban territories. In fact, it appears that the majority of those communities support their “entering” into a capital county. This question was first raised in 1992, but it was not supported by the administration of the country. Today, the political situation is changing in terms of this complicated but necessary step in the development of Kyiv. If there is a decision to do this, then a follow-up step would be for the Verkhovna Rada to decide to adjust the borders of a new capital county.

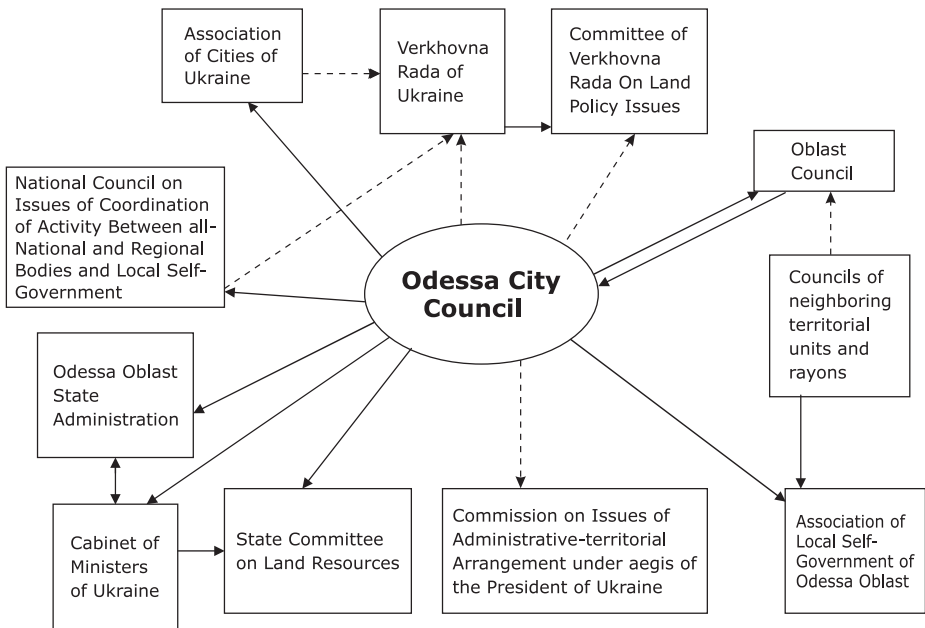
Center-local Relations in Odessa

A complex situation of city and district boundary issues also exists with regard to city of Odessa. Part of the Odessa metropolitan community is located outside the

borders of the city of Odessa on the territory of neighboring administrative-territorial units. However, in the case of Odessa it does not have the special legislative status identified by the Law of Ukraine for Kyiv. For Odessa, like the majority of other cities of the Ukraine, the issue of such reforms is frequently affected by the conflicting interests of both territorial communities and local self-government bodies.

Equally significant in this regard is the problem of multiple actors that are involved in decisions of these sorts. Diagram 1 below provides some sense of the many different actors that would play some role in decision-making regarding changing the boundaries of the municipality of Odessa [Sakhanenko S. *Politychne upravlinnya mistom v umovah samovryaduvannya* (Urban Political Management in Conditions of Self-Government). – Manuscript. – Odessa: ORIPA NAPA Publishing House. – 2001. – p.380. – P.298]. Despite the relatively high level of development of the the local government system in Odessa, it is unlikely that the municipal leadership would be able to mobilize the resources necessary to bring about a significant change in municipal boundaries.

Diagram 1
The Network of Actors Involved in Addressing Boundary Issues of the City of Odessa



Another major issue of center-local relationships in Odessa is one that involves the internal matters of the city – the relationship between the city council

and the city's various local districts. This involves the internal organization of the city territory. Prior to 2004, Odessa was divided into eight administrative districts. Those districts all had similar amounts of funds and similar-sized staffs. However, because of great variation in the numbers of residents, the capacity to respond to citizen needs varied greatly from district to district and demanded correction.

At an April, 2003 session of the City Council, a proposal was submitted to create an independent group of experts to identify the main tasks and responsibilities of all structures of the Odessa City Council and districts aimed at avoiding duplication of functions [Odesskiy vestnik. – April 26, 2003. – P.4] and equalizing service capacity and distribution.

The city council had used the norms of Constitution of Ukraine and Law of Ukraine, "On Local Self-government", to assert its competence in deciding issues of organization of city district management and to not create district councils. As a consequence, the Odessa city council functions in the role of district territorial councils. The executive functions are provided by the city executive committee and, at the level of districts, district executive bodies are created as structural subdivisions of the city executive committee, which interact with it on the basis of subordination.

Odessa became the second city of the Ukraine to undertake the extremely complicated task of redefining local districts (in April 2004, it is one year and four months since the realization of this reform). Because Odessa (unlike Kyiv) has no separate law regulating its status, the city council had to take into account the norms of the Constitution of Ukraine, the European Charter on Local Self-Government and the law of Ukraine, "On Local Self-Government in Ukraine". At the same time, Odessa did follow the Decision of the Constitutional Court of Ukraine #11-pn/2001 of July 13, 2001, which addresses some provisions of the Constitution and a set of acts of Ukraine on the legacy of administrative-territorial division reform in Kyiv. According to these documents, the reform of territorial division is to address such principal concerns as: maximizing the participation of city residents in public affairs and governance; optimization of administrative apparatus; elimination of superfluous bureaucratic obstacles/barriers; and accounting for historical and other peculiarities and/or characteristics of the city. The main task of such reform is the improvement of the living conditions of the citizens.

A commission of the city council which consisted of 33 people (including the city mayor and his deputies, the chairperson of the city executive committee, secretary and councilors, heads of executive bodies of the city council and its structural divisions, representatives of higher education institutions and political parties) and a Working Group on the Development of Concepts for Improvement of City Administration Structure of the City Council (consisting of 14 people),

had to provide detailed analyses and develop the criterion for reform in Odessa. The analyses provided by the working group revealed such problems, as:

- administrative functions that were not supplied financially and/or legally;
- a duplication of duties/responsibilities of various structural divisions of city self-government;
- no well-planned system of executive bodies of the City Council, and its structural divisions did not provide for a realization of their duties/responsibilities and the effective utilization of human resources;
- a lack of efficient control over the execution of decisions made by the city executive committee and mayors orders;
- bureaucratic mechanisms of decision-making that led to long delays in getting documents from the executive bodies of the city council and its structural divisions;
- administrative structures of the city that were, at best, barely acceptable for the support of innovational and investment projects;
- bodies of local self-government that were located far from the places where the majority of residents lived. The buildings of district administrations of three districts of the city (Zhovtnevy, Primorsky and Tsentralny) were located at the extreme suburban edge of the districts which created difficulties for citizens;
- the administrative-territorial division of the city into sub-city units was characterized as archaic and a structure of district division dating from the 1950s and 60s;
- the historical center of the city could not be maintained with integrity because buildings and constructions which had cultural, historic and architectural value were located on the territory of different districts of the city (Zhovtnevy, Primorsky, Zentralny and partially Illichevsky). It was not feasible to create at the level of districts the special agencies and services which could provide the protection of these buildings and suitability of new constructions;
- borderlines which separated the administrative districts of Odessa were not consistent with the main road lines. This meant there was no clear responsibility for important streets, roads and territories;
- great imbalance of resources among the city districts.

The Working Group on Concept for City Management Structure Development proposed the following criteria for reform of districts:

- the unifying of the historic zone of the city into one administrative district;
- the ensuring of conditions for equity/equality of resources among districts according to the population;
- the use of natural main roads as the borderlines of administrative districts;
- the use of existing buildings of administrative centers (district administrations) in new administrative districts where possible;

- the moving of administrative bodies nearer and closer to each citizen of the city and lessening of bureaucratic procedures with regard to his/her interactions with the bodies of local self-government;
- the preservation and keeping of the territorial unity of enterprises and historical monuments;
- the reforming of administrative structure in accordance with the requirements of current legislation;
- the coordination of administrative borders with natural city networks and communications.

After much deliberation, the Odessa City Council reduced the number of districts from eight to four with the aim of bringing the administration closer to the citizen. Some concern was expressed that there was a threat that “the district bureaucrat (would be) converted to local tsar, whom it is not easy to reach” [Ukraine and World today. – February 14-20, 2004. – P.2-3]. However, as tables 1 and 2 indicate, the new districts now are more nearly equal in population and, as a result, in resources.

Table 1.
Odessa districts before reorganization

District	Square (km²)	Residents (people)	Density (per 1 km²)
Zhovtnevy	5.13	46,182	9,002
Illichivsky	29.10	84,795	2,914
Kyivsky	27.20	259,223	9,530
Leninsky	33.97	68,116	2,005
Malinovsky	25.51	151,340	5,933
Primorsky	14.62	144,148	9,860
Suvorovsky	22.97	194,826	8,482
Tsentrally	4.70	80,172	17,058
Total	163.20	1,028,802	6,304

Table 2.
Odessa districts after reorganization

District	Square (km²)	Residents (people)	Density (per 1 km²)
Kyivsky	27.84	265,331	9,531
Malinovsky	56.70	258,142	4,553
Primorsky	23.37	242,453	10,375
Suvorovsky	55.29	262,976	4,754
Total	163.20	1,028,802	6,304

In fact, it is already evident that there have been a number of positive consequences as a result of this reform. The relationship between citizens and local

administrative structures has become clearer, thus making it easier for the citizen to interact with local government. In addition, the historic center of Odessa is now principally located in one district, thus making it administratively much easier to engage in downtown redevelopment activities. Also, existing municipal facilities and communal property have been distributed in a more equitable manner between the new districts. The reorganization also further encouraged and gave greater impetus to efforts to create new administrative arrangements addressing various social, economic and housing-related issues faced by the citizens of Odessa.

The success of reform (which is still in the progress) is, as City Mayor R. Bodelan says, as close to the citizen as possible. That is why the change was made – to change the decision-making process, to involve in it all stakeholders (local governments/authorities/bodies of state power, members of territorial community, NGOs, local agencies of political parties, bodies of self-organization of population etc.) [Vechernyaya Odessa. – July 10, 2003. – P.1]. The NGO “Face to Face” (President Olexy Orlovsky) conducted surveys of public opinion concerning administrative-territorial reform. At the beginning of reform process, 50 percent of the population were for the necessity of reforming, and 50 percent were against it. In summer 2003, (July) – only 40 percent of residents were opposed to it [Odesskyi vestnik. – July 5, 2003. – P.6].

Local Boundary Setting – An Overview

As the prior discussion indicates, issues of administrative-territorial arrangements are very complicated. Responsibilities are balanced between state/public power represented by the Verkhovna Rada of Ukraine and local communities. According to item 29, Article 85 of the Constitution of Ukraine, the Verkhovna Rada has within its functions the power to decide on issues of the creation and liquidation of rayons, establishing and changing of the boundaries/border lines of rayons and cities, etc. Decision-making on issues of municipal-territorial arrangements are the competence of local territorial communities.

According to existing norms the population, through local referendums, independently decides issues on the creation, transformation, liquidation of the territorial community (by means of uniting/dividing, separation/joining, getting/losing of territory). At the same time, the state also has certain authority on territorial community creation. It identifies the conditions, criteria and circumstances under which a settlement or a group of settlements can create their own community. Thus, there is an interrelatedness between territorial communities and the state in decision-making on issues of administrative-territorial and municipal-territorial arrangements [Sakhanenko S. Administratyvno-terytorialny ta munitsypal'no-terytorial'ny ustrij: problemy spivvidnoshennya ta reformyvannya

(Administrative-territorial and municipal system: problems of interrelation and reforming). – *Upravlinnya suchsnyom mistom (Contemporary city management)*. – #4-6 (2), 2001. – P.45-53. – P.50]

As we have seen, issues of district management and organization have produced very heated discussions and disagreements. In part, this is because neither the Constitution of Ukraine, nor the law “On Local Self-Government in Ukraine” clearly answer all the questions about the organization of power at this level. The problem of improvement of the legal norms for management in city districts remains open because the existing norms can be treated differently under different concrete circumstances. Both those who support the preservation or creation of districts and district councils and those who are for their canceling find adequate legal arguments in favor of their point of view in the Constitution of Ukraine and in the law On Local Self-Government.

Conclusion

Today, in the Ukraine, an increasingly important place in the system of political-administrative relations belongs to the sub-regional level: cities. Nevertheless, in decision-making on city problems in the Ukraine, a significant role still belongs to national, or state, power. This can be explained in part by the non-perfect system of local self-government – the system’s traditional weak roots and the paternalism inherited from the national Soviet period. That is why the multi-level system of bodies of city management – bodies of self-organization of (city) population, district (in the city) bodies of local self-government, city-state authorities, and oblast council is supplemented by one more level of political authority – the state power (the legislative branch, central and local bodies of executive power, and bodies of the prosecutor and courts).

In the Soviet period, through the system of political administration, the role of the state (preferably as executive bodies) grew rapidly. One of the results of the modernization process is the loss by the state (first of all, by its executive bodies) of its monopoly position. While building the institutions and relations of civil society, numerous parties, NGOs/public organizations (units), independent mass media, lobby structures, local self-government have become the state’s competitors in the struggle for political power.

Today, relations between state power and local self-government are one of the key problems of local self-government development in Ukraine. Competencies are not clearly divided legislatively between the bodies of local self-government and the bodies of executive power. For example, the laws “On Local Self-Government in Ukraine” and “On Local State Administrations” simultaneously define many similar responsibilities. This situation leads to both competitiveness

regarding competences and unjustified interference of local state administrations into the sphere of local self-government competence.

Complicated relations between state power and local self-government are vividly revealed in cities which are regional centers. Recent experience presents many examples of problematic situations which sometimes have been expressed in the form of open conflict between the two types of public administration at the city level. As can be seen from the analysis of events in Kyiv and Odessa, the general reason for conflict was an inconsistency between responsibilities and duties, and the territorial financial and economic basis for the execution of competencies by both local self-government and state power at the local level. In some cases, there was also personal conflict reflecting ideological and political characteristics. All these factors influenced the system of both city and state (especially regional) administration.

The relations between the two types of public administration are characterized by some level of independence and, at the same time, by inter-dependence, and defined by the actual power potential which the two sides possess in terms of resources. As the state nowadays cannot absolutely control local self-government, it builds its relations with them on the basis of negotiations, compromise and information exchange. Thus, not only does local self-government depend politically and financially on the state, but the state also finds itself becoming more dependent on local self-government in the implementation of its political and economic roles.

Without question, the formation of the institutions of urban self-government in the Ukraine are among the most complicated tasks of new state development. There exists a complex set of problems: economic, financial (restriction of revenues and misbalance of city budgets), social (destruction of existing social infrastructure; the decline of living wages), and political (trust of the population). Politico-administrative relations between state power and local self-government can vary greatly and involve subordination, coordination, cooperation, compromise, conflict and competition. Consequently, the process of municipal reform in a country as large and diverse as Ukraine will not be simple, smooth and non-conflictual.

The role of outside experts in local government

Iwona Sobis* and Michiel S. de Vries**

Abstract

This paper addresses the role of experts in decision-making in local government. Departing from theories about professionals and technocrats in decision-making processes, the question arises as to how much influence these experts have in policy-making processes. The paper addresses this question and discusses the role of western experts in adapting the social security system to EU requirements in a Polish community under the PHARE program. This is a critical case, because comparative figures show that local policy-makers in East European countries have a relatively large trust in experts and because of the money involved, Polish policy-makers are heavily dependent on the experts. These facts result in the expectation that the experts' advice would be humbly accepted. The case study shows, however, that many recommendations do not get a follow-up. The degree to which that is the case seems to depend on the contents of the recommendations, the arrogance of the experts and the degree to which the recommendations are suited to the specific characteristics of the recipient's situation.

1. Introduction

In the process of enlargement of the EU, new members had to address a lot of demands placed on them by Brussels in order to become eligible for membership. In order to accomplish this, the countries were supported by advisory agencies from different EU countries, which could assist in transforming procedures and programs in such a way that these were suited to the practices of the European Union. Little is known until now about the way such processes evolved. The investigation can, however, have important practical and important theoretical ramifications.

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In theories on public policy processes, the role of professionals, rationalism and technocracy has been one of those areas that has been widely debated. The subject belongs to the classic themes in the study of public policy. On the one hand, scholars are seen who promote such professionalism: Lasswell, one of the founders of policy sciences, promoted policy studies by pointing to the need of making rational judgements on policy questions (Lasswell, 1948: 122). Already in 1945, Herbert Simon published his “administrative behaviour” and he became one of the main advocates of rationality, especially procedural, although he recognised the limitations in practice. From the 1960s onward, Yehezkel Dror advocated a “scientific” approach in policy analysis (Dror 1967, 1989), and Daniel Bell promoted the scientific and rational approach toward problem-solving. In the 1970s, Giddens called the trust in professionals a bargain with modernity which only seems to increase (Giddens, 1990). At some point in the growing complexity of social problems necessitating such development (Weiss, 1992) and others investigated the changing role of professionals (Brint, 1994).

On the other hand, more censorious arguments were also heard during the whole period. In the 60s, there was criticism about the rise of technocracy as expressed by Ellul, Dahrendorf, and Habermas who objected to the possibility of improving the policy-making processes by increasing the amount of information. Later on, they were accompanied by famous scholars like Illich, March, Cohen and Olsen, and Dunleavy who disputed the added value of expertise and pointed to the political and subjective nature of policy processes. Since then some critical case studies appeared on the role that professionals play in policy processes. In the 90s, books with catchy titles such as *The Tyranny of Experts* appeared, and criticism arose around the managerial view on policy-making.

The discussion about the actual, expected and desired role of experts in policy-making is far from concluded. Are they the powerful forces behind policy changes or are they just additional instruments in the hands of decision-makers? The next section of this paper goes into the main theoretical arguments in this discussion. It will be argued that this literature is too general in scope, neglecting that there might be variations in the impact of different experts. This is seen, for instance, in the absence of a distinction in the literature between outside and inside experts. Although we would have liked to base the research on theories specifically directed at outside experts, we have to rely on theories on experts in general. One of the most important differences between outside experts and inside experts is, of course, that among the former the knowledge of specific circumstances and culture is less than among the latter. As we will show, the way these outside experts deal with this is crucial to their effectiveness.

This paper presents a case study about the role of outside experts in Poland and argues the specific problems related to their advice and the variance in their approaches. This raises the question how to explain the varying impact of experts.

Is it the content of their work that is determinative, or is this a minor factor compared to the nature of the relation between the experts and local policy-makers; e.g., the a priori trust the latter have in the opinions of such experts and their dependency on experts' advice?

With regard to their reputation, the third section of this paper presents figures on the trust that local policy-makers in East and West European countries have in the recommendations made by experts. We use data from an international research project, indicative for the opinions of those people who actually develop and are responsible for local policies. They were interviewed and asked how they judge the desired role of professionals and expertise. This part of the study will reveal striking differences between local policy-makers in different countries. One finding will be that local elites in transitional countries have much more trust in experts than local elites in old democracies. With regard to the degree that local leaders are dependent on experts, our case study investigates a policy process in which the money involved and the impact of the outcomes are both indicative of a high degree of dependence. The question is, if even in such circumstances, in which one would expect local policy-makers to humbly accept the experts' advice, still variance in the acceptance of this advice is visible. If that can be shown, the content of the experts' advice is likely to play an important role.

Regarding the contents of expertise, there is increasing literature that explores the actual work that experts do. The preliminary conclusion to be derived from that scholarly work is that experts are not so much making recommendations based on an analysis of the problems in the policy at hand, but that they should rather be seen as so-called "standard-setters" (Brunsson & Jacobson, 2000). Experts from the EU, ILO, World Bank and other international organisations seem to be primarily occupied with transforming public policies in order to adapt them and make them compatible to their standards. The in-depth case study on the developments in the Polish city of Lodz shows that some experts can indeed be denominated as standard setters, but that there are also experts who listen, investigate the problem at hand and base their advice on the specific situation. They had to assist in order for Poland to qualify for the EU. It concerned a large project: over a period of nine years, the EU invested 1.7 billion ECU in it and a whole army of EU and ILO-experts flooded the country (Sobis, 2002). This made it possible to investigate the style of those experts and the degree to which the city of Lodz adapted its policies according to the experts' recommendations. Because of the high reputation experts have in the new democracies and the dependence on them as regards Poland's admission as a EU member, one would expect that every recommendation the experts made would be acted upon almost automatically. As the case study will show, the real picture is more complicated. We finish this paper with some reflections about the consequences of the empirical outcomes.

2. The theoretical debate about the role of expertise in policy-making processes

The debate around the role of experts and expertise in policy-making processes deals with persons and processes, empirical trends and normative judgements over the role of those people whose authority is knowledge-based instead of based on the representation of interests and the volume of the groups sharing this interest, as is the case with politicians. Experts are, in the words of Brint (1994: 131-132), a highly trained professional staff working in central institutional domains, either on a salaried or contractual basis. They also include professionals in the surrounding institutional arenas of scientific research, cultural and communication services, social service, medical, legal and educational organisations.

In the debate about these people, two subjects are central. First, the question is what experts actually do and second, what their impact is on the policy-making process.

2.1 Experts as standard-setters limiting policy-makers' choices

The debate about experts results in a prominent question, namely, "What is it that such experts do?" The most obvious answer is, of course, that they help to improve the situation at hand. You have a problem you don't know how to solve? Hire someone who does know and has the answers you do not yet have – an expert. From the experts' point of view, this is the only justified answer.

Nils Brunsson and Bengt Jacobsson provide an alternative answer to that question. In their eyes, it is primarily standardisation and legitimacy that is at stake. They pose that standardisation generates a strong element of global order in the modern capitalist countries because people and organisations following the same standards in the world see standardisation as a form of regulation and control that allows one to understand "similarity and homogeneity among people and organisations far apart from one another" (2000: 1). There are many organisations which refer to themselves as standard-setters. The European Union, International World Bank or International Labour Organisation can serve as examples. Jacobsson argues that "Standardisation is linked to expertise and is usually motivated by the view that there are some persons who know best. In this way, standardisation is given legitimacy" (2000: 40). Usually, expert knowledge is stored in the form of rules that are, e.g., voluntarily accepted by international multi-standards organisations.

Many decisions in the EU develop through trans-national networks involving several different levels and actors in both the public and the private sector. The EU Commission relies frequently on the expert knowledge found in companies, interest groups, the civil service of member countries, etc. There is an extensive interchange of information and views among companies, interest groups, civil

servants and politicians. The explanation for this is partly that efforts to promote integration in the EU have focused primarily on the economy and creation of an internal market (Jacobsson, 2000: 47).

With regard to the EU, Jacobsson argues that its legitimacy in decision-making is derived from the idea of a free market. Consequently, decisions are limited to the essential areas for guaranteeing such a market. The legitimacy of this free market is based on its utility. Experts who make good decisions in their respective fields emphasise that the free market is good for everyone. The legitimacy of EU decisions is based on the assumption that the sector networks in which these decisions emerge are best at solving the problems that may arise: "It is less important to know who is speaking on behalf of whom than who possesses the necessary knowledge" (2000: 47). Thus, decisions are legitimated by expert knowledge, although it is difficult to ascribe neutrality to them. The reason is that in Eastern Europe, we can observe an increasingly important role for such professionals who in fact have limited local politicians in their choices by the technical information provided by experts. This trend can be also explained in terms of "dis-embedding mechanisms" (Giddens, 1991: 17-20).

There is also an opposite view: that experts are becoming increasingly dependent on the market value of their skills, which in turn is increasingly dependent on the degree to which they can use their skills in order to support the politicians' interests in their service. In the modern nation-state, the state legislators possess hierarchical authority to regulate certain matters within national borders. In this sense, state legislators are not the standard-setters but rather the rule-setters. It is the group of international experts that are the standardisers. The standardisers differ from the nation-state in many respects:

Standardisers cannot claim hierarchical authority, nor can they impose sanctions. They offer standards – which could be described as pieces of general advice offered to large numbers of potential adopters. (...) Since standards are presented as voluntary, standardisers often have to expend considerable effort convincing other people that it is in their interest, either now or in the long term, to accept the standards (Brunsson and Jacobsson, 2000: 2).

"Standards" are understood as "rules about what those who adopt them should do, even if this only involves saying something or designating something in a particular way" (Brunsson & Jacobsson, 2000: 4-8). Many rules and types of advice can be described as standards. Brunsson and Jacobsson distinguish three types of standards: (a) Standards about being something, which classify things or actors in a standardised way; e.g., what a telephone is. (b) Standards about doing something; e.g., how organisations should behave, what should be included in different types of educational programmes, what states should do about their financial problems, etc. (c) Standards about having something, which refer to

things we should have; e.g., a modern state should have democracy, a constitution and an educational system.

Some standards become institutionalised if actors take it for granted that they should be followed. Kjell Arne Røvik (1996) defines “institutionalised standards” as follows:

Institutionalised standards are prescriptions, but the extent to which they give detailed practical specifications for organising varies considerably. Some are vague ideas that allow a lot of room for each individual organisation to give them its own interpretation. Other institutionalised standards, however, provide more detailed prescriptions for how organisational activities should be carried out (...) Institutionalised standards are not prescriptions for building a whole complex organisation. On the contrary, they apply to small parts of the organisation and may therefore be regarded as institutionalised “building blocks.” Thus, an organisation is often also a multi-standard organisation because it has usually adapted many institutionalised standards over a period of time from various institutionalised environments (Røvik, 1996: 142).

Assuming that institutionalised standards are ideas that travel in time and space and “have their day”, then “an institutionalised standard is an organisational fashion that has its day” (Røvik, 1996: 166). In other words, a fashion that receives a social authorisation as the most advanced, effective, rational and modern method and strategy to organise work, and that is well-known in the organisations of highly developed Western countries Røvik calls “organisational fashion”. Hence, the Western experts who spread such popular and institutionalised standards might be called “fashion-setters” (Sobis, 2002: 36).

2.2 The influence of experts

The second question is how successful experts are in such standard – or fashion-settings. What is their influence in policy-making processes? Scholars seeing an increased influence often talk about technocracy being the dominant form of decision-making nowadays. Because of the increasing complexity of present-day problems, one cannot solve these problems by just deliberating and deciding about a program. Research has to be done, information gathered and relations between variables have to be taken into account. The interdependence and dynamics of problems has led to an increasing need for expert-analysis and consequently of an increasing influence of people knowledgeable about and able to conduct such analysis, that is, experts (see a/o Bell, Giddens and Weiss). Because such professionals possess a quality not found among policy-makers themselves, and the latter often hardly comprehend the technical details nor the impact of the choices they have to make, they increasingly rely on and therefore become dependent on people they assume do know, who have had the scientific educa-

tion to know and/or work in an organisation specialising in the problems at hand. This has in the eyes of these scholars resulted in the rise of what is called “technocratic decision-making” or the meritocracy in which the most highly educated form the elite (cf. Michael Young).

Some judge this development to be positive because it disposes of the irrational, ineffective and inefficient decision-making processes characterising many policy-making processes in the past, and the possibility of relegating the ideological conflicts by using the tools available to do better (Bell, 1960: 1). Others point to the negative side effects of this development in terms of decreasing possibilities for democracy and the fading primacy of politics in which conflicting interests and power are central (Ellul, 1964).

Irrespective of the moral judgement, scholars seem to agree that the trend towards technocracy is real and irreversible. The arguments are based on the increasing number of people educated at universities and polytechnics, the growing number of experts working in and around government, the influence of think tanks and advisory committees composed of professionals, the increasing dominance of problems related to so-called “organised complexity” (Bell, 1960: 29), and the visibility of this influence in the many, chunky and for non-experts often incomprehensible technical reports accompanying policy processes. Such reports are not only becoming more important because of the complexity of issues, but also because of the emergent need for impact assessments, performance measurement, and in general the need for transparency. The technological advancements in the last couple of decades made possible, what, in the early days of scientific management, could only be done in a very limited way; that is, to rationalise policy processes and in the end to rationalise society.

Regardless of the persuasiveness of this argument, not everyone seems to be convinced. Recently, a growing body of literature appeared that points to a diminishing role of experts and expertise. Lakof, for instance, tells us that “Professionals lack political resources to exercise determining influence. In no actual society, scientific or technological knowledge is considered to be a sufficient source of moral or legal authority” (in Brint, 1994: 137). Nelkin (1992) concludes that technical analysis is not likely to change anyone’s mind, and that major events are more likely to effect opinions than technical scientific reports. Wilding (1982) sees the power of professionals only to the degree they are granted this power by politicians which is strictly in the interest of the latter. Brint put it as follows: “The idea that the technically able increasingly make important political decisions is fallacious” (1994: 18) ... “Experts for the most part have limited mandates and limited influence” (1994: 135) ... “except on narrowly technical matters.... On matters of larger public interest, politicians are in a position to claim higher priorities and more binding responsibilities, priorities and responsibilities that override the mere conviction of expert knowledge” (1994: 135-136).

He notices a shift from trustee professionalism to expert professionalism. The former is dominated, in Max Weber's terminology, by substantial rationality based on a public outlook influenced by noblesse oblige, an emphasis on character and trust, and an insistence on cultivated judgement (Brint, 1994: 8). In the last century, this kind of professionalism is said to be replaced by a kind of professionalism in which the surplus value is measured by its market value. He talks about the marketisation of professionalism in which the distinctive contribution to society at large is no longer crucial, but rather the skills involved in their work. One of Brint's conclusions is that professional development must not be seen in occupational terms, but in relation to the development of markets for professional services and in relation to the interests of organisations that employ large numbers of professionals.

The consequence is that idealism and humanistic culture have been replaced by materialism and market-consciousness (1994: 14). The recent age of expertise has been an age of relatively unrestrained consumer markets and corporate power. (1994: 17). This development resulted in a decline of independent knowledge and increased dependency on those who can afford to pay for their skills; that is, the corporations and in the public sector the politicians with their often one-sided interests. It is not as Ellul says, that the politician is at the mercy of the professional, (Ellul, 1964: 258), but that the professional is increasingly at the mercy of the politicians. The influence of experts is encapsulated within the institutional context that forestalls the outcomes of their analyses and recommendations which run counter to the interests of their "clients" (cf. Massey, 1988). As Brint (1994: 145) tells us, experts are also increasingly naive, mistaking political applause for their ideas as a sign of rationality of their ideas rather than of the political utility of their ideas.

Underneath this discussion about the influence of experts, there is a more fundamental one which often remains implicit in the debate: whether the contents of professional expertise is in any way important for the development of effective, efficient and legitimate policies. Another question is whether the policy process can be seen as a rational process in which goal-achievement and the usage of policy instruments can be technically optimised by the simple standardisation referred to in the previous section in order to eradicate the societal problems confronting policy-makers. It seems that those scholars seeing a tendency toward technocracy indeed think this to be the case. If one sees such processes as political and subjective – involving conflicting interests about the problem definition, the weighing of different effects or in case the costs and benefits are unequally divided – or if one sees such processes as irrational and unpredictable, thus being more dependent on the specific contingencies, the idea that regardless of the contents of the advice, experts have a decisive role, surpassing the provision of legitimising information to be used at the policy-makers' advantage in case of

conflict, makes little sense. In that case the role of experts will be judged to be modest. Therefore, the ideas about the increasing influence of technocrats and the desirability thereof, is likely to tell something about one's view on the aspects deemed important in policy-making. To a certain extent, the same goes for the view of the marginal influence of expertise and the desirability thereof. This seems to be associated with a view on policy-making in which the political and subjective aspects are deemed crucial.

In conclusion, there are two theoretical opposite opinions on the role of experts in policy-making processes. The first sees an increasingly important role for such professionals with politicians being limited in their choices by the standardized information provided by experts. The second sees the opposite trend and professionals increasingly being dependent on the market value of their skills, which in turn is increasingly dependent on the degree to which they are use these skills to support the interests of the politicians. The first view seems to be based on a managerial perspective where the rationalisation of policy processes is central. The second view seems to be associated with a more political approach to policy processes and a conception that technical information has to fit the dominant political views in order to have an impact.

3. The case of Western advisers in a Polish municipality

The interesting thing about the debate outlined above is that it does not necessarily lie in finding the ultimate answer to what in theory is the real nature of policy processes and the role of experts therein. When such an answer in theory is not (yet) available, one way out is to analyse the practice in actual policy-making processes, to assess the opinions of those people involved and to conduct in-depth assessments of policy processes in which outside experts are involved. This is the course of action taken below. We will do an in-depth analysis of the impact of experts coming from Western European countries on policies in a municipality called Lodz in a Middle European country, Poland, with regard to the adaptation of Polish social security policies to EU-norms in order to assess how such expertise works out in practice and whether the recommendations based on such expertise are always acted upon. The research, conducted as part of the PhD project by the first author of this paper, was based on EU official documents, international reports about the transition in the Central and Eastern Europe, the Polish legislation of labour market relations, statistics of unemployment, and 48 interviews with local politicians and representatives of the agencies involved. We will first argue that the circumstances are favourable for a decisive impact of outside experts on the policies underway in this city. The amount of money involved as well as the serious consequences in case Poland could not adapt and the trust in experts among local elites in transition countries in general, results in

the expectation that the experts' advice would be followed almost automatically, irrespective of its content.

3.1. Indicators for a large dependence

Shortly after 1989, about 86,000 unemployed people were looking for work and assistance within the Employment Agency of Lodz, the textile-industry city in Poland. Unemployment, unknown under socialism, presented a new and major problem to the local authorities. The means to counter unemployment was lacking; this along with bad room-conditions and a staff unprepared to deal with unemployment provided the starting point. It further illustrates that adapting to the new labour market and labour protection rules characteristic of free market economies was tough.

About the same time, the Council of Ministers of the European Union decided to assist Poland and Hungary with sweeping changes in the framework of the PHARE programme. PHARE is an acronym for *Poland and Hungary: Action for the Restructuring of the Economy* (Council Regulation (EEC) N° 3909/89 of December 18, 1989). The programme was the world's largest grant assistance effort to Central and Eastern Europe, and the first programme to support reforms of those sectors of the economy of beneficiary countries perceived to be of key importance in the proper functioning of a market economy (See references to the PHARE Programme). In Poland, the EU assistance concerned: (1) Agriculture, (2) Restructuring of Economy and Privatisation, (3) Regional Development, (4) Environment Protection, (5) Infrastructure, (6) Education, Training and Research, (7) Labour Market and Labour Protection, (8) Administration and Local government, (9) Health Care, and (10) Multi-sectional Programme. All the sectional programmes were implemented during 1990–1994. The EU documents indicate that the national PHARE programme for Poland during 1989–97 supported the process of economic transition and institutional reform according to the new circumstances. After 1997, the aim was to prepare Poland for joining the European Union. The PHARE program can be seen as an EU institution that displayed a “constraint/freedom duality” towards Poland. The Polish authority voluntarily accepted participation in the programme because Western assistance was wanted and expected to be in conformity with the Roundtable negotiations. Nevertheless, Poland as a beneficiary country, had to respect the plan of procedure for EU assistance to show that it shared respect for the Community's common norms. After signing the Europe Agreement, the Community reinforced Polish economic reform, industrial restructuring, and stimulation of trade and commerce to prepare the country to join the EU. This implies that there was heavy pressure on Poland to adapt and accept the proposed changes (Sobis, 2002: 73 and 171).

It appears as though Polish authorities took the EU standards for granted, probably because they were based on “expert's knowledge” and voluntarily ac-

cepted by member states. At the national level, the Labour Code was amended, EU labour market norms were introduced, and legislation altered with regard to (1) the definition of unemployed persons and the protection of unemployed persons; (2) the organisational structure of the Public Employment Service; and (3) the regulations for employment, unemployment and unemployment benefits. The legislators implemented the new rules, laid down the amendments to the bills, and approached the EU/ILO's highly institutionalised standards gradually, somewhat by experimental learning due to EU assistance within the framework of PHARE programme, the actual situation on the labour market and the signals from employment agencies. In 1993, the Ministry of Labour and Social Policy established the National Labour Office (NLO) – the highest administrative body coordinating adaptive process. In the framework of the PHARE sectional programme dealing with the labour market and labour protection policy, the EU standard-setters, in close cooperation with the ILO fashion-setters, provided assistance to secure political goals.

The cooperation between the Polish government and the EU resulted in the preparation of an assistance programme by the ILO. The aim was to spread ILO basic organisational fashions of Western employment agencies and to adapt them to the organisational structure of the Polish public employment service. Consequently, the ILO consultants in collaboration with the authority of NLO prepared a series of training programmes.

First, the chief administrators were trained through discussions with supervisors and Western consultants. This happened at the Ministry for Labour. The first staff training courses started later on. About twenty courses were addressed to the staff of the employment service in Poland in order to raise its competency in market economy conditions. Danish, English, French, German and Swedish consultants conducted the training programmes. In March 1995, the ILO started the second stage of the two-year training programme. Its aim was to improve the level of staff competence and the public employment service's organisation. Many courses were about promotion and starting one's own business under catchy titles like "Promotion of Small Enterprise in the Lodz Region", "Vocational Counselling and Promotion of Small Enterprise", and "Individual Enterprise in the Practice of DLOs". Lecturers from the University of Lodz, the authority of the state and municipal governments, and representatives of various financial institutions conducted lectures in collaboration with a consultant from London. Afterwards, the ILO programme started another series of seminars dealing with "Educational aspects of women's adaptation in a situation of unemployment on a labour market". The specific problems of women's unemployment were discussed in topical blocks under the heading of "The general problems of women's unemployment when creating a market economy", "The educational activities for women on the

regional labour markets”, and “The chances, threats, and support concerning women’s educational activities”.

The amount of money involved and the need to be successful in adapting to EU regulations in order to become a member of the EU, are indicative of the dependence of Polish authorities on the experts brought in from the EU to accommodate the transition process.

3.2. The inclination to listen to experts

A second factor important for understanding the Polish position toward outside experts is that Poland is a new democracy and, as will be argued in this section, local elites in such countries place a relatively large trust in experts’ opinions.

Since 1989, the opinions and background of local elites in East and West European countries are measured by a large scale survey conducted within the so-called “Democracy and Local Governance Research” project. This project is coordinated by Krzysztof Ostrowski (University of Pultusk), Henry Teune (University of Pennsylvania) and Lars Strömberg (University of Göteborg); the second author of this paper participated in this project. In all countries involved, more than 20 communities comprising between 25,000 and 250,000 inhabitants were selected at random. Within each of these communities, about 15 political leaders and 15 leading officials were interviewed, resulting in a database of over 16,000 respondents in 665 communities. The interviews were carried out in 1989–1991, repeated in 1995–1996 and again in 1999–2001. For Western European countries, often the only data available is from the period 1995–1996. In this paper, we use data from former East European countries, such as Poland, Lithuania Hungary, Czech Republic, Slovakia, Belarus, Russia, Kazakhstan, Kyrgyzstan and Turkmenistan and West and European countries, such as the USA, Germany, the UK, Spain, Netherlands, Japan and Taiwan. From these countries, we have survey data from 1994–1996 which encompassed 9,468 local officials.

Among the respondents, senior politicians include the mayor, aldermen and leading representatives, often local party leaders, in the local council. The top administrators comprise the town clerk, members of the management team and the heads of departments. They are people who prepare, develop, decide about and take care of the implementation of policies and programs that directly affect the life of the people in the community. They make decisions about subsidies and grants, local taxes, public and social improvements, safety, culture and recreation, housing, education and health policies. It is these educated people, often having a university or polytechnic education who are what some call the local elite (Jacob, 1993). Although their autonomy varies over countries, depending among other things on the degree of decentralisation, all are in some way influential for the daily life of many people.

The interviews/questionnaires were standardised in order to make valid comparisons possible. In the research for the Democracy and Local Governance Project, the most influential local politicians and public administrators in the selected municipalities were asked their opinion about 40 statements. These questions regarded central-local relations, economic equality, values and norms, economic growth and the central variable in this paper, trust in experts. The respondents were presented a number of statements with which they could answer in a simple objective way: completely disagree, disagree, agree or completely agree.

One of those statements refers to the trust the respondent has in experts. It reads as follows: “Most decisions should be left to the judgement of experts”. It is about trust, because trust is, as Hardin interprets it, a three-part relation involving encapsulated interests: A trusts B to do X. This specific trust relates to the knowledge of A that B will take A’s interest into account when doing X. Hardin talks about a high degree of trust, when he says, “I trust you because I think it is in your interest to attend my interest in the relevant matter” (2002: 4) and “What matters for trust is not merely my expectation that you will act in certain ways, but also my belief that you have the relevant motivations to act in those ways, that you deliberately take my interests into account because they are mine” (2002: 11). In this case, A is composed of local policy-makers, B consists of experts and X relates to their judgement in decision-making. Because decision-making is of such crucial importance, in this context we can speak of high-level trust when local elites agree with the statement.

Figure 1
Local elites’ opinions about the influence of experts in 1995

Most decisions should be made by experts				
	old democracies*	new democracies*	newest democracies*	Total
(strongly) disagree	67,19	33,24	41,63	50,00
(strongly) agree	32,56	66,75	58,37	50,00

* *The old democracies involved are the USA, Germany, the UK, Spain, Netherlands, Japan and Taiwan. The new democracies involved are Poland, Lithuania Hungary, Czech republic, Slovakia, The newest democracies involved are Belarus, Russia, Kazakhstan, Kyrgyzstan and Turkmenistan*

Whether or not and by which percentage of local elites experts are trusted in this way is shown in figure 1. This figure shows the percentage of all respondents in the different countries in agreement with the statement. Overall, there are as many members of the local elite trusting experts as there are that distrust those people (last column). It shows also, for instance, that in old democracies, such as the Netherlands this kind of trust is rare. About 32 percent of the local elite in

western countries agree with the statement that decision-making should be left to the judgement of experts.

However, in the new and newest democracies this high-level trust in experts is much more common. Especially in the Central European transition countries (among them, Poland) on average two-thirds of all respondents would prefer it if decision-making would be left to the judgement of experts. In the newest democracies, still nearly 60 percent has this opinion. It seems that especially in these countries where the social and economic problems are huge compared to those in Western democracies, experts are seen as the ultimate resource in improving the situation. The reputation of experts is good, and if possible they are hired and put into service. In Poland, a transition country, this trust in experts in general is also high. All this is indicative that the Lodz case is a critical case for the theory. The financial dependence of the local community was high considering the amount of money involved within the Phare program, the dependency on the outcome (eligibility for EU membership) was high and the a priori trust in experts was relatively high. All this resulted in the expectation that local officials will follow up on every advice given by those experts.

3.3. The actual role of the outside experts

But how did the officials in Lodz actually perceive the impact of the outside experts who were flooding them? There were reactions that were congruent to our expectations given the dependence and a priori trust in experts. The interviewed officials perceived the Swedish, German and Danish expertise as extremely useful in creating a modern employment service. The staff could almost immediately adapt to most of the recommendation, and it felt direct improvements in its working methods. The way the Swedish proceeded seems to be important. The Swedish consultants trained the employment service's staff in Lodz and Gothenburg. The Lodzian delegation had visited the employment agency of Gothenburg to observe how they worked with unemployed persons, what equipment they had, and other important details that could provide them with some inspiration for the organisational changes within the employment service of Lodz. The respondents recalled:

When we had most serious problems how to serve the unemployed and how to pay out unemployment benefits in the simplest way, we received assistance from the Swedish consultants. [...] No one could help us so much than they did. They came four times to Lodz from September 1993 to June 1995. Their visits were important for us. We had no patterns, ideas, and theory how to organise work with unemployed persons within the office. [...] My visit in the Employment Agency of Gothenburg had confirmed my suppositions that a part of the Swedish solu-

tions would be possible to adapt in Lodz certainly, in the framework of our employment and unemployment rules (Interview 21/3, 7, 8).

Our Swedish colleagues helped us paying attention to our needs. They did not impose their will upon us. They neither evaluated our work nor the office's organisational structure in comparison how they did it in Sweden. They gave us advice and pointed at other solutions. They admitted that our office was in a very specific situation. It was impossible to compare our situation with other labour offices in the world. We could not follow any patterns or models that worked correct in other offices (Interview 22/8).

The consultants from Sweden prompted us to improve our work. They schooled us within the office and on the conferences or courses. The meetings with them were to our advantage (Interview 24/12).

The Swedish consultants had some information about our unemployment and it was easier for them to understand our problems. On the other hand, we were very open to their suggestions (Interview 17/80).

The personnel appreciated the Swedish consultants' friendly manner of assisting, of their understanding for the specific situation within the office and their respect for their Polish colleagues' efforts to improve service to the unemployed. The personnel had to learn new working methods from step one. The minimal modifications showed that most Swedish organisational fashions worked correctly within the office, and were adapted into the office's organisational structure. In general, respondents shared the opinion that the Swedish organisational fashions improved their working methods with clients, and they positively affected organisational changes within the District Labour Offices of Lodz (DLO) and essentially contributed to elaborating the model office in harmony with Polish rules. It was not surprising that the state authority spread these organisational fashions further in the framework of cooperation with other DLOs in Poland. Thus, the Swedish organisational fashions of the employment agency helped to standardise activity within the employment service of Lodz, and proved to be of central importance for creating a network of Public Employment Service (PES) in Poland. In this way, the Swedish "organisational fashions" travelled in time and space and brought about the organisational similarities of Polish employment service.

The Germans provided the Centre of Vocational Information (CVI) with office-equipment; furniture, computers, printers, copying machines and video while the Voivodship Labour Office (VLO) financed the reconditioning works and installation of equipment on the area of 130-150 m.² The German organisational fashions of the CVI had a complementary value to the Swedish ones. They came to Lodz when the Swedes had prepared the groundwork for implementing the CVI. According to Røvik, the German prototype of CVI was "an institution-

alised building block” consisting of many “institutionalised standards” (Røvik, 1996: 142). They enlarged the staff’s knowledge about the service of vocational counselling and contributed to its modern pattern in the Western meaning. The staff had reproduced the vocational counselling over time, its “social form” after 1989 clustered around the same goals as in socialism. However, the organisational fashion has been altered and adapted to a market economy. The German institutionalised standards of the CVI travelled from city to city, and contributed to create the similar organisational fashion of the CVI in Poland.

Danish consultants joined the ILO programme in the autumn of 1994. They conducted staff training until 1997 in close cooperation with the National Labour Office of Warsaw. The first course focused on the marketing of the employment agency based on Danish, English and Swedish literature. The courses were addressed to future trainers in marketing of the employment agency and labour matching. The NLO bestowed on one person from Lodz the right to conduct internal training within the employment service in order to prepare placement officers to negotiate with employers about earnings to the unemployed, create workplaces for former prisoners, the disabled, young, etc (VLO 1997: 13). The general understanding for marketing implicated the office’s further improvement in the adaptive strategies. (Interviews 22/15; 24/103) In the opinion of the respondents, the Swedish, German and Danish assistance had an especially positive effect on the adaptive process.

The English consultant started the second stage of the ILO training programmes, aimed at promoting free enterprise, granting loans to employers and training for those starting their own business and other important issues connected to private enterprise. Following the respondents’ narrative about England, they have non-governmental firms that sign agreements with employment agencies to start a “simulating business”. Those firms have a right to monitor the newly established firms/cooperatives and oversee what they did with money they received from the employment agency to start their business. One of the Polish respondents made the following comment on that model, proposed by the English consultant:

They are very professional [in promoting enterprise], but we cannot work in this way. It is too early for us. They look at unemployment in a different way. Look, they have some regions in which they establish the “simulating firms” to counteract unemployment. The firms produce nothing but work for people. Certainly, it could be useful in Poland, especially in those regions, where the unemployment rate is 40 per cent, to let those people do something, but giving them just money is destructive (Interview 15/89,90).

In the opinion of the respondents, the English prototype was highly useful to counteract unemployment but inappropriate to actual Polish conditions. In

their opinion, systemic transition was not sufficiently advanced. Materialisation of the idea required further reforms; e.g., the reform of the banking system and the establishment of new institutions to promote such enterprises. Secondly, the “simulating business” was impossible to implement into the employment service because the rules recommended ways to promote enterprises, start one’s own business and grant loans other than the English ones. Thus, the English organisational fashion had to be rejected. However, the respondents thought that they could be used in the future if the legislative body had changed the rules. (Interviews 18/39 and 24/24) In Røvik’s terms, the Polish personnel had stored the cognitive representations of English simulating business, but did not act upon the advice.

The respondents emphasised that the staff training conducted by the English consultant was meaningful for them because the legislative body had changed the rules dealing with promoting enterprises, granting loans for starting businesses, training for unemployed, etc., though a few times the staff were feeling confused on, e.g., how to promote enterprise. They had no experience with that. The English consultant, by talking about English experiences promoting enterprise, opened up new ways of thinking about the issue. The English institutionalised standards of promoting enterprise served as a source of inspiration to organise work within the Department of the Active Labour Market Programmes, especially those concerning training for unemployed, loans for the unemployed to start a business, and loans for employers to help create jobs. The example shows that experts’ advice has to conform to the local situation in order to result in policy changes. Just promoting a standard, however useful in one’s own country, does not automatically result in adoption, even if respect for the expert and the dependence thereon is large.

When experts’ advice is not even thought useful, the chance of adoption is even slimmer. For instance, the French consultants promoted the French organisational fashion of the employment agency, but this was rejected by the employment service because it proved inadequate to Polish culture and customs in the opinion of those interviewed. French consultants visited the Voivodship Labour Office of Lodz in 1993 as the first ILO consultants. One of the managers admitted:

When they were telling about labour matching and vocational counselling, I had no clue what they were talking about (Interview 21/6).

French consultants tried making the staff more sensitive to the active labour market programmes even while the Employment Agency did not have sufficient means to pay out unemployment benefits to about 86,000 registered unemployed persons. In the French employment agency, they keep a record of all the unemployed, take notes from their discussions with unemployed persons, etc. Everything has to be accurately documented. Those working methods were impossible

to conduct in Lodz because of workload; one placement officer had to provide such services to about 840 unemployed persons in 1993.

The French experts tried to promote their own bureaucratic model, while the labour officers needed concrete, pragmatic ideas to make the payment of benefits easier (Interviews 21/7; 17/24). Probably the French organisational fashions were ultimately rejected because the communication between the consultants and the staff was obscure and arrogant. One of managers explained:

I had participated three weeks in the French programme within the Voivodship Labour Office of Lodz. I had declined with thanks the French model of Employment Agency because it was overly bureaucratic. We had too many unemployed persons coming to the office daily. It was not for us. We needed the most simply roll to pay out unemployment benefits at that time /.../ At the beginning, we were not prepared to discuss with the Western consultants. Later on, when we had been re-trained and had the preliminary vision of the office, we could take advantage of their assistance. Without re-training, we did not have a clue what our guests were talking about. I have said it because of my own experiences. When I had the problems, how to register so many unemployed persons, how to pay out unemployment benefits and when the Western consultants suggested to start with labour matching and vocational counselling, I did not understand them. (Interview 21/5 and 26)

The French experts were interested in establishing a so-called “Club of Active Looking for Work” at the Voivodship Labour Office. To this purpose, they started to train the vocational counsellors to prepare the local leaders who could conduct training for unemployed persons. The French “organisational fashion” of vocational counselling was controversial in the opinion of the interviewees:

Let us imagine, you invite the unemployed persons and ask them to write their life story in the pictures. The unemployed person is told to draw a flower in which s/he is a central point of the bloom, while all the petals suggest that person’s social network or lack of it. I am afraid that such a vocational counsellor would be made fun of and people probably would leave the meeting. The unemployed persons expect a very concrete piece of advice what to do in their situation. The Swedish consultants proposed much more sensible solutions. (Interview 17/26)

The respondent underlined that the office’s clients interpreted that form of vocational counselling as a silly game rather than essential assistance in looking

for work. The Polish respondents added: “Those humans did not deserve to be treated as children” (Interview 17/27).

In general, most Polish officials expressed the same view: “It is impossible to use any organisational pattern in Poland, although it worked correctly in other countries, without changing it” (Interview 22/40). This grasps the essence of the adaptive process; namely, that if outside experts propose measures that do not fit the financial resources, culture and structure of the recipient organisation, these will not be adopted no matter the reputation, the dependence relation or the external pressure to adapt.

4. Reflections and conclusions

This paper started with the question of whether in this complex world the influence of experts in policy-making processes is increasing or decreasing. First, the paper addressed the core business of expertise theoretically and stressed the standardising effect of expertise. Subsequently, we discussed the literature on the relation between experts and policy-makers. Here, we distinguished between the thesis that experts are dominant and politicians are subservient and the opposite thesis that policy-makers are still in charge, while the position of experts is one of subservience. Empirical data shows that in the new democracies there is considerable trust in outside experts, at least more trust than in old democracies. However, a case study involving Western assistance to a Polish employment service, under conditions favouring adoption of all proposals, because of the dependence on the Polish part and the consequences for not adapting to EU rules, still showed that having a reputation as an expert is not enough to induce organisational change.

The case of Western assistance to the Polish employment service, with a focus on the Employment Agency of Lodz, shows how consultants spread the organisational fashions dominant in their own home countries with different success. Not all the organisational fashions suited the Polish realities during the transition from socialism to a market economy. Some of them were contrary to the domestic regulation of the labour market policy, the financial possibilities or even the cultural customs. This seems to be determinative for the degree to which such fashions are adopted. The Swedish, German and Danish experts provided the most meaningful organisational fashions and these were adopted. Conversely the French and English experts' advice was not adopted, simply because there was no fit with the recipient organisation. In terms of Røvik's fashion perspective, the former could make a contribution in solving the problems of the Employment Agency, the problems associated to its adaptation to a market economy, and those related to the creation of a modern public employment service. This implies that the adopters from Lodz followed their own principles of rationality and made de-

cisions that Røvik would describe as “a compromise between norms of rationality and norms of fashionables” (Røvik, 1996: 167).

Although a single case study is presented and generalizations based thereon are by definition hazardous, it is possible to derive two hypotheses about the role of experts in the local policy-making processes. The first hypothesis reads that even under the most unfavourable circumstances, in terms of dependency and reputation of experts, policy-makers still decide for themselves which advice to follow and they base this solely on experts’ advice if that advice is sound. Second, if experts do not take the contingencies of the local situation, culture and structure into account, their advice is likely to be ignored. If, however, they listen and help to solve real problems, their recommendations are likely to be adopted by the recipient organisation.

In conclusion, this case study proposes a way to investigate as well as a preliminary answer to the question of whether experts or policy-makers are dominant in the policy-making process. It suggests selecting cases based on specific features in the relation between policy-makers and experts; e.g., the inclination by policy-makers to listen to experts and their dependency on those experts. It hypothesises that even when the inclination to listen to experts is high and the dependence thereon is large, the policy-makers’ view still seems to be determinative for the actions taken and that even in this case, experts only are influential if they have ideas that are sound in the conception of the policy-makers. These have to be ideas that fit the circumstances in which the recommendations require a follow-up. Furthermore, it implies that theories on technocracy, technocratic behaviour and the power of experts in relation to policy-makers are in need of more empirical research. Research that investigates the relative impact of substantial and strategic factors is needed for understanding the influence of expertise in policy-making processes.

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The Use of Socio-legal Information in the Draft Acts' Explanatory Memoranda: A Pre-Condition for Good Governance

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Abstract

In Estonia as in other EU countries, the analytical information on legal, budgetary, social, economic and administrative objectives and impacts of proposed legislation has to be given in an explanatory memorandum accompanying a draft act. In 1997, the method for normative content analysis of explanatory memoranda in six categories of socio-legal information was worked out on the basis of Estonian legal requirements for the draft legislation and OECD recommendations. In 1998 – 2003, five normative follow-up studies of 651 draft acts and several qualitative case studies were carried out. The main objective was to gain an empirical overview of what extent the initiators of draft acts follow the requirements in information categories which reflect the impact of analyses, involvement of NGOs and harmonization of national and EU laws. From the normative point of view, the quality of draft acts' explanatory memoranda has been comparatively uneven – a lot of draft acts initiated by ministries or MPs did not comply with the legal requirements adopted by the government and Parliament. These studies show some achievements, but most of the work for establishing better institutional framework related to legal state, knowledge-based policy and public administration, lies ahead. In the authors' opinion, Estonia needs a minimalist regulatory policy program on law-making and its impact analysis.

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Chapter 1. General context and practical reasons of studies

The quality of socio-legal information offered in the explanatory memoranda of draft acts (by way of public service) is an important pre-condition for knowledge-based policy debate, participatory democracy and administrative capacity. On the contrary, the lack of systematic regulatory impact analysis [RIA], transparency and surveillance have, in their turn, created favourable conditions for the initiation of draft acts which may involve high social risks. These five empirical studies and complementary qualitative case studies, carried out in 1998–2003, clearly address the importance of parliamentary and academic control over quality of draft acts proposed to the parliamentary proceedings and public debate.

The present paper proceeds from a simple thesis that the problems of administrative capacity and legitimacy of the public policy often arise from the shortcomings of RIA and law-drafting. Considering the experience of OECD and EU Member States in 1990s, there is no reason to think that good law-making and governance practices will start to function without political commitment in regulatory policy, methodological guidelines, systematic training and basic surveillance mechanisms.¹ It takes time.

In Estonia, starting the institution-building of the parliamentary research services in 1995, we faced different political, administrative, scientific, educational etc challenges; e.g., the parliamentary information environment cannot be homogeneous in a pluralistic democracy and in this context, the socio-legal information offered in the explanatory memoranda of draft acts cannot be considered as a frame-neutral input into policy discourse. There are usually a lot of actors and factors, conflict of various interests, information overload, political competition, lack of resources, etc.² In view of this list of actors and factors, the main role of explanatory memoranda to draft acts is to present balanced and well-structured information about the political goals and any legal, budgetary, social, economic and organisational changes related to the implementation of the act. This information has to assist members of Parliament (MPs) in fulfilling their parliamentary functions, e.g., control over executive and informing the public. The limited resources often place the parliamentary research services in the position of mediators and interpreters of the results obtained by social scientists, because they have to be ready to support parliamentary committees and MPs in improving

1 M.Ben-Gera “Impact Assessment: Role, Procedures, Methods and Good Practices in OECD and CEE Countries” – Society, Parliament and Legislation, eds. A.Kasemets et al, Riigikogu Kantselei, Tallinn, 1999: 27-35

2 A.Kasemets “Implications of New Public Management Theory in Parliamentary Research Services” – IFLA Conference Proceedings, No: 073-98 (WS) -E, Jerusalem, 2000 www.ifla.org/IV/ifla66/papers/073-98e.htm

the quality of legislation.³ In many cases, this is related to checking explanatory memoranda (e.g., RIA) carried out by government agencies or the experts behind political parties.

The tools for rationalisation and democratisation of policy-making, provided by RIA, are quite new for most parliaments in Europe.⁴ Although the primary responsibility for law-drafting quality and RIA rests with the ministries, the public responsibility for the legitimacy of the legislation rests with the citizens' parliament. In this context, the practical reason for the studies of draft acts was not only collecting empirical evidence on the use of required socio-legal information, "selective" legal behaviour of law-drafters, etc., but also reflection and improvement of everyday practices of policy – and law-makers.

Chapter 2. Some theoretical frames and discourses

2.1. Moral discourse: knowledge, democracy, law and human rights

Democracy entails a political community in which there is some form of political equality among the people.⁵ The use of socio-legal knowledge in political discourse and legislation serve as pre-conditions for participatory democracy and reasonable decision-making. In the context of the legal/constitutional state and democratic values, we should in the ideal case have an informed parliament and an informed general public.

J. Habermas' writings on democracy, communicative action, ethics and rational debate in the public sphere have inspired many discourses.⁶ His late-modern theory of communicative action differentiates the imperative demands of the system from the rationality of the person's everyday "life-world" in order to analyse the integration of the changing social and law systems. The increase of procedures in the legislation is a response to the change in the life-world, but the

3 It is related to the realisation of the constitutional principle of separation of powers. See also W.H.Robinson "Knowledge and Power. The Essential Connection Between Research and the Work of Legislature" – ECPRD, European Parliament, 2002 www.ecprd.org; J.Verrier "The Future of Parliamentary Research Services: To Lead or To Follow?" IFLA Conference Proceedings, Istanbul 1995: www.ifla.org/IV/ifla61/61-verj.htm;

4 A.Kasemets A. "Regulatory Impact Assessment of Legislation for Parliament and Civil Society: A Comparative Study (22 Countries)" – in *Legal and Regulatory Impact Assessment of Legislation*. Proceedings of ECPRD seminar, ed. by A.Kasemets, Riigikogu Kantselei, Tallinn, 2001: 47-104: <http://www.riigikogu.ee/rva/ecprd/index.html>

5 D.Held "Models of Democrac" Cambridge, Polity Press, 1996: 1; also J.Habermas "Between Facts and Norms. Contribution to a Discourse Theory of Law and Democracy" Cambridge, Polity Press, 1996: 3-6, 44-45;

6 *ibid* Habermas 1996; J.Habermas "On Systematically Distorted Communication" – in *Critical Sociology*, ed. P.Connerton – Polity Press 1976; J.Habermas "The Theory of Communicative Action." Cambridge, Polity Press 1984.

legislation can colonise the communicative structures of the life-world. Habermas sees a mental danger in many social welfare programs that have a tendency to colonise our everyday life with their pre-care. The goal of Habermas' communicative ethics is a society made up of the dialoguing subjects, and striving to achieve a consensus acceptable to the majority. If the legal act and its explanatory memoranda function as an instrument of some elite/lobby group, the market or state interests, the life-world of the people has been colonised because of the systematically distorted communication.⁷

In the market area concerning legislation and public services, the extent of biased, asymmetric information should be reduced.⁸ This means that the measurement of the impacts of political options in economic, social, ecological and cultural terms will be more important, because if the political objectives are not clear and measurable in draft acts, we cannot prepare a systematic *ex post* RIA. When we make an effort to achieve a win-win culture in EU, the argument applies to EU common policies and reaches far beyond a question of formal harmonisation of legal acts.

U. Beck (1992) has observed that we are experiencing a transition to a "risk society," where "more and more social conflicts are no longer treated as problems of order but as problems of risk".⁹ According to P. Hillyard (2001), the sociological studies need to focus more on the materiality of everyday life and, in particular, on the growing inequalities in the world and the role that law and legal institutions play in the structuring of these inequalities. Scholars "have to stand against unfair and unjust distribution of resources".¹⁰ In other words, to be a moral/responsible participant in policy-making, empirical studies are needed because the cost of failure in the field of societal experiments can be too high.

The aim of institutional mechanisms of accountability and transparency is to support the moral foundations of democracy. In order to promote the choices of citizens and increase responsiveness in public service, Stirton and Lodge (2001) are providing a complex toolbox of four transparency mechanisms – information, choice, representation and voice. Accordingly, transparency can be understood to serve two separate but related functions in the socio-political interaction. First, it ensures that public service provides respect to the positive/negative rights of individuals. The second purpose relates more directly to demo-

7 *ibid* Habermas 1996: 107; also B. Carlsson *Communicative Rationality and Open-ended Law in Sweden* – *J. of Law & Society*, 1995: 475-503;

8 R. Posner "Economic Analysis of Law" – 2nd ed, Boston, 1977: 308-317; K. Hoff "Market Failures and the Distribution of Wealth: A Perspective from Economics of Information" – *Politics & Society*, 1996, Vol 24/4;

9 U. Beck "Risk society: Towards a new modernity" – London: Sage, 1992: 8-9

10 P. Hillyard "Invoking Indignation: Reflections on Future Directions of Socio-legal Studies" – *J. of Law & Society*, Vol. 29/4, 2002: 645-56; see also W.M. Evan 'Social Structure and Law'. Sage, 1990: 232-234

cratic theory which values participation. Transparency, in this view, has moral value because it enhances individual autonomy by involving citizens directly in the process of making decisions which affect their lives.

Traditional accountability mechanisms (e.g., parliamentary surveillance) are one part of complex networks. The range of values for which accountability is rendered can be placed in three categories: economic values (e.g., financial probity), social and procedural values (such as fairness, equality and legality), and continuity values (such as social cohesion, universal service and safety).¹¹

To sum up, one of the few issues on which both scholars of sociology of law and public administration agree in theory is the centrality of the moral issues. The quality of socio-legal information, legally guaranteed equal access to the results of RIA of draft acts, the possibility of participating in public debate, etc., are deeply related to human rights.¹² In this context, the development of knowledge-based policy – and law-making is first of all a moral issue and only after that a political, economic or legal issue.

2.2. Use of social science information in public policy and law-drafting

Many social scientists have attempted to understand the interrelated mechanisms of political decision-making and the use/impact of social science information. In recent decades, despite a tremendous growth of attention to the importance of social science information in political and administrative decision-making, most of the studies generally indicate that there is a “great divide” between the community of scientists and the community of policy-makers, and that the policy-makers rarely utilise social science information. Typically, the gap between the two communities is expressed in terms of a few factors: a) there is great distrust between the two communities; b) researchers, bureaucrats and politicians operate under substantially different conceptions of time and worldview; c) it is asserted that researchers need to be more concerned with the information needs of policy-making and the relevance of research to these needs.

Studies by Oh and Rich (1996) demonstrate that information utilisation in political decision-making is affected by a variety of individual, organisational, contextual and other factors and their linkages, not dominated by one set of factors (e.g., trustworthiness of information source or format of reports) defined by a single perspective (e.g., the communications or organisational interest perspective).¹³

11 L.Stirton, M.Lodge “Transparency Mechanisms: Building Publicness into Public Services” – *J. of Law and Society*, Vol 28/4, 2001: 471-89

12 Habermas 1996: 4-6, 183-193; also G.Verschraegen “Human Rights and Modern Society: A Sociological Analysis from the Perspective of System Theory” – *J. of Law and Society*, Vol. 29/2, 2002: 258-81;

13 C.H.Oh, R.F.Rich “Explaining Use of Information in Public Policymaking” – *Knowledge & Policy*, Vol 9/1, 1996

The communications perspective studies explain the minimal use of social information in terms of the lack of interaction between policy-makers and researchers. Researchers need to understand that policy-making at national and EU levels is not a simple process – the findings of research are only one of the elements in the complex process of policy-making. The studies, based on the organisational interest perspective, assume that organisational rules, norms and structures are essential for understanding information acquisition and utilisation in governmental agencies.¹⁴

Sometimes the key questions of “Why?” and “For what?” regarding the use of socio-legal information are needed and required in the explanatory memorandum of a draft act. In the authors’ opinion, the socio-legal information provided in a transparent way to the parliament and public creates pre-conditions for a reasonable political debate and accountability, additional impact analysis, comparison of interests and possible strategies, competition between ideological frames, etc. In sum, it supports the resolutions of policy controversies in public interest. Additionally, there are other types of “outcomes” where information use may be associated with helping in the formulation of guidelines and secondary legislation, designing a service delivery system, developing possible strategies or a marketing campaign, informing the public about a particular problem, designing incentive systems and other specific activities.

Schon and Rein (1994) advocate a communicative approach to policy design, which emphasises the virtues of self-reflection by parties involved in controversy. Inspired by Habermas’ theory, they stress the need to develop institutionalised norms and fora of interaction and debate that will facilitate the transformation of confrontation into dialogue and collective learning. According to Schon and Rein, the use of advanced strategies will happen only in appropriately situated controversies where, e.g.: a) participants are strongly motivated to “get something done”; b) a rich information reservoir is available so that participants may design innovative solutions.¹⁵

To overcome the problem of relativism, many analysts and organisations have tried to formulate more specific and systematic checklists of points a complete policy argument must contain. Checklist in hand, a critical reader can probe the adequacy of any policy objective with its empirical justification if it is available. But of course, theoretical relativism can still surface when the conflict about

14 *ibid*; also J.Ginter, P.Kenkmann and A.Kasemets “Use of Social Information in the Law-making Process of Parliaments: a Comparative Study” Riigikogu, Tallinn 1998: www.riigikogu.ee/msi_arhiiv/tell4002.html

15 D.A.Schon, M.Rein M “Frame reflection: Toward the resolution of intractable policy controversies” – NY: Basic Books, 1994: 177-178; List of strategy’ names: ‘rule strategy’, ‘frame merge’, ‘mediated negotiation’, ‘critical interchange,’ ‘frame-reflective discourse,’ ‘frame competition’, ‘resignation’ etc – see also Hart and Kleiboer (1995)

value-based human rights or the unity of moral, legal and economic questions comes to political debates.

In the authors' opinion, we can analyse the political and administrative practices of law-making using "open zones of inquiry", where the actual behaviour of decision-makers is documented as the outcome of the law-drafting process. The explanatory memorandum of a draft act is one of the open "policy windows".

2.3. Negotiatory state, civic knowledge and political socialisation

The rationalisation and legitimisation of political, legal and economic institutions of social order has been an important issue in the last decades. To integrate societies, we need educated citizens and political participation. Without adequate knowledge and skills, citizens cannot follow public discussions on policy issues and participate in law-making nor they cannot assess the impacts of draft acts to their life-world, and they are less accepting of democratic policy debate and adopted legal acts. Competent citizens, NGOs and other target groups of draft acts, need not be experts on public policy and legislation, but there is a basic level of knowledge below which the ability to make a full range of reasoned civic judgements is impaired.¹⁶ Also, it can be generalised that without the institutional support of business and civic organisations, legislators cannot reproduce public debate and achieve common objectives. Participation is one of the critical elements to establishing legitimacy and political reliability of knowledge and to securing the support of key actors in society (organisations environment).¹⁷

These ideas have been translated into major social conventions and institutional reforms. Hart and Kleiboer (1995) argue there has been a growing awareness of the increasingly complex mutual inter-dependencies. One development in this respect has been the rise of the negotiatory state framework. In the negotiatory state, the myth of the unitary administration has given way to a pervasive recognition of governmental pluralism which is compounded by societal pluralism. The policy-makers and bureaucrats of the negotiatory state are faced by multiple groups of well-organised, intelligent and often resourceful societal actors, be they business enterprises, trade unions or environmental lobby groups. Like their counterparts within the constitutional institutions, each of these actors has its competences, interests and policy preferences.¹⁸

Despite the apparent enthusiasm for participation, it is not as easy to achieve as it might seem. Strategic decisions in public sector organisations are

16 S.L.Popkin, M.A.Dimock "Political Knowledge and Citizen Competence" – in *Citizen Competence and Democratic Institutions*. Ed. by Elkin & Soltan, Pennsylvania State Univ. Press, 1996: 117-146

17 W.A.Galston "Political Knowledge, Political Engagement and Civic Education" – *Annual Rev. of Political Sciences* 4: 2001: 217-34

18 PHart, M.Kleiboer "Policy Controversies in the Negotiatory State" – *Knowledge & Policy*, Vol 8/4, 1995

often politically charged, and studies also find that in difficult decisions which are subject to public scrutiny, managers will be influenced by a restricted set of experts and interactions. According to Hart and Kleiboer (1995), there are two pervasive biases in public policy-making in the context of the negotiatory state. First, policy elites use their power to limit the number of participants in a policy arena or they may limit the range of politically acceptable arguments. The second bias may appear if a policy problem becomes defined as an issue of maximizing economic benefits and/or minimizing public expenditures.

In sum, given that the impact analysis presented to the parliament with draft acts is accessible to the public via the Internet, its quality also affects the essence of discussions amongst NGOs and the press and, as a final result, also the attitude towards acts and their observance.

2.4. Diversity of legal cultures and the need for standardisation of law-making practices

The OECD and EU institutions are developing new law-making standards, which are less dependent on national legal culture and socioeconomic differences. During the last decade, the standardisation of law-making and RIA practices was widely discussed at both the EU and national levels to increase the effectiveness of international cooperation and harmonise law-making requirements.¹⁹

It should also be noted that discussions on RIA are only beginning to rise from a governmental to a parliamentary level as far as parliamentary functions, such as representation, legislation and supervision over the executive power, are concerned.²⁰

EU institutions are facing many challenges related to the pluralism of national legal cultures. Legal regulations can be quite similar in different European countries, but informal regulations and institutional networks differ in their traditions, organisational culture, etc. According to R.Narits (2001), integration into the EU is mainly achieved by legal means, and the situation is made more difficult for Estonia as well as for many other CEE countries by the fact that legal and other reforms started in the last decade have yet not been brought to a conclusion. Moreover, as social life becomes more sophisticated, social processes will also increase in complexity. From the legal point of view this means a need

19 The Treaty of Amsterdam, Declaration No 39 (1995); A.Kellermann, E.Azzi et al eds. "Improving the Quality of Legislation in Europe" – Asser Institute, Kluwer Law Int. 1998; B.Dorbec-Jung "Realistic Legisprudence: A Multidisciplinary Approach to the Creation and Evaluation of Legislation" – *Associations* 2, 1999: 211-237

20 N.Lupo "The Transformation of Parliamentary Functions: are Parliaments Still Legislative Bodies?" – in *Managing Parliaments in the 21st Century* – P.Falconer, C.Smith et al eds, IOS Press, 2001: 29-39; also European Commission "The Future of Parliamentary Democracy" 2000 http://europa.eu.int/comm/governance/docs/doc3_en.pdf;

for more complete legal solutions that would reflect the changed situation and therefore solve social problems.²¹

In the EU, the pluralism of political controversies has sometimes created deadlocks in policy-making. If many actors have obtained de facto veto power, then major social and economic policy conflicts between EU countries can have a negative effect on the policy process in the rapidly changing world. Accordingly, in the White Paper on European Governance (2001), we can find five political principles – openness, participation, accountability, effectiveness and coherence – but also this: “Carrying these actions forward does not necessarily require new Treaties. It is first and foremost a question of political will”.²²

It takes time, because it is only since the middle of the 1990s that the search for a better quality regulation took a more systematic form and a series of initiatives improving the quality of regulation were adopted at both national and European levels. One of the most important and systematic documents in this field is the Mandelkern Group Report on Better Regulation (2001) which included the definition of common method of evaluating the quality of regulation and detailed implementation procedures.²³

To support the pre-conditions for subsidiarity, efficiency, accountability, transparency and undistorted communication in European governance, politicians as well as the NGOs must be provided with adequate information in explanatory memoranda of draft acts. In coming years, EU member states should agree on a new institutional framework with common standards for good law-making (e.g. RIA).²⁴

Chapter 3. Study design and methods of normative content analysis of draft acts’ explanatory memoranda.

3.1. Study design.

Most past studies assume that the availability and use of socio-legal information leads to changes in the outcome of policy-making which should improve the efficiency and legitimacy of any policy – and law-making system, due to factual

21 R.Narits “Assessment of the impact of draft legislation: the problems in and opportunities for ensuring the quality of law-making and legal acts” – in *Legal and Regulatory Impact Assessment of Legislation*. Proceedings of ECPRD seminar, ed. by A. Kasemets, Riigikogu Kantselei, 2001: 29-33: www.riigikogu.ee/rva/ecprd/html/raul_narits

22 European Commission “European Governance”. A White Paper 2001 <http://europa.eu.int/comm/governance/>

23 Mandelkern Group on Better Regulation. Final Report, 2001: <http://www.cabinet-office.gov.uk/regulation/Europe/eurodocs/Mandfinalreport.pdf>;

24 *ibid*; also “Communication on Impact Assessment” 2002: http://europa.eu.int/comm/governance/suivi_lb_en.htm;

efficiency provided by adequate information. In Estonia, the law-making process includes six to 12 screening stages, and the explanatory memorandum of a draft act is one of the few public documents which must include normatively structured information about policy objectives, reasons for the act, use of socio-economic analyses, consultations with interest groups, etc. On the other hand, the logically structured socio-legal information in the explanatory memorandum of a draft act is the “input” for parliamentary and public debate.

In 1997, proceeding from the structure of RIA-related requirements for draft-legislation in Estonia,²⁵ general recommendations of OECD and EU member states (1995, 1997),²⁶ and academic literature, the methodological guidelines for normative content analysis of explanatory memoranda of draft acts were worked out.²⁷ The guidelines include the normative basis (3.2), criteria for preliminary selection of draft acts (3.3), description of six information categories for content analysis (3.4) and multiple comments related to different draft acts. In addition, some methods for qualitative case studies (e.g., interviews, focus groups) were suggested in 2000.

Based on earlier studies and insider observations, the main hypothesis was that the majority of draft acts (e.g., explanatory memoranda) are not in accordance with the legal requirements for draft acts that structure information on the use of social science information, consultations and the comparative analysis of both national and EU legislation. This hypothesis included the following meanings: a) the principles of legal state and good governance (legality, equality, transparency, accountability, etc.) are not followed on the required level; b) Estonia may have a well-structured normative basis for draft legislation, but these good law-drafting principles are not yet fully internalised in organisational norms; c) access to socio-legal information on the impact of draft acts is not guaranteed to MPs and interest groups [role occupants] of draft acts; d) lack of information on RIA decrease the effectiveness of parliamentary work and public debates and may create different administrative, budgetary, social and even legal or political problems in the implementation stage of adopted acts.

The empirical study of explanatory memoranda of draft acts has four practical objectives. First, to measure in what extent the initiators of draft acts follow

25 Appendix A/12 – “Estonia: Rules for Draft Legislation in the Legislative Proceedings of Riigikogu” – in *Legal and...*: www.riigikogu.ee/ecprd_ria01.html – points 11, 43, 49, 50, 51 and 53 are related to given studies.

26 *Ibid.* – for comparison see also Appendixes A/1 (OECD); A/10 (Denmark); A/15 (Netherlands); A/17 (UK); also J.Tala, J.Korhonen, K.Ervasti “Improving the Quality of Law-drafting in Finland” – *Columbian J. of European Law* – Vol. 4, No. 3. 1998: 629-46; J.Korhonen “Finland’s System of Assessing Regulatory Impacts” – in *Public Management Forum Vol III*, No 1, Sigma, 1997

27 A.Kasemets “Informativeness of Explanatory Memoranda of Draft Legislation in the Spheres of Socio-Economic Impact, European Integration and Participatory Democracy” – *Riigikogu Toimetised* 1, 2000: 159-183 – www.riigikogu.ee/rva/toimetised > RiTo 1/2000, Summary in English.

the normative requirements for draft legislation in six information categories, reflecting directly or indirectly the use of RIA models, interaction of researchers and policy-makers, public-ness of information sources, consultations with NGOs and EU integration. Second, to assess the availability of social information for the parliament and for the public. Third, to create an empirical overview as a platform for different qualitative socio-legal analyses and in this way to promote public debate on regulatory policy. Fourth, to inform the MPs and Riigikogu standing committees about the results of the empirical study and to make proposals for the improvement of law-drafting practices and parliamentary surveillance.

Since 1998, in cooperation with students from different universities, five follow-up studies were carried out. The operational stages of studies have been as follows:

- I. Preliminary selection of all draft acts proposed to parliamentary proceedings to discover the sample of draft acts for normative content analysis (see 3.3).
- II. Normative content analysis of draft acts' explanatory memoranda. The fulfilment of normative requirements in six categories is measured by comparing, guidelines in hand, the formal norms with actual information offered in explanatory memoranda (see 3.4).²⁸
- III. Case studies – in-depth analyses of some categories and/or some draft acts or specific policies using relevant methods (questionnaires, interviews, etc.).

3.2. Normative basis of content analysis of draft acts' explanatory memorandum

- A. Constitution of Estonian Republic, e.g. § 1 (the supreme power belongs to the citizens); § 44 (freedom of information), §-s 59-76 (tasks of the Parliament).
- B. The government adopted a regulation on “The rules of the normative technique of drafts of legislative acts” in 1996, and updated the regulation in September 1999.
- C. The Board of the Estonian Parliament, Riigikogu, adopted “The Rules for Draft Legislation in the Legislative Proceedings of Riigikogu” in 1993, and updated it in March 2001. The rules are established on basis of § 53 of the Riigikogu Rules of Procedure Act (constitutional act).
- D. Pre-accession agreement between European communities and Estonia in 1995.

28 There is no commonly agreed definition of what the “use” of socio-legal information in legislation means and when the extent of such information (e.g., statistics or clarity of statement) is satisfactorily documented. We decided that the positive evaluation (1=yes) of each category is reasoned, when some empirical data, quotations from information sources and/or clear political statement (i.e. “the implementation of draft Act has no impact on state budget”) are provided. The latest means that political responsibility is fixed for the future analysis and assessment if it is needed.

E. Memorandum of Cooperation Between 10 Estonian Political Parties and 10 Third Sector Umbrella Organisations (1999).²⁹

3.3. Criteria for the preliminary selection of draft acts

Draft acts and resolutions proposed to parliamentary proceedings have the status of a legal document. The main purpose of the first operational stage of analysis is to select which draft acts have a purely juridical nature, small socioeconomic impacts to the society or a very limited regulation area. The sample of draft acts for the second stage was selected according to the six criteria of which evidence assumes the existence of related analytical information in the explanatory memorandum.³⁰

The overall number of draft acts, submitted to the proceedings of the Riigikogu during the five periods of study from 1998 to 2003 was 875. According to the above-mentioned criteria, the number of draft acts requiring the impact assessment was 651 (Table 1).³¹

3.4. Six information categories for normative content analysis.

The main method of the given empirical analysis is a comparison between the normatively required informative-ness of explanatory memoranda of draft acts and the actual informative-ness in the six interrelated categories (F-K):

- F. The impact of a draft act on the state budget and/or local government budgets in a one-to-three years period (public expenditures, distribution of resources – in Riigikogu's requirements to the draft acts proposed to the parliamentary proceedings: § 11, § 50);
- G. The impact of a draft act on the organisation of the work of state and local government institutions (e.g., changes in structure, functions and public services, in the number of employees, delegation of tasks, responsibility and accountability of agencies – § 49,1/4);
- H. Impact on the socioeconomic situation, everyday life and opportunities of target groups [role occupants] (e.g., which socioeconomic groups are going to profit or lose? How this is expressed in legal, economic or social terms? – § 49, 1/1);
- I. Informing and involvement of parties influenced/concerned by the implementation and impact of a draft act (one of the pre-conditions for participatory democracy – § 53);

29 Memorandum (1999) Riigikogu Toimetised 1/2000: www.riigikogu.ee/rva/toimetised/rito1/artiklid/summary.htm

30 See Appendix A/12 – Estonia: Rules for Draft Legislation: www.riigikogu.ee/rva/ecprd/html/appendix_A

31 In this selection 268 (41 percent) of the draft acts had been initiated by Riigikogu' structures (committees, political factions, MPs) and 383 (59 percent) by the government. Among the adopted Acts the proportion between governmental and Riigikogu' acts has been 64%: 36% last years – see also www.riigikogu.ee/rva/ecprd/html/part_II.html

- J. References to research data, official statistics and special literature used; also, authors who have discussed the problem to be regulated (sources of knowledge-based policy, transparency of argumentation and authorship – § 49, 2/1);
- K. References to a comparative analysis of a draft act with the European Union Law (see 3.1/D; also § 43/5 in the Riigikogu’s requirements).³²

Chapter 4. Results of normative content analysis of draft acts’ explanatory memoranda.

In order to get a general overview of the preparation process of draft acts and the extent of required socio-legal information in the explanatory memoranda, the focus of normative content analysis was on impact assessment (e.g., see categories F, G, H and J).

To sum up the normative analysis of the 651 draft acts, we can see that the possible budgetary impacts (category F) are analysed on a rather good level (see Table 1; Figure 1). The average result of ministries (71 percent) is comparable with OECD average.³³

Table 1

Results of the analysis of explanatory memoranda to draft acts. Follow-up 1998 – 2003. Accordance with normative requirements: positive evaluation of draft acts in categories F-K

Initiator of draft Act (n= number of draft Acts chosen for normative analysis)	F Impact on state budget & public expenditures	G Impact on public administration & services	H Impact on socioecon. conditions of target groups	I Informing and involvement of target groups / NGOs	J References on studies, databases, & opinions	K Analysis of conformity to EU legislation
Ministries (n=383)	272	198	180	86	99	284
Positive evaluation - %	71%	52%	47%	24%	26%	74%
Parliament (n=268)	91	48	113	16	27	34
Positive evaluation - %	34%	18%	42%	6%	10%	13%
Total (n= 651)*	363	246	293	120	126	318
Positive evaluation - %	56%	38%	45%	18%	19%	49%

Sources: A.Kasemets, K.Vallimäe 1999 (1998, n=152); S.Soiver, M.Avamere, A.Kasemets 2000 (1999, n=142); K.Mikk 2002 (2001a, n=132); J.Ender, M.L.Liiv 2002 (2001b, n=100); K.Kasemets (2003, n=125)

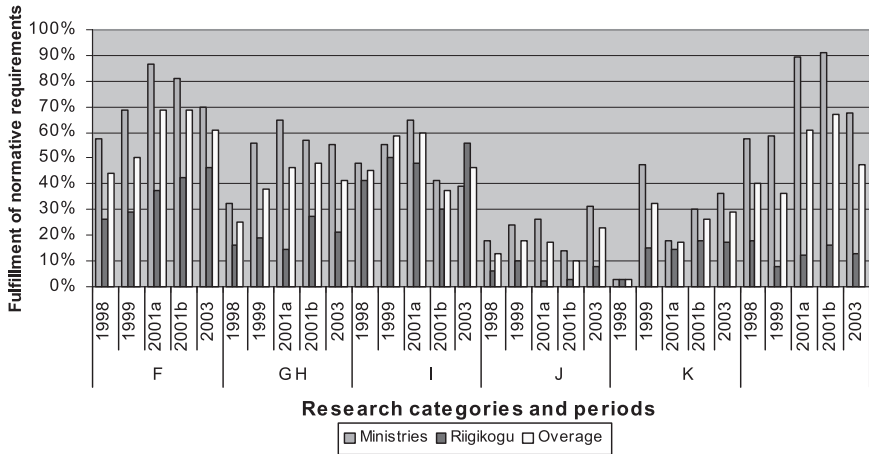
Note: * – To sum up: Ten ministries from the government and ten committees, six factions and MPs from the Riigikogu.

