

BUILDING CAPACITY FOR POLICY MAKING: EXPERIENCE FROM THE BULGARIAN ADMINISTRATIVE REFORMS

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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 organizational and legal framework the policy results remain weak. The paper makes a review of the development of policy-formulation process in Bulgaria, 1990 – 2003. In the context of a comparative analysis of outputs it examines the policy mechanisms and actors, and outlines the main needs for change.

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Mina Shoylekova¹

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 more coherent and stable, while complexity of policy issues increases. Globalisation and European integration change dramatically 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 reorganized 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% of the legal drafts and the majority of them become laws (Olson, 1994). The legislative process has long ago exceeded the parliamentary procedures. The increasing specification of social life and the need for fast reaction reinforce the debate of rules vs. discretion (Majone, 1996).

The traditional view places the responsibility of policy-making to the political leadership, while the key function of administration is said to be translation of policy decisions and their implementation (Palumbo & Maynard-Moody, 1991). Although this concept is an "oversimplification" that never really intended to separate politics and administration (Waldo, 1992) their relationship is also experiencing significant transformation. Since good policy is defined as "synoptic and long-term, strategic and proactive, cross-cutting and substantive" (Peters, 1996) this could obviously be achieved only through solid institutional arrangements to facilitate the policy-making process. Therefore, the "administrative man" has come out of his bounded rationality and now holds the capacity to propose effective ways for achieving policy goals

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(Denhardt, 1984). The 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 needs related to effective policy-making and the developments in politics – administration interaction. The policy capacity is crucial in the case of such profound economic and social transformation. Initially, the country suffered political instability and weak political leadership that was unable to produce sound policies. Still, after the consolidation of democratic institutions and purposeful administrative reforms the policy capacity remains unsatisfactory.

This paper presents a study on the development of the policy formulation process in Bulgaria for the period 1990 – 2003. Policy formulation is defined in this case as preparation of the drafts of laws and other government decisions with or without the status of normative acts. In that regard the study focuses on the conditions, mechanisms and elements of this process. The objective is to make a comparison between the capacity of the political leadership, the institutional arrangements and procedures with the outputs of the process through the years. The main thesis that is tested is that the capacity of the political leadership for developing statically oriented policies could not be exercised without the solid support from the administrative system.

In order to reach its goals the study goes through three stages of analysis. First, it examines the composition of governments in the context of political – expert recruitment. Next, the focus is placed on the changes in the administrative system related to policy formulation process in order to assess the extent to which these support the efforts of the political level. Finally, the formulation and drafting procedures are examined so as to reveal in detail the role of top officials and administration in the policy formulation. 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 of the flow of legal drafts in the pre-legislative and the legislative phase. In addition, the analysis and conclusions are based on the findings from personal observations and interviews with civil servants in different levels of the state administration.

2. Political Leadership and Policy Formulation

2.1. The Constitutional Background

In the early nineties, Bulgaria, like the other CEE countries, has initiated extensive reforms for the establishment of democratic society and market economy. The new Constitution, adopted in 1991 has set the general structure of powers in the new parliamentary republic. The one-chamber National Assembly constitutes the legislative branch and the Council of Ministers, the executive. The President, although directly elected, has limited functions. He/she is envisioned the “neutral” authority that ensures the normal functioning of the system (Bliznashki, 1997).

The Council of Ministers (the government) is the central executive authority and as such is appointed by the parliament. Each candidate Prime Minister proposes the specific structure of government that consists of the Prime Minister, the Deputy Prime Ministers and the Ministers. There is a formal separation between the parliamentary majority and the government. The candidate Prime Minister is not necessarily the leader of the party that holds the mandate for government appointment. This separation is reinforced by the incompatibility rule that does not allow the Members of Parliament take position in government.

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. Each member of the government heads a respective ministry, unless he/she is appointed a minister without portfolio. The Constitution assigns to the government the management and implementation of domestic and foreign policy (Art. 105). The former relates to policy-making, and specifically the legislative drafting, while the latter is associated with the management of the whole state administration (Bliznashki, 1994). The government adopts the structure and organization of the ministries. It establishes and closes administrative structures with a rank lower than ministry, and appoints/releases their managers. The Constitution arranges the

administrative-territorial units of the country (the municipalities and the districts) and proclaims the municipality the unit of local self-government.