32 In some cases the classification (yes/no) was problematic. Such cases were discussed on the basis of methodological guidelines and empirical evidence of category in the explanatory memorandum.

33 M.Ben-Gera “Impact Assessment: Role, Procedures, Methods and Good Practices in OECD and CEE Countries” – Society, Parliament and Legislation, eds. A.Kasemets et al, Riigikogu Kantselei, Tallinn, 1999: 27-35

Figure 1

Five studies of informativeness of explanatory letters of draft acts proposed to the parliamentary proceedings
(1998 n=156, 1999 n=145, 2001a n=135, 2001b n= 107, 2003 n=125)



A.Kasemets, K.Vallimäe, S.Soiver, M.Avamere, K.Mikk, J.Ender, M.-L.Liiv, K.Kasemets – 2004

In addition, the legal impacts related to EU integration (category K) are analysed quite well, because the accession to the EU has been Estonia's foreign policy priority since 1993. As expected, the research also showed that usually only legal regulations were described without mentioning policy objectives and/or socioeconomic reasons for initiating these EU acts by the Commission. On the other hand, the law-drafting requirements related to category I (informing and involvement of interest groups) and category J (referencies to studies, etc., information sources used) were usually not fulfilled (Table 1). The five studies of explanatory memoranda focused mainly on the formal existence of RIA-related information.

Chapter 5. Case studies

In addition to normative content analysis, K.Mikk made an in-depth analysis of category G, focusing on problems of administrative capacity;³⁴ M.-L.Liiv made an in-depth analysis of category I, selecting three draft acts for qualitative case studies to compare formal information about the involvement of interest groups

³⁴ K.Mikk "Administrative Capability in Estonian Law-making Process in the Example of Observing the Technical Rules for Draft Legislation of the Riigikogu" – BA thesis. University of Tartu, Faculty of Social Sciences, Department of Public Administration (in Estonian) 2002

in real consultation process (see example);³⁵ and K.Kasemets made an in-depth analysis in category J, focusing on the use of social information in law-drafting³⁶. The fourth-related study was initiated as a reflection to results analysing the ministerial activities in category J. A special questionnaire with a cover letter from the MPs of coalition and opposition parties was sent to the ministers to get an overview of budget-funded surveys commissioned between 1999–2001 in, e.g., the area of studies, costs, authors and the relationship of studies to legislation.³⁷ The fifth socio-legal study focused on the utilisation of the memoranda's information in the analytical work of the Supreme Court of Estonia.³⁸ In addition, the sixth-related study was the third opinion poll of Estonian MPs and parliamentary officials in 2001. The questionnaire included the section *Law-Making and the Quality of Legislation* dealing with research services, priorities of RIA and "political will".³⁹

35 M.L.Liiv "The Participatory Democracy in Estonia: Participation of Interest Groups in the Legislation" – BA thesis. University of Tartu, Faculty of Social Sciences, Department of Sociology (in Estonian) 2002. The full text with summary in English is in Riigikogu' web site: http://www.riigikogu.ee/msi_arhiiv/korg_tood/LiivBA.html

36 K.Kasemets "The Use of Social Information in Estonian Legislation" – BA Thesis, Tallinn Pedagogical University, Faculty of Social Sciences, Dep. of State Sciences (in Est) 2003

37 A.Kasemets "Towards a more knowledge-based public policy, legislation and public administration: government agency-commissioned studies 1999–2001" – in Riigikogu Toimetised 6, 2002: 107-117; in sum, from 1999 to 2001, ministries ordered ca 400 studies and analyses. In connection with RIA four ministries commissioned a total of 106 studies (41 million kroons), accounting for 38 percent of the total cost of all studies: www.riigikogu.ee/rva/toimetised

38 V.Saarmets "Use of material pertaining to legislative process in the judicial review process" – in Riigikogu Toimetised 7, 2003: 104-112 (Summary in English: www.riigikogu.ee/rva/toimetised/rito7/artiklid/summaries.htm)

39 OÜ Saar Poll (2001) Riigikogu liikmete ja ametnike küsitlus – Riigikogu Kantselei, MSI (in Estonian) – e.g. 57 percent of MPs answered 'Yes' – There is a need for a national regulatory policy program'.

EXAMPLE

The Extent of the Participatory Democracy in the Legislative Process.

The Case Analyses.

The purpose of the study and case analyses was to understand the characteristics and extent of interest group participation in the legislative process. For that reason, three separate legislative acts were chosen and in-depth oral or written interviews with the interested parties were carried out. Those case studies were preceded by the examination of 541 explanatory memoranda of draft acts in different years (1998–2001). As the formal requirements of the explanatory memoranda of draft acts are often not followed precisely by the civil servants, the study of these might turn out to be superficial because of the need to draw reasonable conclusions on the level of participation; that is why a deeper study is needed.

Two substantial definitions were used throughout the study.

First, the definition of “interest group” or “stakeholder”, meaning an interested party on whom the draft legislation has a rather straight impact.

The second definition is a “participatory democracy”. It bears the meaning of transparent legislative process, which means that the executive and legislative bodies must be open to discussion, and do everything from their part to inform and consult different interest groups rather than selected ones. This doesn't mean that they have to do the undone homework of stakeholders. What they can do is to make different interest groups face each other and perform as a mediator, if needed, while still acting as coordinator and bearing the full responsibility for the quality of legislation.

Participatory Democracy According to the Normative Content Analysis

The extent of consulting the stakeholders in matters of the substance of the laws is an immediate indicator of participatory democracy in the society. This extent is expressed in category “I” and partly in “J”, which respectively attempt to discover the degree of informing and consulting interested parties and considering the opinions of experts and studies.

According to the explanatory memoranda of draft acts (available on the Riigikogu’ web-page www.riigikogu.ee), interest groups were not consulted systematically. It was often hard to find any information on harmonization of the draft with different stakeholders. Thus, although there might have been consultations with different interest groups (which actually was the case), this information was not made public. Of the 541 explanatory memoranda analysed, only 69 could satisfy the requirements of the category “I”, which makes it less than 13 percent.

Often, representatives of the interest groups participate in the preparatory meetings of the draft acts. In those cases, it is sometimes ambiguous as to whether they have been invited as experts or as representatives of a certain group. As a rule, one representative is chosen to attend the working group, and this is thought to satisfy the stakeholders. The homogeneity of interest groups hardly exists in reality; therefore including one but missing the other can be discriminative. Thus, consulting and publicity should be a rule, not a recommendation.

According to normative analysis only 17 percent of the explanatory memoranda cited some study or expert opinion. Often they were abstract referrals to research (e.g., “according to the studies”, etc.). The relationship of studies and opinions of interest groups was raised as an issue in the course of the research. Each draft doesn’t need research, and sometimes consultations with interest groups suffice. Although the lack of one, and the existence of another one are understandable, the absence of both is not justifiable in any terms.

The following three draft acts were chosen and analysed separately:

1. The Act of Changing the Youth Work Act;
2. The Act of Changing the Pollution Charges Act;
3. The Act of Changing the Social Benefits for Disabled Persons Act.

The main basis of the selection of the cases was the existence and easy detection of interested parties, and the conflict of interest concerning the legislative act. Two of the drafts (the Act of Changing the Pollution Charges Act and the Act of Changing the Social Benefits for Disabled Persons Act) had been adopted at the time of the interviews, and one (the Act of Changing the Youth Work Act) was in the middle of parliamentary proceedings.

Case 1. The Act of Changing the Youth Work Act.

Three stakeholders were interviewed: the representative of the Culture Commission of the *Riigikogu*; the head of the Estonian Youth Association Cooperation Project; and the representative of the Sun Club.

The initiative of changing the existing Act came from youth organisations, and their aim was to widen the criteria for applying for financial support from the state. The existing Act allowed aid only for these youth organisations which had more than 500 members, but in practice few had over 500 members. In other words, the youth organisations aimed at finding some additional resources from the state budget in order to retain the existing level of appropriations for the existing organisations and at the same time rendering support for smaller organisations.

According to the “I” and “J” category analysis the draft got negative results. There were no referrals to consultations with interest groups, to studies or expert opinions. Yet, it was a so-called grassroot-level initiated act. The interviews ascertained the readiness of both parties to open discussion. Note that not all of the interest groups were active despite of the appeals of the umbrella organisation. Besides, the arguments of the youth organisations were supported by the study of the size and needs of the youth organisations. Less positive was the fact that the interest group in question was rather big, and not all of the youth organisations were under the umbrella institution; thus, the interests of the smaller ones were supposedly not represented.

Case 2. The Act of Changing the Pollution Charges Act.

Five different parties (six persons) were interviewed, among which were three different interest groups: the Estonian Nature Fund, the Estonian Employers' Confederation and the Federation of the Estonian Chemical Industries. The other two were from the Parliament and the Ministry of Environment.

The draft was originated by the Ministry of Environment, and caused a lot of turmoil between the state and private sector, because the rate of the pollution charges increased remarkably due to the act.

From an analysis of the explanatory memorandum, the draft act got positive results in both categories. In practice, most of the interest groups were not satisfied with the level of participation. The representative of the Federation of the Estonian Chemical Industries found that some very important opinions were dismissed. The representative of the ministry opposed the argument and stressed that the debate was sufficient and all possible opinions were taken into consideration.

There is a variety of interest group organisations in Estonia, some of them are active, some less so. The same applies to the ministries – some of them are more open and cooperative, others less. It happens that the openness of the ministry is dependent upon the governing minister; in the current case, the interest groups were quite dissatisfied with the minister. Although there existed at least formal participation, the whole process took place under a veil of secrecy and bustling, according to the interest groups. Note that refusing to consider some of the opinions in the final draft doesn't mean a lack of participatory democracy. What matters is if there is an open discussion.

The interest groups were rather active in the current case, excepting the environmental organisations whose passiveness admitted all the parties in question including the Estonian Nature Fund itself. It seems that functional interest groups (e.g., the Federation of the Estonian Chemical Industries) are more active in Estonia than the interest groups fighting for the public interest (e.g., the Estonian Nature Fund).

Case 3. The Act of Changing the Social Benefits for Disabled Persons Act

Four parties (five persons) were interviewed, of whom two belonged to the Ministry of Social Affairs, one to the Riigikogu, one to the Fund of Estonian Disabled Persons, and one to the Estonian Society of Family Doctors. The initial push for the need to change the Act came from the Estonian Society of Family Doctors. The aim of the new Act was to clarify the rules of determining the level of disablement and the conditions to the entitlements of social subsidies.

The explanatory memorandum of the draft Act got negative results in both the “I” and “J” categories. Thirteen experts participated in the working group, and most of them were the officials of the Ministry. The Fund of Estonian Disabled Persons was represented in the commission as well; this organisation is situated in the same building as the Ministry of Social Affairs.

There were two main interest groups concerned – the disabled and the doctors. The former was satisfied with the level of participation, the latter was not. The officials found that they had a hard time finding their way to disabled persons because the disabled lacked a professional cadre in Estonia who could join in constructive discussions. It seems that in reality a discussion didn't really exist. The family doctors were not considered, and the organisations of disabled persons were passive. This opinion was shared by the head of the Fund of the Estonian Disabled Persons, who claimed that one of the weaknesses of Estonian civil society was the passiveness of organisations and people. What seems to be characteristic to Estonian interest groups and state relations is a kind of preference policy – some interest groups seem to be more legitimate than others. It means that they are consulted in the first order (e.g., the Fund of Estonian Disabled Persons).

Chapter 6. Conclusions and discussion

The main objective of the five studies was to gain an empirical overview of the extent to which the institutional initiators of draft acts follow the normative requirements for draft legislation in six information categories, reflecting directly or indirectly the use of socio-legal and socioeconomic research, transparency of information sources, involvement of interest groups and legal preparations for EU integration.

Looking at it from the normative perspective, law-drafters and initiators of draft acts, both politicians and civil servants, are responsible and accountable before the parliament and the public. Contrariwise, the results of studies show us that most of the explanatory memoranda of draft acts have not been in ac-

cordance with the observed requirements for legislative drafting adopted by the Board of the Riigikogu and the government.

Assessing the results in the framework of four main discourses (2.1-2.4) and the hypothesis (3.1), the main conclusion should be that Estonian legislators may have quite a good and well-structured normative basis for draft legislation, but for different reasons these good law-drafting principles have not yet been internalised in the political culture and organisational norms. Most of the draft acts proposed to the parliamentary proceedings in 1998–2003, which had remarkable budgetary, socioeconomic and administrative impacts, have not been equipped with relevant public information. This means access to the information on the impact of draft acts (as a part of problem definition and solution) is not guaranteed on an equal basis to the MPs and target groups of draft acts (e.g., leaders of local communities). In sum, we can see the lack of moral, political and administrative pre-conditions is important for the implementation of good law-making principles and knowledge-based political debate.

Among the six information categories, two, one related to the analysis of budgetary impact (F) and another to legal accordance with EU laws (K), have been described on a more satisfactory level. On the other hand, information related to the socioeconomic impact on the role occupants (H), administrative changes (G), references to information sources (J) and consultations with interest groups (I) have been unsatisfactorily described.⁴⁰ Additional case studies and observations show that ministerial law-drafters and MPs generally use more research information and consult more with interest groups than is documented by them in the explanatory memoranda of draft acts. This finding leads us to argue that many initiators of draft acts are usually not interested in explaining policy problems and solutions in an analytical and transparent way or they haven't any relevant socio-legal studies. The selective fulfillment of law-drafting requirements reflects the informal understanding about "rules of the game" in the context of ongoing reforms.

The moral, political, legal, economic and administrative aspects of information acquisition, dissemination and use are closely related to parliamentary functions in law-making. We can analyse and interpret the results of given studies from normative, organisational interest, communications and other perspectives (see 2.2.). In this paper, we focus first of all on the moral and normative aspects of socio-legal information use (see 2.1.) in the institutional framework, because the gap between the legal "rules of the game" and actual behaviour of law-drafters seems to us the most important problem to start discourses on good law-making and governance.

40 If the studies are not used sufficiently in the making of new acts, it means also that the public information on studies conducted with limited state budgetary funds, seldom reaches the general public.

In general, since 1992 the institutional framework and supportive system of juridical analysis of draft acts have been well established in Estonia,⁴¹ but having analysed the required informative-ness of explanatory memoranda of draft acts in budgetary, economic, social, administrative or civic terms on five periods since 1998, only a slight improvement can be observed, especially in some ministries.

As noted earlier (2.2), if legislators perceive the policy-making process as a political activity, then they are more likely to communicate with researchers and use available social science information. One of the problems is that legislators lack legislation-related and well-structured information (e.g., RIA) for parliamentary and public debate. If so, then the legislators may run the “wrong problem” wasting both time and public money. The lack of impact analysis, accountability and transparency in the pre-parliamentary stage of legislation has, in its turn, created favorable conditions for distorted public communication and initiation of draft acts which may create different problems and risks. We can also presuppose what kind of budgetary, economic, administrative and other problems it creates for public managers during the implementation stage of the acts. In addition, for civil servants and especially for MPs, it is not easy to explain the purpose of such draft acts to interested groups and media, especially when the question of the possible impact of the draft on certain social groups or on programs and public services covered by state and local government budget will be raised.⁴²

To sum up the moral statement: While constitutional institutions, the parliament and governmental agencies do not observe legislation regulating law-drafting and thereby violate the principle of the rule of law, there is no reason to wonder that the awareness of citizens with respect to law issues is comparatively poor, that the general public does not consider legal protection legitimate, that many social groups do not believe the words of politicians nor in their own way attempt to affect political decision-making on a national, regional or local level.⁴³

In the context of negotiatory state and civil society discourse (see 2.3), the result in category “I” was surprising, because in addition to the normative requirements for draft legislation based on the Riigikogu Rules of Procedure Act, all political parties signed the Memorandum of Cooperation between Estonian political parties and third sector umbrella organisations (1999) whereby

41 In 1990s, constitutional institutions responsible for the ex post impact assessment of (draft) acts (e.g., the president, legal councillor, State Audit Office, Supreme Court) analysed the legal/judicial accordance of legislation, not the political, socioeconomic, financial or administrative objectives and issues of the acts adopted by the Riigikogu.

42 The Report to the Constitutional Committee of the Riigikogu (21.II.2001) by A.Kasemets, has been based on the 1st and 2nd study (see Figure 1) and OECD reports on regulatory reform (1995, 1997).

43 A.Kasemets “Sociological and Public Opinion Research as Reflection...” 2003: www.um.es/ESA/papers/St9_61.pdf

they promised to inform and involve related NGOs and citizen groups into the process of law-making.⁴⁴ On the other hand, it means that NGO networks have been quite passive in the law-drafting; they are not observing the implementation of the Memorandum signed with politicians. Scholars argue that the reasons for the low-level of political participation are related first of all to the organisational interest of policy-makers (e.g., asymmetric information on RIA), and on the other hand to the mistrust and ignorance that, in combination with lack of civic knowledge and skills, increase the degree of alienation among citizens.⁴⁵

The fourth discourse of this paper focused on international challenges in the field of co-legislation, standardisation of regulatory policy and impact assessment requirements (see 2.4). On the level of EU institutions and member states, we can see the growth of political will and commitments to find common standards of evaluation of law-making and governance practices. Political agreements, acts and reports on the quality of legislation show that impact assessment is becoming one of the tools for improving the quality of legislation and legitimacy of legal institutions on both the national and EU levels. In the given five studies, the results of category K express the capacity of ministries to assess legal accordance between national and EU regulations. The problem is that usually the legal aspects were described without mentioning policy objectives (e.g., public benefits) or socioeconomic reasons for initiating these EU acts.

From past studies, we know that there are several reasons and justifications for this situation, which are related to the following key words: dynamic institution-building and many parallel reforms (by now, ca 15), deficit of resources (staff, time, budget), *ad hoc* law-drafting,⁴⁶ complexity of legislation in the era of globalisation, political and social controversies, “selective” legal behaviour of decision-makers,⁴⁷ lack of qualification and political commitment, lack of adminis-

44 Memorandum (1999) – Riigikogu Toimetised 1/2000: www.riigikogu.ee/rva/toimetised/rito1/artiklid/summary.htm. In addition, based on this Memorandum, the Estonian Parliament passed with political consensus “The Estonian Civil Society Development Concept” in 12.XII.2002: www.emy.ee/alusdokumendid/concept.html

45 see also M.Lagerspetz (2001) Estonian NGOs as Civil Society? – 5th Conference of the ESA, Helsinki: www.thirdsectorcee.info.hu/ICarticles/estoniannngo.htm. To move forward, there are many initiatives, e.g., the Riigikogu Chancellery has organised regular seminars in cooperation with NGOs, the Estonian Law Centre started the Legislative Drafting Project Themis in 2002 with the goal to develop the cooperation of legislative drafting between Estonia’s public sector (ministries, parliament) and third sector actors: www.lc.ee/english/ etc.

46 For example, the Estonian Education Act has been changed 13 times in 1993–2003. The problems of ad hoc policy initiatives and law-drafting have been emphasised also in EU countries (Korhonen 1997; Kasemets 2001a)

47 The problem of “selective legal behaviour /awareness” became a topic of discussions in the CEE countries after comparison of civil servants’ legal values in Western and Eastern side of Germany in the beginning of the 90s;

trative capacity, lack of guidelines and special training, lack of legislation-related monitorings (*ex post* RIA), etc.⁴⁸

Considering the experience of OECD and EU member states, there are eight interrelated pre-conditions to create a systematic and sustainable quality framework for good law-making and governance (e.g., RIA):

1. Political commitment in regulatory policy agenda
2. Legal/normative basis for legislation and RIA
3. Good coordination and clear division of work between ministries
4. Methodological guidelines (e.g., criteria for using of RIA methods)
5. Data collecting strategies for *ex ante* and *ex post* RIA (e.g., socio-legal monitorings)
6. Systematic consultations with interest groups and NGOs
7. Regular training of civil servants and other interested parties (e.g., roundtables)
8. Basic surveillance mechanisms and control of RIA requirements.

Problems are always opportunities for improvement. At present, we can agree that the first and second pre-conditions are fulfilled in Estonia, but most of the work for development of other institutional pre-conditions lies ahead.

During the last three years, many debates with MPs and ministerial and parliamentary civil servants showed that Estonian public administration is ready for a “qualitative jump” towards good law-making and governance. Since 2001, we have been able to observe some changes in political attitudes and agreements in Estonia, e.g., the 3rd Opinion Poll of Estonian MPs and Parliamentary Officials (2001), Developmental Concept of Civil Society (2002), The Coalition Agreement (2003),⁴⁹ and last but not least the Constitutional Committee and Legal Committee of the Riigikogu decided to prepare the parliamentary hearings on quality of legislation and RIA in 2004.⁵⁰

To be useful, RIA should be institutionally linked to policy planning and law-drafting on national and EU levels. The authors argue that Estonia needs a minimalist regulatory policy program on the quality of legislation and RIA to support the development of knowledge-based (responsible/moral) law-making in European legal and administrative space.

48 Estonian Human Development Report 2001. Is Estonia socially sustainable? > 1.2. The qualification of Estonian politicians: www.iiss.ee/nhdr/2001/en/contents.html; EC 2000. Regular report from the Commission on Estonia's progress towards accession – p. 50; also Estonian Human Development Report 2000. > 1.3 Estonian Administrative Capacity as Compared with the European Administrative Sphere, pp 28-34: www.iiss.ee/nhdr/2000/EIA00eng.pdf;

49 The Coalition Agreement (2003) notes the importance of the knowledge-based policy-making and impact assessment of regulations in different chapters. See www.riik.ee/en/valitsus/ >

50 A.Kasemets “The Quality of Legislation and Impact Assessment: An Overview of Ministerial and Universities' Answers” – Working paper for parliamentary hearings – Riigikogu, Tallinn, April 2004, 41 p. (in Estonian).

Governing by Default Failures of Policy Process in Romania

Sorin Ionita

The key contention of this paper is that in the CEE region – for which Romania is used as the illustrative case – poor performance can be explained by failed reforms on two crucial dimensions of public governance: (i) public administration reform proper (structure and stability of the central administration, civil service issues); and (ii) the process of decision-making. The latter is especially important because it affects the whole public sector indiscriminately. The flawed policy process, probably the most crucial (and ignored) source of poor governance, is characterized by little consultation, hasty decisions and poor implementation capacity. If at all, the public debates on crucial trade-offs or conflict occur after rather than before policies are implemented. This creates uncertainty, individual pressures and negotiations whether rules should be actually applied or not, and ultimately mistrust in public institutions. The immediate symptom of this model of governing by default is the large gap between written plans and strategies on one hand, and social realities on the other. A set of case studies is used to illustrate the idea that until these problems are dealt with, there is little chance that government decisions will achieve the desired results, whatever these may be.

There is ample evidence today that sustainable growth is heavily dependent on the quality of governance in a particular country. One of the most recent and complete evaluations, conducted on 175 states, aggregating the main cross-country measurements produced by various organizations, reports a strong and positive causal link between the quality of policies and administration on the one hand and economic performance on the other¹. Even more interesting, the authors report a weak and negative causation running in the opposite direction,

1 A description of the whole Aggregate Governance Indicators of the World Bank can be found at www.worldbank.org/wbi/governance

from per capita income to governance, after the first positive effect is controlled for. In other words:

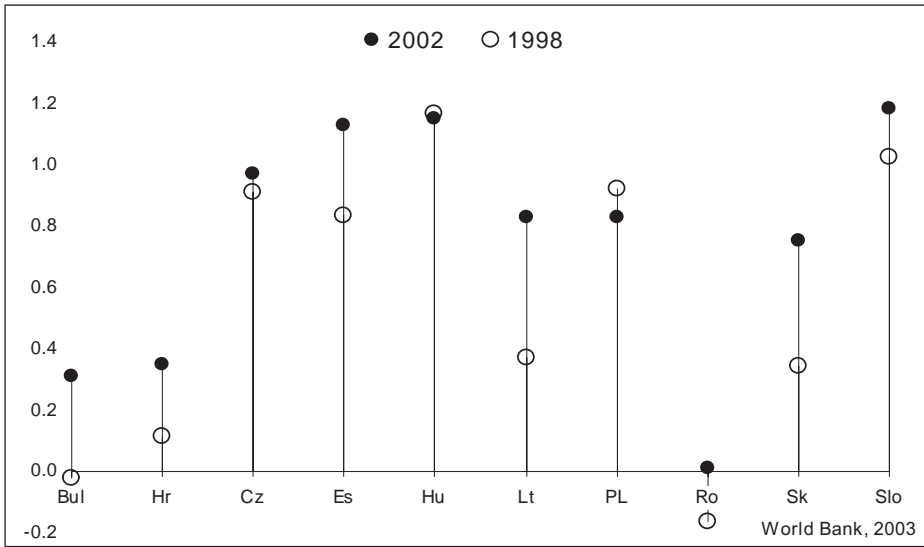
- Good governance leads to growth and prosperity;
- But economic growth and greater prosperity do not by themselves bring about good governance – on the contrary, sometimes they can encourage mis-governance.

These conclusions are very important and have significant policy implications, especially in the transition countries. Waiting for time to pass and solve the problems of mis-governance as the society gets richer does not work. And it may even aggravate them, since greater wealth only raises the stakes of social transactions, without changing their nature, and increasing the pressure of rent-seeking, state capture and bureaucratic corruption. “When the institutions of the state are captured by vested interests in this way, entrenched elites can benefit from a worsening of the status quo of governance and can successfully resist demands for change even as incomes rise” (Kaufmann and Kray, 2003, pg. 3).

Therefore, since good governance is not a “luxury good” to which a country automatically graduates when it gets richer, it means that reforms in this particular area should be regarded as a separate goal which must be pursued with determination and specific strategies. And, since there is no specific *acquis communautaire* on public administration reform to guide policy in EU candidate countries, they have to find their own resources and muster public support for this crucial point on their development agenda. The following sections of this paper will analyze in comparative context to what extent this strategic goal has been accomplished in Romania.

Fig. 1 shows that, according to the World Bank, CEE accession countries have advanced with various degrees of success towards the goal of good governance. Among them, Romania scores last on a composite index of governance quality – an average of six scores measuring accountability, government effectiveness, regulatory quality, rule of law, control of corruption, and political stability. Even more important, Romania has registered the smallest improvement in performance between 1998 and 2002 among the accession laggards. This is a cause for concern, especially since part of the rise is explained by only one of the six indicators (political stability). Explaining the failure to improve the quality of governance in Romania should therefore concentrate on identifying concrete, operational dimensions of institutional capacity which single out the country in regional context.

Fig. 1
Trends in the quality of governance



Note: the score on the vertical axis is an aggregation of five indicators (accountability, government effectiveness, regulatory quality, rule of law, control of corruption, political stability) each taking values between - 2.5 (lowest) and +2.5 (highest) – see also footnote 1

Institutions can mean many things to many people. The new institutionalist school operates with a broad definition of the term: rules of the game that govern interactions in society, whether they are formal or informal (North, 1990). Other scholars go as far as incorporating shared values and psychological predispositions in the institutional framework. For the purpose of this analysis, however, we narrowed the concept to those formal arrangements embodied in laws and organizations, the only ones that can be directly altered by intervention through public policy. More specifically, we refer here to the fundamental design of the central government structure and the assignment of functions among public agencies.

Of course, not all the differences in performance between European states are due to the structuring of their central administrations. Many peculiarities exist which are rooted in historical tradition or local institutional culture, and the uniformization was never on the EU agenda since these states are more or less functional anyway. Compared with the scope and speed of the reforms under way in Central and Eastern Europe, the institutional changes in the member states take place at a rather geological pace. However, the blueprint of government matters. A well structured central administration may or may not produce good outputs, depending on other factors like the quality of leadership, the expertise available, motivation, number of coalition partners. But a poorly structured central

administration is sure to yield poor results, itself becoming a source of confusion and institutional noise. In such an environment it is more likely to have unclear assignment of responsibilities, overlapping, rivalries and captive agencies.

My main contentions in this paper are that:

- Poor performance in Romania can be explained by failed reforms on two crucial dimensions of public governance: (i) public administration reform proper (structure and stability of the central administration, civil service issues); and, especially, (ii) the process of policy-making.
- The flawed policy process, probably the most crucial and ignored source of poor governance, is characterized by few public consultations, hasty decisions and poor implementation capacity. If at all, the public debates and identification of crucial trade-offs occur after rather than before policies start to be implemented, which creates uncertainty, confusion about goals and ultimately mistrust in public institutions. The immediate symptom of this model of governing by default is the large gap between written plans and strategies on the one hand, and social realities on the other.

A set of case studies is used to illustrate the idea that until these problems are dealt with, there is little chance that government decisions will achieve the desired results, whatever these may be. The story has a morale pertaining to the process of EU accession too; without marked improvements in governance, non-enforced EU-compatible laws will continue to accumulate and contribute to the legislative Potemkin village erected by the authorities in their heroic effort to build the new Romania.

1. Problems of structure

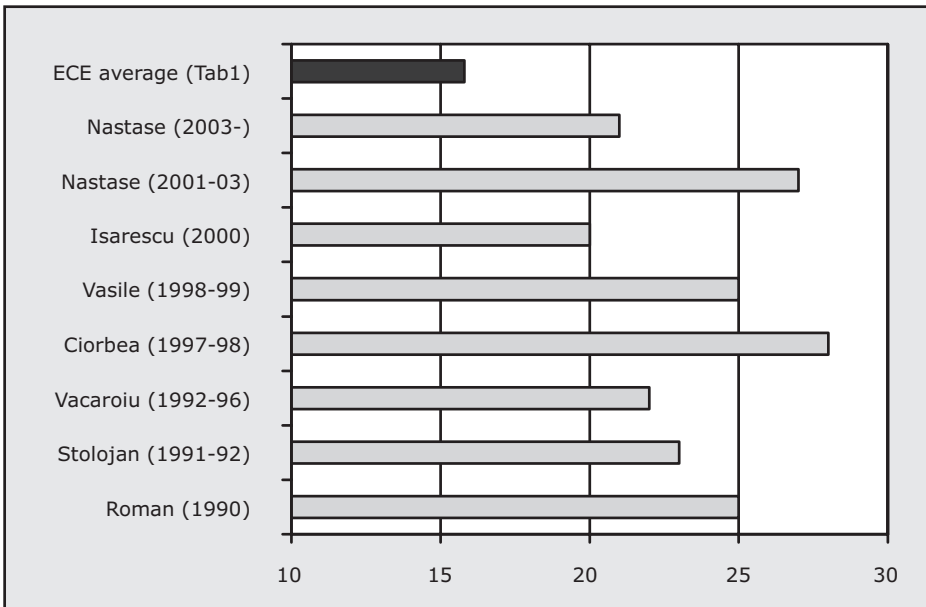
1.1. Central administration structures in comparative perspective

As the current Romanian government led by Adrian Năstase took office after the November 2000 elections, the old issue of instability and proliferation of central agencies was again put under the spotlight by journalists and analysts, both Romanian and foreign. The opposition and the commentators blamed the new prime minister for the growth of bureaucracy directly controlled by the parliamentary majority. Năstase replied that there was nothing new here and that the largest post-communist cabinet was not his, but that of the former PM Ciorbea (Fig. 2).

Moreover, in June 2003, the government was reshuffled and a number of nine ministerial portfolios eliminated, in an attempt to streamline the work of the cabinet. Although some of these central agencies and their staff were actually kept in place under a different name and institutional affiliation – despite the fact that some of them reappeared in the spring of 2004 after the cut was judged too radi-

cal by the prime minister – this was still one of the most important government downsizings in Romania so far, bringing it closer to the regional average as far as the cabinet size is concerned. Nevertheless, in a broader perspective, this was just an episode in what appears to be an institutionalized expansion-contraction cycle of the central bureaucracy in Romania. Lacking the capacity to implement policies and change social realities, the Romanian government appears inclined to embark on periodical reorganizations and re-labeling of institutions as a substitute for policy action.

Fig. 2
The number of portfolios in the Romanian cabinets after '89



Tab. 1 below compares the structure and functions of the central administration in Romania (the latest three cabinets) with those of the other nine European countries. Of these, six are ex-Communist countries currently candidates for EU accession and constantly ranked ahead of Romania by the EU monitoring process – they can thus be regarded as a source of best-practices – while the other three are EU members. Like Romania, all nine are unitary states with various degrees of devolution of powers to the sub-national levels of government so the comparison is legitimate.

Two opposing tendencies are obvious when we analyze the structure of central administrations in the EU candidate countries. On the one hand, the necessity of managing the thousand details of institutional alignment – in other words,

dealing with the so-called *orthodox paradox*; i.e., the situation when the state has to reform itself fundamentally while still performing its everyday functions which looks very much like an attempt to rebuild the ship piece by piece while sailing in high seas – and the obligation to continue providing public goods and alleviating social pains of transition lead to the expansion and diversification of the public sector. On the other hand, the budgetary constraints and manageability considerations require a drastic limitation of the scope of government. Finding the right equilibrium between these opposing tendencies is a matter of applied policy rather than a theoretical issue.

Tab.1
The central government structure in Romania and nine other EU candidate or member countries (situation as of: 2000 – 03 in Romania; 2000 – 01 in the other countries)

Ministries	ROMANIA Năstase (2003-)		ROMANIA Năstase (2001-03)		ROMANIA Işărescu (2000)		HUNGARY	CZECH R.	BULGARIA	POLAND	ESTONIA	LITHUAN.	FINLAND	FRANCE	ITALY
	a) Line														
Finance	X	X	X	X	X	X	X	X ⁵	X	X ⁶	X	X	X		X ⁵
Foreign affairs	X	X	X	X	X	X	X	X	X	X	X	X	X	XX ⁸	X
Defence	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Home affairs	XX	X	X	X	X	X	X	X	X	X ⁷	X	X	X	X	X
Justice	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Health	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Labour-welfare	XX	X	X	X	X	X	X	X	X	X	X	X	X	X	XX ¹¹
Agriculture	X	X	X	X	X	X	X ¹	X	X	X ¹	X	X	X	X	X
Industry-trade		X	X	X	X	X	X	X	X				X		X
Environment		X	X	X	X	X	X	X	X	X	X	X	X	X	X
Culture	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Education-science	X	XX	X	X	X	X	X	X	X	X	X	X	X	XX ⁹	XX ⁹
Youth-sport	X	X	X	X	X	X	X	X	X					X	
Transportations	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Public works					X										X
Communications/IT	X	X								X					X
Small-medium enterprises		X													
Tourism		X													X

In spite of the differences between these societies, there are nevertheless some basic characteristics that define the whole region: the same socio-political system until a decade ago, the same direction of movement today, the same kind of social and administrative problems that the public sector faces. Even the basic constitutional arrangements differ surprisingly little in Central and Eastern Europe today: all countries have typically coalition governments with collective cabinet responsibility, a legislature which is not very strong and transformative (unlike the U.S. Congress), being dominated by the executive, and carefully balanced president-prime minister systems that avoid the extreme cases of American-style presidentialism or the British-style domination of the PM. The Polish president, for example, arguably the strongest in CEE, has less power than his French counterpart, while the Hungarian or the Czech presidents, even though elected by the parliaments, are more than symbolic figures when it comes to policy, unlike the German or Italian ones. Thus, by design or by default, CEE political systems tend to cluster towards the middle of the scale, which has pure presidentialism at one end and parliamentarism at the other. Romania sits somewhere in the middle, with a semi-presidential system that gives to the head of the republic somewhat less power than in Poland.

In order to analyze the structure of governments in the ten countries, we employ a twofold categorization of their components that is common in the theory of public administration: line and staff agencies. Central ministries are always a bit of both, of course, but depending on their main functional purpose one character tends to dominate. So that we can distinguish:

- Line ministries manage a certain segment of the public sector defined functionally and usually provide certain identifiable public goods
- Coordination ministries supervise the inter-sectoral governmental action, manage cross-departmental programs and perform other functions that cannot be specified in terms of public goods provision, like generating forecasts and strategic plans. In this category we can distinguish:
 - b1** Prime Minister's office with or without an additional ministry of the Chancellery attached
 - b2** Ministries of economy and development
 - b3** Ministries of administrative coordination

It becomes now apparent, following data in Tab. 1, that Romania's institutional problem has several related aspects: a high overall number of ministries; a high level of instability in agencies, especially those in charge with coordination; and, as a result of the institutional proliferation, a certain degree of overlapping and ambiguity in coordination structures.

1. 2. The fragmentation and fluidity of central government

The data presented in Tab. 1 above show a marked separation of countries into two groups:

- a) Romania and Italy, where the average number of portfolios revolves around 24-25 (if we smooth out the fluctuations in size which are characteristic to Romania)
- b) All the other countries, with 17 ministries at most, the PM included. For the other candidate countries the average is 15.8 portfolios.

There is an obvious trade-off between the size and operational effectiveness of cabinets. When governments grow too large and fragmented to make truly collective decisions on specific agenda items, as they are supposed to do, the whole process of decision-making becomes slower, less transparent and more likely to be captured by sectoral vested interests. In such cases, the cabinets become broad forums where policies are rather legitimized than actually made. The crucial decisions are taken elsewhere, formally but more often informally: either at a lower level in a few powerful departments, or at a higher level by party leaders who are not cabinet members.

Not only continental democracies (Blondel and Rommell, 1997), but also the Anglo-Saxon countries have lately recognized these difficulties and trade-offs and substantially reduced the size of their cabinets in a move to make them more effective and strategically driven: Australia in 1987 and Canada in 1993 (Campbell and Halligan, 1992; Campbell, 2000). When they joined the democratic world at the beginning of the last decade, most of the CEE countries adopted this conservative view in respect to cabinet structures and set up fewer and larger umbrella central departments that can integrate many issues before bringing them to the cabinet's agenda. This structure has also the advantage of cutting down on overhead costs associated with corporate services in multiple ministries.

On the contrary, Romania continued with an expanded Soviet-style arrangement that tends to preserve the status quo, where narrow issues are assigned to a series of central agencies expected to execute diligently pre-defined budgetary items, while effectiveness is measured in terms of inputs. Reallocations are difficult to operate, both because of the opposition of administrative staff and the lack of information about actual performance, while the policy agenda is strongly influenced by pressures to continue existing programs. Cutting down bureaucracy is always the talk of the day, but very few public institutions are ever reformed in substance or rationalized. Most often across-the-board reductions are implemented² – even though this is the poorest remedy in a fragmented and

2 The last right after the Năstase cabinet took office; the initial call was for a 30 percent reduction in staff, but our estimates for the actual figure in central government by March 2001 revolve around 7-10 percent at the highest – see (SAR, 2001).

unstable institutional structure because it does not discriminate between useful and useless agencies – just to be gradually reversed in the following period.

Among the EU countries, Italy comes closer to this description. The high number of portfolios in the two countries cannot be entirely explained by the particularities of their party systems, which are indeed fragmented and produce short-lived coalition governments with numerous partners who enter the power-sharing game (although this may be a reason, of course). Finland, Hungary and the Baltic states have been at various points ruled by coalitions and had fragmented parliaments without the executive becoming so fluid.

Entrenched bureaucracies have learned from experience that they can always prevail in the long run by paying lip service to reforms while resisting them tacitly. They do not like coherent strategies, transparent regulations and written laws, but status quo and daily instructions received directly from above. This was how the Communist regime worked and, as many scholars noted, after it collapsed the old chain of command fell apart but the deep contempt for law and transparent action remained a constant of daily life (Åslund, 1995). This institutional culture is self-perpetuating, both in the professional civil service and the political class. The change of generations is not going to alter the rules of the game as long as the recruitment and socialization follow the same old pattern: graduates from universities with low standards are hired through “clientelistic” mechanisms; performance on the job is not measured; tenure and promotion are gained exclusively through internal power struggles. The governing is most often done, more or less routinely, by an uneasy combination of old-time Communist bureaucrats, the only ones who possess the group discipline and determination to accomplish anything, and foreign donors. The average minister today focuses less on getting things done and more on developing supportive networks, because having collaborators one can trust with absolute loyalty is the obsession of all Romanian politicians and the reason why they avoid formal institutional cooperation or independent expertise.

The Romanian Communist regime was much closer and repressive than its Central European counterparts, and thus did not allow the emergence of alternative elites, or a decent category of technocrats who can understand and manage policy reforms. What is more, post-Communist politics did not manage to discredit and exclude important political and economic actors linked with the previous regime by, for example, passing lustration laws. The researchers of transitions consider this factor a strong predictor for slow and muddled reforms (Nelson, 1995).

Not only does Romania have many ministries and agencies, but they appear, disappear or change their attributions and subordination very often. The immediate consequence is that the institutional memory of these agencies is lost and we see little continuity in terms of programs, staff and documents that might lead

in the long term to an improvement in performance. The best example here is the central economic coordination (more about it below). In the last six or seven years, we have assisted a whole game of musical chairs: the ministries of Privatization, Reform, Economy, Development and Forecast were set up, dismantled and then revived at such a pace that their employees did not have the time to realize what they were actually supposed to do. The reasons for this generalized institutional muddle are manifold. At a very basic level, there is obviously a lack of vision about the role the state should play in the process of reform. Second, defining priorities has always been a problem. When everything is a top priority that needs to be addressed on the spot, this means there are no genuine priorities and strategies, only momentary reactions to events and constraints which are exogenous to the act of governing.

1.3 Civil Service Issues

But there is also a more down-to-earth explanation for this instability. When the winners of the 2000 elections began to restructure all the ministries and agencies, some changes were made solely to get rid of civil servants who had become irremovable under the law passed in 1999. This law was part of the EU conditionality when Romania was invited to start the negotiation process at the Helsinki summit in late 1999. Its purpose was to insulate public officials from political pressure and institute a civil service with a European-style discipline, professionalism and *esprit de corps*. It is debatable whether this was a realistic or even desirable goal, given the current situation in the public administration. Maybe a better idea would have been to adopt a more liberal model where the politicization of the top civil service is openly recognized as inevitable, and thus officialize and regulate by law a practice which is well-entrenched and tacitly accepted. But once a law was adopted, the governments were expected to be at least more careful in dealing with the civil service. Instead, the 2001 institutional reshuffle was done in defiance of the spirit of the law: by simply changing their names the new administration has “reorganized” many institutions and thus purged the public sector of those unwanted civil servants who were hired under the previous administration by passing an exam (_SAR, 2001).

There is a certain taste for ambiguity in Romania which goes beyond the way laws are interpreted and enforced. The institutional structure is also relatively tolerant of uncertainties and overlaps, which reflects the incapacity of the political process to reach clear decisions (more about this in section 2). One can find arrangements in which second-tier institutions established in various political eras or shaped after the prescriptions of various donors come together in a complex and unworkable whole. The administration is made up of layers of organizations that emerge, gradually exfoliate and fall into irrelevance together with their political sponsors, but for some reason still hang around even when their attributions were reassigned to other structures (Ioniță, 2002).

In such an unstable environment, the life of civil servants is tough and bears little resemblance to their Western counterparts. The combined action of uncertainty and low payment creates a civil service who is not only less professional than the one in developed countries, but also much more heterogeneous (Sigma, 2002). The majority of its members are old petty apparatchiks or new dropouts from the private sector. Frustrated by their low income but unsure enough of their own skills to cling to their existing jobs, they perform daily routines, play bureaucratic power games and yield to political pressure coming from above.

On the other hand, a bolder strategy is pursued by a small number of people, especially at higher echelons, who regard a stage in the civil service as an investment in their professional CV, political career or a step towards a more lucrative job in the private sector or with a foreign organization. Some of them may even be educated in the West and thus constitute a nuclei of competence in their immediate environment, but their tenure tends to be short and their impact on the overall performance of their institutions unsure. These are the people whom the typical Western donor meets and talks with, and hence the widespread impression that the situation in the public sector is better than it really is. There may be differences in the level of professionalization and stability between institutions, of course. It has been noted before that the central banks and finance ministries in developing countries, for example, are the first to develop “linkage elites” who speak the conceptual language of their Western colleagues (Nelson, 1995). However, their numbers are still too small to alter the overall picture of the civil service: a mass of disgruntled and ineffective staff punctured with small and transient groups who understand and try to push the reforms forward.

Actually, as many foreign consultants on twinning programs have come to realize, there is no civil service as such in Romania³. All there is a collection of sectoral and opaque bureaucracies, run on a mismatch of sector-specific arrangements around which powerful vested interests have solidified. There is no unified structure to run this army of people and no integrity to its body, and even its conceptual limits are fuzzy. Many government institutions and agencies employ public-interest arguments in order to create special rules applicable only to their situation, or manage to get tacitly accepted practices that deviate from the general norm. Job descriptions are unclear, performance on the job is not measured in order to be rewarded, and the very concept of performance measurement is still strange to top public managers. This establishment is not only unmanageable but even hard to understand, and the government has shown little appetite for tackling the core of the problem so far. The effort to develop a database and a system of indicators to assess the situation has been going on for some years with donors’ help. However, the Agency of Civil Servants is reluctant to even develop measure-

3 Conclusions based on discussions of the author with DFID advisors in the Romanian central government and other technical advisors in institutional twinning programs.

ments of output and outcome, partly because no one has done this before, partly out of fear of stepping on somebody's toes.

Briefly put, loyalty to the boss and the institution is the only thing that pays off, so it is the only trait which tends to be selected. Overstaffing may coexist with understaffing, often within the same institution, but it is hard to identify from outside what the situation is and to force changes in the right direction. There are no reliable estimates available of the costs of this "civil service" to society, hiring and firing practices, salary rules and levels. A simple question like "how much does X earn per year" is difficult to answer, and even perceived as improper or slightly offensive, since every agency devises its own arrangement of bonuses and off-the-book compensations that it would rather not discuss in public. As a result, it is difficult to develop a system to manage the "civil service" more predictably, or introduce modern motivational elements such as career schemes and training-related promotions. Ultimately, the idea of political independence of administration is still a novelty, the assumption being that parties winning elections will apportion all things public among themselves.

Some things could be accomplished especially in the first stages of reform, with measures requiring some technical capacity of design, but little administrative capacity of implementation, and thus likely to be promoted quickly by a small circle of senior officials with political support: early price and trade liberalization, dismantlement of old regulatory mechanisms, macrostabilization (Nelson, 1995). They have more to do with the state getting out of various social sectors and freeing private entrepreneurship. Obviously, the quality of bureaucracy is less important in these cases.

But as post-communist reforms enter the second stage, where more complex public systems involving many stakeholders should be changed while continuing to function (such as education, health, social protection, tax collection, law enforcement), the coherence and professionalism of bureaucracy becomes a crucial factor. In Romania, while the reforms of type one were more or less successfully pressed upon bureaucracies by the linkage elites and political leaders, the attempts to implement reforms of type two led to bureaucratic sabotage and open backlashes against the initiators. Moreover, when arbitrary and politically-driven purges of the civil service occur, like the one mentioned before, the people who make up the small pockets of expertise are the first to disappear from the public institutions – either because they were the most visibly associated with the political sponsors of reforms or because they are the most professionally mobile anyway (Polidano, 2001).

One important second-generation reform is that of the civil service itself. Here what was lacking was not only implementation capacity in the system, but a firm commitment at the top. If this is to be successful, the cabinet leadership should be willing to spend some political capital on painful decisions which in-

clude staff reductions and more. Delegating the unpleasant task of restructuring the whole body of public administration to junior ministers doesn't usually work, as they cannot reform the departments run by powerful senior colleagues.

2. Problems of coordination

2.1 Dispersion of coordination responsibilities at the cabinet level

The above-mentioned problems appear particularly acute if we analyze the coordination ministries, where the proliferation of institutions and instability are the norm and the apportionment of responsibilities depends heavily on the person who occupies the top office at a particular moment. By contrast, the cabinets in the other CEE countries tend to be characterized by three traits. First, a strong PM with a stable political base in the legislative and functions of inter-agency coordination which are defined more formally. Second, there is a clear assignment of responsibilities in matters of economic policy, whether the PM or a super-ministry of the Economy is in charge (see Tab. 1 above).

Usually this arrangement makes the Ministry of Industry and Trade redundant. When MIT exists, however, as in the Czech Republic or Finland, there are no other parallel structures to dilute its responsibilities and certain continuity in terms of institutions and policies is assured. Finally, no other special institutions for coordination and administrative reform exist other than the PM's office and the Chancellery. Separate Ministries of Public Function, Institutional Reform or even Relations with the Parliament are unheard of. These too are Franco-Italian specialties adopted in Romania in spite of their questionable usefulness; even in their countries of origin, it is hard to see what difference they have made since their inception more than a decade ago (Toonen and Raadschelders, 1997). They were dropped in Romania during the 2003 reshuffle, but public administration reform and policy coordination are still passed around in search for their proper "location" instead of being regarded as what they really are: cross-cutting functions of government which have to be in-built into its structure and supported from the very top, not items to be assigned to line ministries.

Bureaucratic expansion and fluidity in the area of economic coordination, though not the only sources of problems, contributed substantially to the delay of economic reforms in the last ten years. We have seen a merry-go-round of agencies of Privatization, Development, ministries of Reform, Privatization, Industry and Trade (with or without Trade, recently transferred to the Foreign Affairs), Economic coordination, all of them more or less at odds with the premiers, the Finance Ministry and the State Ownership Fund (the quasi-ministry responsible for privatization). When things went reasonably well, this happened in spite of the formal government structures rather than because of them. During the 2000

center-right government, the economic policy was firmly controlled by the premier and its circle of advisers, usually young and Western-educated economists. The Ministry of Economy was a ghost structure set up to placate the senior Christian Democrats, the main force of the coalition at that moment, when their party lost the office of prime minister. Such arrangements cannot be stable in the long run, however, especially since prime ministers may have different professional backgrounds or policy priorities.

For better coordination with the legislative, the executive had reestablished in 2001 the Ministry for the Relation with the Parliament, another Franco-Italian institutional borrowing adopted only by the Czech Republic and Slovakia. But it had also created special positions of secretary of state in all the line and economic ministries, with the specific task of representing the agencies in Parliament and improving the communication between the executive and legislative. Since the Secretariat General was already charged with the daily operations of the cabinet and the circulation of documents between the branches of the government, the managing structure resulted was a complex 3-D matrix raising coordination problems even in organizations with more resources and experience. After only a few years of functioning, the Ministry for the Relation with the Parliament was abolished in 2003, with the understanding that the Ministry of European Integration is mandated to screen all the EU-relevant legislation anyway.

As it happens when institutions proliferate and overlap uncontrollably, there are crucial tasks that fall in between and create permanent problems. This is the case with the regional development policies, whether they are financed from the budget, through World Bank loans or, as it is increasingly the case, through various grants from the European Union. The management of development programs has never been clearly assigned to a specific agency; hence, fierce battles occur between ministries whenever a new program appears. In 1996, a network of eight Regional Development Agencies (ADR) was set up, with each ADR based in one of the eight regions of development⁴ defined by the government, plus a National Agency of Regional Development (ANDR) that was supposed to function as the hub of the network. The structure's mission was to consolidate itself and gradually train its staff so that it can manage the big programs EU usually implements in the candidate countries. After five years of running with smaller components of the EU assistance, the first sizable chunk of financing from the seven-year Sapard program of rural development finally arrived in 1999. By then, the whole structure was entirely bypassed by the very same central government that had set it up. The Ministries of Finance, Foreign Affairs and Agriculture tried to outmaneuver each other and take over the management of Sapard, and, at no point, was there any chance that ANDR could be involved. Agriculture won eventually, in spite of the fact that it had failed spectacularly with SPP, a pilot program one

4 EU-type, NUTS2 regions.

hundred times smaller than Sapard that it had run through its territorial branches in 1998–99. The Ministry of Agriculture is one of the biggest and the most unreformed bureaucracies in Romania today, with antiquated procedures based on executing detailed budgetary items, aging staff and an institutional culture reminiscent of the Soviet bureaucracy in the Brejnev era. Local-level cronyism and its image as a backwater tend to drive away the few talents that may happen to be in its apparatus. Under these circumstances, entrusting it with the management of a multi-year program requiring territorial delegation of responsibilities, flexibility, program budgeting and the assessment of proposals coming from private agents is a wild bet⁵.

2.2 Policies: a decision-making process that does not make decisions

In fact, although the current Romanian cabinet is perceived from abroad as more coherent and competent than the previous ones⁶, this image has little support in reality. No substantial structural reforms were initiated after the 2000 elections, either sectoral or cross-cutting, though in principle the task should be easier now under a one-party government. The top actors, primarily the prime minister and the secretary general of the cabinet, have failed to reform the protracted decision-making process, which is actually hard to call a “process” at all. Usually the choice in crucial policy areas is not made, but “happens” as a result of conflicting pressures from the numerous agencies and lobby groups which constitute the government. Explicit strategies are missing, key options, broad policy principles and trade-offs are never discussed.

It may be that they are not understood, since the ministries or the cabinet in its entirety do not have functioning policy-analysis units, and distrust any advice from independent experts (who are in short supply anyway). Or there may be no time to analyze and understand anything, the cabinet being constantly under the pressure of adopting EU *acquis* or ambushed by bureaucratic entrepreneurs with hundreds of drafts of laws, decisions, and norms dealing with narrow or trivial issues. There is no real delegation of authority at the lower level, and no competent upper-level bureaucracy able to process, integrate information, and present broad policy options to decision-makers. As a result there is no functioning information filter between lower and upper levels, and the decision becomes unpredictable, crisis-driven and many times irrelevant (Sigma, 2003). Recent innovations, such as the weekly videoconference of the cabinet with county prefects and local government representatives, may be promoting some sense of openness and responsiveness in the system. On the other hand it only aggravates the mentioned

5 In an uncharacteristic burst, even the Minister of Agriculture lost his temper once and declared that there is nobody in the whole ministry who is able to write or manage programs. *Adevărul* daily, November 2002.

6 EUI, 2004. But there are many examples of such positive tone in foreign media coverage of Romania.

shortcomings by increasing the ad hoc nature of governance. When a lot of time on cabinet sessions is spent on irrelevant details, crucial choices either pass unnoticed or are obscured on purpose (to avoid divisions, public criticism, etc.). When this happens, the hard decisions are only postponed, and therefore taken implicitly by the bureaucracy in the process of implementation. This is why many times secondary legislation (administrative norms) that follow a law is more important than the law itself – actually, they make law.

Instead of being short, focused and reaching clear decisions, Romanian cabinet meetings are long and have unpredictable agendas. The famous weekly sessions under the center-right coalition of 1996–2000 could last 12-14 hours in a row, with ministers and advisors coming in and out and trying to outmaneuver each other by sneaking memorandums or drafts into the PM's folder. The situation is somewhat improved, but there is still a sense that there are too many items on the agenda and no useful mechanisms to screen and integrate proposals before they reach the plenum – so that, for example, the ministers of Culture, Education, Foreign Affairs, etc. do not waste hours waiting their turn while important but obscure technical details of the tax reform are pondered by the few cabinet members who deal with them. Ministers still do not receive a complete agenda in advance so that they can be briefed by their advisors on the main points to be discussed.

As mentioned above, this type of cabinet is rather a forum where the coalition parties' representatives (or factions of the same party, as it has been the case in the last years) struggle informally for influence, while the premier acts more as a mediator than a champion of a specific policy agenda. Thus, on the trade-off between technical effectiveness and political representativeness which is characteristic for cabinet governments (Blondel and Rommell, 1993), the Romanian executive stands much closer to the latter end of the continuum. To complicate matters further, there are important actors who apply their veto on policies from outside government, using informal means⁷. A good example for this was the proposal to abolish the progressive personal income tax and shift to a flat tax, put forward in the summer of 2003. Although both the prime minister (and head of the ruling party) and the minister of Finance were endorsing it, and so formally there was no obstacle to implementing it, the reform was killed by the opposition of President Iliescu and his close allies in the ruling party who exert a lot of informal control.

Ministries and central agencies do not cooperate or exchange significant information, and as a result cross-sectoral issues cannot be identified and dealt with. There are no policy documents circulated and discussed within the govern-

7 Such as the Romanian president, who is required by law to be “above party politics”. In fact both presidents in the last decade and a half maintained close links with the parties that had backed them in elections.

ment, and largely no sense that there should be such a process. There is no policy unit at the central level that may help the cabinet produce and follow a coherent agenda. And it will be difficult to establish one since the powerful ministries, correctly regarding this move as a threat to their monopoly on relevant policy information and freedom of movement, are likely to block the initiative.

The formal requirement of inter-ministerial consultation applies to legal drafts only – which many times are poorly written, unclear about objective and means, and keep changing at source while they are being discussed in other institutions. The lack of policy documents, white books and other consultation papers written in plain language, publicized and discussed broadly was often singled out as one of the most important yet overlooked governance flaws in Romania (_Sigma, 2003). They should form the basis of strategic decision-making, while laws should only be subsequent instruments to implement decisions once these are made. Instead, what happens is that ill-considered laws originating in various ministries avoid hard policy choices through loopholes, omissions and vague legal language. When the law gets passed, the key policy issues may be decided in haste, sometimes implicitly, in the secondary legislation (norms of implementation) in a process which is purely bureaucratic and unaccountable. Alternatively, they are never addressed and just to resurface in the process of implementation, so that everybody gets confused; agencies begin to apply the law in a discretionary manner, and the government rushes to pass another law to deal with the aspects in question, which introduces additional problems – and so the treadmill goes on.

Even foreign donors have come to realize the problem and increasingly ask the Romanian authorities to allow more time for debates and to discuss the key issue openly in order to increase the quality of acts and regulations. However, this is easier said than done, since there is no clear counterpart on the domestic side in charge of this issue. No focus for coordinating policies has emerged so far, and the civil service has no experience in costing out laws, evaluating their broader social impact and assisting the decision-makers with such expertise. The secretariat general of the government, the natural location of this function, “*has no capacity for substantial policy coordination*” and in general “*there is little quantitative and qualitative monitoring of policy implementation*”⁸. Instead, apart from its duty to handle the agenda and documents of the cabinet meetings, the SG is regarded as a crisis unit of the cabinet which in the last years has been charged with everything, from finding a solution to the problem of abandoned children to coordinating the efforts of prefects in case of flood or heavy snowfall. As in the area of civil service reform, there is little chance that such a policy coordination capacity will be developed as long as the top political leadership does not realize its importance and is unwilling to spend some political capital on fixing the problem.

8 EU Commission Country Report: Romania, November 2003, pg. 16.

In fact, there is nothing new or peculiar to Romania in having erratic and opaque policies, an unclear agenda at the top, little public consultation, poor coordination and a weak civil service overstepping its mandate when making crucial decisions by default in the implementation process. In a book on policies in developing countries, Marilee Grindle argues that one of their obvious characteristics is that the focus of participation and conflict occurs primarily at the implementation or the output stage (Grindle, 1980). This contrasts with the experience of the U.S. or Western Europe where the focus rests instead on the input or policy-making stage. She identifies two reasons for this difference. First of all, in developing countries there are few organizational structures able of aggregating the demands and representing the interests of broad categories of citizens. Where such structures exist, they tend to be controlled by elite groups. Second, national leaders with influence over the allocation of policy goods tend to discourage citizen participation in the policy process as illegitimate or at least inefficient. Trapped between weak representation and discouraged participation, citizens/groups are forced to engage with the policy process by presenting individual demands. Therefore “factions, patron-client linkages, ethnic ties and personal coalitions” are the most common mechanisms to access public goods and services (Grindle, 1980, p. 18).

Mutatis mutandis, the analysis is instructive when translated into post-Communist space. Communism has left behind a tradition of policy-making which does not encourage broad and open consultations, considering and costing-out alternative courses of action or balancing trade-offs. Instead, the agenda is set in a close circle of technocrats and approved by the key political players (who may or may not coincide with the official political hierarchy). However, the formal policy set from the top is merely a basis for perpetual negotiations – vertical and horizontal⁹ – in the public administration and political systems occurring during the implementation stage. Substantial deviations from the original goals are tolerated depending on the informal power of each actor involved. Strategic policies do exist, as well as other official norms and regulations, but they tend to be more or less fictional, many times the public institutions being the first to ignore them. We can call this **the model of governing by default** – when, in an environment of poor coordination from the top and unreliable public administration, policies more often happen than are made deliberately, and there is a considerable difference between the formal institutional framework and informal norms which apply in reality.

3. Case studies

The two examples below serve as illustrations of various instances when government policies fail, at various points of their implementation cycle. They can be

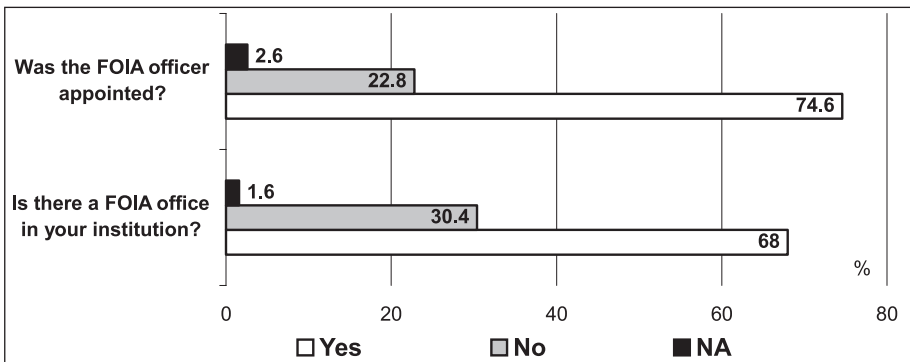
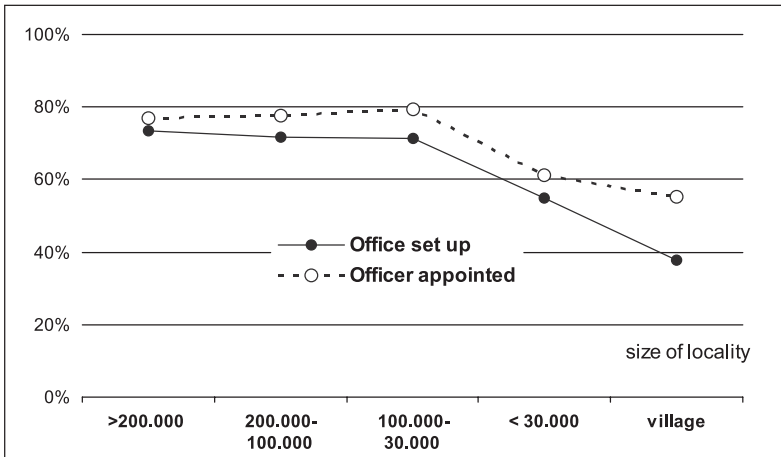
⁹ We use here the terminology employed by Janos Kornai in his description of the Communist regime as perfectly unpredictable, where the official plan was in fact only a loose guideline and what happened in practice was the result of power games and negotiations (Kornai, 1992).

read as tests of the capacity of the Romanian governing system to design and pursue a coherent course of action.

3.1. Test A: The case of the Freedom of Information Act (FOIA) ¹⁰

The Romanian FOIA was passed in 2001 and its subsequent implementation has attracted a lot of public attention and free publicity from the media, as well as many capacity-building resources from the donor community. Conditions are therefore met to make it a relevant case study. One year later, was the law actually implemented and the targets the government has set for itself met? We surveyed a representative sample of 500 public institutions from 96 localities, with a methodology combining questionnaires, in-site visits and mock requests in order to assess both the formal compliance with the law and the more demanding aspects related to its implementation.

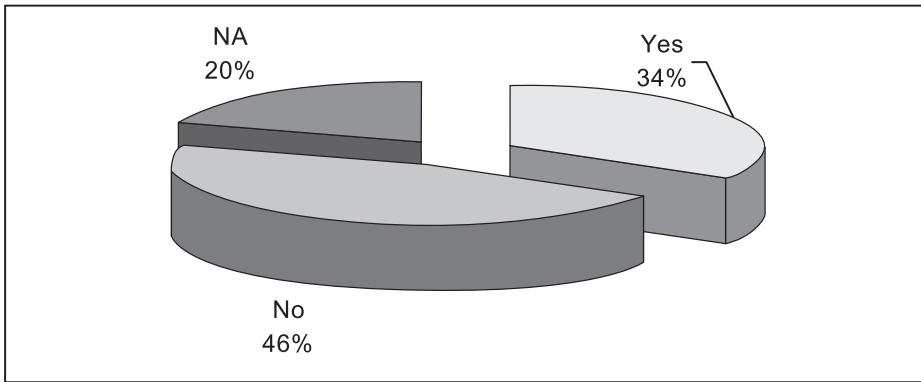
Fig. 3
Formal compliance with FOIA by law provision and size of locality



¹⁰ Based on a study conducted by the Romanian Academic Society (SAR) in 2002 (_SAR, 2003).

Results point to the ordinary formal compliance: three-quarters of the sample designated a person in charge, and over two-thirds created a special office to deal with FOIA issues (Fig. 3). Figures are – unsurprisingly – considerably lower in rural than urban areas. Going more in depth, the law requires that each institution must produce and made available *ex officio* a list of documents of public interest. SAR checked on the existence of such a list, which is crucial in order to orient citizens, NGOs and the media on the kind of information produced by the agency. It is also important if a case is contested in court, as the law allows. The results are presented in Fig. 4: the list was available in far fewer institutions, about a third of the total.

Fig. 4
Substantial compliance with the FOIA provisions



However, when our operators asked to actually see the list, only 16 percent of agencies could produce one. We did not check to see if the list was accurate and complete. The essential fact is that only 16 percent were able to meet the minimal requirements of the Freedom of Information Act: preparing an inventory of information which can be disclosed to the public. One year after FOIA was enacted, the evidence shows that it was implemented formally and superficially in two-thirds of the agencies surveyed, but the first substantial step was undertaken in only 16 percent of the public administration. The case may be illustrative for the fate of the *acquis*, which even after passing the obstacle of Parliament may face a similar fate.

3.2. Test B: The case of the financial transfers for the local governments (equalization grants)

With the advance of decentralization in the last decade, local autonomy has increased in Romania and local governments were able to develop a basis of their own revenues in order to finance their independent functions. But their actual capacity to raise revenues varies substantially from one unit to another, depending on the local

level of development. For example, the counties' own revenues per inhabitant in 2001 ranged more than 1: 3 from the poorest to the most well-off county; if anything, the disparities are even higher among localities, the second tier of local government.

Following the international standard practice, a system of financial transfers was created in 1998 – 99 to partially compensate these disparities and ensure all local governments have a minimum of resources to perform their basic functions. It is called the *equalization grants system* and, though in reality it is a complex arrangement of money transfers with many stages and components, it is based on the simple principle of a pool of money to be distributed in inverse proportion with the financial strength of the local governments, following a formula specified in the Annual State Budget Law.

Compliance with this redistributive, “Robin Hood principle” should be very easy to verify in practice, were it not for the deliberate obscurity in which the system is kept. Nevertheless, SAR has managed to collect and assemble data on local budgets execution in order to check if the basic policy objective – to transfer some money from rich to poor local governments – is actually met. Unsurprisingly, it turns out that it is not, either at the county (Fig. 5) or locality level (Fig. 6). In both cases there is no significant correlation between the wealth of the local government unit and the size of the (presumably) equalization grant it gets. Many rich units receive more money per capita than the poor ones – which is to say that instead of reducing inequalities this policy slightly magnifies them.

Fig. 5
Romanian counties' revenues, 2001
(each dot is a county)

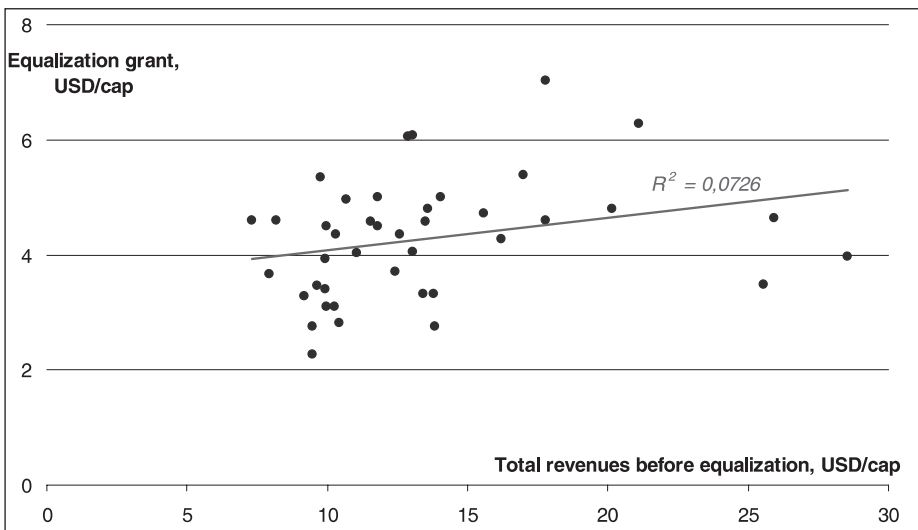
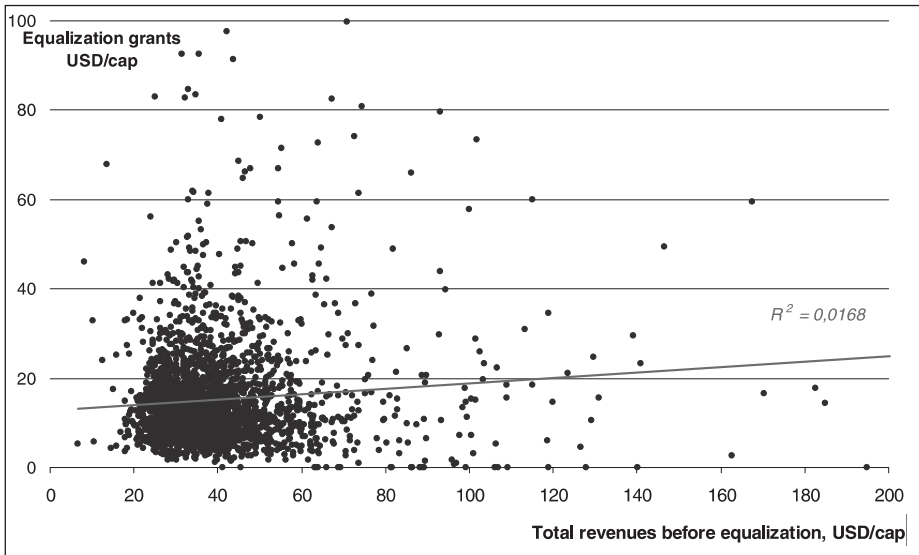


Fig. 6
Romanian localities' revenues, 2001
(each dot is a locality)



The explanations for why this happens are manifold, and merely listing them offers a good X-ray of the functioning of the Romanian public sector in matters of financial allocation: the formula mandated by law is not applied, especially at the sub-county level, where the leadership of the county councils use the funds in a discretionary manner in order to build political clientele; the county prefects, whose main constitutional attribution is to check the legality of the local councils' decisions, have never challenged in courts this illegal behavior of the counties; the central government lacks the political will to step in and discipline its local party bosses; as a result, incentives to behave responsibly and make fiscal efforts at the local level are destroyed, and instead everybody focuses on rent-seeking and case-by-case deals with the upper tiers of government; and lack of access to relevant information in a meaningful format makes difficult for independent observers to notice and document such policy flaws.

Conclusions

The two case studies depict contrasting experiences. The first is an example of policy which was assumed, passed and put into practice without assessing the costs and trade-offs the implementing agents will be confronted with. For many reasons, the government was determined to push through an act which was perceived as progressive, or at least to be seen to do its best in this direction. The

problems they encountered were (i) poor *ex-ante* planning for what was going to be a major change affecting every public institution in Romania, and (ii) a genuine shortage of capacity to implement its provisions consistently across the public administration, as the survey shows. The flaws of the civil service discussed in previous sections make it very difficult for such broad initiatives to succeed.

The second case sheds light on a different, but complementary set of shortcomings. Technical implementation of the provisions of the law governing money allocations is not a problem here. With political will and proper coordination, the matter can be sorted out with little administrative costs. Instead, the real problems are (i) the lack of mechanisms to assess the effects of a policy *ex post* and give feedback to decision-makers, and especially (ii) the fact that no central ministry wants to be in charge of this sensitive issue (Finance and Public Administration have been shooting it back – for many years).

The reason why no one wants this hot potato in their lap is that they will have to confront a key problem of governance in Romania – arguably, *the* key problem. As breaking the rules of the equalization grants system is currently the only way to solve expeditiously and with minimal effort a host of issues left unaddressed (financing infrastructure at the local level, intervening in case of emergencies, co-financing international investments, determining local governments to cooperate), fixing the system would require enormous effort to analyze and rationalize a complex policy area – in this case, decentralization. It is much easier to preserve the status quo and tolerate deviations from the rule in order to solve individual crises, rather than embark upon such a monumental effort of policy consultation and redesigning. The weak institutional framework – administrative fragmentation at the top, poor overall coordination, unprofessional and politicized civil service – described above has a lot to do with it. And the circle closes when well-connected stakeholders, for example, those at the local level, start exploiting the new ad-hoc rules of the game to their own advantage. This is a clear illustration of the situation mentioned by Grindle in section 2.2. above, when a lack of institutionalized feedback and broad participation in designing policies lead to their de-legitimation and various actors seeking case-by-case solutions to their problems.

What is common in the two examples is the large gap between the formal norms and the real practice, mentioned at the beginning of this paper as one of the most obvious indicators of governance failure in Romania. For many reasons – lack of capacity, lack of motivation, political interest – laws and policies are not consistently enforced. Instead, a different set of informal norms emerge which guide the actual behavior of all agents involved¹¹. In fact, there is a vicious circle here: a fragmented policy-making body generates no broad and coherent

¹¹ The rules about how to break the rules, as informal norms are sometimes defined.

policies, but rather many pieces of legislation which are not necessarily consistent with each other; implementation is erratic and no feedback sent up by the bureaucracy; enforcement is done selectively by the central authority – and it cannot be otherwise, since deviations are so many – often based on criteria developed outside the legal domain, such as the right political connections. As things stand, it is unlikely that the vicious circle can be broken by a large cabinet with variable geometry and poor internal coordination, the main mission of which is not to generate and monitor policies but to function as an arena where power groups meet to reach compromises.

These are traits shared to some extent by the whole CEE region, but the Romanian system of administration appears an unusually accurate embodiment of the problems discussed in previous sections, which can be summarized by what we have defined in this paper as *the model of governance by default*. Our contention is that, in spite of frequent organizational changes of the public sector in the last years, the core of this model of governing based on weak institutions was left untouched in Romania. This explains the low scores of the country on most of the good governance indicators mentioned in the introduction: accountability, effectiveness, regulatory quality, rule of law, or control of corruption.

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Building Capacity for Policy-making: Experience From the Bulgarian Administrative Reforms

Mina Shoylekova*

Abstract

The policy-making capacity depends not only on political leadership but to a great extent on the institutional arrangements that facilitate it. The Bulgarian practice shows that without proper organisational and legal framework policy results remain weak. The paper makes a review of the development of the policy-formulation process in Bulgaria from 1990 to 2003. In the context of a comparative analysis of outputs, it examines the policy mechanisms and actor, and outlines the main needs for change.

1. Introduction

The dynamics of current development sets new challenges to government. It is expected to be efficient and effective. Policy is required to be coherent and stable, while the complexity of policy issues increases. Globalisation and European integration dramatically change the context and place additional burdens on government. To address these needs, various reforms have been initiated to develop clearer rules and procedures for policy-making, and to ensure mechanisms for transparency and citizen participation. Administrations are reorganised to be more open and accountable. In fact, the changes are so deep that they go beyond and modify state powers and government in general. While the principle for separation of powers reserves the legislative process for the legislatures, practice shows that the executive currently prepares about 60-80 percent of the legal drafts and the majority of them become laws (Olson, 1994). The legislative process long ago exceeded parliamentary procedures. The increasing complexity of social life and the need for fast reaction reinforce the debate of rules vs. discretion (Majone, 1996).

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The traditional view places the responsibility of policy-making on the political leadership, while the key function of administration is said to be the translation of policy decisions and their implementation (Palumbo & Maynard-Moody, 1991). Nowadays, this concept is evaluated as “oversimplification” that never really intended to separate politics and administration (Waldo, 1992). The distinction between both is reaffirmed mainly with regard to ways of recruitment and the role towards public interest. Since good policy is defined as “synoptic and long-term, strategic and proactive, cross-cutting and substantive” (Peters, 1996), it obviously requires solid institutional arrangements to facilitate the policy-making process. On that ground, the “administrative man” has come out of his bounded rationality and now has the capacity to propose effective ways for achieving policy goals (Denhardt, 1984). Further, policy formulation and implementation are considered phases of the same process (Parsons, 1995) that requires extensive resources, diverse tools and mechanisms for coordination.

After 15 years of transition, Bulgaria provides a good example for the development of politics – administration interaction and the needs to be addressed for effective policy-making. Policy capacity turned out to be crucial in the case of the profound economic and social transformation that has dominated the country since 1989. The failures of government have usually been blamed either on weak political leadership or inadequate administrative performance. However, the study of the policy formulation process for the period 1991–2003 shows that the reason should be traced in the poor interconnection between both.

Policy formulation in the presented study is defined as preparation of drafts of laws and other government decisions with or without status of normative acts. The focus is placed on the conditions, mechanisms and elements of policy formulation. The study looks at three stages of analysis. First, it examines the capacity for political leadership through a set of objective criteria – the composition of government in the context of party – expert recruitment, structural stability and previous experience. Next, changes in the administrative system related to policy formulation process are outlined, and the extent to which these support the work of the political level is assessed. Finally, the formulation and drafting procedures are examined so as to reveal in detail the role of top officials and administration in policy formulation. All these aspects are compared against policy outputs (the different types of adopted acts) through the years.

The study is based on an extensive review of normative documents regulating the structure and operation of government institutions. Other sources of data are the legal databases of the Council of Ministers (1990–1998) and the National Assembly (2001–2003) that provide information about the flow of legal drafts in the pre-legislative and the legislative phase. In addition, the analysis and conclusions are based on findings from personal observations and interviews with civil servants in different levels of state administration.

2. Political Leadership and Policy Formulation

2.1 Government Composition

In the early 1990s, Bulgaria, like other CEE countries, had initiated extensive reforms for the establishment of a democratic society and market economy. The new constitution, adopted in 1991 set the general structure of powers in the new parliamentary republic. The Council of Ministers (the government) was pronounced the central executive authority and manages and implements domestic and foreign policy (Constitution, Art. 105). The management function relates to policy-making, and specifically legislative drafting, while the implementation function is associated with the management of the entire state administration (Bliznashki, 1994). The government is appointed *en bloc*, and is collectively responsible for its policy. The role of the prime minister is to direct, coordinate, and bear responsibility for the overall policy. The specific structure of government is proposed by each candidate prime minister.

The new democratic institutions were expected to carry out reforms through a solid and decisive policy-making process. However, for the last 14 years Bulgaria had ten governments (Table 1) and only one of them fulfilled its due term of office. The instability significantly hampered the expected reforms. In the first two years there were three short-lived governments that had to deal with the economic crisis and political turmoil.

Table 1
Complete list of the Bulgarian governments 1990–2003

Prime - Minister	Date of appointment – removal from office	Duration in months	Mandate
Adgrei Lukanov	February – September 1990	7	Bulgarian Socialist Party
Adgrei Lukanov	September - December 1990	2	Bulgarian Socialist Party
Dimiar Popov	December 1990 - November 1991	11	Expert government
Philip Dimitrov	November 1991 - December 1992	13	United Democratic Forces
Luben Berov	December 1992 - October 1994	22	Movement for Rights and Freedoms
Reneta Indjova	October 1994 - January 1995	4	Interim
Jan Videnov	January 1995 - February 1997	25	Bulgarian Socialist Party
Stefan Sofianski	February - May 1997	4	Interim
Ivan Kostov	May 1997 - July 2001	50	United Democratic Forces
Simeon Sax-Cobourg-Gotha	Since July 2001	32*	National Movement Simeon II

Note: * For the period July 2001 – April 2004. The mandate is due to end in July 2005.

Source: State gazette 1990 – 2003

As a result of the first democratic elections, the Dimitrov government was appointed with the mandate of the Union of the Democratic Forces (UDF) in 1991. The cabinet was composed of 15 members, two of them being deputy prime ministers. The position of the latter brought a lot of instability in the government. On the one hand, they presented some of the main party groupings; and on the other, they had no ministries under their responsibility. This posed a question about their real power. Only three of the ministers, as members of the former government, had some managerial experience. Some six months after coming to office, the Prime Minister was forced to increase the number of deputy prime ministers in order to assure the support of the growing number of fractions in the parliamentary majority. Several months later, there was a second change in the cabinet that included the replacement of two ministers with other key party figures.

The next government of Prof. Luben Berov was appointed after difficult political consultations. The prime minister was an expert figure chosen to overcome the political crisis in the Parliament. The government had 14 members and also had an “expert” profile. Only one of the ministers had previous experience as a cabinet member. The Prime Minister acted also as the minister of foreign affairs. In contrast to the previous government, the three deputy prime ministers had ministerial posts in key areas (trade, transport and social affairs). The relative stability in the country for the next two years went along with no real reforms, since the parliamentary support was very thin. After six months in office the prime minister made structural changes in the government, and a year and half later had to resign.

Table 2a
Changes in the Council of Ministers 1991 – 2003

Government	Initial number of government members (including the prime minister)	Final number of members (including the prime minister)	Initial Number of deputy prime ministers	Final Number of deputy prime ministers	Number of changed ministers	Number of changed deputy prime ministers
Philip Dimitrov	15	19	2	5	7	3
Luben Berov	14	16	3	2	6	2
Jan Videnov	18	19	4	3	8	1
Ivan Kostov	17	18	3	1	11	3
Simeon Sax-Cobourg-Gotha	17	21	3	3	10	1

Source: State gazette 1990 – 2003

Table 2b
Changes in the Council of Ministers 1991 – 2003

Government	Number of changes	Number of changed ministers	Internal replacements	Number of new ministries, established during the term of office	Time of the first change (months)	Duration of office
Philip Dimitrov	2	7	0	2	6	14
Luben Berov	2	6	0	2	6	22
Jan Videnov	8	8	0	3	18	24
Ivan Kostov	1	11	0	0	30	50
Simeon Sax-Cobourg-Gotha	5	10	2	3	5	32*

Note: * For the period July 2001 – April 2004. The mandate is due to end in July 2005

Source: State gazette 1990 – 2003

The Videnov government was appointed in 1995 with the mandate of the Bulgarian Socialist Party (BSP). The cabinet had 18 members; four of them were also appointed deputy prime ministers. Four of the ministers had been members of previous cabinets. In total, this government was significantly more stable than the previous ones due to the large parliamentary majority that supported it. The first change in the cabinet came some 18 months after appointment, and led to an increase in the number of government members that were party functionaries¹. Due to the deep economic crisis and the failure in many key areas such as agriculture, health, finances, etc., it was forced to resign in 1997.

The government of Ivan Kostov was appointed by the large UDF parliamentary majority, and was the first cabinet to fulfil its due term of office. Initially the government had 17 members with three deputy prime ministers. This government had significant managerial experience – nine of the ministers were members of previous cabinets, including the Prime Minister himself. The proportion of party functionaries was also much higher than that of any previous cabinet. The three deputy prime ministers had key positions in the party structures and another five ministers had some party background. The government was remarkably stable and the first and only change was made 15 months after its appointment. These were mainly replacements of some of the party figures in the cabinet. However, these changes did not lead to better performance in the respective areas (specific examples could be given with the Ministry of Education and Science and the Ministry of Justice and Ministry of Interior).

The current government of Simeon Sax-Cobourg-Gotha came after the elections in 2001 and the surprising victory of the National Movement Simeon

1 The distinction between experts (cabinet members with no party post, who have obviously been chosen for their professional experience and skills) and party figures (they could also be experts in their field, but the strong party commitment defines a different role for them in the cabinet) is used in the present study as an objective indicator that shapes cabinet's profile.

II (NMSS). The government declared its intent to continue work on many of the priorities set by the Kostov government. The first format of the cabinet included 16 ministers, but soon their number increased and at present there are 20. Some of the ministers have previous experience as deputy ministers or directors of agencies. In general, the cabinet has an expert profile especially as regards the economic, financial and industrial sectors. Initially, there were no political figures in the government. The only exception became the new deputy prime minister on the issues of European integration and administrative modernisation. Prior to joining the cabinet, he headed the parliamentary group of NMSS. Although there are a significant number of personnel replacements in the government, so far the structural changes are confined to the promotion of two executive agencies into ministries.

This brief review of cabinets' composition shows that there is a trend towards the establishment of a political elite that occupies government posts. On that basis, it could be claimed that leadership capacity has been accumulated. Although the experience of government members in different positions in the executive may not be the key factor for efficient policy-making, it appears to be a prerequisite for better management and respectively better government performance. In addition, prime ministers show a growing preference for experts with strong managerial and/or sector experience rather than purely party figures to join the cabinet. On the other hand, this preference is dependent on the parliamentary support for the specific government. With a decrease of this support, prime ministers tend to secure more party functionaries. Beside the clear example of the Dimitrov's government, here could also be added the government of Videnov and of Simeon Sax-Cobourg-Gotha.

Another visible tendency in government composition is that prime ministers in time increase the size of their cabinets and reduce the number of deputy prime ministers (Table 2a). This could be considered an indication that the role of this position in government is not clear. The fact that deputy prime ministers have no specific function in the policy process² supports such a conclusion. The cabinet structure is certainly related to the issue of the prime minister's role. Although the primacy of his position is not explicitly stated in the constitution, his responsibility for overall government policy presumes such dominance. Therefore, depending on the personal qualities of the prime minister, the type of government may vary from "clearing house" for formal adoption of decisions to "arena" for debating policy proposals (Manning, Barma, Blondel, Wright, 1999).

2 The Law on Administration (Art. 24) and the Structural Regulations of the Council of Ministers (Art. 23) provide only that the deputy prime ministers support the work of the prime minister.

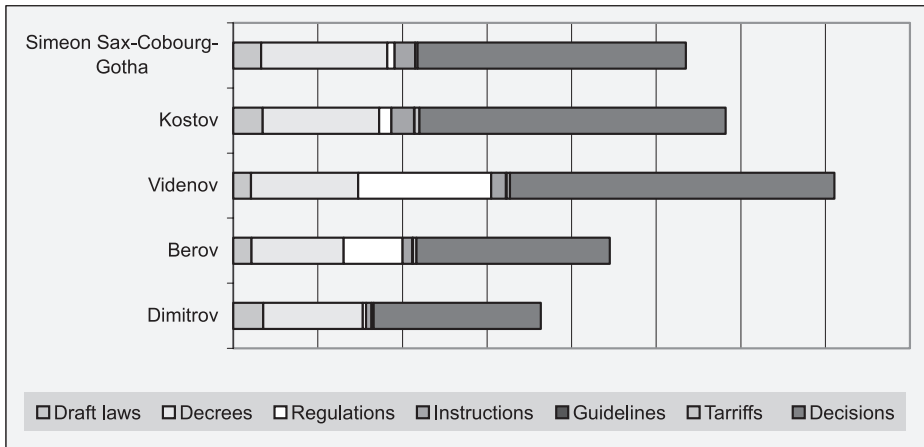
2.2 Government Performance

It is expected that stability of government will deliver better performance. Hence, the Bulgarian experience shows that the institutional consolidation is accompanied with an increased contribution of the executive to the legislative process. While in 1991 the government drafts made some 20 percent from the total number of passed laws, in 2003 their amount was about 55-60 percent (without the laws for ratification). On the other hand, increased government input in policy making is not directly linked to better quality and improved performance.

Still in an early stage of modernisation, the Bulgarian government has not yet developed indicators for performance measurement. The organisation of processes that will make evident the link between input and outputs has just been initiated. Programme budgeting has been introduced as pilot projects in a couple of ministries as late as 2003. Due to these limitations, a performance evaluation based on advanced indicators could not be carried out. Therefore the present paper utilises quantitative indicators, such as number of draft laws and secondary legislation, proportion of proposed-adopted acts, distribution of the different types of acts in the total number of acts, etc. Such an approach concentrates mainly on the direct results from the work of the executive and has no intention of evaluating the overall outcomes from policy-making. It could be argued that the analysis of outcomes provides a better evaluation of government performance. However, outcomes are related not only to strategic leadership capacity but also to the legislative and implementation phase in policy-making. These two factors may lead to serious deviations in the outcomes and therefore may mislead the analysis of strategic policy capacity. Finally, the approach adopted in the paper allows temporal comparison and enables conclusions for the general trends in the establishment of such capacity.

The first democratic government (Ph. Dimitrov) had planned a large scope of reforms. The focus was placed on the establishment of basic institutions and regulation of general administrative issues. The other priority was the regulation of the economic area. The total number of proposed legal drafts was 92. The analysis of the outputs by types of adopted acts shows one of the biggest shares of drafted laws, compared to the other types of acts (Figure 1). Such distribution is not surprising given the fact that the mission of this government was to continue the process of democratic institution building starting with the adoption of the new constitution and the initiation of economic reforms. However, only 16 of these drafts were passed by the Parliament (Table 3). In addition to the unsteady political support, the government suffered the resistance of the administration in the implementation of these reforms. The attempt to reorganise the administration in order to lessen the effects from the political inclination of its employees failed (Verheijen, 1997). Finally, the political polarisation and the reallocation of the parliamentary groups forced the government to resign.

Figure 1
Productiveness of the governments 1991–2003 – Proportion of the average number acts by type per month³



Source: State Gazette: “Annual Contents of the Acts Published in the Official Part of the State Gazette”, 1991 – 2003

Table 3
Government legal drafting and passed laws 1991 – 2003

	Legal drafts of the government			Laws passed by the parliament		
	Number of proposed	Number of passed	Percent of passed	Number of passed	Passed government drafts as percent of total	Number of passed laws for ratification
Philip Dimitrov	92	16	17,4	59	27,1	25
Luben Berov	95	13	13,6	59	22	79
Jan Videnov	104	69	66,3	126	54,7	143
Ivan Kostov	250 ¹	190*	76,0	629	30,2	272
Simeon Sax-Cobourg-Gotha	211	149	70,6	373	93,29	199

Note: * These figures are for the period May 1997 – May 2000. The National Assembly was not able to provide relevant information for the period May 2000 – May 2001 prior to publication of the article.

Source: Legal database of the Council of Ministers (1990–1998), Annuals of the 38th National Assembly (1997–2000), Online legal database of the 39th National Assembly 2001–2003. The data for the period 1998 – 2001 was provided by the National Assembly.

The aim of the Berov government was to stabilise the functioning of government institutions and to start privatisation. The key legislative priorities were

³ The number of adopted acts is divided by the number of months in office in order to provide ground for comparability.

institution establishment, economic and tax issues. However, little was done in this direction. The share of laws from the total number of laws is the lowest compared to the other cabinets (Figure 1). Instead, it produced a large number of secondary legislation – mostly structural regulations and regulations for implementation of laws. The total number of adopted draft laws was 95, and only 13 of them were passed by the parliament (Table 3). The inefficiency of the policy process has increased dramatically. Three of the adopted drafts were not proposed to the parliament at all, and another 25 were essentially repetitive amendments to six existing laws⁴. In addition, these amendments were drafted with a time difference of not more than three to four months. This shows a lack of coordination and capacity for decision-making.

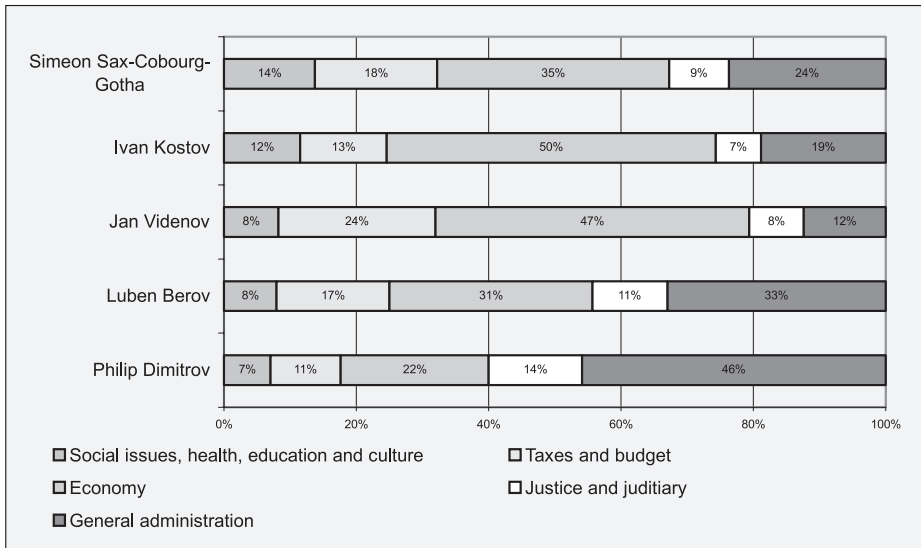
The Videnov government had an ambitious program, which paid specific attention to the stabilisation of state institutions and improvement of government. For two years in office, the government prepared 104 drafts and 66 percent of them were passed by the Parliament (Table 3). The majority of the legal drafts were amendments to existing laws, but there were rare repetitions. Despite the improvement in the policy-making process, its quality was still low. The Videnov government was most productive in terms of total number of adopted acts (Figure 1). The analysis of the types of acts shows that the share of laws was the smallest on the account of a very big share of regulations and decisions. The fact that the government produced such a big amount of secondary legislation, especially decisions, leads to the conclusion that its policy was reactive, subordinated to the developments in the country. This is also evident from the lack of correspondence between outputs (adopted acts as result of government work) and outcomes (the effect from the government performance), between quantity and quality. A more profound research of the Videnov period should identify the key reasons for this discrepancy. The functional analysis performed in 1997 showed weak coordination and a poor condition of the administrative system. Undoubtedly, these two factors had a strong adverse impact on government performance, and it is possible they were the main reasons for the low effectiveness of the active efforts of the Videnov government.

The Kostov government was distinguished from the previous ones not only with experience, but also with the effective transformation of the administrative system that aimed to improve the policy-making process in general. For the first time on the basis of a government programme, special half-year legislative programmes were adopted. The coordination mechanisms were improved. The analysis of the adopted acts by type shows another important feature of this government

4 These include draft amendments to the Penalty Code – 3, the Penalty Procedures Code – 3, the Law on Property and Use of Land for Agriculture – 4, the Law on Local Self-Government and Local Administration – 3, Law on Privatization of State and Municipal Property – 5, Law on the National Emblem – 4.

– it produced a large amount of instructions oriented to the administration. For its term in office, the government proposed a significant number of legal drafts in all areas and had the biggest “success rate” so far (Table 3). The major area of regulation was the establishment of a framework for free market economy and the reduction of state functions. This was accompanied by a set of laws regulating the structure and operation of the administration as well as its interaction with the citizens⁵.

Figure 2
Proportion of government drafts of law by policy area



Source: *Legal database of the Council of Ministers (1990–1998), Online legal database of the 39th National Assembly 2001–2003. The data for the period 1998–2001 was provided by the National Assembly.*

The comparison between the Kostov and Sax-Cobourg-Gotha government shows a shift in the policy focus (Figure 2). While the Kostov government produced more regulations related to economic issues, the current government has reduced these on the account of health and social issues, justice and administration. This trend could be explained by the fact that the economic framework has been settled and the current needs are related to other sectors that refer to the implementation of the EU membership criteria. The trend for increasing government input in the legislative process has been sustained. Despite different evaluations from the observers about the capacity of the two cabinets, their performance is quite similar (Figure 1).

5 This included the Law on Administration, the Law on Civil Servants, the Law on Administrative Service Delivery to Citizens and Corporate Bodies, the Law on Access to Public Information, the Law on Personal Data Protection.

3. Institutional Arrangements for Policy Formulation

The constitutional regulations for the structure and organisation of the executive are quite brief and provide for its operative flexibility in the implementation of its functions. From 1991 to 1997, issues of administrative organisation were regulated only with the Structural Regulations of the Council of Ministers and the respective administrative structures. For that time, there were numerous changes in the details and no specific reorganisation in the system as a whole. Therefore, the main problems originating from the former state organisation pertained. Previously, there was no separation of powers. The Communist party bureaucracy had existed in parallel to the state administration. Political functionaries occupied key posts in the latter and for all practical purposes, it was the party involved in the policy-making. The party bureaucracy also performed the horizontal coordination between institutions. The state administration was left to implement decisions and manage the sectors of the economy (UNDP, 2001).

The Videnov government was the first to address the need for stabilisation of state institutions and the improvement of cabinet–administration relations. In two years, the Structural Regulations of the Council of Ministers changed four times. These changes referred to the distribution of functions, introduction of coordination mechanisms between the Council of Ministers and the Ministries. The role of General Secretary of the Council of Ministers administration was reinforced and his responsibilities were increased. The parliamentary secretary was a new position created to coordinate government policy with the National Assembly.

The real step forward in the institutional development came in 1997, when the newly elected government initiated a large scale transformation of the administrative system. An extensive functional review of the existing administrative system was conducted (UNDP, 2001). The findings showed that after the withdrawal of the Communist party bureaucracy from the policy-making process, the gap was not covered with respective rearrangements of the system. The partial restructuring led to the distraction of the few remaining links in administration. There were a large variety of administrative structures with no distinct subordination and functional allocation. The policy-making procedures were old-fashioned and there was scarce communication on the issues in the policy agenda. The administrative system was not prepared to support and implement the necessary reforms. Therefore, the government adopted a Strategy for Administrative Modernisation that identified three main pillars of change: clear distribution of responsibilities at the different levels of the executive; unification of structures; introduction of the civil service. The goals of the strategy were achieved with the adoption of the Law on Administration (1998), the Law on Civil Servants (1999), and a package of additional laws and secondary legislation that provided for the establishment of modern administration.

In the first place, the concept of the Council of Ministers role was developed – from management and carrying out domestic and foreign policy (Art. 105, Constitution of the Republic of Bulgaria, 1991), to formulation, development and carrying out domestic and foreign policy (Art. 20 (2), Law on Administration, 1998), to coordination of the work of the executive bodies for accomplishing a coherent state policy (Art. 2. (3), Structural Regulations of the Council of Ministers and its Administration, 1999). This reinforced the role of the Council of Ministers as a strategic centre for policy formulation and coordination, and of the ministries as the specialised units for development of sector policies. The function and subordination of the Administration of the Council of Ministers were clarified. The executive agencies were established as the units to provide administrative services and implement specific tasks, assigned by the respective ministry. An additional set of administrative structures was provided for the management of specific areas that are not covered by any ministry. A common model for the units of the administrative system was developed in order to provide for its horizontal and vertical coherence. This model gave the framework for the structural differentiation of the horizontal (support) functions from the vertical (sector specialised) in the individual administrations. The units in the general administration were defined the “front office” of the administration on the one hand; on the other, they support the implementation of the specific sector functions by the specialised units (Boev, 2000).

Another important element was the establishment of the political cabinets to the prime minister, the deputy prime ministers and the ministers⁶. These cabinets are small units with analytical and advisory functions. Their task is to support policy development and ensure the necessary information and coordination for decision-making. The experts in the political cabinets have a clear political affiliation and therefore, they are not granted the status of civil servants (Art. 28 (5), Law on Administration, 1998). What is more, they are expected to leave with the change of government. For the reinforcement of the division between the political level and the administration, the General Secretaries were established as managers of the administrative structures and their position was incorporated into the top level of the civil service. The responsibilities of the General Secretary of the Administration of the Council of Ministers for the organisation and management of this administration were increased. This position also received a number of coordination functions with the aim of providing synchronisation of the work of the ministries and to improve the planning and performance with regard to legal drafting.

6 Prior to the administrative reform the Structural Regulations of the Council of Ministers provided for cabinets of the prime minister and the deputy prime ministers. However, their role and functions were not defined at all. Therefore these cabinets were in practice a small number of staff, only formally distinguished from the rest of the administration of the CoM, consisting of technical secretaries and sometimes a few advisors.

The next important field of change that refers to the present study are the rules for legislative drafting. However, the new rules have been introduced with the Structural Regulations of the Council of Ministers, and not with amendments or replacement of the Law on Normative Acts. This law provides the frame of decision-making tools that could be used by the government, and sets the stages and requirements for adoption of a respective type of act. Although passed in 1973, the Law has not been abolished or replaced. In fact, the government introduced to the Parliament a new draft of this law, but the proposal was not passed during the mandate of the 39th National Assembly. Therefore, the main improvements of the procedures were made with the new structural regulations, adopted by the government. These improvements concerned mainly the coordination mechanisms and control of the planning process and will be discussed in detail in Section 3.

The current government continued the administrative reforms by adopting a new Strategy for Administrative Modernisation. The focus is now placed on civil service training, administrative service delivery, further optimisation of the administrative structure and establishment of strategic policy capacity. The consecutive functional analyses showed that despite the actions taken by the former government, many of the ministries are still performing functions that are not typical for the modern administration (such as management of state enterprises or even business activities). The main reason for such cases is to a great extent the unfinished privatisation and structural reform in some sectors. It is expected that by 2005 such non-typical administrative activities will disappear.

Another weakness that persists is the overlapping of functions. Despite the prerequisites provided by the Law on Administration, a distinction between policy-oriented, control, regulatory and service delivery institutions have still not been achieved. Many of the administrative structures do not have clear profiles and fulfil two or three functions. In some cases, this may lead to conflict of interests (especially when the administrative structure has both regulatory and control functions); in others, this may hinder the interaction with the other institutions in the sector. The Annual Report of the Minister of State Administration for 2001 stated that the number of institutions that do not comply with the Law on Administration has increased. Therefore, the plans for optimisation of the administrative system foresee the removal of the additional set of administrative structures, thus leaving the opportunity to establish only a ministry or an agency.

At the same time, there is an obvious trend for the establishment of strategic units in the ministries. Although there is little methodological guidance for their work and the interaction with the political cabinets is not very intensive, the emergence of such is a positive tendency. Special PHARE project is being implemented to increase the strategic capacity and develop coordination, planning and drafting procedures. These will be discussed in the next section.

4. Mechanisms and Procedures for Policy Formulation

4.1 Agenda setting and policy instruments

Until 1995, the path for setting the government agenda was completely unclear. There were no planning mechanisms and government activities were motivated in entirely informal ways or, on rare occasions, by public pressure. The results from the legislative process support a conclusion that the translation of needs into policy was chaotic and spontaneous. Thereafter, a number of mechanisms were introduced and made the process more transparent.

The first track of improvement was the practice established by the Videnov government of adopting a program for the term of office. As could be expected, this programme was based on the political agenda of the party that formed the cabinet, and was the foothold for development of officially adopted and published legislative programs. It could be claimed that through the years some legislative specialisation between the government and the parliamentarian majority has been developed. Thus, the general laws (mainly those concerning property and other civil as well as political rights, and judiciary) are prepared in the parliament, while the government develops the rules that require specific expertise and analysis and are more focused on sector policies.

The governmental legislative program is usually based on the proposals of ministers and covers a period of six months. Additional sources of policy issues that need to be addressed in the past few years have been the National Plan for Economic Development (2000–2006), which defines the yearly goals in the different sectors, as well as the National Programme for the Adoption of the *aquis*.

The government councils are another mechanism for problem definition. Examples are the Council of Tripartite Cooperation that is attended by trade unions and employer organisations, and the Council for Economic Development (established in 2001), which is held by a deputy prime minister and representatives of the business. However, these councils are based on consultative mechanisms rather than an institutionalised means for agenda setting. Therefore, it could be concluded that the process of allocation of policy issues has not become more open. Probably due to the fact that the Constitution does not grant legislative initiative to the citizens, there are in fact no formal opportunities for them to influence the government agenda. On the occasions when this has happened, it was based on informal contacts between officials and civil society organisations.

Following the indistinct mechanisms for problem definition, the grounds for selection of policy instruments are another unclear issue. Despite the fact that the Law on Normative Acts requires preliminary assessment of the need to regulate specific areas by law, there are no real techniques that are used to estimate which tool would be most effective. To a great extent, this is related to the ana-

lytical work done by ministerial experts who define the need of a law or propose another way of policy goals accomplishment on the basis of the sector reviews, surveys and other analytical papers. However, this stage is very often postponed – one, due to the lack of relevant observations and data for the sector or issue development, and second, due to the lack of expertise for such assessments. Last but not least, this is related to the lack of data collection methodologies and information infrastructure. This is probably why there is a negative tendency wherein the majority of issues to be regulated by law go into amazing detail. At the same time, contrary to the rule that one area should be regulated by one law (Art. 10, Law on Normative Acts, 1973), there are a lot of cases where there are three and more laws that overlap or even contradict⁷.

Along with the legal drafting, the Council of Ministers makes decisions on a large scope of issues. The preliminary preparation (and the respective acts) is usually done by the Administration of the Council of Ministers. The general secretary organises the work meeting agenda on the ministers' proposals and allocates tasks. The custom of discussing such issues at a work meeting of the government was established in 1997, and two years later this became a regulated procedure for coordination. In contrast to the official meeting of the government, only CoM members attend these meetings; the general secretary is the only exclusion. The topics for discussion are mainly current matters, and no formal decisions are made. With the amendments of 1999, the agenda necessarily include discussions on the secondary legislation adopted by the government.

In fact the decision-making tools at the government's disposal are few. They are regulated by the constitution (Art.114) and the Law on Normative Acts (Art. 6) and include: decrees, orders and decisions. With a decree CoM can adopt regulations, ordinances and instructions, and they are obligatory published in the State Gazette. The orders are usually related to the activities of a specific ministry, while decisions are taken on specific current issues. For these types of acts, there is no strict rule for official publication. This is done if necessary for the implementation of the act. In many cases when decisions are adopted, other government documents like strategies and programmes are used.

While in some countries the drafting of policy guidelines and the legal text are prepared at separate stages, in Bulgaria there is no such distinction. In fact, the first stage – preparation of policy guidelines – is missing. Once the policy issue has entered the legislative programme, the respective minister responsible for the draft law appoints an expert team to work on the draft. No preliminary guiding

7 For example, the administrative procedures and service delivery are regulated by the Law on Administrative Procedures (1979); the Law on Administrative Service Delivery to Citizens and Corporate Bodies (1998); the Law on Restriction of the Administrative Regulation and Administrative Control on Business Activities (2003); the Law on Proposals, Signals, Complaint and Requests (1980). Fortunately in this particular case, there is a general conformity. However, the presence of so many laws does

principles, objectives or methods are provided to the team. The role of the political cabinets in this phase is insignificant.

Generally, indications for policy content are found in the government programme. However, in many cases, these are not sufficient for the selection of specific measures that should be incorporated in the draft law or secondary regulation in order to achieve targeted policy outcomes. Therefore the experts who participate in the drafting process usually make their own judgement on what will fit best in the overall government policy outline. In many cases, this leads to repetitive changes on a later stage of drafting due to the input of those on the political level. Beside the aquis that gives only the general framework, another common source of policy guidance is the use of foreign models for the regulation of the respective area. In recent years, this process has been improved with the adoption of sector strategies that give at least a clue about the pursued outcomes.

The lack of practices for the development of white papers that enable wide public discussions is a major weakness of legal drafting in Bulgaria. From 1998 until 2001, the government used to publish the adopted draft laws on the government website. This gave floor for some discussion, but still the proposals of interested parties and outside experts had to be presented to the parliament and to be incorporated in the legislative stage. Such input at a later stage endangers the consistency of the draft since the legal drafting procedures of the government and parliament are not equal (Markov, 2003). However, since 2001 the government rarely publishes drafts of laws.

4.2 Drafting

After a policy issue has entered the legislative programme of the government, the respective minister assigns the task for its development. Prior to the administrative transformation, ministers used to set up working groups of experts from different units in the ministry. The improvement of the administrative organisation led to a change and now such tasks are assigned to a specific directorate or directorates specialised on the topic. They may invite other concerned units into a working group. Usually these working groups are chaired or coordinated by a deputy minister. Often, inter-ministerial working groups are established if there are more ministries involved in the issue. Then the Council of Ministers appoints a deputy prime minister or a minister to chair such working groups. The members are appointed experts from the responsible ministries, representatives of other concerned institutions, experts for the legal department of the CoM. If necessary, the meetings can be attended by experts from other functional departments of the CoM Administration. Since 1999, the function of inter-ministerial working groups has been extended, and they are established not only for the drafting of laws, but as well for pieces of secondary legislation.

There are no formal rules for allocation of the stakeholders inside or outside the administration. The only requirement concerns the decisions related to labour issues. Then the trade unions have to be invited (Art.3a, Labour Code, 1986). In all other cases, it is up to the institution which outside partners to invite. This is often decided on the basis of informal relations with NGOs and think tanks.

The working groups discuss proposals made by represented institutions. The main body of the proposal is prepared by the leading institution (directorate), which also has a duty to process the discussions and agreed decisions. In fact, there is no obligation that all members of the group agree on the final draft. This means that at this first phase it is possible some aspects of the draft will remain unresolved.

4.3 Coordination of policy proposals and decision-making

Along with planning procedures, the coordination mechanisms of legal drafts have also been developed. Between 1992 and 1995, the legislative council in the Ministry of Justice was heavily involved in the legal drafting. It was responsible for the coordination and arbitrary decisions on unresolved debates between institutions, as well as the review of national legislation with regard to ratification of international treaties. Experts from interested institutions as well as members of parliament attended the meetings of the council. However, the functions of this unit diminished in time. In 1999, the council was transformed into a directorate of the Ministry of Justice, and the focus of its functions was placed on harmonisation with the *aquis*. The core coordination mechanisms were transferred to the Council of Ministers.

The development of policy coordination mechanisms was reinforced by European integration, starting from 1995 when Bulgaria became an associate country to the EU. The Videnov government adopted special procedures for the coordination of EU-related policy matters and facilitated that with structures at different levels (Verheijen, 1997). This was the first extensive mechanism for coordination of the different ministries in policy formulation. Although it began with regard to EU integration, it soon went beyond this objective. The government initiated analysis of the existing structure and functions of executive bodies in order to feed a strategy for administrative reform. The main priorities were the provision of functional unity and clear hierarchy in the administrative system, improved control on decision-making and policy implementation, and improved policy coordination (Nikolova, 1997).

The Kostov government added new elements to the coordination mechanisms. As already mentioned, the legal council in the Ministry of Justice retained its task to verify that the legal drafts comply with the *aquis*. The responsibility for overseeing legal drafts' consistency with the constitution and the existing legislation was assigned to the legal department in the administration of the Council

of Ministers. For the coordination of legal drafts prior to their discussion at the CoM meeting, a specific set of requirements were introduced. The role of the Ministry of Finance was reinforced with the engagement to comment on the financial provisions for the law implementation. More importantly, the coordination mechanisms were brought to a lower level both in the newly established political cabinets as well as the administration. The practice of regular meetings of the head of the political cabinet of the prime minister with the heads of the ministerial political cabinets was formally reaffirmed in the Structural Regulations of the Council of Ministers. Similar meetings were introduced respectively for the parliamentary secretaries and the general secretaries. The present government continued all these practices.

After the coordination procedures on a draft law are finished, it is put forward for the CoM meetings. Another novelty of 1999 was the regulation to split the agenda for the meeting in several parts. The first one included the matters that have been discussed and agreed at other forums and thus need only formal approval. The second part includes matters that need to be debated in order to provide some guidelines for further development of the policy proposal. The final part of the meeting agenda contains the decisions related to appointment of top officials (directors of agencies, district governors, etc.). The proportion of the first and the second part of the meeting agenda are a clear sign for the type of government and the managing style of the prime minister as well as the overall efficiency of the government.

The review of the real processes and the policy outputs shows that in many cases these mechanisms for coordination are only formally followed. In addition, the procedures are relatively clear only as regards law drafting. The procedures for development of secondary legislation are regulated with orders for internal organisation by the respective minister and are not supervised. It could be only guessed to what extent they follow the requirements fixed for law drafting.

Another big problem that undermines the effectiveness of these procedures is the short time for their implementation. In many cases, the institutions are able to react to a policy proposal when it has reached an advanced drafting phase. This is particularly evident in the so-called “legislative phase” when the drafts are debated in the parliamentary commissions. Then a large number of new proposals arrive from different interested parties including ministries. Sometimes even the ministry that has prepared the draft uses the parliamentary stage to make changes.

With the limitation of functions of the legislative council the early coordination of a legal draft with the MPs was transferred to the parliamentary secretaries. However, their role is obviously not utilised, since the parliament very often criticises the government for introducing urgent proposals that have not been discussed with the MPs in advance. The lack of explicit procedures for

coordination with the legislature sometimes leads to dramatic changes in the drafts introduced by the government. Another indication for poor coordination is the numerous amendments of laws in a relatively short period of time. This was particularly true in the early transition years, but even now is a good indicator of government ineffectiveness in policy-making.

5. Conclusions

After six years of purposeful administrative reforms, the Bulgarian government system has not yet acquired the necessary capacity for good policy-making. This is evident both from the regular reports of the European Commission on administrative capacity, and the reports of other outside observers and donors. The review of developments in the past 15 years shows that on a steady basis some expertise and managerial experience has been gathered at the political level. It is difficult to evaluate the contribution of this experience for a better performance, but it is evident that stabilisation and institutional consolidation are key prerequisites. The Council of Ministers and its administration have been established as the strategic centre for policy formulation. The transformation of the administration and its adjustment to the needs for producing good policy has led to positive results.

However, there is more to be done. The policy phases need to be synchronised. Planning, analysis and evaluation mechanisms have to be improved, and specific attention should be paid to policy formulation in the ministries. Policy formulation has to go beyond the ruling majority and consultations with the interest groups or the civil society have to be initiated. Finally, the role and input of the political level (both ministers and their cabinets) and the administration in policy development has to be set precisely. While their relations have just started to settle, it is critical to keep them in synergy with regard to the policy process.

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The Case of STRATEK: Development of an Organizational Unit for Enhancing Strategic Leadership at the Prime Minister's Office in Hungary

László Vass

Preface

This paper will provide an overview and the first analysis of the development of strategic function in the Hungarian government. Institutional, operational, cultural and conditional components of strategic capacity-building are discussed here and the first conclusions drawn for the further debate.

Unquestionably, studying the real world of strategic governance is a challenging, politically sensitive enterprise. This is one of the most politically influenced areas in the operation of the government on the crossroads of coalition politics, the government decision-making process and policy management.

During the preparation of this paper, the author used his own personal experiences and observations gained as a government senior advisor as well as the comprehensive lessons of interviews made with key players in Hungarian political and administrative arenas between 2000 and 2004. The survey aimed at discovering the characteristics of the coalition government in Hungary, and the secondary analysis of the interviews' material produced a valuable source of information for the discussion on strategic governance as well. Respondents by positions were the following: former prime ministers of the first two government periods of 1990–1998, parliamentary party-faction leaders of government coalitions, administrative heads of the prime ministers' office in the period between 1990 and 2002, and chiefs of cabinets to the prime ministers in period of 1994–2002. The most important sources were the two heads (László Bogár and Imre Szekeres) of the PMO's Center for Strategic Analysis (STRATEK) from 1998 to today. Their interviews focused on the topic of this paper. (See the interview guidelines in the Appendix IV.) Obviously, the range of the interviews was

wider than the topic of strategic governance, and the answers included essential and comprehensive information not only about the practice of governments, but also about the attitudes, preparedness and expertise of government leaders in strategic governance and management.

It was impossible to collect cross-temporal information about the human and financial resources of strategic units at the government center. The number of staff in civil servant status is known, but the names and numbers of contracted assistants is still not accessible. Nor could I gain information about the financial resources of the strategic units. The budget of the PMO is one title in the national budget, but the details, like the allocation of the financial resources to the organizational units, is decided by the PMO, and it is not open data.

This paper is the first outcome of a longer research program launched by the NISPACEE Workgroup III. Further surveys and analytical work are planned in order to reveal more details and evidence about the impact of STRATEK on policy process, and on legal drafts at the government center and ministries.

Coordinating Function in Operation

After the system changed and before 1998, there was no individual strategic unit in the Hungarian government structure. The fall of the Communist planning system left an empty place behind in the policy process. In the beginning, the Communist method of centralized and bureaucratic economic and social planning was seen as an inherent part of the command economy and it discredited the central planning as such. Evidently, the new political elite could not gain experience in corporate governance and very few of them had any knowledge of strategic management. We can say that the political environment and cultural conditions were not given to the development of strategic function in the government. Another important characteristic of the new democratic development was the over-politicization of the governance, which has been reflected in the operation and organization of government offices. This situation directed the attention of observers towards politico-administrative relations and the political obstacles to coherent policy-making. Strategic function of the government has been a missing link between the political program of the coalition government and the practical tasks of the policy coordination.

In his analysis, Körösényi emphasized that “an important question regarding any government is whether it is politically united and has an independent policy program, or whether government policy is largely subservient to the different aims of the parties forming the government, to the personal ambitions of the ministers, to pressure of lobbyists and to the goals of the administrative apparatus” (Körösényi, pp.216-220). Regarding the internal structure of government, this question amounts to whether ministers are the executors of govern-

ment policy in the ministries or representatives of the ministries' interests in the government. In other words: Is there a united government policy or only the aggregation of the activities of the ministries? Is there a unity of policy action across the government?

The question of the unity or fragmentation of government policy raises the problem of coordination. During the 1980s, the ability of the ministries to realize their own interests in Hungary prevented the development of a unified economic policy. Political analysts and sociologists have identified as the main causes of a lack of cohesion and coherence the system of so-called branch ministries and the strength of large enterprises and economic lobbies in satisfying their interests. These problems are not, however, unique to the Communist systems; they characterize democratic governments too. International comparisons generally identify the American presidential system as the clearest example of strong cohesion and unity, and the Swiss collegiate executive as the example of greatest disunity. Considering the parliamentary governments that more closely resemble the Hungarian system, the British and Italian governments give examples of, respectively, relative unity and disunity, while the German government lies somewhere between them. These differences are explained by a combination of factors pertaining to the constitution, law, administration and party system. In what follows, we survey the organizations, instruments and institutions of governmental policy coordination operating in Hungary.

The political instruments and institutions of governmental coordination were considered in the previous chapter. One consists of the powers of political leadership, administration and patronage of the prime minister. Another is the classical coordinating institution of the cabinet system – the government meeting itself – at which the outcome of disputes between ministers is decided and a united government standpoint is determined. A third possible political instrument in the case of coalition government is the coalition policy reconciliation forum, which may exist formally, or informally outside the government, and which may operate not only during talks on coalition formation, but throughout the term of the government. During the Antall government, this function was filled in Hungary, alongside the fortnightly meetings of political state secretaries, by the prime minister's informal discussions and by the government meetings themselves. During the Horn premiership, it was performed by a formalized institution operating outside the organization of the government – the so-called Coalition Reconciliation Council.

Alongside political coordination, government involves administrative coordination – the harmonization of the operation and direction of huge administrative machines that are separated from each other into departments. In the Hungarian government, administrative instruments and institutions of coordination exist on three levels.

The first is the level of public administration and the reconciliation by the public administration of the various programs and draft bills put forward by the ministries. When, for example, a ministry produces a draft bill, that draft is, as early as the planning stage, sent out for consultation to interested ministries and public agencies, and often to organizations outside the state administration such as interest representatives, employers' and employees' sides within the Interest Reconciliation Council and the parliamentary groups of government parties. On the basis of the remarks of these groups, the ministry generally modifies the draft law, taking into account the opinions of other affected ministries. Finally, the ministry sends the draft, through the Office of the Prime Minister (PMO) to a meeting of the administrative state secretaries.

The second level of coordination has emerged within the government. It involves, first, the development of a hierarchy among ministers and ministries and, second, the creation of narrower bodies that prepare the ground for decision-making such as cabinets, committees, advisors and councils. The hierarchy among ministries is based upon political and sociological rather than legal foundations.

Traditionally, there has always been a certain informal "inequality" among the ministries. Particular ministries and their ministers traditionally possess greater prestige than do others. In the current governmental system, following the prime minister it is the finance minister and interior minister who top this hierarchy. The basis of the preeminence of the finance minister is his or her control over the budget, which gives what amounts to a veto right over the access demands of individual ministers. The Ministry of Finance is always at the heart of the rivalry between ministries competing for funds. During the 1990s, the Ministry of Finance has been the most important ministry in the government, and the finance minister has thus been the most prominent individual within the government behind the prime minister. Finance ministers during the 90s have striven to obtain control over all aspects of governmental economic policy. On one hand, this has further increased their conflicts with the other economic ministries. On the other, in the interests of the protection of political balance within the government and the prevention of excessive strengthening of the finance minister that might threaten the position of the prime minister, it has encouraged prime ministers to create counterweights to the power of the finance minister. One instrument used by prime ministers to counter the rise of finance ministers has been their frequent replacement: between mid-1990 and mid-1997 there were a total of six finance ministers. In 1998, the incoming Orbán government weakened the Ministry of Finance: its powers were curtailed, with some being transferred to the Ministry of Economic Affairs and the Office of the Prime Minister.

Alongside the finance minister, the interior minister also heads the governmental hierarchy. In the Antall and Boross governments, the interior minister

had the right to deputize for the prime minister. During the Horn government, the Free Democrat interior minister (Gábor Kuncze) was the prime minister's so-called coalition deputy; above all, it was he who exercised the right of reconciliation and of veto established in the coalition agreement. It followed from this, for example, that the head of the ministerial cabinet at the Ministry of the Interior, like the administrative state secretary of the PMO, received every draft law in advance at the stage of administrative preparation.

The preeminence of the prime minister, the finance minister and the interior minister within the government is indicated and strengthened further by the fact that they are the leaders of the three so-called cabinets that operate within the government as smaller decision-making bodies. While formally these cabinets only prepare the ground for government decisions, in practice they have become decision-making organs. Within their competencies, they possess essentially decisive power; their decisions are generally not debated in depth at government meetings, but instead, their recommendations are simply accepted.

The third level of coordination respecting the activities of the government is filled by the PMO. Because of its important political and administrative role, we will deal with this in greater depth. The Office of the Prime Minister is as large as a ministry. During the 90s, its staff numbered between four and five hundred people. It has three functions. First, it organizes the work of the prime minister. Second, it holds responsibility for administrating and coordinating the operation of the government; that is, it is expected to ensure the unity of the governmental apparatus. Third, in organizational terms, the ministers and political state secretaries without portfolio and the prime minister's advisory apparatus both fall within its domain. Reflecting these three functions, the PMO was divided into three distinct and independent organizational sections under the Antall and Horn governments.

The Orbán government, which entered office in the summer of 1998, planned the reorganization and strengthening of the PMO along the lines of the chancellor's office in Bonn. Further, the leader of the PMO gained the rank of minister.

Institutional Development

The development of institutional arrangements at the center of government for enhancing strategic leadership is a process very hard to follow. There are two difficulties:

- The interpretation of the strategic function at government is changing, depending on the conceptions of the governing elite,

- The formation of institutional arrangements as such has its own context. In a transitional system, there are still very few stable elements of the institutional setting, and the same functions may be practiced by different institutions. (A very simple case: the easiest way to change the people in position is a reorganization...)

In practice, strategic function in government means something different than what it means to a business manager. Unfortunately, the distinctive nature of strategic behavior in government is a relatively undeveloped subject. Typical public management applications of concepts such as “strategy,” which stress goals and accountability, are mostly derived from a business context in which executives manage hierarchies. There have been few efforts to apply the concept of strategy to the “organized anarchies” of government.

Strategic management in business is associated with decisive, easily defined, and clearly understood actions that have profitable consequences. Strategic management in government, in contrast, is associated with ferreting out limited spheres of autonomy and with persuasion, bargaining, and accommodation achieved through subtlety, indirection and craftiness. (Lynn, p.138)

In addition, fact is that governments, which are suffering from a lack of resources, have to apply an issue-by-issue approach in their work, (see Verheijen in Peters, p.491), and the use of strategic approaches is fairly limited.

The next figures firmly reflect the formation and development of the strategy tasks-related staff after 1989, as well as the significant raise of the staff during the last two governments.

1990–1994

After the system change, the first Hungarian government inherited a very determined situation in both economy and politics. This determination gave little room for the government to maneuver. A surviving strategy was dictated in the economic policy, and the strategic approach seemed to be limited in the field of the foreign policy, namely the Euro-Atlantic integration process.

We may accept that strategic management is guided by four principles: (1) concern with the long-term; (2) integration of goals and objectives into a coherent hierarchy; (3) recognition that strategic management and planning are not self-implementing; and most important, (4) an external perspective emphasizing not adapting to the environment but anticipating and shaping of environmental change. Strategic public management adds an additional ingredient: strategic thinking must be cognizant of the exercise of political authority. (Bozeman, Straussman, pp.29-30)

The first democratic government definitely started to build strategic capacities, but the efforts were weak and the concept was immature. The new government elite evidently had a serious lack of expertise and experience in public management. Prime Minister Antall asked for technical assistance from the German Chancellor, Mr. Kohl. The advice included the building a “referatura” capacity in order to coordinate government policies. Coordination can provide policy coherence which is vital in efficient and effective governance. (Potucek, p.71)

The early form of the “mirror-referatura” was established in 1990, organizationally reflecting the ministry structure of the government. The referatura was subordinated to the political cabinet of the prime minister, while the other departments of the PMO were supervised by the administrative state secretary of the PMO. He was the head of the PMO and at the same time the permanent chairman of the regular meetings of the administrative state secretaries of the ministries. The real body of the coordination was this meeting, not the referatura which reported to the prime minister but did not coordinate across the government.

It is not a surprise that the economy and the economic policy became the focal point in the government work. At the end of 80's, the last state-socialist government had already established some institutional capacities for strategic economic policy. The Office of Council of Ministers, the predecessor of the PMO, had an Economic Reform Workgroup, an Economic Policy Secretariat and a Privatization Commission. After the elections, these units, as well as the Central Planning Office, a fundamental institution of the Communist governance, were axed. The new prime minister could not rely on any coordinating support because such an institutional background simply did not exist.

He understood the importance of the economic policy, but he was not familiar with it. At first he established a Secretariat for Economic Policy headed by a personal trustee of the prime minister. This unit was intended to be the center of economic policy-making. The head of this center was soon in conflict with the minister of finance, and the prime minister relieved both of their offices. This decision ended with a strange situation: the PMO lost its key position, and the Ministry of Finance became the most competent coordinator across the government.

The prime minister introduced a balancing body in order to keep control over economic and financial issues, namely, the Economic Cabinet to the Government which consists of the economic ministers (finance, trade and industry, international economic relations, agriculture, environment). Before the final decisions of the government, this body discussed the drafts on government agenda and rendered opinion about them. The prime minister usually accepted the suggestions of this body. This body could not, however, balance the overweighted

power of the Ministry of Finance during the budget bargains; as a practical matter, the minister of finance exercised the prime minister's authority.

In that period, the PMO was much more successful in coordinating legislative functions across ministries. The legal-administrative unit of the PMO dominated the Ministry of Justice in the legal preparation process. This created some tensions between the PMO and the Ministry of Justice.

In the first period, the following key players appeared on the stage and stayed there until now:

- The political cabinet of the prime minister
- The economic policy cabinet of the government
- Ministry of Finance
- Ministry of Justice

The characteristic of the situation was fragmentation rather than coordination.

1994–1998

The regular meetings of administrative state secretaries became the most important professional fora in the process of governmental decision-making between 1994–98. These fora represented the final stage of professional adjustment while they also had a filter function. Public administration can inhibit the occasional overflow of political demands on strict professional grounds, or it can simply warn that a certain political intention cannot be translated yet to the “language” of public administration. The forums took place every Monday, and the preparation of the following government session (in principle the one that should follow next week) was also on the agenda. Often, however, the proposals were placed in front of the government during the same week. This shortened time framework naturally made the preparation of other ministers and the experts of the coalition parties more difficult.

The administrative state secretary of the prime minister's office chaired the regular meetings of administrative state secretaries. Being aware of professional alternatives as well as of the standpoint of the prime minister, he was able to determine whether a given proposal that was tabled for the forum could be finalized and placed in front of the government or needed further adjustment. The ministers' interest was to reach consensus on their proposals before the government meeting and thus avoid debate.

The so-called Economic Cabinet (EC), presided over by the minister of finance, played a significant role in the adjustment process before the government meeting. The EC analyzed proposals from financial and macro-economic perspectives. In principle, all proposals were to go through this filter. Since all proposals have certain financial consequences, the EC Wednesday meetings rep-

resented a kind of government session concerning economic and financial policies. The more the EC deployed broad and general perspectives in the discussion and evaluation of proposals, the more the government accepted its opinion and suggestions in given affairs. In the case of particularly important issues, the coalition vice-premier also participated in the activity of the EC, thus giving an extra weight to the standpoint and interests of his party in the debate.

Other bodies (like the Cabinet on European Integration, the National Security Cabinet, the Inter-Ministry Council on Information Technology, the Coordination Committee for Youth Policy, the Council of the Affairs of Retired People) had similar professional functions but, due to their lesser weight, they played a smaller role in the decisions regarding their respective areas.

The standard adjustment process within the public administration branch also brought information to the surface. Information was accumulated in the hands of the administrative state secretary of the prime minister's office, who controlled the final and most important stage of the adjustment process. If a proposal got stuck or the procedure was paralyzed, he had to mobilize the process. Due to his position, he was able to notice if the quality of a proposal did not hit the standards or if political problems emerged. Thus, he could take the necessary steps for improvement or draw the prime minister's attention to the problem. Then the prime minister, as a kind of governor-manager, used his authority to solve the issue. His habit was to invite the main actors (ministers, other government people, leaders of interest representation bodies) of a debated "problem case" to his office and settle the issue to the exclusion of the public. He often said: "You cannot leave the room until you make a compromise."

The administrative state secretary of the prime minister's office had an important role in determining the schedule of the government and its agenda.

As a last stage in the preparation for the government meeting, the coalition vice-premier met with the ministers of his own party while the prime minister consulted with the public administration and political state secretaries of the prime minister's office on the morning of the government meeting. Late Wednesday afternoon or Thursday morning, the other ministers also over-viewed the most important issues and prepared themselves for the meeting. The ministers' colleagues – having important positions – participated in these preparations: state secretaries, vice-state secretaries and one or two persons from the ministerial staff. After this, but still before the government meeting (which took place at 10 o'clock) the last forum of adjustment occurred: the cabinet of the government had a session. The cabinet of the government consisted of the prime minister, the minister of the interior, the foreign minister and the minister of finance; in addition, the administrative state secretary and political state secretary of the prime minister's office (the latter being the manager of the cabinet) were regularly invited.

Eventually these sessions finalized, which among the proposals that would go in front of the government on that day, would need further discussion before their acceptance and which embodied final and non-debated viewpoints. Occasionally, in the absence of a political agreement, these sessions decided on the postponement of a certain proposal or they referred them for further adjustment process. The working style of the cabinet was very personal. Minutes or records were not prepared. Memorandums were occasionally issued, but they were not made public.

The ministers and the prime minister made their positions explicit at the meetings of the cabinet of the government and the government itself. The position, in our view, is not simply the personal or political viewpoint or opinion of a given politician, but represents his or her power as well. By introducing his or her position, the member of government might indicate the preferences that he or she would not give up even in case of a different government decision. In the background of a determined position, one can often find a mandate from the party, which would occasionally but inevitably lead to a coalition reconciliation process.

At the meetings of the cabinet, different positions were carefully considered. Thus, the prospects of the proposals could be envisaged and the solutions of emerging conflicts could be planned for the government meeting. The style of discussion was personal and political. If afterwards, at the government meeting the prime minister announced that “We discussed the issue at the cabinet of the government session and a particular solution was outlined”, the message was clear to all the ministers. (The political solution was then summarized and put into a professional format for the government decision by the administrative state secretary.)

The government session regularly lasted about two or three hours. Nevertheless, occasionally several dozen (sometimes as many as 40 or 50, and on average 24) points appeared and were fulfilled on the agenda. The decisions of the government were made either without debate or after a debate; in the latter case, either with or without a vote on the given issue. Points on the agenda that were planned to go undebated might have triggered discussion if a member of the government initiated it and his ideas were built on solid grounds. Some topics were planned to be debated to increase the responsibility and personal commitment of the decision-makers – particularly concerning issues with a high political or economic profile. Occasionally – indeed, very rarely – the government made a different decision than had been originally planned at the forum of the administrative state secretary or the session of the cabinet of the government. No issue was determined as final before the government session. Debates were always practice-oriented and not “philosophical” (strategic?): the debating partners briefly (within two or three minutes) presented their proposal and position.

The prime minister, who had the final word on every issue, always chaired the government session. The participants agreed that “at the end of a debate, everybody would know and sense what the decision could be”. The prime minister made his decision on the basis of the proposals and even more so on the basis of the positions. He referred all those cases to further adjustment that he could not find acceptable, or that had not been fully and properly elaborated from public administration-professional perspectives. A vote did not necessarily mean the decision itself; the decision always resided with the prime minister. A vote might have served to test different positions. (When in a vote the AFD ministers remained in minority but the party did not veto, the decision was made.)

The above analysis already suggests that the prime minister has been the key strategic actor in the coalition government in Hungary.

At the government sessions, dividing lines might have emerged during the discussion. The divisions in most cases followed the party distribution of the ministers (political differences are always related to the affairs of the coalition), but sometimes the differences of standpoints did not reflect the party distribution of the coalition. The minister who presented the proposal might have been voted down, and thus had to accept the prime minister’s decision, which was based on the majority position. Although a minister could ask for a vote, it was the exclusive right of the prime minister to order a vote. Thus, the prime minister could avoid a vote when the expected result was in contrast to his own position (although in a minor affair, it happened once that the prime minister voted with the minority and then accepted the majority decision). The prime minister had several possibilities to erase proposals from the agenda during the process.

Although all ministers received the proposals in advance and could prepare for the meeting, in practice the ministers generally knew their proposal best, and acquired information about the debated ones on the agenda or on the non-debated ones that were connected to their own field, but only rarely had the time to overview the others. The prime minister was well-informed about all the important elements of each proposal. We can argue that generally only the prime minister was aware of the significant points and complexities of a proposal to the same degree as the proposing minister. *The place of the prime minister is certainly a competitive position between the prime minister and the individual ministers in the Hungarian government.*

Indeed, both the processes of preliminary adjustment and the decision-making procedures within the government justify the thesis about the strength of the Hungarian prime minister. This strength is due not only to constitutional foundations and regulations, but derives from the personal leadership qualities of the prime minister and is based on the mechanisms prevalent in the activities of the government. The particular demand towards the institutionalization of a chancellor-type governmental system was demonstrated when the youth,

religious, ethnic affairs and issues of public administration development were absorbed by the prime minister's office. In addition to that, the leadership position of the prime minister's office would have required a ministerial post in the 1994–1998 governmental period. (Eventually a minister was nominated to the position in 1998.)

The prime minister was helped in his activities by the entire apparatus of the prime minister's office. The public administration secretary of the PMO informed him (on the basis of the work of the professional departments) about professional alternatives in given issues (that is, about the alternative solutions formed by the ministry and other so-called independent experts); the head of the cabinet-state secretary informed him (using resources of the Cabinet Office) about political issues or the political connotations of certain proposals (party-related issues, requests of members of Parliament, the management of special programs); while the leader of the prime minister's Secretariat provided information coming through the personal connections of the prime minister. Although these three areas are officially and practically separate, the information provided by them were not firmly divided. Since these areas are closely tied to the prime minister, their leaders as well as the staff members in leading positions in both the Cabinet Office and the Secretariat naturally were confidential positions.

In the period of 1994–1998, the basic structure of the government center had not changed significantly. The fragmentation continued and the only factor was the prime minister (and the administrative state secretary of the PMO) who ruled the decision-making process. The referatura was finally dissolved; consequently, the PMO became even weaker in the legal coordination.

Only one new element should be mentioned: the European Union accession-related strategic center. A small unit was set up in order to oversee the strategic issues of the accession. Although the results of the work of this unit were not utilized in the PMO, the released publications are informative for ministerial experts.

The most important strategic result of this period was the 1100/1996. Government Resolution on Public Administration Reform. In this document, the government commissioner responsible for the administrative reform, Mr. Verébelyi, set up strategic objectives in order to strengthen the strategic role of the PMO. The main proposals were the followings:

- A minister should be appointed to head the PMO;
- A more integrated organization should be formed within the PMO with stronger coordinating power;
- Sharper separation is necessary between political and administrative appointments;
- Public management culture should be strengthened.

The Horn-government did not realize these proposals in practice although the necessary legal conditions had been established.

1998–2002

The turning point in the development of the strategic capacities at government center is 1998, when the new Conservative (Young Democrats and Smallholders' coalition) government fundamentally reorganized the PMO. Following the model of the German Chancellors' Office, a comprehensive system of referatura, a strong communication staff and a strategy center were organized in the PMO, and a powerful minister appointed to head of PMO.

The main tasks of referatura officers in charge by the first statutory of the PMO were listed as follows:

- Preparing analysis and proposals for the prime minister;
- Expressing an opinion about the (ministerial and other) propositions for the government sessions;
- Expressing an opinion about the (ministerial and other) propositions to the prime minister;
- Supporting the parliamentary work of the prime minister;
- Coordinating the preparation of government decisions, and reporting on their implementation;
- Keeping in contact with the ministries.

The referatura with the above tasks became an essential support for the prime minister in decision-making and a good, professional basis for a more expanded strategic function of the PMO.

Since a minister headed the PMO, he had an administrative state secretary as the head of the administrative apparatus, and a political state secretary as general deputy. This minister, as a powerful political appointee, got the task of managing the new strategic unit, the Center for Strategic Analysis (STRATEK). Setting up STRATEK as a pillar for coherent governance and an organizational place for making and maintaining government strategy was a pioneer step, and it proved useful for longer term.

After two years of operation, the Government Control Office conducted an efficiency scrutiny of the PMO and released a SWOT chart about the experiences concerning STRATEK:

S	W
<ul style="list-style-type: none"> ✓ The head of STRATEK has strong enough position in the hierarchy ✓ Direct connections to the prime minister's cabinet ✓ Strong professional competencies ✓ High tech IT background ✓ Good networking with academia ✓ Key organizational position in the advisory boards for the prime minister ✓ Complex and long-term thinking 	<ul style="list-style-type: none"> ✓ Weak library and data access ✓ Bad working conditions in terms of office rooms ✓ The STRATEK opinion is not reflected in the official statement of the PMO
O	T
<ul style="list-style-type: none"> ✓ Influence on policy decisions ✓ Innovative approach to new issues ✓ Good access to political state secretaries across the PMO ✓ Presenting complex approach towards the government 	<ul style="list-style-type: none"> ✓ Conflicts with ministries ✓ Communication problems with other units of the PMO and political leaders ✓ Resistance of the administrative staff against new approaches ✓ Political oversensitivity

The former head of STRATEK, Dr. László Bogár, emphasized that their task was a wide-angle analysis of new developments and challenges on domestic and global levels (from philosophy to propaganda). In his opinion, the most problematic condition was the low level of strategic thinking and the lack of interface between STRATEK and other professional units. The prime minister relied on STRATEK, and expected STRATEK to “find out his next request”.

The Strategic Survival Guide published by the Strategic Unit of the British government says: “Some governments get by with improvisation, ideology or luck. But many of the most successful governments of recent years have placed a strong emphasis on strategy. As a rule, the best strategies in governments and public sector are:

- Clear about goals and relative priorities
- Underpinned by a rich understanding of causes, trends, opportunities, threats and possible futures
- Based on a realistic understanding of the effectiveness of different policy tools and the capacities of institutions (strategies that work well on paper but not in practice are of little use to anyone)
- Creative – designing and discovering new possibilities
- Developed with, and communicated effectively to, all those with a stake in the strategy or involved in its implementation.

Strategies vary greatly. Some are precisely defined and imposed top-down through organizational hierarchies. Others emerge in a more evolutionary and cooperative way from discussions, experiments and learning.

In either case, strategy is best conceived as an end-to-end process from the definition of goals to implementation. In a democracy, the end purpose will be to create public value – services and outcomes that are valued by the public. Policies need to be developed within the framework of a long-term strategy, taking into account the practicalities of implementation. All strategies need to be adaptable, with quick feedback and effective information flows to take account of changing circumstances or unexpected events.”

The STRATEK at the Hungarian PMO made some first steps toward this direction, but it is far from meeting the requirements above. Building strategic capacity in government requires strategic thinking, strategic management, performance management and coordination devices, linking budget process to policy-planning process and consultation. (Andjekovic, pp.26-28.pp)

2002–

In 2002, a new government came into office. The government center, PMO went through deep changes in personnel and organization structure. Referatura disappeared again. In order to strengthen political governance, political state secretaries were appointed to administrative managerial positions and the weight of the administrative part of the office decreased.

Changes in Number of Strategic Staff at the Hungarian PMO

	1989	1990	1991	1995	1996	1997	1998	1999	2000	2001	2002	2003
<i>Economic and EU Integration Policy</i>	27	20	4	3	22	7	20	38	51	56	31	51
<i>PM Strategic Advice</i>	18		16	6		7	29	34	38	39	16	33
In sum:	45	20	20	9	22	14	49	72	89	95	47	84

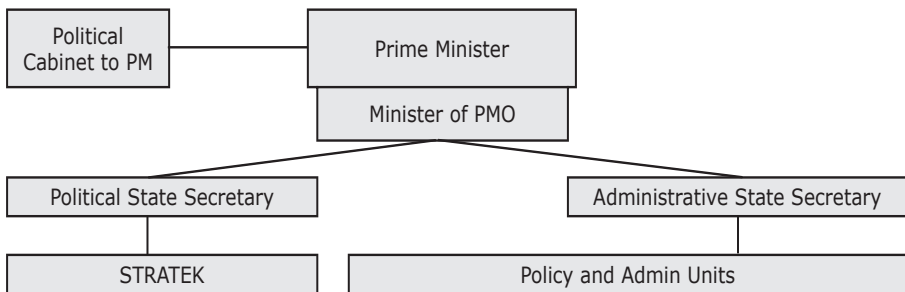
The new Socialist-Liberal government kept the STRATEK. In spite of the comprehensive organizational restructuring of PMO, STRATEK is one of that few units that had the same hierarchical position as during the previous government. Although the PMO is principally the most politically influenced office within the institutional structure of the government, STRATEK was subordinated to the political state secretary of PMO, who is the political deputy to the head (minister) of the PMO.

This pattern of the organizational allocation of STRATEK reflects clearly that the Socialist-Liberal government has exactly the same approach to STRATEK as its Conservative predecessor. Namely, the strategic function of the government

is supported by a political unit instead of a policy unit. The organizational position of Referatura shows that it is working under the supervision of a deputy state secretary headed by the administrative state secretary of PMO. No doubt, “policy” and “politics” are not differentiated from each other in CEE countries, yet as it happened in the Western government systems, exactly this organizational allocation of the strategic function gives an evidence of the (party) political and ideological characteristics of strategy-making in the government. In fact, government strategy as such is much closer to political values than policies. Nevertheless, there is a good chance for the development of an undesirable distance in this structure between the policy units and the strategy-making.

Functional and coordinating difficulties for STRATEK may come from the emergence of some new sub-centers in the government center dealing with strategy-making in important fields, like the Office of the National Development Plan or the Office of Regional Development. (Those offices are still headed by political state secretaries as well.) Following the “traditions” of the previous Socialist-Liberal government, the fragmentation appeared again in the government organization structure. The consequence may be a devaluation and confusion in strategy-making and lack of coherence in the policies. Obviously, the EU accession process has been a disciplining factor in strategy-making, providing a schedule and framework for government strategies.

However, the head of the new STRATEK has exactly the same hierarchical position in the PMO as his predecessor.



Hierarchical Position of STRATEK in the PMO Organization

As political state secretary of the PMO, Imre Szekeres declared that his objective is “to explore the interest of the Hungarian society and to formulate proposals for the government”. The main task of STRATEK is to provide scientific and technical basis for this activity. STRATEK prepares political forecasts and does research designed to measure the efficiency of governmental decisions as well as to deal with questions emerging in the society. In this role, STRATEK is a “policy-making” think tank, supporting a basis for governmental social, economic and integration policy. STRATEK also provides theoretical background

for the solutions to social problems like demography and migration and to technical challenges such as competitiveness and specific issues of EU integration. It monitors the fulfillment of the government program as well.

STRATEK is also publishing analyses and proposals, editing brochures dealing with what it means to live in an EU member state and with demography-policy issues highlighted by the Demographic Government Commission as well as basic questions of innovation policy. (<http://www.stratek.hu/index.php?P=bemutat&L=2>)

The STRATEK website became a rich source of analytical papers and research reports in large-scale social, economic and foreign policy topics. The publications are circulated in broad (government, academic and non-government) circles. STRATEK has received some acknowledgements for its performance, but there are very little evidence of the use of its strategic and policy papers by the policy-makers. The clear and formal organizational links are still missing between the STRATEK and the policy-making units; consequently, the impact of the STRATEK is not guaranteed in the policy process. The informal influence of STRATEK and its politically well-connected head may be stronger on the policies, but further research work is needed in order to find valid indicators and evidence for measuring this impact. In this stage of the research, it is not possible to say more about the effectiveness of the strategy unit in the Hungarian government.

Appendix

A1. Changes in Number of Strategic Staff at the Hungarian PMO

Governments	STAFF
1989 Last State-Socialist Government: Office of Council of Ministers	
Secretariat of Economic Policy	27
Secretariat of National Minority and Social Policy	18
	45
Antall-Government (Conservative)	
1990.June	
Secretariat of Economic Policy	20
1991.February	
Department of Economic Policy	4
Advisory Corps to Prime Minister	16
	20
Horn-Government (Socialist-Liberal)	
1995.December	
Personal Advisors to Prime Minister	6
Bureau of Modernization Program	3

1996.April	
Referatura to Prime Minister and advisors	22
Secretariat of Cabinet of European Integration and Strategy Workgroup	6
	28
1997.February	
Secretariat of Cabinet of European Integration and Strategy Workgroup	3
Secretariat of Coordination of Economic Policy	7
	10
1997.September	
Secretariat of Coordination of Economic Policy	7
Secretariat of Workgroup of Integration Strategy	7
	14
Orbán-Government (Conservative)	
1998.September	
Policy Secretaries and Advisors to Prime Minister	17
STRATEK	28
	45
1998.Nov	
Policy Secretaries and Advisors to Prime Minister	20
STRATEK	29
Referatures	36
	49
1999.February	
Policy Secretaries and Advisors to Prime Minister	27
STRATEK	28
Referatures	31
	55
1999.July	
Policy Secretaries and Advisors to Prime Minister	28
STRATEK	33
Referatures	33
	61
1999.December	
Policy Secretaries and Advisors to Prime Minister	38
STRATEK	34
Referatures	38
	72
2000.April	
Policy Secretaries and Advisors to Prime Minister	47
STRATEK	35
Referatures	38
	82

2000.December	
Policy Secretaries and Advisors to Prime Minister	46
Secretariat for Economic and Social policy Research	5
STRATEK	38
Referatures	40
	89
2001.September	
Policy Secretaries and Advisors to Prime Minister	51
Secretariat for Economic and Social policy Research	5
STRATEK	39
Referatures	40
	95
2002.March	
Policy Secretaries and Advisors to Prime Minister	56
Secretariat for Economic and Social policy Research	5
STRATEK	44
Referatures	35
	105
Medgyessy-Government (Socialist-Liberal)	
2002.September	
Policy Secretaries and Advisors to Prime Minister	31
STRATEK	16
	47
2003.January	
Policy Secretaries and Advisors to Prime Minister	51
STRATEK	33
	84

Source: Telephone Directories of PMO. Names are confidential.

A2. Number of Staff at PMO

1989	1991	1993*	1995	1996	1997	1999	2000	2001	2002**	2003**
432	481	481	472	458	316	434	516	572	654	780

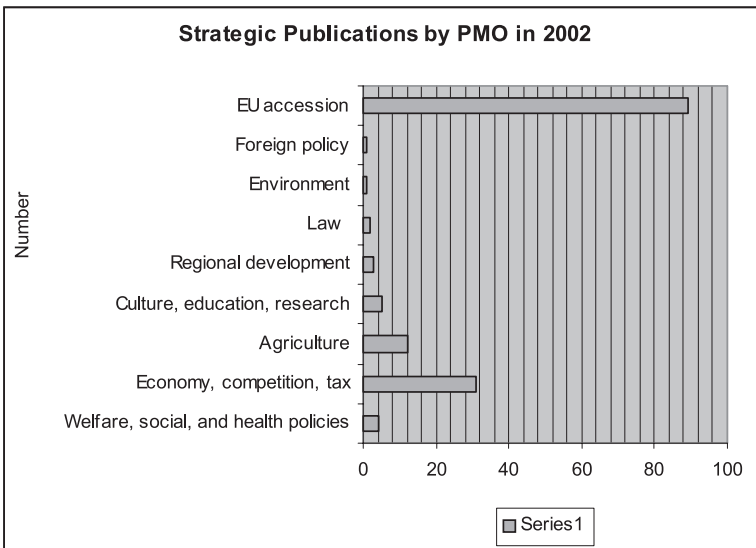
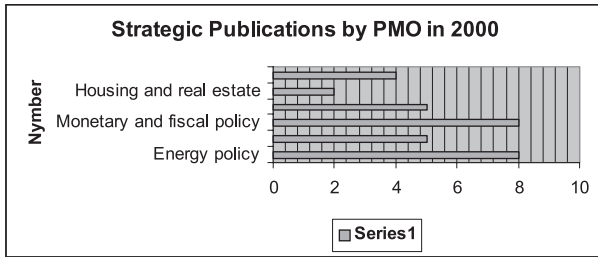
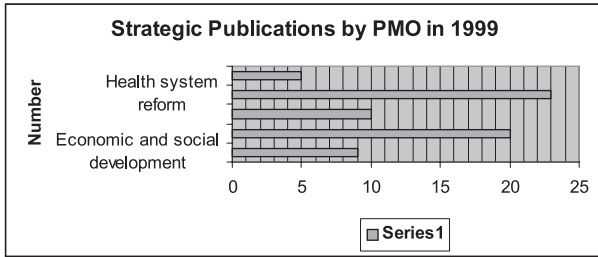
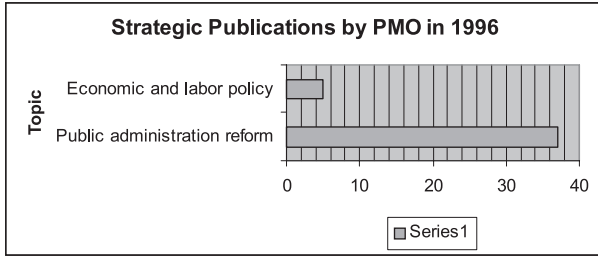
*Source: Year-Books of PMO, *Népszabadság, 23, March. 1993. p.6., **HVG, 30, Nov. 2002.*

A3. Organizational Structures and Position of STRATEK

Orbán-government 1998-2002	Medgyessy-government 2002-
STRATEK subdepartments	
Economic and Social Analysis	Strategic Planning and Analysis
European Integration	European Integration and Modernization
Political Analysis	Research Coordination
Civil Relations	Innovation

Inner Structure of STRATEK under the last two Governments

A4. Publications of PMO's Strategic Units, number by years and by topics



A5. Guideline for the interview with heads of STRATEK

Do we need strategy at all?

If yes, what is strategy?

What is the difference between government strategy and political ideology (value system) / party program / government program / government work-plan in terms of content, “level” and target audience?

What is a government strategy document?

Where is the central strategic function allocated in the government system? (Prime Minister or meeting of administrative state secretaries or a certain ministry or PMO or what)

What is the fundamental characteristic of the government strategy by professional content: is it an economic, political, social, EU-related or complex program?

We have had Széchenyi-plan (2000), National Development Plan (2003) and Europa-plan (2004). Are they comprehensive strategies?

What institutional background has been developing for supporting the government strategy function?

What is STRATEK? Where is STRATEK in the government command and report line?

How the products of STRATEK are used in the government? Is there any regular feedback to STRATEK about its results?

What are the most important results and obstacles of the strategic function?

How can be the strategic governance integrated into the processes of the coalition politics and the policy-making same time? In other words: between the political and policy dimensions, where are the place for strategic governance?

Whether the daily pressures and determinations can kill or block deadly the strategic functions in the governance?

What is the relation between the STRATEK and the strategic function of the ministries?

What is the relation between the STRATEK and the National Development Office?

What is the relation between the STRATEK and the Ministry of Finance?

Whether the strategic function is including the functions of program evaluation and impact analysis?

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Organisational performance of Hungarian ministries: The role of organisational culture

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1. Introduction

The past twenty or so years witnessed, in relation to both the study and the practice of public administration/public management reforms, a gradual but definite increase in the emphasis on cultural factors.

According to Wallerath (2000), from a more academic perspective this emerging attention paid to problems of (administrative) culture can be attributed to two major reasons. The first one is the problems generated by the isomorphism of administrative structures and processes promoted or even forced by New Public Management (NPM). This isomorphism often led to such problems as “Why doesn’t NPM concept A work in country Y while it did work in country X?” The other reason is the intensifying interactions between different administrative systems, most of all characteristic for European integration. Although previous historical epochs also involved broad interaction between administrative systems, the phenomenon today acquired a new quality.

In addition to these two forces, there is a third, more practical one to mention: the marked coming-into-vogue issue of corporate culture during the 1980s in both the practice and study of (corporate) management. The “excellence literature” originating in the work of, among others, Peters and Waterman (1982) and – with a specific focus on the public sector – of Osborne and Gaebler (1992) and materialising in an abundant NPM rhetoric was, and still is, strongly centred around the cultural transformation of public administration: “Attempts were

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made to shift the public sector from an administrative to a managerial culture [...] re-orientated towards either a marketplace or a client culture [formed] the heart of both rhetoric and practice of transforming the public sector (Driscoll and Morris 2001 p. 807).

As a consequence of the above developments – and especially of the high rhetorical emphasis put on culture in the study and practice of NPM – problems of organisational culture acquire a key importance. This importance results from the expectation that a shift towards an “excellence-centred culture” (whatever this means) produces beneficial behavioural outcomes on the part of the organisation. Among those behavioural outcomes, the importance of higher organisational performance (Gordon and DiTomaso 1992), customer-orientated mode of operation and better service quality (Driscoll and Morris 2001) are emphasised.

Not only the kind of the behavioural changes, but also the attained cultural change is more or less clearly specified in mainstream NPM literature. Specifically, the main vehicle of increasing the performance of government is replacing the “outmoded bureaucratic culture” with an entrepreneurial, performance – and/or innovation-oriented corporate “culture of excellence”. Indeed, this claim is a central tenet of much of the NPM literature and practice (Driscoll and Morris pp. 807-808, 2001 Gow and Dufour 2000 citing Moe 1994; cf. Gore 1993 and OECD 1996; see also Parker and Bradley 2000 pp. 130-131).

Despite these strong claims often seen in mainstream NPM literature there is little empirical work exploring this issue (Gordon and DiTomaso 1992 pp. 783-784). The current study examines the significance of culture in the above context. Its fundamental question is the following: What is the role of culture in producing better organisational outcomes in public administration organisations? This question is examined on the basis of cross-sectional questionnaire survey data collected in six Hungarian ministries.

The structure of the paper is as follows. First, a brief background of the most fundamental concepts used in the study are given; this involves administrative and organisational culture, organisational performance and the conceptual link between them. Second, in Section 3, the method of the empirical study is briefly outlined. Section 4 presents the basic findings of the study, while the final fifth section draws some conclusions reached on the basis of the findings.

2. Culture and performance in public administration organisations

2.1 Culture

There is a convincing extent of agreement in the literature regarding the inherent ambiguity of the meaning of administrative culture/*Verwaltungskultur* (Jann

2000, Wallerath 2000, Fisch 2000). The study of W. Jann (Jann 2000) offers some feeling of security on these stormy waters of uncertainty.

Culture as a descriptive and explanatory variable of social phenomena having direct empirical relevance originates in the Anglo-Saxon anthropological theory. It was this phase of the development of the culture concept that culture as a value-laden construction – moving in the dimensions of “good vs. bad” or “little vs. much” culture – the use of which characterised the previous epochs, was in part replaced by another, more descriptive and less normative mode of use. In this anthropologically-inspired use, the concept of culture acquired a wide meaning. In addition to the cognitive/mental foundations (including values and attitudes) of social action, it involves the system of social interaction as well as the artifacts in which these elements materialise such as norms, ceremonies, myths and, in the broadest sense, material objects of the social world (Schein 1992). However, such a wide interpretation of the concept of culture carries significant theoretical and empirical difficulties.

In the empirical social sciences – foremost in political science – a new concept of culture emerged: “subjective culture”. This notion of culture is confined to the mental reflections of individuals regarding the subject matter at hand; for example, opinions, attitudes and values regarding the political system. “To formulate it in a somewhat pointed manner, this concept [...] can be defined as ‘everything questionnaire surveys can measure’” (Jann 2000 p. 329). Of course, mental reflections of individuals to whatever objects of perception depend on numerous factors and can (and often do) change rapidly. Consequently, the concept of culture has to be supplemented with an additional definitional element not emphasised by Jann: namely, its significant autonomy and the temporal stability following from this (Hofstede 1984 pp. 21-23).

Regarding the possible meanings of administrative culture, Jann (2000) differentiates between four possible modes of use – sometimes denoted as *Verwaltungskultur* I.-IV. (ibid. p. 331):

- a) Typical organisational and behavioural patterns characteristic for a given unit of analysis (typically a country) including related elements of subjective culture. In brief: “We do it this way”.
- b) Opinions, presumptions, values and attitudes related to the public administration characteristic for the individuals of a given unit of analysis (typically a country). In this sense, administrative culture is a building block or element of political culture.
- c) Opinions, presumptions, values and attitudes typical for the civil service.
- d) Shared opinions, presumptions, values and attitudes of organisations of a given public administration system; in short, the organisational culture typical for the given public administration system.

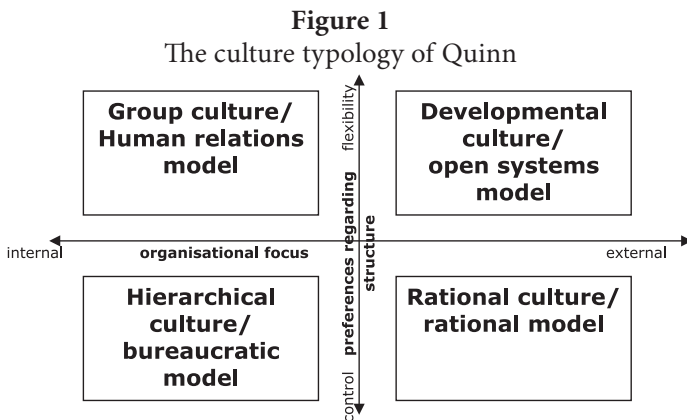
In his empirically-oriented effort, Schröter (2000) examines three levels or meanings of administrative culture: (i) management culture (entrepreneurial vs. bureaucratic); (ii) political culture; and (iii) attitudes toward big government, this latter one being a specific instance of the second one.

The current study focuses on one of the various meanings of (administrative) culture identified by these authors: organisational culture.

Organisational culture as a variable important in understanding organisational phenomena appeared about half a century ago, and became a topic in fashion during the 80s. Relatively consensual definitions of organisational culture centre around assumptions, values, attitudes and beliefs shared by the members of an organisation. As a result of the stability of this set of mental elements and their systematic effect on human thinking and action, organisational culture creates a “mental programming”, a “software” of the mind (Hofstede 1981).

Most empirical studies of organisational culture follow the “(personality) trait approach” to organisational culture (Gordon and DiTomaso 1992). In the case of these “trait models” of organisational culture, the key question relates to what the dimensions best describing organisational cultures are. This question is answered, in addition to Hofstede’s six-dimensional organisational culture model, in a number of other ways (e.g. Robbins 1993 p. 603).

The current study utilises the organisational culture model developed by Quinn (Quinn 1988, Zammuto-Krakower 1991 pp. 85-87) and utilised by a large number of subsequent empirical undertakings. Its basic structure is outlined in the below figure.



Source: Parker and Bradley (2000) pp. 128-129

2.2 Performance

Analysing performance or effectiveness of public organisations involves a number of difficulties. Three central difficulties are emphasised here, listed in a descending order of abstraction.

First, organisational performance is a conceptually broad and vague notion. For example, Quinn and Rohrbaugh (1983), in their seminal and overarching work on the meaning of organisational performance, differentiate among approximately thirty possible meanings and “sub-concepts” of the organisational performance (or, as they call it, organisational effectiveness) concept.

Another difficulty stems from the limited operationalisability of whichever concept of organisational performance is picked. In the case of business enterprises, financial indicators (e.g., return on investment or on assets: Gordon and DiTomaso 1992, Newman and Nollen 1996) or market indicators (share and growth indicators) etc., are relied on. Operationalising performance – and especially performance change – in the case of public administration organisations is a distinctively more complex task (Pollitt and Bouckaert 2000 Chapter 5).

Finally, measuring/operationalising any phenomena on the basis of respondents’ subjective assessments is a relatively sound method only if the phenomenon under study relates to the inner world of the respondent. However, organisational performance is a construct lying outside the inner world of individual respondents; therefore, there is a high risk that responses are uncontrollably biased by a number of contextual factors. In view of these difficulties, it was decided that measures of organisational performance primarily relied upon will be those which (i) can either reasonably be expected to be approximated by, or (ii) are, conceptually, part of, the respondent’s subjective experience. Such measures might include, for example, morale/job satisfaction, perceived quality of team work, or the perceived value of human resources within the organisation.

Clearly, such measures seem to be “soft” in the sense that they don’t consider “the number of units produced in a given time (productivity) and the number of units produced for a given number of input units (efficiency)” specific for the “rational system model [characterised by a] mechanistic, instrumental bias” (Quinn and Rohrbaugh 1983 p. 364). Nevertheless, they are an integral part of the so-called natural system approach of organisations. This considers “not only the production function, but also the activities required for the unit to maintain itself . . . from this organic view, attention is focused on such properties as morale and cohesion” (ibid.).

In sum, it is admitted that the conceptualisation of organisational performance characteristic for the present study is only a partial one, omitting some key dimensions of organisational success. Nevertheless, it is hoped that by including at least certain, less overarching aspects of performance more insight can be

gained into the much-contested relationship between organisational culture and organisational performance.

2.3 The culture-performance link

The causal link between organisational culture and organisational behaviour (including organisational performance) is at least as elusive a question than are the two concepts themselves. Behaviour can be seen either as an element of organisational culture (in a broad sense), or as one of its determinants; moreover, from an organisational learning perspective even as the primary source of culture. Thus, as Jann (2000) points out the causal relationship between (organisational) culture and the organisational practice is indeed a difficult one: “There is a danger that [as a result of this vagueness of its causal status] culture becomes an ambiguous, all-embracing notion, in which all unsolved problems of public administration research is packed up, irrespective of the unit of analysis and questions of operationalisation” (ibid. p. 333).

In trying to create some kind of an order among the concepts, a first step might be to consider that it follows from the concept of subjective culture applied in the current study that culture is perceived as something conceptually different from behaviour. In other words, instead of the approach exemplified by the motto “organisation *is* culture” one should stick to the motto of “organisation *has* culture” (Wallerath 2000).

It is also necessary to clarify the nature of the causal link between concepts of culture and behaviour (or, more specifically, between culture and performance). To start with, one can say that organisations are “culture bound”; i.e., there is or has to be a substantial degree of congruency between organisations’ culture and behaviour at all times (Jann 2000). Furthermore, in the specific context of explaining performance-related organisational outcomes in the management literature it is relatively customary to treat (organisational) culture as an explanatory variable of behaviour (for some examples see Gordon and DiTomaso 2001 p. 785; in the context of public administration Driscoll and Morris 2001). While this approach might in some cases be insufficient since it does not account for the question of how organisational culture, in the actual practice of organisations, evolves and changes, it seems sufficient for our present purpose.

That is, particular beliefs, attitudes, and values shared across the organisation are, especially in the short run, expected to lead to particular behavioural patterns, and thus particular organisational outcomes. For example, a higher emphasis on customer service is expected to lead to more customer-oriented behaviour, or a more expressed appreciation of the “human side of enterprise” can be expected to create more systematic and effective human resource management systems and practices. etc.

3. The method

3.1 Sampling

The empirical research focused on six ministerial organisations of the Hungarian central administration¹ covering, at the time of the survey, 40 percent of the 15 ministerial organisations in Hungary. Therefore it is justified, although with some restrictions, to treat this sample as one representing the central governmental sector of the Hungarian public administration system.

Mailed questionnaires were sent to 904 randomly selected civil servants during the period from June to August 2003. Two hundred and seventy-six respondents (30.5 percent) provided full information; the composition of respondents is similar to that of the entire population².

3.2 Measuring organisational culture

There are relatively few thoroughly validated and tested empirical instruments measuring organisational culture. The instrument developed by Zammuto and Krakower (1991) aims at revealing respondents' perceptions regarding the extent to which the organisation (workplace) they belong to resembles the four culture types of the Quinn typology depicted in Figure 1.

As regards public administration/public management research, subjective culture of the personnel of public administration forms, in the broader sense, the subject of relatively numerous pieces of empirical, quantitative work (Kearney et al. 2000, Moon 1999, Schröter-Röber 1997, Damskis-Möller 1997, and Reichard 1995). However most of these research efforts do not deal specifically with the problems of organisational culture. One important exception I managed to locate is that of Parker and Bradley reporting on the organisational culture of governmental departments of an Australian federal state, Queensland (Parker-Bradley 2000). The authors relied on the Quinn model of organisational culture as operationalised by Zammuto and Krakower. The Hungarian organisational culture survey beside the purposes reported here utilised the same instrument.

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- 1 Specifically, six ministries were surveyed: the Ministry of Health, Social and Family Affairs (ES-ZCSM); the Ministry of Agriculture and Regional Development (FVM); the Ministry of Informatics and Communications (IHM); the Prime Minister's Office (MeH); the Ministry of National Cultural Heritage (NKÖM); and the Ministry of Finance (PüM). In selecting these ministries, the heterogeneity of their task profile was an important criterion.
 - 2 Chi-square tests showed that the composition of respondents is similar to that of the total population with regards to organisational position (manager vs. non-manager: $p=0.178$), and tenure (four-level ordinal variable, $p=0.314$). The gender composition was somewhat different: female respondents were over-represented (64.5 percent instead of 54.9 percent, $p<0.0005$). However, as a subsequent analyses of variance showed, the culture measurement instrument applied was neutral to the gender of the respondent.

According to various analyses not detailed here the validity of the culture measurement instrument was sufficient in the Hungarian context, too: the reliability of culture measurement scales was comparable to the one reported in the Queensland study (Cronbach Alpha values vary between 0.52 and 0.79). Moreover, aggregating individual perceptions on a higher (organisation) level of analysis proved to be justified, too: according to analyses of variance – also used by Hofstede (1984 pp. 52-53) and Parker and Bradley (2000) – culture perceptions are significantly different in the six ministries. These results are depicted in the table below.

Table 1

Results of ANOVA performed on variables measuring organisational culture (dependent variable) and ministry affiliation of respondent (independent variable) (number of cases: 276, number of categories of the independent variable: 6)

Variable	Significance (p-value)
Group culture	0.134
Developmental culture	0.003
Hierarchical culture	0.000
Rational culture	0.275

3.3 Measuring organisational performance

The questionnaire contained various items related to the performance and effectiveness of the organisation and of the respondent's manager as outlined in the section on concepts. Four scale variables, consisting of 5-point Likert-format items, were used to measure various aspects of performance: (i) job satisfaction/morale; (ii) perceived quality of management; (iii) perceived quality of workgroup cooperation; and (iv) an overall assessment of organisational performance.

As Table 3 shows, there are strong (between +0.48 and +0.7) and strongly significant (in all cases below the 0.0005 level) correlations among all four measures. On the basis of these properties of the organisational performance measures, they can be reasonably accepted as rough indicators of the selected aspects of organisational performance.

4. Findings

4.1 Culture and performance profiles of Hungarian ministries

The table below depicts the extent to which the four culture types are present in the ministries surveyed.