There are no further constitutional regulations of the structure and organization of the executive. For a long time after the adoption of the Constitution there was a scarce number of acts on the organization and work of the administration. The other regulations in the administrative area until 1998 consisted of the Law on administrative procedures, the Law on administrative penalties, the Law on normative acts, all of them passed in the 1970s. The issues related to the specific organization of government institutions were left entirely to the decisions and responsibility of the Council of Ministers. This was expected to provide flexibility of the executive.

2.2. Government Composition

The new democratic institutions were expected to carry out the reforms through a solid and decisive policy-making process. However, for the last 14 years Bulgaria had 10 governments (Table 1) and only one of them had fulfilled its due term of office. The instability significantly hampered these reforms. In the first 2 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

<i>Prime - Minister</i>	<i>Date of appointment – removal from office</i>	<i>Mandate</i>
Adgrei Lukanov	February – September 1990	Bulgarian Socialist Party
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Dimiar Popov	December 1990 - November 1991	Expert government
Philip Dimitrov	November 1991 - December 1992	United Democratic Forces
Luben Berov	December 1992 - October 1994	Movement for Rights and Freedoms
Reneta Indjova	October 1994 - January 1995	Interim
Jan Videnov	January 1995 - February 1997	Bulgarian Socialist Party
Stefan Sofianski	February - May 1997	Interim
Ivan Kostov	May 1997 - July 2001	United Democratic Forces
Simeon Sax-Cobourg-Gotha	Since July 2001	National Movement Simeon ??

Source: State gazette 1990 -2003

In result to 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 the question of their real power. Only three of the ministers had some managerial experience, as members of the former government. Some 6 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 political 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 expert profile. Only one of the ministers had experience in the previous government. The Prime Minister acted also as Minister of Interior and not surprisingly, the main structural changes that the government initiated referred to the Ministry of Interior, which unlike the other ministries is regulated by law. However, the draft proposals were not passed by the parliament. 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.

The Videnov government came in office in 1995, with the mandate of the Bulgarian Socialist Party (BSP) majority. The cabinet had 18 members and 4 of them were appointed also Deputy Prime Ministers. Initially, there were few government members that were also party functionaries, but later their number increased. Four of the ministers had been members of previous cabinets. In total this government was significantly more stable than the previous governments, due to the solid parliamentary support. The first change in the cabinet came some 18 months after appointment. Due to the deep economic crisis and the government failure in many key areas like 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 political appointees was also much higher than that of any previous cabinet. The three Deputy Prime Ministers had key positions in the party structures and another 5 ministers had some party background. The government was remarkably stable and the first and only change was made 15 months after its appointment. This included mainly personal replacements of the political appointees. However, the performance in the areas with new ministers was not improved significantly.

The current government of Simeon Sax-Cobourg-Gotha came after the elections in 2001 and the surprising victory of the National Movement Simeon II (NMSS). The government declared to continue to work on many of the priorities set by the Kostov government. The first format of the cabinet included 16 Ministers but very soon their number increased and at present they 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. There are no political figures in the government. The only exception is the new Deputy Prime Minister on the issues of European integration and administrative modernization that headed the parliamentary group of NMSS, before coming in office. Although there are a significant number of personal replacements so far the structural changes are few. Only two new ministries have been established, by transformation of existing agencies.

This brief review shows that in time there is an obvious establishment of political elite that occupies government posts. This establishment of leadership capacity is accompanied by a clear preference of the Prime Ministers to requite experts in government and reduce the number of political appointees. Of course, this depends to a great extent on the parliamentary support of the specific government. With the decrease of this support the Prime Ministers tend to secure government policies thought more party functionaries. The review also shows that the replacement of party appointees with experts does not necessarily lead to better government performance. However, the experience of government members in different positions in the executive is a prerequisite for more efficient policy making.

Table 2: Structure of the Council of Ministers (CoM) 1990 - 2003

Government	Initial structure of the government		Final structure of the government		Number of changed members	
	All * members	Deputy Prime Ministers	All * members	Deputy Prime Ministers	Changed ministers	Changed Deputy Prime Ministers
Philip Dimitrov	15	2	19	5	7	3
Luben Berov	14	3	16	2	6	2
Jan Videnov	18	4	19	3	8	1
Ivan Kostov	17	3	18	1	11	3
Simeon Sax-Cobourg-Gotha	17	3	21	3	10	1

Source: State gazette 1990 –2003

Another clear trend is that the Prime Ministers increase the initial number of government members, while the same could not be claimed for the Deputy Prime Ministers (Table 2). In the majority of cases there is a reduction in the number of the latter, which could be considered an indication that the role of this position in the government is not apparent. Of course, this observation is related to the issue of the role of the Prime Minister himself. Although the primacy of his position is not explicitly stated, his responsibility for the overall government policy presumes such dominance. Depending on the Prime Minister's personal qualities, the type of the government could vary between "clearing house" for formal adoption of decisions and "arena" for debating policy proposals.

2.3. Government Performance

It is interesting in the background of composition and stability of a government to review its performance in terms of adopted legal drafts. With the institutional consolidation there is a clear trend of increased contribution of the executive to the legislative process. While in 1991 the government drafts made some 20% from the total number of passed laws, 2003 their amount is about 55-60% (without the laws for ratification).

Table 4: Government legal drafting and passed laws 1990 - 2003

	Number of government legal drafts		Laws passed by the Parliament		
	Adopted legal drafts	Adopted ratifications	Total number of passed laws	Number of passed government drafts	Passed government drafts as % of the total
Legal drafting of the short-lived governments					
Philip Dimitrov	92	25	59	16	27,1
Luben Berov	95	79	59	13	22.0
Jan Videnov	104	143	126	69	54,7
Legal drafting in the first three years of the last two governments					
Ivan Kostov	215	190	373	410	91.0
Simeon Sax-Cobourg-Gotha	211	199	348	373	93.3

Source: Legal database of the National Assembly; State gazette 1990 -2003

The first democratic government (Ph. Dimitrov) had planned the initiation of a large scope of reforms. It adopted 92 legal drafts in all crucial areas. However, only 16 of them were passed by the parliament (Table 4). In addition to the unstable political support the government suffered the resistance of the administration in the implementation of these reforms. The attempt to reorganize 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.

The aim of the Berov government was to stabilise the functioning of government institutions and to start privatisation. However, little was done in this direction. In fact the Berov government adopted 95 draft laws, and only 13 of them were passed by the parliament. 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 practically repetitive amendments to 6 existing laws². In addition, these amendments were drafted with time difference of not more than three to four months. This shows lack of coordination and capacity for decision-making.

The Videnov government had an ambitious program, which paid specific attention to stabilisation of state institutions and improvement of government. For two year in office, the government prepared 104 drafts

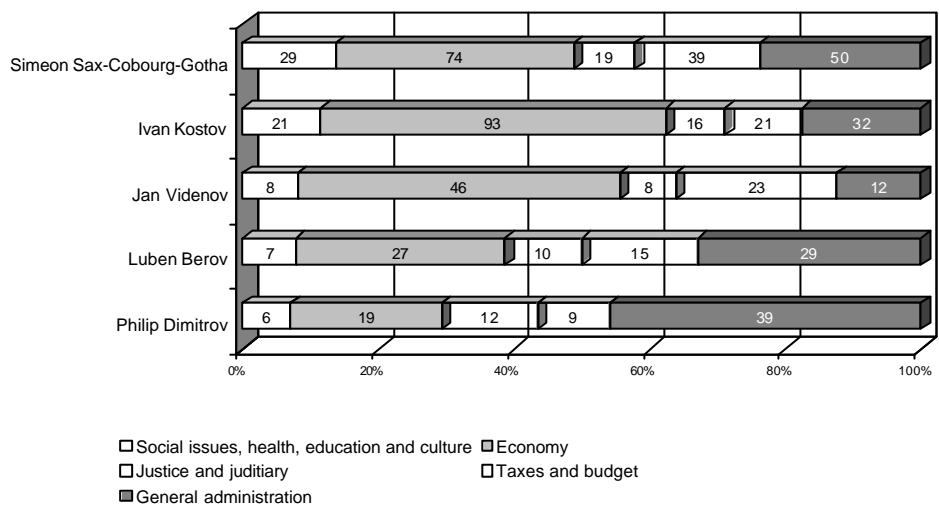
² These amendments include of the Penalty Code - 3, the Penalty Procedures Code- 3, the Law on property and use of land for agriculture – 4, the Law on local self-government and local administration – 3, law on privatization of state and municipal property – 5, Law on the national emblem – 4. (Legal database of the Council of Ministers)