Table 2

The presence of the four culture types in the six Hungarian ministries surveyed

Ministry*:	FM	PüM	NKÖM	ESZCSM	MEH	IHM	Mean	Range
Group culture	13.4	13.9	16.2	17.5	18.1	19.7	16.5	6.3
Developmental culture	9.5	9.0	12.9	12.5	15.4	16.0	12.6	7.0
Hierarchical culture	52.9	47.1	43.5	42.8	37.5	34.5	43.1	18.4
Rational culture	24.2	29.9	27.3	27.3	28.9	30.0	27.9	7.8
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	-

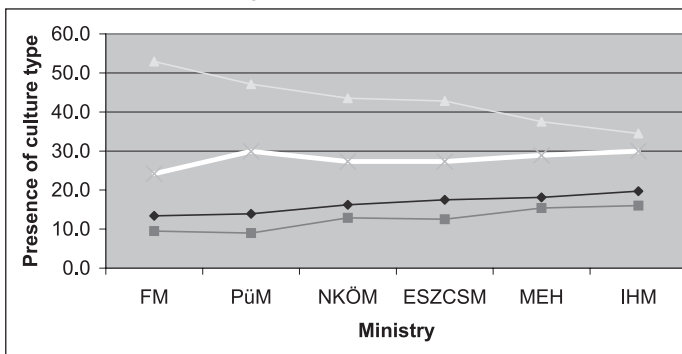
*Ministries are here and hereinafter listed in a descending order of the hierarchical character of organisational culture

There are two well-marked features of the data. First, hierarchical culture predominates organisational culture in all six ministries: the smallest value is 34,5 the largest one is 52,9, and the mean value is 43,1. These are high values both in the view of the “balanced model” deduced from theory (characterised by approximately the same, 25 percent presence of all four culture types) and in the view of the organisational cultural characteristics found in other empirical surveys, such as Zammuto and Krakower (1991), Quinn and Spreitzer (1991), Gifford, Zammuto, and Goodman (2002), Parker and Bradley (2000), and some other ones relying on instruments operationalising the CVF other than that of Zammuto and Krakower, such as Al-Khalifa–Aspinwall (2001), and Dastmalchian et al. (2000).

Secondly, the cultures of the six organisations seem to be rather homogenous; i.e., similar to one another. This is a significant finding since it indicates that the culture of ministries is not shaped by pure chance but strongly determined by contextual variables prevalent in the entire realm of Hungarian (central) public administration.

Figure 2

The presence of the four culture types in the six ministries surveyed (arranged in a descending order of hierarchical culture)



This figure shows that hierarchical culture is influential not only in terms of its size but also as measured by its influence on the presence of other culture types. That is, the decreasing presence of hierarchical culture means all the other three culture types are gaining in influence and vice versa³.

The second most influential culture type, in terms of size, is the rational culture. This is present in the six ministries approximately to the same extent (except for the Ministry for Agriculture/FVM). The other two culture types are present in all ministries to a modest extent, between 10 and 20 percent.

As regards the organisational performance measures and profiles, the results seem congruent with *ex ante* expectations. The table below depicts the result of the correlation analysis performed on these four variables.

Table 3

Respondent level correlation of major variables of organisational performance

	1.	2.	3.
1. Job satisfaction	.		
2. Perceived quality of management	.482**	.	
3. Perceived quality of workgroup co-operation	.541**	.646**	.
4. Overall assessment of organisational performance	.556**	.656**	.701**

4.2 Culture’s effect on organisational and management performance

The table below depicts the results of the correlation analysis performed on the culture and the performance variables.

Table 4

Correlation matrix of variables measuring individual perceptions of organisational culture and of organisational performance *

	Job satisfaction	Perceived quality of management	Perceived quality of workgroup cooperation	Overall assessment of org. performance
Group culture	0.138**	0.223***	0.218***	0.275***
Develop-mental culture	0.047	0.167**	0.229***	0.195***
Hierarchical culture	-0.095	-0.234***	-0.237***	-0.219***
Rational culture	-0.019	0.020	-0.020	-0.071

* significant at the 0.05 level; ** significant below the 0.01 level; *** significant below the 0.005 level

3 In order to interpret this finding correctly, one has to consider an important feature of the four culture variables. Namely, their sum is a constant 100 by definition. In statistical terms this means that there is full multicollinearity (linear dependence) between the four variables, while in geometrical terms one could say that the “cloud” of data points is located on the same “down-hill” superplane of the four-dimensional culture space. Therefore, the four culture variables are inherently inclined to correlate negatively. One of the consequences of this inclination is that it is not advisable to use correlation or regression analyses.

Two immediate findings emerge from these results:

First, organisational culture is in a definite relationship with most measures of organisational performance applied in this survey. This is especially so with regards to the presence of group culture, and of hierarchical culture, where three out of the four performance measures correlate on a level higher than $r=0.2$ and are significant at the $p<0.0005$ level. The relationship between organisational performance and the presence of developmental culture is weaker but still statistically significant; rational culture, however, seems to have a minimal relevance from the point of view of organisational performance. This latter finding is rather surprising since intuitive thinking would suggest the opposite. The direction (sign) of the relationship is identical in all cases: the more hierarchical the organisational culture, the lesser the performance, and the more group and development-oriented, the higher the organisational performance.

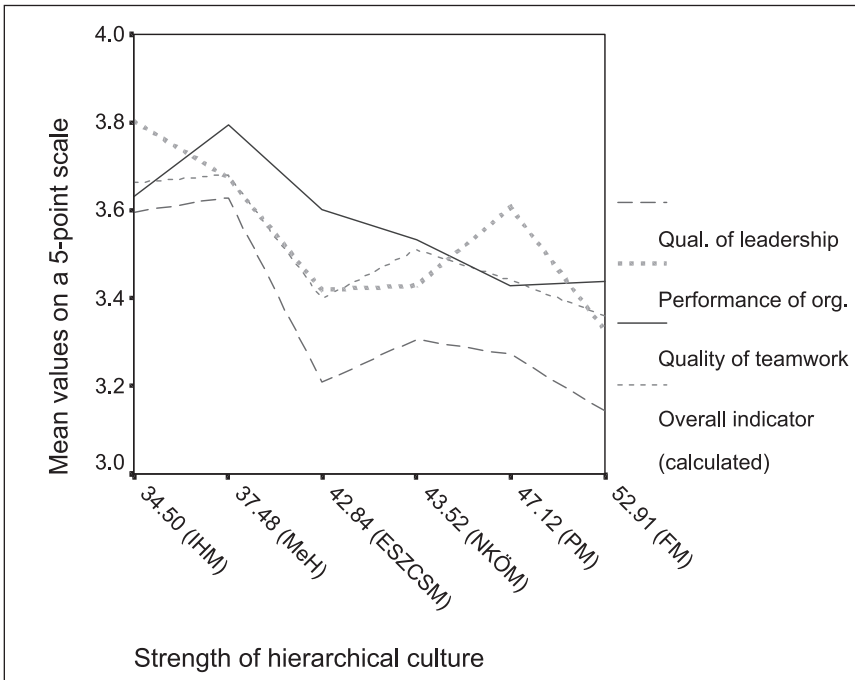
This finding is more or less consistent with the expectations based on current mainstream “Theory Y” type approaches (McGregor 1979) – emphasising the role of the “human dimension” of organisation – would suggest. Furthermore, this finding is also consistent with the empirical results presented in the previous sub-section, where organisational, group and managerial effectiveness proved to be intimately and inextricably intertwined with individual job satisfaction; a hierarchical culture emphasising individual accountability as opposed to team work, and hierarchy and rule as opposed to flexibility does not support such “Theory Y”-type values.

Secondly, it is remarkable that individual job satisfaction, as opposed to the other three performance variables, exhibits hardly any recognisable relationship with organisational culture. It is only group culture which has a statistically significant, albeit weak, relationship with job satisfaction. Partial correlation analyses not presented here support the opinion that this lack of correlation is not a spurious but a real one.

On the basis of these and earlier findings stressing the importance of hierarchical culture in explaining key organisational phenomena in the surveyed ministries it is possible to boil down the relationship between organisational culture and organisational performance into one simple figure as follows.

Figure 3

The relationship between the presence of hierarchical culture and various measures of organisational performance*



* "Overall performance" is a variable calculated as the mean value of the four performance variables for illustrative purposes

This figure reinforces the finding presented above; i.e., that such dimensions of organisational performance as (individual perceptions of) quality of management, of team work, organisational performance, and job satisfaction are in a strong, negative relationship with the hierarchical nature of the organisation's culture.

5. Some broader conclusions

From a theoretical perspective, some tentative, rather than definite, conclusions can be drawn from the above findings.

First, the findings – while contradicting some of the strong claims often present in NPM literature regarding the role of a performance-oriented culture in promoting organisational performance – reinforce/are consistent with the results established in some of the earlier results. For example, Gordon and DiTomaso (1992) found that the adaptability of culture increases while its stability decreases performance. This relationship is reinforced by the current findings. Namely, as

depicted in Figure 1, the group culture type lies on the flexibility/adaptability side and the hierarchical culture type on the stability end of the “structural preferences” continuum and, as the above findings showed, the former significantly increases while the latter significantly decreases the performance of the organisations in most of the performance dimensions measured.

Second, it is surprising that it is primarily the vertical (i.e. stability vs. flexibility) axis of organisational culture only that seems relevant from the point of view of organisational performance. The other dimension plotted on the horizontal axis (i.e., internal vs. external focus) adds little to understanding and predicting organisational performance. In particular, it is surprising that, e.g., a larger emphasis on goal achievement (i.e., a more goal-oriented, rational culture) in the literature, usually expected as a primary device of achieving efficiency gains, does not contribute to the perceived performance of the given organisation.

However, in this regard care has to be taken in interpreting the results of the above correlation analysis. Namely, the presence of rational culture does not vary significantly across organisations (see Table 1 on the results of ANOVA analyses). That is, the lack of correlation might be due to the lack of variance in one of the variables – goal orientation – rather than to the lack of relationship.

The next consideration relates to the relevance of the various performance measures applied in this study. Specifically, it seems both from correlations among the four performance measures (Table 3) and their relationships with the cultural characteristics (Table 4) that individual job satisfaction seems to capture, or at least be related to, the underlying construct of performance to an extent more modest than in the case of the other three performance measures. (Individual job satisfaction is neither as strongly related to the other performance measures as they are related to each other, nor is it in such a clear relationship with cultural characteristics as the other performance measures are.)

This finding seems to some extent to contradict the strong emphasis usually put on job satisfaction and morale in general, and expected to substantially contribute to the creation of a “culture of excellence” and thus to such behavioural changes as increased performance, quality, and client orientation. Nevertheless, the proper, in-depth interpretation of this phenomenon proved, in the context of this study, difficult, due to the lack of possible explanatory variables.

Finally, a cautionary in relation to all three above considerations, concerns the limited and specific focus and generalisability of the results. Most of all, it is both a strength and a limitation of the results that they are based entirely on empirical material gained in a “strictly non-NPM”, Continental/Germanic public administration organisational and cultural context (Hajnal 2003). Therefore, these results cannot be generalised in a problem-free manner to other administrative systems; for example, to those having already had undertaken substantive NPM

reforms. Nevertheless, this argument might to some extent be counter-argued by another one: as other results seem to suggest, the importance of NPM in influencing cultural patterns of administration is rather marginal (Hajnal 2004).

Furthermore the scope in which organisational performance was investigated is, due to reasons outlined in the conceptual section, limited to those related to the self-maintenance function of organisations as viewed from a natural systems perspective. In a more overarching perspective technical and instrumental aspects of performance/effectiveness should, ideally, play a much more expressed role.

From a more practical perspective, one might ask what the implications of the findings and conclusions reached are in relation to the problem formulation exposed in the Introduction. That is: Is the proposition that by creating a culture of excellence oriented towards results, customers and entrepreneurship NPM might lead to an increase in the performance and quality of government, supported or rather undermined by the results of this study?

Emphasising the tentative nature of the argument it can be said that this claim which is central to “NPM thinking” appears, in the light of the above findings, somewhat controversial. On the one hand, organisation culture does seem to influence a number of behavioural patterns in the organisation relevant from the point of view of organisational performance. Most of all, a group-centred culture seems to improve, while bureaucratic culture tends to deteriorate, the measured dimensions of organisational performance.

On the other hand, it is remarkable that the rational, goal-oriented culture of organisations does not exhibit any observable relationship with organisational performance. It is strongly arguable whether “entrepreneurial”, “corporate” or “excellence-centred” cultures promoted by NPM practice and rhetoric are to be conceived, in terms of the Quinn culture model (Figure 1), more rational/goal-oriented or more group-centred. Probably the correct answer is that NPM – which is in itself a multi-faceted and heterogeneous body of theory and practice – involves a cultural shift in either or both directions (cf. Parker and Bradley 2000). In my view, the rational, goal-oriented emphasis of NPM rhetoric seems definitely more characteristic than the one put on group values (or, by that token, innovation and growth).

If this is the case, than one might say the presented findings do not support or refute in a compelling manner the claims made by much of NPM rhetoric and the basic logic underlying much of the NPM practice.

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Section II

The Personal Factor:
Educating and Training
Civil Servants for Better
Public Administration



The Personal Factor: Introduction to the Papers

Alexei Barabasev

The personal factor and its components – quality of professional education and training, public service culture and values of public servants – are among the crucial aspects of success or failure of public administration reforms and the establishment of professional public service in so-called transitional countries. At the same time, the personal factor differs significantly from one post-communist country to another because its components reflect the variety of national educational traditions, historical background and peculiarities of the systems of administration in those countries. It is not surprising that the configuration of personal factor, especially the education and training of civil servants, in the countries of Central and Eastern Europe and its consequences for public administration reforms were discussed by several speakers at the conference.

The key issues of the talks and discussions revolved around three subjects:

- The description and comparison of national systems of education and training civil servants, positive and negative aspects of those systems, existing problems, innovative educational programs and other educational initiatives. What are the development trends of educating and training civil servants in the different transitional countries?
- The description of existing values of civil servants and the factors influencing the value systems. How can the education and training of civil servants lead to the change of values and to the incorporation of the public services of different countries into the European Union's "public service community" based on common values?
- The reflection of civil servants on the changes in public administration. How can multiculturalism and ethnic diversity of public service be ensured?

Selected papers present different regions of Europe (Baltic republics: Estonia; Southeastern Europe: Macedonia; Eastern Europe: Russia), representatives of both the new members of the EU and of its neighbors. The authors of the studies concentrate on different aspects of the personal factor. Despite the differences, however, all articles selected for this volume also have some common points,

problems and proposed solutions, that can be interesting (or can be used as case-studies) for other countries and various research projects.

1. Education and training of civil servants.

The single most important component of the personal factor is the education of civil servants and their training system. All transitional countries face the problems of how to increase the quality of education and training, how to introduce innovations in these areas and how to organize a better system for educational and training institutions. The solutions for these problems that were presented at the Vilnius Conference and partly reflected in the selected articles, can be distributed in a three-dimension space.

The first dimension (“organizational dimension”) shows the level of centralization/decentralization on systems of civil service education and training, from the fully decentralized structure (left side of a horizontal x-axis) to the totally centralized system (right side of the x-axis). The second dimension (“cultural dimension”) reflects the level of the multicultural orientation of educational and training programs, from monocultural orientation (front side of a y-axis), to a completely multicultural destination of the educational and training programs (back side of the y-axis). The third dimension (“content-innovative dimension”) presents the level of innovations used in the educational process, from traditional ideological orientation of the programs (bottom side of a vertical z-axis) to new technologies and methods of education and training (upper side of the z-axis).

According to this scheme, it is possible to locate the existing Macedonian system of education for civil servants (the article by Murphy, Saslawski, Kreci, Bocevski – MSKB) near the middle part of the x-axis (partly centralized system), the front side of the y-axis (two diverging groups of programs, both of monocultural orientation), and at the bottom side of the z-axis (mostly old ideological orientation). At the same time, the efforts to change the situation described in the MSKB article, lead towards changes in the positions of the country’s system of education in this three-dimension space: to the left side of the x-axis, the back side of the y-axis, and the upper side of the z-axis. It is provided by introducing new culturally neutral educational programs (in English), that fit both ethnic communities, creating an international network of institutions (emergence of a less centralized system of education) and introducing innovative educational programs and courses.

Kristiina Tonnisson and Kaido Paabus (T&P) present the Estonian system of training civil servants as one located near the left side of the x-axis (it is essentially a decentralized system). This system can also be described as mostly innovative and belonging to the upper side of the z-axis. Unfortunately, the position of training system of Estonia on the y-axis it is unclear, and could not be extracted

from the article: the mono/multicultural orientations of the educational and training systems in this country are not described by the authors. The direction of the development of the training system in Estonia, according to T&P, led this system towards a more balanced position, closer to the left side of the x-axis the upper side of the z-axis.

The article by Victoria Antonova (VA) touches only briefly upon the subject of training and education for civil servants. The educational and training policy is mentioned only in connection with the contradiction between the cultural diversity of the Russian regions (namely, Saratov region as a member of the Russian Federation) and the monocultural policy of the regional government that has no capacity to govern properly in a multicultural society. Nevertheless, it is possible to locate the regional training and educational programs for civil servants in Russia (according to VA) as ones that initially belonged to the front side of y-axis (monocultural orientation), and are mostly traditionally-oriented despite the efforts of some educational organizations and universities (bottom side of z-axis). One question that still remains is whether the education and training systems in Russia are centralized or not. Supposedly, the answer here can be controversial because of the existence of two different systems of education and training for civil servants, (i) the university system (over 240 faculties of Public Administration already exist at different universities) and (ii) the system of the regional Academies of State Service. Each system has its own mechanisms of regulation and coordination of educational activity. VA expresses the idea that educational diversity (including additional knowledge and skills providing for ethnic minorities) should be introduced, so that the trends of development for educational and training programs for civil servants should be oriented towards regional decentralization (left side of x-axis). At the same time, a variety of cultures should be incorporated into the curricula (motion towards the back side of the y-axis), and educational innovations supporting the multiculturalism in the regional civil service in Russia should be introduced (the upper side of z-axis as the goal).

2. Common values of civil servants

T&P describe the value system as dependent on two features of personnel management in public service.

The first feature is the type of the public personnel system. Possible types include the career system and the open (position-based) system. The authors argue that the Estonian case shows not only the possibility, but also the positive results of establishing a position-based public administration system (with some minor exceptions as foreign service, police service, court system, customs etc.) in transitional countries. Among the pluses of the open system T&P named the easiness of replacing incompetent civil servants inherited from Soviet rule (political

reason) and the easiness of recruiting qualified specialists from outside the public sector (open job market reason). Among the minuses of position-based systems for transitional countries, T&P emphasized that the position-based system makes it harder to settle public service values (because of the lack of necessity for civil servants to get special education and because of the absence of promotion procedures), and that it is harder to motivate the staff properly. The authors insist that it is possible to merge the two systems, but at the same time the influence of the open system should be increased, and such rudiments of carrier system as additional pay for years and reserve of officials, as T&P noted, probably will be removed from Estonia's Public Service Act (in force since 1996) in its new version.

The second relevant feature of personnel management is the centralization/decentralization of public service. T&P argue that the decentralized model of public service chosen by Estonia is no less successful in introducing the common values than the centralized system. Among the influences of the decentralized system on elaboration of shared values, T&P named the positive correlation between the low corruption level and the flexibility and self-determination of civil servants.

T&P discussed the links between a decentralized training system (with only coordination of training institutions through the centralized development of training policy and the elaboration of common values). These links are based mostly on the creation and support of informal networks among different training institutions, and on the announcement of training priorities that are also implemented in the training courses (offered on a voluntary basis) provided by the Centre for Public Service Training and Development (without any support from the state budget). The elaboration of common values through a decentralized education system is possible, but risks that quality training will be more difficult.

MSKB propose establishing common values and filling the gap between Macedonian and ethnically non-Macedonian communities by introducing innovative educational programs regardless of culture, preferred language or ethnicity, based on new technologies (web-based education, distance learning, Internet resources) and English language education.

VA believes that only culturally diverse training programs could guarantee the sufficient variety of values and the creation of a mutually shared culture in the public service.

3. The reflection of civil servants on the changes in public administration.

VA focuses on the reflection of civil servants on the challenges and changes in public administration. The author presents the reflections through in-depth interviews with senior civil servants from government departments in the city of

Saratov (Volga region, Russia). The interview shows the gap between the formally announced absence of discrimination among public servants on the basis of their nationality, religious beliefs, gender or age (defined by the norms specified by the Constitution of Russia, the Federal Law “About the Public Service of the Russian Federation” [2003] and in the new Federal Law “About the Civil Service of the Russian Federation” [2004]) and the unchanged reality of the socialistic “internationalist orientation” of public service. In this situation, the reflection of respondents shows their attitude towards the “ethnically blind” approach for the sake of ethnical cooperation and peace. The reflection of civil servants on this gap and the existing hidden discrimination on ethnic grounds, as the interview shows, primarily comes down to assimilation that erases the ethnic differences. The author proposes a more creative solution: the variation of cultures; i.e., the idea of the variety and richness of different cultures that can share and exchange their values. This approach can be used to prepare civil servants to respect different cultures and create new multicultural values in the public service.

Securing Common Knowledge and Values in Decentralized Public Service: The Case of Estonia.

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Abstract

The paper will concentrate on an analysis of different sides of a decentralized public service system as a factor in creating shared knowledge and values leading to better policy-making capacity. Evidence from the experience of Estonia is used to show that imposing common values on public service could be effective through a decentralized system. The study proves that it is not just formal structures and central controls that are required for establishing professional public service. Considerable impact can be achieved also through informal networks and cooperation.

Introduction

In order to progress towards common aims, people need to have common visions, understandings and ideas. Shared values and knowledge of public servants are one of the pre-conditions for successful policy-making and analysis. As Van Wart (1998: 319) states: “The art of value management for practitioners has already become the leading skill necessary for managers and leaders of public sector organizations...”. The current paper tries to analyze how a decentralized public service system affects securing common knowledge and values in public service. Also discussed are major obstacles specific to transitional countries that influence public service development.

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The paper concentrates on the analysis of different aspects of public service as a factor of creating shared knowledge and values that lead to improved policy-making capacity. Does decentralized public service hinder the development and implementation of effective policies? Evidence from the Estonian case study is used to address two main questions:

1. What effect does the decentralized public service system have on creating or recognizing common knowledge and values?
2. How much do other organizational and environmental characteristics affect the process of value and knowledge creation?

Relevant pros and cons are discussed to assess their impacts on establishing sector-wide shared knowledge. The paper is based on the case study of Estonian public service and the authors analyze the major changes since 1996 when the Public Service Act was put into force. Available surveys, statistical data and written documents are used for the analysis. Finally, the paper will draw conclusions on how the current system could be changed in order to improve the quality of policy-making capacity.

1. Factors Affecting the Creation of Common Values

1.1 Personnel System

The personnel management system of the public service is a central factor influencing the characteristics of the value system. There are two main types of public personnel systems – the career system and the open system – both of which have advantages and disadvantages (Auer et al 1996). A career system tends to require more centralized training system than a position-based one. The first implies a system that offers training for entering the civil system and for career development inside the system before any transfer or promotion. A post system does not make strict differentiation between employment in the public or private sectors because public servants are hired for a specific post. Employees can be recruited outside public service, even for the very top positions. In addition, there are usually no special university degrees, exams or qualifications needed for entering public service. It is up to each organization to decide what kind of qualifications it demands from its officials. In a post system, both initial training and training during the career afterwards depend much more on the profession of the public servant than on the fact that the position is in public service.

The United Nations Committee of Experts on Public Administration suggests that “in most developing countries, where the supply of highly trained staff is generally low, combined with weak institutional systems of checks and balances, the establishment of a career system would seem to be more likely to strengthen professional personnel management and the administration of the

public sector” (UNPAN 2004: 21). Nevertheless, Estonian public service is “open” or “position-based” system (Randma and Viks 2001). Only some branches of the administration are career-based: foreign service, police service, court system, customs, etc.

Based on the Public Service Act (PSA) that came into force on 1 January 1996, Estonian public service is rather decentralized. Most of the human resource management processes are delegated to ministries and administrative agencies. Decisions on personnel planning, recruitment, development and appraisal are done mainly at the organizational level through the evaluation and competition committees of ministries and agencies. However, recruitment of top officials is centralized where the Competition and Evaluation Committee of Higher State Public Servants at the State Chancellery evaluates deputy secretaries, general of ministries, directors general of executive agencies, and inspectorates and their deputies.

Although pay scales for basic categories of posts are set in respective legislative acts, the remuneration system is to a large extent decentralized. For instance, some public service organizations have introduced modern performance-based salary systems, while others use more traditional ways of remunerating their employees. Also, pay levels differ substantially between different organizations, especially at the top. Nonetheless, there are also a few elements of a career system in general public service: reserve of officials, additional remuneration for years of service. Then again, reserve of officials has not really worked in practice. Similarly, additional pay for years in service does not have many supporters at the political level. Quite likely, a new version of PSA, which has been stated as one of the priorities of Estonia’s current government, will abolish these elements from the public service.

The major advantage of the open public service system is that it makes it easier to replace incompetent civil servants inherited from Soviet rule with more qualified specialists outside the public sector. At the same time, the overly open system makes it harder to settle the civil service values or motivate existing staff. That is why it is important for organizations to carry out a mandate analysis in order to clarify the boundaries between what must be done, what could be done and what must not be done (Smith 1994: 41). “In the past one could clearly define a public service as applying a career system... or as applying a post system... Nowadays, however, governments seem to organize their public services by merging both the systems” (OECD 1997: 7). As current analysis shows, this is also the case in Estonia.

1.2 Inheritance from the Past

As public service systems are heavily dependent on the administrative tradition and philosophy, these aspects should be taken into account while discussing com-

mon knowledge and competencies in the service. Nevertheless, “the past” does not always have such a profound influence on the current situation or on the future as one might expect. “Thus, while we acknowledge, and indeed highlight, the influence of the past, this should be read as neither a path-dependent, nor a political-cultural, determinist interpretation of political discourses in post-Communist countries...” (Dryzek and Holmes 2002: 259). On the other hand, Drechsler (2000: 270) argues that problems of Estonian public administration are based on the lack of well-qualified, highly motivated civil servants based on special virtue or ethos, whereas, this special virtue is highly dependent on tradition.

Since separation of powers did not exist during Soviet time, resulting in a system where legislative and executive functions were merged (Hesse 1997, Vanaganas 1999, Sootla and Roots 1999, Randma and Viks 2001), this “special public administration virtue” is still heavily missing. “All of this led to a situation where the real heritage of Communism is not a hierarchical, disciplined public sector, but a chaotic free-for-all, where organizations often have legally defined autonomy, rights and responsibilities, their staff and particularly managers feel certain informal ownership rights and the distinction between public – and private-sector mentality is blurred or non-existent in the eyes of most actors” (Beblavy 2002: 128). Although under the Soviet rule ministries and administrative agencies existed, there was no public service in the democratic sense. Public employees were supposed to be loyal to the Communist party instead of citizens.

It is important to emphasize that modernizing public administration can not be separated from how countries and citizens see the role of their state and the functions performed by public organizations. “The standards and conduct of public representatives and officials significantly affect the standing in which they are held. This in turn affects the confidence and respect in which governmental systems are held.” (Davis 2003: 222). Current Estonian public service is quite young and inexperienced, at least compared to their colleagues in developed countries. More than 50 percent of the employees are younger than 40 years, while around 20 percent are older than 50 years. At the same time, almost two-thirds of public servants have been working in public service organizations less than ten years (State Chancellery 2004). This can be seen as a disadvantage but also as an opportunity or as Hatch (1997: 94) says that “... the consequences for Eastern Europe are now emerging as both exciting and terrifying...”, depending on the point of view

1.3 Public Service Culture

Taking into account our inheritance from the past and the fact that perception of public service affects the sort of workers it attracts (Lewis and Frank 2002), creating a new service culture is crucially important for securing common knowledge and competencies. In most of the CEE countries, many public servants used to perceive themselves as superiors to citizens, not as servants to them. That is why

creating a new culture based on responsiveness and high-quality services should be one of the primary objectives of the training system in transitional countries. "... we will find that new value systems are built next to older ones, which are challenged rather than subject to erosion from within or from boundaries being broken at the margins." (Kooiman, 2003: 35). Because of that, adaptation to fundamentally new demands is an especially hard task for those who have been working in public service before the transitional changes.

Prior to implementing the new value system, the organizations need to assess the current one. One of the widely used mechanisms for evaluating organizational "value environment" is a values audit that provides data on current practices and problems and possible improvements (Lewis 1991: 199-202). Other possible options are customer and citizens assessments, quality assessments, etc. (Van Wart 1998: 260-70). Unfortunately many public organizations in CEE do not have enough desire and/or resources to undergo this assessment.

When the PSA came into power in 1996 in Estonia, all people working in ministries and administrative agencies were automatically taken into public service without any control of whether these post-socialist, "cadre-type" administrators (König 1998) fulfilled the requirements set in the PSA. According to the PSA, public servants had to pass special evaluation (attestation) in three years' time; that was later prolonged since the evaluation procedure was impractical and did not take into account the real situation in public service. There were no resources – time, money or expertise – available for re-training all public servants in such a short period of time.

Also, the pay level was quite low in public service at that time, meaning that there were not many people available for substituting incompetent public servants. Although the PSA set fairly strict requirements for entering public service, no one actually knew whether the people employing public offices had relevant competencies. As Hirschmann (1999: 302) observes: "What is the point of the state being accountable if little is being achieved, of the state being transparent if there is nothing to show?" Evaluations were eventually started from the beginning of 1999 – three years after PSA came into force. Even by the end of 2002, there were 11 governmental agencies that had not initiated evaluations in their organizations (State Chancellery 2004). Thus, the situation was not and is still probably not the most fertile ground for introducing shared values for public service.

1.4 Human Capital and Capacity to Learn

Arguably, public sector organizations can no longer be managed by simple planning and controlling, but by developing capacities to manage resource issues, community issues and organizational issues within major environmental and organizational changes (Joyce 2000: 51). According to Hatch (1997: 172), non-routine technologies and unstable environment also threaten the effectiveness

of bureaucratic organizations. "One common objective of public service training is to support the implementation of administrative reform and modernization; another is to improve professional skills and qualifications of staff to increase efficiency of public service" (OECD 1997: 4). As the general trend is "from representative forms to more consultative, deliberative and participative new forms of modern democracy" (Pratchett 2000: 11), a redefinition of the role of the state and redesign of public administration system has resulted in new competencies set for public officials and their professional behavior and values.

Beardwell and Holden (1994: 276) argue that in order to meet challenges of quality, continuous improvement, flexibility and adaptability, organizations needed to require more from their employees than just new or enhanced job skills. They need to discover how to learn to work together, how to learn to think and how to learn to learn. "The organisation that will truly excel in the future will be the organisation that discovers how to tap people's commitment and capacity to learn" (Senge 1990: 41). A recent OECD (2003) symposium on "The learning government: Managing knowledge in central government" indicated that an increasing number of government organizations introduce knowledge management measures in order to become "learning governments".

Training and learning abilities become especially important during the changes; e.g., when government is planning to undertake broad public service reforms. That is why "this [training in the public sector] is even more important in transitional countries where major reforms in nearly all sectors are under way, and where public sector staff face many great changes within a very short time (OECD 1997: 3). Also, the currently prevailing shift from government to governance requires additional special training and education. "The primary role of the public servant is to help citizens articulate and meet their shared interests rather than to attempt to control or steer society" (Denhardt and Denhardt 2000: 549). Based on all these factors, training, on one hand, and ability to learn, on the other, are crucial factors for organizational success.

Since human capital is the primary source of organizational innovation and renewal (Agor 1997: 175), both managers and change agents need to be aware of its importance. "Managers in public service are increasingly required to act as coaches and mentors and to ensure that employees develop the knowledge and understanding that underpin a broad range of competencies." (Doherty and Horne 2002: 412). Of course, not all ideas and changes are successful; on the contrary, few of them will succeed. "Most efforts by executives, managers, and administrators to significantly change the organizations they lead do not work" (Burke 2002: 1). "It is one thing to decide you want to deconstruct an undesirable social reality, replacing it with something else is another story" (Hatch 1997: 94). Implementation is always more difficult in public sector setting than in private sector as "...publicness brings with it constraints, political influence, authority limits, scrutiny and ubiquitous ownership"

(Nutt and Backhoff 1992: 201). That is why strong leadership commitment is one of the prerequisites for strengthening the capacity of human capital, while the latter is often more dependent on the reforming of values and attitudes than teaching or developing new skills and knowledge. The findings suggest that interesting work is more strongly related to work effort than are pay and promotion chances (Frank and Lewis 2004: 46). Because of that “active programmes of staff development are important tools for public organizations to motivate and retain staff” (OECD 1997: 5) and active staff involvement in planned reforms is a crucial factor for success.

2. Decentralization and or versus Corruption

When we look at the public administrations of new member states of the EU, we see that these countries have very different types of public bureaucracies. There is no evidence that centralized administrations have been more successful in introducing common values and competencies across public service. The same can be said for developed countries. If we take the Corruption Perception Index (CPI) evaluated by the Transparency International, we see that at the top of the table are countries with highly decentralized administrations – Finland, Iceland, Denmark and New Zealand. Also Estonia is, in comparison to the other new EU member countries, in a fairly good position, losing only to Slovenia. Obviously we cannot put an equation mark between a low corruption index and professional and competent public service.

Quite often NPM reforms, being still on agenda of transitional countries, have been associated with an increase in corruption. Contracting out practices, competition among public bodies, etc. have increased, not reduced, the opportunities for “new corruption” (Harris-White and White 1996). It would be reasonable to expect that the organizations implementing these reforms are willing to seek information about outcomes of similar reforms elsewhere. But this is not always the case. Bennett (1997) argues that before policy transfer can occur, the ones involved in it should see awareness and debate of existing policies among policy-makers elsewhere. At the same time policy-makers’ selfish aspirations may overwhelm the incentive to gather this information and to do research abroad. In developing countries, limited human capacity increases the likelihood that these analysis-based lesson drawings will not happen. Thus, implementing different NPM ideas might well be useful, but they should be carefully tailored to local circumstances (Beblavy 2002, Verheijen 1997). According to Schick (1998), the outcome for transitional governments that undertake such reforms without paying enough attention to local situations is likely to be low accountability, uncontrolled contingent liabilities, weak incentives for performance and corruption.

There are many other socioeconomic, cultural and historical aspects that have to be taken into account in explaining the corruption in every single country. Sissener (2001: 1) recommends contextual analysis of corruption which treats

“corrupt’ behavior” as a “social act...[whose] meaning must be understood with reference to the social relationships between people in historically specific settings.” According to Wilson (2002: 37) “... human societal organisms rely critically on moral systems to define appropriate behaviors and to prevent subversion from within.” As there is often a thin line between socially rooted behaviors and bureaucratic corruption, practitioners themselves have to find “corrupted practices” unacceptable in order to make anti-corruption reforms succeed.

Nevertheless, having so many countries with decentralized administrations among the least-corrupted ones shows that ethical and professional public service is not achievable only under centralized and formalistic public administrations. On the contrary, for instance, Polidano (2001) suggests that the experience of developing countries has shown that formalization of public administration is not necessarily solving the problems faced by them. The question remains whether transitional countries have to go through similar steps as developed countries during last hundred years in establishing their merit-based public service systems. It is quite unlikely that in a period of time when both public and business management theories stress the importance of managerial freedom, self-determination and flexibility, transitional countries could achieve success by centralization that is accompanied by rigid bureaucracy and formalization. The experience of Estonia offers different ways of building up professional public service.

3. Public Service Training System in Estonia

In line with the public service general structure, the training system is also decentralized in Estonia. Every ministry and executive agency has its own training budget and is free to choose where to buy training services. Since there was a trend introducing private sector management techniques and principles into public organizations, all kinds of training institutions have flourished. According to the survey carried out by the State Chancellery (2004), there were 235 different public, private and third sector training institutions providing training courses for public servants in year 2002, and this figure did not include all providers.

In a decentralized training system, public sector training institutions usually have to compete equally with private sector providers. “The decentralization of training institutions has necessarily an impact on the need to coordinate, monitor and evaluate training to ensure a certain standard of training” (OECD 1997: 8). A common risk of the system because of existing diversity and complexity is that getting quality training might become complicated. “Resources are wasted if training needs are not met because they have not been properly analysed, or because training is being used as an inappropriate response to poor performance” (Doherty and Horne 2002: 432). With the emergence of competing and divergent concepts of what quality training means for public authorities, the situation becomes even fuzzier.

Not all training is decentralized to the organizational level in Estonia. The State Chancellery is responsible for the coordination of the public service training system. This coordinating function (developing training policy and strategy, analyzing and drafting legislative acts, etc.) is mostly done through informal measures, since the State Chancellery does not have any legislative authority over other public institutions. Therefore, dissemination of best practice and values has been based mostly on informal measures, the most important of which is networking. The Chancellery has been building up a network of public personnel and training managers already since 1997. This network has been unofficial, and HR managers participate on their own will. The Chancellery has performed as a facilitator in this network where representatives of different public service institutions can share their experiences and in establishing training systems in their own organizations.

There is also a separate budget for financing these activities. Nonetheless, the amount of the central training budget is similar to the training budget of an average-size public service organization. Most of the central budget is spent on the financing of training courses directly related to the Public Service Training Priorities. These priorities are set annually by the cabinet and reflect the major public administration development areas of the government. For instance, the priority areas for the year 2004 are: 1) strategic management; 2) public service personnel management; 3) digital document management; 4) public ethics; 4) quality management; 5) European Union; and 7) public law. The general idea of training priorities is to support the introduction of new initiatives of the government and policy areas that are important in regard to the public service development. Another characteristic of the above mentioned priorities is that they are based on horizontal training needs; i.e., needs which are common all over public service. This way the central administration at least tries to introduce new ideas and tools that are practicable all over public service and to create shared value base.

In addition to the central budget, under the State Chancellery there is the Centre for Public Service Training and Development (ATAK)¹ that is supporting the former with implementation of the central training function. While the Chancellery is setting priority areas and dealing with more general policy issues, ATAK's responsibility is to organize training courses in accordance with these policies. ATAK has been a major partner to the Chancellery in providing training courses directly related to training priorities that are partly subsidized by the central training budget². These courses are offered on voluntary basis; i.e., every public service institution decides whether or not they want to send their officials to these courses. It is not obligatory for them, but due to the subsidized price these courses are usually very popular.

1 Formerly known as the Estonian Institute of Public Administration that was reformed in the beginning of 2003.

2 At the same time, ATAK is a fully self-sufficient public institution without any direct support from the state budget.

4. Additional possibilities

In addition to slightly centralized training system, there are three additional possibilities for establishing shared values and competencies in Estonian public service, though in reality two of them do not have this impact.

4.1 Basic Requirements

As noted earlier, the basic requirements for public servants are stated in a government decree and are divided into four groups:

1. Requirements for education;
2. Requirements for prior work or service experience;
3. Requirements for knowledge and skills;
4. Requirements for personal characteristics.

These requirements are differentiated among three categories: senior, middle rank and junior officials (e.g., a university degree is a prerequisite for senior officials, but not for others). The decree sets the minimum requirements; every organization is free to set higher ones, if needed (e.g., demand a university degree from junior officials). The recruitment process takes into account the level of education, but not so much its content. On the other hand, the requirements are quite technical and do not say much about the values required from the officials. Moreover, the basic requirements are usually taken as a formality. Only easily measured parts are used in selection or evaluation – university degree, prior experience and, to some extent, language skills. Other skills or characteristics are rarely evaluated, and they are stated in evaluation criteria as a formality. Therefore, the basic requirements for public servants cannot still be considered as instruments for establishing a value base of public servants.

4.2 Code of Ethics

In February 1998, the Code of Ethics was added to the PSA as an annex to the act. The major idea behind the code was to set general standards that are expected from public servants in their everyday work. They were supposed to be useful in two ways. First, these standards were intended to raise public awareness of what kind of behavior they can demand from public servants. In this respect, the code was introduced as a tool for citizens to hold public servants accountable. Second, the important task of the code was to raise the awareness of public servants of the expectations of the public and politicians towards them.

Unfortunately, the hopes put on the code were unjustified. Bowman (2000: 678) states that “... codes can be rendered ineffective either because they are poorly designed and/or badly implemented”. In the Estonian case the reason was a non-existent implementation system. “... a values statement is an essential but insufficient condition for integrating values into public service. Getting the state-

ment right and its implementation wrong poses the risk of raising cynicism and reducing morale.” (Kernaghan 2003: 718). Also, the Code of Ethics was practically forgotten soon after it came into force. There were no activities planned on how to implement the principles set in the code. Furthermore, no one was made responsible for doing it. “Without enforcement, simply setting limits on behavior and threatening sanctions is like having teeth without biting... These services [enforcement] need to be seen as being effective to gain credibility, not only in the public service but also in the public at large” (OECD 1996: 32). In Estonia, no one felt responsible for dealing with the issues related to public service ethics. As a result, the standards set in the Code of Ethics are not well known to the public, and it is likely that even many public servants are not aware of them.

4.3 European Union

According to the law of the European Union, member states have primary responsibility for public administration based on the concept of “limited powers” (Siedentopf and Speer 2003). Nevertheless it can be argued that the EU integration process has contributed to the development of shared values and common practices more than any of the formal measures. The European Union formed a concrete set of criteria for accession countries’ public administration before being able to join the EU (Commission 1997). The Accession Partnerships contained country-specific priorities for public administration reforms and the establishment of authorities responsible for the implementation of EU policies. “Every domestic policy decision is made with an ever-present concern over how well the decision will conform to the model of the cooperative and responsible Euro-citizen... The immediate foreign policy problem of the transformation process, therefore, was to demonstrate that all desirable domestic changes were indeed occurring; hence, an almost obsessive concern with international “image”” (Leff 1997: 240). Siedentopf and Speer (2003: 14) summarize “... during the accession process the Commission has gained a great influence on the public administration of the CEECs...”. The impact of EU has also been crucial in introducing common knowledge and values among Estonian public administrators.

5. Lessons Learned from Estonia

There are several lessons that can be drawn from the previous discussion. First, the importance of uniform qualification required from public servants is not all-important. Due to the open system, Estonian public service employs people with diversified educational backgrounds and professional qualifications. This is not necessarily a bad thing. In a small country like Estonia, where the total number of public servants in central government is around 20,000, there is a need for different kinds of public servants. Here, one official performs tasks that can be taken care of by a whole unit in big administrations. Therefore, public servants have to

possess a much broader set of abilities to fulfill these different types of tasks in a small country (Randma 2001).

He/she has to be a good expert in a certain policy field (e.g., agriculture) and simultaneously have good policy-making and interpersonal skills. In this case, further training is almost as important as formal education or qualification. It is questionable if a public administration graduate is more a valuable expert of agricultural policy than someone with a university degree in agriculture who has gone through public administration-related training courses. These kinds of specific training needs are not easily dealt with from the top. It is best done at the organizational level where training needs can be directly linked with the responsibilities of an employee. Training programs imposed from the top cannot fully take into account the actual needs of an employee.

Second, decentralization does not mean chaos, where every administrative agency is free to organize its work as they please. Public service organizations have to share certain values by which they can be held accountable by citizens. "A values statement expressing values that are shared at all organizational levels... provides an especially strong foundation for integrating values into public service" (Kernaghan 2003: 718). Since values can be "... ethical, unethical or simply non-ethical" (Henry 1998 xiv), organizations need to be aware of the prevailing values in their environment. Peters has argued that effective policy coordination between different governmental agencies can best be developed between the people who share similar values, skills and understandings about policy-making which makes professional civil service as "one of the most important horizontal networks in government" (1998: 305). Therefore, certain central measures are needed for developing such a value system.

In Estonia it is done through the minimum requirements set for categories of posts and code of ethics, although, as seen above, these formal measures have not been too successful in introducing shared values. Much more practicable have been less rigid instruments as the annual training priorities laid down by the cabinet should be taken into account in every administrative agency while drafting their training plans. Yet again, Estonian experience says that while it is important to have centrally set values, they are more effectively implemented at the organizational level. Every organization can decide whether they are lacking certain competencies, and if they do, what the best way is of obtaining them be it through centrally offered training courses or in-house training. However, it has to be stressed that government should ensure that high-quality training courses are available in priority areas.

Third, imposing values through the centralized system is not necessarily more effective than through decentralized system. It is important that these values are understood and accepted similarly all over public service. It is definitely easier to make public servants aware of the values by using centralized tools; e.g.,

compulsory training, exams, etc. Another thing is to make people behave in accordance with them. Here, a decentralized model can be much more helpful. As the theory of learning organizations suggests, you cannot compel a plant to grow (see Senge 1999); you have to create special conditions for it and then it grows itself. Using informal policy networks gives people an opportunity to take part of the policy design process, and helps to ensure that these policies are later put into practice.

Fourth, high level of cooperation and joint working was needed in harmonizing Estonia's legislation in such a short period of time. This was done both through formal and informal inter-ministerial working groups and networks. "The most important aspect of multi-layered institutional arrangement is the realization that in decision-making situations, different logics of rules apply, depending on what level it takes place" (Bogason, 2000: 120). While people active in various networks were given very good training with a contribution from different EU funds, the networking abilities among the payers increased significantly. Estonia's experience has shown that inter-ministerial training is useful tool not only in creating shared values and competencies, but also building networks and enhancing cooperation between specialists in different administrative agencies. However, after joining the EU a stronger impact has to be put on lower-level officials who were not as closely linked with the EU integration process. In lower levels, policy networks and cooperation is still considerably weak.

6. Challenges for the Future

It does not implied that this kind of *laissez affaire* approach taken by Estonia does not have its deficiencies. Even though in some areas like EU coordination, Estonia has highly skilled public servants with well-established policy networks, in many other areas they are still missing. Moreover, due to the youth and heterogeneity of public service, a considerable number of officials are still not fully aware of the true meaning of public values and miss relevant competencies. The major problem of Estonian public service is the vague coordination and implementation system. Different parts of public service development are decentralized between different ministries and the State Chancellery, while none of them is directly responsible for the coordination of the system as a whole. It is complicated to develop shared values in such conditions.

Second, in addition to a coordination system, it would be advisable to create a public service competency center that can be used in planning and implementing public service development-related activities. Even though there are different public sector training institutions in place, their areas of responsibility and their role in this process are unclear. Similarly, there is no central funding provided for creating and accumulating competencies that can be shared all over public serv-

ice. Hitherto, there has been too much hope put on the market forces in creating a shared value base. At the same time, experience has shown that private training companies do not have the necessary competencies related to public service values and ethics.

Third, much clearer visions are needed for developing public service. A new version of the Public Service Act has been under discussion for almost five years now. Yet there are still no results. More importantly, a long-term strategy is needed for public service development that would state a shared vision of what is expected from public servants in a long-range perspective, and clarify roles and responsibilities of different stakeholders in this process.

To sum up, the chosen decentralized model of public service has contributed to the modernization of Estonian public administration. Estonia's experience has shown that it is not just formal structures and central controls that are required for establishing competent public service. However, in the second phase the coordination systems of public service have to be strengthened to help create a shared value base which would in turn contribute to the policy-making capacity.

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Legal acts

Public Service Act (RT³ I 1995, 16, 228; consolidated text RT I 1999, 7, 112)

State Public Servants Official Titles and Salary Scale Act (RT I 1996, 15, 265)

Public Administration Education in Macedonia: Accelerating the Process

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Abstract

A long-term approach to augmenting, strengthening, and delivering public administration education is needed in Southeastern Europe where a clash of “educational cultures” has become an increasingly important concern. This concern exacerbates an already serious deficiency in the quality and content of public affairs education in the region. New and innovative approaches to improving both the quality and quantity of qualified policy-makers and administrators are needed. This has become especially apparent now that countries in the region are gaining acceptance into the European Union (EU). This paper identifies key educational programs that have the potential to address this issue. These key initiatives are then assessed for their strengths, limitations and potentials. Already identified in the inventory of programs are the Graduate Center for Public Policy and Management (GCPPM) in Skopje, Macedonia; and Southeast European University (SEEU) in Tetovo, Macedonia.

As a broad overview, the development of public administration curricula in much of Eastern Europe has been constrained by two main factors. One is the inability to keep pace with newer concepts that have evolved within the last two decades, many of which are in common use throughout EU member countries. The second is that ethnic discord, especially in Southeastern Europe, has resulted in intellectual segregation of the region’s ethnic populations. Successful programs address these factors by creating a language – and culture-neutral environment where regional edu-

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cators collaborate with non-native professors, using innovative and non-traditional approaches.

This paper evaluates public policy and public administration programs in the region for their ability to address cultural sensitivity, ethnic diversity, availability to those already in government, replicability, and long-term commitment in meeting the demand for public affairs education in the region. The ultimate goal of these programs should be to accelerate the process of augmenting, strengthening and delivering public administration education in Southeastern Europe. The improvements in the quality and availability of public administration instruction are a critical component in creating a critical mass of well-qualified public leaders and professionals who will represent the next generation of leadership within Macedonia and the region.

A primary challenge that Macedonia shares with many other developing countries is that of creating a critical mass of well-qualified public – and private-sector leaders. These leaders should be capable of easily drawing upon the most up-to-date tools, methods and information in order to effectively support their country in its efforts to navigate its transition into a well-functioning democratic system that can consistently and effectively respond to the basic needs of all of its peoples, while providing opportunities for individuals and groups to pursue aspirations and endeavors that will help the country to continue to grow and evolve economically, politically and intellectually. The need for this critical mass of leaders is immediate, and the challenges associated with fulfilling this need are primarily defined through two main contexts: Macedonia's political and cultural disharmony, and the current state of advanced education in the country.

The remainder of this essay is divided into chapters that address important aspects of the case of Macedonia's preparation of governmental and non-governmental leadership for the tasks ahead of them. The first chapter provides a brief overview of the current political situation in Macedonia and how it relates to the topic at hand. The second chapter picks up from there, outlining the current state of Macedonia's higher education system in general while paying particular attention to the Macedonian educational system's ability to increase the capacities of practicing and aspiring administrators, policy-makers, and other leaders in the country. This is followed by an overview of two innovative programs that were designed to address challenges and bridge gaps presented through the current system, in chapter three. The concluding chapters then discuss the preceding information in light of potentials and hopes for Macedonia's future in this area, as well as the potential for the replicability of these programs in other Southeast European countries.

Chapter 1: Historical Legacies and Ethnic Disharmony

At present, there are two especially notable aspects of Macedonian politics and society that affect efforts to raise the caliber of Macedonian professionals, administrators, and policy-makers: politics and processes that were either left over from “the way things were” before independence, or have taken form in large part due to the relatively new and unfinished nature of Macedonian political development; and the potential for increasing dissonance between the major ethnic groups in the country. Each of these aspects is important for its potential to derail or otherwise impede efforts to restructure Macedonia as a fiscally independent, competitive, democratic state. Each of these aspects is important to both the current situation and efforts for improvement.¹

By and large, those who make up Macedonia’s public and private sector leadership are still relatively new to the task that has been set before them. Initially at least, the move to independence took advantage of the experienced or “informed” leadership of some older and somewhat more seasoned personalities such as Kiro Gligorov and Nikola Kljusev. In later administrations, there have been many more politicians and administrators whose initial efforts are best characterized under the aegis of youthful inexperience. For this group, knowledge of governing was gained through trial and error in the form of “on-the-job training.”²

As the Macedonian government has undergone a succession of coalitions and corresponding changes in administrative personalities, it has become increasingly apparent that even those who have been drawn from the ranks of university professors have not necessarily possessed the skills for the task ahead of them. Complaints about the Macedonian government include: lack of transparency; inexperience; ethnic imbalance; lack of vision; rampant political nepotism; and corruption.³ This paper will later illustrate that a number of these same charges have also been leveled against Macedonia’s university system, which has numerous non-trivial ties to state politics. These charges have frequently served to exacerbate Macedonia’s longstanding issues of ethnic tension.

As an additional, and potentially explosive, impediment to Macedonia’s further development, the possibility that a pervading and persistent ethnic divide will overtake reform efforts has become the focus of global attention to Macedonia. In his assessments of the Balkans and other areas of potential unrest, Paul Collier has repeatedly focused on mono-ethnic dominance as a factor that “can

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- 1 Project on Ethnic Relations. *Macedonia’s Interethnic Coalition: The First Six Months* Princeton, NJ: Project on Ethnic Relations (2003): 9-10.
 - 2 H. Sokalski. *An Ounce of Prevention: Macedonia and the UN Experience in Preventative Diplomacy*, Washington, DC: United States Institute of Peace (2003): 44-45, 67.
 - 3 OECD. *Anti-corruption Measures in South Eastern Europe: Civil Society’s Involvement*, Danvers, MA: OECD (2002): 61-72; Project on Ethnic Relations (2003): 6-14.

increase the risk of violent civil conflict”,⁴ emphasizing the critical need for societies that are run by ethnic majorities to pay careful attention to the rights of the other ethnic groups who share citizenship. Indeed, this sort of thinking was part of what was being assessed by the Badinter Commission when it was judging, among other things, whether states that formerly comprised Yugoslavia possessed the appropriate prerequisites for statehood. Judging whether these states possessed such criteria as having effective governmental administration and a track record of having protected minority rights, the commission ruled favorably only in the cases of Macedonia and Slovenia.⁵

Although the evidence examined by the Badinter Commission had been deemed acceptable according to the commission’s standards, the conclusion of the Kosovo conflict, Balkan viewpoints and contemporaneous events gave rise to insurgence from groups situated in regions of Macedonia most heavily populated by ethnic Albanians. Macedonia’s ethnic Albanians, who comprise the second-largest portion of the population, raised what they deemed important and still unresolved issues in such areas as: constitutional representation, politics, health care, employment, linguistics, representation in local and national government, freedom of cultural expression and education.

A peace was brokered with the aid and interest of the international community. The resulting “Ohrid Framework Agreement,” signed on August 13, 2001 addressed a number of specific Albanian grievances and plans by the government of Macedonia to alleviate them. Whereas the Ohrid Framework brought an end to major hostilities, implementation of the measures outlined in that agreement has been sporadic and tensions have not entirely eased. This continues to create an environment of dissatisfaction among many ethnic Albanian groups and also tends to appear to support claims by more radical elements among these groups.

While ethnic tensions and legacies from the earlier system are likely to have a noticeable effect on Macedonia’s further development as a state, they already have had a substantial impact on Macedonian higher education. University education has repeatedly been the focus of public attention in Macedonia as various parties have viewed it as both an active and a passive political tool.

4 P. Collier, “Implications of Ethnic Diversity.” *Economic Policy*, (32 April 2001), 154-55., see also P. Collier, *Policy for Post-conflict Societies: Reducing the Risks of Renewed Conflict*. World Bank (2000): 3.

5 A. Pellet, “The Opinions of the Badinter Arbitration Committee: A Second Breath for the Self-Determination of Peoples,” *European Journal of International Law*, 3 (2) (1992): 178-185.

Chapter 2: Macedonian Higher Learning

Until very recently, the Macedonian university system consisted of two state universities: Ss. Cyril and Methodius, in Skopje; and St. Klement Ohridski, in Bitola. These universities are regulated and funded, in part, through Macedonia's Ministry of Education and Science. This could be construed as a potential benefit if it were not for the regressive nature of Macedonia's bureaucracy. Macedonia's political system is such that thousands of public positions (including many within the Ministry of Education and Science) change hands after every election that results in a power shift between political parties. As a result, there is little consistency or stability in the government's various ministries, making reform a slow and erratic process.

Macedonian universities are also constrained by internal resistance to change. Existing faculty and research staff frequently resist attempts at academic and other reform out of fear that they could become outmoded and replaced. This resistance also perpetuates an environment where allegations of corruption, inappropriate grading practices, harassment, and idleness among the faculty go unanswered in the two oldest state universities.

The third, and most recent, university to be added to the state system is the University of Tetovo, which effectively lies entirely outside of state control at the present. This university has been the subject of contention since it first offered classes in 1995. Issues of ethnic separatism surrounding this university have been a source for consternation among many Macedonian citizens and international observers alike, though it has at times also functioned as a catalyst for positive changes within the overall university system. This, however, only partially mitigates the amount of tension and discord that the university also inspires. One of the more common criticisms of this university is that it does not represent a great deal of positive change for the country as a whole. With its woefully under-qualified teaching staff and outdated facilities, it is apparent that the University of Tetovo is not equipped to offer many additional benefits to graduating students in terms of curriculum. The University of Tetovo, like each of the two other Macedonian state universities, is in many ways a remnant of an earlier system. Each of the three institutions needs to focus on modernizing the curriculum they offer along with the pedagogical technique, while seeking a linguistic and cultural middle ground that will appeal to a wider variety of ethnic groups from within the country.

2.1 Brief history of the University of Tetovo

The University of Tetovo was established in 1994 and began classes in 1995. The university then operated as a rogue university for the next nine years. Despite deficiencies in accreditation, sometimes unqualified faculty, and inappropriate facilities, the university continued to run with the aid of the surrounding com-

munity. Classes were held secretly in private houses, shops, and private buildings, paid for by local Albanians and the diaspora. Macedonia had no state-funded Albanian-language university prior to the founding of the University of Tetovo. Before that, Albanians who desired an Albanian-language university attended Pristina University in Kosovo.

The Albanian community viewed the university as a necessary outlet. They deemed it essential that they be able to pursue higher education in the Albanian language. Ethnic Macedonians and the Macedonian government, however, viewed the illegal university in a different light. They perceived the university as a vehicle for ethnic segregation, as it only offered classes in the Albanian language and recruited only within Macedonia's Albanian population. Despite stating that it is open to Macedonian, Turkish, and Roma students, the institution presently has 100 percent Albanian enrollment.

In an ironic twist, the Ohrid Framework has somewhat complicated issues related to ethnic and language education rather than resolving them. The framework did not explicitly address the issue of the then-illegal University of Tetovo, and instead left room for interpretation. Ethnic Albanians tended to view the university as a vital part of the fulfillment of the Ohrid Framework Agreement. Ethnic Macedonians, on the other hand, saw it as a further attempt at de facto succession.

The Macedonian government and university system attempted to satisfy ethnic Albanian demands for Albanian-language university education without supporting what they viewed as the more divisive option of legalizing the University of Tetovo. While UKIM established a center for the study of Albanian language and culture, both legitimate state universities were expected to honor a quota requiring 20 percent of each entering class to be of Albanian descent, in spite of complaints by ethnic Macedonians that they were forced to lower standards to do so.⁶

According to sources at the University of Tetovo, a total of 14,000 students have attended the university. Currently, 4,000 students are enrolled, half of whom are reported to be Albanian women. Given the location and the values of the university, it is reasonable to estimate that the university may attract Albanian women who might otherwise not pursue higher education.

The University of Tetovo is struggling with the quality of its faculty, some of whom are teachers from secondary school, acting as professors. Recruitment of new faculty is also difficult, as salaries are far below of those in other institutions. Prior to its legalization, the University of Tetovo was funded by private contributions, often in the form of a voluntary tax submitted by the local community in

6 B. Stavrova, "Divisive Tetovo," *Transitions Online: Balkan Reconstruction Report* (15 January 2004)

Tetovo. Additional funds were obtained in the form of roughly €100 per year per student in tuition. Under its new state sponsorship, the University of Tetovo has requested funds to cover operating expenses.

The University of Tetovo is similar to Macedonia's two other state institutions in that it approaches governing from the standpoint of Law and Economics, though its potential in these areas is difficult to gauge. The university so far has not expressed interest in taking part in the ECTS and does not offer post-graduate or doctoral studies. Even so, the international community has shown a good deal of support for the university, all the while trying to prevent it from taking part in discordant, illegal activities.

2.2 Overall Situation: The Educational Divide

Macedonian higher education is by no means a lost cause. But neither is it currently sufficient to adequately prepare present and future generations of the country's leaders for the challenges ahead of them. Much of the curriculum is outdated or incomplete. In many cases, the curriculum tends to offer a more appropriate preparation for a bureaucratically-based socialist system, and cultivates few of the skills and little of the knowledge necessary to excel in the dynamic and rapidly changing environment of contemporary Macedonia.

Additionally, party politics and ethnic dissonance have served as vehicles for drawing the institutions and their students farther apart. The nearly mono-ethnic character of each of these institutions has essentially widened the educational divide in Macedonia. Each of the country's two major ethnicities has a tendency to regard university education as a potential source for ethnic indoctrination or exclusion on the part of the other.

The situation is frequently exacerbated by some among the faculty or administration of each institution. Internal resistance and politics commonly undermine efforts to reach out to ethnically non-Macedonian communities. This same characteristic also retards the rate of other changes that could make a positive impact on the quality of education in each of the institutions. Further, there appears to be almost no institutional mechanism for inspiring professional skill development within the faculty.

Chapter 3: Two Unique Approaches to Fill This Gap

Macedonia's state and local governments are currently undergoing a period of rapid and dynamic change. Extensive transformations are being demanded of the country's governmental system within a relatively brief period of time. This situation creates a greater demand for leaders who not only have a strong grasp of the country's current economic and legal state, but also have developed a working knowledge of the administrative and legal tools necessary to bring about

necessary adjustments. In order to excel at this level, Macedonia's leadership will require access to standards, tools and insights that are employed in western countries, European Union member countries in particular.

There are a number of available options to accomplish the goal of greater administrative access to critical information. For the short term, options such as training programs and advisory counsel have frequently been employed in the past. But these have the limitations of being constrained, terse, fleeting and limited in scope.⁷ While training programs and advisory roles can sometimes help to "jumpstart" changes within a governmental system, they tend not to be the best alternative for the long-term. Additionally, the constraints on time and scope often leave little room for the instructors to tailor the program to the culture or cultures present.

A long-term, culturally adaptable alternative is to augment the country's educational system, while also making new content available to governmental and non-governmental personnel who are already practicing. But this brings with it its own set of complications and limitations. For new program (s) to be accepted, proponents must be careful not to alienate groups who are already established in the area. In Macedonia and other Balkan states, it is imperative that the proposed institution not be construed as favoring one group more than another. Neutral settings and common grounds must be employed whenever possible in order to avoid even the appearance of favoritism. Additionally, this endeavor should be undertaken from within the systems already in place in the country. Prospective educational institutions should seek the same approval and accreditation as those already in place in the host country. These institutions should not be seen as attempts to replace or undermine systems that are already in place, but instead as efforts to augment and inspire them to new, higher levels of quality.

Until relatively recently, attaining legitimacy in the eyes of the state as an independent higher education institution operating in Macedonia was prohibitively difficult. However, the process of gaining legitimacy began to ease somewhat in 2000, with Macedonia's adoption of the Law on Higher Education. This law allowed for the possibility of accreditation for private institutions of higher education. This law combined with amendments to the Constitution that were introduced in 2001 following the Ohrid Framework Agreement to substantially broaden the possibilities for a new institution to legitimately function within Macedonia. So far, two new institutions have taken advantage of this situation and have begun operations.⁸

7 J. Wedel. *Collision and Collusion: The Strange Case of Western Aid to Eastern Europe*. New York: St. Martin's Press (1998).

8 It should be noted that these are not the only higher education institution initiatives present in Macedonia. They are, however, the only ones that have thus far sought and have been awarded accreditation.

3.1 Southeast European University, Tetovo

The first university-level institution to take advantage of the improved climate for institutional access into Macedonia was South Eastern European University (SEEU). SEEU was originally envisioned in 1994 as a satellite campus of the University of Ss. Cyril and Methodius, to be located in Tetovo. This idea continued to gestate within the international community in cooperation with Macedonia's Ministry of Education and Science over the next several years, taking on new characteristics in an effort to better address the needs of underrepresented populations in the country.

By 1997, plans changed from creating a branch campus to those of initiating a new, independent university. These plans became more concrete under the changes represented by the Law on Higher Education and the Ohrid Framework. By March, 2001, funding from the Organization for Security and Cooperation in Europe (OSCE) and the United States Agency for International Development (USAID) allowed the new private, internationally-oriented, Macedonian university to begin operation.

The initiative was able to move so quickly to fruition due to its critical timing. The demand for higher education in the Albanian language had become a divisive issue within the country. In comparison to the University of Tetovo's exclusionary approach, the proposed SEEU would fill this need in a highly inclusive manner. In addition to providing Albanian-language instruction, the university also sought to promote inter-ethnic understanding through a multilingual and multicultural approach to education. In this way, the university's founders hoped to offer a broad international, pan-European perspective.

SEEU's founders and administration hoped to evade cultural and language exclusivity. To do so, the university has tried a variety of approaches to the language issue. Though Albanian remains the predominant language of instruction, the goal is for all students to be educated in a second and third language by their second year. In addition to having students attain fluency in the two major languages in Macedonia (Macedonian and Albanian), students would be expected to attain fluency in English in order to take the more advanced courses. This, however, caused some resistance within the local ethnic Albanian community, who perceive this as a move to deprive them of their Albanian-language instruction. This approach is still in the experimental stage, and is best described as pragmatic, with a variety of alternatives being examined for economic and social efficiency.

The practice at SEEU is to be as innovative as possible in order to accomplish its often delicate tasks. Leadership in curricula design, adoption of small group teaching and active learning modes, and the attractive "greenfields" campus with highly versatile teaching spaces are all fairly uncommon additions to

university educational practice in Macedonia. Though the SEEU was created in part to provide a venue for Albanian language instruction, it is also structured to be an international university and the administration actively seek cooperation with other universities throughout the world.

While most of the faculty are from Macedonia, there is a regular influx of temporary teaching fellows and guest lecturers. In addition to teaching, visiting professors also take part in faculty development programs designed to increase the capacity of local faculty. This goal is also being pursued through efforts to provide some teaching staff with scholarship opportunities so that they may pursue a PhD and thereby further augment the program.

The standards present in SEEU conform with those of the Bologna Framework and U.S. educational standards. Indiana University, which has been an especially important part of the development of SEEU, regularly provides visiting faculty and guest lectures through interactive Internet conferencing technology. These efforts are designed to raise the overall quality of SEEU faculty and therefore faculty throughout the region, since SEEU shares faculty with institutions throughout the country. The implementation of these improvements is an ongoing process, and will require a great deal more adjustment as time passes. But then, this is similar to the case of many institutions. What differentiates this institution is the uniqueness of its approach to the Balkans.

3.2 Graduate Center for Public Policy and Management, Skopje

Whereas SEEU was the first new university-level institution to be accredited in Macedonia since 1979, the Graduate Center for Public Policy and Management (GCPPM) in Skopje was the first foreign university accredited in Macedonia in addition to being the first graduate school of public policy and management in all of Central, Eastern, and Southeastern Europe.⁹ The center is the result of a decade of joint planning between leaders from universities, governments, and businesses within the United States and Macedonia. The project was ultimately made possible through joint funding by the United States Department of State, the Macedonian government, and the University of Pittsburgh's Graduate School for Public and International Affairs (GSPIA).¹⁰

The GCPPM program began operation in September of 2003 in Skopje. The first two cohorts to begin the program have come from a mixture of employments, backgrounds and ethnicities. The program was designed to directly address the knowledge gap among Macedonian leadership by initially drawing most heavily from the ranks of Macedonia's governmental and non-governmental middle managers. These students will perform the double duty of being

9 The Central European University in Budapest tentatively plans to establish a similar but more traditional Master of Public Policy program in September, 2004.

10 GCPPM is registered under Macedonian law as a non-profit foundation (Fondacija Pitsburg).

able to apply what they learn as they progress through the program in addition to possibly aiding in future recruitment efforts through word of mouth within their individual social and employment networks. As an added incentive, those who enter GCPPM while already employed in the public sector receive funding to help with tuition, regardless of whether they may be working at the local or national level.

Recruitment is ongoing, with prospective students being sought from all regions of the country. It is estimated that there are currently in excess of 15,000 persons with bachelors-level education in Macedonia who are either interested in, or already participating in the public sector. The GCPPM program is geared toward providing top-quality graduate education to some among these individuals regardless of culture, preferred language or ethnicity. Beneficiaries of this degree will almost certainly take their place among Macedonia's future leaders and will be able to draw on a wider range of tools and concepts as they help to facilitate the process of Macedonia's reform and continued development.

The University of Pittsburgh's Graduate School of Public and International Affairs (GSPIA) delivers the Center's graduate academic programs, and participants retain the same status of any University of Pittsburgh student. Because GCPPM students must actually be accepted into the University of Pittsburgh to participate, the application process is stringent. Students may be admitted into one of two programs at the GCPPM, depending on their level of prior work experience. The executive Master of Public Policy and Management program is aimed at highly qualified students with five or more years of professional experience. Similarly, the Graduate Certificate of Public Policy and Management program is designed for beginning professionals who have a university diploma, but little or no practical experience in the field of public policy and management.

In order to establish a language-neutral environment, all courses are offered in English. Further, the courses are taught by teams that combine GSPIA faculty and adjunct faculty from Macedonia. This method allows for participating faculty in Macedonia to advance their skills and careers in much the same way as they would through the faculty development programs at SEEU. In the case of GCPPM, the faculty collaboration is intensive and specialized. Pittsburgh and Macedonia faculty work together on course design, content, evaluation. The two professors divide the teaching load in whichever way they feel best compliments the teaching style of each, allowing them to maximize their strengths.

Because of the extreme distances involved, frequent travel would not be economically feasible in most cases. To mitigate this factor, the GCPPM program makes heavy use of Web-based, distance education to deliver lectures. Additionally, GSPIA professors traditionally travel to Macedonia in order to deliver the first two and last two classes in face-to-face sessions. During this time, the two professors will have their most intensive interaction sessions. The resulting

knowledge transfer is meant to raise the skill and experience levels of local Macedonian and American professors alike, while establishing intercontinental ties between the two faculties.

In addition to creating intercontinental ties, this program is designed to bridge the sometimes wider gaps of language and culture. This program seeks not only to raise the number of well-trained professionals in the public sphere, but to do so in as equitable a manner as possible to the various groups in Macedonia. Thus far, these efforts have met with marked success, as the ethnic proportions in the classroom are not at all unfavorable to any one group. Additionally, as a part of the instruction process, students are encouraged to build case studies that are based on personal experience and empirical evidence, and to discuss the case among themselves.

Although the first cohort has yet to complete the program, results are already noticeable within the groups. Students report that they have already begun to apply their skills in their places of employment. According to students within the GCPPM program, identifying the problems in their country is seldom a challenge. What has made a difference for them has been the expansion of their knowledge, and therefore the number of options and alternatives that are available to them in order to address challenges. One additional and somewhat surprising benefit of the program was how much the intensiveness of the program appears to have forged a strong interest network within and among each cohort. As mentioned above, these small networks bridge wide gaps in ethnicity, language and region of residence in a country that is in sore need of these sorts of ties.

Chapter 4: Implications for Macedonia's future Development

Educational, economic and social challenges have tested Macedonia's resilience for well over a decade now. Numerous major efforts for reconstruction have been undertaken throughout this period and more will be required in the future. For Macedonia to advance out of its present state, it will require a well-trained, well-versed, and well-connected public sector that is able to bridge important gaps that currently plague the country. Changes are necessary and important in the educational, legislative and political processes throughout the country, and these changes will require informed decisions by professional public servants who are both able and prepared to bridge the gaps in Macedonian society.

The people of Macedonia will be making the decisions that will affect the future of their country. It is therefore imperative that there be a critical mass of well-trained public servants to lead the process of public and private sector transformation in the Republic of Macedonia. The object is not for Macedonia to become more westernized, but for its people to have the opportunity to benefit by the knowledge that is available from western countries so that they may employ it

within a framework that is contextually relevant to their own situation. This is best accomplished through long-term, sustainable efforts to deliver the requisite skills and knowledge to current and future generations of Macedonia's leadership.

Each of the above examples of institutions that have arisen to bridge critical gaps represent fairly recent and innovative initiatives. Because of the levels of innovation and the relatively brief time frames involved, it is not presently possible to make reliable predictions about how each will fare in a complex environment. It should be noted, however, that each program was created for the long term, with the idea that each will develop into a self-sustainable enterprise through constant internal feedback in the form of faculty development and dynamic response to changing needs of target populations.

Though there is no way to be certain of the future of each institution, there is reason for optimism about the future of these programs. Early indications are that each has already made an impact on the expectations and work style of the students in attendance. One of the newer challenges before the administration at SEEU is that of satisfying demands of students whose expectations have risen dramatically. There has also been feedback from GCPPM students indicating that they have already begun to employ some of the tools and concepts they have acquired through the program and their attempts to disseminate some of the techniques and concepts to their peers.

4.1 Potential for Program Reproducibility

The strength of these programs lies in their flexibility. Each program is tailored to its environment, making use of local knowledge and building the capacities of local groups to further disperse the standards and skills to even wider sets of actors. The critical aspect is the focus on knowledge and skill transfer through close working relationships with professors and professionals from Western Europe and the United States. These are not fleeting attempts that rely heavily on lectures and workshops. Instead, transfer is facilitated through close, collegial and reciprocal professional relationships among faculty from both east and west.

The initial recruitment of in-country faculty is a delicate balancing act. If in-country faculty recruitment draws on established professors, it is likely that they will be unfamiliar with pedagogical and curricular innovations required in established degree programs offered by the home university. If younger faculty are recruited, it will likely be difficult for them because of the possibility of a backlash from well-established traditional academic hierarchies that resist innovations. Moreover, any U.S. program will be expected to offer courses taught primarily by U.S. faculty, not by local faculty.

The object is to develop higher expectations, both among the faculty and among the students, for the quality of education and how it is conveyed. To help to mitigate the expected resistance from entrenched parties, it is important that

these programs enter into long-term partnerships, providing individuals and institutions from within the power structure with a stake in the program. Local partners can include top business leaders or academically credible professors and administrators. Their critical significance lies in their importance to the local establishment and the tie they represent between the establishment and the educational initiative.

In situations with similarities to the situation of Macedonia, it is critical that the initiative seek some form of neutral environment, where perceptions of ethnic, cultural or linguistic favoritism are minimized. While it is likely to be impossible to remove all suspicion of bias, it is important that practitioners be aware and sensitive to the potential impact of their actions. This is again a situation where local partners are indispensable.

4.2 Conclusions

Public policy and administration programs in Southeast Europe must be able to address issues of cultural sensitivity, ethnic diversity, availability to those already in government, and long-term commitment to meeting the emergent demand for public affairs education in the region. The above programs represent an effort to accelerate the introduction and spread of heretofore neglected public administration tools and methods. The ultimate vision behind these programs is the eventual creation of a critical mass of well-qualified public leaders and professionals who will constitute the next generation of leadership within Macedonia and the region.

These programs are long-term approaches to augmenting, and strengthening Macedonia's public administration. They each signify an ongoing commitment to improving both the quality and quantity of qualified policymakers and administrators throughout the country as Macedonia moves toward EU accession. It should also be noted however, that while much of the curriculum offered by these programs is fairly new to the country, what makes the programs truly new and innovative approaches is their deliberate efforts to deal with the origins and artifacts of Macedonia's recent history of ethnic discord.

Each of these programs addresses these factors by creating a language – and culture-neutral environment, allowing regional educators to collaborate with non-native professors and use innovative and non-traditional approaches. As such, the ultimate indicator of these programs' success will likely be in their ability to bridge the various gaps that have plagued the country and the region. Whether the problem is a knowledge gap, ethnic cleavages, intersectoral distances, or governmental specialization and compartmentalization, the most valuable legacy of these programs will likely be their ability to forge new links and create new pathways, both cognitively and communally.

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Unpublished Resources

In addition to the resources named below, the authors have conducted a series of site visits and unpublished interviews with faculty, staff, and students from each of the various institutions named above. Notes and transcripts from these interviews are housed in authors' personal collections. (2004) University of Pittsburgh, PA, USA.

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Is There a Place for Multiculturalism in the Regional Civil Service in Russia? (The Case of the Saratov Region) ¹

Victoria K. Antonova*

Abstract

This article presents some initial reflections on 20 interviews with regional senior civil servants from the different government departments in the city of Saratov (Russia) on ethnic minorities and equal employment opportunities within the civil service. The interviews were conducted in April 2003. The article focuses on opinions and attitudes of the respondents about ethnic minority employees, their qualifications and professional characteristics, and draws attention to existing and potential discrimination at work, offering some explanations.

Some conclusions are presented concerning the positive and negative factors influencing the necessity of introducing kind of 'Russian multiculturalism' in the Saratov regional government.

1. The multicultural Russia – the monocultural civil service: is anything wrong?

Despite great administrative reform and change, Russia has spent very little time, effort or money on attracting ethnic minority staff, as well as improving and enhancing the role and status of its civil servants from ethnic minority groups.

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Training and refreshing programmes for civil servants are also lacking courses touching upon the necessity for civil service in Russia to be ethnically and culturally diverse. To date, few systematic studies of that situation have been undertaken. It can be argued that public service reform and development cannot be attained if it continues to ignore the multicultural nature of the civil service. According to the 2002 Census data, non-Russian nationalities constitute 20.2 percent of Russia's population [Official Goskomstat Site: available online] and this has yet to be reflected in the civil service institution of the Russian Federation. As such, any governmental reform that fails to address multiculturalism and the expression of ethnic diversity within the public workplace is likely to be incomplete.

The article reveals some preliminary results of the study "Multiculturalism in the Civil Service in the Russian Federation". This is a qualitative research based on in-depth interviews with the senior civil servants in the Saratov regional government. Interviews commenced in April 2003, and they are still under way².

2. Cultural diversity and multiculturalism: theory and praxis.

It is worth mentioning at the beginning that the present paper doesn't pretend to be to some extent a comprehensive study of multiculturalism within the Russian social, cultural and political framework. Nor does it seek to work out some direct recommendations to regional civil servants in order to give them guidelines for multiculturalism implementation within the civil service institution even if this option may be seen as preferable. The intention of the author is to draw attention to the positions of the civil servants regarding nationality questions and the issue of ethnic diversity in general, as their vision reflects to a great extent the institutional reply to the ethnic minority presence in the region, and the dominant culture's perception of the different ethnic groups.

Since its appearance a few decades ago, the term multiculturalism has come to encompass a variety of viewpoints. As both a concept and a policy initiative, multiculturalism in general remains an intensely contested term, meaning different things to different people [Harris, 2001: 14; Weviorka, 1998; Joppke, 1999; Modood, 2001]. For example, the Harper Collins Dictionary of Sociology (1991) gives the following definition:

"Multiculturalism – the acknowledgement and promotion of cultural pluralism as a feature of many societies... multiculturalism celebrates and seeks to protect cultural variety, for example, minority languages. At the same time it focuses on the often unequal relationship of minority to mainstream cultures".

2 The first series of the interviews with the civil servants in Saratov has become available due to the funding support in the form of Graduate Small Grant provided by the Department of Sociology, University of Essex in April 2003.

The debates on multiculturalism vary from supporting the conceptual bases of a multicultural prospective to focusing on specific needs, services and policies related to multicultural populations. Neither approach has more value than the other. For the purpose of this paper, however, let us use the understanding of multiculturalism in the way the Bhikhu Parekh puts it [2000a: 7]:

“The term ‘multicultural’ refers to the fact of cultural diversity, the term ‘multiculturalism’ to a normative response to that fact”.

After Bhikhu Parekh, we tend to distinguish between the multicultural diversity of the society and multiculturalism as a policy, aiming to find a way to preserve discrete ethnic identities. The salient characteristic of multiculturalism is respect and appreciation for differences that lead to added value and representation of all cultures. Hence among the main principles of multiculturalism are equal opportunity for all citizens; social inclusion, understanding and respect of ethnic/cultural diversity.

In order to practice multiculturalism, the multicultural society “needs a broadly shared culture to sustain it. Since it involves several cultures, the shared culture can only grow out of their interaction and should both respect their diversity and unite them around of common way of life. For those accustomed to thinking of culture as a more or less homogeneous and coherent whole, the idea of multiculturally-constituted culture might appear incoherent or bizarre. In fact, such a culture is a fairly common phenomenon in every culturally diverse society” [Parekh, 2000a: 219]. In other words, cultural diversity is the fact, and multiculturalism is what we do with the fact.

Cultural and ethnic diversity as its part is not a new phenomenon and social theorists have developed many approaches illustrating different contact situations, social distances and barriers that may occur [Alba, 1990; Davis, 2000; Kivisto, 1995; Parekh, 2000a]. We will use “nationality” and “ethnicity” as interchangeable terms in this article; as in Russian tradition, “national” as well as “multinational” refers to category of “ethnicity”, rather than to the notion of citizenship and nationhood. There is a clear resemblance between these two terms given the philological roots of the word ethnos which is the Greek term for “nation”.

Ethnicity in its turn will be seen as a type of cultural identity. It appeared as a result of existence of various combinations of such “cultural markers as a shared history, language, religion, sense of tradition, system of values, folklore”, etc.[Kivisto, 2002: 14].

Along with the other cultural identities – gender, age, sexual orientation, physical abilities – ethnicity serves as a core category for multiculturalism with its concentration on appreciation and respect for different cultures.

3. The multicultural settings in the Saratov region.

To be more elaborative on the point of choosing Russia and particularly the Saratov region for the research, it is necessary to say that Saratov region can be considered as a local projection of Russian Federation in terms of ethnic background of population. There are about 112 nationalities in the Saratov region. Although the majority of population in the region, as well as in Russia as a whole, is ethnic Russians (about 81 percent of the region's population), the ethnic minorities such as Tatars (2.3 percent), Mordva (0.8 percent), Chuvashi (0.7 percent), Kazakhs (3.0 percent) and Jewish (1.2 percent) consider themselves as valuable ethnic groups in the Saratov region [Normativnije Akti Po Nacionalnim Voprosam. 2001]. These minorities seem to be integrated into the mainstream.

Several decades ago, one could hardly describe the Saratov region in terms of an ethnically-segmented or divided society. But during the period of transition the rise of ethnic self-identification emerged and now the region's population can be seen as diverse and multicultural. Even integrated minorities have their claims for native language protection, access to resources and fair treatment in the labor market.

Since the collapse of the Soviet Union, this particular region has become one of the most popular recipient-region for immigrants from the former Soviet Republics. As for the estimates of Regional Migration Service, more than 260,000 people will enter the Saratov region by 2005. This will constitute about 9.5 percent of the modern region's population. The vast majority of immigrants comes from the Northern Caucasus (Chechnya, Dagestan), Armenia, Azerbaijan, Georgia and the Ukraine. These people do not usually have Russian citizenship, yet a significant number of them are refugees seeking asylum.

The main problem is that the regional government does not have any full-fledged policy dealing with the multicultural nature of the region. Nor does it understand that ethnic diversity should get recognition from the government and civil service. The regional government doesn't even take stock of regional civil servants by nationality or ethnic origin [Ruban, 2003].

4. The senior civil servants' attitudes and opinions on ethnic diversity in the civil service.

The attitudes and values on cultural/ethnic diversity in the region and the necessity of its reflection in the regional civil service determines the presence or lack of cultural awareness in the civil service institution. This can be seen as a pre-condition for building the cultural competence of civil servants, meaning essentially the "capacity to function effectively with all cultures and to successfully navigate a multicultural society" [Plummer (ed.), 2003: 14].

The main goal of the interviews was to find out if the ethnic issue or the nationality question exists within the civil service in the region; what the attitudes of senior civil servants were to that question; and what could be done to eliminate the ethnic discrimination within the civil service if any discrimination can be revealed. The senior civil servants who participated in the interviews hold different positions, with their main responsibilities in personnel management as well as recruitment and the selection process.

In the former Soviet Union, the cultural differences had significantly diminished under the influence of the centralized state and “official” Communist values [Tishkov, 1997].

In the aftermath of the collapse of the Soviet Union, the rise and flowering of ethnic feeling and the number of conflicts illustrates that “years of political repression and ideology provide insufficient common ground for lasting unity” [Kottak and Kozaitis, 2003: 82].

The principle successor of the USSR – the Russian Federation – declared itself a multinational state from the date it won the Federal Constitution in 1993, and this is the only country which voluntarily adopted multicultural federalism [Kymlicka, 2003]. “We a multinational people of the Russian Federation...” These are the first words the Constitution of the Russian Federation (1993). The characteristics of the states-adopted multinational federalism, according to Kymlicka, are as follows:

- The state system should be a federation;
- The state should provide for institutional completeness (that minority groups have media, schools and higher education in their own language);
- The state should declare an official language.

In matching this pattern to Russia, we can easily see that it formally fits into this category. However, even though the Article 26.2 of the Constitution of the Russian Federation reads “everyone has the right of the native language user, the right to voluntary choice of the language of relations, upbringing, education and creation”, not all of these institutional completeness positions are guaranteed. The interviews conducted with Russia’s regional authorities tends to shed light on the issue of the readiness of the society and the civil service institution to accept, respect and manage diversity.