and 66% of them were passed by the parliament. The majority of the legal drafts were amendments to existing laws, but there were rare repetitions. Despite of the improvement in the policy making process its quality was still low.

The Kostov government that completed its full term of office distinguish by the previous ones not only with experience but also with the effective transformations of the administrative system that aimed to improve the policy-making process in general. For the first time on the basis of the government programme, were adopted special half – year legislative programmes. The coordination mechanisms were improved. For its term of office the government had proposed a significant number of legal drafts in all areas. The major issues that were addressed were related to the establishment of the framework of the free market economy and reduction of the state functions in that respect.

The Sax-Cobourg-Gotha government has made an interesting shift in the policy focus. While the Kostov government produced more regulations related to economic activities, the current government has reduced these on the account of health and social issues, taxation and administration. This trend could be explained with the fact that the practically the economic framework has been settled and what needs to be resolved are requirements in the other sectors, that refer also to the implementation of the EU membership criteria.

Figure 1: Government legal drafts by policy area



3. Institutional Arrangements for Policy Formulation

As already explained in part 2.1 the Constitution provides for the operative flexibility to the executive in the implementation of its functions. Indeed, from 1991 to 1997 the issues of administrative organization 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 the key posts in the latter and practically it was the party involved in the policy-making. The party bureaucracy performed also 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 pay attention to need for stabilisation of state institutions and improvement of government – administration relations. For two years the Structural regulations of the Council of Ministers were changes 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 primary concern of the newly elected government was identified to be the transformation of the administrative system, on the basis of extensive functional review of the existing administrative system (UNDP, 2001). The findings from this review 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 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. Therefore, the government adopted a Strategy for Administrative Modernisation that identified three main pillars of change – clear distribution of responsibilities in the different levels of the executive, unification of the 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 the domestic and foreign policy³, to formulation, development and carrying out the domestic and foreign policy⁴, to coordination of the work of the executive bodies for accomplishing a coherent state policy⁵. This reinforced the role of the Council of Ministers as the 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 was clarified, since it is a specific structure that supports both the Council of Ministers and the Prime Minister. The executive agencies were established as the units to provide administrative services and implement specific tasks, assigned by the respective ministry. 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 specialized) in the individual administrations. The units in the general administration are the “front office” of the administration on the one hand, and on the other support the implementation of the specific sector functions by the specialized units (Boev, 2000).

Another very important element was the establishment of the political cabinets to the Prime Minister, the Deputy Prime Ministers and the Ministers. These cabinets are small units with analytical and advisory functions. Their task is to support the policy development and ensure the necessary information and coordination for decision-making. The experts in the political cabinets and the administration were well distinguished with the introduced status of the civil servant (Law on Civil Servants, 1999), the latter granted this status. For the reinforcement of this division the General Secretaries were established as managers of the administrative structures and their position was turned 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. He has assigned also a number of coordination functions that aim to provide synchronisation of the work of the ministries and to improve the planning and performance with regard to legal drafting.

The next very important field of change that refers to the present study were the rules for legislative drafting. However, the new rules were introduced with the Structural regulations of the Council of

³ Art. 105, Constitution of the Republic of Bulgaria. Promulgated: State Gazette 56/13 Jul 1991, Last amendment: State Gazette 85/26 Sep. 2003.

⁴ Art. 20 (2), Law on Administration. Promulgated: State Gazette 130/5 Nov. 1998, Last amendment: State Gazette 95/28 Oct 2003.

⁵ Art. 2. (3), Structural Regulations of the Council of Ministers and its administration. Promulgated: State Gazette 103/30 Nov 1999, Last amendment: State Gazette 20/4 Mar 2003.

Ministers, and not with amendments or replacement of the Law on normative acts. This law gives 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 this Law was passed in 1973, it 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. 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 of the actions taken by the former government, many of the ministries are still involved with functions that are not typical for the modern administration (like 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 could be expected that by 2005 such administrative activities will disappear.

Another weakness that persists is the overlapping of functions. Despite of 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 profile 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 other 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 the institutions that do not comply with the Law on administration has increased. Therefore, the plans for optimisation of the administrative structure provide for the removal of the additional set of administrative structures, thus leaving the opportunity to establish only a ministry or an agency.

In the same time there is an obvious trend for 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 very positive tendency. A specific 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 totally unclear. There were no planning mechanisms and the government activities were motivated in entirely informal ways or, in 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 that made the process more transparent.

The first track of improvement is the practice for adoption of a government program for the term of office established with the Videnov government. 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 a “legislative specialization” between the government and the parliamentarian majority has been developed – thus, the general laws are prepared in the parliament, while the government develops the rules that require specific expertise and analysis.

The governmental legislative program is based on the proposals of ministries and other executive bodies, and covers a period of six months, in correspondence to the parliamentary sessions. 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 Acquis.

The government councils are another mechanism for problem definition. Examples for such are the Council of Tripartite Cooperation that is attended by the trade unions and organizations of the employer, and the Council for economic development (established in 2001), which included a Deputy Prime Minister, and representatives of the business. However, these councils are consultative mechanisms, rather than an institutionalised means for agenda setting. Therefore, it could be claimed 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. In the occasions when this has happened it was based on the informal contacts between officials and civil society organizations.

Following the indistinct mechanisms for problem definition, the grounds for selection of policy instruments are unclear issue. Despite the fact that the Law on Normative Acts requires preliminary assessment of the need to regulate specific area by law, there are no real techniques that are used to estimate which tool would be most effective and this requirement was never actually met. To a great extent this is related to the analytical work done in the ministerial experts, which on the basis of the sector reviews, surveys and other analytical papers to define the need of a law, or to propose another way of policy goals accomplishment. However, this stage is very often postponed due to the lack of relevant observations and data for the sector or issue development, and on the other hand 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. Probably this is why there is the negative tendency the majority of issues to be regulated by laws that go into amazing detail. In the same time, contrary to the rule that one area should be regulated by one law (Law on Normative Acts, Art. 10) there are a lot of cases where there are three and more laws that even overlap or contradict⁶.

Besides the legal drafting, the Council of Ministers makes decisions on a large scope of the issues. The preliminary preparation (and the respective acts) is usually done by the Administration of the Council of Ministers. The General Secretary organizes the work meeting agenda on the ministers' proposals and makes the allocation of tasks. The custom such issues to be discussed at a work meeting of the government was established in 1997, and two years later this became a regulated procedure for coordination. Opposite to the official meeting of the government, only the CoM members attend these meetings - the only exclusion is the General Secretary. The topics of 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 government disposal government are not many. They are regulated by the Constitution (Art.114) and the Law on Normative Acts (Art. 6) and include: decrees, orders and decisions. With ? 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 specific ministry, while decisions are taken on specific current issues. For these types of acts there is no strict rule for official publishing. This is done if it necessary for the implementation of the act. In many cases with decisions are adopted other government documents like strategies and programmes.

While in some countries the drafting of policy guidelines and the legal text are prepared in separate stages, in Bulgaria there is no such distinction. In fact, the first stage – preparation of policy guidelines is missing at all. 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 principles, objectives or methods for achieving these objectives are provided to the team. The role of the political cabinets in the phase is insignificant.

⁶ 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 not assist the processes in this field.

Generally, the indications for the 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 the targeted policy outcomes. Therefore the experts that participate in the drafting process usually make their own judgement which measures will best fit the overall government policy outline. This in many cases leads to repetitive changes on a later stage of draft development due to the input of the political leadership. Beside the *aquis*, that gives only the general framework, another very common source of policy guidance is the use of foreign models for regulation of the respective area. In the recent years this process has been improved with the adoption of sector strategies that give at least a clue on the pursued outcomes.