The one emotional aspect needs to be addressed before we start elaborating on the interviews because it seems to be demonstrative (in terms of Soviet ideological impact) on the nationality issue in modern Russia. Regardless of the fact that our region is one of the most peaceful in terms of inter-ethnic relations, from the beginning the majority of respondents were reluctant to answer questions about ethnic minority staff in the regional government and about nationality questions in the region in general. They were scared to articulate the issue

of ethnic differences and multicultural nature of the region. It is interesting that both young and older people adhere to the position that it would be wiser not to make this question the center of public and civil service staff interest, but instead to speak about it in a whisper.

The “ethnic-blind” approach to the “nationality question” and Russian domination

All the respondents pointed out that the nationality question – the issue of ethnic diversity – is at the same time an important and daunting question. “The ‘Nationality question’ always appears to be very painful for Russian in any sphere of society’s life”, said one of the respondents:

“... there is no ‘nationality question’ on the regional civil service agenda at the moment, because, thank God, there are no conflicts connected to that question. It is also possible to say that there is no ‘nationality question’ in the regional civil service because we don’t pay attention to the nationality of our civil servants. One more reason to say that is because there are few people of non-Russian descent among our civil servants”.

(senior civil servant, female, 53 years, Russian)

In general, all the interviewees regardless of gender, ethnic origin or age, agreed that the sensitive issue of ‘nationality’ exists in the civil service in the Saratov region, and that it should be approached very carefully:

“The ‘nationality question’ is one of the most sensitive. Although it is always kept secret, concealed somehow, because the nationalities topic in not a straightforward one”.

(senior civil servant, male, 37 years, Tatar origin)

“There is no doubt that the problem exists. It needs to be addressed and the sociological scrutiny of the issue is of great need today”.

(senior civil servant, male, 43 years, Belorussian origin)

All the respondents emphasised that the fewer minority people there are in the civil service, the less problems we need to manage. That seems to be a “super motto” of the civil servants being interviewed. Unfortunately, it has a direct correlation with the well-known proverb from past totalitarian times: No man, no problem.

From the above positions, we can deduce that there are two general ways of dealing with ethnic minorities in the civil service on the regional level: (1) “color-blindness” of senior staff and a refusal to see any differences in the ethnicity of civ-

il service employees; (2) reduction of the number of minority civil servants, and hence the automatic withdrawal of any ethnic questions within the civil service.

This is a dangerous approach which can lead to the number of mistakes in employment and personnel management polices. First, not all the minority groups are happy when employers pay little or no attention to their specifics and claims in terms of faith, behavioral patterns, dress codes, etc. As Kennan Malik said in his presentation at the Institute Français in London, “Previous generations struggled to be equal; today’s generation struggles to be different” [2003]. This is the case for Russia as well. Second, reducing the number of ethnic minority staff reveals discrimination within the regional civil service which prevents the state as an employer from bringing in talent. Ethnic minority employees can often help improve the quality of services delivery for their particular ethnic groups who might otherwise feel disadvantaged. Third, the lack of ethnic minority staff within the regional government prevents those working in different departments from gaining the experience of functioning in a multicultural environment. Such a situation means that these monocultural organizations may fail to manage the diversity when dealing with the people from different ethnic backgrounds. It is important to attract talented people of all the nationalities available in the Saratov region to the civil service in order to let the Russian staff sample what it means to work alongside different ethnic groups. On one hand, we won’t know the impact of ethnic minorities on the civil service institute until we hire them. On the other, we won’t know the real feedback from the majority Russian staff on the nationality question until they experience years of collaborative business with ethnic minority colleagues.

Soviet era ideology still prevails in the minds and thoughts of the number of civil servants. Even younger respondents explained that in order to be solved the nationality question needs to be seen as an integral part of the “internationalism” ideology which society used to have in Socialist times, and which it lacks at the moment. Respondents believe this ideology if developed would smooth over ethnic and nationality differences, thus preventing discrimination and exclusion on the base of ethnicity. Some respondents, both Russian and non-Russian, also suggest that the solution to the nationality question may be found through the creation of a shared culture. They see the fundamental role of this culture in eliminating ethnic and cultural diversity. In its turn, as they assume, this will serve for equal acceptance of different nationalities in the public sphere.

One of the most common opinions among senior civil servants when reflecting on this nationality question deals with the dominating position of the Russians and the subordinate status of the minority cultures. They believe that because Russians constitute the majority of the country’s population, any attempt to call attention to the nationality question and to ethnic diversity itself is forced and artificial. Given that both professional and personal characteristics rather

than ethnic background are the main factors of successful cooperation with minority employees, the respondents also emphasized that the insignificant presence of minority representatives in the regional government is normal given that Russians outnumber all other nationalities in the region.

Any time the ethnic diversity issue is addressed, people prefer not to pay any attention to that: “The uppermost idea is not to be concentrated on this ethnic diversity, but to understand the value of those differences and diversity for the organization and the region. The nationality issue is going to exist forever, as long as ethnicity exists. Therefore the kind of ideology should be developed and put into practice as it used to be in the Soviet times. The ideology of those Past Times was ‘We are the united multinational people and we are strong because in union we combine.’ There is no ideology similar to that at the moment; there is also a lack of understanding of the main strategy of our country; there is no somehow clear national policy in the country. We need a kind of ideology. We have to eliminate cultural differences”.

(Senior civil servant, male, 37 years, Tatars origin)

Judgment and stereotyping versus recognition and tolerance

Some respondents noted while sharing their feelings and observations on the ethnic minority issue in the regional civil service, that affiliating someone with a particular nationality is usually done for a specific purpose – often not a good one. As one of the interviewees explained:

“... of course, it can be recognized visually that some of the civil servants are not from the majority groups; that means they are not Russian, but in general it doesn't matter. The main thing is whether the person is good at his job and is a respectable employee. It is better not to be focused on the nationality of a civil servant. As soon as you do that, it means you do this on purpose. And what this purpose can be? For instance, to find out how these people do their job in comparison with Russians. It means right away that we keep in mind that Russians differ from non-Russians, someone is better, someone is worse. What else comes to your mind at once is the unpleasant incidents you've got in your everyday life concerned with the Armenians or Azerbaidjans in the marketplace and at the next moment you're getting into the bad mood”.

(senior civil servant, male, 42 years, Russian)

As can be seen from the narratives above, civil servants are united around the idea that for the sake of mutual cooperation and peace in the region and within the civil service institution it is necessary to keep going with the “ethnicity blind” approach to the nationality question. But what does it mean in practice?

It means that you probably will never label those of Jewish or Caucasian origin formally, but at the same time informal talks in the corridors will involve rumors, anecdotes, stereotyping, etc. It has nothing to do with political correctness or ethic standards; rather, it is more about being unprepared to recognize, value and respect ethnic diversity.

It is also evident, that as far as the ethnic matter is concerned, civil servants make judgments, and they compare ethnic groups and their representatives on a case-by-case basis rather than merely respect and tolerate them. Another respondent insisted passionately insisted that:

“There is no official discrimination in the civil service in Russia, because the Federal Law on the Civil Service in the Russian Federation (1995) prohibits any discrimination on the basis of nationality, gender, age, etc. But each of us stores in our subconscious the negative image of the ‘other nationality’. I used to be in military service before I came here. I was in hot spots – Abhasia and Chechnya – and it will always influence my attitudes to the ‘nationality question’, even in the civil service. Moreover, if I assume that the significant part of the civil servants in Saratov are from minority groups, I am sure that it is not a positive fact. Since this ‘nationality question’ is very tough both socially and psychologically for people’s perception, and public opinion to this problem is anxious, then trust and respect to the civil service which incorporates quite a few minorities will be undermined”.

(senior civil servant, male, 42 years, Russian)

The majority of respondent agreed that the minority groups always serve as an “ethnic card” during the election period. But in general the regional government and civil servants don’t really work with them on an everyday basis.

The negative image of the some particular nationalities is rooted in stereotyping as well as in the lack of public and social policy promoting ethnic diversity recognition and respect.

As for the stereotypes, civil servants are likely to extend their negative experiences and attitudes they got from contacts with minority people in the workplace and relations between colleagues in the departments. Other respondents confirm the previous opinion asserting that there is a certain risk in attracting minority groups to civil service because it is well known that the people of Armenian, Azerbaijan, Uzbekistan, Chechen descent have stronger feelings of cohesion and solidarity than have the Russians. The minority people also have a strong wish to be distinguished among the others. As the civil servants pointed out, it means that once hired, they will inevitably spread their influence and find a variety of ways to bring their friends and relatives of the same nationality along.

This anxiety was commonly articulated by the interviewees:

“When the candidates of such [Caucasian] nationalities enter civil service, the fear appears that these minority representatives would expand their influence, their customs on to the civil service institutions. They would tend to give the job in the civil service to as many of their friends of the same nationality as they can”.

(senior civil servant, male, 48 years, Russian)

As an explanation to the last view, the following reasons may be presented. On the one hand, as the respondents think, ethnic minority employees feel uncomfortable and sometimes oppressed and isolated at their workplaces. Therefore, they need other people from their own ethnic group to feel at one with their job. On the other hand, this tendency to raise the number of civil servants of a particular nationality in some departments probably is the result of a kind of “contract” between regional and ethnic elites and the big money involved here. Even then it won’t help increase the trust of the population in the civil service institution nor will it help the value and respect for ethnic diversity.

Hidden discrimination and the selection process

The above-mentioned citations make one think that institutional discrimination may be revealed within the civil service in the Saratov region. As a matter of fact, when asked directly about the existence of discrimination on the ground of nationality, some of the interviewees considered that it was the case and even gave specific examples:

“Discrimination in terms of national origin can be revealed in our region at all the levels of bureaucracy without exception. In the majority of cases, that means hidden discrimination. The main gate for discrimination is an appointment process. Although officially there is an open competition for the majority of posts within the regional civil service, all those talks about fairness and transparency of that competition is just rubbish. This is just for show. The real candidate either had been already working at this post for a while and this needs just official confirmation through that competition procedure, or he/she has been already approved for the vacancy. Thus, all this “performance” with the competition is nothing else but window-dressing, the necessity to show that everything is legal”.

(senior civil servant, 45, male, Russian)

Here we come to a very important point: namely, the appointment guidelines set up in civil service institutions in the Saratov region and in Russia as a whole. The majority of the interviewees regretted saying that the appointment procedure

itself has become a kind of anecdote because everyone knows that almost all appointments are being made not according to certain rules and guidelines. Even though these rules exist, the respondents were assured that there are actually only three main criteria for getting a post in the civil service. The first and most feasible is personal faithfulness to the boss. The second and most popular is money (in the form of a bribe). The third option occurs rarely: the candidate is chosen accidentally (if no one met the previous two requirements) and may by chance be from a minority group. As the civil servants insisted, all three cases will inevitably include discrimination. Elaborating on the reasons for this discrimination, the respondents described a number of scenarios. On one hand, they suggested that the majority of the population is not likely to trust minority leaders in civil service or government, and therefore the regional and federal governments are not in favor of attracting them to the corresponding jobs. Moreover, some of the civil servants emphasized that discrimination on the grounds of nationality is a pre-condition in the selection process because the level of education and work experience of the minority candidates to the civil service vacancies – especially those who have recently come from the national republics – are usually significantly lower than that of Russian candidates. The final reason for discrimination is the matter of citizenship. The law states that residents of the former Soviet Socialist Republics (if these republics are not part of Russia now) are not qualified for the for a job in Russia's civil service until they obtain citizenship in the Russian Federation.

From the opinions stated above it can be determined that in general the senior civil servants take the hidden institutional discrimination on ethnicity basis for granted, and consider it to be the outcome of biased appointment policy and weakness of human resources management. Of course, the corruption both of ethnic leaders and government officials doesn't count towards the trust and respect for the civil service institution. Moreover, it contributes to stereotyping and labeling of different ethnic groups.

The respondents' opinions on the lack of a fair and professional appointment policy are echoed by the nationwide survey conducted in August 2004 by the Levada-Center. According to their data, the distribution of answers to the question "How do you think the new appointees to the state bodies are being selected now?" is as follows:

- Thirty percent say that new appointees are being selected according to their professional qualities;
- Seventeen percent are undecided;
- Fifty-three percent say that new appointees are being selected according to personal faithfulness to President Vladimir Putin. [Levada-Center. Analytical Center. Online. Available at <http://www.levada.ru/takoemnenie.html/13/10/2004>].

As can be derived from the interviews' context, neither senior civil servants nor the civil service as an institution are prepared to discuss and manage ethnic diversity on the regional or federal levels. The main argument they made in terms of suggesting the proper way of coping with diversity dealt with working out a policy or kind of ideology which will smooth and eventually simply erase all the ethnic differences within the public sphere.

Conclusions

It is important to underline that the attitudes and values of senior civil servants in the Saratov region toward ethnic diversity determine the way relations between the civil service institution and national minority groups are being developed, as well as how the system of human resources management within the regional government is being built and operated [Y. Alibhai-Brown, 1999]. In its turn, this makes the ethnic dimension of social, political and economic relations in the regions more or less visible, depending on what strategy is chosen by the authorities to manage regional diversity.

As the interviews revealed, the ethnic diversity of the region tends to be seen by civil servants as a problem rather than an advantage. The Russian majority in the civil service institution had never known any other approach to dealing with different nationalities, but the doctrine of "Socialist internationalism". Even now it is more likely that civil service as a social institution would prefer to stick with the old-fashioned "international" or, in other words, assimilation approach to the nationality question. The majority of senior civil servants are in favor of not emphasizing cultural differences, preferring to remain ignorant to them rather than try to learn from the multiculturalism experience, which within the multinational community celebrates incorporation of diverse ethnic groups into all spheres of society's life as the achievement of diversity. The reluctance of civil servants to test multiculturalism on Russia's base seems to be non-creative because what the civil service and society in Russia lacks is the feeling of solidarity, according to the interviewees. But these feelings of solidarity are being extended significantly to persons under the umbrella of multiculturalism, and can now be considered as a more democratic mode of civil integration [J. Alexander, 2001: 238, 248].

Even though, based on the interviews, multiculturalism can not be incorporated as an option of national policy, it may after some correction, be helpful in initiating the development of "Russian multiculturalism". In order to be more adoptable for the Russian framework, multiculturalism in this particular case needs to be slightly modified. First, it can be introduced as a policy, which stands for acknowledgment of variations rather than diversity of cultures. These variations are familiar to modern citizens from the past Soviet times, when they were celebrating the friendship and flourish of the 15 Soviet republics with their titular

nationalities. At first glance, the variations of cultures underline their differences, but seek to describe their variety and richness. Second, the belief that all cultural segments merit equal value used to be also rather well known even only from the declared Soviet ideology of the “united Soviet nation”. Hence, the belief that all cultural variations can be presented on a fair competitive basis within the regional civil service may also become one of the main points of multiculturalism in Russia. Third, multiculturalism should be seen as open to development rather than a fixed policy, as the culture and ethnicity themselves are of that changing nature.

Multiculturalism can also be recognized as an “introductory” policy, aimed at preparing civil servants and the population in the region to understand, recognize, value, respect and manage the variations of cultures. This policy may be seen as a transition from “internationalism” to a new national policy which has yet to be worked out. I believe that this type of Russian multiculturalism will serve as the mitigating factor in dealing with the sensitivities of and still the majority of civil servants in regards to the nationality question.

As the civil service constitutes not only political but also the societal institutions, it worth mentioning the two primary features of this societal institution:

- In democratic societies, civil service expresses the public interests rather than the interests of elite groups;
- Civil service reflects the national government policies.

Given that, we assume it is the right place to begin experimenting with multiculturalism in the civil service arena. The main outcomes of this testing may be as follows:

- First, if accepted within the civil service framework, “Russian multiculturalism” will play the primary role in the government’s strategy for dealing with ethnic minorities in the region. As the social institution regulates social life, introduces patterns of social behavior, etc. in the case of successful implementation, Russian multiculturalism would be seen as a regional response to the issue of ethnic diversity.
- Second, if effective, it can be seen as an attempt by the regional government to make up for the lack of ideology needed to deal with different nationalities. In turn, it may lead to some improvement of public trust in both the state and government.
- Third, diasporas and ethnic minority groups may become more important in terms of their real contributions to all spheres of the region’s life if their representatives can become civil servants on a competitive basis rather than simply serving as an “ethnic card” when elections are under way.
- Fourth, as the new multicultural approach to ethnic diversity needs additional knowledge and skills, the building of cultural awareness among professional

civil servants will need professional advice as well as the help of consultants and faculty from educational organizations and universities such as the Volga-Region Academy for Civil Service (at Saratov) which will not only encourage and stimulate further research in the field of multiculturalism, but also popularize the idea of Russian multiculturalism within the community.

- Fifth, though this “third sector” is not strong at the moment, as the government works with the NGOs in the regions, multicultural ideas can be acquired by the NGOs for their agendas. Doing so would probably help to involve more ethnic minorities in public life as well as solve some of their problems that regional governments has thus far failed to manage.

This particular option of Russian multiculturalism can be seen as the first step on the road to attracting minorities into civil service at the regional level. All the respondents agreed that the inquiry about ethnic minorities in the civil service is needed, and expected to be important for both civil servants and the representatives of ethnic minorities. Civil service in Russia must be truly diverse because the civil service must, if it is to be effective, mirror the full diversity of the public it serves.

The very idea of the multicultural civil service should be formulated and articulated from the top, and senior civil servants must take personal responsibility for making progress. Since civil service is a hierarchy of power, the impulse of valuing diversity in the civil service should come from the executives.

In terms of the present article, that means that if the multicultural principles are woven in the fabric of civil service that they are also in the nature of the state. It allows one to assume that multiculturalism is shared by both citizens (public) and governments. If multiculturalism works not only within the diverse minority communities along the society but it also within the civil service which is the center of public administration, then it can be said that civil society, democracy and government institutions benefit from the multicultural diversity as a social factor, and multiculturalism should be developed along the diverse society and along the civil service itself. If multicultural principles are not suitable for civil service and hence, for public administration, then something must be done to change the civil service performance in order to meet multicultural principles. Multiculturalism in the Russian Federation even in its “Russian” form as this article suggests is a challenge for civil service and for public administration. As

was shown through the interviews' analysis, its successful application in the civil service also means its success in society as a whole.

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Section III

Providing a Moral
Common Ground:
Fighting Corruption in the
New Member States



Corruption: Introduction to the Papers

*Frits Van Den Berg and Henriette F. Schatz**

In this section of the proceedings, we present three articles dealing with corruption that have several issues in common. Another paper on corruption in Lithuania appears in the proceedings of the 2003 Nispacee Annual Conference in Bucharest¹.

1. The definition of corruption.

In their discussions of the issue, all three authors are confronted with the fact that there is no generally accepted definition of corruption. Olga Vidlakova (OV) and Michaela Carausan (MC) both begin their paper with a discussion of this definition problem, while Patrycja Suwaj (PS) discusses the problem by focusing on the absence of a comprehensive framework for dealing with corruption.

A *communis opinio* exists in the international community that certain political, social, or commercial practices can be qualified as corrupt. OV cites the provisional definition of the Multidisciplinary Group on Corruption² to support this idea of some level of basic agreement. MC notes that perceptions of corruption cover a wide range from structural economic and political to individual and moral problems. She observes that definitions run the gamut between broad terms like “misuse of public power” or “moral decay” and the strictly legal definition of “an act of bribery involving a public servant and a transfer of tangible resources”.

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1 Mantas Jonanskins, 2004. Anti-Corruption Education and Training in Lithuania. In: Michael, Kattel, and Drechsler (2004). *Enhancing the Capacities to Govern*. Nispacee publication.

2 “Corruption is bribery and any other behaviour in relation to persons entrusted with responsibilities in the public and private sector, which violates their duties that follow from their status as a public official, private employee, independent agent or other relationship of that kind and is aimed at obtaining undue advantages of any kind for themselves or others”.

Patrycja Suwaj (PS) deals with the definition problem by pointing out the absence of a comprehensive framework concerning the causes and nature of corruption in CEE countries as the background for a “criminal law” or “bribo-centric” perspective on corruption. Referring to public perception research carried out in Poland in 2003³, which was directed at spontaneously eliciting a commonly shared definition of corruption, PS notes that the vast majority of Poles identify corruption only with bribery and graft and do not connect it with issues like conflict of interest, favouritism, nepotism and the like.

The absence of a more generally accepted definition encourages those dealing with corruption to say (paraphrasing Robert M. Pirsig (1984) “I recognise corruption when I see it”. Of course, this in turn influences the accurate assessment of the levels of corruption in different countries. When it comes to assessing corruption, all three authors refer to the Corruption Perception Index (CPI) constructed by Transparency International. Though useful as one of the few instruments to be applied to a large number of different states, the chief methodological problem of the index is its lack of representative and comparable data. The index, in fact, assesses two dimensions simultaneously without making a distinction: the factual situation with respect to corruption and the value system of a culture.

Differences in value systems are illustrated vividly by the question, raised by PS, of how to distinguish between a gift and a bribe since the answer is very likely to differ between cultures. Referring to the success of GRECO-evaluations of the EU-accession countries, OV takes a more instrumental approach and maintains that empirical data are the most accurate instrument for defining and assessing corruption. The narrow margin between (organized) crime and fraud in general and corruption is another aspect of the definition problem, which is raised by PS. She cites a report on corruption in Poland, produced by the Polish Ministry of the Interior and Administration (2000), which covers a much broader area of criminal activity than just bribery or graft. It includes, for example, insurance fraud, violation of banking regulations, and cooperation of bank employees with organized criminal groups.

Clearly, all three authors, in their own way, attempt to clarify what constitutes corruption and how to distinguish it from other forms of crime. Each of them appear to make some headway in resolving the issue and their joint definitions of corruption can be viewed as a “family concept” (in Wittgenstein’s sense) has called it. However, their evaluations are far from complete and lead to the conclusion that the concept of corruption is not, or not yet, solidly based.

3 Research carried out by Poland’s Anticorruption Program and the Institute of Public Affairs.

2. The loci of corruption

All three authors indicate that corruption is more prevalent in certain areas of society. OV mentions tax and customs administration, public procurement, issuing of licenses, political party funding and police activities. PS indicates that, according to public surveys in Poland, corruption is most widespread in the health-care system, the judiciary, government on the sub-national level, and central state administration. Corruption further appears to be a pervasive problem in privatisation, the activities of off-budget agencies, political party financing and the tax and customs administration, while private sector corruption is also thought to be growing rapidly. MC presents an even wider range of areas in which corruption is to be found. According to her, “the pillars on which the house of corruption is built” are politics, justice, public administration and the economy.

It is clear from the discussions by all three authors that corruption is difficult to locate and demarcate, and the conclusion is justified that corruption affects a wide range of activities in the public as well as the private sector.

3. Causes of corruption in the public sector

The three authors find a number of background factors promoting the occurrence of corruption in the public sector. They can be roughly classified in three areas:

Historical factors, such as the traditions and legacy of a former communist state system, a poorly developed system of core values within government and public administration, or a poor “ethics infrastructure” (OV). These in turn lead to a lack of criteria for actions by public officials, poor public accountability and transparency (MC), and inadequate safeguards against conflicts of interest (PS).

Situational factors, such as the complexity and size of the public sector, lack of transparency of powers and responsibilities (OV, PS), the shift in disbursements to the local level after decentralisation of government (PS), unclear distinctions between the levels of government (PS), or links and overlap between the political and the administrative system (MC). An increase in public awareness and attention for pertinent legislation and enforcement also appears to boost the incidence of corruption, although this is, in fact, mostly an increase in detection. Economic factors, such as scarce resources, low payment of civil servants, general poverty (OV, MC), increased funds for public procurement, or the emergence of political party funding also play roles.

4. Anti-corruption approaches in the public sector

These three discussions of corruption in the public sectors of Poland, Romania and the Czech Republic show clearly that corruption is a slippery concept, but that its occurrence is widespread. All three authors discuss ways to counteract corruption in the public sector and, even though they differ on specifics, the following factors are dominant in the three presentations of anti-corruption approaches:

- The importance of the role of international and supranational organisations (OV and PC):
- The need for an ethical infrastructure (OV):
- The need for transparency and accountability of government and political structures (OV, MC).

OV further remarks that the EU-accession countries try to manage behaviour through legislation and she questions the effectiveness of such an approach. This, of course, raises the more theoretical question whether or not a general approach to counteract corruption is actually possible and, if it is, whether or not it is more effective than a sector-by-sector approach.

5. Towards an anti-corruption theory?

From the articles presented in this section, a number of more general conclusions can be drawn with respect to corruption, its incidence, its causes, its measurement and methods to prevent or counteract it. It appears from all three contributions that a prerequisite for an adequate policy-field theory is the establishment of a clear relationship between causes, loci and prevalence of corruption. When the causes and loci are present, the risk of corruption is high. The three authors further agree on the following concepts:

- Corruption is a type of behaviour;
- Corruption is stimulated by conflicts of interest;
- Corruption is made possible by gaps or overlaps in responsibility;
- Corruption concerns two actors, the corruptor (he or she who corrupts) and the corruptee (he or she who is corrupted).

As regards counteracting or preventing corruption, all three authors agree that national governments have a clear task in the prevention and suppression of corruption, even though, in many cases, they constitute one of the main loci of corruption. The authors all point to the current dominance of international organisations in the anti-corruption field. International organisations are found to serve as agenda-setters, developers of toolkits, and evaluators of anti-corruption policies. In one way or another, all three authors raise the question whether these proposals and methodologies are adequate to achieve effective prevention, especially when it comes to promoting changes of behaviour. They indicate that

effectiveness has been difficult to measure, so far, since the most prevalent measurement-tool being used is the CPI, which only measures perception, not actual incidence of corruption.

In conclusion, it is tempting to try and formulate some general elements for a policy-field anti-corruption theory on the basis of the material presented in this section of the proceedings. However, precisely the information contained in the three articles makes it clear how difficult it is to formulate such a generalized policy-field theory. As a consequence, it is also far from easy to formulate a related policy-intervention theory. However, if such an attempt were to be made, the generalizations that emerge from these three treatments of the issue of corruption can be considered basic ingredients.

Frits van den Berg

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Preventing Corruption and Conflict of Interest: Necessity or Fashion? Case of Poland

*Dr Patrycja Joanna Suwaj**

Introduction

All EU candidate states have made progress towards establishing democracy, the rule of law and market economy. However corruption is present in the life of every society. The European Commission has made it clear, that making progress in the fight against corruption is a task all candidate states have to carry out in order to fulfill the conditions for EU membership.

Despite the fact that in the process of transformation of the economic and political system unquestionable success has been achieved in Poland, this does not yet mean that an efficient state has been built. Central as well as local government authority is generally perceived as inefficient, too politicized and too adept at attaining particular interests at the cost of the public interest. It functions with weak mechanisms of accountability of politicians and officials which encourages corruption.

According to the World Bank Report, it should be recognized that, overall, Poland has made tremendous progress towards full constitutional separation of powers and the development of new institutions¹. But the legacy of the past is still powerful. Politicians and public servants are mistrusted. The credibility of the state is low, and links between political and economic spheres are too close. There is little respect for the judiciary. The organizations needed to ensure accountability, transparency and audit are still finding their feet. In public administration and public services, the vacuum created by the loss of old rules and controls has not yet been filled by new mechanisms of accountability, and habits of work are slow to change.

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1 Corruption in Poland: Review of Priority Areas and Proposals for Action, the World Bank, 1999, www.worldbank.pl

In the most general terms, it can be stated that the declarations concerning personal experiences that the Poles had with respect to corruption for last couple of years have remained more or less stable. However, since the beginning of 2003, due to the so-called “Rywin-gate” scandal, (Rywin’s bribe proposition to Agora, Publishing Company, instead of lucrative amendments to the Law on Radio and TV), the presence of a special Sejm Committee appointed to explain the circumstances of this and other shocking incidents subsequently revealed by the media, the term “corruption” became a permanent subject on the agenda of public discourse.

What are the reasons for talking about corruption, and for creating and implementing anti-corruption policies? Is it “fashion” or necessity? Or it is just a sign of times?

I. Anti-corruption Policy – A Key Issue for Accession?

Preventing corruption and conflict of interest is not a fashion any more. The focus of the European Commission on corruption in the candidate states was justified. There is a clear consensus that corruption undetermines both democracy and markets, and post-Communist countries are especially vulnerable to corruption due to their historical legacy and the nature of transition. As the OSI 2002 Report points out, assessing levels of corruption in candidate states has proven difficult for the Commission, not only because the corruption problems of CEE countries are often different to the corruption problems faced by “old” EU member states, but also because the EU itself lacks a clear anti-corruption framework. As a result, the European Commission has not established clear benchmarks for candidate states in the area of corruption or anti-corruption policy².

The absence of a comprehensive framework and knowledge concerning the causes and nature of corruption in CEE countries means that the Commission has assessed corruption on a basis that tends towards a criminal law or “bribo-centric” perspective. At the same time, the Commission has missed some of the most important aspects of corruption-related problems in these states, ranging from societal tolerance of corruption to traditions of allocating resources on the basis of patronage networks. Moreover, the Copenhagen mandate allowed the Commission to demand anti-corruption policies from candidate states that it was unable to enforce on “old” member states³. These factors have combined to make

2 Monitoring the EU Accession Process: Corruption and Anti-Corruption Policy, OSI, 2002; www.eumap.org

3 A clear example of the difference in the Commission’s leverage vis-à-vis member states and candidates states is provided by the Council of Europe Criminal Law Convention on Corruption. The Commission has consistently pushed candidate states to sign and ratify the Convention. As a result, as of June 2002 eight of the ten candidate states had ratified the Convention, compared to only three out of fifteen member states, giving rise to a justified perception that candidate countries are being held to different standards from those that currently obtain within the EU.

the integration of anti-corruption goals into the accession framework difficult. Thus a number of countries with persistent and serious problems of corruption are admitted to a European Union which lacks an adequate framework for dealing with these problems even in “old” member states.

EU has probably paid less attention to corruption in member states because it has not been perceived as undermining the implementation of the *acquis*. Yet there are increasing signs that corruption in a number of member states represents a significant threat to the quality and functioning of democratic institutions. And what is probable, the extent of corruption in a number of newly added countries may undermine both implementation of the *acquis* and the quality of democratic institutions. Corruption undermines some of the core values to which the Union subscribes, and an unavoidable challenge of the future is to develop mechanisms for promoting effective anti-corruption policy in all the states of an expanded Union.

On the other hand, stressing that implementation of anti-corruption policy is a necessity in a modern democratic state is being promoted actively by other international organizations, while the European Commission itself has had only limited success in this field. In particular the Council of Europe has developed a set of broad anti-corruption “Guiding Principles”, and active framework for monitoring adherence to the Principles – the Group of States Against Corruption (GRECO) – and two anti-corruption conventions.

The EU has played an important role in pushing candidate states to ratify the conventions, and an important anti-corruption component of EU accession process has been the joint Council of Europe–EU “OCTOPUS” program, which has provided advice to candidate states on measures to fight organized crime and corruption.

The inclusion of corruption as an issue of key importance for EU accession implies that there exists an anti-corruption framework that is already binding on EU member states and to which candidate states must conform. In fact, no such framework exists, or at least not in a formal sense. The Commission has been in the process of developing a broad “good governance” framework, notably since the publication of the White Paper on Governance in July 2001⁴. The White Paper lies down or reaffirms principles of subsidiarity and in particular the objective of making the policy process more open and transparent. In addition, since the early 1990’s the EU has adopted several anti-corruption instruments, and in particular conventions on protection of the financial interests of the community and on the fight against corruption. However neither of these conventions had secured enough ratification by member states to come into force.

4 Commission of the EU, *EU Governance: A White Paper*, COM (2001) 428 final, Brussels, 25 July 2001

According to the OSI Report consequently, the EU anti-corruption framework remains diffuse and largely non-binding, and there are probably two main reasons for this. First, the extent and nature of corruption appears to differ widely across “old” member states, reflecting different national traditions and historical legacies. The second, is that to date the Commission has not seen or framed corruption as a concern for the ability of “old” member states to implement EU directives. For this reason, it has perceived no immediate need to pressure or criticize member states on grounds of corruption. Moreover, the Commission’s internal problems of corruption would make it difficult to do so before completing its own internal reform.

From these reasons, as the report points out, a contradictory situation has emerged. On the one hand, the EU has taken a number of consequential steps to implement a good governance regime at the level of the EU administration (for example, the European Code of Good Administration). On the other hand, efforts to extend these steps and promote the “harmonization” of anti-corruption standards and policies across fifteen have been a difficult and fragmentary process. At the same time, the existence of the Copenhagen mandate has enabled the Commission to exert much greater leverage over candidate states to adopt various anti-corruption measures.

II. Corruption Perception

The European Union has regularly cited corruption as an important problem in Poland and criticized the government’s insufficient efforts to tackle it. In 1998, it was pointed out that the statement in EC 1998 Regular Report – that the fight against corruption needs to be intensified – had not met with an adequate response “and little progress has been made on the establishment of a genuine anti-corruption policy”⁵. In the 1999 Regular Report, corruption still was “a source of serious concern”, to which “Poland should address this serious problem. The implementation of the reform to the statutes of civil servants could provide an important element to remedying this problem”⁶. The 2000 Regular Report expresses the opinion that the available evidence “points to a ... series of deficiencies which create an environment in which corruption can flourish: excessive but poorly managed bureaucracy, insufficient controls, lack of transparency and a general lack of accountability”⁷.

In a 2001 Report on Poland, which the European Commission viewed as the one of the more corrupt candidate countries, the Commission commented:

5 Commission of the European Union, 1998 Regular Report from the Commission on Poland’s Progress towards Accession, p. 11, www.eu.int

6 Commission of the European Union, 1999 Regular Report, p. 15, www.eu.int

7 Commission of the European Union, 2000 Regular Report, p. 18, www.eu.int

“Irrespective of whether the specific allegations turn out to be true or not, there is a general perception that corruption is widespread. This is damaging both domestically and internationally”⁸. One should agree with the statement of the OSI Report, that there is still little comparative research available to provide clear evidence of the extent of corruption in “new” member states, and no detailed comprehensive study of corruption in EU “old” member and CEE States that would yield sufficient data to make serious comparisons⁹. One of the sources of data is the Transparency International Corruption Perception Index.

It is generally known that the corruption is a serious danger for state functioning. It must be stressed that it destroys not only legalism and free competition, but the whole economy, changing free market into a “market of dependencies”.

The perception about the significance of the problem has been accompanying Poles since the beginning of the transition process. In 1991, almost three-quarters of Polish society (71 percent) stated that corruption in Poland is a serious problem, but only in every three persons was convinced that corruption is a very serious problem. The first increase of the number of people took place in 1992, when it went from 71 to 86 percent thinking that it was a serious problem and from 33 percent to 49 percent stating that was a very serious problem. A similar estimation was done in July of 2000. The poll of August 2001 pinpointed the next increase – from 86 to 93 percent of respondents assuming that the corruption is a serious problem. In February 2003, it was 91 percent of the population that were conscious of the weight of the corruption problem¹⁰.

Table 1
The weight of the corruption problem in Poland

WHAT DO YOU THINK, IS THE CORRUPTION IN POLAND A PROBLEM OR NOT?	RESPONDENTS' ANSWERS ACCORDING TO THE YEAR				
	JULY 1991	FEB. 1992	JULY 2000	AUG. 2001	FEB. 2003
	in %				
Very serious	33	49	46	68	68
Serious	38	37	40	25	23
Not serious	15	8	6	2	2
Almost none	2	1	0	1	0
Hard to say	12	5	8	5	6

Source: CBOS, February 2003

8 Commission of the European Union, 2001 Regular Report, p. 21, www.eu.int

9 Monitoring the EU Accession Process: Corruption and Anti-Corruption Policy, OSI, 2002, p. 60; www.eumap.org

10 data presented on the base of the CBOS analysis concerning: Poles about the corruption, lobbying and “buying” statutes; Warsaw, February 2003, www.cbos.pl

At the same time there is a strong conviction that corruption exists at both the central and local level. It was in February 2003 that 61 percent of respondents stated that abusing of power happens with the same frequency at the central and local level as well.

Table 2
Abusing of power

WHERE IN YOUR OPINION THE ABUSE OF POWER TAKES PLACE OFTENER – AT THE CENTRAL OR LOCAL LEVEL?	RESPONDENTS' ANSWERS ACCORDING TO THE YEAR			
	SEPT. 1995	JULY 1999	JULY 2000	FEB. 2003
	in %			
More often at the central level	24	15	17	18
With the same frequency	56	57	58	61
More often at the local level	10	14	13	12
Hard to say	10	15	12	9

Source: CBOS, February 2003

The criticism of public officials is even more visible. According to the respondents, the most popular “sin” among public officials is nepotism (favoritism based on kinship) and cronyism (favoritism based on informal links). And this is one of the most important issues covering the conflict of interest, because it might appear not only in the financial dimension (as it is in the case of corruption) but also as a phenomenon in the “softer area”, especially by nepotism or cronyism. When private or personal interest comes into conflict with public obligations – “official duties” – there exists the conflict of interest. This conflict usually interferes with professional responsibilities, making dangerous the impartiality of professional acting.

Examples of creating specific linkage such as giving the posts in public offices, banks or public companies to relatives, colleges, friends is perceived by 91 percent of Poles as happening often (almost 59 percent thinks it happens very often). In the perception of 81 percent respondents, giving public contracts to family and friends takes place frequently; while almost 85 percent states that public officials in Poland are used to accepting bribes for executing their official duties.

Table 3
Examples of abusing of power

WHAT DO YOU THINK ABOUT THE ABUSE OF POWER? ARE THIS ACTIVITIES:	FREQUENT				RARE				HARD TO SAY			
	APR. 1997	JUL. 1999	JUL. 2000	FEB. 2003	APR. 1997	JUL. 1999	JUL. 2000	FEB. 2003	APR. 1997	JUL. 1999	JUL. 2000	FEB. 2003
	in %											
Giving public contracts to a family, friends	78	73	78	81	9	10	10	6	13	17	12	13
Taking bribes	72	74	79	85	13	8	8	5	15	19	12	10
Giving the posts in public offices to relatives and friends	69	84	87	81	13	4	5	2	18	11	7	7
Using public money for the political party	56	58	65	67	15	11	12	10	29	31	23	23

Source: CBOS, February 2003

In research carried out within the Anti-corruption Program and the Institute of Public Affairs¹¹, attempts were made to reach common, spontaneous definitions of corruption; thus, at the beginning of the interview, the respondent was asked how he understands this definition.

The greater majority of respondents identified corruption with bribery and graft (76 percent). There were a large proportion of people who were unable to say what corruption means (22 percent). Some of the responses – “hard to say” – may also mean an unwillingness to think it over or to give an answer. The percentage of responses in showing a lack of knowledge or difficulties in understanding this term vary in accordance with the social and demographic features of the respondents.

Most interesting is that Polish society does not connect corruption with conflict of interest. In fact, only five percent of respondents connect corruption with conflict of interest favoritism and nepotism; i.e., staffing posts by family members and friends, taking care of matters through connections, backing and arrangements.

The number of persons convicted under the relevant anti-corruption acts is shown in Table 4. The main elements of the anti-bribery framework have been in place only since 1998, and trends are difficult to assess. There appears to have been an increase in conviction for giving bribes. The number of convictions is smaller – notably for acceptance of bribes – than in other countries accessing to the EU, relative to country size.

11 A. Kubiak, Corruption in Everyday Experience. Report on Survey, 2001. www. batory.org.pl

Table 4

The number of persons convicted under the relevant anti-corruption acts

Criminal Act	1993	1994	1995	1996	1997		1999	2000	
Passive bribery	96	71	68	72	106	28	116	104	99
Active bribery						60	305	395	415
Traffic in influence							16	22	20
Harm to public or private interest by public official	34	30	30	46	62	25	57	59	100

* Statistics for 1998 are for the four months of September to December, as a new Criminal Code came into effect in September 1998

** Sentenced without legal validity (may be appealed)

Source: Ministry of Justice

III. Corruption in Polish Public Administration

1. Potential Reasons and Sources of Corruption

As it is shown in OSI Report 2002, there is widespread consensus that corruption in CEE countries is a more serious problem than in other OECD countries including “old” EU member States¹². But it should be stressed that the dividing line between CEE countries newly accessed to the EU and previous member states in terms of corruption is not as clear as is often implied. Probably both the legacy of Communism and the nature of post-Communist countries provide powerful reasons why corruption may be expected to be a bigger problem in Central and Eastern Europe than in its Western part.

A. Kubiak distinguishes between the two types of people who are most frequently involved in corruption. The first are people with better education and higher income generally active at work and in life, whereas the other type are people with a lower income who are often unemployed and less active. Consequently, in the opinion of A. Kubiak, there are people who give bribes in order to have more, and people who give bribes in order to survive¹³. The first statement can be assumed as the reason of corruption in all EU member states; the second is characteristic for CEE countries (as the transition cost).

According to public surveys, corruption is most widespread in the healthcare system, judiciary, sub-national governments and central state administration. Corruption appears to have been a pervasive problem in privatization, the activities of

12 Monitoring the EU Accession Process: Corruption and Anti-Corruption Policy, OSI, 2002, p. 43; www.eumap.org

13 A. Kubiak, The voice of general public and business people on corruption, Report on Survey, CBOS, September 2003, p. 9, www.batory.org.pl

off-budget agencies, political party finance and the tax and customs administrations, while private sector corruption is thought to be growing rapidly.

As A. Kubiak stresses in the 2003 report, drawing on both the personal experiences of the people and the public discussion devoted to the subject of corruption, the hierarchy of areas perceived as most prone to corruption did not change in the last couple of years¹⁴:

Table 5
The hierarchy of areas perceived as most prone to corruption

The areas of social life which are most prone to corruption	Nov. 1999	Nov. 2001	June 2002	June 2003
	data in %			
Politicians, party activists, councilors, deputies, senators		54	52	60
health care	67	47	42	43
central government agencies	25	38	29	37
courts and prosecutors' offices	49	36	33	33
local-government administration	39	28	25	29
the police	23	30	23	25
state-owned companies		13	12	11
private sector companies		13	9	11
banks		6	3	5
education and science sector		6	8	4
it is hard to say		2	12	8

Own table, based on CBOS 1999 – 2003 data

A report on corruption produced by the Ministry of Interior and Administration in 2000, and based mostly on police data, suggested that corruption is most frequent in the following areas:

- Insurance (falsification of policies, issuing policies for fictitious vehicles, registration of fictitious losses in traffic and in agriculture);
- Public enterprises, especially in the energy, food and concrete sectors;
- National, state and local government administration, especially in the course of issuing administrative decisions;
- The banking sector (cooperation of bank employees with organized criminal groups to violate banking regulations);
- Health service (issuing false certificates of sickness and entitlements to other benefits);
- Privatization and restitution;

14 A. Kubiak, The voice of general public and business people on corruption, Report on Survey, CBOS, September 2003, p. 10, www.batory.org.pl; Corruption in everyday life, CBOS report, November 1999

- Control and audit agencies including tax administration, customs control and commercial courts in cases of bankruptcy;
- Public procurement

In the 2003 survey, the respondents confessed that they gave bribes most frequently in the area of healthcare (57 percent of cases), and then in the following areas, according to the number of reported cases: traffic police officers (15.5 percent); local-government offices (5.2 percent); when applying for a job (4.9 percent); in ZUS (Social Insurance Agency) when applying for a disability pension certificate (3.1 percent); and two percent at schools, to teachers, when taking a driving license test and in courts. There were also individual cases of bribes given when someone was trying to sell farm produce or obtain a construction permit, bribes accompanying tender procedure, and finally bribes in SANEPID (Sanitary Control Inspection) and State Labor Inspection¹⁵.

Opportunities and incentives for corruption is growing steeply as territorial reform became established and the massive shift in disbursement of funds from central to local tiers took place. Risks and opportunities for corruption are also greater where region, district and community powers exist in the same area, complicating and reducing transparency in lines of responsibility and decision paths.

According to the World Bank Report, widespread corruption in sub-national administrations undermines efforts to promote local and regional development, improve services and reduce local and rural poverty. It mirrors many of the issues that arise at parliamentary and high political levels of the central government administration. Local administrations tend to be highly politicized with close links between political parties, elected councilors, administrative staffing and pay decisions. Staff numbers have been rising since well before the territorial reform. In big cities, it is reported that members of the public need political party support to schedule meetings with influential officials. The control rights that local governments exercise over zoning decisions, licenses and permits for economic activity, contracts for construction works, goods and services, property rent controls and other distortions in setting tariffs, furnish ample opportunities to extract bribes and trade favors. These activities have an adverse impact on local revenues and expenditures, and also result in the serious misallocation of resources with consequent damage to the local economy and society.

Municipal ownership of large amounts of land and real estate aggravates the situation and adds to the opportunities and incentives for corrupt behavior. The corruption linked to election funds is also a problem at the local level. Companies that refuse to cooperate may be excluded from the procurement process.

15 A. Kubiak, The voice of general public and business people on corruption, Report on Survey, CBOS, September 2003, p. 10, www.batory.org.pl

Licenses and permits confer control rights on officials, and are also the sources of the corruption. Most significant are those relating to architecture, construction, land registration, land survey and any other matters to do with municipal land and buildings.

Public procurement at municipal level is notorious. Malpractice concerning the conflict of interest includes, for example, contracts given to companies belonging to the families of council members. Procurement abuses appear to be a particular problem where construction projects are concerned, such as those involving bridges or office buildings. Corruption in public contracts, whether during the bidding process or contract execution, can also result in poor construction quality and inadequate safety standards. The risks to public safety are even higher where there is also corruption in inspection procedures.

2. The Corruption Counteracting – Historical Perspective

Since the beginning of 1990s, Poland has undertaken considerable effort, particularly with introduced laws meant to reduce the corruption. There is no one single act dealing with the problem of the corruption and the conflict of interest in Poland. Different regulations are provided by the number of laws, starting from the Polish Constitution through administrative law as well as labor, criminal and civil specific ones.

Accepting a bribe is a criminal offence under the Polish Criminal Code. Since 2003, giving a bribe is not a crime anymore. The Criminal Code fulfils the requirements of international anti-corruption conventions, with the exception of the requirements of the Council Of Europe Criminal Law Convention on Corruption to criminalize bribery in the private sector, introduce criminal liability of legal entities and criminalize the provision of non-material benefits to third parties. The definition of a public official remains somewhat unclear.

Acceptance of a bribe is punishable by six months to eight years' imprisonment, and up to ten years if bribery was to secure an infringement of law. Public officials who accept material gains of considerable value or a promise thereof are subject to two to 12-year imprisonment. Active bribery is limited in scope to acts which are either directed towards or perpetrated by a "person who performs a public function".

The Law on Community Self-Government (1990) has initiated the process of building the decentralized local government. Also, the Law on Local-Government Employees (1990) has created the first professional group of local government public officials. But the process of putting attention on the corruption issues started in 1997, with implementation of the Law on Reducing opportunities to do business for persons performing public functions. That law, called "Anti-corruptional Act", has initiated the process of developing and implementing a number of legislative and other measures against corruption and the conflict of interest. As

the report on Corruption and Anti-Corruption Policy in Poland assumes, none of the initiatives were introduced by the government¹⁶.

However, to a great extent, many of those laws remain on paper only because not enough emphasis has been given to their efficient execution. In the face of those instances of corruption that come to light, the tendency is to pass new laws rather than to implement the existing ones. As many reports stood, instead of passing new laws some of those already existing should be amended and their institutional execution should be strengthened. In some cases, the law only specified what is considered illegal but did not include provisions concerning the consequences or punishments for breaking those regulations.

In 2000, several legislative amendments modified bribery legislation considerably, including the following:

- The Act on Competition and Consumer Protection was amended to include “bribery of a person performing a public function” in the definition of unfair competition.
- The Public Procurement Act was amended to prohibit persons or companies whose members of statutory organs or managers have been convicted of corruption from bidding for public contracts.
- Procedures were established to facilitate international cooperation and legal assistance in the fight against corruption (for example in the Banking Act).

In autumn 2002, the Polish government developed a prospective, State strategy for combating corruption¹⁷. The strategy proposed three dimensional projects for counteracting corruption. One of the dimensions is legislative changes. The second consists of organizational ones, and the third are educational and informative actions.

As the GRECO recommended, the Polish authorities premised in the strategy to undertake steps towards progressively reducing the scope of discretionary powers of administrative officers, enhancing the transparency of the procedures and abolishing whenever possible, licensing and authorization procedure needed for many economic and social activities¹⁸. The strategy also obliges the Minister of Interior to prepare the project of law creating the corps of the local government employees (similar to the civil servants one), as well as to prepare the project of law concerning the audit in the local-government.

As to the organizational improvements, the Minister of Interior is obliged to introduce an ethical training program for local government officials. In the

16 Open Society Institute, EU Accession Program, Monitoring the EU Accession Process: Corruption and Anti-corruption Policy, p.405, 2002

17 The State Strategy for Combating Corruption, the 17th of September, 2002, www.mswia.gov.pl

18 see: the GRECO, First Evaluation Round, Evaluation Report on Poland, Strasbourg, March, 2002. www.greco.coe.int

educational and informative dimension, the same minister will promote the program, “Friendly office”, which will comprise basic standards for local government administering. The e-government services are also an instrument in the strategy to make the local government more transparent and the process of undertaking the administrative decisions objective.

The Polish government has put in place the anti-corruption strategy that reflects the fact that the strategy has been a case “top-down”; that is, created at the elite level with little or no incorporation with civil society, lower level officials or even the parliament. An example is the obligation of the Minister of Interior to prepare and introduce new regulations on additional employment of local government employees or new mechanisms to control the declarations of income, while at the same time the Polish Parliament was, since May 2002, preparing similar regulations.

On the 27th of November 2002, the Polish Parliament passed a new law as an answer to the external (for example, World Bank, OECD, The Council of Europe or EU) and internal (such as Supreme Auditing Chamber – NIK, or NGO’s) pressures. This law formulates a significant modernization of anti-corruption rules at all of the local government tiers, and has been in force since the 1st of January, 2003.

Several gaps remain in anti-corruption legislation. Legal persons are still not criminally liable for corruption; however, in June 2002, Poland ratified the Council of Europe Criminal Law Convention on Corruption, which means the criminal law must be changed to introduce criminal liability for companies. Corruption in the private sector is not yet criminalized, although a proposal was introduced to Parliament in early 2002. Third, non-material benefits provided to a third party cannot yet be classified as a bribe under Polish law.

3. Measures to Reduce Corruption

Formulating programs to counteract corruption and conflict of interest in public administration should be started with an investigation on where the corruption can occur and its source. Efforts to reduce corruption have so far focused on attempts to introduce laws rather than make a significant change. These efforts are commendable, but have missed the broad middle ground in which public administration elites actually operate and where there may be a strong interest in resisting change. According to the World Bank Review of Priority Areas and Proposals for Action, there is a need to strengthen the legislative framework with some specific, closely defined pieces of legislation, but in general the emphasis has been on passing laws rather than on implementing them effectively. As the World Bank reports, Poland has most of the instruments it needs but not yet enough will and capacity to use them well¹⁹.

19 The World Bank Review of Priority Areas and Proposals for Action, 1999, www.worldbank.org.pl

Polish laws provide some specific measures to reduce corruption directly or indirectly, such as prohibits of duplication of powers, economic conflict of interest prohibits:

3.1 Duplication of Powers Prohibitions

A classic situation where conflict of interest is the consequence of a separation of powers is when a public official performs activities or executes functions in different public authorities simultaneously. Polish restrictions are categorical and strict in this matter. Prohibitions of posts conjunction (prohibits concerning the duplication of powers) set down incompatibility between the posts of legislators and posts of executives (for example, a councilor or mayor and that of a member of Parliament or senator, office of voivod (governor) or deputy-governor of region, membership in a body of other local government unit). Moreover specific laws provide that the mandate of a councilor or position of mayor is also incompatible with posts of a prosecutor or judge. Making clear the situation of compatibility of posts, Polish law provides a sanction for violating this rule: loss of the mandate.

Other legal framework as regards the duplication of posts states that a councilor may not also perform the function of a head or deputy head of municipal, district or region (adequate) administrative unit; for example, the function of director or deputy director of the municipal primary school, the director or deputy director of a district hospital, etc. The sanction is loss of the mandate.

3.2 Economic Conflict of Interest Prohibitions

3.2.1 Involvement in business enterprises and shareholdings, membership in commercial organizations or charitable

Since the 1 January, 2003, Polish regulations have categorical restrictions for councilors, their spouses and the spouses of senior officials. The Polish legal framework touches not only the LG officials themselves, but also influences the LG officials' families. This is a new regulation that significantly limits the rights of persons not directly engaged in performing public activities.

Persons mentioned are prohibited from membership in managing, control and audit authorities and execution of commercial power of attorney in commercial law partnership with participation of municipal legal persons or economic entities with participation of such persons. The appointment is invalid by law. Resignation from functions held before the commencement of the mandate, or appointment is required within 3 months' period. The violation of these rules causes a sanction of loss of the managerial, controlling or auditing position by a councilor, his/her spouse or the spouses of persons mentioned.

The new regulation is that local government public officials (except from the other left local government employees) are obliged to depose a declaration of an

economic activity done by their closest family (spouses, ascendants, descendants and siblings).

The local government official, whose member of closest family is employed in the local government unit or who started working on the other grounds in commercial companies in which at least 50 percent of shares is owned by local government units – during the local government official's term – is obliged to inform the subject depositing the declaration of income and property about it in writing. The obligation of the information also concerns the case of a post change by a spouse, ascendant, descendant or a sibling in the subjects mentioned above.

If the declaration is not submitted on time, the law provides strict sanctions, such as loss per diem (councilors), loss salary (for example, the mayor, head of the district executive board, marshal) or recalling (secretary or treasurer), dissolving an employment contract (deputy mayor, a member of an executive board, a director of local-government unit, a manager of local-government legal person or a person empowered to undertake administrative decisions). Additionally, the Criminal Code provides a penalty of under three years deprivation of liberty for not providing accurate information or concealing the truth.

Until the 1 January, 2003, the issue was poorly regulated. Public officials (local government employees) were not allowed to have a private business or be employed in the private sector. And only the highest public officials (of the central government) were obliged to disclose their spouse's business engagement. Since the requirement did not concern local public officials, it left a lot of room for corruption, particularly at the local level. Even for those who were obliged to state the economic activity of their spouse, the mechanism of control was weak. It is difficult to estimate the effectiveness of these new changes, but the mechanism to disclose corruptional relations has appeared.

Moreover, civil servants and senior local government employees, directors of local government units (for example, primary communal schools or district hospitals) and the managers of the local government legal persons (for example, waterworks) are prohibited from the following:

- Membership on boards, supervisory boards and audit committees of commercial law partnerships;
- Employment and other engagements in commercial law partnerships, if it may give rise to a suspicion of partiality or self-interest;
- Membership on boards, supervisory boards and audit committees of cooperatives, with an exemption of supervisory boards of building societies;
- Membership on boards of foundations which engage in economic activity;
- Individual or joint economic activity, management, representation and power of attorney in such activity, with an exemption of farm and livestock production at a family-run farm.

Senior local government officials are obliged to depose information on how and when they ceased an economic activity (if they ran it before the day of the post appointment or employment).

Violations of the above mentioned restrictions were frequent situations in Polish public administration. Until 2003, the lack of the authority empowered to execute the sanction caused the rule of blank concept (rule that did not work in the real life). Local government employees – particularly those employed in the architecture department and empowered to pass building permits – were at the same time engaged in individual economic activity. While they developed architecture projects, which required building permission, they were not required to declare their interest in their own or joint economic activity.

Such activities went to the heart of collision between an individual's economic activity and his or her public office, naturally creating considerable implications and conflict.

3.2.2 Acceptance of gifts, hospitality and sponsored trips

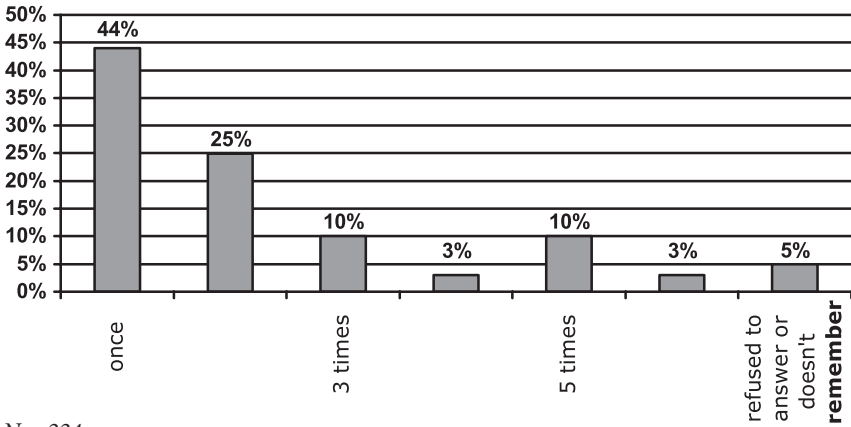
Polish regulations about the acceptance of gifts, hospitality and sponsored trips are not concrete.

However, it is very difficult to distinguish between a gift and a bribe. Provisions on accepting gifts are developed by Local Self-Government Acts while bribes are regulated in the Criminal Code. The procedure of giving and accepting gifts is quite popular in Poland, and takes different shapes: money, alcohol, trips to foreign countries (in 2002, members of the Regional Health Office in Bialystok accepted a sponsored trip to the Republic of South Africa by a pharmacy company), dinners in restaurants and more.

According to the Report on Survey on Corruption in Everyday Experience²⁰, of those who declared receipt of a gift within the last three to four years, the majority (51 percent) had received several. The diagram below illustrates the number of cases of giving gifts.

20 A. Kubiak, *Corruption in Everyday Experience*, Warsaw 2001, www.batory.org.pl, p. 19 and next

Diagram 1
Frequency of giving bribes/gifts (data in %)



N = 224

Source: A. Kubiak, *Batory Foundation: Corruption in Everyday Experience*, 2001, www.batory.org.pl

As the report points out, less than half the respondents had given a gift only once, but “routine” participants – those who had participated in bribery interaction more than once – prevailed. Record participants, though these were only a few), described eight, ten and even 20 cases of bribes/gifts. The most frequent reason for giving bribes, according to the 42 percent of the respondents is the sense of coercion. In their opinion, this was the only way of taking care of a matter. For more than half of the respondents (51 percent), “practical” considerations – raising the efficiency of their action – were decisive. Thus, for 20 percent time was the most important. Greater accuracy and reliability in handling a matter was referred to in 17 percent of cases, and in 14 percent, a bribe made it possible to take care of something at a smaller cost. Other reasons that were decisive included the desire to show gratitude, saving health or avoiding a more expensive fine or ticket, appeared in four percent of the cases. In three percent of the cases, respondents refused to state their reasons for a bribe. However, it is obvious that bribes and gifts are used as a strategy for making life easier.

In 77 percent of the cases, the gifts were in the form of money. Objects (17%) included alcohol – the commonplace “cognac for the doctor” – but there were also automobile covers and tennis rackets. The declared worth of bribes shows we are dealing with corruption of modest financial dimensions. This is illustrated by the list of delivered bribes by their worth, as shown below.

Table 5
Value of given objects and number of cases

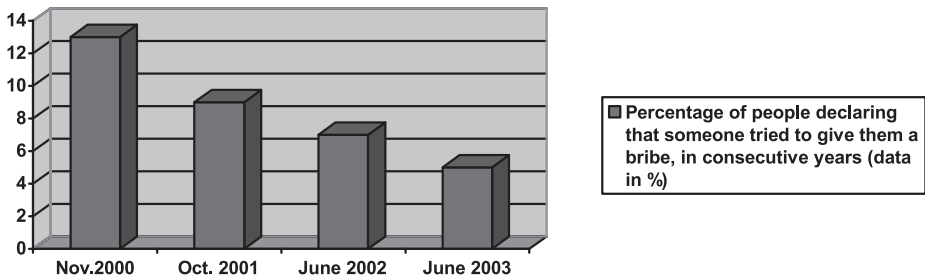
Value of gift	Number of cases	Proportion in group of cases of giving bribes (N=224)
under €25	51	23
€25	33	15
over €25, under €125	37	16
€125	20	9
over €125	24	11
replies hard to say, I don't remember	18	8
refused to answer	42	18

Source: A. Kubiak, *Batory Foundation: Corruption in Everyday Experience, 2001, www.batory.org.pl*

The value of a “gift” as a criterion distinguishing a bribe from a present or an expression of gratitude divided the respondents into two groups of similar size. Forty-five percent of respondents feel value is the decisive criterion between a gift and a bribe. At the same time, 40 percent do not share this view, and 15 percent are unable to give an explicit answer.

During the last four years, there was a considerable change in the number of people saying that someone tried to give them a bribe:

Diagram 2

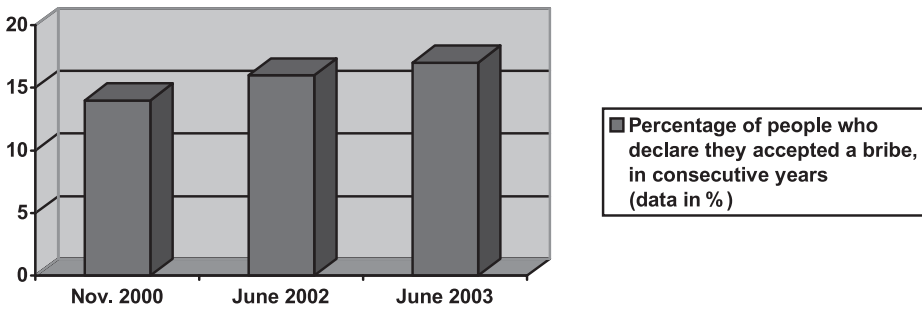


The diagram is prepared by the author and based on data in A. Kubiak’s, *The voice of general public and business people on corruption, Report on Survey, CBOS, September 2003.*

As can be inferred, the number of people potentially taking bribes has been on the decrease. Perhaps this fact is a result of widespread discussions devoted to the subject of corruption, side-by-side with the presence of legal regulations that focus predominantly on punishing those who accept bribes. This must discourage people from saying that they might have even potentially taken a bribe.

The percentage of people who confess they accepted a bribe remained on more or less the same level during the last four years:

Diagram 3



This diagram, prepared by author, is based on data in A. Kubiak’s, *The voice of general public and business people on corruption*, Report on Survey, CBOS, September 2003.

3.3 Conflict of Interest of Personal Relations

The conflict of interest may also appear in the situation where close relatives are employed in the same office where there exists professional relationships of superiority or subordination. This type of employment of close relatives (spouses, second degree of consanguinity – ascendants, descendants, siblings, kinship, adoption, custody or wardship) is prohibited in Poland. Polish regulations do not provide clear sanctions, and the authorities are not empowered to execute this rule. This is the next blank concept regulation. Unfortunately, it is common in public administration offices to have close relatives working in the same unit with that relationship of superiority or subordination.

3.4 Using Official Information for Personal Profits

Generally Polish regulations do not provide restrictions concerning for the use of official information for personal profits. While there are the regulations concerning confidential information, they do not apply where information is not secret. For example, knowing facts about municipal properties for sale makes buying easier. These situations are governed by the rule, “That is better, who is the first”. This is why it is quite common that central or local-level public officials and their families and friends are able to buy municipal properties at good prices.

3.5 Using Public Property

The Local Self-Government Acts provide specific restrictions for councilors and executives; specifically, the prohibition of employing communal/district/region property in individual or joint economic activity.

But there are no other regulations concerning the use of public (local government) properties such as buildings, cars, printers, copiers, etc. for personal

purposes. There is the general public officials' duty of taking care of the public means, but there is no clear sanction for violation nor any authority empowered to execute that rule. This aspect of the conflict of interest is an evident weak point of legislation.

At the same time, the use of public goods for personal profits takes place with public consent. One characteristic of the post-communist societies is a low level of consciousness about the "ownership" of public goods. Such ways of thinking and acting creates an waste of public money.

According to the World Bank report, many self-governments own large amounts of land and real estate. This gives local administrations significant leverage over urban development, business opportunities and kickbacks. There appears to be a strong correlation between improvements that raise land values and the location of residences of city officials. In addition, there are reportedly many cases of council members or their spouses renting from the council at low rents set in 1990–91 (some rents are not indexed at all, and some are indexed but remain below market levels). The possessor of the lease then illegally sub-leases at market rents, reaping the difference. Other cases involve the creation of special conditions for sale, such that the land or real estate can be sold only to those now leasing or only at an authorized price, or the transactions take place on the day of announcement so that only those in the know can participate. The result is below-market returns on public assets and high gains for well-placed private interests. Revenues from public assets are further lowered when rents from municipal shops and buildings go into the pocket of the municipal manager rather than into municipal revenues.

Corruption in the allocation of apartments is also a problem. Leverage over people who are anxious to keep their apartments and jobs, and who do not see alternatives, adds to the power of local administrations. In addition, some apartments are set aside to be allocated as the personal gift of the mayor. Investigations indicate that these apartments are not always used for the poor or other cases of social need.

Using public properties for personal purposes is common in the medical and health care system, and can be easily recognized. Informal payments that include small gifts to poorly-paid careerists, "speed money" for faster treatment and extortion of large bribes on an informally established tariff for surgery and other treatments are the second example of corruption. The evidence scale of the problem indicate that the corruption introduces perverse incentives in the health system, distorts priorities, limits access, and compromises efforts to improve efficiency, accountability and equity. They make it impossible to assess the actual total cost of health care. Many cases of medical personnel using the hospital's space and equipment for delivering paid medical services free of charge have been reported. To some extent, the prevalence of these conflicts of interest can be

related to the low pay in the health sector, but the fact is that many of the recipients already enjoy high incomes. There are indications that the pathology appears to have grown beyond compensation for low pay and become predatory. Pressure to eliminate the corruption can be expected to rise as people become unwilling and/or unable to pay both their formal health contribution and informal payments, but it will take more than pressure to solve this problem.

3.6 Transparency

It is generally recognized that a democratic system can function more effectively when the public is fully informed about the issues of public life, because to be informed is a prerequisite of acceptance, participation and adherence. It is thus necessary that the public have, subject to unavoidable exceptions and limitation, access to the large quantities of records and information of general interest and importance which administrative authorities hold at all tiers. Polish citizen shall have the right to obtain information on the activities of organs of public authority as well as those persons discharging public functions. Such right shall also include the receipt of information on the activities of self-governing economic or professional organs and other persons or organizational units relating to the field in which they perform the duties of public authorities and manage communal assets or property of the state treasury.

The right to obtain information shall ensure access to documents and entry to sittings of collective organs of public authority formed by universal elections, with the opportunity to make sound and visual recordings. Limitations may be imposed by statute solely to protect freedoms and rights of other persons and economic subjects, public order, security or important economic interests of the state.

3.7 Declarations of Income and Property

Regulations on the declaration of income and property were the subject of a large change made by the Polish Parliament in November 2002.

All public officials are obliged to depose a declaration of income and property. This declaration concerns their separate estate and joint property of spouses (and about what belongs to a particular spouse's property). The declaration includes information about:

- 1) Funds, immovable, shares in commercial companies and the purchase of property from the treasury or from the other state legal person, local government units or their associations, or from the local government legal persons (which was purchased by vendue), the data of running an economic activity and concerning taking the post in commercial companies;
- 2) Income received from employment or from other gainful activity or occupation with the amounts gained from the above-mentioned sources;

- 3) Movable property of the value exceeding PLN 10.000 (about €2.500) – local government officials only;
- 4) Pecuniary obligations of the value exceeding PLN 10.000 (about €2.500) which include debts and loans as well as the conditions of their contraction – local government officials only.

The declaration of income and property with the copy of the deposition on the amount of the income gained in the preceding tax year and its correction has to be deposited in two copies.

The analysis of the data included in the declaration is done by the people to whom the declaration was submitted, but at the same time it is also transferred to the treasurer's office locally competent. In case of suspicion that the person depositing the declaration is not providing true information or concealing the truth, the subject performing the declaration analysis moves for a motion of the declaration inspection to the director of fiscal inspection office. In case of refusal of instituting the inspection, the subject who moved for a motion is entitled to appeal to the General Inspector of Fiscal Inspection.

The information included in the declaration of income and property is transparent, but excludes information concerning the deponent's home address and property location.

The established Register of Benefits is prepared for senior officials of both central and local levels and their spouses. Persons mentioned must submit information on all benefits, defined as all positions and activities subject to remuneration (both in public administration and in private institutions); work carried out on their own account, sponsorship of public activities of the functionary, gifts and travel unrelated to the public function, all gifts exceeding in value 50 percent of the monthly minimum wage and all other benefits exceeding the same value. The register is transparent and is maintained by the State Election Commission.

The 1999 World Bank Report stated: "Nepotism, cronyism and the conflict of interest would be less pervasive if efficient mechanisms of control existed"²¹. Since the beginning of 2003, it seems that Polish anti-corruption laws are equipped with such mechanisms. Time will show.

4. Other Than Legal Instruments Preventing the Conflict of Interest

4.1 Human Resources Management Instruments

Human resources management in the sense of the selection process is still a weakly regulated area in Polish law. Contrary to the selection process in the corps of civil service in local government, there is no pre-work qualification procedure,

21 Corruption in Poland: Review of Priority Areas and Proposals for Action, the World Bank, 1999, www.worldbank.pl

such as required entry exams, and verification of merit knowledge, communication skills and knowledge of foreign languages.

Unfortunately the human resource system in regard to the local government employees, is not generally based on merit, the substantial abilities of the candidate or on the rules of the competition, but on family or friendship relations. This situation does not concern directors of schools (community), hospitals (districts), museums, theatres (regions) where the competitions are undertaken. It has to be stressed that in regard to the specific administrative units which provide services (schools, kindergartens, etc.) the competitions are announced due to the legal regulations, and are merit-based.

4.2 Codes Of Ethics

There is the growing role of extralegal regulations, internal regulations and procedures such as codes of conduct, codes of ethics and by-laws in Poland.

These extralegal regulations play a most important role in the prevention of conflict of interest situations. Local authorities that support their activities by other than legal instruments (e.g., codes of ethics) show their openness and transparency, and have the great contribution in the development of “clean” (free of unethical behavior) and clear (accessible, transparent) public administration.

However, regulations dealing with conflict of interest, roles and obligations and for developing a strong basis for an ethical decision-making process in Poland are more popular in professional associations (for example, medical, engineering, legal, business, etc.); they are almost unknown in local governments²².

Also, the anti-corruption policy measures that the European Commission has tended to recommend to candidate states has been generally oriented towards the adoption (apart from the control paradigm) of codes of ethics for public officials. But it appears to endorse a “top-down” approach to such codes, in which they are imposed from above²³. Likewise, the approach taken by candidate countries in adopting such codes does not take on some of the more important lessons learnt in Western countries that have adopted ethical codes such as the fact that effective codes are detailed, and need to be developed through a process of consultation with the officials to whom they apply.

22 There exist in Poland Codes of Ethics which concern civil service and members of parliament. In 2000, the Bialystok School of Public Administration was an initiator for the analysis of organizational, legal and procedural instruments supporting ethical management in the community for the city of Cracow and Bialystok, where in consequence the ethical codes were created. But the city of Cracow and Bialystok are rare examples.

23 see: Monitoring the EU Accession Process: Corruption and Anti-corruption Policy, OSI 2002, www.osi.hu

4.3 Education and Training

Any change in human attitudes must take time. Children and young people are more amenable to influence than adults whose views and habits are already ingrained. However positive, the good example of promoting anti-corruption activities is the Against Corruption Program's undertakings which are addressed to school pupils. But the project is not popular yet²⁴.

The project entitled "Introduction of an 'Anti-Corruption' Module to the School Curriculum" is being pursued in collaboration with the Civic Education Center in Warsaw. The Center has devised a "Civic Education at Self-Government School" program which is now incorporated into the curricula of secondary schools of various types. Under this program, scenarios were drawn up for six sessions for two types of schools. Young people attending these lessons learn what is entailed in the responsible governing of a country, why the life of a society ought to be governed by the principle of transparency, what rights extend to citizens (the right to information receives special emphasis here), what threats are brought about by corruption, and what each citizen can do to ensure that our country is governed in a better, more responsible way.

Private and public universities put a lot of effort in providing courses on anti-corruption strategies for students, to stimulate their interest in corruption-related issues (Bialystok School of Public Administration, Bialystok University – School of Law and others). It is worthwhile to stress that a strong NGO's sector, academic institutions, provide analysis, built up pressure for reforms and support progress towards a more efficient strategy to reduce the extent of the corruption in the country.

Social education must take place in the widest possible sense of the term. In addition to the executive and the legislature, an important part is to be played by civil society. The integrity, efficiency and transparency of all the organs of the state throughout their operations are the main guarantor against conflict of interest.

4.4 The Role of Media and Ngo's

The role of media and NGO's in promoting anti-corruption public activities is still growing in Poland. The strongest position in anti-corruption campaign has the Against Corruption Program of Polish Stefan Batory Foundation²⁵. The Program in cooperation with the Social Communication Foundation launched an educational campaign in the media in July 2000. The aim of the campaign was to raise awareness of society about the importance of the problem and the necessity

24 www.batory.org.pl

25 G. Kopinska, The role of non-governmental organizations in the process of corruption limitation; www.batory.org.pl

to stand up to corruption, as well as the need of individual persons to participate in combating it. The campaign consisted of many elements and the usage of diverse media: billboards, city-lights, radio and TV advertisements, postcards and press publications.

Approximately 30 newspapers undertook their own actions against corruption, publishing articles about corruption, and printing letters from readers. Suggestions made by readers were carefully followed and they were informed about the possibilities of participating in the Against Corruption Program. Twenty local radio stations organized their own anti-corruption blocks. The Program ordered the Social Communication Foundation and the multimedia house Group IIS to establish an Internet discussion list named Cafe KontraKorupcja. There, one can find interviews with presidential election candidates, while in the section entitled “Law Saloon” important legal acts on anti-corruptive activities in Poland were placed. The “Interactive Atrium” contains a discussion list, where those visiting the site can exchange their opinions about the published interviews and comment on the psychologist’s advice concerning the phenomenon of psycho-corruption.

The role of non-governmental organizations – the indispensable part of civil society that they are – lies in educating society about the detriments brought about by corruption, monitoring the activities of the administration at all levels, and in channeling social pressure to apply the principles of transparency in public life upon politicians.

Achieving a shift in societal attitudes poses a task which will require years, and it certainly shouldn’t be left up to non-governmental organizations alone. But in a situation where such a change cannot be brought about by public institutions such as the schools or public television and radio, the issue must also be addressed by privately-owned media and NGOs.

The Polish Batory Foundation is currently engaged in a nationwide civic campaign with the Polish branch of Transparency International, the Social Communication Foundation, and the Helsinki Foundation for Human Rights. To execute this campaign, they have assembled an Anti-Corruption Coalition of Non-Governmental Organizations. The goal of this undertaking lies in making citizens aware that their elected representatives should be honest people who do not make promises they don’t carry out, and that it is their legitimate right as citizens to monitor their actions.

Monitoring of the authorities combined with the publication of results, organization of educational campaigns, publication of opinion research results, hosting of conferences, encouraging the media to address corruption-related issues in a responsible way are all measures conducive to the exertion of social pressure on politicians.

IV. Summary

Democracy in Poland, still being in its formative stages, faces a number of threats. One of the more significant of these is the alienation of authority. The lack of effective mechanisms for societal control over those in power fostered a corruption of the system on the one hand and a growing feeling of helplessness among ever-greater circles of the citizenry on the other. This is a dangerous phenomenon in that it can lead either to thorough corruption of the system (there is a general, if tacit, acknowledgement that, in order to get anything accomplished, one must allow for a kickback, a cut of the contract value, etc.) or to entrenchment of the sentiment that the authorities are, by their very nature, evil and immoral and as such should be ignored in the unobtrusive pursuing one's own interests. (If such views permanently establish themselves, the next step may well comprise a longing for a strong-handed ruler promising moral renewal and punishment of the guilty).

Today, Polish society is dominated by the view that corruption is a malady to which all levels of power are susceptible, a diagnosis which finds corroboration in the annual research carried out by Transparency International, in reports of the World Bank and of Poland's Supreme Chamber of Control, and in the studies about the social perception of corruption carried out by Polish independent organizations.

It seems that the key problems which faced Polish local government authorities since the 1 January, 2003, – additional employment cases, disclosure of assets of local government public officials, nepotism and lack of the public control of the local government authorities' activities – will decrease. The considerations on newly adopted changes lead to questions concerning whether standards for reducing corruption should be entirely universal or whether under certain situations it is necessary or even productive to tolerate practices that would be found unacceptable or illegal in consolidated democracies. It seems that there are reasons for being cautious about the application of strict conflict of interest regulations forbidding the occupations of "incompatible" functions or restrictions on employment. Although it is clearly desirable that local officials are not motivated in their public capacities by their ancillary activities, the immediate introduction on incompatibility provisions may have counterproductive effects in a context where the corruption and the conflict of interest is poorly understood and where the pool of political and official talent is small. In the worst scenario, by encouraging talented officials to leave public service it might even reduce efficiency while doing little to limit the corruption. At a minimum it might be more constructive to develop understanding of the concept of conflict of interest through mechanisms based on codes of ethics and case-by-case disclosure requirements.

Still, Polish laws have some irregularities in public procurement and privatization, problems with cronyism, abilities of local government authorities' control powers (concerning location decisions, concessions and permits for conducting economic activity, land and real estate management). These are the key vulnerable areas where the corruption occurs.

As long as anti-corruption policy in Poland means dealing with results of corruption and not with the prerequisites (sources), we can state that preventing corruption is on the one hand a kind of fashion. On the other hand, preventing corruption is a necessity, as a *sine qua non* condition to the wide-meant development. Communist systems employed corruption as a means for consolidating power, built economic systems that relied on corruption for their very survival, and at least in the later stages of their history ended up as kleptocracies where high-level corruption and embezzlement were the norm. This has left behind a legacy of patterns of behavior that are not conducive to the establishment of well-functioning democracies or cultures that condemn corruption. Preventing corruption as a necessity is now needed even more in Poland and other CEE countries than in Western ones because of still-present Communist traditions of both high-level grand corruption and low-level petty corruption, or society's mistrust of the state and its powers.

Corruption is not the only and probably not the most important problem facing public administration in Poland, and this fact should be taken into account when designing reforms, as we can read in the OSI Report 2002. The best way of fighting corruption may often be not to fight against corruption but to pursue other primary policy objectives whose fulfillment reduces corruption as a side-effect²⁶.

²⁶ Monitoring the EU Accession Process: Corruption and Anti-corruption Policy, OSI 2002, p. 72, www.osi.hu

How to Fight Corruption with Particular Reference to the new EU Member Countries

Olga Vidláková

Introductory chapter

The aim of this paper is to give an explanation of what corruption in modern public administration is about and what the possibilities in Central and Eastern European Countries (CEEC) are, with special reference to those countries which became members of the European Union in May 2004.

The paper starts with the definitions of essential terms, such as corruption and anti-corruption mechanisms, ethics and other values traditionally connected with public administration from the point of view of their significance for the fight against corruption. Further, it explains the main loci of corruption in public service and sectors most vulnerable to corruption. It gives an account of the most relevant and effective tools in the fight against corruption in the CEEC, with special emphasis on the new EU member countries. It gives an analytical overview of the activities of the most eminent international and supranational organs in this field, such as the United Nations (UN), Organisation for Economic Cooperation and Development (OECD), European Union and Council of Europe, especially its GRECO program (Group of States against corruption) established in 1999 by 17 states and nowadays numbering 37 member states including all new EU member countries. This overview also includes the international non-governmental organisation Transparency International (TI) and its Corruption Perception Index.

The paper concludes with the analysis of the actual situation in the fight against corruption in the new EU member countries from the group of CEEC, based on the GRECO evaluations, with the accent on GRECO's recommendations of how to improve their fight against corruption.

Chapter 1: Definition of selected essential terminology

1.1 Corruption and anti-corruption mechanisms

Corruption as a social phenomenon has been in existence during throughout history – certainly since antiquity, as testified to by various codes, such as the code of Hamurabi or *leges ambitives* of ancient Rome. Therefore, it may seem strange that its accurate definition has not been devised until the present day. Corruption is often limited to bribery which is probably its most visible form when uncovered. However, corruption has far more forms and meanings some of which, due to their secret nature, may be far more dangerous than the offer or acceptance of bribes.

One of the major problems in producing a definition of corruption is that corruption is an undercover activity which generates secrecy and usually fear. Thus, even major exposures of corruption reveal only a part of what is to be learnt and part of what needs to be known. It is reliant upon secrecy, collusion and a degree of certainty that the behaviour will not be disclosed to the relevant authorities (Alatas 1980, p.32). Another difficulty is that “corruption alters its character in response to changing socioeconomic, cultural and political factors. As these factors affect corruption, so does corruption affect them. Corruption, therefore, brings with it certain dynamism, which allows it to perpetuate itself” (Hope, K.R., 1987, p.129).

For defining corruption in public administration the following nine characteristics according to Alatas (1980, p.11-14) seem satisfactory from the scientific standpoint. Corruption:

- 1) always involves more than one person;
- 2) on the whole involves secrecy;
- 3) involves an element of mutual obligation and mutual benefit;
- 4) involves people who want definite decisions and those who are able to influence these decisions;
- 5) usually presupposes deception of a public body.
- 6) Those involved in corruption normally camouflage their activities.
- 7) Any form of corruption is a betrayal of trust.
- 8) A corrupt act violates the norm of duty and responsibility.
- 9) Any form of corruption involves a contradictory dual function of those who are committing the act, i.e. of their public and private roles. (Alatas 1980, p. 11-14).

For practical use, it seems difficult to arrive at a common definition and as it says in the Introduction to the Explanatory report to the Criminal Law Convention on Corruption of the Council of Europe: “No definition of corruption will be equally accepted in every nation. Possible definitions have been discussed for a number of years in different fora but it has not been possible for

the international community to agree on a common definition”. Therefore, the Multidisciplinary Group on Corruption (GMC) when starting its work on the Convention used the following provisional definition: “Corruption is bribery and any other behaviour in relation to persons entrusted with responsibilities in the public and private sector, which violates their duties that follow from their status as a public official, private employee, independent agent or other relationship of that kind and is aimed at obtaining undue advantages of any kind for themselves or for others”. The advantage of this definition was that it had sufficiently wide scope which enabled a comprehensive approach to the fight against corruption as a threat to democratic values, the rule of law, human rights and social and economic progress.

For defeating corruption, anti-corruption mechanisms are used. Those mechanisms can be divided into two groups: legal and institutional. Legal anti-corruption provisions are comprised in both public and private law: they may be found most notably in material and procedural penal law, in the commercial code, labour code and in special civil servants laws, in police, administrative and financial law and in other special legal regulations, e.g., public procurement and conflicts of interest. Institutional anti-corruption mechanisms comprise different kinds of control of public administration (inner and outer), parliamentary and judicial control of public administration, and the institution of Ombudsman, transparency mechanisms, human resources management, procedures intended to prevent corruption, guidance and training for public officials and politicians and other measures intended to control, detect or deter corruption.

1.2 Ethics and other values of public policy

When defining the fundamental notions of corruption combating, attention must be afforded in particular to the definition of the notion of ethics in public service and other core traditional and new values of public policy. Administration forms in the second half of the 1990s and particularly its last two decades, aiming at the increase of productivity and efficiency of public administration and the whole public sector in its competition with the private sector, in particular under the influence of the New Public Management ideology, brought about the concern lest the accent on economy, effectiveness and efficiency should eradicate ethics and other values traditionally connected with administration. Some theoretical studies requested the solution of the fundamental problem – the definition of ethics and its delineation from other values. In my opinion, ethics certainly is a value, but the definition of its content, without any doubt, is narrower than the vast group of values included among the “traditional core values of government and public administration”. Ethics focuses primarily at delimiting right from wrong and good from evil.

In practical administration, there is a close link between ethics and other traditional core values, especially accountability; if the behaviour of a public official is not accountable it can hardly be considered ethical. And ethical behaviour is the most important tool in the fight against corruption. This requires, however, that the whole society within which and to which the public official serves should adopt the principles of ethical behaviour, as it is hardly possible to have ethical public administration in an unethical society. A well-functioning ethics infrastructure as the cornerstone for a comprehensive strategy (OECD 1996) supports a public sector environment which encourages high standards of behaviour which should be inspiring for the new EU member countries and the rest of accession countries.