The lack of practices for development of white papers that enable wide public discussions is a major weakness of the legal drafting in Bulgaria. From 1998 until 2001 the government was publishing the adopted draft laws on the government website. This provided floor for some discussions, 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 inputs at a later stage to a great extent endanger the consistency of a draft since the drafting procedures of the government and the parliaments are not equalised. However, since 2001 the government stopped this practice.

4.2. Drafting

After a policy issue has entered the legislative programme of the government, the respective minister, assigns the responsibility for its development. Prior to the administrative transformation there was the common practice, the ministers to assign the task to a group of experts from different units of the ministry. With the improvement of the administrative organization the tasks are assigned to specific unit or units that are specialised in the topic. In many cases, these working groups are chaired or coordinated by a deputy minister. Very often inter-ministerial working groups are established if there are more ministries involved in the issue. 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 could be attended by experts from the other functional departments of the CoM Administration. Since 1999 the function of the inter-ministerial working groups is extended and such are established not only in relation to drafting of a law, but as well for a piece of secondary legislation.

There are no formal rules for allocation of the institutions interested in the topic for regulation. There are no such rules as regards the independent organizations or outside stakeholders. The only requirement concerns the decisions related to labour issues. In that case the trade unions have to be invited. In the rest of the cases, it is up to the institution which outside partner to invite. Very often this is decided on the basis of informal relations with NGOs and think tanks.

These working groups discuss proposals made by the different represented institutions. The main body of the proposal is prepared by the leading institution, which is also due to process the discussions and agreed decisions. In the same time, there is no obligation the work of this group to solve all troubling issues and to agree on the final draft. This means that at this first phase it is possible some debated aspects of the draft to remain unresolved.

4.3. Coordination of policy proposals and Decision-making

Along with the changes in the planning mechanisms the coordination of legal drafts has also developed. In the first year of democratic government the Legislative Council to the Ministry of Justice was responsible for the coordination and arbitrary decisions on unresolved debates between institutions. This is also the unit that makes a review of the national legislation with regard to the ratification of international treaties. The work meetings of the Council were attended by experts from the interested institutions as well as members of parliament. However, the functions of this unit diminished in time. The coordination mechanisms were transferred to the Council of Ministers. This process was especially reinforced by the Bulgarian – EU relations.

In 1995 became an associate country to the EU and the Videnov government put a special emphasis on the harmonisation with the *aquis*. Special procedure for coordination of policy matters related to EU issues was

adopted and facilitated with structures at different levels. The policy initiative was entirely a prerogative of the Prime Minister. The first level of coordination was the ministerial Committee on EU integration, which was supported by a Coordination Commission at a deputy ministerial level. A special secretariat composed of expert working groups had to develop specific proposals and secure the consistency of the policy process. The experts were representative of the specific ministries and provided information in their field (Verheijen, 1997). Analysis of the existing structure and functions of executive bodies had to feed a strategy for administrative reform. The newly established Department of Administrative Reform at the Council of Ministers had to coordinate the advancement of this 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. 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 Council of Ministers Administration. 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. As regards the EU matters, two task bodies were established – the Council on EU integration, headed by the Prime Minister and the Directorate “European Integration and Relations with the International Financial Institutions” in the CoM Administration.

More importantly, the coordination mechanisms were brought to a lower level 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, the Parliamentary Secretary of the Prime Minister and the General Secretary of the CoM with respectively those of the ministries was formally confirmed in the Structural regulations of the Council of Ministers. All these practices were continued by the present government.

Despite of these mechanisms for coordination the review of the real processes and the policy outputs show that in many cases these are only formally followed. In addition, these procedures are relatively clear only as regards the law drafting. The procedures for development of secondary legislation are regulated with orders for internal organisation by the respective ministers and are not supervised. It could be only guessed to what extent they follow the requirements fixed for the law drafting.

Another major problem that is encountered in practice and 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 only when it has reached a more advanced phase. This is particularly evident in the work of the parliamentary commissions and the new proposals that come from interested parties on the legal drafts. There are many cases in which the respective ministry uses the parliamentary stage to make changes in their proposals that have not been addressed in the early stages. Not to say that the members of parliament are very rarely identified as interested parties in government stage of the law drafting. The lack of explicit procedures for early coordination of a legal draft with the MPs leads sometimes to dramatic changes in the initial proposal of the government. Another indication for the poor coordination is the numerous amendments to the laws in relatively short time. This was particularly true in the early transition years, but even now is a good indicator for government effectiveness in policy making.

After the coordination procedures on a draft law finish, 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 need only formal approval. The second part includes the matters that need to be debated in order to provide some guidelines for the 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 very clear sign for the type of government, the managing style of the Prime Minister as well as the overall efficiency of the government.

5. Conclusions

After 6 years of purposeful administrative reforms, the Bulgarian government system has not acquired yet the necessary capacity for effective and efficient policy-making. The policy-formulation has been confined to the ruling majority and consultations with the interest groups or the civil society have been very limited.

The Council of Ministers and its administration have established as the strategic centre for policy formulation and practically this role has to be utilised though improved planning, analysis and evaluation mechanisms as well as specific attention to the policy formulation proposals in the ministries.

The relations between the political leadership and the administration are just starting to settle. In the first year of transition the cabinets tended to assure the political support of the administration. With the introduction of the civil servant statute the distinction of the two started to appear. However, this distinction should only be with regard to attitude and practices for development of policy proposals. Otherwise, the interconnection between the politicians and the administration in the policy process is critical.

References

- Bliznashki, Georgi (1994). "Constitutional provisions on government". *Contemporary Law*. Issue 2, 1994.
- Bliznashki, Georgi (1997). *Principles of the Parliamentary government*. Sofia, Bulgaria: "St. Kliment Ohridski" University Press.
- Boev, Julian (2002). "Bulgaria: Decentralization and Modernization of the Public Administration." In Peteri, Gabor (Ed.), *Mastering Decentralization and Public Administration Reforms in Central and Eastern Europe*. Budapest, Hungary: Local Government and Public Reform Initiative: 95-120.
- Denhart, Robert B. 1981. *In the shadow of organization*. Lawrence: University Press of Kansas.
- Majone, Giandomenico (1996). Public Policy and Administration: Ideas, Interest, Institutions. In Robert E. Goodin, and Hans-Dieter Klingemann (Eds.) *A New Handbook of Political Science*. New York: Oxford University Press: 611-641.
- Manning, N., Barma, N., Blondel, J. & Wright, V. 1999, 'Strategic Decision-making in Cabinet Government: Institutional Underpinnings and Obstacles', The World Bank Sector Studies Series no. 19935, The World Bank, Washington D.C.
- Nikolova, Krasimira (1997). "Framework of the reform of the public management in Bulgaria: inside view." In D. Coombes, and Toni Verheijen (Eds.). *Public Management Reform, Comparative Experiences from East and West*. Plovdiv: Lettera: 47-82.
- Olson, David (1994). *Democratic Legislative Institutions: A Comparative View*. New York: M.E. Sharpe. Inc.
- Palumbo, Denise and Steven Maynard-Moody. 1991. *Contemporary Public Administration*. New York: Longman Publishing Group.
- Peters, B. Guy (1996). *The Policy Capacity of Government*. Canadian Centre for Management Development, Research Paper 18.
- Parsons, Wayne (1995). *Public Policy: an introduction to the theory and practice of policy analysis*. Cheltenham, Edward Elgar Publishing,.
- Verheijen, Toni and Philip Keraudren (1997). "Reform in the central government and local self-government in Bulgaria: a new start?" In D. Coombes, and Toni Verheijen (Eds.). *Public Management Reform, Comparative Experiences from East and West*. Plovdiv: Lettera: 82- 102.

Verheijen, Toni (1997). "The Civil Service System of Bulgaria: In an ever deeper crisis?". Paper presented at the *Civil Service Systems in Comparative Perspective Conference*, School of Public and Environmental Affairs, Indiana University, Bloomington, Indiana, April 5-8, 1997. Available at: <http://www.indiana.edu/~csrc/verheij1.html>

UNDP (2001). *Rebuilding State Structures: Methods and Approaches*. UNDP/RBEC Policy Advocacy Paper. Slovakia, Bratislava: Regional Bureau for Europe and the CIS.

Waldo, Dwight (1992). *The Enterprise of Public Administration*. California: Novato: Chandler and Sharp Publishers, Inc.