Chapter 2: The main loci of corruption in governance and public administration

It follows from various recent surveys and published reports (by OECD, GRECO, TI) that sectors highly vulnerable to corruption in new EU member countries are judiciary, police, public administration as a whole and local government; the best overview can be found in "Monitoring the EU Accession Process: Corruption and Anti-corruption Policy" (EUMAP), published by Open Society Institute (OSI), Budapest, Hungary, 2002. Also, legislative (parliamentary) process may suffer from uncontrolled lobbying and become highly vulnerable to corruption of MPs. Successful lobbying by business interests that have contributed to political parties may have been a problem in Estonia and Lithuania and is regarded as one of the key problems of corruption in Latvia (OSI, 2002, p.66).

In connection with the solution of the reduction of main loci and activities of corruption or those vulnerable to corruption it is necessary to ask for the causes of their origin. At the Interregional Seminar on Corruption in Government organised by the UN Department of Technical Cooperation for Development and Centre for Social Development and Humanitarian Affairs in The Hague on 11-15 December 1989, one technical paper contained the answer in which three causes of corruption were stated.

The first and fundamental cause is political: "A tyranny, in a sense because it is itself corrupt, will always generate corruption, as corruption will be the only means the average individual has of overcoming the restrictions of the tyranny. Tolerance or even encouragement of corruption by the ruling elite will lend corruption a measure of validity which it does not deserve. As long as the political elite is not prepared to punish those who are corrupt within its own group, their corruption will spread".

The second cause is the economic situation: "Where there is great poverty and great disparity between the poor and the rich, and especially where the pub-

lic servant is generally lowly paid, there will a tendency for corruption to develop. If there is a scarcity of basic items and the government finds itself unable to regulate the supply, for whatever reason, there will be corruption”.

The third cause may rest in the administration per se: “The lack of a civil service work ethic, and above all the absence of any conception of public accountability and responsibility will all foster corruption”. (United Nations, 1999).

In most cases all these causes are combined. However, the relation of the political elite to corruption and generally its relation to public accountability and morals are considered the prime cause of corruption. Experience has confirmed that the more complex and bigger the public sector, the greater the tendency to the origin of loci and areas of corruption (Pomahač, R. – Vidláková, O., 2000, p. 150).

Chapter 3: Relevant and effective tools in the fight against corruption

The system of such tools should be trustworthy and create barriers against its abuse. Among the most important rules rank these:

- 1) Anti-corruption legislation and its enforcement: The existence of satisfactory and comprehensive legal instruments comprising regulations proscribing corruption and establishing sanctions is the primary prerequisite for effective and efficient exercise of anti-corruption policy, not only at the central but also at the local levels. The sole existence of legislation is, however, not sufficient; all legal regulations must be also well implemented and enforced. It is important for those new EU member countries in which a gap between the legislation on the one side and its implementation and enforcement on the other side – as the legacy of the Communist rule – still persists.
- 2) Institutional anti-corruption mechanisms: These include adequate and transparent administrative anti-corruption capacities in the existing administrative system, effective control of their operation, due activities of police and judicial organs in this field as well as good communication with citizens to simplify proceedings and to let all parties to be heard (A.Antoniou, 1999).
- 3) Statements of ethics and other core values in public service: The development of ethical rules and anti-corruption measures in post-Communist new EU member countries has been considered an important element in the organisation and development of their civil services and, e.g., the adoption of codes of ethics/of conduct in these countries has been positively assessed (Bossaert D., Demmke Ch.2003). Effective codes may be rather detailed and need to be developed through a process of consultation with the officials to whom they apply. The Model Code of the Council of Europe may serve as a good example. In practice, most new EU member countries manage the behaviour and

the ethics of public servants through a system based on law and other rules. This approach to ethics management is called compliance-based approach. On the other end of the scale is the integrity-based approach which is focused on building public integrity and based on direct incentives. Elements of such an approach can be found in the approach adopted by the Polish civil service which is based primarily on education and building civil service ethics. In terms of the evolution of an ethics regime, the question remains for all CEEC as to whether it is possible to go directly to an integrity-based system or whether a rules-based system is a necessary transitory phase.

- 4) Strong political commitment: The described tools of the fight against corruption must be applied in individual countries not only in accordance with the extent of corruption ascertained in the respective country, but also in accordance with its socioeconomic situation and moral standard of both public officials and the private business sector and the whole society. In public administration reform as well as the fight against corruption in new EU member countries, apart from individual specific anti-corruption tools, the existence of a clear-cut and permanent political commitment of the government and political leadership is important because without its support any anti-corruption mechanisms would lack the necessary impact and efficiency.

Chapter 4: Overview of activities of selected international and supranational organs and institutions in the fight against corruption

4.1 United Nations (UN)

The General Assembly adopted the Convention against corruption in October 2003 and 95 countries signed it on the 9th December 2003 in Merida, Mexico. As a result, 9 December will henceforth be International Anti-Corruption Day, marking the date of signature and, more importantly, providing a platform for raising awareness. The Convention is the first global instrument covering a comprehensive range of anti-corruption measures to be taken at the national level. It also aims at enhancing international cooperation in corruption prevention and enforcement.

4.2 Organisation for Economic Cooperation and Development (OECD)

OECD activities in combating corruption date from the middle of the 1990s. The first result of this activity was the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions which entered into force on 15 February 1999, and which has been ratified by most of the new EU member countries (although they all are not OECD member states). With the establishment of the PUMA Committee, the OECD activities in the field of public man-

agement (later on called governance) expanded with the concentration of interest on ethics and corruption in government and public administration. The main output of several surveys in that field is the book "Trust in Government – Ethics Measures in OECD Countries" (Paris 2000), among them three new EU member countries: Czech Republic, Hungary and Poland. In June 2003, the OECD Council adopted the Guidelines on Managing Conflict of Interest as a recommendation for governments of its member states, involving at that time also Slovakia. The guidelines recognise that conflict of interest situations on the part of public officials, if unresolved, can undermine legitimate decision-making, distort the rule of law, affect the allocation of public resources, encourage corruption and thereby damage public confidence in public administration.

4.3 European Union and Council of Europe

A part of *acquis communautaire* is the 1997 EU Convention on the Fight against Corruption involving officials of the European Communities or officials of the member states of the EU which defines both active and passive corruption in the widest possible terms, and both active and passive imposes on the member states the duty to ensure that their legislation covers all aspects of this definition. Another important document in this context is the European Code of Good Administrative Behaviour adopted by the European Parliament on 6 September 2001, which was drafted by the Office of the EU Ombudsman and should guide all institutions and bodies of the European Community, its administration and officials in their relations with the public.

In 1999, the Council of Europe adopted two important international agreements for the fight against corruption: The Criminal Law Convention on Corruption (European Treaty Series No.173) and The Civil Law Convention on Corruption (ETS No.174). Among other legal instruments relevant in this field should be noted Resolution (97) 24 on the Twenty Guiding Principles for the Fight against Corruption and Recommendation R (2000) 10 on Codes of Conduct for Public officials including a Model Code. In May 1999, GRECO was established by Resolution (99) 5 which was adopted by 17 states, among them five new EU member states: Cyprus, Estonia, Lithuania, Slovakia and Slovenia. So far, 37 countries are members of GRECO including all ten new EU member states. The aim of GRECO is to monitor, through a process of mutual evaluation and peer pressure the development of the fight against corruption in its member countries. For the evaluation procedures, ad hoc teams of experts are appointed, on the basis of the list of experts proposed by GRECO members, to evaluate each member state in each evaluation round. Evaluation teams (GET) are the cornerstone of the GRECO procedure within which they play an essential role.

4.4 Transparency International (TI)

founded in 1993 is the unique international NGO devoted solely to curbing corruption. It uses the Corruption Perception Index (CPI) which is a composite index derived from different surveys that garner the perception of business people, academia and risk analysts and professional public, thus providing a snapshot of the views of decision-makers who take key decisions on investment and trade. The CPI is based on perceptions, because it is difficult to base comparative statements on the levels of corruption in different countries on hard empirical data. On the 0-10 scale 0 means high corruption and 10 a country without corruption which, however, does not mean the real non-existence of corruption, it only means that its perception of corruption is 10.

Table 1
CPI scores of nine new EU member countries during 1998 – 2003

Country:	2003	2002	2001	2000	1999	1998
Cyprus	6,1	–	–	–	–	–
Czech Republic	3,9	3,7	3,9	4,3	4,6	4,8
Estonia	5,5	5,6	5,6	5,7	5,7	5,7
Hungary	4,8	4,9	5,3	5,2	5,2	5,0
Latvia	3,8	3,7	3,4	3,4	3,8	–
Lithuania	4,7	4,8	4,8	4,1	4,2	4,6
Poland	3,6	4,0	4,1	4,1	4,2	4,6
Slovakia	3,7	3,7	3,7	3,5	3,7	3,9
Slovenia	5,9	6,0	5,2	5,5	6,0	–

The scores show that the development in most countries is relatively stabilised – on an unfavourable level in most cases – with the exception of Estonia and Slovenia. The development in the Czech Republic and Poland is more or less negative. The development in Cyprus cannot be evaluated, as the first figures date from 2003.

Chapter 5: Final insight into the fight with corruption in new EU member countries (NEUMC)

All NEUMC are GRECO members. As the aim of GRECO is to improve its members' capacity to fight corruption, I am convinced that its evaluations form the best instrument for insight into the fight against corruption in those countries. For monitoring and evaluation, the GRECO evaluation teams (GET) use clearly stated criteria comprised especially in the Twenty Guiding Principles adopted by the Committee of Ministers of the Council of Europe in November 1997 and do not rely only on opinion polls based on the respondents' perception.

The first evaluation round ran from 2000 to the end of 2002 and concerned the following guiding principles: GP 3 (authorities in charge of preventing, investigating, prosecuting and adjudicating corruption offences: their legal status, powers, means for gathering evidence, independence and authority); GP 6 (immunities from investigation, prosecution or adjudication of corruption); and GP 7 (specialised persons or bodies dealing with corruption and means at their disposal).

On 1 January 2003, GRECO launched its second evaluation round which deals with:

- proceeds of corruption (GP 4: seizure and confiscation of proceeds of corruption, and GP 19: connections between corruption and money laundering/organised crime);
- public administration and corruption (GP 9: transparent public administration and its decision-making processes, and GP 10: rights and duties of public officials);
- legal persons and corruption (GP 5: liability of legal persons, and GP 8: fiscal legislation, incl. tax measures to curb corruption and accounting offences related to corruption).

The evaluation reports contain the descriptive and analytical parts and recommendations, which take into account the uniqueness of each evaluated country. The evaluated country then submits its situation report on the measures taken to follow the recommendations. In the compliance report adopted thereafter by the GRECO Plenary meeting, GRECO assesses how the recommendations have been implemented (there are three degrees: implemented satisfactorily; dealt with in a satisfactory manner; partly implemented).

As an illustration a brief description of the selected NEUMC evaluation results follows:

Latvia: GET suggested 15 recommendations: e.g., concerning codes of conduct for all officials and education and information for the society as a whole, implementation of the corruption programmes and improvement of the resourcing, establishing an anti-corruption operational working group, more effective use of the existing legislation in this field, effective monitoring of police actions, appropriate training for police officers, prosecutors and judges dealing with corruption and connected offences, and also use of the Witness Protection Programme.

Lithuania: It was stated that in a short period of time a normative framework and a multifaceted system of institutions for the fight against corruption had been developed, including the establishment of the Special Investigation Service. However, there was still room for improvement, in particular with regard the prevention of corruption and the overall coordination. To this aim, ten recommendations were included.

Estonia: GET suggested 12 recommendations. In its compliance report adopted in July 2003, GRECO observed that four recommendations were implemented satisfactorily, five were dealt with in a satisfactory manner and three were only partly implemented; the latter required legislative modifications concerning e.g., a new Civil Service Act, auditing legislation and the Public Procurement Act.

Poland: GET suggested 17 recommendations, e.g., the development of an efficient and clear government strategy for combating corruption; the establishment of a National Advisory Council for bringing together the higher public authorities in this field and steering their work; the implementation of a global training programme among public officials at all levels; the adoption of codes of conduct in different state administrations; the creation of a central intelligence database, specialised training programme for judges and prosecutors; the use of telephone tapping and undercover agents in relation to all serious cases of corruption and amending the relevant legislation; the reduction of immunities, et al.

Hungary: GET decided on 11 recommendations, e.g., ensuring continued political support of governmental strategy against corruption; eliminating the widespread practice of gratuities, awards and similar private remuneration paid to public employees in various public services; the duty of declarations of interests, incomes and assets for public officials; better communication with the public about measures against corruption, safeguarding the professional impartiality of prosecutors; regular training and awareness-raising programmes among the judiciary on the risks of corruption; and adopting guidelines on immunity.

Czech Republic: GET suggested nine recommendations. Among them: increasing public awareness of corruption threats; providing proper education on the use of operative means in detection and investigation of corruption for relevant authorities and ensuring due and effective use of these means; witness and victim protection in the cases of corruption detection; merging of the operation and investigative parts of the police; reconsidering the system of MPs immunity; strengthening the role of the ombudsman in the prevention and combat of corruption and increasing the awareness thereof among the general public.

Slovakia: GET suggested 19 recommendations, out of which 15 have been implemented satisfactorily and four partly. The partly implemented recommendations concerned the elimination of unnecessary licenses and determining criteria for necessary licenses, authorisations and state subsidies; the establishment of transparent and clear rules and efficient control mechanisms regarding privatisation; the adoption of the whole complex of different provisions concerning the police force; and extending the powers of the Supreme Audit Office.

Slovenia: They were the first GRECO member to be examined in the second evaluation round. It was stated that Slovenia has a modern, dense body of law,

making it possible to combat corruption in a comprehensive manner, guaranteeing provisional and final deprivation of property, allowing the exchange of judicial assistance and treating legal persons as possible principals in the perpetration of corruption offences. Also, the recent administrative reform laws are intended to strengthen the checks and balances of the various entities of public administration. However, the practical application of those legal provisions and new policies appears to pose considerable difficulties on which the ten recommendations of GET have been orientated.

Conclusion

Recommendations of evaluation reports are of significant importance for individual countries, and I believe that the implementation of those recommendations will bring a success in combating corruption in all GRECO member countries, including the new EU member countries. Although corruption will hardly ever get entirely under control, it may be fought by a combination of ethical rules, energetic criminal law measures applied to its perpetrators, organisational changes and institutional reforms by political management which takes the issue of public and private morals seriously, and undoubtedly also by the participation of civil society which is the key element of any successful anti-corruption strategy. Therefore, it is necessary to take care of the moral integrity of the whole society by all means including education which, naturally, is a long-term task.

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Transparency and Integrity of Public Administration (The Phenomenon of Corruption and its Perception) Romanian Case Study

*Jr. Lecturer Mihaela Cărăușan**

Abstract

Almost ten years ago, studies and concerns on corruption were a small field of research in Romania. Currently, however, a large number of editorials, surveys and reports are published every week and month. This development partly reflects an increased public concern for this issue.

This study tries to identify the causes of a less efficient administration, an administration which is in crisis. The study used data gathered from the national and international organisations which develop researches in this field: Romanian Academic Society, Transparency International, World Bank and other interested stakeholders.

Identifying the solutions and policy that should be applied to increase the integrity and transparency of public administration was not the purpose of this research, although a few steps were emphasized in order to strengthen the administrative capacity to govern in a European context.

Introduction

The transparency and integrity of public administration is a major condition in Romania's passage from a totalitarian regime to democracy and prosperity, and for its integration in the economic, political and security systems of the Euro-Atlantic community. There is a general consensus on this requirement for Romanian society.

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Despite all this, lack of transparency and corruption in public administration structures have constantly hindered Romania's economic, social and political trends, and its relations with European and Atlantic institutions, as well as its integration efforts in these structures. The last years have been characterized by a worsening of her position, and the latest internal evaluations as well as those made by international institutions strengthen this conclusion.

In terms of international efforts, Romania has been very active. It signed in and in some cases already ratified a series of treaties on the fight against corruption and organized crime, and has played an active role in implementing several evaluation programmes. In the country, these efforts have resulted in the introduction of a relatively extensive and comprehensive legislative framework, providing the authorities responsible for preventing and fighting corruption with a number of effective tools to conduct their tasks.

Nonetheless, despite the clear willingness of the Romanian authorities to suppress corruption, the phenomenon of corruption in Romanian daily life is undeniable. Corruption increases the poverty and the weaknesses of the State. The phenomenon of corruption is an intrinsic one, connected to the moral climate of the society, and we must admit that societies in transition (such as Romania) are more vulnerable than others to such evils.

When we analyse corruption in underdeveloped countries, we must take into account the formal and informal institutions. For example, a law against corruption will make little sense in a legal culture in which no law is enforced and nobody collaborates with the police, as in case of Romania.

The undeniable reality of corruption offences in Romania is all the more worrying, since the institutions most involved in fighting corruption, namely the police and the justice system, are also tainted by the phenomenon. This distrust of citizens certainly represents an obstacle to the success of the measures taken in order to prevent and fight against corruption.

The study tries to answer the questions rooted in everybody's mind when we pronounce the "c-word". In this respect, the balance of the study consists of four parts. The first part presents an informative overview on the real state of facts and at the same time, provide the answer (from the people's point of view) to the question "What is corruption?" Next, the main forms of active corruption are identified and the main stakeholders outlined. The third part of the paper reviews public perception indicators and offers a short presentation of the measures taken by the state institutions, especially those of the National Prosecutor Office Against Corruption. The last section of the paper suggests some conclusions, and addresses the possibility of using the WB "multi-pronged" strategy against corruption.

What is corruption?

In Romania, people answer such a question in different ways because they see the phenomenon as:

- An abnormal activity that is carried on by different persons having a top-level position at the time when the corrupter wants to obtain an economical, administrative or juridical advantage in exchange for money or other gifts;
- The use of one's own job or public position to elude or avoid accomplishing standards or legal provisions, with the goal being to obtain material advantages or a better job.

Corruption is perceived as a real enemy of democracy, legality and social and judicial equity. It destroys the principle of an efficient administration, wearing down the free market concept and puts the stability of the State institutions in danger.

Corruption is wide and all-pervasive, though many allegations are nothing but political intrigue. In countries such as Romania, it is confined to its rapacious elites: politicians, managers, medical doctors, judges, journalists and top-level bureaucrats. The police and customs officials are hopelessly compromised.

However, behind the screens, corruption has always been there, referred to as the "c-word", the word that makes problems for the government.

Even before 1989, we cannot say that this scourge didn't exist. It is true that it was as well-known, but the penal law¹, (in articles 254-258) punished the pay-off (giving and receiving), the power excess and the receiving of undue presents or other advantages/benefits. The media didn't pay much attention to such offences as corruption. Anyhow, we cannot talk about the freedom of the press since every medium during that time was controlled. People didn't have to know that the civil servants were corrupt, because most of them were Communist party members. In this situation, the party's leaders could not let it be known that a member of the party had been corrupted.

Corruption, as we already know, is a complex and many-sided phenomenon with multiple causes and effects; it takes various forms and functions in different contexts. The phenomenon of corruption ranges from the single act of a payment forbidden by law to an endemic malfunction of political and economic systems. The problem of corruption is seen either as a structural problem of political factors or economic organizations, or as a cultural and individual moral problem. The definition of corruption consequently ranges from the broad terms of 'misuse of public power' and 'moral decay' to strict legal definitions of corruption as an act of bribery involving a civil servant and a transfer of tangible resources.

1 George Antoniu, Marin Popa, Stefan Danes, *The Penal Law of the Socialist Republic of Romania (passed in 1968)*, Publisher Politică, Bucharest 1970, pp. 400.

Figure 1

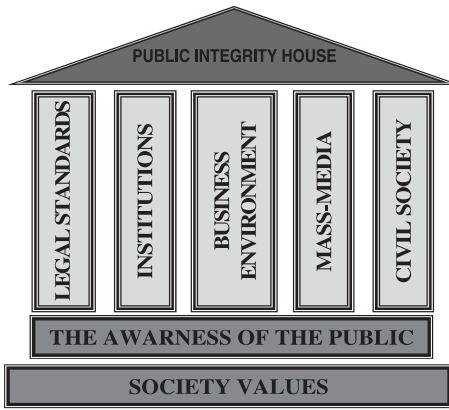
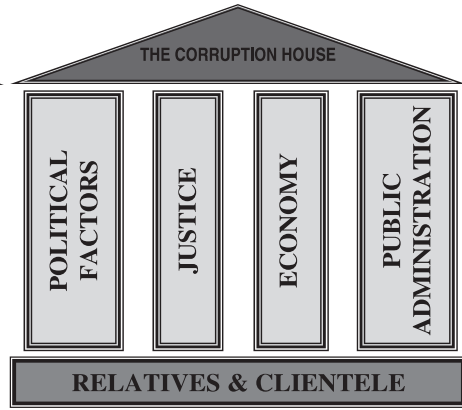


Figure 2



Romanian social values suffered many changes after the transfer of power in 1989, and public awareness in the first decade following was very low. The culture was different. But we are now in a situation to observe and learn from other cultures, and for the first time we can discover the facts about political and administrative cultures.

The Romanians' concerns were to see what might happen beyond their own interests if a false moral conduct later on caused a ruin in the public integrity house (see Figure 1²). From these ruins, the society was able to build another level, another house that while easy to build was not as easy to be demolished – the corruption house (see Figure 2). The moral conduct of the society takes us under the sign of corruption.

Corruption understood in this broader term has been called social exchange or social corruption. Social corruption is conventionally understood as an intrinsic element of clientelism³. Clientelism often implies an exchange of material benefits or favours, but it also has wider cultural and social consequences. The movement was not direct. We started with what seems to be contagious – the use of family relationships which takes us to clientelism and so on to other forms of corruption. Clientelism, nepotism, ethnic and other favouritism are all alternatives of corruption in social terms.

More often than not, we heard that the Romanian mentality has its fault in this negative movement. Romanians are used to paying their civil services twice even if not at the same value (flowers, cigarettes, etc.). All this would not be possi-

2 Adapted after Jeremy Pope, National Integrity Systems, The Transparency International source book, Bucharest, 2002, pp. 118.

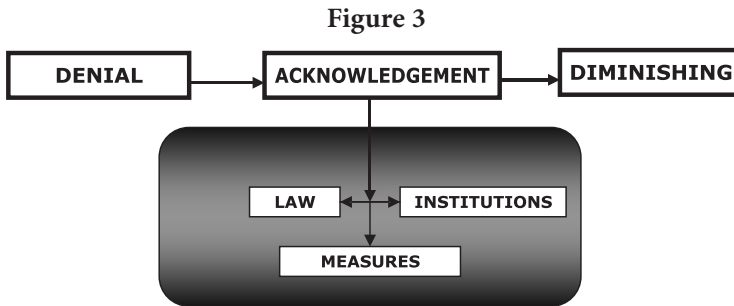
3 Médard, Jean-François (1998): 'Postface' in *Le Clientélisme Politique dans les Sociétés Contemporaines*. Briquet and Sawicki, Editions Paris: Presses Universitaires de France, Chapter 11, pp. 308.

ble if legal standards, institutions, the business environment, the media and most importantly, civil society did not indulge in this state of facts.

The four pillars on which the house of corruption is built were the result of the diminished importance of public integrity, and, more importantly, of public trust in the state and its institutions. Consequently, politicians, the justice system, public administration and the economy suffered the influence of the phenomenon and, even worse, they created various forms of it.

Starting in 2000, Romania passed from the denial of the phenomenon to its acceptance – the period in which we are now. However, we are looking to the future and to the moment when we can minimize this scourge.

At the time being, we cannot talk about suppressing corruption; we can just hope that its reduction will be possible in the future. And in the speeches of political leaders, it is always mentioned that ‘they make efforts to diminish corruption.’



After 2000, the political level promoted various legal provisions: 24 Acts⁴, out of which the most important is the National Package of Laws Against Corruption, 2003. At present, we can say that we have the law, and even better, we have created the institutions that fight corruption – the National Authority for Control, the National Prosecutor Office Against Corruption, the National Committee for Preventing Criminality and the National Office for Witnesses Protection). As for the efficiency of these institutions, we shall explore that in the last chapter of this paper.

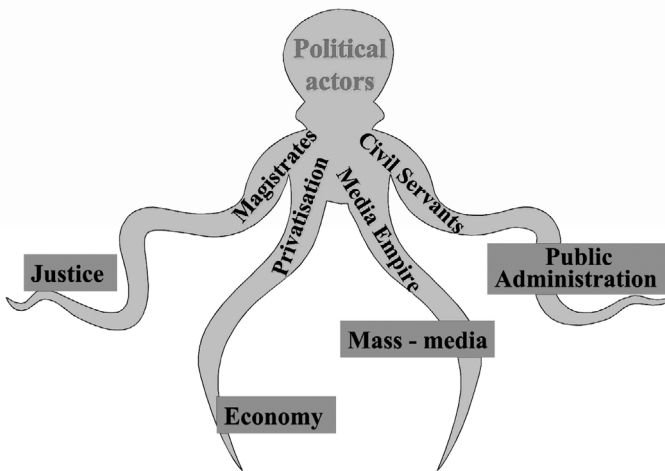
Romanian forms of corruption

At the level of home institutions (i.e., within the various institutions and agencies of the state), corruption holds its place in the different structures such as the

4 To see in this respect the Transparency International Romania, National Report on Corruption – Romania 2004, Bucharest, pp.4-8.

executive, legislative and judicial, and between the political and administrative institutions (the civil service, local authorities and other authorities). These relationships can be corrupted because of overlapping and conflicting authority, political power struggles (see Figure 4) over access to scarce resources, manipulated flows of information, and personal relationships of dependence and loyalty. In particular, a weak separation between the civil service and the policy promoted by the leading party, poor professionalism of bureaucrats, a lack of administrative accountability and transparency, and poor political control and auditing mechanisms increase corruption at these levels.

Figure 4



At the national level, corruption occurs at the meeting point between state institutions and various stakeholders. On the one side, there is the corrupted state official; on the other side, there is the supplier of bribes, i.e., the one who corrupts. The officials may be anyone from the top political leadership (political corruption) down through the hierarchy (bureaucratic corruption) to the most remote local authority and civil servant. The many possible non-state counterparts include society as a whole, any non-governmental and non-public persons, corporations or organisations. Here, corruption is one of the means by which authoritarian power-holders are gathering fortunes. Graft and rent-seeking are not diseases that responsible politicians are eager to avoid, but a deliberately applied practice.

Many theories and research studies on corruption point to the “corrupters”, those who offer the bribes in the first place, and the advantages/favours they gain. Other theories emphasise the corrupted persons and their advantages. We cannot

study, from the Romanian point of view, only one of them because both theories are important for us.

We cannot blame only the corrupter or the corrupted persons, as long as corruption is supposed to happen between these two; in essence, a tacit agreement. In this situation, we cannot blame only the civil servants because they take; we should also blame society, as the one that gives (money, presents, gifts, bribery).

As it concerns the initiator of the corruption act, it can be different, as we will show in Figure 5. Sometimes there are civil servants, other times politicians, but in most cases there are citizens as such.

Corruption also exists within and between private businesses and within non-governmental organisations, without any state agency or state official being involved. There is corruption in terms of bribing, swindling and mafia-type methods in businesses, and there are disloyal employees in private firms, non-governmental organisations and associations.

But it is also a widely accepted fact that corrupted host-countries are particularly attractive for certain businesses located abroad. International actors (in business, politics and cooperation for development), can at the same time be possible corrupters and reform supporters. (We can see the privatisation of many Romanian national companies such as ROMTELECOM and SIDEX in this way.)

Accepted and expected practices of gift-giving, tipping and patronage exist in most societies, even when such practices are forbidden by law. These practices impose hidden costs on public services and lead to a confusion between public and private. They also foster psychological corruption.

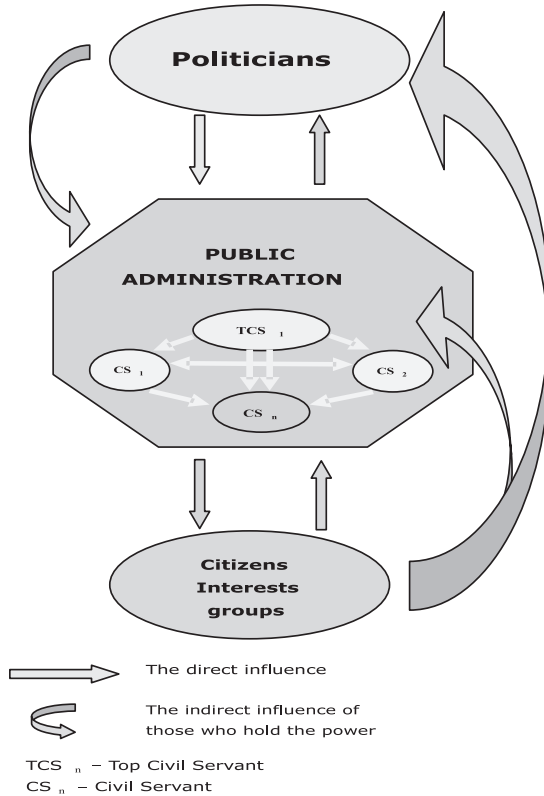
All forms of 'private' corruption can be destructive to public morale, and undermine the general trust and confidence in rules and regulations. However, most cases of corruption emphasise corruption as a state-society relationship because public sector corruption is believed to be a more essential problem than private sector corruption, and because controlling public sector corruption is a prerequisite for controlling private sector corruption. We can go on saying that controlling petty corruption is a prerequisite for controlling grand corruption.

Grand corruption occurs at the highest level of political authority. Perhaps this is why it is also called political corruption. Those who are called to plan strategies against corruption, the policy-makers, are in fact those who in many cases are themselves corrupted.

Public administration and its civil servants as policy implementers must implement the legal standards, but they can also be influenced by the phenomenon either directly, from the different stakeholders or indirectly, through politicians. Likewise, bureaucratic corruption may occur at the end of implementation of

public administration measures without necessarily being a part of the political system or having political consequences. Taking this into consideration, we see why political corruption is different from bureaucratic corruption; the latter is petty, and occurs at the end of the policy-making process. (Figure 5)

Figure 5



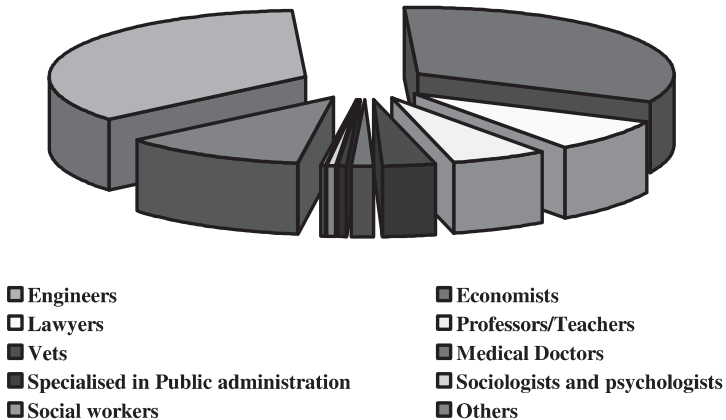
The activity carried out by civil servants requires a balance between different specialisations. But in Romania, it is well known that if one is an engineer, one can find a job in public administration and if one is specialised in public administration, the private sector awaits him. This discrepancy was created and, as we can see in Table 1 and Figure 6⁵, civil servants with specialisations in public administration are a tiny percent: 0.76. We wonder if the bureaucratic corruption is not a negative result of this table. If it is, then why blame civil society and not the authorities? We can affirm that the knowledge one obtains as an engineer is better used in public administration than the knowledge acquired in administrative science.

5 National Agency of Civil Servants, 2003 Report, Table 1-10, Bucharest 2004, pp. 12.

Table 1

<i>Profession</i>		<i>No. of civil servants</i>
1.	Engineers	18816
2.	Economists	17537
3.	Lawyers	4268
4.	Professors	3279
5.	Vets	1849
6.	Medical Doctors	626
7.	Specialised in Public administration	407
8.	Sociologists and psychologists	223
9.	Social workers	94
10.	Others	6304

Figure 6



In Romania, as one high official termed it, we have so-called positive corruption, which represents the act of bribery occurring in special circumstances (the corrupter offers a bribe and the corrupted does or does not do the thing for which he was paid). The other side is seen negative corruption; that is, when the corrupted was paid but didn't do the thing he promised he would do, but still keeps the bribe.

Legally⁶ recognised forms of corruption include bribery, embezzlement, fraud, extortion, favouritism, power excess, and so on.

The interests of those who are corrupted, as we see it, are different. Everyone is trying to obtain as much as they can from the position they hold. This is why

6 The Romanian Penal Law (passed in 1968 and modified in 1973, 1996 and 2000) punishes all these offences of corruption, Publisher Rosseti, Bucharest 2001, pp.115-118.

we must make clear the difference between ‘street’ corruption and the political one. The so-called street corruption occurs at the lower civil servants level and has as outcomes the income increase and the altering of information. Political corruption is present in the case of top officials and political levels and has as outcomes the acceleration and the change of a decision; specifically, the reallocation of resources.

Public perception

As we noted, public perception is important because it shows that public confidence exists more in some institutions and less in others. In the last few years in Romania, public perception about the judicial and public administration systems is low (according to WB, TI and other institutions). Romanian judges and civil servants admitted that there is an authority problem faced by the judiciary and public administration. Perhaps what is even more important is that the public lacks knowledge and information about the status and duties of judges and civil servants. Civil society activism is crucial; NGOs and others with significant democratic actions should be more involved.

Transparency is the main weapon against corruption; an appropriate expression is ‘Sunshine is the best decontaminator’. Critical to transparency is public procurement on the web, at town hall meetings, open discussion of the city’s budget, large procurement projects and the rules of the game for such procurements. In this context, the Internet as the main tool of information can play an extremely important role. Without transparency accountability, and certainly without the freedom of the press, corruption can not be suppressed.

High-trust societies are often associated with lower levels of corruption. This holds true only for universal trust; i.e., trust in anonymous persons and institutions. The opposite is true for specific trust; that which is given to a person or a situation. We will study in this paper only the first form of confidence because the second is much wider, and because the first produces the negative effect over the perception rate used at the national and international level.

Using the TI scores, we can see that as far as Romania is concerned, corruption is worse and spread more widely at the state structures level. As Romanians like to compare themselves in everything they do with Bulgaria⁷ and Hungary, we made the same association study over the TI – CPI Score⁸, from 1997 to 2003 (Table 2, Figure 7). What is shown in the study worries us. If Bulgaria starts with a perception ratio lower (more corrupted) than Romania, we can see that Roma-

7 For Bulgaria the TI-CPI Score is not available for the year 1997.

8 Transparency International – Corruption Perception Index, from 1997 to 2003, <http://www.transparency.org/surveys/index.html>.

nia has become more corrupted and experienced no change in this respect. It is true that Romania started the real fight against corruption in 2003 and thus the performances can only be seen in 2004. But the CPI shows us that even if the institutions take measures in this direction, society as a whole perceives corruption as operating at a high level. Besides the TI ratios, a Romanian survey⁹ (Figure 8) shows us that even after 2003, people perceived corruption as very high – involving two thirds of the population.

Table 2

Year	Place	CPI Score	Surveys Used	Deviation
1997	37	3.44	4	0.07
1998	61	3.0	3	1.5
1999	63	3.3	6	1.0
2000	68	2.9	4	1.0
2001	69	2.8	5	0.5
2002	77	2.6	7	0.8
2003	83	2.8	12	1.0

Figure 7

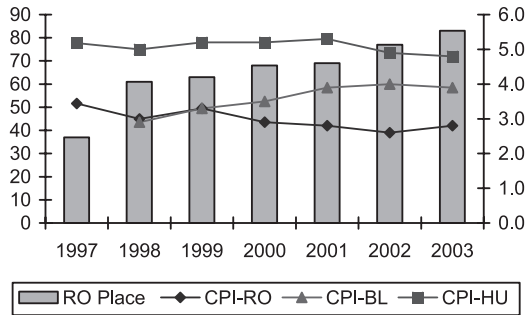
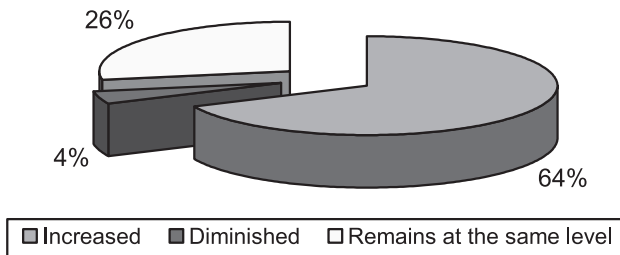


Figure 8



9 Carried out by the Romanian Academic Society (SAR) in the study 'In research for a new alternative', Bucharest, March 2004, pp. 2.

Measures taken

In order to suppress corruption, we must deal with both giver and taker.

The strongest remedy against corruption is sunshine – free, accessible and available information disseminated and proven by an active opposition, an uncompromised press and assertive civic organizations and NGOs. In the absence of these, the fight against official avarice and criminality is doomed to failure.

It is widely recognized that corruption can never be entirely suppressed, but it can be confined and its effects minimized. The cooperation between correct people and trustworthy institutions is indispensable. Corruption can be defeated only from the inside with plenty of outside help. It is a process of self-transformation. It is the real transition.

Yet, corruption is not a monolith practice. Nor are its outcomes universally deplorable or damaging. Moral relativism has taught us that ‘right’ and ‘wrong’ are flexible, context-dependent and culture-sensitive yardsticks.

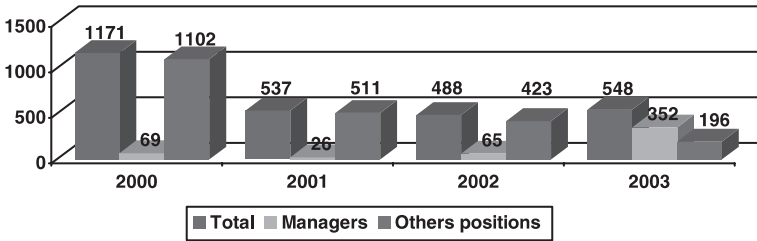
Romanians have now the possibility of diminishing the system crisis and going further. They should not go back by throwing the responsibilities on the previous government’s shoulders – something that is happening every time there is a change in the political mandate.

The most current measures taken against corruption are the ones undertaken by the National Prosecutor Office Against Corruption (PNA in Romanian). The PNA started its activity in September 2002. This institution is perceived as the major fighter against corruption. But it is also true that its major concern was to fight petty corruption, even if the public desire is to see the solution of a few cases that are part of the grand corruption.

As compared with the activity that was carried out until its creation by the Ministry of Justice, the National Prosecutor Office and other institutions, its measures are 13 times more effective, with respect to corruption at the managerial level; that is, medium-level corruption¹⁰.

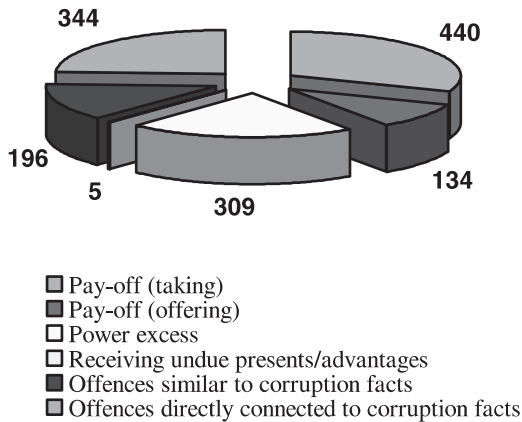
10 National Prosecutor Office Against Corruption, 2003 Report, Bucharest 2004, <http://www.pna.ro/rum/frames.html>.

Figure 9
Persons who are on trial



These 548 persons in current trials are the authors of almost 1428 corrupt offences, as they are presented in the Figure 10¹¹.

Figure 10



Conclusion

Why now, is corruption more important in Romania?

It is a question rooted in everybody's mind. It may be because Romania is still not ready for the EU accession, or because the citizens and the international institutions pay more attention to this issue or because 2004 is an electoral year. All these are assumptions, and we cannot state with certainty the real reason. What we can say is that the situation is neither better or worse, only that the attention paid to it is increasing.

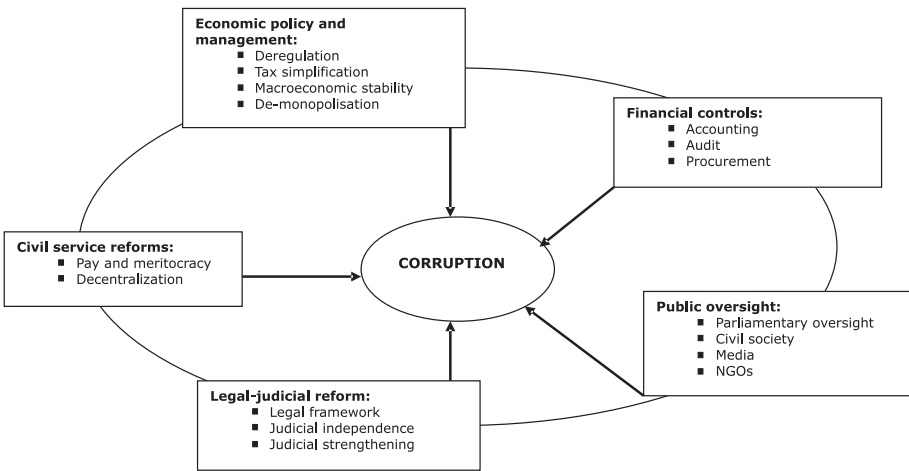
Corruption is the agent that often undermines the importance of formal institutions in strengthening democracy and good governance. There are strong argu-

11 Idem.

ments and evidence which emphasize that legal, administrative and institutional institutions that work properly are necessary requirements for development. However, research studies on corruption look beyond the formal structures of the central state to the informal networks of patronage and social domination that often bring about a wild behaviour of political factors at local community or county level. The material links between state institutions and society ought to be proven, and they need to explore the multiple ways in which they influence and model each other.

As far as Romania is concerned, the strategy against corruption has to accomplish the tasks presented by the WB in the ‘multi-pronged’ plan. For the time being, the implementation of strategies need to focus on state institutions because the people are more receptive to such actions. This will help Romania to increase the transparency and integrity of the state and particularly of the public administration.

Figure 11
The World Bank’s ‘multi-pronged’ strategy against corruption ¹²



Not only do the state institutions have to develop a strategy against corruption, but civil society must express concern as well. Even if Romania is not active in proposing strategies, it must be active in criticising them. This is best demonstrated by Professor Ioan Alexandru’s answer to the question, “What is meant, in Romania, by the civil society?”, which is found in the following lines.

12 World Bank (2000): “Helping countries combat corruption. Progress at the World Bank since 1997”, Operational Core Services & Poverty Reduction and Economic Management Network, Washington DC.: World Bank quoted by Jens Chr. Andvig and Odd-Helge Fjeldstad, Inge Amundsen, Tone Sissener, Tina Sørdeide in Research on corruption a policy oriented survey, NORAD, 2000, pp. 137.

“As a number of people do not form together a community (with rules, traditions, means of protection and mutual aids), a number of NGOs, all the time asking for something, doesn’t mean there is a civil society. In the meaning given to it, civil society implies participation so, responsibilities taken, and not only claims and protests. In Romania, what we call the civil society, is practically, the NGOs, who, in their turn, are only substitutes for the political parties ‘clubs of frustrated people’, searching for a slice of the power of the state, who could help them to have a say in the ruling activity, but who are not ready to accept the risk of elections, nor to takeover responsibilities of administration”.¹³

Corruption can never be entirely suppressed, but it can be controlled and its effects can be diminished. The cooperation of people with public authorities and trustworthy institutions is indispensable. Corruption can be defeated only from inside (of public administration) with plenty of outside help (from the society). Romanians have to understand that foreign support is not always better than local. It is a process of self-redemption and self-transformation. This is the real transition.

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¹³ Ioan Alexandru, *Politics, Public Administration, Justice*, Publisher All Beck, Bucharest 2004, p. 175.

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Section IV

Governance and Policy
Implementation in the
Context of the European
Union: The Management
of EU Structural Funds



Problems facing the New Member States: the capacities of regional public administration to participate in EU programs and the risks of mismanagement of EU funds.

Frans Grobbe and Frits van den Berg

For this conference theme, five papers have been selected which give more insight in relevant aspects of the introduction of the Structural Funds in the New Member States¹ of the European Union. Much attention is paid by the authors to the “readiness” and the capacity of regional public administrations (the regional level) to actively participate in:

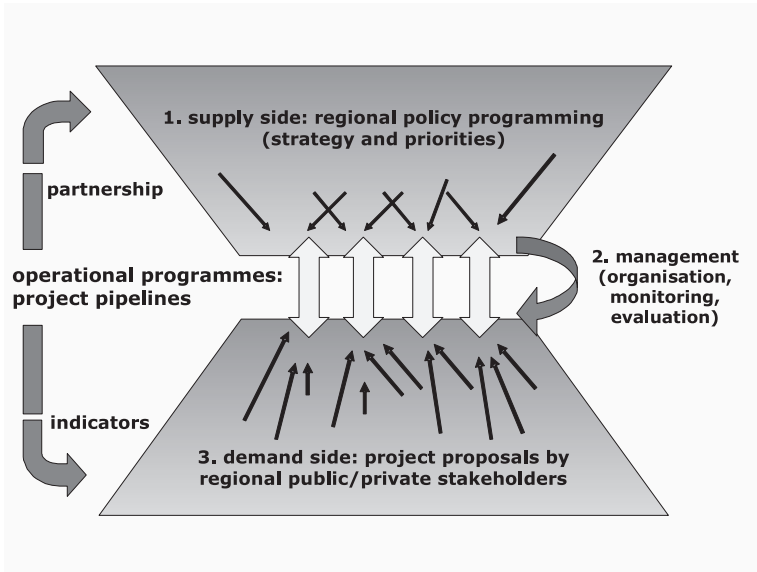
1. *Regional policy-making (programming)*: The capacity to present a quantified description and analysis of the current situation with regard to (regional) disparities in terms of income and employment, infrastructure gaps, etc., the and potential for socioeconomic development (EU objective 1) or economic conversion (EU objective 2). Programmes submitted must also be consistent with the country’s human resources strategy (EU objective 3).
2. *Management and implementation of the Structural Funds*: The ability and skills of national, regional and local authorities to define programming priorities, to decide on the eligibility of project proposals and to monitor and manage the implementation of the programmes (compliance with the EU legislative framework 1260/99 and 438/2001).
3. *Absorption of the Funds*: The absorption capacity (on the demand side) as the extent to which a state is able to spend effectively and efficiently the allocated financial resources from the EU funds (now approximately one-third of the community’s budget) by means of project proposals. On the supply side, this refers to the macroeconomic absorption capacity (percent of GDP) and the capacity to publicly co-finance the projects of the (regional) public and private stakeholders.

1 In this introduction we refer to the lead authors of the papers with the following abbreviations: Anna Daszuta (AD), Andrei Lobatch (AL), Erik Moora (EM), Vitalis Nakrosis (VN) and Marketa Sumpikova (MS).

The interrelation of these three elements can be presented as:

Fig. 1

Operational Programmes (OP's) as project pipelines between the supply and demand side of Structural Funds.



The Structural Funds, with its associated programming and management systems, have been part of European regional policy since 1958. New member states are, apart from the pre-accession funds, recently confronted with these approaches and methods. The authors of the papers give a good overview of the questions related to the implementation.

1. Regional policy-making (programming)

The programming procedure and the necessary programming documents are set out by the general EU framework for the Structural Funds. On top of this, several authors (AD, EM) introduce the three objectives of the EU regional policy and the associated financial instruments. They also give an overview of the principles governing the Structural Funds (concentration, partnership, programming, etc.). All authors stipulate that the regional policy in NMS is formulated mainly by national institutions. Originally it was envisaged that (for instance, Polish) regions should be independent in the development of their Regional Operational Programmes (AD) and in their (direct) negotiations with the commission on funding.

Reasons for the centralistic approach to programming found in all NMS are that regional policy-making is not mature enough (AL), that there is limited administrative capacity at the regional level (NV) or even the absence of regional administrative levels (Estonia). So regional strategy-making and programming have (so far?) been largely concentrated at central level where regional operational programmes are formulated. Also, the short duration of the programming period (2004–2006) influenced this centralistic approach (NV). Consequently, the actual regional strategies combine national sectoral policies in a regional context (MS). The EU funds in a way already produced “policy value added” by demanding integrated and multi-annual programming and combining sectoral and thematic needs into one framework (NV).

Different strategy options for the absorption of EU funds (aimed at the so-called statistical NUTS 2 regional level) are discussed in the absence of a universal formula to best foster cohesion among the regions. AL points to the fact that, paradoxically, EU accession is likely to widen regional disparities within the countries. The policy approach to the “efficiency-equity dilemma” influences the extent to which this is considered problematic. Are rational economic considerations dominant (invest in winning/leading regions) or the redistributive mechanisms influenced by the policy of social solidarity (invest in losing/lagging regions at the expense of slower national growth)? AL argues that widening regional disparities is an unavoidable consequence of economic transformation and growth, resulting in convergence in GDP among the member states and divergence in GDP per capita among the regions of the EU (and intra-state disparities).

Conclusion: Regional public administration in the NMS has not played an active role in SF programming for the 2004–2006 period. Due to limited experience in regional policy programming, an absence of a regional administrative system (in, for instance, Estonia), and the political “bargaining” nature of the process, the existing (national) mechanisms and structures in the different NMS have been dominant. Regardless of the so-called EU partnership principle, which promotes involvement of socioeconomic partners at the regional level, there has been a limited contribution of (regional) stakeholders to the programming and policy-making process. NMS have been experimenting with the balance between economic and political considerations of regional policy, trade-offs, limits and even contradictions between financial absorption and value added (NV).

2. Management and implementation of the Structural Funds (organisation, monitoring and evaluation)

Authors indicate that there is no standard model for organising SF-management, and the NMS are warned to be careful about copying models from abroad as circumstances are considerably different in countries of the EU. Also, the variety

in the number of Operational Programmes and the balance between Sectoral and Regional OPs is wide across the (new) member states, thus reflecting the programming partners' ideas, political pressures and wishes (MS). Also, developing reliable socioeconomic indicators for programming which are usable, measurable and meaningful is still hard work within all member states (MS).

A pre-condition of a successful program is the wide support and feeling of ownership of involved parties. This is the partnership principle often formalised in a Monitoring Committee of (regional) socioeconomic stakeholders with a formal and political nature (MS). Managing and Financial authorities (MA/FA) of the Operational Programmes are generally (still?) located in line with the position in the national hierarchy and the existing (central) administrative structures. Various programming and implementation tasks (such as evaluation, monitoring, information, publicity) are performed by so-called intermediate bodies or implementing agencies, often part of regional governments. In this multi-tier implementation system, tasks are delegated to the regional or local level. They play an important role, especially on the project level (demand) side. Regional and local institutions that are already experienced from the pre-accession period (PHARE, SAPARD, ISPA, etc) seem to have an advantage over others.

Conclusion: By functioning as so-called intermediate bodies or implementing agencies the regional and local level institutions now learn to play a more active role in the management of the SF and gain experience on the approach and methods of Structural Funds programming and management. Still, many regional and local self-governing bodies consider themselves not very well prepared to actively participate in Structural Funds management.

3. Absorption capacity of the Funds

AD defines readiness as the capacity for efficient absorption of Structural Funds at the regional level. She argues that the local self-governing bodies are not very well prepared to take advantage of SF budgets. Research in the Czech Republic showed that the ability to submit projects – evaluated by respondents at the regional level themselves – is insufficient (MS). Inventarisation of project proposals indicated that the majority are submitted by municipalities. Overall, preparedness of projects is unbalanced (mostly infrastructure) and rather low, and the expectations of applicants about the rate of co-financing and eligible activities are excessive (MS). There is a lack of experience in the field of developing projects and applying for EU Funds (AD). So far, experience (on pre-accession funds) shows that most of the regional funds are allocated among the municipalities who are already relatively successful and well off (EM). In Estonia for instance, a big problem of local governments is their administrative capacity to compose eligible projects (writing quality of applications, project management skills, etc.).

EM argues that the objectives of EU policy have been unattained due to factors that characterise local government as well as the operating principles of the instruments. In Estonia, he analysed that EU (pre-accession) funds have been distributed mainly to towns and larger local governments that already have higher socioeconomic potential and belong to the more developed part of the country. The focus is mainly on the writing quality of the applications while decision-makers lack the administrative capacity to evaluate the real need for assistance. According to MS, the absorption capacity is not only influenced by the ability to prepare acceptable projects but also by the whole system of implementation.

Conclusion: The authors pay attention to the risk of absence on the regional level of a sound “project-pipeline” consisting of high-quality project proposals eligible for funding (NV). The capacity of regional and local implementation structures (in the Czech Republic) are still insufficient (MS). Recommendation is that emphasis should be placed on the development of appropriate monitoring systems capable of measuring both the physical and the financial progress of the structural fund programmes (NV).

4. Effectiveness of regional policy and the future of Cohesion policy (the 2007 watershed²)

The authors indicate that there is little “evidence” on the effectiveness of regional financial instruments, the nature of regional inequality and the mechanisms that create regional disparities. The European Commission defined several key factors of a region’s success such as economic structure, skills of the work force, and innovative and institutional capacity. However regional policy does not seem to bring any radical changes in the pattern of regional economic growth (AL). On top of this, in the pre-accession period NMS were preoccupied with the absorption of EU assistance in a sound financial way without fraud or corruption (NV). Due to the absence of information on effectiveness, regional policy in many cases still consists of a shopping list of eligible activities rather than coherent and consistent strategies (NV). Priorities in the Operational Programmes are defined as “chewing-gum categories” that can easily adopt various project proposals of a different nature.

Future of Cohesion policy

On 14 July 2004, the European Commission adopted its legislative proposals on cohesion policy reform. With a total allocation of EUR 336.1 billion (one-third of the community budget), this reform aims to make structural actions more:

- targeted in the EU’s strategic priorities (Lisbon and Gothenburg agendas for a sustainable and competitive “knowledge economy”, European Employment strategy),

² European commission Directorate-General for Regional Policy. Fact sheet 2004.

- concentrated on the least-favoured regions while anticipating change in the rest of the Union,
- decentralised with a simpler, more transparent and more efficient implementation.

Table 1

Objectives and instruments proposed by the Commission for the 2007–2013 period.

2000-2006		2007-2013	
Objectives	Financial instruments	Objectives	Financial instruments
<i>Cohesion Fund</i>	Cohesion Fund	<i>1. Convergence</i>	ERDF
<i>Objective 1</i>	ERDF ESF EAGGF- Guarantee and Guidance		ESF
			Cohesion Fund
<i>Objective 2</i>	ERDF ESF	<i>2. Regional competitiveness and employment</i>	ERDF ESF
<i>Objective 3</i>	ESF		
<i>Interreg</i>	ERDF	<ul style="list-style-type: none"> • <i>Regional level</i> • <i>National level: European employment strategy</i> 	ERDF ESF
<i>Urban</i>	ERDF		
<i>Equal</i>	ESF		
<i>Leader +</i>	EAGGF- Guidance		
<i>Rural development and restructuring of the fisheries sector outside objective 1 regions</i>	EAGGF-Guarantee FIFG		
9 objectives	6 instruments	3 objectives	3 instruments

This proposal of the European Commission may indicate strengthening the position of the regional level in the whole system of programming and implementation. The decentralisation proposal as well as the new “European territorial cooperation objective” stress regional administrative capacity. Organisation of these programmes in the (new) member states will nevertheless to a large extent reflect the respective countries own agendas for (transformation/decentralisation) public administration and the outcome of the “efficiency-equity dilemma” of regional policy. The programming for EU assistance in the 2004–2006 period was carried out under a tight time schedule. A longer period of programming allows more thorough assessments of policy alternatives (VN) as well as necessary capacity – and institution – building at the regional level.

The Capacities of New Member States to Manage EU Funds: From Absorption to Value Added

*Dr. Vitalis Nakrosis**

The 12th NISPACEE Annual Conference
“Central and Eastern European Countries Inside and Outside the
European Union: Avoiding a New Divide”, Conference Paper
Vilnius, Lithuania, 13-15 May 2004

1. Introduction

Value added of EU funds became an important subject of both academic and political discussions. This paper discusses the capacities of the new member states of the EU to obtain value added structural funds in the programming period of 2004–2006. Most findings of this paper are taken from the experience of Lithuania, but they also apply to other new member states.

Value added is defined as “something which has been enabled or which could not have been done in the absence of EU assistance”, capturing both quantitative and qualitative issues of the structural funds programmes (Batcher and Taylor 2003). This definition of value added is similar to the concept of additionality. Therefore, a further operationalisation of this concept is needed. Although value added can be subdivided into many different categories, this paper focuses on policy value added (or value added of the cohesion policy defined in terms of achieving its aims and objectives) and operational value added (or value added of the policy process defined in terms of institutional arrangements and management practices).

Value added of EU funds is contrasted with the concept of financial absorption of EU funds. Financial absorption is perceived as the process of tapping resources earmarked in the EU budget in the pursuit of maximum utilisation rather than certain development aims and objectives. Unlike other papers, this

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paper assesses the political context of the structural funds programmes that puts certain limits on value added.

In its second part, the paper examines the main factors affecting values added of EU assistance. The third part of the paper summarises value added effects of managing EU funds in Lithuania in the pre-accession period. In the fourth part of the paper, value added of EU funds is compared with financial absorption on the basis of several principles. The fifth part of the paper discusses the effectiveness of the main instruments aimed at promoting value added of EU assistance, while the sixth part is the main risks of value added in the current programming period. And in its final parts, the paper gives a number of recommendations to programme managers of new member states as to how value added of EU funds can be improved in the current programming period of 2004–2006 (part No. 7) and discusses prospects of value added in the programming period of 2007–2013 (part No. 8).

2. Main factors affecting value added of EU assistance

It was argued that the main three factors influence value added of EU funds (Batcher and Taylor 2003).

Financial scope of programmes

Value added differs by the financial volume of a programme. The capacity of smaller programmes to produce value added of quantitative nature is limited. For instance, macroeconomic impacts of the PHARE grant schemes in former candidate countries will not be significant due to the limited scale of interventions (e.g. about EUR 2 mln. for one grant scheme in Lithuania).

However, the size of financial assistance to new member states in the period of 2004–2006 will be significantly higher compared to national spending. For instance, the total assistance from the structural funds to Lithuania (about EUR 0,5 billion per year) is double the size of its annual State Investment Programme. The ex-ante evaluation of the 2004–2006 Lithuanian Single Programming Document showed that this Objective 1 programme might be expected to create between 27,000–31,000 permanent, full-time new jobs (Centre for Strategy and Evaluation Services 2003).

Administrative system

Value added of EU assistance is more visible under “differentiated” rather than “subsumed” administrative systems. In the period of 2004–2006, Lithuania will operate a mixed system for the management of structural funds, but it will clearly have a few “differentiated” characteristics. For instance, both EU and national expenditure will be managed through a number of budgetary programmes designed

specifically for the purpose of financial management. However, the argument that “differentiated” systems better suit value added of EU funds is questionable.

Maturity of (programming and) implementation experience

The new member states have no experience in implementing programmes funded from the structural funds, while their experience of managing the EU pre-accession assistance is not fully relevant. In this context, it is likely that in the period of 2004–2006 priority will be accorded to establishing and making operational basic management systems and spending the money. This situation was evident in Austria, Sweden and Finland after their accession to the EU in 1995.

3. Value added of EU funds in Lithuania¹

One can identify a number of areas where EU funds have already produced policy or operational value added in Lithuania. The management of EU pre-accession funds and the preparation for the structural funds has promoted a strategic approach in the public sector. The strategic approach of EU funds, which is characterised by integrated planning and multi-annual programming, has integrated sectoral and thematic (e.g., equal opportunities, sustainable development, etc.) needs into one framework, produced a number of multi-annual programming documents for the EU pre-accession and structural funds, and increased the certainty of public investment. However, EU cohesion policy was not a single factor behind the development of the strategic approach. For instance, the strategic planning of current budgetary expenditure was introduced with the support of U.S. and Canadian consultants.

Also, a number of new policy objectives and instruments have been introduced and even implemented with the assistance of EU funds in Lithuania. New rural development measures were downloaded from the SAPARD regulation, while human resource and business development instruments were emulated from the experience of existing EU member states. The availability of EU funding has also promoted the development of a project-based management culture in both the public and private sectors. The “project cycle” of a few hundred projects was already developed to absorb the EU pre-accession assistance; it is estimated that another 1,000 projects will be needed to absorb the structural funds in the programming period of 2004–2006.

The availability of the Phare Economic and Social Cohesion assistance to the Lithuanian target regions has contributed to the development of a national regional development policy. However, after the introduction of a centralised

1 This section is based on my previous paper “The influence of the EU and domestic change: Lithuania’s adaptation to the EU cohesion policy” presented during the ECPR’s research session in October, 2003. See Nakrosis 2003b.

approach for the management of structural funds, the national regional development policy was re-orientated towards the reduction of internal regional development disparities. Nevertheless, a new concept paper which was recently accepted by the government of Lithuania envisages the “re-launch” of this policy in the future.

Finally, the partnership principle of the EU structural funds has allowed involving socioeconomic partners in the process of preparation for structural funds since the beginning of 2002. However, their involvement is suffering from the problems of “demand” (weak NGO sector) and “supply” (insufficient consultation capacity in the public sector). Also, the integrated nature of programming and implementation has contributed to more extensive consultation among different institutions and even different levels of government through new coordination bodies (commissions, working groups, etc.) or instruments (meetings, internet, guidelines, etc.).

4. Financial absorption and value added in the management of EU assistance

There are a number of trade-offs, balances, limits and even contradictions between financial absorption and value added in the management of EU assistance. They can be explained by the importance of the political context in which the structural funds’ programmes are designed and implemented. The following sections of this paper examine main factors constraining value added and facilitating financial absorption of EU assistance in new member states.

The analysis is based on general assumptions behind two policy-making models: namely, a rational decision-making model and a polity model (Stone 1997). It must be noted that the rational model constitutes an ideal type, unlikely to be found in practice. It is applied in this paper to emphasise a sharper contrast between an ideal situation and the polity model that often exists in practice. The table below presents the main differences between these models on the basis of several principles defined by the author of this paper.

Table 1
Main differences between the rational and polity models

Principles	Rational model	Polity model
1. Rationale of interventions	Market failure	Priority to direct interventions in the form of subsidies
2. Process of programming	Considering all alternatives and evaluating their costs	Meeting multiple and contradictory priorities of the EU
3. Distribution of resources	Efficiency, growth poles	Equity, mixed
4. Content of programmes	Coherent and consistent strategies	Shopping lists of eligible activities
5. Main incentive of programme managers	Effectiveness and efficiency of assistance	Compliance with relevant EU and national rules and timely disbursement of EU assistance
6. Institutional frameworks of delivery	Simple frameworks proportional to the policy needs	Determined by the EU regulations and proposed by the EU institutions

4.1 Rationale of public interventions

In the rational system the main rationale behind a public intervention in the market economy is a market failure. Therefore, public interventions are designed to create positive externalities or public goods, whose benefits are widely distributed (e.g., public infrastructure), or reduce entry barriers or asymmetries of information addressing common rather than individual needs. Also, the most appropriate instruments are chosen to solve existing problems.

In the polity model, such analysis is superficial or even missing. Emphasis is put on ensuring the eligibility of public interventions under the structural funds. Also, there is a bias towards direct interventions in the economy in the form of subsidies. Although instruments of financial engineering (loan funds, venture capital, etc.) are eligible under the structural funds and can reduce the likelihood of market distortions, they are underdeveloped in the new member states of the EU. Also, public services and infrastructure, whose provision or construction is co-financed from the structural funds, is mostly procured in a traditional way, although the application of various forms of PPP (public and private partnership) can produce higher value for money on the long term.

4.2 Process of programming

In the rational decision model, actors consider all possible alternatives and evaluate their costs in order to achieve the objectives. In the polity model, priority is accorded to meeting multiple and often conflicting priorities of the EU. The programming for the period of 2004–2006 was based on broad and specific priorities outlined in the European Commission's guidelines (Commission of

the European Communities, 1999). A new strategic framework for the period of 2007–2013 is likely to be adopted by the European Council on the basis of the Lisbon (and Gothenburg) strategy containing a mix of economic growth and competitiveness on the one hand, and social cohesion and sustainable development on the other.

Some common policies and funds of the EU favour particular specific sectors of the economy (the Common Agricultural Policy and the EAGGF favouring farmers and processing plants) or territorial areas (the Common Fisheries Policy and the FIFG favouring zones of fisheries) or specific target groups (the European Employment Strategy and the ESF favouring the unemployed and other social groups).

Also, there are informal pre-set allocations for each structural fund that are backed up by relevant Directorates Generals of the European Commission (in particular the DG Employment responsible for the European Social Fund). For instance, the allocation of about 18.6 percent for the ESF, which was initially proposed by the Lithuanian side in its draft Single Programming Document for the period of 2004–2006, was considered insufficient and somewhat increased in the final document.

The involvement of various socioeconomic partners as well as local and regional authorities in all stages of the policy process should contribute to the quality of a programme and its delivery. However, this principle also brings various development needs of different sectors (infrastructure, human resources and productive sector), central, regional and local authorities as well as socioeconomic partners to the policy process. Also, new partnership arrangements provide strong interest groups with better access to the decision-making process and the possibility of exerting much stronger influence in the pursuit of selfish interests. As a result of these factors, such national strategic priorities can be watered down to achieve consensus among all interests (e.g., the status of knowledge economy in the Lithuanian Single Programming Document).

4.3 Distribution of resources

In the rational model public resources are distributed on the basis of efficiency, while in the polity model, it is on the basis of equity.

During the programming process, the candidate countries faced a choice of efficiency and equity in the distribution of resources. On the one hand, it was possible for the candidate countries to concentrate support of the structural funds in “motor” regions and expanding sectors of the economy (e.g., the IT sector of the Lithuanian economy concentrated in the capital region). On the other hand, it was possible to concentrate support of the structural funds in regions lagging behind and contracting sectors of the economy (e.g., Lithuanian rural areas whose economic structure is dominated by declining agricultural activities).

Table 2
Territorial and sectoral concentration of the structural funds:
distribution of resources

	Expanding sectors of the economy	Contracting sectors of the economy
"Motor" regions	Growth poles	Mixed
Regions lagging behind	Mixed	Disadvantaged areas

Although the former strategy would have been more effective in reducing the development gap vis-à-vis the EU average, most former candidate countries produced mixed development strategies. In some countries these strategies are biased towards equity – redistributing the structural funds widely to various territorial entities, sectors of the economy or socioeconomic groups.

Moreover, during the EU negotiations process most candidate countries made a decision in favour of equity by re-allocating a considerable volume of resources (about Eur 100 million in Lithuania) from the Guidance section of the EAGGF (funding investments into rural development) to its Guarantee section (direct support and other measures). The need to increase the percentage of direct payments to farmers in new member states, which was fuelled by the pressure for agricultural interest groups, reduced the volume of investments in the agricultural sector. Despite this re-allocation, there are serious doubts about the capacity of Lithuanian farmers to absorb direct payments because of very slow declaration of crops and applying for direct payments.²

4.4 Content of programmes funded from the EU structural funds

The outcome of rational decision-making is coherent and consistent policies. In the polity model, actors choose a set of activities that can be funded by various donors and favours various stakeholders of the policy process.

The short programming period (2004–2006) and limited experience of the candidate countries in managing the EU funds constrain their capacity to implement wide and ambitious strategies. Therefore, the European Commission suggested to the candidate countries that they design a clear set of priorities and measures for the period of 2004–2006.

However, most candidate countries produced shopping lists of activities eligible under the structural funds rather than coherent and consistent strategies. There is a risk that insufficient attention to efficiency in the distribution of resources can produce the phenomenon of “chasing the money” and reduce value added of EU assistance.

2 This problem was partially solved by delaying the application deadline for direct payments from the EU and Lithuanian budgets.

In order to simplify the management of EU funds in the next programming period of 2007–2013, the European Commission proposed to abolish detailed eligibility rules at the EU level (with the exception of a limited number of rules such as value added tax). However, it is also possible that the new member states of the EU will replace them with even more rigid national eligibility rules.

4.5 Main incentives of programme managers

In the rational model, the main incentive of programme managers is the effectiveness and efficiency of public programmes. In the polity model, the main incentive is compliance with relevant EU and national rules as well as the timely disbursement of EU assistance. The de-commitment rule, under which unspent appropriations are de-committed after two years, forces programme managers to focus their attention on financial absorption in view of the timely absorption of earmarked allocations.

In the pre-accession period, the administrations of the new member states accorded priority to the development of adequate financial control and audit systems for the management of EU assistance. However, the prominence given to financial control often produces user-unfriendly management frameworks that discourage potential applicants from applying and grant recipients from concentrating their efforts on the effectiveness and efficiency of their performance. For instance, in Lithuania information requested on the application forms is often not essential and each applicant should submit a number of various certificates with its application form, although this information can be obtained from existing databases of various authorities.

4.6 Institutional frameworks of delivery

In the rational model, simple institutional frameworks are established proportional to policy needs. In the polity model, complex institutional frameworks are determined by EU regulations and proposed by EU institutions.

Since there is no uniform approach to the management of EU funds among the EU member states, the EU candidate countries could develop their own systems. Alternative systems for the management of EU support can be formulated on the basis of two main principles: integrated/unintegrated and centralised/decentralised management of the structural funds (Nakrosis 2003a).

The first principle – integrated-unintegrated management – can be defined according three main criteria:

- Low or high administrative integration, i.e., the structural funds are managed by existing national administrative systems or by administrative systems set up specifically for the structural funds, e.g., project selection is carried out by

competent national institutions/committees or by institutions/committees set up specifically for the structural funds;

- Low or high economic integration, whether existing national development programmes and projects are co-financed by the structural funds or new programmes and projects are developed in order to absorb the structural funds. In addition, whether development programmes and projects co-financed from the structural funds are coordinated with existing national strategic documents;
- Low and high financial integration, i.e., the extent to which the structural funds are integrated into the national financial system (budget, treasury, financial control, etc).

The second principle – centralised/decentralised management – can also be defined according to three main criteria:

- (De) centralisation of programmes, i.e. programmes (and projects) co-financed from the structural funds can be centralised (e.g., sectoral operational programmes under the Community Support Framework or the Single Programming Document for the whole country with centralised priorities and measures) or decentralised (regional operational programmes under the Community Support Framework, Single Programming Documents for different territorial-administrative units or one Single Programming Document with decentralised priorities and measures);
- (De) centralisation of decision-making, e.g., centralised or decentralised project selection by central level or regional/local level institutions/committees;
- Use of central or regional/local institutions for the implementation of the structural funds.

Despite certain autonomy available to candidate countries in selecting their own institutional systems, the European Commission heavily promoted a centralised model across-the-board to all former candidate countries, regardless of their territorial-administrative and other characteristics. Two main factors affected the choice of a centralised model by the European Commission: limited administrative capacities of the candidate countries on regional and local levels as well as the short duration of programming period (2004–2006).

Lithuania designed a fairly centralised, but less integrated system for the management of the structural funds for the period of 2004–2006. Although the structural funds were integrated in the state budget, this was achieved through the establishment of many new budgetary programmes. This system is likely to be relatively absorptive in the period of 2004–2006, but less suited for local or regional development needs (development needs of disadvantaged regions will be addressed through project selection criteria).

5. Instruments aimed at promoting value added of EU assistance

EU structural funds have already contributed to policy value added through the principle of an integrated and multi-annual programming, the principle of partnership and other principles.

Monitoring, evaluation and the performance reserve are the main instruments employed by the European Commission and national administrations to ensure value added of EU-funded interventions during the current programming period. However, their application in the period of 2004–2006 is unlikely to be effective because of these factors:

- **Monitoring:** It is unlikely that new monitoring systems will function in an adequate way, at least in the first few years of EU membership. In the absence of sufficient and reliable data it would be difficult to make sound conclusions for improving the performance of the structural funds programmes;
- **Evaluation:** The mid-term evaluation of the structural fund assistance, which should contribute to the effectiveness of the structural fund assistance, is not required in the period of 2004–2006. Also, the ex-post evaluation of the structural fund programmes will not start until 2009;
- **Performance reserve:** Finally, in the period of 2004–2006 new members of the EU will not be entitled to receive a performance bonus from the reserve (four percent of the budget) distributed to the best-performing programmes.

6. Main risks to value added in the programming period of 2004–2006

One can determine a number of risks to value added in the period of 2004–2006, based on the management of the EU pre-accession assistance in the former candidate countries and the management of the structural funds in old member states.

First, there is a risk of delayed tendering of contracts co-financed by the EU. This is a recurring problem in the management of EU pre-accession assistance in former candidate countries. This problem often reduces the duration of implementation and, consequently, the quality of project results. Delayed submission of Cohesion Fund projects to the European Commission for approval shows that this risk has already occurred during the implementation of EU-funded programmes and projects.

Second, there is a risk of incompatible EU and national frameworks for the implementation of the structural funds. This problem was particularly acute in the financial management of Phare-funded grant schemes in several candidate countries (in particular with regard to the eligibility of value added tax). As was

argued above, the absence of a clear and user-friendly implementation framework reduces the capacity of project managers to focus their attention on performance issues during the project implementation.

Third, there is a risk that the administrations of new member states will accept projects of limited quality and allocate EU and national co-funding for their implementation. A number of factors can produce pressure for programme managers to approve such projects, ranging from the rule of automatic de-commitment to the absence of a sufficient “project pipeline” (especially for human resource and business development projects) or even possible fraud and corruption in the public sector.

Finally, there is a risk of market distortions and emerging dependency on EU assistance in both the private and public sector. This risk partially stems from a frequent failure to justify the logic of public interventions during the programming stage. Also, high intensity of EU assistance over a relatively short period of time can produce various forms of distortions in the market (ranging from unfair competition based on lower prices to outright bankruptcies). Moreover, the certainty of EU assistance over a long period of time can alter an incentive structure in the private sector, thus producing a culture of dependency on EU funding or a phenomenon of “shopping the structural funds” by moving from one region to another.

7. Recommendations for the programming period of 2004–2006

In light of various limits to value added in the period of 2004–2006, a number of recommendations can be given to programme managers in new member states. The most obvious recommendation is to eliminate the mentioned risks or reduce their negative effect to value added.

However, a number of other recommendations can be made. First, although the mid-term evaluation of the 2004–2006 programmes is not required, interim and/or thematic evaluations of the structural fund assistance can be launched by the administrations of new member states during the implementation of the structural fund programmes. The new member states can follow the evaluation approach in Ireland, where the interim evaluation of internal nature is carried out during the period of 2000–2006.

Second, strong emphasis should be placed on the development of appropriate monitoring systems capable of measuring both the physical and financial progress of the structural fund programmes. The European Commission stressed the importance of this system in its 2003 Comprehensive Monitoring Report on Lithuania’s preparations for membership and recommended closely monitoring its development (The European Commission, 2003). It must be noted that it is not enough to collect sufficient and reliable monitoring information – it should be

applied during the implementation process in order to improve the performance of EU assistance.

Third, an exchange of “good practice” experience and cooperation can be facilitated during the implementation of the structural funds. Cooperation between old and new member states of the EU was supported in the pre-accession period under the twinning projects funded from the Phare programme. However, cooperation among various domestic partners, which is often neglected in new member states, would also be useful and maybe even more relevant to the process of learning.

8. Prospects of value added in the programming period of 2007–2013

Value added of EU assistance in the period of 2007–2013 will depend on the reform of EU cohesion policy. In the third cohesion report, the European Commission proposed to concentrate EUR 336.1 billion on three main priorities: “convergence”, “competitiveness” and “cooperation” (The European Commission, 2004). Although the outcome of the reform was still unclear at the time of writing this paper, the European Commission’s proposals to simplify the management of EU funds (e.g., the abolishment of Community Support Frameworks, programme complements, support to large companies and detailed eligibility requirements, the reduction in the number of the structural funds, the introduction of on-going evaluations and annual reports to the Council, the differentiation of financial control requirements according to the size and level of national co-financing, radical reform of the Cohesion Fund), if adopted and implemented, can positively affect value added of EU funds.

In new member states, the programming of EU assistance for the period of 2004–2006 was carried out under tight time schedule. A longer period of programming EU assistance according to simplified procedures should favour value added of EU assistance by allowing thorough assessments of policy alternatives. However, the delayed adoption of new structural funds regulations and strategic guidelines at the EU level can reduce the period of time available for programming. Also, the Commission’s proposal to design operational programmes on the basis of a few key themes (innovation and the knowledge economy, environment and risk prevention, accessibility and services of general economic interest) can reduce the capacity of member states to programme EU assistance on the basis of their own development needs.

Management experience accumulated by new member states in the period of 2004–2006 can be utilised during the programming and implementation of EU assistance for the period of 2007–2013. However, a few caveats should be mentioned in relation to this factor. First, final results of the 2004–2006 programmes will not be available during the programming of next-generation programmes. Second, substantial changes brought to the existing system can reduce

the relevance of management experience gained during the period of 2004–2006 and extend the period of learning a new system.

A higher volume of financial assistance is likely to be available to new members of the EU under the new multi-annual financial perspective. This can improve prospects for value added of quantitative nature – the higher volume of EU assistance, the greater scope of public interventions. However, new member states should not expect a very large financial gain from EU cohesion policy. The capacity of new member states (especially such smaller states as the Baltic states or Slovenia) to financially absorb higher volumes of EU assistance will be limited by the “capping” of four percent³ and co-financing constraints, in particular during the period of 2007–2008 when new member states will need to simultaneously co-finance the implementation of both 2004–2006 and 2007–2013 programmes.

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3 Under present rules total annual receipts in any member states from the structural funds and the Cohesion Fund should not exceed four percent of national GDP. The European Commission proposed to keep this maximum ceiling in the period of 2006–2013 (including financial amounts under the rural development and fishery instruments that will be linked to the Common Agricultural Policy).

EU Membership and Growing Regional Disparities: Poland's Strategy Options to Optimise Structural Transfers from the Union

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Abstract

The objective of the paper is to investigate the regional disparities in Poland and potential impact of the EU regional policy. The study outlines the possible strategy options regarding the allocations of EU transfers and assesses positive, neutral and negative scenarios for every option. This study came as a result of analysis of empirical data from Poland and the EU as well as the findings of other researchers.

Introduction

Poland is the biggest candidate country in terms of population and territory. The Accession Treaty qualified all 16 regions of the country as Objective 1 status, making them eligible for large transfers of EU Structural Funds. Steady economic growth in 1990s proved that the transformation process in the country has been successful. But the regional dimension of this growth has not been even as some regions benefited from the liberalisation and the market economy, while others were not capable of adjusting to the new circumstances very well.

Participation in the EU regional policy will give Poland an opportunity to assist the lagging regions with the Union's resources and expertise. Still, the management of the funds would be primarily a responsibility of the Polish government, making it necessary to outline a strategy for this. This task is not easy because the Union does not have any universal formula for the best way to foster cohesion among regions. Moreover, the evidence from the EU gives a contro-

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versial picture, which may imply that the EU regional policy does not help the lagging regions at all.

In elaboration of the strategy, Poland has to learn from the experience of EU member states, in particular the Cohesion countries, which have been the recipients of the Structural Funds for more than 15 years. Apart from the economic rationale of the policy, which after 26 years of existence is still being questioned, Poland has to be aware of the political component of it, the latter, which according to EU experience, can cause inadequacies during the implementation phase of the Structural Funds allocations.

Therefore, the Polish option for a strategy to optimise the Structural Funds allocations would be influenced by the following circumstances: the regional disparities are unavoidable and increased factor mobility within the single market may widen them further; the regional policy of the EU is not a sufficient tool to combat regional inequality; Polish regional policy that exists nowadays is probably not mature enough to be able to easily avoid traps and inadequacies that occurred in other countries.

Each strategy option that Poland might choose would oscillate amongst the three extremes: equal distribution of money, priority to poor regions, and priority to rich regions. The most difficult decision in this respect would be the balance between the equity and efficiency principles of the Structural Funds allocations. Political and social considerations, as well as the current practice of the EU would be in favour of equity – allocation of funds in the backward regions as a policy of social solidarity. On the other hand, economic rationale, which is backed by theories and EU evidence, would be in favour of efficiency – allocation of the funds in the advanced, most productive regions. While academics would probably promote the efficiency approach, the Polish government would try to find a balance between the two options and the final strategy would not be clear-cut.

1. Regional development in Poland

Poland has 16 regions that correspond to the EU NUTS II level. In terms of territory, the largest are Mazowieckie, Wielkopolskie and Zachodniopomorskie. Champions in terms of population are Mazowieckie (the capital region with 5.1 million inhabitants) and Slaskie (the largest concentration of old industries with 4.9 million inhabitants). The smallest in terms of population is the western region, Lubuskie, with one million inhabitants. Decentralisation reform in 1999 gave regional self-governments full responsibility for economic development of the regions.

Figure 1
Administrative Map of Poland



Along with economic transformation and growth during the 1990s, regional and social disparities in Poland became increasingly evident (table 1).

Table 1
GDP per capita by Regions in 2000, % of the Average

REGIONS	GDP per capita, %
POLAND	100
DOLNOŚLĄSKIE	103.4
KUJAWSKO-POMORSKIE	89.7
LUBELSKIE	68.5
LUBUSKIE	89.7
ŁÓDZKIE	88.7
MAŁOPOLSKIE	89.3
MAZOWIECKIE	151.6
OPOLSKIE	85.5
PODKARPACKIE	71.1
PODLASKIE	74.3
POMORSKIE	100.6
ŚLĄSKIE	110.1
ŚWIĘTOKRZYSKIE	78.2
WARMIŃSKO-MAZURSKIE	74.5
WIELKOPOLSKIE	106.6
ZACHODNIOPOMORSKIE	98.7

Source: Modified from Statistical Yearbook (1)

As it can be seen from the table, in economic-statistical terms regional differentiation in Poland is relatively mild: the ratio of GDP per inhabitant of the poorest (Lubielskie) and the richest (Mazowieckie) region is approximately 1: 2.2, which is much less than in such countries as Italy or Spain. The poorest regions in Poland are situated in the eastern part of the country: Lubielskie, Podkarpackie, Podlaskie, Warmino-mazurskie and Swietokrzyskie. Gorzelak (1994, 1999b) identified certain groups of relatively advantaged or disadvantaged regions in Poland:

- a) *Leaders*; i.e., regions that displayed positive continuity: big urban centres, regions with tourist potential;
- b) *Winners*; i.e., regions that were able to achieve positive discontinuity and left the position of lagers to move into fast growth: western regions that took advantage of the new markets in Germany and Austria;
- c) *Losers*; i.e., regions of negative discontinuity which were not able to sustain their traditional leading position: concentrations of old, obsolete industries;
- d) *Lagers*; i.e., regions of negative continuity, which could not overcome their backwardness and peripheral location, mostly located in the eastern parts of the country.

The ability of individual regions to adapt to fundamental changes in economic environment rests on a range of issues including their socioeconomic structure, level of initial development and proximity to capital and innovation as well as the way in which they are affected by national policy decisions (*ibid*).

Leaders

In Poland, as in each of the six candidate countries with more than one NUTS II region, the capital region (Mazowieckie) is the wealthiest in the country. It is a general pattern for Central and Eastern Europe wherein a significant concentration of economic activity occurs in the political centre of the country. Slaskie and Wielkopolskie are the only regions, apart from Mazowieckie, which are clearly above their respective national average.

Winners

After 1989, EU western regions such as Welkopolskie, Zachodnio-Pomorzskie, Dolnoslaskie and Lubuskie started to benefit from their position within a new European political and economic geography. Proximity to the EU, relatively developed infrastructure and low labour costs combined with labour force skills all contributed to stimulate markets and encourage investment into western border regions (Gorzelak, 1999a, 2000). Historically, these regions were always relatively higher developed and during the transformation they displayed better adaptability to the competitive open economy. Their richer and more modern economic structure, better qualifications of the labour force, better equipment with high-

quality institutional and material infrastructure made them more attractive to domestic and foreign investors. As a result, structural changes have been deeper in these regions and the dynamics of transformation greater.

Losers

Old industrial regions in Central and Eastern Europe are probably the regions that have been most adversely affected by the process of economic transition. In Poland, there is one region that is most often referred to as an old industrial loser: Slaskie. During the socialist period, this region specialised in coal and steel production; therefore, it was the focus of planned development and to a large extent the driver of economic activity (Gorzalak, 2000). During the transformation period, the region was severely affected by the re-orientation of trade from formerly secure markets and by the reduction of subsidies. The decline in Socialist-style heavy industry in particular has played a significant part in widening regional disparities in Poland (*ibid.*).

Apart from restructuring problems, the region faces severe degeneration of the environment, in terms of air, water and soil pollution, often associated with the scale and poor technology of former industrial production. Major environmental problems still persist, which will add to the cost of further restructuring and may well act as a disincentive to progress and investment (*ibid.*). Economic reform has not led to quality investment and the development of new products and production methods. Since 1992, this region has been supported by subsidies, which would not be easy to do within the EU. Restructuring of Slaskie has been very expensive and politically difficult; the region has not yet shown any significant ability for independent sustainable development (Tarkowski, 2003). The region was often defined as a stumble stone in the accession process. Scholars in the European Commission as well as in Poland pointed out that restructuring of Slaskie would be one of the primary concerns of the regional policy in Poland after the accession.

Lagers

The most economically disadvantaged regions in Poland are located at the eastern periphery of the country (Podlaskie, Lubelskie, Podkarpackie). Comparatively unfavourable geographical location of those regions (neighbourhood to economically less developed Belarus, Ukraine and Russia) limits the opportunities for fruitful trans-border cooperation and joint economic initiatives (Sadowska-Snarska, 2002). The second factor affecting the economic position of peripheral areas is predominance of agriculture in the regional economy. Overall, as the European Commission points out, agriculture in Poland is still in need of urgent structural reform to meet the current and future competitive environment (European Commission, 2001).

2. Disparities in economic potential of Polish regions and the prospects of the EU regional policy

Polish economists have no doubts that accession to the EU would have varied impact on the development of regions. Some of the regions are well prepared to use the benefits and face the challenges of the EU single market and the increased competitive pressure, while others may continuously stay at the periphery. Such a pattern of the regional development has been demonstrated by all Structural Funds' recipients. German Eastern *länder*, being the biggest beneficiary of all sorts of transfers since 1991, did not display any signs of the sustainable catch-up with the Western part of the country (Boldrin and Canova, 2003).

Based on the experience of EU regional policy, the European Commission defined several key factors of a region's success, such as: the structure of economic activity (concentration of employment in market services and/or manufacturing), the skills of the work force and its educational level, regional accessibility and physical infrastructure, the extent of innovative activity, and institutional capacity (European Commission, 2000a). Additionally, an important indicator for Poland could be the geography, volumes and structure of regional foreign trade. It can be assumed that a region would be better placed to join the EU single market if it has relatively big volumes of exports to the EU, most of which is taken by advanced technology products. In this study the comparative analysis of Polish regions is based on structure of economy, foreign trade, innovative activity and institutional capacity.

Structure of economy

The structure of economic activity in Poland differs from region to region. The eastern periphery is characterized by a large share of employment in agriculture, forestry and fishing (table 2).

Table 2
Employment in Agriculture, Hunting, Forestry and Fishing
in Polish Regions in 2001

Regions	Employment in agriculture, hunting, forestry and fishing, % of total full-time employed
POLAND	19
DOLNOŚLĄSKIE	10
KUJAWSKO-POMORSKIE	19.7
LUBELSKIE	38
LUBUSKIE	10.2
ŁÓDZKIE	17.2
MAŁOPOLSKIE	24.8
MAZOWIECKIE	20.4
OPOLSKIE	20
PODKARPACKIE	30.3
PODLASKIE	36.4
POMORSKIE	8.6
ŚLĄSKIE	5.3
ŚWIĘTOKRZYSKIE	30.3
WARMIŃSKO-MAZURSKIE	14.3
WIELKOPOLSKIE	19.3
ZACHODNIOPOMORSKIE	6.3

Source: Modified from Statistical Yearbook (1)

The share of agriculture in total employment is very high indeed. While on average, agriculture holds 19 percent of the labour force in Poland, Podlaskie has 36.4 percent, Swietokrzyskie 30.3 percent, Lubelskie 38 percent and Podkarpackie 30.3 percent. This is one of the reasons why these regions have the lowest value added in Poland: Lubelskie 68.5 percent, Podkarpackie 71.1 percent and Podlaskie 74.3 percent of the Polish average (Horodenski, 2002).

Reform of agriculture in the eastern peripheral regions has been an important aspect of Polish transformation, as this sector has been particularly sensitive in relation to Poland's accession to the EU. This sort of region is a typical objective of the EU regional policy. The experience of the Cohesion countries shows that it has been extremely difficult, even with the use of the EU instruments, to enhance the mobility of labour and to shift the labour force from agriculture to industry or services (Armstrong, 2000). The same situation is observed in Poland (Sadowska-Snarska, 2002).

Foreign trade

Poland had a free trade regime with the EU that encompassed most of the industrial products. Analysis of exports shows that the two western regions, Lubuskie and Wielkopolskie have been the most successful in trade with the EU. These regions in general have rather big volumes of exports per capita, which is above the average in Poland; most of exports go to the EU; besides, exports contain a big share of high-tech products (Statistical Yearbook (1), Tarkowski, 2003). Pomorskie and Mazowieckie are the leaders in exports per capita and are far above the Polish average. These regions also have a big share of high-tech products in their exports, but most of the exports go beyond the EU (this indicator is below the Polish average) (ibid).

The most disadvantaged in terms of exports is eastern periphery: Podlaskie, Lublielskie, Podkarpackie and Malopolskie. These regions have the lowest volumes of exports per capita, very little of which goes to the EU (the lowest indicator in Poland) and the lowest share of high-tech production in their exports (ibid).

Innovative activity

As it was mentioned, innovative activity is quite an important indicator to estimate a region's competitive ability, because generation and adoption of innovations is one of the major factors that stimulate economic growth. In statistical terms innovative activity may be estimated by two main indicators: R&D expenditure per capita, and the share of employment in the R&D sector in total employment. Of course, these indicators do not give a full picture of the relative innovative potential of the regions, but they might give an idea of how different regions treat innovations. According to Tarkowski (2003) and Statistical Yearbook (1), the largest R&D expenditure per capita is in Mazowieckie, the capital region. Relatively high indicators are in Lodzkie, Malopolskie, Dolnoslaskie and Pomorskie. The lowest levels of R&D expenditure are in the internal and eastern periphery: Opolskie, Swietokrzyskie, Podlaskie, Lubelskie and Podkarpackie (ibid). The following table shows the relative employment in R&D sector by regions:

Table 3
R&D Employment in Regions in 2001, % of Total Employment

REGIONS	R&D EMPLOYMENT
POLAND	0.88
DOLNOŚLĄSKIE	1.01
KUJAWSKO-POMORSKIE	0.60
LUBELSKIE	0.74
LUBUSKIE	0.39
ŁÓDZKIE	0.77
MAŁOPOLSKIE	1.16
MAZOWIECKIE	1.69
OPOLSKIE	0.48
PODKARPACKIE	0.53
PODLASKIE	0.51
POMORSKIE	0.83
ŚLĄSKIE	0.76
ŚWIĘTOKRZYSKIE	0.24
WARMIŃSKO-MAZURSKIE	0.45
WIELKOPOLSKIE	0.92
ZACHODNIOPOMORSKIE	0.62

Source: Statistical Yearbook (1)

As can be seen in the table, the eastern regions have very low levels of R&D employment. This group of regions was enlarged by the western region, Lubuskie, that has one of the lowest indicators in the country, and the south-central region, Opolskie.

Institutional capacity

Tarkowski (2003) made a synthetic expert estimation of the institutional capacity of Polish regions. It has been recognised by academics and practitioners, supported by EU evidence and theories, that the institutional capacity has been one of the most important intangible factors that defined absorptive capacity of the economy as well as the efficiency of the Structural Funds' allocations in general. For example, the implementation of the EU regional projects in Greece was always stumbling over extremely inefficient bureaucratic systems, and the money did not target the most needed areas (Financial Times Surveys, 2000). The highest institutional capacity, according to Polish scholars, exists in the following regions: Zachodnio-pomorskie, Lubuskie (western Poland), and Opolskie and Śląskie (south-western Poland). The lowest institutional capacity is in the eastern part of the country (Podlaskie, Lubelskie and Warmińsko-mazurskie) and in some central regions (Łódzkie and Świętokrzyskie).

In addition to the above indicators, attraction of investments may give another picture of the regional performance. In general, FDI has been one of the most important factors of accelerated economic growth in Polish regions. According to the Statistical Yearbook (1), the western regions (Lubuskie, Zachodnio-Pomorskie, Wielkopolskie, Dolnośląskie and Pomorskie) and the central regions (Mazowieckie and Warmińsko-mazurskie) have the biggest share of FDI in the regional economy. The lowest levels of FDI are in Podlaskie region; the lowest levels of FDI from the EU are again in the Polish east – Lubelskie and Podkarpackie.

Polish researchers rank the investment attractiveness of the regions as follows:

Table 4
Investment Attractiveness of Polish regions

Region	Comparative investment rank
Mazowieckie, Śląskie	A
Wielkopolskie, Pomorskie, Dolnośląskie, Zachodniopomorskie	B
Małopolskie, Lubuskie, Łódzkie, Kujawsko-pomorskie, Opolskie	C
Warmińsko-mazurskie, Podkarpackie, Podlaskie, Lubelskie, Świętokrzyskie	D

Source: Tarkowski, 2003

The most attractive for FDI in Poland are the capital region and the western regions. Slaskie has not benefited from significant FDI inflows yet, but may become attractive for investments as it has developed an (old) infrastructure, relatively high concentration of labour and many premises of old factories. The eastern periphery has the lowest comparative attractiveness for the potential investors.

As the above analysis shows, economic performance and potential for catch-up growth of the Polish regions diverge. The western and south-western regions along with the capital region have shown the fastest pace of transformation and economic growth in comparison to other regions. The eastern periphery, Warmińsko-mazurskie, Podlaskie, Lubelskie, Podkarpackie and central periphery, Świętokrzyskie, may well have difficulties in adapting to the new circumstances of the enlarged EU. These regions have a relatively high share of employment in agriculture at the expense of industry and services; the lowest GDP and value added per capita; the lowest levels of trade with the EU; little foreign direct investments (and the lowest investment attractiveness); the smallest share of high-tech exports and R&D expenditure; and the lowest institutional capacity.

The old industrial region, Slaskie, is still not well-placed to face the competition from the EU. Although the major indicators show a rather favourable

position in comparison to the other regions, serious structural problems in the regions still persist. The regions have been acquiring the largest in Poland amounts of subsidies, which helped to slightly increase exports, investments and income levels in recent years (Kozak, 2000). The major exporters are still traditional industries, coal mining and steel production in particular, which would hardly have any significant growth potential after the accession. Polish scholars state that many companies are on the brink of bankruptcy and the privatization process has been very slow (Tarkowski, 2003). It has been a big problem for the government to sell old and worn-out factories. A positive trend has nevertheless appeared: a few machine-making investors established their sites in the region and added the traditional structure of exports with modern machinery (*ibid*). Only if this trend is strengthened after the accession, would the region have a chance to successfully participate in the EU single market.

In total, the backward regions in Poland comprise 34.1 percent of the population and around 30 percent of the country's territory.

Widening regional disparities in Poland are a consequential and unavoidable process of transformation and economic growth. Theories of regional development argue that polarization of economic activity is an inevitable process and convergence in terms of GDP per capita, even if it occurs automatically, it would be extremely slow. Krugman's core-periphery concept (Krugman, 1991) and the evidence from EU member states suggest that inter-regional disparities within the single market have a strong tendency to grow, and Poland would probably be affected by this process as well. In general, the EU accession process has been quite beneficial to the whole country. Until 2002, economic growth occurred in all Polish regions, although the intensity of it varied from region to region. The difference in pace of economic development was the main reason for widening disparities in the 1990s, although these have not yet become enormous. Accession to the EU would put a strong competitive pressure on the country's economy, and peripheral regions would probably face more difficulties than before. The competitive capacity of a region would define its future economic growth. Polish scholars and practitioners agree that joining the single market may leave backward regions even worse off, and the backwash effect is more likely to happen after accession than the spread effect (Banski, 2002). This means, in theory, that the periphery would continue to be drained of the most skilful labour force and capital and therefore permanently lag behind. Other scholars (see, for an example, Boldrin and Canova, 2003) state that such theoretical assumptions have had little empirical evidence neither in Europe nor in other countries. Rather, open trade followed by increased competitive pressure induces entrepreneurial activity, fosters transformation of the declining industries and increases growth of labour productivity. It was advised, therefore, that Poland needed to focus on catching up with the EU member states income levels and to use the EU transfers

for this particular purpose, rather than on combating regional disparities inside the country.

Potential challenges of the EU regional policy in Poland

It was agreed that the Structural Funds' transfers to the new members will amount to up to four percent of the countries' GDP. Given that the absorption capacity of new members is relatively low, the EU money is substantial enough to be of serious concern to the government. Out of all newcomers, the Polish case is the most difficult one: the country is heterogeneous in terms of overall growth potential. The EU experience, however, shows that the regional policy designed to bring about convergence has been very far from being a perfect weapon against regional inequality. Paradoxically enough, even though the policy by now has been in effect for 26 years, its rationale and efficiency are still not clear and are always questioned by scholars. The only thing that is apparent is that the policy does not bring any radical changes in the pattern of regional economic growth (Dunford, 2000; Allen, 2000; Boldrin and Canova, 2003). The statistics from the regions show that the two opposite processes have been occurring in the last nine years. Convergence in GDP per capita among the member states and divergence in GDP per capita among the regions of the EU (Dunford, 2000). Boldrin and Canova (2003) come to a more radical conclusion: transfers of the Structural Funds hampered the convergence of the targeted regions. In many cases, large transfers postponed the elimination of state subsidies to obsolete and inefficient enterprises. They created new or reinforced existing "income maintenance programmes," thereby reducing labour mobility and providing incorrect incentives to entrepreneurial capital. They led to rent-seeking behaviour via purely redistribution allocations, impeding in this way efficiency-enhancing political decisions (ibid).

In addition to ambiguous economic effects, the policy has strong political content in relations among the member states and between the European Commission and the member states as well as among the regions within the member states (Allen, 2000). As it appears, the commission does not have enough power to enforce effective implementation of Structural Funds allocations. On the other hand, the decisions taken in Brussels do not guarantee an appropriate targeting needed in every case. The basic framework of the regional policy cycle in the EU is quite complicated, but in reality it becomes even more confusing. Gradually the linkages and interlacing between different levels of policy-making (the EU, national, regional and local levels) increase. For example, as Spanish experience shows, this leads to two sets of negative consequences. The first one is quite apparent: the non-transparency of decision-making, the resulting lack of political accountability and corruption. The second consequence is much less evident but very bitter – the threat of political deadlock (Amodia et al, 2001). The principle of partnership, which is one of the rules of the EU regional policy, would bring to

the decision-making process the European Commission, the central government, and regions and municipalities. In these negotiations, each group of regions in Poland would probably have its own economic reasoning: the fast-growing regions would support the direction of funds into the most productive areas and block allocation of the transfers in “lazy” east areas (Podlaskie, Lubelski and Podkarpacie) or the inefficient east-south (Slaskie). The poor regions would obviously strive for funds for the simple reason that they are poor and need support. This sort of contradicting argument known as the equity-efficiency dilemma exists nowadays in Poland, only a few years after the decentralisation reform. The multiple negotiations consisting of the commission, central government, regions and, possibly, the municipalities may cause a “joint decision trap” which might block the efficient allocations of funds when the recipients of the money finally become rich individuals in poor regions – a phenomenon known in the EU (Amodia et al, 2001). Theoretically, bringing cities and municipalities to the negotiation table according to the partnership principle, should result in better targeting. But again, as the EU experience shows, this often makes the decision-making process difficult and complicated. Thus, political bargaining may override economic efficiency when it comes to EU money.

The Polish regions’ relative autonomy, which is considered to be positive now, has already led to differences in the quality of management, and the use of regional potential and general economic development. Some regions became more influential than others. Poland’s own regional policy is still not explicitly shaped. It is balancing between a liberal approach (i.e., minimum government intervention and decentralisation of responsibility for economic development) and government intervention primarily by means of subsidies and state aids. (Gorzalak, 2000; Swiatek, 2002).

The major lesson for Poland is that any redefinition of regional policy towards greater targeting can be expected to meet resistance, and would therefore be incremental and difficult. Whether Polish government will opt to monitor the whole process of Structural Funds allocations or leave it to political bargaining depends completely on the country’s choice. The experience of Ireland, Portugal and Greece shows that EU Structural Funds may become only a catalyst to sound domestic macroeconomic policies (Financial Times Surveys, 2000; Barry, 2000, 2003). The sustained above-average economic growth is the consequence of an attractive environment for direct foreign investments and new small firm creation, risk-taking entrepreneurial behaviour, and exploitation of local comparative advantages via enhanced labour and capital mobility. Low marginal taxes, efficient transportation and communication infrastructures, good financial facilities, and a relatively flexible supply of high-level human capital appear to be the key ingredients of a growth-friendly environment.

3. Poland's strategy options to optimise the structural transfers from the EU

In principle, the strategy options to allocate the EU funds oscillate within a triangle of three extreme cases:

1. Equal (proportional to the size of population) distribution of the funds.

Politically, this option is a compromise between equity and efficiency approaches that can settle lobbying in these two directions. Although equal distribution of the funds might ease the political pressure within the country, the economic rationale of this option is questionable. Convergence within the country would not be a positive scenario because it would not change the status quo of the regions. At best, this strategy might provide an opportunity for the whole country to converge with the EU average. But it would happen only if all the regions use the funds with more or less equal efficiency. Regional economic growth in Poland and utilisation of endogenous potential already vary substantially across the country; therefore, the effectiveness of the EU allocations would be very similar to the present conditions (i.e., regional disparities would perpetuate).

At its worse, this option would lead to an increase of regional disparities simply because the most productive regions would use the money with much better efficiency and therefore amplify the pace of growth while others, having moderate capacities, would continue to lag behind.

The other two major options represent a much-debated dilemma of equity and efficiency approaches. This dilemma comes down to the trade-off between faster national growth (and bigger inter-regional disparities) and economic solidarity via inter-regional income convergence (and slower national growth). The former implies that the funds have to be allocated in the places where productivity and the rates of return are the highest, while the latter gives the support to the poor. For Poland, the biggest new member of the EU, this dilemma is painful. On the one hand, convergence with the EU average in income levels is one of the major policy objectives; on the other hand, the social exclusion of 34.1 percent of the population is politically difficult. What should the balance between economic and political considerations?

2. Equity – direction of funds to lagging regions.

This policy option is the easiest in terms of political and social decisions. At first sight, it also looks like the most reasonable; it fits completely into the framework of the EU policies.

There are three possible scenarios. The most optimistic one is that the funds channelled to the eastern and central peripheries as well as Slaskie would significantly improve their weak features. If the funds would contribute to an

increase in educational levels, shift the labour force from agriculture to industry/ services along with retraining of workers and improvement of infrastructure, the backward regions would have a strong impulse to catch up. The regions would become more capable of using their inner potential, for example, tourism in the eastern regions and industrial traditions and heritage in Slaskie. According to this scenario, it is unlikely that these regions would outperform the leaders, but their pace of growth would be fast enough to keep the disparities from widening dramatically.

The neutral scenario is that the inflow of EU money would not alter the current situation of the regions. The disparities would continue to grow before they reach some sort of a plateau, say, a ratio of 5:1 between the poorest and the richest, and remain more or less stable in the long run. It might happen simply because the funds would not be sufficient to produce any significant change or, even if they could, the money would be used with a low efficiency.

The negative scenario would take place if the Structural Funds were to worsen the situation in the lagging regions. The interventions, instead of bringing about the development stimulus would in reality postpone the necessary restructuring. Extra money would increase consumption levels, deteriorate investments in these regions and make them an even heavier burden for the rest of the country. And because the backward regions comprise one-third of the country's population, the pressure on the macroeconomic stability would be very substantial. Furthermore, since one of the principles of the Structural Funds allocations is additionality, the government co-financing the EU policies in peripheries would further drain the leading regions out of their resources. Therefore, the worst results of this policy option are not only a substantial increase in regional disparities, but also the jeopardising of the macroeconomic stability of the whole country.

It is extremely unlikely that the positive scenario will take place. As the evidence suggests, the theory can be quite different from the practice, the same as the planning from the implementation. The examples used if the Structural Funds were used with maximum efficiency in lagging regions are extremely rare across all member states, and the economic effects of this money have always been obscure. It is probable that if the government took the equity policy option, the expected results would oscillate between the neutral and the negative, closer, perhaps, to the neutral. Macroeconomic stability in Poland is under big pressure these days, and there is no guarantee that the country would easily keep to tight fiscal discipline in the years to come. If the government fails to reform agriculture in the eastern regions and shift the labour force to productive sectors, these regions may face constant deterioration of their productivity. It would be supported by the low mobility of labour in Poland, the same as in the EU. Thus, based on EU experience, the Polish government should not expect that EU Structural

Funds would push the lagging regions ahead unless Poland is going to become another European miracle, a "Slavic Tiger". These monies, because they are spent there, may somewhat enhance the income levels but productivity levels may well remain low.

3. Efficiency – direction of funds to leading regions.

This policy option is a politically difficult one, and does not fit very well in what the European Commission considers an appropriate regional policy. In general, the EU does not have experience in supporting advanced regions within the member states, but this approach has a strong economic rationale and theoretical background.

The most optimistic scenario would match Perroux's growth pole concept. If the government believes that the spread effect of the growth poles would reach the periphery in the long run, investments into the advanced regions would be more than welcome. At best, this policy option would lead to the most efficient allocation of money, which would further spur economic growth in highly productive regions and, consequently, in the whole economy. Innovations and other impulses of development would spread to backward regions inducing growth there as well. In this scenario, the leading regions would become the "locomotives" of economic development and the lagging regions would be pulled as "carriages". The catch-up process is an outcome supported by neo-classical and growth pole theories.

The neutral scenario will take place if the Structural Funds allocated in advanced regions would not alter the dynamics of regional disparities. It is probably somewhat artificial to assume that the allocation of money in these locomotives may result in zero effect. Even if the money is wasted on consumption, it would most probably have a direct impact on macroeconomic stability. If the tight grip on macroeconomic stability is lost, the weaker regions will always be disadvantaged, a scenario proven by the Greek experience.

The negative scenario would represent a strong backwash effect. In this scenario, the money, allocated in the leading regions would simply fasten and intensify the process of regional polarisation. The EU funds would give a new impulse for economic activities to cluster in the advanced regions with very little spread effect. Within the single market, investments from core regions may flow to other countries instead of the Polish periphery. Besides, since the backward regions are still not prepared to absorb innovations coming from the outside, they might not be able to take advantage of it. This process, following the concept of circular causation, would continuously leave these regions behind at the EU periphery, the same way as the Italian Mezzogiorno.

It is not easy to predict which of the scenarios is most likely to happen because the EU lacks expertise in this sort of policy. Krugman's investigations imply

that within the single market the economic activity always tends to cluster, and peripheries do not enjoy an accelerated growth induced by the spread effect.

In general, the analysis suggests that an equity-efficiency dilemma should probably be resolved towards the efficiency option. As the EU experience shows, the equity approach did not bring any substantial change into dynamics of regional disparities, and all the success stories from the Cohesion countries focus on sound macroeconomic policies as the key to this success. If it is the case, all the efforts of the country as well as the EU regional policy should be concentrated on macroeconomic factors. Since stimulating macroeconomic growth is one of these, allocation of Structural Funds in the most productive regions is the best option.

Polish scholars support the argument that the efficiency approach should be a priority in the government's regional policy. Kuklinski (1998, quoted in Gorzelak, 1999b) makes a radical criticism of the equalisation option, which he defines as a "socially-minded" regional policy:

There is a relatively popular but nevertheless a wrong thesis that regional policy should create conditions, which increase the spatial uniformity via the reduction of interregional disparities. The policy of this type – the socially-minded regional policy – is changing itself in many countries into the relic of the past as an element of the vanishing welfare state which will not be able to survive in its present form on the global competitive scene of the 21 century. A new regional policy is emerging – the globally-minded regional policy – which is promoting the growth of regional competitive advantages and creating the regional locomotives of growth. The new geometry of the competitive arena is creating new conditions for regional development and regional policy where a shift from passive support measures to active self-reliance strategies is being observed. The globally-minded model of a regional policy is a better vehicle for the absorption of the innovative capacities created by the information society than is the classical model of socially-minded regional policies (p. 85).

He further argues that the growing polarisation of the Polish space should be accepted as an important indicator of the growing dynamism of Polish regions; a diversified space is a much better cultural soil for the innovative space than the uniform space.

Polish scholars argue that regional policies should be subordinated to the strategic objectives of a country as a whole. In the case of Poland, it is the necessity of catching up with the more advanced countries in socioeconomic terms by promoting high economic growth and deep structural changes. The policy should concentrate on the development of the infrastructure, and on the restructuring of the areas dominated by traditional industries. Spatial polarisation has to be acknowledged as a real and inevitable way of national development. Regional policy should be oriented towards efficiency since this principle allows for ac-

celerated growth and the increase of new capital formation which is necessary for changing obsolete economic structures.

Conclusions

Membership in the European Union will bring one of the most attractive benefits to Poland: eligibility for the EU regional policy. The Structural Funds that would be allocated in Poland will amount up to four percent of the country's GDP. The EU money has both economic and political weight; it needs to be spent wisely in order to produce positive economic and social effect. To establish an optimal strategy for implementation of the EU regional policy, Poland has to take into account the following issues: the nature of regional inequality and the mechanisms that create regional disparities; the experience of other member states, in particular the Cohesion countries, in combating regional inequality; the nature of the EU regional policy as a tool to bring about cohesion across Europe.

Poland represents a country with growing regional disparities. After the transformation, some of the regions adjusted to the new environment and became leaders of economic growth; other regions, especially those situated at the eastern periphery, did not keep up with the new conditions that well. The Socialist past left a special type of a region – an old and industrial one that is dominated by traditional heavy industries and is in urgent need of restructuring. The economic potential of the regions, which is very important in light of the increasing competitive pressure from the single market, also has a clear core-periphery pattern. Regions assessed in their economic structure, composition of foreign trade, innovative activity, institutional capacity and FDI attractiveness show a substantial heterogeneity. The eastern periphery may well become a “shackle” on the country's pace towards convergence with the EU average similar to Italian Mezzogiorno or German Eastern *länder*. In general, regions that lag behind comprise 34.1 percent of the whole population and 30 percent of Polish territory.

There has been little evidence that allocations of the EU Structural Funds brought about faster economic growth and income convergence in backward regions. The experiences of the recipients of the EU transfers imply that the EU regional policy is a purely re-distributive mechanism rather than a efficient tool designed to foster economic convergence.

Poland's strategy options regarding the transfers from the EU have several alternatives. The analysis of the theory and practice in the EU suggests that the best policy is the policy of non-reliance on Structural Funds. The government should not strive for the maximum amount of EU money, but rather attract investments and pursue tight fiscal discipline. The money that the country would finally get could be allocated in three main different ways: equally distributed among the regions, directed to poor regions, or allocated in rich, productive re-

gions. All of the strategy options have their pluses and minuses; they can lead to different scenarios of future regional development. The definition of an optimal policy that satisfies all economic, political and social considerations remains a difficult task. The EU evidence suggests that allocation of money in poor regions does not bring any significant catch-up, and the money is usually wasted anyway. Therefore, the equity-efficiency dilemma should probably be resolved in favour of efficiency, an argument supported by Polish academics. In this case, the well-performing regions may become locomotives of growth and continuously pull the lagging regions forward. The government in this case would need to make sure that the peripheral regions benefit from the spread of economic growth arising in productive regions.

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The Failure of the EU Regional Policy in Estonia?

Tanel Oppi and Erik Moora

Abstract

The main objective of the current paper is to evaluate the ability of Estonian local governments to apply successfully for financial aid from the instruments of the EU. The socioeconomic status of local governments and its impact on their participation in the pre-accession programmes are elaborated more closely. As a result of the analysis, a conclusion can be drawn that the socioeconomic status of a local government plays an important role in its ability to participate in regional aid programmes.

1. Introduction

In May 2004, ten new member states (NMS) of the European Union (EU) obtained official status as equal participants in the construction of the new European Union. Since the early days of the integration of former Soviet Bloc members to EU policies and institutions, there has been considerable concern as to whether they would be able to participate equally and decorously in the political processes of EU.

To overcome this problem, the EU has fostered the development in Central and Eastern Europe via different financial support programmes: Phare, ISPA (Instrument for Structural Policies for Pre-accession) and SAPARD (Special Accession Programme for Agriculture and Rural Development). The overall objective of these instruments is to assist the applicant countries of Central and Eastern Europe in their preparations for joining the European Union and help them through a period of extensive economic restructuring and political change.

These support programmes form a part of the wider framework of EU's regional policy. The European Union has declared economic and social cohesion as one of its main objectives. To imply the importance of regional policy for the

EU, the funding of Structural Funds has grown from a relatively insignificant role to one-third of the overall Union budget in 2000–2006.

Balancing regional differences has also been one of the main purposes of EU's financial assistance to NMS. These investments should alleviate not only regional differences in Europe as a whole, but also within the NMS themselves. NMS are known to demonstrate even more significant intrinsic regional disparities than different regions across Europe. In this respect, taking into account the principles of subsidiarity and democracy, low administrative capacity of local government units (in most NMS) is one of the key problems and challenges.

Set aside the fact that Estonia as a whole is part of the most lagged-behind region in new EU, it has considerable disparities within its territory. The large number of weak municipalities (most of them in constant financial difficulties) poses a threat of not being able to absorb the funds assigned to NMS by the European Union. The current paper aims to illuminate the success or failure of so-far pre-accession instruments in leveling regional and local disparities, focusing on the relationship between the allocating practices of EU regional funds and the strength of Estonian local governments.

The main problem addressed by the research and paper is whether and how local governments of Estonia are capable of applying for and purposefully managing the EU funds assigned to regional development and investments in NMS. Does the current practice of allocating the EU's regional assistance alleviate or deepen the inequalities between Estonian local governments? The preliminary hypothesis is that the objective of EU structural policies – to alleviate regional inequalities – may remain unattainable due to several factors that characterize local governments in NMS and due to the operating principles of pre-accession financial instruments. Even the opposite – EU's pre-accession funds may even deepen intra-state regional differences – may prove to be true.

The current paper is part of ongoing research that attempts to evaluate the capacity of Estonian local governments to participate in policy-making and implementation processes of common European administrative space. Thus far, the experience of Estonian local governments' independent participation in EU assistance programmes is so insufficient that strong and statistical conclusions about the eventual failure or success of EU's regional policy cannot be drawn. We fully acknowledge that the criticisms presented in this article do not undermine the need for and usefulness of EU's regional assistance policies. We simply point out that certain aspects of these could increase the disparities within NMS. We are also well aware that local governments are not the most important level of solving these problems, that most aid is administered by national agencies.

This paper consists of four different chapters. First of all, we outline the main aspects of EU's regional policy. The policies towards candidate countries are

also described by presenting the main principles and objectives of the assistance to states of Central and Eastern Europe. Next, the overview of Estonian municipalities and their position in the public administration system of Estonia will be briefly presented.

While our main purpose is to discuss the effect of EU's financial aid programmes on the socioeconomic misbalance among local authorities, the index of socioeconomic management will be developed and used to assess the current situation of Estonian local authorities. Having done that, we present the Estonian experience in participating in EU's pre-accession financial instruments. The focus on local governments forces the authors to concentrate on a small number of specific programmes. In the following analysis, we shall demonstrate that experience to date shows that most of the regional funds are allocated among the municipalities that are relatively successful and well off. Those with the sharpest social problems are often unable to participate in these programmes. Finally, we point to several reasons for this contradiction in objectives and consequences of assistance policies and suggest a few possible solutions.

2. The Regional Policy of the European Union

2.1. The EU's Pre-accession Programs for the Candidate Countries

For Estonia, as well as for the nine other NMS, the situation regarding the regional policy of the EU is unique: it is still a subject of EU's policy for the accession countries and at the same time with accession into the EU, it will become a part of the regional policy of the EU.

In the light of the widest enlargement in the history of the EU, three pre-accession programs have been introduced by the European Communities to assist the CEE applicant countries in their preparations for joining the European Union (Commission 2004b):

- **The Phare programme** (Poland, Hungary Aid for Restructuring of the Economy) is the main assistance programme of the EU to the CEECs in their preparation for joining the EU. As the development disparities between the candidate countries and the existing member states are substantial, the issue of economic and social cohesion is one of the most critical issues in the EU's pre-accession relations with the applicant countries. Phare's objectives for economic and social cohesion are:
- Strengthening of the candidate countries' programming and administrative capacities through institution-building support across their entire national territories so that they are capable of absorbing the Structural Funds upon accession.

- Using investment in support of institution-building, and closely coordinated with it, to begin to make an impact on the development disparities, and to allow pilot testing of integrated development programmes similar to Objective 1 and Community Initiatives at national and/or regional level. (Commission 2004b)
- **SAPARD** (the Special Accession Programme for Agriculture and Rural Development) is a Community support for pre-accession measures for agriculture and rural development in the CEE applicant countries in the pre-accession period;
- **ISPA** (Instrument for Structural Policies for Pre-Accession) aid is directed mainly towards aligning the applicant countries on Community infrastructure standards, particularly in the transport and environmental spheres.

2.2 Regional Policy in the EU

Regional policy of the EU refers to a set of activities the aim of which was actually phrased in 1957 in the Treaty of Rome: "... to strengthen the unity of their economies and to ensure their harmonious development by reducing the differences existing between the various regions and the backwardness of the less favoured regions". The Single European Act rephrases the "harmonious development" to "economic and social cohesion", but the idea remains the same: how to reduce the regional disparities within the Union itself and the member states. (Allen 1997) Since the whole chain is as strong as its weakest link is, the importance of the regional cohesion is obvious.

The primary tools of the EU's regional policy are the Structural Funds (the Funds) and the Cohesion Fund. The aim of the Funds generally is supporting those regions suffering from low GDP, high unemployment or industrial or agricultural decline. The last reform of the Funds took place in 1999 on the Berlin European Council where the current principles of the functioning of the Funds and Cohesion Fund were laid down.

Besides narrowing down the objectives of the funds from previous the seven to the current three, another important change was the strengthening of the operation principles of the Funds (Commission 2004a; EC NO 1260/1999):

- Programming is the preparation of multi-annual development plans which has to be undertaken through a partnership-based decision-making process until the measures are taken over by public or private bodies entrusted with carrying them out. Programming involves (a) a precise description of the current situation in the region; (b) a description of the most appropriate strategy for achieving the stated objectives; and (c) indications as to use and form of the contribution from the Funds;
- Concentration is the principle of concentrating the Funds on priority objectives, especially for promotion of regions whose development is lagging behind. 69.7 percent of the total funding for the Funds is allocated for Objective 1;

- Partnership is the approach of including regional and local authorities, economic and social partners and other competent bodies throughout all stages, starting with approval of the development plan;
- Additionality is the requirement of additional national funding next to the Community assistance;
- Management, monitoring and evaluation is a requirement of member states to set up a managing authority and monitoring committee for each programme;
- Payments and financial controls. Member states have to appoint a payment authority for each of the programmes. This authority acts as an intermediary between the financial beneficiaries and the Commission. The member states also have to improve checking arrangements: on-the-spot checks and financial audits.

The total budget allocated to the Funds and the Cohesion Fund for 2000–2006 amounts to €213 billion. (Commission 2004a)

3. Local Governments in Estonia

3.1. Local governments in the Administrative System of Estonia

Local self-government denotes the right and the ability of local authorities, within the limits of the law, to regulate and manage a substantial share of public affairs under their own responsibility and in the interests of the local population (Council of Europe). Local government as such is the government of the community: it is the social, economic and political ordering of people's activities where they live and work (Banovetz 1998). Local government is the closest administrative level to citizens providing the most basic services to the community. In the modern and democratic state, local government is the instrument of democracy, not a mere agent of the central government (Redcliffe-Maud and Wood in Kungla 1999).

These basic concepts about local self-governance are also reflected in the role of the local governments in the Estonian administrative system. In accordance with the general principles of local government laid down in the Constitution of the Republic of Estonia Art. 154 section 1, "All local issues shall be resolved and managed by local governments, which shall operate independently pursuant to law," and Art. 155 section 1, "Local governments are rural municipalities and cities." There are 39 cities and 202 rural municipalities in the local government system of Estonia.

The task of local governments, provided by the Local Government Organization Act, is to organize the following: social welfare and related services, care for the elderly, youth work, housing and public utilities, water supply and sewage,

property maintenance, territorial planning, public transport within a municipality or town, garbage collection and street cleaning in municipalities or towns. The function of a local government includes the organization of the maintenance of pre-school child care institutions, basic schools, secondary schools, hobby schools, libraries, community centres, museums, sports facilities, shelters, care homes, health care institutions and other local agencies if such agencies are in the ownership of the local government. In short, most of the activities of local governments are connected directly to social and economic cohesion. This makes the role of local governments especially important.

Although the overall economic indicators of revenues and expenditures indicate a healthy financial situation of local governments, the actual situation varies a lot. In principle, most of the revenues of a local government should come from the personal income tax paid by the inhabitants of the local government. At the same time, most of the local governments are small or even very small. However, they all have to carry out the same tasks as provided by law. It can be assumed that the actual ability of local governments to fulfil their tasks and to contribute the local development varies to a great extent.

3.2. The Socioeconomic Division of Local Governments

As it has been stated above, Estonian local governments are fragmented and at different level of development. To say something about distribution of European funds among different municipalities, we have to specify and measure the situation of every municipality.

In order to estimate the level of development, socioeconomic potential and sustainability of every given municipality, one would need integrated criteria and measurable indicators. How to assess the level of development of the different administrative units objectively has always been an arguable issue. Mostly, the methods and indicators that are used in evaluation processes reflect the interests and needs of the evaluator. There is no internationally accepted way to measure socioeconomic potential or ability to manage the local life.

Therefore, in this article, we shall compare different local governments with each other. First of all, several indicators will be chosen that should demonstrate different aspects of regional development. The choice of indicators depends on the availability and comparability of data. Until now, there exists no national-level common elaborated system for evaluating the situation and development of local governments. Different authorities use different indicators (Hirmo 2003).

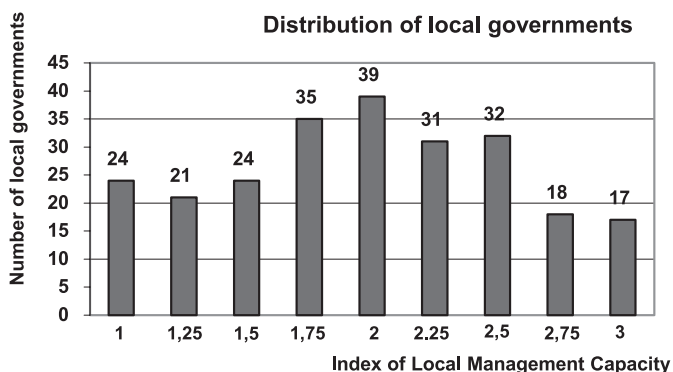
The framework for assessing Estonian local governments will be in line with research by Ministry of the Interior (Suvi 2001). This report is the most condensed synthesis of different aspects of local governments. The managing capacity of Estonian local units is measured by the Index of Local Management Capacity. This index integrates four aspects of different local governments:

- **Demographic potential of the population of the given municipality.** It is operationalised through the ratio of children to elderly persons (number of persons aged 0-15/number of retired persons) and the Labour Pressure Index (calculated as follows: number of people aged 5-14/number of people aged 55-64). The mean of these two indexes shows the demographic potential of the municipality;
- **Economic activity of the population of the given municipality.** It is operationalised as an amount of personal income tax per capita, collected in the territory of the municipality. In Suvi (Suvi 2001), they were divided into three equal groups according to the value of collected income tax per capita;
- **Relative economic independence of the municipality.** This is measured as a ratio of the municipality's own revenues to the administrative and social security expenditures. If it is more than one, it means that municipality has potential to invest without external assistance;
- **Location index.** It is calculated by the Estonian Land Board and describes the value of the location. It is complex index to assess the value of the location of every municipality (full data in Suvi 2001). The rating system is similar to that described in case of previous indexes. The importance of location must be especially stressed – the distance from capital Tallinn correlates clearly with most of the social, economic and demographic indexes (Hirmo 2003).

The average of these four separate indexes creates an index that demonstrates the relative management capacity of different local governments. In the following analysis, the same measures are used. Where necessary, the data is updated. For example, the income tax per capita is updated according to the information about year 2003 provided by Estonian Tax Board (Estonian Tax Board). Also, several mergers of different municipalities have taken place since 2001. These are also taken into account and adjusted.

The following graph describes the distribution of local governments according to the Index of Local Management Capacity.

Figure 1
The Distribution of Estonian Municipalities According to Index of Local Management Capacity



According to the Index of local management capacity, all Estonian municipalities are divided into four groups with different levels of socioeconomic potential. The following table presents the division of local governments into four groups according to their socioeconomic potential.

Table 1
Socioeconomic capacity of Estonian municipalities

Group	Index of Local Management Capacity (max 3)	Number of municipalities in group
Group 4 (Highest potential)	2,75-3	35
Group 3 (High potential)	2,25-2,75	63
Group 2 (Low potential)	1,75-2.25	74
Group 1 (Lowest potential)	1-1,75	69

Having divided local governments into four different groups according to their socioeconomic capability, further analysis becomes possible. First of all, by evaluating different groups and local governments these groups are composed of, the relevance of the size of the local government becomes clear. The socioeconomic capacity of the bigger municipalities is quite clear. For example, 20 of the biggest local governments of Estonia belong to group 3.35 on average. 20 of the smallest (in terms of population) belong to group 1.51 on average.

The significance of the size becomes even clearer if one looks at the average number of people in the municipalities of different groups. The results are presented in Table 2. It demonstrates that local governments with higher socioeconomic capacity to manage their problems are bigger than those with lower

living standards and lower ability to deal with their problems. Note that capital Tallinn (by far the biggest local government unit with 378,000 inhabitants) is excluded from the calculation in Table 2. The analysis suggests that regional policy programmes should focus mainly on smaller municipalities, if they serve the purpose of balancing intra-state disparities.

Table 2
Socioeconomic capacity groups and average sizes of municipalities

	Group 1 (Lowest potential)	Group 2 (Low potential)	Group 3 (High potential)	Group 4 (Highest potential)
Average population in the group	1532	2621	6202	8804*

* without capital Tallinn. If Tallinn was included, the average would be 19 352.

The second important factor is the difference between towns and rural municipalities. Table 3 presents the belonging of towns and rural municipalities in different groups. As it shows, nearly 77 percent of towns have high or the highest socioeconomic management potential (in other words, they belong to groups 3 or 4). The respective number for rural municipalities is less than 34 percent. It shows that the need for regional assistance is more severe in rural municipalities as their ability to cope with socioeconomic pressures and challenges is lower.

Table 3
Socioeconomic capacity groups and type of local government

	Towns		Rural municipalities	
	Number of towns	% of all towns	Number of rural municipalities	% of all municipalities
Group 4 (Highest potential)	11	28,2	24	11,9
Group 3 (High potential)	19	48,7	44	21,8
Group 2 (Low potential)	3	7,7	71	35,1
Group 1 (Lowest potential)	6	15,4	63	31,2
Total	39	100	202	100

4. The EU Regional Policies in Estonia

The analysis of the participation of Estonian local governments in European pre-accession regional programmes will focus on a very limited number of sub-programmes. The reasons for such a narrow perspective is presented in this section. The authors of current research set up a list of criteria that the programmes should meet:

1. The most important is that these programmes have to be open for local governments as applicants.
2. The programmes suitable to the research would have economic and social cohesion and regional development as their main objectives.
3. An important criterion is the availability of information, preferably for a long period. Only then, meaningful conclusions about the policy as a whole can be drawn.
4. These programmes should not have a very narrow scope; that is, aimed at specific problems or policy areas. If that was true, it would distort the results and different local governments could not participate on an equal basis.

4.1. Pre-accession Programmes and Local Governments

As Estonia is one of the CEECs accessing the EU on the 1st of May, Estonia has participated in all the pre-accession programmes of the EU for the CEECs – Phare (since 1991), SAPARD and ISPA (both since 2000). In 1991 – 2001, total EU assistance via these programs amounts to €677.08 mil (Ministry of Finance).

The implementation of the EU's pre-accession programmes in Estonia is regulated by the Estonian government applying and using, and monitoring and evaluation of foreign aid. As laid down in the regulation, the applicant for Phare assistance in Estonia is centrally the Ministry of Finance, which coordinates the programmes with other ministries. The same applies for ISPA and SAPARD. Therefore, local governments cannot apply for Phare, ISPA or SAPARD directly. They can only co-apply with one of the Estonian ministries or they can be the beneficiaries.

The focus on the capacity of local governments to apply for Union funds and manage regional or local projects on their own excludes two main pre-accession instruments from our attention. Both ISPA and SAPARD have not included measures or financing schemes that are directly open to local governments. The funds allocated through the ISPA programme are allocated through national institutions. To be more precise, initiative may originate from the local unit but respective ministries compile the applications which are then presented to the European Commission by the CFCU – Central Financing and Coordinating Unit (a separate department of the Ministry of finance). Of course, local governments have benefited considerably from ISPA programmes. But their role in ISPA financing mechanisms is passive.

SAPARD has been overwhelmingly oriented towards rural entrepreneurs; only in 2004 was one of the measures (Measure 6 – investment support for regeneration and development of villages) open to local governments as direct applicants. Until now, no decisions of allocation have been made. Therefore, ISPA and SAPARD programmes have had significant and positive outcomes for different

regions within Estonia, but the effect on the independence and strength of local governments has not been as significant.

Although the Phare programme in general has been targeted on institution building and investment at the national level in order to prepare Estonia, like other applicant countries, for EU membership, it has been the main possible funding source from the pre-accession programmes for the local governments. Considering the criteria set up in the beginning of the paragraph two, Phare sub-programmes were selected as a ground for research:

1. **Cross-Border Cooperation programme (CBC)** is one of the few Phare financial instruments especially targeted to regional development and local governments (however, local governments are only one of the possible beneficiaries; other bodies like county governments can also apply for funding). It has been the programme that is best suited for this research. The aim of the CBC is to promote cooperation in the Baltic Sea region. In Estonia, CBC has been open since 1994 and, since 1997, covers the whole territory of Estonia. CBC's small project fund and medium-sized project fund, as flexible and focused on regional/local level, are especially suitable for local governments.
2. **Project preparation facility (PPF)** is a Phare financial instrument focused on preparation of the countries joining the EU for absorbing Structural Funds. PPF provides financial assistance to projects in order to ensure a sufficient number of eligible projects when applying for assistance from the Funds. The focus is on several kinds of preparatory surveys, training, etc. All possible applicants eligible to apply for funding from the Funds can apply for assistance from the PPF. In Estonia, special attention is paid to local governments within the framework of PPF. To keep our analysis more informative and reflective, PPF (2001) was also included in the analysis. The round of application has been held only once until now, but local governments actively participated, and it is illuminative of the developments in EU regional assistance policies.

Therefore, the major units of analysis will be Phare CBC (data available for period of 1994–2001, CBC 2002 is currently announced and open for application) and PPF (data available for only one year – PPF 2001).

5. Estonian Local Governments and EU's Regional Aid. Analysis

During the period of 1994–2001, CBC funded a total of 88 projects. The amount of financial aid attributed to different Estonian applicants was 20,691,195 € in total. Out of these 88 projects, local governments were the main applicants in 27 cases (31 percent of total).

In terms of the money distributed, local governments were more successful. Out of the total 20,691,195 €, local governments have used 9,05, 728 € (44 percent). This number shows that, in general, local governments have been rather

successful applicants in CBC programme as compared to other types of applicants.

PPF 2001 is a recent project (the second round PPF 2002 has just been announced), and several of the projects are still ongoing. Therefore, no statistics about the size of the assistance are publicly available (the evaluation report of PPF 2001 has been declared confidential). But the programme gives another kind of useful information – the percentage of the applications that have found endorsement. It shows, once again, that local governments are rather successful applicants.

5.1. Socioeconomic Status of Local Governments and European Regional Aid

The main question for this paper is how these funds are distributed in terms of the socioeconomic capacity of different successful applicants. The results that can be drawn out seem to affirm the preliminary hypothesis that regional assistance meant to deal with regional differences works rather in the opposite direction. If we investigate the distribution of the European assistance funds among the four groups of socioeconomic capacity, it can be assured that the richer and more successful local governments have “collected” most of the benefits of European assistance.

In the CBC programme, 29 projects with local governments as contract partners have been distributed along the lines of socioeconomic capacity groups as presented in Table 4. The number of projects is clearly biased towards more well-off local governments. Therefore, on a large scale, these projects have supported those with best capacity to manage their social life on their own. Only two successful applications by group 1 (lowest potential) municipalities demonstrate the low impact of CBC funds in alleviating regional inequalities. If the amount of funds is taken under consideration, the results are even more in favour of the municipalities of groups with higher socioeconomic potential.

Table 4

The distribution of CBC assistance and socio-economic capacity groups

	Projects		Funds	
	Number of projects	% of municipalities' projects	Funds for the group (€)	% of municipalities' funds
Group 4 (Highest potential)	15	51,7	5 663 337	62,6
Group 3 (High potential)	6	20,7	2 524 767	27,9
Group 2 (Low potential)	6	20,7	725 420	8,0
Group 1 (Lowest potential)	2	6,9	140 204	1,5
Total	29	100	9 053 728	100

In PPF, the distribution has been more indifferent to the groups. Several reasons for that could be drawn out, but the most important of these were pointed out by the head of the CFCU, Klas Klaas in an interview (Klaas 2004). First and foremost, the independent consultants helping local governments to write better applications have appeared. In most cases, these are private companies that offer the service of writing well-reasoned applications and, in some cases, also managing the projects themselves. This has helped local governments with lower administrative capacities benefit from EU assistance. Table 5 describes the distribution of PPF funds among local governments.

Table 5

The distribution of PPF assistance and socio-economic capacity groups

	Projects	
	Number of projects	% of municipalities' projects
Group 4 (Highest potential)	5	27,8%
Group 3 (High potential)	6	33,3
Group 2 (Low potential)	6	33,3
Group 1 (Lowest potential)	1	5,6
Total	18	100

5.2. The Type and Size of Local Governments and European Regional Aid

The analysis of the socioeconomic capacity of different local authorities demonstrated the sharp difference between urban and rural municipalities. The logic of regional policy would suggest that most of the assistance is directed towards rural municipalities, but the analysis of the results proves, once again, the opposite. In the case of CBC, 29 successful projects are distributed as follows: 22 of them were conducted by towns and seven by different rural municipalities.

If the amount of aid is considered, the results are even more in favour of the towns. Towns received as much as 92 percent of the total assistance and only 8 percent was left over for rural municipalities.

In case of PPF, the results are, once again, more balanced. 72 percent of the projects were submitted and carried out by rural municipalities and 28 by towns. If the percentage of the success of applications was taken into account, the rural municipalities would prove to be even more successful than towns – 30 percent of their applications were selected. In the case of towns, the percentage was 20. Once again, the role of independent consultants should be emphasized since the

decision-making procedure focuses mainly on the writing quality of the application (Klaas 2004). Hence, the possibility of poorer local governments to compete for the regional assistance funds seems to be improved. It is, however, too early to ascertain it with sufficient credibility.

5.3. The Obstacles of Local Government Participation

So far, we have demonstrated that the regional aid of the EU has been distributed mostly to the municipalities that already have a higher administrative capacity and more resources. The analysis of fundamental reasons for that would require different research and more space. But considering the socioeconomic aspects of local governments, the type and character of pre-accession aid programmes following three general problems impeding the local governments of participating in the programmes can be pointed out:

One of the main problems for most of the local governments is the additionality principle of the EU financial aid programmes. As pointed out earlier, the part of personal income tax assigned for the local governments forms most of their revenues. Considering the fact that local governments are mostly small rural municipalities, suffering under the problem of unemployment, it is clear that their financial situation cannot be sufficient. This is also reflected by the fact that the second biggest income source for local governments is financial aid provided by the central government. The socioeconomic analysis of local governments confirms that.

The second biggest problem hindering the participation of local governments in the financial aid programmes is their administrative capacity to compose eligible projects. The requirements concerning applying for different EU programmes for financial aid are strict: projects have to clearly meet the expressed purpose of the programme, precise descriptions of activities and budgets have to be provided, etc. Even writing a successful project requires special knowledge of EU programmes, but the ability to manage these projects is of vital importance. Smaller local governments have problems with that, as well as problems with basic English skills. The decision-making procedure focuses mainly on the writing quality of the applications and decision-makers clearly lack the administrative capacity to evaluate the real need for assistance. The formal congruity is over-valued and the real situation in applicant local government is under-valued. The county-level advisory board that estimates the necessity of each project could help to overcome this obstacle.

Another problem is connected to the aid programmes themselves. The analysed pre-accession programmes were mainly targeted to the national level rather than the regional development. Even if the programmes were open to the local governments, they had to compete with NGOs and other regional institutions. It

has created a situation where most of the municipalities have no experience or skills to apply for European assistance.

6. Conclusion

Since the Treaty of Maastricht, the economic and social cohesion of regions of Europe have been one of the justifications of the EU. Considering the fact that one-third of the Community's budget is allocated for the purpose of eliminating disparities between regions within the EU and also within member states, economic and social cohesion can be regarded as one of the main goals of the EU as a whole. If one looks at the experience the EU has had in the field of economic and social cohesion with Ireland, Spain, Portugal and Greece, it is obvious that the chosen strategy has been successful. Although there are still remarkable differences between the regions in Europe, it is clear that without the regional policy of the EU the disparities would be even deeper.

With the of 1 May 2004, the EU is looking at another challenge in the field of regional policy – the accession of ten new member states. The challenge is even bigger than the previous challenge with Ireland, Spain, Portugal and Greece. The disparities between “old” and “new” member states are huge; even within new member states the differences are remarkable. In overcoming these problems, the Funds and Cohesion Fund play a central role. Having in mind the success of the Funds and the Cohesion policy so far, it is clear that the main question is whether NMS are capable of absorbing the potential finances provided via different financial instruments.

In the case of Estonia, the focus of our paper has been on local governments and their ability to apply for finances from the different financial instruments now opening for them. We have asked whether European regional assistance has helped to eliminate regional disparities within the country. Our focus has been on local governments since they, taking into account the principles of subsidiary and democracy and considering their role in Estonian administrative system, are one of the main triggers of regional development within Estonia.

As our analysis shows, the socioeconomic status of a local government can be considered to be one of the central factors in its participation in the regional aid programmes. Although the logic of regional policy would suggest allocating funds to regions or local governments that are lagging behind, the experience of selected cases (programmes) shows the opposite. To this day, European funds have been distributed mainly to those local governments that have higher socioeconomic potential and that belong to the more developed part of Estonia.

The research has demonstrated that towns (instead of poorer rural municipalities), larger local government units (instead of more lagged-behind smaller

ones), and those municipalities with a higher level of socioeconomic potential (instead of the more stagnant and vulnerable ones) have managed to obtain most of the resources available. It is a serious threat for the post-accession structural policies as well. Pointing our finger to that threat was one of the main objectives of this article.

The threat of deepening of regional intra-state differences requires attention of the policy-makers. The paper did not intend to say that EU policies in NMS have failed – most of the assistance has been directed straight to the severest regional problems, but the funding of projects submitted by local governments deserves to be revised.

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The Problem of the So-called “Readiness” as the Determinant of the Effective Absorption of the Structural Funds, Based on the Example of the Podlaskie Region in Poland

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The main objective of this paper is to try to define the so-called “readiness” as a determinant of the successful absorption of the Structural Funds and the Cohesion Fund at the regional level. The author will outline five specific aspects of this “readiness”: financial, institutional, staff-related, legal and documentation. These aspects are based upon the findings of two studies done in the form of surveys on two specific target groups. The first study was done in January 2003, and the surveys were distributed to all of the local authorities at *gmina* and *powiat* levels. The purpose of this particular survey was to measure the level of preparation for the new tasks connected with the Structural Funds absorption.

The aim of the second study, done in December 2003, was the same as the previous one but the target group was regional clerks from the Voivod’s Office, the Voivodship Labour Office and the Podlaskie Voivodship Marshal’s Office.

Because of the fact that Poland is just on the brink of joining the European Union, it will take a couple of years to be able to clearly say how well the Podlaskie region was prepared for the Structural Funds absorption.

1. Brief Description of the Podlaskie Region

The Podlaskie region is one of 16 voivodships within the administrative structure of Poland, which was introduced 1 January 1999. The region is categorized as NUTS II which is one out of two common features for all of Polish regions, the second feature being that they are all subject to Objective 1 of the EU regional policy. Podlaskie is a border region, located in the north-eastern corner of Poland. It encompasses two main kinds of local communities: *powiats* (17) and *gminas*

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(118). Administrative dualism exists at the regional level. The self-governing bodies *Sejmik*, consisting of the Regional Parliament and the Voivodship Board, which is the executive body headed by the marshal, together determine the strategy for the development of the region. However, the Voivode itself represents the central government and is therefore responsible for, inter alia, transferring budgetary funds to the self-governmental units at the regional, *powiat* and *gmina* levels. The *gmina* is the basic administrative unit which holds a wide range of responsibilities, including preparation and implementation of local development strategies and plans.

The Podlaskie region is one of the poorest Polish regions. It includes a significant number of different economic and social statistics. The following describes some of its characteristics:

- Low GDP per capita;
- Significant share of employment in agriculture;
- Weak urban structure;
- Underdevelopment of physical infrastructure;
- Underdevelopment of the industrial and services base;
- Negative dynamic of the population growth;
- Relatively low technological and innovative levels;
- Low-level of use of manufacturing resources.

2. The Regional Policy, Its Aims and the Financial Instruments. The Programming Procedure to the Structural Funds and Its Implementation System in Poland

2.1 Main Objective and Financial Instruments of the Regional Policy

The strategic objective of EU regional policy is to strengthen the socioeconomic cohesion of the member states. It was set up that “to promote development and structural adjustment of regions whose development is lagging behind, to support economic and social conversion of areas facing structural difficulties and to support of adaptation and modernization of policies and systems of education, training and employment are the three objectives for the programming period 2004 – 2006”¹.

The structural policy which is being realized within the European Union expresses the solidarity of the wealthier member states and their regions with poorer states and regions. Without the structural policy, it is not possible to take the next step towards integration which is the transition from the single European market to the monetary union. In order to take this step forward, it is

1 Article 1 of Council Regulation No 1260/1999 laying down the general provisions on the Structural Funds

necessary for the states aspiring to join the monetary union to meet the so-called convergence conditions (i.e., low inflation, limited level of public debt and stable exchange rate of the national currency). The European Structural Funds (SF), the Cohesion Fund and the structural policy financial instruments exist to support poorer states in meeting those conditions.

The structural policy is regulated by a certain number of rules, based on which the Structural Funds' support is being granted. The most important rules are as follows:

- *Concentration* – Support must go to those regions where the economic situation is the most critical;
- *Partnership* – Cooperation between all levels of public authorities is necessary, as is cooperation between public authorities, social organizations and economic units;
- *Programming* – Multi-annual, complex development programmes to be subsequently co-financed by the SF need to be prepared at the central or regional level;
- *Additionality* – National contributions must be made to the projects supported by the SF;
- *Control and Monitoring* – Monitoring of the programme realization is necessary from the point of view of the objectives defined.

2.2 The Programming Procedure and the System of Structural Funds Implementation in Poland

All Poland is covered by regional policy Objective 1. Following the regulations laid down in EC Regulation No 1260/1999 which sets out general provisions for the Structural Funds, the National Development Plan (NDP) for 2004–2006 was developed in Poland. It was adopted by the cabinet on January 14, 2004. For the period 2004–2006, the total financial support from the EU (provided in this document) amounts to approximately 11.4 billion euros. According to the initial allocation, European structural resources will be spent in Poland under the Sector Operational Programmes (SOP), the Integrated Regional Operational Programme (IROP), the Strategy of use of the Cohesion Fund and operational programmes for the Community Initiatives. The following SOPs have been developed:

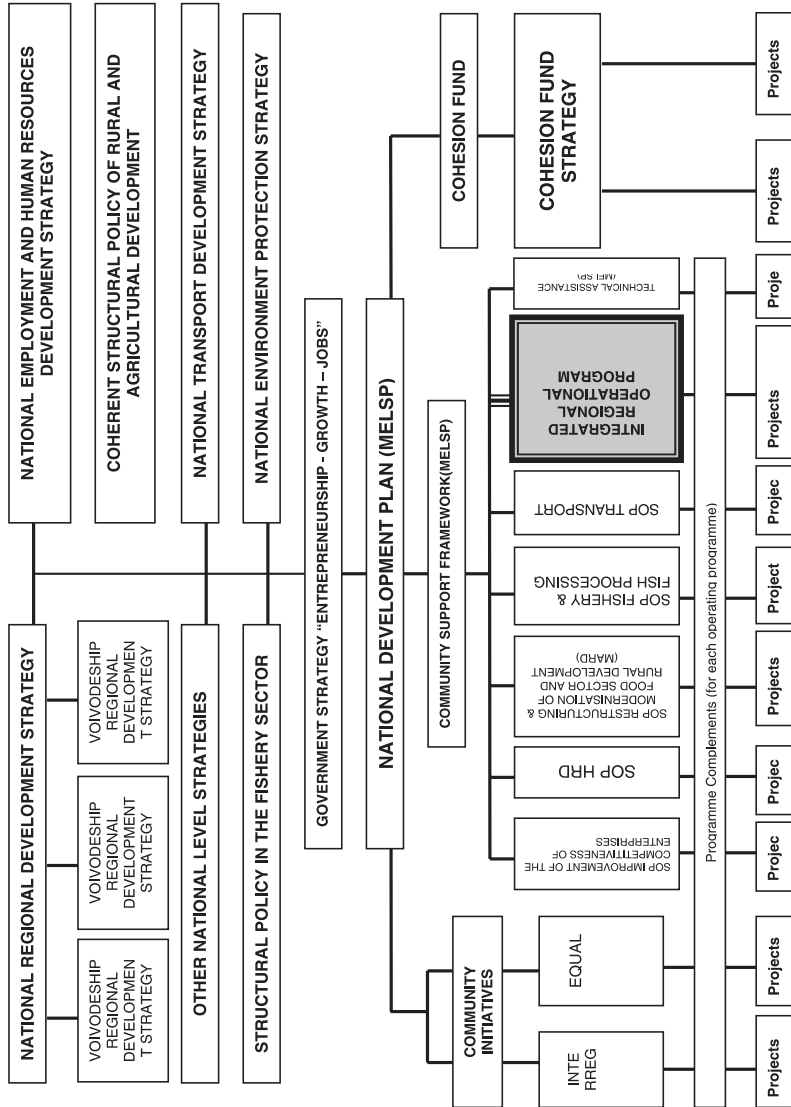
- SOP Improvement of the Competitiveness of Enterprises: 17.8 percent of the total (1300 million euros);
- SOP Human Resources Development: 17.3 percent of the total (1270.4 million euros);
- SOP Restructuring and Modernization of Food Sector and Rural Development: 4.4 percent of the total (1055.0 million euros);

- SOP Fishery and Fish Processing: 2.4 percent of the total (178.6 million euros);
- SOP Transport: 8.6 percent of the total (627.2 million euros);
- IROP: 39.2 percent of the total (2869.5 million euros);
- OP Technical Assistance: 0.3 percent of the total (20 million euros).

Just over four percent (4.1 or 314,6 million euros) of the total of Structural Funds was allocated in order to realize the community initiatives. Two initiatives – Equal and Interreg – will be realized in Poland between 2004 and 2006. During the period of the NDP realization, 3733.3 million euros from the Cohesion Fund will be involved in Poland, 50 percent being reserved for environmental protection infrastructure and transport projects.

The following diagram, extracted from the IROP (page 85), presents the Integrated Regional Operational Programme as an element of the European Regional Development Fund (ERDF) and the European Social Fund (ESF) programming:

Diagram 1
Integrated Regional Operational Programme (IROP) as an element of ERDF and ESF programming



Source: IROP for the years 2004 – 2006, p. 85

It was originally envisaged (in 2000) that all the Polish regions should develop independently their Regional Operational Programmes which, being a part of the National Development Plan, were to create a sound base for negotiating the Community Support Framework with the European Commission. Regional authorities were to be responsible for analyzing the current socioeconomic situation within their particular regions, and for defining, based on the results of the analysis, the development priorities, objectives and measures that would help the regions to achieve these objectives. Moreover, some pilot projects aimed at the preparation of the Regional Operational Programmes for selected Polish regions (for, among others, Podlaskie) were implemented in the years 1999–2002. In the end, the central government decided to change the programming system. It decided that the Integrated Regional Operational Programme (IROP) would be developed at the central level on behalf of the regions and in consultation with regional authorities. The IROP was to replace the Regional Operational Programmes (ROP), to be “one answer” for the problems of all 16 Polish regions. In addition to the IROP, several Sector Operational Programmes were also to be prepared at the central level. By doing so, the ROPs were pushed to the position of supportive, complementary documents, staying out of the negotiations with the EC and, ipso facto, not too essential. The ROPs simply had to be in accordance with the IROP (that means the same priorities and the same measures). We could call that “art for art”, couldn’t we?

Of course, one could try to justify the solution adopted at the central level by the lack of experience of the self-governmental authorities in structural funds programming, the insufficient qualifications of the regional clerks or the lack of the administrative potential. It could be discussed at long length whether the adopted solution is right, even though the negotiations between the regional authorities and the central government are carried on in order to entrust the task of preparation of the ROPs for the next programming period to the regions, according to the original proposition.

It was mentioned at the beginning of this chapter, that the idea, the objective of the EU regional policy itself is to reduce development disparities between the regions of the member states by, among others, helping the poorest regions catch up with those of higher level of socioeconomic development. I am afraid that in the case of Poland, disparities will even increase. Why is that? It shall be stressed that the Polish regions do not have equal access to the resources of the Structural Funds. Let’s have a look at the criteria for distributing money between the 16 Polish regions under the IROP². They are the following³:

2 The IROP is the only OP which will be implemented at the regional level and the only one in which money is distributed to the individual regions. It is therefore the most important OP for the local and regional authorities.

3 IROP 2004–2006, p. 129-130

- Population of the region (ten percent of allocation will be done according to this criterion);
- Average GDP/person in the last three years (80 percent);
- Unemployment rate (ten percent).

Indicative distribution of structural funds contribution between voivodships in the years 2004–2006 is shown below.

Table 2

Indicative distribution of structural funds contribution between voivodships for the period 2004–2006.

Regions	Structural Funds		
	Million euros	in %	Per inhabitant Poland=100
Dolnośląskie	223.6	8.10	105.37
Kujawsko-Pomorskie	142.0	5.14	94.65
Lubelskie	201.0	7.28	126.17
Lubuskie	82.5	2.99	112.75
Łódzkie	157.1	5.69	83.44
Małopolskie	185.2	6.71	80.00
Mazowieckie	299.9	10.86	82.67
Opolskie	76.8	2.78	99.33
Podkarpackie	192.0	6.96	126.17
Podlaskie	110.0	3.98	126.17
Pomorskie	159.6	5.78	101.35
Śląskie	279.8	10.14	80.99
Świętokrzyskie	133.1	4.82	141.06
Warmińsko-Mazurskie	182.0	6.59	173.49
Wielkopolskie	196.0	7.10	81.52
Zachodniopomorskie	140.0	5.07	112.96
In total	2 760.7	100	100.00
Public transport in agglomerations	167.9		
Technical assistance	39.9		
POLAND	2968.5		

Source: IROP for the years 2004–2006, p. 130

The Podlaskie region, which is one of the poorest Polish voivodships, is placed at rank number 13 by million euros and also by the percentage of funds available (less than four percent of the total amount of support under the IROP). That means that we are losing from the very beginning.

2.3 Implementation of the IROP and Responsibilities of the Regional Authorities

The European Commission imposed on member states a number of responsibilities in the area of the coordination of the Structural Funds programming and implementation process. Different states use different mechanisms of coordination, because the central governments of member states must divide their responsibilities and tasks in accordance with their own existing administrative system.

A managing authority is being selected for every operational programme. In accordance with Article 34 of Council Regulation No 1260/1999, the managing authority is responsible for the efficient and correct management and implementation of the operational programme. The managing authority of the IROP is the Ministry of the Economy, Labour and Social Policy – Department for Implementation of Regional Development Programmes.

The Intermediate Bodies⁴ operate within each of the 16 voivodships, under the supervision of the IROP Managing Authority. Their duties have been entrusted to the Voivodship Office. They are the following:

- Signing the Agreements Granting Structural Funding with Final Beneficiaries⁵;
- Chairmanship and provision of the secretariat to the IROP Monitoring Subcommittee;
- Transferring data provided by Final Beneficiaries into the Monitoring and Control Information System (SIMIK);
- Assuring compliance with community policies (pursuant to Article 12) of all operations carried out within the IROP in the voivodship as well as assurance of adherence to the rules being in force in the community as regards concluding public procurement contracts and forwarding relevant information;
- Preparation, in cooperation with the Marshal Office, of annual reports on the implementation of IROP in the concerned voivodship, and with approval of the IROP Monitoring Subcommittee who then forwards these to the IROP Managing Authority;
- Preparation, in cooperation with the Marshal Office, of a final report on the IROP implementation in the voivodship concerned and, after approval by the respective monitoring subcommittee, forwarding this to the IROP Managing Authority;

4 As laid down in Article 2 of Regulation (EC) No.438/2001 of the Commission of March 2, 2001 on adoption of the implementing provisions of Regulation (EC) No.1260/1999 of the Council in relation to the management and control systems for assistance from the structural funds.

5 In Article 9 of Regulation 1260/1999, the definition of Final Beneficiary reads “Final beneficiaries are bodies and public or private firms responsible for commissioning operations. In the case of aid schemes pursuant to Article 87 of the Treaty and in the case of aid granted by bodies designed by the member states, the final beneficiaries are the bodies which grant the aid.

- Operating IROP accounts at the voivodship level in which funds from ERDF and ESF for IROP are held.

Besides the Voivod's Office, there are at the regional level units participating in the management of the regional component of IROP – Marshal Offices. In the IROP implementation, the Marshal Office is responsible for:

- Receiving applications for potential IROP projects (financed under ERDF) in the voivodship;
- Chairmanship and provision of secretariat to the Regional Steering Committee;
- Forwarding the ranking of eligible projects recommended by the Regional Steering Committee to the Intermediate Body on the basis of which the Agreement Granting Structural Funding for the Project between the Intermediate Body and the Final Beneficiaries is signed;
- Forwarding the approved annual Framework Plans in relation with Priority II and Measure 3.4; prepared by the Final Beneficiaries to the Intermediate Body (the Voivodship Office);
- Forwarding information on selection of the Final Beneficiaries for the IROP Priority II and the Measure 3.4. Micro-enterprises to the Intermediate Body on the basis of the Agreement Granting Structural Funding for the Measure between the Intermediate Body and the above mentioned Final Beneficiaries is signed;
- Preparing of applications for amendments of the Programme Complement and the operational programme, then transferring them to the IROP Monitoring Subcommittee, which, after positive recommendation, forwards them to the IROP Monitoring Committee to be accepted;
- Informing the general public about the EU co-financing of projects implemented under the IROP (i.e., dissemination of application forms);
- Drawing up reports on information and promotion (part of annual report).

In addition to the responsibilities mentioned above, the Voivodship Board appoints the Regional Steering Committee which consists of representatives of the voivodship self-governing bodies, representatives of the Intermediate Body, IROP Managing Authority, lead ministries in respect of their tasks implemented under the IROP at the regional level, representatives of respective *gmina* and *powiat* self-governing bodies and representatives of socioeconomic partners from within the voivodship. The role of the RSC is to manage the implementation of the regional components of the IROP. The marshal chairs the committee and ensures support for its work. The Voivod holds the function of its deputy.

As we could see, our regional clerks really have a lot to do. Are they ready for all the above-mentioned activities? Are their skills and abilities good enough to handle the new tasks effectively? The answer to these questions, among others, might be found in our Section 3.

3. The Issue of Readiness as the Determinant of the Effective Structural Funds Absorption

How can we get the hard rainfall onto Podlaskie from the grand cloud of structural funds which will hang over the state, instead of receiving only a small shower? How can we ensure that this cloud will not simply float away to other regions? The rule is that in the case of an inability by this region to use structural funds allocated for a particular region, the funds can be moved to other regions for realization of those measures where resources have ran out. In trying to find the answer to the above questions, we are reaching the problem of so-called readiness. What does readiness mean? How can it be defined? I understand and define readiness as the existence of the capacity-enabling efficient absorption of the Structural Funds and the Cohesion Fund at the regional level. I have identified five different areas of readiness:

- Finances;
- Institutions;
- Staff;
- Law;
- Documentation.

The readiness could be compared to the hands of a pianist. Each aspect is like one finger: when all his fingers are strong, the pianist plays his enchanted melody showcasing all of his talent. However, if one of the pianist's fingers is weak, no matter how hard he works, he will never be at his best and will not win the highest prize.

3.1 Financial Readiness

Additionality is one of the main rules governing structural funds. It refers to the idea that the support of the EU should only compliment the resources of the individual members states. It is indeed expected that the EU assistance would not lead to a decrease or an elimination of the member state's contributions to its own development.

The rule of additionality makes it necessary for the budget of the state and those of the self-governing bodies, as well as for private companies looking to take advantage of the co-financing, to secure their financial resources in order to make a contribution. In other words, additionality guarantees the member states' own input into the investments to be realized with the help of Structural Funds. Taking into consideration the current state of the public finances in Poland, the problem of self-governing bodies incurring large debts and also the problem of SMEs with access to external financial resources, ensuring a member state's own input may create serious obstacles in trying to gain SF assistance. To complicate things further, the rule of reimbursement was introduced

for expenditures of undertakings accepted for realization under the particular operational programmes.

The proper financial installation is one of the key elements in deciding on the success of a planned investment. The financial installation is crucial, particularly in the case of the projects applying for SF assistance because of the necessity of ensuring their own contribution and the rule of reimbursement. In such a situation, the proper financial installation can guarantee a continuous financial flow.

When searching for optimal financial resources for a planned investment, self-governments are prompting cooperation with different units. The public-private partnerships (PPP) practiced in Western Europe since the 1970s is still new in Poland. PPP may contribute in a positive way to the increase of self-governing bodies' activity effectiveness, and at the same time stimulate improved development at the regional level. In the current dramatic situation of state finances, getting private capital for common public-private undertakings could be a good method for getting resources for investments by self-governments. However, the main barrier for entering a PPP lies in the people's mentality. Our society is a closed one. For a long time, under the previous regime, private initiatives were made difficult by the authorities. Many people saw entrepreneurs as swindlers or untrustworthy. It will take time for people to change their views. One method of achieving a shift in our current way of thinking could be to have an information campaign showing the positive benefits of PPPs in different European states and their measurable advantages.

In addition to public-private partnerships, authorities from all three levels of self-governing bodies, private companies, NGOs and other actors looking to get support from the SF, should also be opened to the other existing types of partnerships: public-public and private-private. Research conducted in January 2003 on the *gmina* and *powiat* authorities in the Podlaskie region revealed that only three out of 68 units who participated in the research⁶ were not associated with any organization such as associations of *gminas* or *powiats*, associations of Polish towns and cities, associations of rural *gminas* and others. The significant majority of *gminas* were members of at least two of them. I think that it is a good result and a good sign for the future, but it also shows that there are still some local authorities not interested in any cooperation, and this may cause problems for their development.

Let us go back to the question of financing the development. The research mentioned above showed how the level of budgetary resources spent for development in *gminas* and *powiats* of the Podlaskie region is low. In regard to the questions concerning the percentage of the budget spent for investments in the years

⁶ The Podlaskie Voivodship Marshal's Office made an access to the surveys available. The author of this paper did the analysis.

2000–2003, almost 48 percent of the units mentioned that they spent less than 15 percent, and 10.8 percent of the units spent less than ten percent. The average expenditures for investments amounted to 17.35 percent. The rule is: the poorer the *gmina*, the less resources for development it spends.

In December 2003, I conducted research with the aim of finding out how regional officials find themselves and their offices as they prepare to take on the new tasks connected with the absorption of SF. I asked around 40 employees of the Marshal's Office, the Voivod's Office and the Voivodship Labour Office what kind of barriers they thought stood in the way of an effective SF absorption within the region. A significant number of respondents mentioned the "lack of financial resources of self-governing bodies to ensure their own input". Another oft-mentioned response was "a lack of the financial input of beneficiaries" together with the rule of reimbursement and a relatively long time to get the money reimbursed. The second question concerned the barriers that could block the effective realization of new tasks connected with the SF absorption by the office where they work. Once again, respondents frequently mentioned a lack of resources in the office budget.

The results of the research could be one of the sound arguments for entering partnerships between Podlaskie *gminas* and *powiats* in order to increase the economic development of the region.

3.2 Institutional Readiness

What is meant by "institutional readiness"? I would define it as the potential of the self-governing bodies of all three levels (*gmina*, *powiat* and region), the Voivod's Office, potential of non-governmental organizations, training institutions, enterprises and all others applying for the SF to generate and implement projects. Therefore, institutional readiness refers to the potential of the institutions which are part of the programming and implementation system to the effective and efficient realization of the tasks imposed on them and which are tied to the creation of the programming documents, monitoring and control of the co-financed projects. Last year, some changes took place within the Podlaskie Voivodship. For example, the organizational structures of the Marshal's Office (MO), the Voivodship Labour Office (VLO) and the Voivod's Office (VO) were changed. New divisions (VO) and new units (MO) were established, within which employees will participate in activities related to the SF absorption. The results of my personal research show that employment in the MO and VLO increased significantly. For example, the number of employees of the Department of the Regional Policy and Structural Funds in the MO increased from 14 to more than 30. In the Voivod's Office, rather than having to take on new staff, a rotation of personnel between different divisions was established.

When asked about their level of preparedness, more than 78 percent of respondents felt their offices were well prepared for the new tasks connected with the SF absorption. Only one person felt his office was “very well” prepared and two people stated it as “badly prepared”. However, it cannot be guaranteed that all of the participants answered honestly because of fears that the surveys might fall into the hands of their directors. Such a conclusion is supported by the answers of regional officials to the question of barriers standing in the way of effective realization of the new tasks connected with the SF absorption by the office that they work for. The following are some of the answers:

- Not enough IT equipment;
- Insufficient knowledge of clerks;
- Lack of qualified personnel;
- Too much red tape and a complicated system of gaining funds;
- Not enough training in the form of workshops;
- Some of the beneficiaries are unprepared.

The opinion that our local self-governing bodies are not very well prepared to take advantage of the SF is evident in the answers to my survey given by *gminas* and *powiats* of the Podlaskie region. More than half (51 percent) of respondents said that they are not qualified enough to justify their choices and they gave the following reasons:

- Lack of training workshops on project preparation and management;
- Lack of personnel, those who are working being ill-prepared;
- The process of implementing new procedures is disorganized;
- Lack of clear guidelines and information;
- Too many complicated application forms;
- Lack of experience in the field of preparing and managing projects;
- Limited financial resources.

In response to another question concerning the probability of using external support while developing projects, 54 percent of the participants answered positively. In my opinion, one of the main reasons for this is the lack of experience in the field of developing projects and applying for EU funds. Of course, there are important influences which have all of the above-mentioned problems. A wide gate was opened on the market for private consulting companies willing to assist project promoters in their tasks and offer their support in gaining EU funds. This is why it is of such importance that training institutions and advisory and consulting companies are professionally prepared to provide services of the highest quality. Unfortunately, this is not easy because the truth is that almost no one in Poland, certainly not in Podlaskie, has had an opportunity to learn how the Structural Funds machinery really works. I think that only on an individual basis do people have the opportunity to learn from the experience of different member states already taking advantage of the SF. Our local consulting compa-

nies may have some experience in gaining pre-accession funds from PHARE or ISPA or SAPARD, but in the case of SF the procedures differ considerably. I have limited my research to the local and regional authorities. However, I will eventually extend my researches and also cover NGOs and SMEs, taking into special consideration advisory and consulting companies.

When talking about institutional readiness, we shall bear in mind human resources which leads us to the next aspect of readiness linked very closely to the institutional one – staff readiness.

3.3 Staff Readiness

“Staff readiness” can be defined as the existence of properly qualified civil servants and self-governmental clerks who are specifically prepared for the tasks connected to SF absorption. Are we in Podlaskie prepared for these new tasks in terms of human resources? It is undoubtedly difficult to assess. My research show that the regional clerks from Podlaskie who will be dealing with programming, monitoring, control, projects development, etc., are on average 35 years old, possess higher education (98 percent of respondents). speak foreign languages (most of them English, then Russian and least of all German) and are computer literate. In addition, they assess their own knowledge of EU regional policy as good (48 percent) or very good (32 percent). Of the participants, 48 percent felt their knowledge of legal regulations concerning the SF, the SF implementation system in Poland, monitoring and control of the projects to be realized with the SF support, the role and responsibilities of the Marshal Office and the Voivod Office in the programming and implementation process was satisfactory, and 40 percent felt their knowledge on this topic was good. However, almost on the eve of accession, these same public officials expressed a need for a wide range of training, from programming to SF, filling out application forms to the IROP, and assessment of applications, projects generation, detailed training on the role of individual units in the SF implementation process, internal audit, verification and confirmation of payments, to end with the public procurement procedures.

This is a surprising result. On one hand, people assess themselves as having good knowledge of the subject; on the other, they express a need for extensive training. What a contradiction! How can that be explained? The only answer which comes to my mind is to say “practice makes a master”, but is it really a satisfactory one?

In my survey, I also asked how they feel themselves prepared for their new duties. OuEacht of the answers – “good”, “quite good” and “not good enough” – was chosen by 33 percent of the respondents. The reason for these different responses: small number of training sessions, lack of the final version of the manual on implementation of the individual operational programmes and lack of the final versions of the operational programmes and their complements.

I have already mentioned that it is difficult to objectively assess personnel readiness for the SF absorption within the Podlaskie region. The surveys give us some insight into several issues, but they are based on the subjective view of the respondents. The reality of the next couple of years will verify the level of readiness, and lead to further conclusions.

3.4 Legal readiness

I would define “legal readiness” as the adaptation of our Polish law to European Union legislation. From the Structural Funds perspective, the most critical part passed at the beginning of March with the new Public Procurement Law adjusting our tendering procedures to EU regulations. The Act of Law on Public Finances that would include the Structural Funds and Cohesion Funds in the sources of public finances is no less important than passing the Act of Law on the National Development Plan. Delays of works on that law not only caused major delays in establishing institutions necessary to manage structural projects, but also created considerable confusion in administrative structures. The legal basis for establishing, monitoring and steering committees at the central and regional level was missing⁷. The central problem were the gaps of the Law on Public-Private Partnership that was to enable a wider scale of involvement of private units in financing the EU projects.

Legal readiness also means regulation of the status of land ownership, which is crucial in the case of infra-structural projects realized by local authorities. We must remember that the first programming period is very short, only covering 2004–2006. In order to be on time with the realization of planned projects, the project promoters should regulate at the end of the preparatory phase, where it is necessary, the status of land ownership and complete all the necessary formalities. No less important in my opinion is the legal awareness of clerks at all levels. In order to perform their tasks effectively, the clerks must know the law, and they must be able to navigate through all the procedures to make the decision-making process more efficient

But how do we expect them to know documents and procedures when the final versions do not even exist? My personal research has shown that regional authorities openly blame the lead ministries responsible for the preparation of the programming documents, guidelines, application forms, etc. The respondents accuse the central government of having a lack of critical legislation, “occlusion” in the information flow, negligence, long delays in the preparative work and even a lack of a realistic grasp of the current state of the economy.

7 Grosse, T. G. “Stan przygotowań administracji regionalnej do wykorzystania pomocy strukturalnej UE.” *Analizy i Opinie* 18 (January 2004): 3

3.5 Documentation Readiness

The final type of readiness that I will define is readiness in the area of documentation. I am referring to the existence of the proper number of good quality projects and the preparation of the technical documentation such as plans, localization drafts, business plans and feasibility studies that are obligatory attachments to such projects. Again, what is the situation in the Podlaskie region? The Marshal Office oversees a pilot internet database of project propositions which have been submitted for co-financing from the European Regional Development Fund. This purely informative database enables us to draw up some not very optimistic conclusions on the state of our “documentation readiness”. All the project propositions submitted to this database by the priorities and measures of the IROP are being assessed by clerks and are given a rank of one, two or three, where one means that the project is ready for implementation, two means that the project must be improved a little bit and three means that the project has to go a long way before it will be ready for co-financing. Out of the total number of 320 project propositions entered into the database, only 25 were given the rank of one, 189 the rank of two and the rest, 106 projects, the rank of three. This demonstrates that we may have a serious problem with numerous submissions of inadequate projects (meeting the formal criteria, essentially well prepared and complete) that will let the region absorb the majority of the resources available for the Podlaskie region under the IROP.

Conclusions

Whether we succeed or not and whether we take advantage of the SF and make a good use of these funds will become apparent only over the next couple of years. Today, we can only try to guess the level of the SF absorption within the Podlaskie region in the first programming period. This was exactly the final (open) question I asked in my survey. The average amount of SF use, according to my respondents, was 47.4 percent. Almost half of the answers ranged between ten percent and 50 percent. As I have already stated, the reality of the first programming period will show whether we are net payers of the EU or not. I hope that despite the many barriers which exist we will manage to overcome the problems and succeed.

References

1. Council Regulation No 1260/1999 of 21 June 1999 laying down the general provisions on the Structural Funds.
2. Regulation (EC) No.438/2001 of the Commission of 2 March 2001 on adoption of the implementing provisions of Regulation (EC) no.1260/1999 of the

Council in relation to the management and control systems for assistance from the structural funds

3. Grosse, T. G. "Stan przygotowań administracji regionalnej do wykorzystania pomocy strukturalnej UE." *Analizy i Opinie 18* (January 2004): 3
4. Integrated Regional Operational Programme for the years 2004 – 2006, Warsaw February 2004.

European Union funds: absorption capacity and effectiveness of their use, with focus on the regional level in the Czech Republic

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Note: The paper is based on original research for the Grant Agency of the Czech Republic, via the project No 402/03/1221.

Abstract

The main theoretical objective of the paper is to contribute to the methodology of research of public finance and functioning of the public sector by developing the concept of the European Union funds' market and its absorption capacity. The objective in a practical way is to bring some evidence on how the system works which means a description of the procedural difficulties, bottlenecks and reasons behind the low-absorption capacity on both supply and demand sides.

In the first part of the paper, we develop a concept of absorption capacity and its determinants on the supply and demand sides of the European Union funds market. In the second part, we provide the comparative analysis of the administrative conditions for absorption of European Union funds. The chapter contains a comparison of existing and arising implementation structures in the member states and candidate countries (new member states or NMS), the system of functioning, similarities and differences. It also points out problems with designing and functioning, and states reasons behind the difficulties with the administrative absorption capacity. We suggest some recommendations for the

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implementation of structure designing. The analysis is amended by the Czech case studies showing problems with establishing and running the implementation structure in all stages of the policy life cycle. The analysis of reasons of difficulties in the administrative absorption capacity is provided at the end of the second part.

In the third part, we present the outcomes from research on the demand side in the Czech Republic. First, we measure the current absorption capacity on the demand side, and second, we identify the reasons behind the lack of ability to develop acceptable projects.

We show that the absorption capacity is critically influenced by the functioning of the entire system of implementation, monitoring and auditing, the ability to avoid the ineffective use or even misuse of funds, and by ability of the applicants to submit acceptable projects. Due to our comprehensive research, we consider the administrative absorption capacity and the ability to generate acceptable projects as the main restrictions in usage of European Union funds effectively at the moment.

We use the data from our comprehensive empirical research on both supply and demand sides and compare them with other officially published empirical studies.

1. Introduction

“Two essential requisites need to be systematically pursued so that the Czech Republic can draw full benefit from Structural Funds and these are linked to recommendations presented above: adequate information dissemination and capacity building in local government and civil society for the conception and implementation of development projects.” [OECD 2003/2, p. 58].

The absorption is a new condition in the allocation of European Union funds.¹ Based on past experience, the European Commission (EC) came to the conclusion that countries have a limited capacity to absorb external investment support effectively and efficiently. There are restrictions on either demand or supply side.

In all the newly accessing countries, there are serious problems expected with absorption capacity. Czech experiences with the implementation of the Pre-accession Funds (especially SAPARD and ISPA) confirm these findings. The

1 To avoid confusion we distinguish the public fund from the public (expenditure) programme. The public money is collected in the public fund and allocated according to the rules of implementation (e. g., Status of Fund, etc.). The concrete objectives, goals and measures of public expenditure, eligible activities, eligible applicants, eligible costs, financial framework, and timetable and implementation structure are defined and described in the document which is called a “programme”. The implementation of the programme is financed from the fund.

partial problems have already been indicated [Šumpíková et al 2004] and the following text provides a comprehensive analysis of this situation.

In the paper, we concentrate mainly on two fields: the administrative capacity on the supply side and the ability of applicants to develop acceptable projects on the demand side. In the first part of the paper, we provide the comparative analysis of the Czech administrative capacity comparing it to the situation in selected member states. We identified some reasons behind the difficulties in the administrative capacity in the Czech Republic. In the second part of the paper, we present the outcomes of the analysis of the demand side in the Czech Republic and some reasons behind the lack of ability of the applicants to develop acceptable projects.

From a number of topics defined by the European Union Pre-accession Funds (PAF) and five topics defined by the operational programmes for intervention of Structural Funds in the Czech Republic, we included the three following sectors to our analysis: regional development, human resources development, industry and entrepreneurship. We excluded rural development and multifunctional agriculture, infrastructure (transport and environment) and also the ISPA and Cohesion Fund.

The presented analysis is based on three comprehensive researches. The first of them has been an ongoing project by our research team in selected regions NUTS III since 2002. This inquiry involved Pre-accession Funds, Structural Funds and regional expenditure programmes in the Czech Republic. The second one covering Ireland, Portugal, Spain and Germany with particular attention to the new Bundesländer, was carried out by the firm NEI Regional and Urban Development for European Commission REGIO Directorate General, and for European Commission Directorate General Enlargement in 2002 [NEI Regional and Urban Development 2002]. The third area of research is being undertaken by ECORYS consortium in all Czech regions NUTS II – NUTS III (except Prague) for the Czech Ministry for Regional Development. The research started in the autumn of 2003 and hasn't finished yet, but some partial conclusions are available [ECORYS 2003a, 2003b].

2. The Absorption Capacity and Its Determinants

We consider the absorption capacity as the extent to which a state is able to fully spend the allocated financial resources from the European Union (EU) in an effective and efficient way. This capacity is necessary for making a maximum contribution to economic and social cohesion [Vitek 1999] with these resources.

The system of public funds (including European Funds²) allocation can be understood as a public money market where supply and demand are balanced.

2 We focus only on the Structural Funds and neglect the Cohesion Fund.

Certain questions need to be solved. How much is offered and demanded? Under what conditions? What volume of transactions can be realized on the market? The market has a specific absorption capacity measurable by the total amount of transactions.

We can recognize the European and national markets of EU funds. The European supply side is represented by the European Commission and its subordinated bodies which deal with the European Union budget. They are generally responsible for the implementation of European Structural Funds within the member states and the Pre-accession Funds within the candidate countries. The individual countries compete for a bigger or smaller portion of EU funds on the demand side. The negotiations on the amount and conditions of assistance are held between national representatives and the European Commission.

EU funds are administrated by the national/regional administrative on the national level. The administrative (implementation) structure represents the national supply side. From our point of view, most important is its ability to receive EU funds and allocate and distribute them to the relevant territory. The ability to receive money is conditioned by many steps which have to be done: e. g., existence of a paying agency and central bank account, the whole implementation structure, written programmes acceptable for the European Commission and descriptions of how the money will be spent.

On the supply side are legal bodies participating in the design and realization of public expenditure programmes financed from public funds. On the national and/or regional level, the implementation structure usually constitutes the Managing Authority, Paying Authority, Monitoring Committee, assessors, Evaluating Committee and Intermediate Bodies. The managing authority generally runs the implementation of the programme designed for spending public funds in the respective country/region. The main tasks of the managing authority are to design a programme and manage its implementation. Some programming and implementation tasks (such as evaluation, monitoring, information, publicity) can be shifted from the Managing Authority to the so-called "Intermediate Body" staying outside the Managing Authority. The Paying Authority generally mediates the payments from the European Commission to the applicants. Assessors evaluate projects and the Evaluating Committee selects projects on the basis of the assessors' recommendations. The Monitoring Committee monitors the programme implementation and gives recommendations for its re-formulation.

Using the microeconomic point of view, the supply size is generally determined by the sources and technology. Human capital, financial and productive capital and land belong to the sources. The quality of human resources influenced the effectiveness of transferring the public financial sources from the EU funds to the applicants' hands. The actually disposable amount of EU money in the respective country (i.e., the national supply side) is determined by the following

three factors: total budget, upper limit for assistance, ability to co-finance activities from national, regional and local budgets. Together with negotiation skills they are very important for the determination of the total budget received by the respective country from the EU funds.

Financial sources are conditioned first, by the total amount of money collected in the EU funds (total budget) and second, by the limit given for Structural Funds assistance to national/regional activities. The EU budgeting and collection of public money are not topics of this paper [see Laffan 1997, Laffan and Shackleton 2000, König nad Lacina, 2004]. The paper does not deal with the problem of administrative and compliance costs and dead weight loss arising from raising money for public funds [see Vitek 2002, Hronec at all 2004]. The methodology and measurement of transaction costs on both supply and demand size are dealt with by other papers [see Pavel, 2003].

The upper limit of the contribution from all Structural Funds has been generally defined in the Council Regulation (EC) 1260/99 (Article 7, Section 8) as a maximum of four percent of the GDP of the respective country. We call this limitation a macroeconomic absorption capacity of Structural Funds. The capacity is influenced by the total amount of the GDP of the respective country and the share negotiated between the national government and the European Commission. The Czech Republic received one percent of the GDP for the period 2004–2006.

The third limitation for the total amount of available financial sources is a financial absorption capacity. It can be defined as the ability to meet the rule to co-finance programmes and projects subsidized by the European Union from national sources (Council Regulation (EC) 1260/99, Article 11), to plan and guarantee national contributions in multi-annual budgets, and to collect these contributions from several partners (state, regional and local authorities and private bodies) interested in a programme or project.

We consider the technology as the way of transferring public money from the fund to project activities. The way is laid down by “rules of game” given within the relevant primary and secondary law acts.

In the case of EU funds, we understand the term “technology” as the principles and processes used by the implementation structure. The technology used determines the efficiency, effectiveness and economy of the implementation structure. It influences the availability of financial sources for potential applicants and thereby the final effectiveness of public expenditure.

The ability of the implementation structure to effectively use, allocate and distribute EU financial sources can be considered the administrative absorption capacity on the supply side. The administrative absorption capacity (further administration capacity) is the ability and skills of central, regional and local

authorities to prepare suitable plans, programmes and projects in due time, to decide on programmes and projects, to arrange the coordination among principal partners, to cope with the administrative and reporting requirements, and to finance and supervise the implementation properly, avoiding irregularities as much as possible. The capacity is determined by the design of the entire implementation system as well as its functioning which includes the ability to manage the Structural Funds implementation in compliance with the respective legislative framework (operationalization of rules).

The administrative absorption capacity consists of structure, human resources, systems and tools. Structure relates to the clear assignment of responsibilities and tasks of the legal body, or within it on the level of departments or units and to supervisory and ancillary bodies, such as the Monitoring Committees, auditing bodies, partnerships, etc. This assignment refers to a range of European Union funds' tasks, including programming, implementation, management, evaluation and monitoring, financial management and control. Together, these activities constitute the policy life cycle. The administrative capacity requirements vary according to various stages of the policy life cycle.

Human resources relates to the ability to detail tasks and responsibilities on the level of job descriptions, to estimate the qualifications of staff, and to fulfil recruitment needs. Securing the timely availability of a highly experienced, well-skilled and motivated staff is a key factor in the successful management of any public expenditure programmes. Systems and tools relate to the availability of instruments, methods, guidelines, manuals, systems, procedures, forms, etc., which enable organizations to transform tacit and implicit knowledge (within the heads of individual people) into explicit knowledge that can be shared across organizations.

From our point of view, the national demand side is represented by legal bodies applying for subsidies from EU funds. The demand side can be identical with effectively demonstrated demand, which means with the active applicants submitting projects more or less successfully. We consider that the research of the inactive legal bodies' behaviour could be also worthwhile for better understanding of problems connected with absorption capacity. The research undertaken into inactive bodies brought information about obstacles and problems in effective preparation of a project and can show problems either on the demand or supply side.

We paid the most attention to the active applicants and the reasons causing the lack of ability to generate acceptable projects. We measured the ability to apply for public funds as the ability to meet the criteria of eligibility of applicants and eligibility of a project including the ability to co-finance the project from private financial sources. These criteria are determined in advance by the implementation structure and usually published as part of programming document

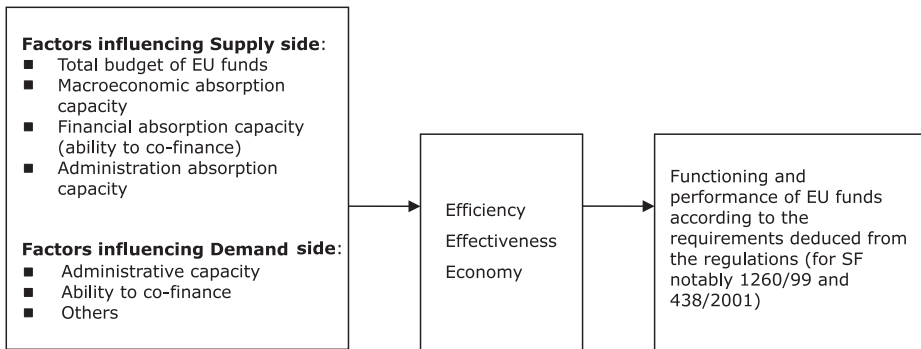
(see below) and/or the Call for Proposals. The demand side absorption capacity means the project applicants’ actual ability to generate acceptable projects. It is a subject of the administrative capacity of potential applicants, the ability to co-finance the project and many other factors described in our analysis presented in the following text.

The demand side is represented by real and potential applicants of projects demanding support from public funds. From our point of view the “applicants” are generally private and public bodies eligible to apply for the public support of their public or private activities. The group of applicants includes a broad list of (at least) regional public administration, non-profit non-governmental organizations, small and mid-sized business enterprises, state administration, schools, etc.³

The above mentioned remarks can be summarised in the following formula:

Graph 1

Linkage between Absorption Capacity, 3E and Performance of the European Union Funds



Functioning and performance of European Union funds, i.e., the extent to which the European Union funds are being managed effectively and efficiently, can be considered as a “throughput” variable depending on the absorption capacity on both supply and demand sides. The absorption capacity only leads to a strong performance of the European Union funds if economy, efficiency and effectiveness are taken fully into account [Wright and Nemeč 2003].

3 The official documents for EU funds implementation distinguish between final beneficiaries, final recipients and target groups. For the purpose of our analysis we can aggregate the final beneficiaries and final recipients all together and consider them being generally the applicants for public support. The target groups are receivers of the outputs, outcomes and impacts of the realized programmes and projects (e. g., unemployed women, disabled people, teenagers, NGOs, small and mid-sized business enterprises, etc.). They are not a subject of our analysis.

The functioning of Structural Funds cannot be measured in new members states either, but some indications about the future system functioning can be deduced from both the functioning of pre-accession instruments currently in place (Phare, ISPA, SAPARD) and preparedness of the implementation system for Structural Funds.

3. Comparing the Czech Administration Capacity with EU Standards

“The strong expansion of the European Union regional development policy, which has replaced many national regional development programmes, has guided the evolution of regional policy in Europe and has had a strong influence on the instruments used. *Firstly*, many programmes require strong involvement from regional and local governments, as well as non-governmental organisations and the private sector. *Secondly*, there is a strong focus on developing regional strategies that *de facto* combine sectoral policies in a regional context.” (OECD, 2003/1, p. 6).

In order to provide an up-to-date analysis, we decided to focus on problems of the Structural Funds absorption capacity and do not deal with the Pre-accession Funds (where it is meaningful). Briefly described, the Czech Republic should receive one percent of the GDP in years 2004–2006. The ability to co-finance programmes/projects from national public sources seems to be ensured for that period. The big question is a participation of private sources because administration requirements can overwhelm their gains from project realization with support from the European Union.

The Council of the European Union expressed its concern about the administrative capacity of the candidate countries (CC) in 2001, and defined many problems still to be solved in several candidate countries in relation to preparations for Structural Funds and Cohesion Fund. One of the problems is the absence of a definition of responsibilities in terms of programming and managing EU funds, which would clearly reflect the requirements of the Council Regulation (EC) 1260/99. This and other problems (related to the implementation of 1260/99 and 438/2001) were identified by research undertaken by our team or by ECO-RYS two years ago.

Management

The Managing Authorities (MAs) of EU funds are generally located at the relevant national ministries and functioned as a part of the existing administrative structures. Every country under inquiry has elaborated the role of the Managing Authorities of EU Structural Funds + Pre-accession Funds and regional funds in a different way, reflecting the administrative structures, planning traditions,

balance of power and the size of the country. The variety in the number of operational programmes (OPs) and the balance between Sectoral and Regional Operational Programmes is wide across the member states and also within new member states.

The staffing of Managing Authorities (in terms of quantity and quality) is perhaps one of most crucial issues in the management of any public expenditure programmes. Staff numbers vary widely from one Managing Authority to another, depending on the type of programmes and the delegation of tasks. There is no general rule for this and the regulations make only limited references to human resources. The common problem in all countries is the ability to recruit and retain highly educated people with a strong background in finance, law and/or economics. The ability depends on the attractiveness of the government as an employer. According to our research this is valid not only for Central Managing Authorities on the level of state administration, but also for regional and local government.

From the above-mentioned we can come to the conclusions for new member states (and remaining candidate countries): there is no standard model for organising public expenditure programmes management, and new member states should be careful in copying individual models, because the circumstances are considerably different. The smaller number of programmes is an important simplification in managing the whole system of any public expenditure programme. According to the experiences of member states, it is usual in new member states to design the management of Structural Funds in line with the existing national hierarchy and the administrative structures in place. Pre-accession Funds have followed the same practice, but there is no empirical evidence (except the “common practice”) that this is the most effective way for both Structural Funds and Pre-accession Funds systems considering at the very least the serious problems in attracting highly qualified and motivated staff.

The various programming and implementation tasks (such as evaluation, monitoring, information and publicity) can be delegated from Managing Authorities to special bodies or units outside of the Managing Authorities. The role can be played by so-called Intermediate Bodies or independent private legal bodies. The Czech Intermediate Bodies are usually part of state or regional government (both in Pre-accession Funds and Structural Funds implementation structures) and the evaluation is tendered to the private bodies. The role of Intermediate Bodies in the implementation structure of Pre-accession Funds/Structural Funds is crucial not only in the management and programming process, but also in the implementation of programmes especially on the project level (see below).

Programming

The whole process of programming in both member states and new member states is assessed as labour-intensive. It can take as much as 18 months to draft a programme depending on the number and type of partners involved. The elaboration of the Czech National Development Plan and its complementary documents (Sectoral Operational Programmes, Regional Operational Programmes and programme complements) has taken at least five to six years, and hadn't yet finished at the date of entering the European Union.

One of the most difficult intellectual activities is to accommodate the strategies, goals and priorities to programme partners' ideas, political pressures and wishes. All kinds of stakeholders are going to try to fund their wish list from the programme as much as possible. Another problem in the programming process is the issue of developing reliable indicators for measuring the effectiveness of a programme. It is still hard work within member states and new member states to design indicators which are usable, measurable and meaningful, and which subsequent quantification and their mutual consistency in the overall framework are ensured.

In some member states studied, the higher-level Intermediate Bodies have been responsible for the production and edition of the physical and economic analysis and of the measures texts with the help of different implementing (lower-level) Intermediate Bodies. The involvement of Intermediate Bodies in the programming process may cause the coordination task of all partners to become more demanding or it may enhance it.

During the Structural Funds programming process in the Czech Republic, this practice led to various complications in finding the right Intermediate Bodies and their position and tasks in the implementation structure. The evidence can be found in the Joint Regional Operational Programme and in the Operational Programme Industry and Entrepreneurship. In the first case, the Regional Development Agencies (RDAs) were substituted by regional public administration (particular by Regional Secretariats of Board of Regional Representatives of NUTS II regions). The change has been done, although Regional Development Agencies have the above-average experienced staff in comparison with other consultancy firms and probably also with regional implementation structures.⁴ In the second case, the role of an Intermediate Body shifted from one ministerial agency to another in a special way: the Ministry of Industry and Trade established several agencies supporting investments, business and trade during several years. One agency, formerly the Intermediate Body was later integrated into another one, and the competencies of the Intermediate Body were shifted (the case of CzechIndustry and CzechInvest).

⁴ For more information about the past, present and future of the Regional Development Agencies in the Czech Republic see OECD (2003), pp. 70 – 71, National Action Plan (2004), p. 33).

The Czech case of programming can shed more light on some practical problems. We monitored the publicity of the programming documents for the implementation of Structural Funds in the Czech Republic. We show the list of 28 documents in the table below: seven programmes, their subsequent programme complements and practical guides for applicants and financial operations and publicity of the list of projects. We consider the documents to be crucial from the applicants' point of view (especially programmes, programme complements and practical guides for applicants). With respect to the publicity required by the European Commission, the documents should be available on the official web site www.strukturalni-fondy.cz running on a server of the Ministry for Regional Development. The Ministry is a Managing Authority for Community Support Framework, i.e. the top-level national authority for Structural Funds implementation in the Czech Republic. The final version must be approved by the European Commission to be an effectual document.

Table 1
Publicity of the Documents Crucial for Using Structural Funds in the Czech Republic* – September 2004

	Joint Regional Programme	Human Resource Development Operational Programme	Industry and Entrepreneurship Operational Programme	Operational Programme Infrastructure	Rural Development and Agriculture Operational Programme	Single Programming Document for Objective 2	Single Programming Document for Objective 3
Its availability on web sites and status of the programme	Final official Czech version from 12/2003, approved by EC	Final official Czech version from 11/2003 approved by EC	Final Czech version from 12/2003, approved by EC	Final official Czech version from 12/2003, approved by EC	Final official Czech version from 03/2004	Final official Czech version from 02/2004, approved by EC	Final official Czech version from 02/2004, approved by EC
Programme Complement (Has the version already been approved by the Monitoring Committee?)	Final official version from 06/2004, approved by MC	Final official version from 05/2004, approved by MC	Final official version from 04/2004, approved by MC	Final official version from 04/2004, approved by MC	Final official version from 04/2004, approved by MC	Final official version from 04/2004, approved by MC	Final official version from 06/2004, approved by MC
Practical guide for applicants	Version from 07/2004	Version from 09/2004 (probably)	Version from 08/2004	Version for Priority no. 1 and 2**	Version from 04/2004	Version from 06/2004	n. a.
Practical guide for financial operations	Version from 06/2004	n. a.	n. a.	n. a.	n. a.	n. a.	n. a.
List of projects in MSSF	n. a.	n. a.	n. a.	available	n. a.	n. a.	n. a.

EC = European Commission, OP = Operational Programme

*) Single Programming Document for Objective 2 and Single Programming Document for Objective 3 are programmes only for Prague, other programmes are valid for all Czech regions NUTS II except Prague.

** There are 4 priorities; the 4th priority is Technical Assistance.

The documents contain comprehensive information necessary for project preparation. Many important criteria are defined such as supported geographic territory, topics and activities, the criteria for eligibility of applicants, projects, costs, defined target groups (who should gain benefit from the realization of projects), timetable, financial framework (total budget, share of co-financing) and description of the implementation structure, its tasks and competences and the method of information dissemination. It is clear that the in-time availability of documents critically influences potential applicants' strategies and consequently their ability to prepare acceptable projects in time. The frequent and/or significant changes in the officially published drafts of programming documents, their low publicity and incompleteness increase transaction costs especially on the demand side and give room for the insider trading and corruption.

We monitored the situation during the last two years, and higher attention has been paid to it since March 2004 because of the EU-entering in May 2004. Because of the low publicity of documents on this web site, we extended our search to all official web sites of relevant Structural Funds Central Managing Authorities (i.e., six relevant ministries – Ministry of Education, Youth and Sports; Ministry of Agriculture; Ministry of Environment; Ministry of Labour and Social Affairs; Ministry of Industry and Trade and also an official web site of Ministry for Regional Development). In some cases, we found out that some of the documents were published only on the web sites of the relevant ministries playing the role of Managing Authorities. If the potential applicants don't know where to search for missing documents and information as well as the Managing Authority, their ability to prepare projects might be jeopardized.

From the total number of 28 crucial documents, only four official versions of programming documents and six drafts were available (18 documents were missing) one month before entering the EU. We realized an improvement of the situation at the beginning of September 2004, when 21 official versions of documents were published on web sites (mainly on the www.strukturalni-fondy.czz). Some of them – e.g., the Programme Complement for Human Resource Development Operational Programme and Programme Complement for Operational Programme Infrastructure were still available only on the web site of the relevant ministry), but only seven documents were missing.

The access to the Monitoring System of Structural Funds (MSSF, an internet interface to the Structural Funds project database) was at the same time operating only for the Operational Programme Infrastructure. At the other operational programmes, the calls for a proposal have not yet been announced (e.g., Human Resource Development Operational Programme, Industry and Entrepreneurship Operational Programme) nor has the database been filled in (Joint Regional Operational Programme – 1st Call for Proposals).

The consequences for new member states and candidate countries can be summarized in the following paragraph. The programme will not be effective if written from behind the ministerial or self-government office desk [see Sumpikova et al 2003]. The pre-condition of a successful programme is the wide support and feeling of the ownership and responsibility of involved parties. The partnership is a crucial moment in the acceptance of programme. It could range from consultations among a limited group of stakeholders afterwards (asking stakeholders for their opinion on draft programmes) to full-fledged and wide-ranging partnerships, involving social and regional partners, politicians and non-governmental non-profit organizations (NGOs). On the other hand, the partnership logically requires a much higher level of coordination and negotiation skills than the ministerial desk. A ground for the formalisation of a partnership is a Monitoring Committee, a standard part of any Pre-accession Funds/Structural Funds implementation structure.

Implementation

The administrative structure of implementing Pre-accession Funds/Structural Funds can be very complicated. The usual model is as follows: first, the Managing Authority provides advice and information on European Union policies and rules. Second, it promotes the use of guidelines and procedural manuals; and third, it monitors, evaluates and runs the financial control. The larger part of programme implementation is usually delegated to Intermediate Bodies, which stay between the Managing Authority and the final beneficiaries, and are the first recipients of applications and the first level on which compliance with eligibility rules is analysed and improved. They are also responsible for different tasks ranging from evaluation, selection, and monitoring of co-financed projects to the production of certifications of expenditure and six-month and annual performance reports. Therefore, the Intermediate Bodies play a crucial role in the effectiveness and success of a programme.

Ministries – specifically, selected departments – can be involved as Intermediate Bodies as well as various agencies and bodies (as, for example, in the Czech Human Resource Development Operational Programme). This system often coincides with a “multi-tier” implementation system in which tasks are further delegated by a “first level” Intermediate Body to a “second level” Intermediate Body.

The numbers of Intermediate Bodies vary among individual Pre-accession Funds/Structural Funds, individual Operational Programmes and countries. It can easily amount up to 30 or 40 Intermediate Bodies per one Operational Programme and, according to our research, a similar situation exists at Pre-accession Funds. The following table presents an outline of the complexity of the Czech implementation structure on the case of two operational programmes.

Table 2
Number of Intermediate Bodies in the Czech Republic

Operational Programme	Number of Intermediate Bodies	Description
Joint Regional Operational Programme	26	13 Secretariats of Board of Regional Representatives of NUTS II regions, 13 regional offices of the Centre of Regional Development (CRD) 1 central unit of CRD
Operational Programme Industry and Entrepreneurship	37	13 regional offices of CzechInvest, 1 central unit of CzechInvest, 8 offices of the Czech-Moravian Guarantee and Development Bank, a.s. <i>(i. e. 5 regional branches of Bank + 1 regional office + 1 information centre + 1 central unit),</i> 1 central unit of CzechTrade 13 regional information points (their role is usually played by Chambers of Commerce in each self-government region NUTS III), 1 central unit of Czech Energy Agency.

Source: Point Regional Operational Programme, 2004, Operational Programme Industry and Entrepreneurship, 2004

According to the NEI study and our research, there is a difference between sectorally-oriented Intermediate Bodies and regionally-oriented Intermediate Bodies. For the implementation of Sectoral Operational Programmes, recourse is often taken to national development agencies, foreign investment agencies, tourism agencies and development banks. Regional Operational Programmes can have the following entities as implementing bodies: municipalities, associations of municipalities and civil society organisations such as regional development agencies, development associations and other non-profit organisations.

Monitoring and Evaluation

According to Article 35 of Council Regulation (EC) 1260/99, the Monitoring Committee (MC) is the highest decision-making body in each Operational Programme, Single Programming Document or Community Support Framework (CSF). The total number of Monitoring Committees is directly proportional to the number of Operational Programmes and ranges from seven (Ireland) to 25 (Spain). In the Czech Republic, we designed eight Monitoring Committees for Structural Funds: one Monitoring Committee of the National Development Plan

(Community Support Framework), five Monitoring Committees linked to the Operational Programmes and two Monitoring Committees for Single Programming Documents.

Again, according to the NEI and our research, the Monitoring Committees of Pre-accession Funds/Structural Funds tends to be rather formal and political in nature. The involvement of various ministries, social and regional partners and NGOs requires careful preparation of meetings and their intelligent chairing. Due to its structure, the identification of Monitoring Committee members is a time-consuming and sensitive process.

Monitoring tasks can be enhanced by information technology based on a monitoring information system, but the systems are not fully in place yet either in the member states or in the new member states studied. Each country shows different models, although in all of them some type of centralized monitoring system has been developed. In the Czech Republic, there has been a newly-introduced Monitoring System of Structural Funds (MSSF), which was officially published on web site in its draft version on 31 March 2004 (see www.strukturalni-fondy.cz).

Ex-ante, mid-term and ex-post evaluations are to a small or large extent contracted out to private independent bodies on the basis of tender. The evaluations can be carried out by private consultants, universities or individual scholars. Commonly, the Community Support Framework Managing Authority for Pre-accession Funds/Structural Funds provides the Terms of Reference and the evaluation method to be used while the Operational Programme Managing Authority contracts out the work. The Czech experience from Pre-accession Funds is that the detail reports from evaluations are not usually published and the reports to EC contain only the total amount of money spent in the separate fields (often in a non-comparable structure with previous reports) and the number of supported projects [Delegation of European Commission 2003, Centre for Foreign Assistance 1996, 2000, 2001, 2002]. The local, independent evaluation expertise is not sufficiently in place in the new member states, at least not in accordance with international quality standards. The evaluations of national, regional and local policies play an important role not only in the process of programme implementation but due to the policy life cycle for the programme preparations in future.

According to the NEI report, the status of the monitoring systems in the Monitoring Committees studied was often less advanced than one would expect on the basis of the rich experience gained in managing the Structural Funds. The experience from both Pre-accession Funds/Structural Funds implementation showed that it is hard to develop a system which is useful for all participants, reliable, and at the same time user-friendly and up-to-date. The functioning of the Pre-accession Funds monitoring system is an issue of monitoring responsibilities for each Pre-accession Funds clearly assigned at the level of job descriptions, ex-

istence of qualified monitoring officials for each Pre-accession Funds, existence or a full utilisation of a functioning computerised monitoring system. It is important that only a part of monitoring officials were attached to the Pre-accession Funds, providing an opportunity for developing necessary competencies in this field. The most experienced staff from the Ministry for Regional Development and the Centre for Regional Development are expected to play a certain role only in monitoring and control, whereas the Regional Development Agencies were totally excluded from the implementation system (see above).

Financial Management and Control

The importance of financial management and control has increased significantly for the programming period 2000-2006 in all member states studied, particularly due to Regulation No. 438/2001 which led to the separating of Paying Authority (PA). The allocation of tasks and competencies between the Managing Authority, Paying Authority and Intermediate Bodies is not always evident. The main tasks of the Paying Authority include managing the payment of EU Funds, submitting certified payment applications to the Commission, recovering sums due to the Funds, keep a record of recovery orders and supplying expenditure forecasts to the EC.

The NEI report indicated that the functioning of the Paying Authority is rather comparable across the countries studied. The Paying Authority has been established for each of the Structural Funds, the ERDF-Paying Authority tends to be joined with the Cohesion Fund-Paying Authority and is often located within the coordinating Ministry (though not in the Czech Republic where the coordinating ministry is the Ministry for Regional Development and where the ERDF-Paying Authority was established, while the Cohesion Fund-Paying Authority was established within the Ministry of Environment). The Paying Authorities for the *European Social Fund*, The European Agricultural Guidance and Guarantee Fund and FIFG Financial Instrument for Fisheries Guidance in member states studied tend to be located within the respective line Ministries. In the Czech Republic, the ESF-Paying Authority is a part of the Ministry of Labour and Social Affairs and the EAGGF-Paying Authority and FIFG-Paying Authority are included in the Ministry of Agriculture.

The requirement of the system-based audits derived from Regulation 438/2001 led to the establishing of Internal Audit Units, at least at the top of the cascade. These tend to be staffed by regular civil servants who have received auditing training. Lower in the hierarchy, auditing functions tend to be contracted out to private legal bodies.

From the above-mentioned and also from the Pre-accession Funds practice, we can derive the following recommendations. The designation of Paying Authorities is without any doubt an important issue. Despite the common practice

in the member states, it can be advantageous for new member states to simplify and concentrate activities into one Paying Authority (certainly for countries following the Single Programming Document model). A good division of tasks with the Managing Authority and with internal and external auditing functions is needed.

The existence of practices to deal with financial irregularities is an indication of the ability of new member states to take this matter seriously. The publishing of records on financial irregularities, a track record on appropriate measures and the existence of a competent and active national court of auditors can also be indicators of well – established financial management and control of any public expenditure programmes, not only EU Funds.

With respect to this topic, we found out that the Czech public procurement law has yet to be harmonized with the European Union law. The new Public Procurement Act No. 40/2004 Coll., approved by the Czech Parliament in December 2003, virtue since 1 May 2004, isn't in compliance with the European Union law in some sections yet.

Reasons for the Difficulties in the Administrative Capacity

In order to ascertain the reasons for the difficulties in the administrative absorption capacity, research was conducted in August 2004. The inquiry included 155 employees from 14 self-government regional authorities. Respondents were chosen from departments and divisions dealing with European Union programmes (particularly the Structural Funds and related operational programmes). The level of the regional authorities was chosen for two reasons:

- 1) The regional authorities play an important role in the Structural Funds implementation because:
 - a) The regional offices of the Boards of Regional Representatives of NUTS II regions are the Intermediate Bodies for Joint Regional Operational Programme. The biggest part of Structural Funds is allocated within this Operational Programme.
 - b) The regional authorities are implementation agencies for grant-schemes of other operational programmes.
- 2) Our scientific research project primarily focuses on the regional public expenditure programmes.

From the above-mentioned, it is evident that persons representing the regional level of implementation structure for Structural Funds (Joint Regional Operational Programme and the grant-schemes in other operational programmes) were questioned. The implementation of the Joint Regional Operational Programme is carried out by the largest percentage of our research respondents, whereas the others are mostly dealing with grant-schemes of the

Human Resource Development Operational Programme and less with the Single Programming Documents for Prague (for Objective 2, for Objective 3).

Based on the research, we suppose that the preparedness to fulfil the function of the Intermediate Body is still insufficient on the regional level. More than 50 percent of respondents valued their knowledge of European Union programmes, especially the Structural Funds on either an average or basic level. Despite the fact that the role in the organisation of implementation is crucial and recognised by respondents as such (usually 56 percent take a daily part in strategic documents preparation; usually 60 percent take part in the realisation of European Union programmes and put them into practice; 62 percent usually deal with the monitoring and the evaluation of programmes/projects; and 61 percent daily or regularly deal with gaining and giving out information on the implementation of Structural Funds).

The majority of employees who were questioned considered further training in the field of Structural Funds as necessary which can mean two things: first, that these points of issue are not dealt with satisfactorily at the level of the regional Intermediate Body and second, the fact that more or detailed information is received from the Central Management Authority (see the list of programme documents published during the last year – Table 1) means that there is a need for further or updated training.

We suppose insufficient preparedness for the implementation can be indicated by 40 percent of respondents who ask for general training in the field of Structural Funds, and that there is a notable if smaller need for training at the phases of the implementation cycle such as, for example, project management and the programming (11 percent), project evaluation and European Union legislation in the Czech Republic (nine percent). Respondents in the field of education are even less interested in public procurement (five percent), public support, practice of Structural Funds from the European Union and financial management. As far as we can see, the level of knowledge is generally endangering absorption capacity. All of the above-mentioned activities should have been fully carried out by the implementation agency (for example, a first Call for Proposals to two measures and five sub-measures of Joint Regional Operational Programme was finished on July, 2004). Further, the implementation agency offers information about the rules of implementation to potential applicants, and the quality and the timing influences the applicants' ability to submit suitable projects.

From our research, it is evident that only 63 percent of the regional authorities as Intermediate Bodies of Structural Funds have worked out a clear operational strategy which deals with management and public information as well as access to European Union programmes and the level of broad citizen participation on the partnership principle. All the applicants, while preparing projects and

dealing with answers of the implementation agency, are therefore under a negative influence concerning absorption capacity.

The implementation of the Structural Funds on the regional level depends entirely on the operational and service manuals which are issued by the Central Management Authority (and which is evident from the main document of the implementation of Structural Funds and the acknowledgement of the respondents).

The respondents consider the biggest risk of the European Union programmes to be implementation, especially Structural Funds implementation on the regional level:

- 1) Insufficient or incomplete implementation guidelines and manuals;
- 2) Scarcity of a programme and project management specialist and departure of well-qualified employees;
- 3) Deficiency in financing Intermediate Body tasks and activities;
- 4) Lack of information given by the Central Management Authorities.

It is clear from the above-mentioned that the absorption capacity on the regional level is very much dependent on the functioning of higher Managing Authorities. Additionally, ensuring well-qualified human resources and their financing determines the absorption capacity on the supply side (as mentioned above).

Concluding Remarks

The setting of the Structural Funds implementation system on the regional level is still in process and many questions remain unanswered such as staffing with skilled employees. The inquiries show that the regional Intermediate Bodies are not well-prepared for their function as promoters of projects, and their experience with implementation of programmes and projects is relatively small if any (only one-third of respondents have some experience with implementation of European Union programmes, especially Pre-accession Funds). Some of them are primarily staffed with graduates these days. The increasing need for assistance is evident in both the newly established bodies and in the already existing bodies charged with new tasks.

The personal capacity of selected Operational Programmes implementation structures is very limited with respect to the expected requirements in most NUTS II.

An acute lack of information and experience was found in the following fields: i) evaluation of projects, ii) preparation of grant schemes, iii) preparation of Call for Proposals and public procurement, iv) reporting, v) financial control. Respondents logically perceived the experience gap in initialization activities

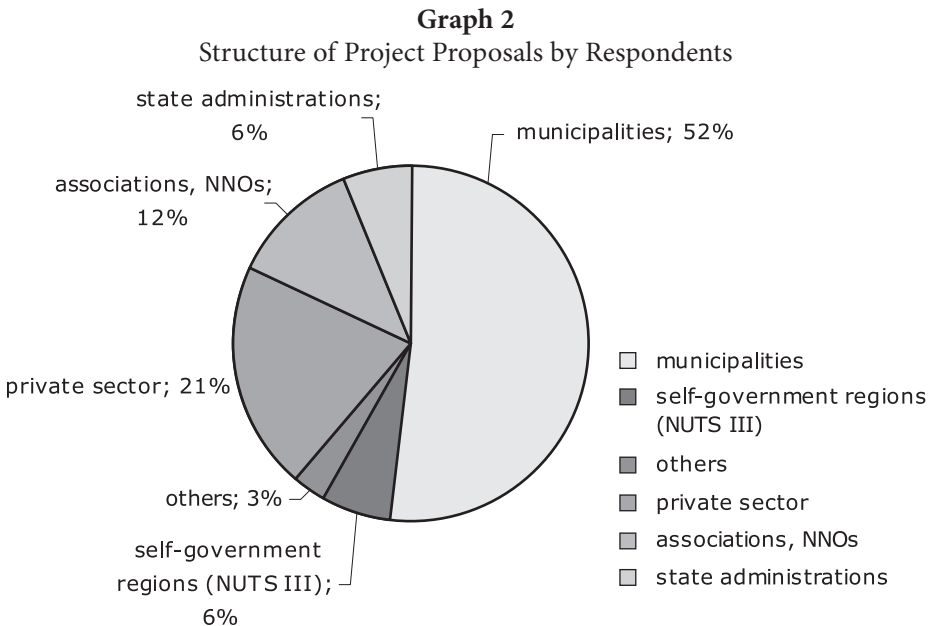
found in the first three fields, while the problems with subsequent tasks – those in the last two – and others will come later in the phase of project implementation.

4. Analysis of the Demand Side in the Czech Republic

4.1 Absorption Capacity on the Demand Side

Research mapping the Czech demand side was conducted on several levels: i) ministerial (on the web site of the Ministry for Regional Development), ii) consortium ECORYS as a provider of National Action Plan, iii) regional implementation level including self-government regions level (Secretariats of BRR), iv) inquiry of self-government regions and other institutions (regional Chambers of Commerce). The research had to overcome many obstacles such as a fear of stealing the project idea.

The analysis of projects, project aims and visions, which were undertaken in autumn 2003, involved various potential applicants from seven regions NUTS II (Objective 1). The structure of project proposals by respondents is shown in the following graph.



Source: National Action Plan, 2004

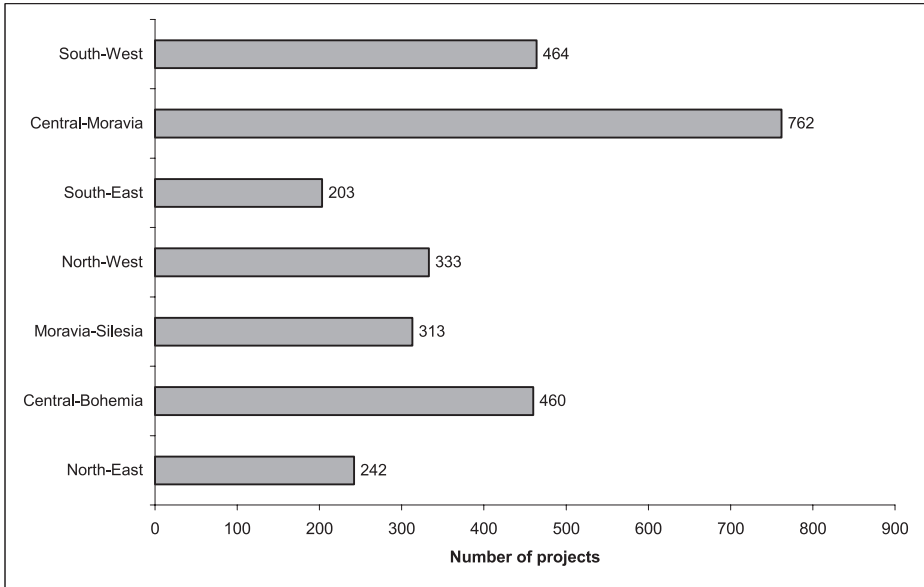
The regional absorption capacity was measured by the number of projects identified in the regions NUTS II. This number was probably influenced by the

pre-selection of projects accomplished by regional governments (especially in the South-East and North-East regions). Identified were 2,777 projects in various stages of preparation, some applicable for the Joint Regional Operational Programme (61 percent of the total number of projects), Operational Programme Industry and Entrepreneurship (22 percent) or Human Resource Development Operational Programme (17 percent). The domination of Joint Regional Operational Programme projects corresponds to the structure of respondents, where 52 percent represents municipalities. The number of private (firms) projects overwhelmed the municipalities in NUTS II, Central Moravia, and especially in NUTS III, Zlin, where the number of private projects was twice that of municipalities.

Regarding the municipalities, there is a significant difference between the approach of small municipalities and large cities. While large cities often have experienced staff, small municipalities tend to rely on external consultancy. We can find visible differences in the regional performance of non-governmental non-profit organizations (NGOs) and also a distinction in the projects' skills between small and big NGOs. The important problem is that NGOs usually can't cope with setting quantifiable project outputs, and outcomes and impacts. The explanation probably lies in the less demanding practice of public expenditure programmes (especially in Czech public expenditure programmes), where this kind of information hasn't been requested in project proposals (and implementation). The lower number of private (firm) projects probably corresponds with the following facts: i) the important part of projects will go into "grant schemes" not directly into Measures of Operational Programmes, ii) unclear situations in the public assistance law, iii) lower motivation and skills originating from the previous relatively restricted public expenditure programmes support especially in tourism, iv) fear of stealing the project idea.

The analytical validity of these data is influenced by the following facts: i) the inquiry is concentrated mainly on the number and level of preparedness of projects, ii) the main criterion was the eligibility of co-financing from the Structural Funds, ii) the research didn't take into account either the feasibility or the size of projects (i.e. budget and co-finance share). As a consequence, the analysis has the character of an expert estimation. The findings are displayed in the following graph.

Graph 3
 Number of Proposed Projects per Region NUTS II



Source: *National Action Plan, 2004*

The absorption capacity in the sense of an ability to co-finance projects is difficult to estimate from the obtained data due to the likely insufficient knowledge of individual respondents about the fields and conditions of the Structural Funds interventions. This misunderstanding is obvious from many infrastructure proposals intended to apply for European Social Fund and/or asking for a higher rate of support than is allowed. We can derive only the main trends from the inquiry, such as a higher interest in submitting infrastructure projects (“ard”) than in non-infrastructure (“soft”), what probably corresponds with the high participation of municipalities in inquiry. But the preparedness of projects seems to be higher among “soft” projects. The second problem we can identify is the size of projects – a major part of the projects are either small (under 0.5 mil. EUR) or mid-sized (more than 5 mil. EUR) – and will demand more administration work and have higher costs. The overall preparedness of projects is unbalanced (it is better in infrastructural projects of municipalities or self-government regions) and rather low, and the expectations of applicants about the rate of co-financing and supported activities are excessive.

The absorption capacity of potential applicants is influenced by their ability to submit a complete project proposal including activities, quantifiable outputs, outcomes and impacts. These skills are evaluated by respondents themselves as insufficient. On the other hand, it is evident that the ability to elaborate projects is

better among respondents with experience from Pre-accession Funds. The lack of information and especially of experience and skills is especially perceived in the field of co-financing from several different sources, financial management, economic and financial analysis and, last but not least, in the field of the know-how of integrated projects. It is clear that the transformation of theoretical knowledge acquired from manuals or seminars is a hard task for all respondents.

4.2 Reasons Causing the Low Absorption Capacity

In order to identify the main factors resulting in the lack of ability to develop acceptable projects, we divided potential applicants into two groups. The first group represents those who apply for public support of their project including successful and failed applicants. The analysis of the applicants' behaviour can be based on the evaluation of their "product", which is a project proposal in this case. The second group represents those who have not yet submitted an application.

4.2.1 Bodies Non-Applying for Public Financial Sources

The analysis of non-applying bodies should find out the conditions and processes which led to their inactivity. We used the method of conducted interviews on problems faced during the preparation of their project proposals and reasons leading to their inactivity.

Our research team undertook one comprehensive research survey among representatives of NGOs in 2003–2004. We obtained data from approximately 130 representatives throughout the country by means of managed discussions. These people were in some way interested in applying for public money (especially Structural Funds) and, to some degree, have experience with the European Union Pre-accession Funds, state funds or private foundations. We discussed problems connected with the participation in public programmes. Results of this inquiry need further processing, but already we can identify the most frequent problems. The representatives pointed out several factors which usually discouraged them from submitting projects. Especially important was ensuring a sufficient amount of their own money to meet the criteria of co-financing. The respondents complained of the administratively-demanding compilation of project proposal and successive reporting during the implementation and at the end of the project. We also recognize the problems in internal organizational management which led to a lack of both time and highly experienced project managers. A failure of the programme implementation structure was frequently mentioned as one of the factors discouraging them from submitting projects.

4.2.2 Bodies Applying for Public Financial Sources

We have chosen the following two methods for the analysis of the group. First, we analyze reasons which led to the rejection of their project and, second we analyze

the quality of the accepted projects. We acquired data for two Czech regionally-oriented public expenditure programmes. One of them are the grant programmes financed by the Regional Development Fund Vysocina (Fund Vysocina was established by the self-governing region Vysocina); the other is (Joint) Fund of Small Projects–CBC Phare (i.e., European Union Pre-accession Fund).

The arguments for choosing these data are as follows. First, the objective of our research project was to analyze the implementation processes of regional public expenditure programmes. And this inquiry is closely linked to other research activities aimed at the implementation of Programmes of Regional Development on the level of self-government regions [see Krbova 2004]. Second, the usual poor availability of this kind of data closely connected to their sensibility (not only because they contain the applicants' data, but also because of the sensitivity of the evaluation and selection process). The third reason was that the grant programmes running in the framework of the Fund Vysocina and CBC Phare have the same objective – to prepare eligible applicants for applying to the European Union Structural Funds. That means the methodology of both funds including the project evaluation, selection, monitoring and other phases of the project cycle are very similar (although in the case of the Fund Vysocina the methodology is simpler and, as another research survey of ours shows, less administrative demanding; e. g., fewer final report pages).

We have decided that the analysis of the CBC Phare-accepted projects are relevant for our purpose of identifying reasons for the lack of applicants' ability to develop acceptable projects. Accepted projects were selected in the open competition and, due to our knowledge of selection procedures, we can assume that the rejected projects were of lower quality than the accepted. Thus, we can draw some conclusions for reasons of rejection from the quality analysis of the accepted projects. We further assume that the selection process was fair-minded and all assessors were equally or at least similarly demanding (the criteria for evaluation are set in the evaluation form, but assessors can make a difference).

Both funds have the same two-round selection system: first, the evaluation of administrative compliance and second, the evaluation of technical quality of proposal. The criteria of administrative compliance for both funds are generally as follows: i) Meeting the deadline; ii) Eligibility of applicant (and partners); iii) Completeness of proposal (proposal contains all pages of the prescribed form, delivered as one original and the requested number of copies comprising the obligatory enclosures); iv) Proposal is typed on the prescribed form (project fiche); v) The total amount of costs and the share of co-financing from applicant's sources; vi) Proposed time of project implementation (which must reflect the programming period indicated in the Call for Proposals).

The evaluation of technical quality generally comprises five steps: i) Financial and operational capacity of an applicant to realize the project (experience,

personal and financial capacity for realization). ii) Relevancy – the compliance with the objectives of a programme and Call for Proposals; iii) Methodology (plan of activities, measurable indicators of outcomes, etc.); iv) Sustainability (impact on the target groups, financial and institutional sustainability); v) Budget (eligibility of costs, transparency, adequate to activities).

Regional Development Fund Vysocina

The public administration reform running in the Czech Republic since the end of the 90s led to the re-organizing of territorial structure and state vs. self-government competencies setting. The Fund Vysocina was founded immediately after establishing the self-government region Vysocina in 2002.

The Fund Vysocina allocates a part of its own self-government region financial sources (five percent in 2002, eight percent in 2003 and a forecasted six percent in 2004). These sources are distributed on the project base. A total of 789 out of 3,375 submitted projects (23.4 percent) were rejected for administrative incompliance in 2002–2003. In the process of evaluating technical quality, 2,586 projects have been assessed and 1,665 projects were accepted (49.3 percent of submitted projects). The average amount of an allocated public grant was approximately 2,290 EUR per project in the year 2002 and 2,000 EUR per project in the year 2003.⁵

In the case of administrative non-compliance, the missing obligatory enclosures were the most frequent reasons for rejection. The other causes we found were missing attested documents, exceeding the amount of the grant, the share of public/private sources, the duration of a project and/or timing with respect to the validity of a programme.

As for the technical quality of projects, the most frequent reasons for rejection were non-compliance with programme objectives, transparency of budget and adequacy of costs with respect to the proposed activities, non-eligible costs and readiness of the project.

Positive aspects include an increase in the number of projects submitted every year (the year-to-year rate is 1.8 in years 2002 and 2003), and the rate of accepted projects increasing from 48.5 percent to 49.8 percent.

Applicants' complaints centered around co-financing problems (they have serious problems or are not able to co-finance the project), and the complicated and administratively-demanding elaboration of a project proposal. We consider these complaints as evidence of a lack of ability to develop acceptable projects. It is necessary to realize that the Fund Vysocina has simpler rules than the Structural Funds and therefore, we can assume that applicants will probably have even bigger problems in meeting Structural Funds criteria.

5 Exchange rate 31 CZK/EUR.

CBC Phare Programme

CBC Phare Programme is running in the Czech Republic (and also in all new member states and candidate countries) as part of the European Union Pre-accession Fund Phare. We analyzed data obtained from research, undertaken by the Pohl Consulting & Associates firm for the Delegation of European Commission in 2003–2004. The research deals with 170 accepted projects realized between 1995–2000.

The criteria of evaluation were (among other things): relevance, project design, impact and sustainability. The results of the evaluation are shown in the following graphs.

The analysis used project proposals, documents from the evaluations, selection and monitoring processes, and final reports as the sources of data. Methods of data collection were analysis of written documents, interviews with regional implementation bodies, and interviews with applicants. Projects were evaluated on a four-grade scale: 1 (++) means that the project exceeded expectations; 2 (+) means that the project met expectations; 3 (-) means that the project didn't meet expectations but it was still standard; 4 (- -) means that the project didn't meet expectations and was below the standard.

Relevance measures the compliance of the project with the objective and goals of public expenditure programmes which are expected to be appropriate to public needs. Relevance has been evaluated in compliance with the objectives and goals of programmes and Call for Proposals, with the solved problem, and contribution to the development of cross-border cooperation. On average, 86.4 percent of implemented projects during 1995–2000 met expectations (grade +) and only 9.1 percent achieved grade (-). On the other hand, only 4.5 percent of projects exceeded the expectations (grade ++). The trend of relevance fluctuates year-by-year, though there is a suggestion of a very slow improvement of quality.

The impacts are criteria-crucial for the evaluation of the project and/or public expenditure programme effectiveness. Impacts measure the actual effect of implemented projects on some public problem resolving. Impacts were assessed on their cross-border impact, multiple effects (repeatability of idea of project by other institutional bodies), contribution to institutional capacity-building, and synergy effect (project helps the applicant to achieve its goals).

On average, about 66.3 percent of projects met expectations (grade +) and 22.8 percent of projects didn't meet expectations but are still standard (-). On the other hand, only 2.7 percent of projects didn't meet expectations, and were below the standard (- -) and 6.9 percent exceeded expectations. The recognized year-by-year diminishing trend is undesirable, and generally means a decrease of actual effects of implemented projects on the satisfaction of target groups' needs. The public expenditure programme is implemented through the realization of

individual projects and the decreasing in the projects' quality gives birth to lower effectiveness of the entire public programme.

Sustainability measures the vitality of project activities after the end of grant. Sustainability evaluation includes testing of financial, institutional sustainability (including the stability of partnership), sustainability of outputs/outcomes, and relationship to the previously realized CBC projects. During the years 1995 – 2000, 74.4 percent of projects achieved grade (+), which means they met expectations. About 20 percent of projects achieved grade (-), which means they didn't meet expectations but are still standard. On the other hand, 4.8 percent of projects exceeded expectations and only 0.7 percent didn't meet expectations and were below the standard. The trend shows permanent improvement in sustainability of the project during those years.

The last evaluated attribute was project design quality. On average, about 70.2 percent of projects achieved grade (+), and 26 percent of projects achieved grade (-), which means they didn't meet expectations but are still standard. On the other hand, only 1.3 percent of projects exceed expectations and the same number were below the standard. The project design has dramatically improved during the years; progress is significant in the category (+) which goes hand by hand with the decline in the category (-).

We can summarize that the applicants improved their ability to design projects (they now know how to write the project); their ability to find the compliance between the project goals and programme objectives is growing; and they propose activities with more sustainability after the end of the grant. On the other hand, we find the problem in decreasing impacts, which can indicate a shift away from the target groups' needs satisfaction. Taking into account the fact of increasing relevancy of projects, it could signify some problems with the formulation of appropriate programme objectives, their compliance with target groups needs and/or problems with ex ante evaluation and selection of projects as well as their monitoring and mid-term and ex-post evaluation.

We suppose that the rejected projects were probably weaker in project design quality, impacts and sustainability than the accepted ones. We can also see the positive trend – a high rating of relevance, sustainability and project design quality of accepted projects. The rising trends of these criteria can also mean that the rejected projects were probably showed improving quality.

5. Summary

Due to our comprehensive research, we consider the administrative absorption capacity on the supply side and the ability to prepare projects on the demand side as the main restriction in using European Union funds effectively at the moment.

The setting of the Structural Funds implementation system in the Czech Republic is still in process and many questions remain unanswered including obtaining highly-skilled staff. The personal capacity of selected Operational Programmes implementation structures is very limited with respect to the expected requirements in most NUTS II. We found low preparedness in the regional Intermediate Bodies for their function as administrators of grant schemes and promoters of projects. Their experience with the implementation of programmes and projects is relatively small, if any. The increasing need for assistance is evident in both newly established bodies as well as existing bodies charged with new tasks. An acute lack of information and experience was found out on the regional level in almost all stages of the policy life cycle (evaluation of projects, preparation of grant schemes, and preparation of Calls for Proposals and public procurement, reporting and financial control). All applicants while preparing projects and dealing with answers of the implementation agency therefore operate under a negative influence in relation to absorption capacity.

We identified several problems in EU funds implementation such as insufficient or incomplete implementation guidelines and manuals, scarcity of a programme and project management specialist, departure of well – qualified employees, deficiency in financing of Intermediate Body tasks and activities and lack of information given by Central Management Authorities. The absorption capacity on the regional level is very much dependent on the functioning of higher Managing Authorities.

The paper elaborated the methodology of research on reasons behind the lack of ability of the applicants to develop acceptable projects. It brought forth the evidence to assess the lack not only by means of submitted project proposals, but also directly among potential applicants who have yet to submit any applications.

The evaluation of project quality showed some reasons for low-demand absorption capacity. In the case of regional development Fund Vysocina, we find that missing obligatory enclosures, exceeding the amount of grant, the share of public/private sources and other factors were the most frequent reasons for rejection for the administrative non-compliance. The most frequent reasons for rejection in case of technical quality evaluation were non-compliance with programme objectives, transparency of budget and adequacy of costs with respect to the proposed activities, non-eligible costs and readiness of a project. The positive aspect was the increasing number of submitted projects each year and rising rate of acceptance of those projects.

We assume that the lack of ability to develop acceptable projects persists.

In the case of the CBC Phare, we noted the improvement of an ability to design projects, to find the compliance between the project goals and programme objectives, and to implement sustainable activities after the end of grant. We detected a serious problem with decreasing impacts of projects, which can indicate a shift away from the target groups' needs satisfaction and implicate some problems with formulation of appropriate programme objectives, their compliance with target groups' needs and/or problems with ex ante evaluation and selection of projects as well as their monitoring and mid-term and ex-post evaluation.

The inquiry of bodies not applying for EU funds showed some problems and barriers that discourage their participation in public programmes, such as ensuring co-financing, coping with resource-demanding compilation of project proposals and successive reporting during the implementation and at the end of project, and the failure of the implementation structure. We also recognize the problems in internal organizational management which led to lack of time and highly experienced project managers.

We can summarize by saying that in spite of a huge amount of money spent for the improvement of absorption capacity in the new member states including the Czech Republic, the capacity of Czech regional and local implementation structures having to work on the programme basis is still insufficient in comparison with indicatively-planned European Union financial sources. The analysis of the reasons behind the lack of absorption capacity raises more questions than answers and opens the room for further research.

It is evident that much effort will have to be done to improve the situation in the absorption capacity on either supply or demand side.

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List of abbreviations used in text:

3E	Efficiency, Effectiveness, Economy
BRR	Board of Regional Representatives
CC	Candidate Country
CF	Cohesion Fund
CRD	Centre for Regional Development
CSF	Community Support Framework
EAGGF	The European Agricultural Guidance and Guarantee Fund
EC	European Commission
EC DG Enlargement	European Commission Enlargement Directorate General
EC DG Regio	European Commission Regio Directorate General
ERDF	European Research and Development Fund
ESF	European Social Fund
FIFG	Financial Instrument for Fisheries Guidance
HRD OP	Operational Programme Human resource development
IB	Intermediate Body
IE OP	Operational Programme Industry and Entrepreneurship
ISPA	Instrument for Structural Policies for Pre-Accession
JROP	Joint Regional Operational Programme
MA	Managing Authority
MC	Monitoring Committee
MRD	Ministry for Regional Development
MS	Monitoring System
MSSF	Monitoring System of Structural Funds
NDP	National Development Plan
NGO	Non-governmental non-profit organization
NUTS	La Nomenclature des Unités Territoriales Statistiques
NUTS II	Region of Cohesion
NUTS III	Self-government region
OP	Operational Programme
OP I	Operational Programme Infrastructure
PA	Paying Authority
PAF	European Union Pre-accession Funds (i.e. Phare, ISPA, SAPARD)
PEP	Public expenditure programme
PHARE-CBC	Phare – Cross-border Co-operation Programme
RDA	Regional Development Agency
RDMA OP	Operational Programme Rural Development and Multi-functional Agriculture

ROP	Regional Operational Programme
RS BRR	Regional Secretariat of the Board of Regional Representatives
SAPARD	Special Accession Programme for Agriculture and Rural Development
SF	Structural Funds
SOP	Sectoral Operational Programme
SPD	Single Programming Document
SPD 2	Single Programming Document for Objective 2
SPD 3	Single Programming Document for Objective 3

List of online sources

Czech Statistical Office: www.czso.cz.

CzechInvest: www.czechinvest.cz.

Government of the Czech Republic: www.vlada.cz.

Ministry for Regional Development: www.mmr.cz; www.strukturalni-fondy.cz.

Ministry of Agriculture: www.mze.cz.

Ministry of Education, Youth and Sports: www.msmt.cz.

Ministry of Finance: www.mfr.cz.

Ministry of Foreign Affairs: www.mzv.cz.

Ministry of Industry and Trade: www.mpo.cz.

Ministry of Labour and Social Affairs: www.mpsv.cz.

Ministry of Regional Development: www.mmr.cz.

Ministry of the Environment: www.env.cz.

Ministry of the Interior: www.mvcr.cz.

Ministry of Transport: www.mdcr.cz.

Self-government region Vysocina: www.kr-vysocina.cz.

Appendix



Public Policy: Bridge over Troubled Water?

*Martin Potůček**

A public lecture on the occasion of the granting of the Alena Brunovská Award for Teaching Excellence in Public Administration at the 12th Annual NISPAcee Conference, Vilnius, May 13, 2004.

Motto:

*“An nescis, mi fili, quantilla prudentia mundus regatur.”
“You have no inkling, my son, what little knowledge it takes to rule the world.”*

Pope Julius III (1550 – 1555)

By Way of Introduction

In the Central and East European countries, public policy is still rather a rare, we might even say alien, beast. Let me therefore attempt a general reflection on its status and potential bonuses. And let me say that many of the problems we encounter in our countries duly reflect problems experienced in more general terms by humankind.

1. The State of Humankind

Surely you will not be caught by surprise to hear me say that the world is not developing along the easy way. Arguably, tensions, conflicts and sudden twists and turns have been an inherent part of the civilization's development from time immemorial.

What, then, sets ongoing changes (sometimes referred to as the third transformation) apart from the changes of the past. Is there in fact a difference at all? Actually, there are quite a few differences, and these can be defined as the following fundamental developmental disparities:

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- Even though humankind has installed a number of international organizations and mechanisms in order to tackle its shared problems, the world has probably never been a more dangerous place (unilateralism, weapons of mass destruction and other previously unheard of means of annihilation, state-sponsored and international terrorism, global warming indicated by an exponential curve, plus other environmental risks.).
- Humankind may well be able to produce more resources, but
 - their consumption already now is 20 percent over their self-renewal capacity on a planetary scale;
 - all efforts for their equitable distribution and use over a long term have failed in principle. (Consider the gigantic disproportion between arms spending and war effort on the one hand and help to marginalized and deprived individuals on the other).
- Globalized financial markets apply the maximum rent-seeking strategy against individual countries. The global market speaks a single universal language – money. Conversely, nation-states, in their effort to reach understanding, cooperation and harmonization of their policies, have to grapple with cultural, linguistic, value-oriented and general civilization differences. In addition, inherited prejudices must be tackled and overcome in a swift and efficient manner.
- Globalization, regionalization, the emergence of horizontal cooperation networks, the overlapping of the market, the government, and the media combine to obfuscate responsibility for the consequences of political and administrative decisions.

In addition to coming to terms with these global developmental changes, the Central and East European countries have had to tackle the unprecedented task of parallel transition from centralized planned economies to market ones, from autocratic political systems to democratic pluralism, and from authoritarian public administrations to ones conceived as a service to citizens.

In spite of the obvious – and partly or, at a limited territory, viable – efforts to assert humanistic ideals and rational solutions, one is not in a position to claim that irrational attitudes towards the steering of human affairs (with all their adverse impacts on humankind) has been on the retreat. The plausible conclusion is that humankind has not yet learned to manage its own affairs well. The human race has unleashed such dynamic and uncontrolled civilization changes that the methods of governance inherited from past centuries trail hopelessly behind actual developments. This situation creates dangerous hotbeds of conflicts and tensions that fan the flames of destruction and doom.

2. The Roots of Bad Governance

It is the chief presupposition of enlightenment that the power of reasoning has been bestowed upon us for use in solving the tasks that we are facing, no matter how challenging and extensive they are. Unless one gives up trying and elects to identify with this assumption, one inevitably must ask where the roots of insufficient capacities of governance lie so as to be able to seek and find a remedy.

Let me try to single out a few crucial neuralgic spots characteristic of the methods of governance as we know them, and to offer a possible way to approach and treat them:

- Disproportion between the global regulatory power of the market and the absence of a global level of public administration; the remedy is indicated by Europe's integration trends as represented chiefly by the European Union and similar (albeit, not as well developed) efforts on the level of other world organizations or political summits.
- Lack of sufficient coordination on the global, national, regional and local levels of administration; the remedy possibly lies in networks supported by modern information technologies and in new regimes of public administration based on shared responsibilities.
- Differentiation of the living conditions and lifestyles carries the destruction of organic forms of social cohesion; market liberalization leads to the weakening of institutional forms of maintaining the conditions of social cohesion – the Welfare State. The largely defensive remedy against these pressures is a quick adaptation of informal assistance, civil sector institutions and the welfare state to the changing conditions.
- For all the lofty slogans preaching environmental considerations and sustainable development, it is not considerate attitudes to the other forms of life and the fate of the generations to come, but rather, the selfish and short-term interests of individuals and corporations geared towards maximum profits that prevail. Change may only come through conscious modesty as a lifestyle and effective regulation which would protect long-term public interests.
- Lack of responsibility on the part of political representation, and lack of responsibility for public affairs on the part of the citizen add up to a multiple effect. Neutralization of this negative feedback is in upbringing and education for civic virtues, and in bringing all forms and frameworks of participative and direct democracy on an equal footing with the traditionally better developed democracy through representation (which, however, is no longer able to keep in step with the developmental dynamics and growing complexity of the public political roles).

3. Public Policy as a Tool of Supporting Good Governance in Central and Eastern Europe

Public policy is both a scientific discipline and a societal practice. As a scientific discipline, public policy offers the cognitive instruments helping to understand the nature of such societal problems as crime, unemployment, access to education and health care etc., their causes and consequences, as well as to elaborate the best solutions. As a societal practice, public policy comprises the ways by which democratic societies are trying to identify and solve such problems.

Public policy as a scientific discipline uses the terms of reference of sociology, political science, economics, law, organizational science, public administration and other disciplines for analyzing those processes of formulating and implementing differentiated public interests used to resolve specific problems connected with the life of humankind. At the same time, it is devoted to the institutionalized management of these processes via the public, civic and to a certain degree the commercial sector in a form that can be used in political practice. Public policy is therefore a scientific discipline – *sui generis* – that cuts across many other scientific disciplines.

Public Policy as a Scientific Discipline

What is the situation of public policy as a scientific discipline in the Central and East European countries? Unlike the United States where public policy began to take shape during the 1960s, change in our region was not brought about until after the collapse of Communism in the early 1990s. Today's capabilities duly reflect this delay in time. Although a number of think tanks here are working to develop analytical and advisory activities derived from the theoretical concepts and implementing the methods of this discipline, such efforts have yet to overcome their teething problems such as ideological, methodological and/or disciplinary bias as well as short-termism. Another problem lies in the often insufficient differentiation between critical scholarly advice and pragmatic political service as is apparent in the activities of some public policy think tanks and/or individual analysts. The educational capacities of public policy are quite modest; complete university programs are available only in a few countries of the region. Likewise, public policy education in in-service programs for civil servants is every bit as marginal and rudimentary.

However, the educational base is gradually extending. Last year, NISPAcee supervised the release of a textbook that reflects specific public roles facing public policy in this region.

Public Policy as a Societal Practice

In this region, public policy practice lags behind the requirements more severely than public policy theory. Without attempting to provide an exhaustive overview, I would like to point out the chief deficits of good governance in individual nation-states:

- Weak governments tend to have meager means and resources to enforce vital structural and functional change in the economy and policy. This is due to Constitutional limitations (such as the proportional election system or limited powers of the central governments) as well as insufficient support from political parties, and their often fragile coalitions.
- Representation of group and individual interests through political parties is far from perfect. The party system is unstable and the parties' internal management and funding is not transparent. Recruitment and party life are low-profile and thereby not conducive to improvement in the field of human resources. Party oligarchy calls the tune.
- Insufficient capacity for strategic management gives precedence to the satisfaction of selfish and narrow-group interests to the detriment of public and long-term interests.
- Government ministries cannot coordinate their activities.
- Political and administrative decisions are made and enforced without sufficient analytical support or stem from limited single-disciplinary analysis.
- Communication between the actors on the public stage in the course of drafting, adopting, implementing and evaluating the policies is insufficient and lacks expert and capacity-backed support. The same holds true of communication between actors in the public, commercial and civil sectors, as well as politicians, officials, academics and citizens themselves.
- Internationally tried and proven methods of administration and management, such as multi-year financing, performance auditing, target programming, target-oriented management, matrix organizational structures etc. are not applied efficiently.

In Conclusion

All in all, there exists an enormous need in Central and Eastern Europe for further development and perfection of public policy as a scientific discipline as well as educational program delivered by universities, and included in both the in-service training programs and societal practice. To support its development is to significantly reduce huge political losses brought about by bad governance. Its innovative potential is therefore quite massive and indispensable. Still, many obstacles and hardships lie ahead.

The ideal model of good governance is not known, and probably never will be. What really counts is the speed of transformation whereby every innovation of governance enabled by public policy will have ceased to fully meet the challenge the minute it was introduced. We are zeroing in on a habitually fugitive target. Therefore, it is not for me to claim that Central and Eastern Europe is not in for developmental setbacks or local disasters caused by the significant failure of public policy, as evidenced by the recent developments in the Balkans.

A well-developed public policy or the lack of it may be that proverbial tip of the scale. The Network of Institutes and Schools of Public Administration in Central and Eastern Europe is instrumental today and will probably be instrumental tomorrow as well. This is the behest of its founder, Alena Brunovská, and today I accept the award named after her with pride, gratitude, and the feeling of great commitment to her legacy.

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Index

A

absorption capacity 375, 378-379, 405, 450-479
 demand side 375-376, 378, 450-456, 462, 470-478
 reasons for low 450, 473-477
 supply side 375, 451-455, 469, 478
acquis communautaire 9-10, 15, 17, 19, 61, 147, 162, 167, 182, 187, 320, 351
active citizenship 57
adaptation to EU 10, 17, 28, 43, 55, 119, 127-130, 137, 383n, 447,
additionality 381, 408, 420, 429, 435, 442,
administration
 typology of 30-31
administrative capacity 11, 16, 42, 46, 143, 155, 179, 211, 357, 377-380, 417, 429, 452-470
administrative culture 75, 80, 237-240, 360
administrative functions
 intra-government co-ordination 34-40
 production 30-41
 regulatory 30-40
administrative networks 10
administrative reform
 balanced model of 26, 81
 bureaucratic model of 26, 81
 political model of 26, 81

 units 66, 69-71, 74, 76-78
advocacy groups 84, 88-89, 95
agenda setting 206-208
anti-corruption
 approaches 316
 legislation 330, 349
 mechanisms 345-350
 theory 316-317
Armenia 32n, 35, 37, 38, 297
Armenians 301-302
asymmetric rationality 49, 52, 59

B

Belarus 17, 90, 130-131, 398
Bulgaria 9, 16, 23, 38, 172, 193-213, 366

C

cabinet 91, 105-109, 169-191, 196-21, 214-229, 270, 273, 435
capacity to learn 266-268
career development 263
central government organisation 168-177, 237-250
centre-local relationships 108-112
civil society 43, 75-79, 88, 90, 96, 99, 102, 106, 117, 161-165, 206, 211, 307, 330, 341-342, 355, 361-371, 451, 464
coalition government 174, 176, 214-216, 224, 226
coalition reconciliation 216, 223
code of ethics 271-273

cohesion policy 379-380, 381-383, 392-393, 430,
communicative action 144
comparative analysis 25, 66-69, 151, 154, 193, 399, 450, 452
concentration 60, 73, 85, 88, 103, 107, 395, 397, 399, 403
concentration principle 419, 435
conflict of interest 205, 314-316, 318-343, 347, 351
consultation in policy making 33-35, 67, 87, 151-152, 156-165, 169, 184-196, 211, 217, 228, 384, 463
co-ordination ministries 174
core values of public policy 347-349
corporate governance 59, 215
Corruption Perception Index (CPI) 268, 314, 317, 22, 345, 352, 366-367
corruption
and political commitment 350
bureaucratic 167, 269, 362-364
causes of 315, 348-349
definition of 313-314
main loci in public service 315-316, 345, 348-349
trials 369
Council of Europe Law Conventions
on Corruption 319n, 328, 330, 346, 351
critical mass
establishment of 280, 290, 292
culture-performance link in public bureaucracies 242
Czech Republic 37-38, 130-131, 180-181, 316, 351-354, 378-379, 450-479

D

decentralisation 23-24, 49, 50, 57, 68-69, 72, 83-99, 130, 187, 190, 258-260, 268-269, 273, 315, 380, 395, 406

decentralised training system 260, 269
declaration of income 330, 332, 338-339, 354
delegation 85, 103, 132, 153, 182, 458
devolution 85, 88, 170
discrimination 261, 294-304
disparities 375, 377, 379, 394-412, 417, 419, 430

E

effectiveness 14, 244, 379-380, 385, 388, 450
elite 19, 59, 72, 90, 125, 130-131, 145, 198, 215, 218, 220, 306, 330, 348-349
employment service 129, 132-135, 137
equity-efficiency dilemma 377, 380, 386, 395, 406-407, 410, 412
Estonia 25, 26, 32, 38, 66-81, 142-165, 172, 257, 258-260, 262-275, 348, 351-352, 354, 377-379, 416-431
local governments 420-424
ethics in public service 347-351, 271-272, 275,
ethics measures 351
ethnic diversity 257, 280, 292, 295-306
ethnic minorities 259, 294-307
EU accession and governance 41-46
EU accession criteria 9, 16, 18, 41-44, 202, 272, 282
EU regional policy
assistance programmes 417, 424-430
distribution of regional assistance 407, 421, 427-428, 439
documentation readiness 448
effectiveness of 379-380, 450-479
financial readiness 442-444
implementation structure 379, 450-479
implementation system 378, 434-441, 444, 446, 455, 457, 463, 466, 469, 478
institutional readiness 444-446

legal readiness 447
 staff related readiness 446-447
 structural policy rules 434-435
 EU standards 28, 128-129, 457-470
 Europeanisation of public administration system 54, 60, 61
 experts
 role of 24, 119-138

F

fashions
 organisational 129, 133, 136-137, 240
 favouritism 286, 292, 314, 323-324, 360, 365
 Finland 25-26, 66-81, 151, 172, 176, 180, 268, 383

G

general administration 30-40, 204
 good governance 23, 50, 56, 62, 142-165, 167, 191, 320-321, 369, 490-492
 good law-making and governance standards 143, 162, 165
 governance discourse 66-81
 government centre 215-229
 government strategy 226-234, 354
 government versus governance 50
 GRECO (Group of States against Corruption) 314, 320, 329, 345, 348, 351-355

H

hollowing-out the state 51, 59
 human capital 266-268, 406, 453
 human rights 15, 18, 41, 144-148, 342, 347
 Hungary 25, 38, 128, 130-131, 172-176, 214-234, 237-250, 351-354, 366

I

implementation problems 32, 37-41, 42, 45-46
 types of problems 40, 46
 implementing agencies 32, 378
 informal networks and forums 35-36, 44, 51, 260, 262, 274, 370
 informal norms 168, 185, 190, 358
 informal organisation 15, 265
 inner-network state 49, 59, 60
 institutional autonomy 24-25, 27-31, 33, 36-37, 42, 44-47
 institutional path dependencies 25, 27-29
 institutionalised 'meeting-points' 60
 interest organisations 34-35, 43-44
 internal administration 30-31, 36-39
 international interdependence 51-52

K

Kazakhstan 32n, 130-131
 knowledge-based policy-making 122, 142-143, 162, 165
 Kyiv (Kiev) 101-118
 Kyrgyzstan 32n, 35, 38, 130-131

L

Latvia 32n, 348, 352-353
 lead agency 69, 73, 75, 77-80
 leadership
 and governance 280-281, 286, 288, 291-292
 capacity 198-199
 legal framework for local government 104-105
 legality 88, 92-93, 146, 151, 189, 359
 legislative drafting 142-165, 208-209
 legitimisation 148
 line ministries 36, 174, 180, 466
 Lithuania 32n, 38, 130-131, 313, 348, 351-353, 381-393

local administration 69, 71, 103, 201,
327, 337,
local autonomy 85, 87-89, 92-94, 187
local government 83-99, 101-118, 119-
138, 416-431
Łódź (Poland) 121, 127-129, 132-137,
401-402

M

Macedonia 17, 257-258, 260, 279-292
culture 280, 282-284, 286-287, 290,
292
ethnic discord 279, 281-282, 284-285,
292
Macedonia education
educational divide 285
Graduate Center for Public Policy
and Management 279, 288-290
innovations in curricula 283, 287,
292
outdated curricula 283, 285
Southeast European University 279,
287-288
University of Ss. Cyril and Methodi-
us 287
University of St. Klement Ohridski
283
University of Tetovo 283-285
management culture 225, 240, 383
mayors 90-91, 96, 103-106, 111, 113-
114, 116, 130, 331-332, 337
mentality 12, 16, 101, 265, 360, 443
minimal hollow state 73
Moldova 17, 24, 32n, 38, 83-99
multiculturalism 257, 259, 287, 294-
308
multi-level governance 25, 49-65, 497
municipal boundaries 106, 111-112,
116-117
municipal government 101, 104, 108,
129
municipal leadership 112

N

National Development Plan 229, 234,
435, 436, 438, 447, 459, 464,
nationality question 295-306
negotiatory state 148-149, 163
networking 25-26, 60, 66-67, 70-81,
227, 270, 274
non-accountability
administrative 60-62
non-majoritarian institutions 60
NPM reforms 50, 67-68, 70, 72, 76, 79,
237-238, 249-250, 268

O

Oblast 102-117
Odessa 101-118
Operational Programme
Integrated Regional 435-438
Sectoral 389, 435, 438, 459, 464, 484
organisational culture 23-25, 149, 237-
250
organisational performance 25, 237-
250

P

participatory democracy 143-144,
151n, 153, 156n, 157-160
partnership 376-378, 384, 390, 405-406,
419-420, 435, 468
path dependence 55, 56
path dependency approach 69
performance indicators 199, 241, 244
personal factor 257-261
personnel system 259, 263-264
Phare 69, 73-74, 80, 119, 128-132, 173,
205, 378, 382-383, 390-392, 418,
425-426, 446, 457, 474, -479
Poland 394-412, 433-448, 49-63, 119-
138, 318-344
policy
capacity 194, 199, 205
coherence 220, 229

- co-ordination mechanisms 201-209
 - formulation 24, 96, 193-195, 203-211
 - life cycle 451, 455, 465, 478
 - networks 51-54, 274
 - process 120-127, 150, 166-191, 198, 201, 211, 215, 230, 320, 381, 386-387
 - political governance 17, 228
 - political party 56, 58, 76, 80, 84, 107, 113, 116, 144, 153, 163, 283, 315, 324, 326, 327, 348, 371, 491,
 - politico-administrative relationships 101, 118, 215,
 - post-communist state 49, 50, 53, 63
 - presidential administration 30-41, 75, 78,
 - Prime Minister's Office (PMO) 31, 174, 181, 196, 214-234, 243n
 - professional education and training quality 257
 - professionalism 19, 23-24, 120, 126, 177-179, 362
 - professionals 24, 89, 119-127, 280, 281, 289-292
 - public administration reform 49, 79, 66-81, 83-99, 193-211, 257, 272
 - public expenditure programmes 453-476
 - public personnel system (career and position based) 259-260, 263-264
 - public service culture 257, 265-266
 - public service system 262-269
 - public-private partnership 385, 443, 447
- Q**
- quality of legislation 60, 144, 156-157, 164-165
- R**
- regional intra-state differences 377, 417, 424, 431
 - regulatory impact analysis 143
 - Rigg's prismatic model 68
 - Romania 9, 16, 90, 166-191, 316, 357-371
 - Russia 17, 25-26, 66-81, 90, 130-131, 257, 259, 260-261, 294-308, 398, regional government in 259, 294-307
- S**
- sectoral administration 30-41, 46
 - separation of powers 144n, 193, 203, 265, 318, 331
 - shared knowledge 262-263
 - Single Programming Document 382, 386, 389, 461, 464, 464-468, 484
 - Slovakia 130-131, 181, 351-354
 - social policy 102, 129, 302, 440
 - socio-economic capacity of local governments 423-428
 - socio-legal studies 145n, 162
 - Soviet Union 13, 70-71, 86-91, 101-110, 117, 182, 259, 264-265, 297-306, 416
 - stakeholders 67, 70, 76-78, 116, 157-159, 179, 190, 209, 275, 357-363, 375-378, 387, 459, 463
 - standard-setting, standardisation, standardises 121, 122-124, 129
 - state-society interaction 35-36, 44
 - steering networks 51
 - stereotypes 302
 - strategic
 - approach 219, 383
 - strategic
 - capacity 205, 214, 228
 - function in government 216-234
 - governance 214-234
 - management 215-228, 270, 491
 - thinking 219, 227-228
 - STRATEK 214-234
 - suburbs 110-111, 114

T

Tacis programmes 69, 75
technocracy 120, 124-126, 138
transparency 41, 58, 125, 143-154,
 161-163, 193, 281, 303, 315-321,
 327-329, 338-342, 347, 357-372,
 405, 475, 478
 of public sphere 58
Transparency International (TI) 268,
 314, 322, 342-345, 352, 357
trust 51, 61, 67, 99, 109, 118, 119-121,
 126-127, 130-132, 137, 302-304,
 306, 346, 351, 361, 363, 366, 368,
 371,
Turkmenistan 130-131
twinning 69, 73, 80, 178, 392

U

Ukraine 17, 23, 101-118, 297, 398,
Uzbekistan 302

V

value added
 in policy 377, 381-393
vested interests 84, 98, 167, 175, 178

W

Western advisers 127-137

Globalisation is not only about connecting markets and breaking down cultural barriers, it profoundly affects the constraints and opportunities of states. In particular, good governance depends on the capacity of public administration to enhance national competitiveness and participate in regional and global administrative networks. These challenges are perhaps most acutely felt in Central and Eastern Europe. Having satisfied the taxing entry requirements, the new member states of the European Union are now learning the even greater administrative challenge of ensuring effective participation in European policy-making and implementation. While another group of states is now following in their footsteps, the countries on the periphery of the new Union have to develop a new relationship with the giant next door. This volume provides a unique snapshot of the state of public administration in the region just after the historical moment of the first Eastern enlargement of the European Union.

Drawing on extensive empirical research and new theoretical insights, the present collection of edited contributions to the NISPAcee 12th Annual Conference in Vilnius, Lithuania, focuses on some of the key contemporary challenges to public administration in the region. Besides such important topics as local governance, the role of strategic coordination units in the central government and political obstacles to reform and organisational culture, particular emphasis is placed on the implementation of the EU's regional policy, the education and training of civil servants and corruption.

Martin Potůček, the 2004 winner of the Alena Brunovská Award, notes that both the scientific discipline and societal practice of public policy are still rather rare, even alien, beasts in our region. The goal of this volume is to help to change this situation and thus avoid the (re-)emergence of a new divide between 'the East' and 'the West'.



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