

POLITICO- ADMINISTRATIVE DILEMMA: TRADITIONAL PROBLEMS AND NEW SOLUTIONS

Edited by

B. Guy Peters, Georg Sootla, Bernadette Connaughton



NISPAcee

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

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The Network of Institutes and Schools of Public Administration
in Central and Eastern Europe

Politico-administrative Dilemma:
Traditional Problems and New Solutions

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Introduction

*B. Guy Peters, Georg Sootla, Bernadette Connaughton*¹

Public bureaucracies are one of the defining institutions of the modern State, but they are also one of the most maligned. Both among political elites and the mass public there is a disdain for bureaucracy, although the reasons given for that dislike might differ among various individuals. The numerous epithets applied by the public to bureaucracy have been catalogued in various places and focus in general on the perceived difficulty in receiving high quality public services from the formal organisations within government. For politicians, however, one of the most significant concerns is the autonomy of bureaucrats and their unwillingness to take direction from their nominal political masters.

The question of the autonomy of the bureaucracy also arises with respect to actors in society. There is a large, and now often discredited, body of literature on the capture of bureaucracies (especially regulatory bureaucracies) by social actors. Also, much of the literature on street-level bureaucracy (Meyer and Vorsanger, 2004) raises questions about the autonomy of those actors from their clients. An illustration of this is the increased use of “soft law” to involve social actors and to reduce those aspects of bureaucracy that citizens often perceive to be the most intrusive and the most objectionable. As contemporary States have evolved to experience more and increasingly complex, linkages with society the capacity of those States and their bureaucracies to act in an autonomous and self-determined manner has been diminished. These interactions may enhance democracy, but they may also reduce the capacity of government to act decisively and quickly to govern those societies.

The relationship between civil servants and politicians is one of the most crucial inter-personal and institutional relationships for any government. The importance of this relationship arises both from a “top down” and a “bottom up” perspective on governance. From the top down, political leaders want to ensure that their wishes are carried out by the rest of government, even if government is far from an ideologically integrated structure. From the bottom up, an effective pattern of communication of information and ideas upward will be crucial for the capacity of the organisation as a whole to function effectively. In essence, then, authority and command flow downward, while information flows upward within a public sector organisation.

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In a democratic regime, this relationship is a major characteristic defining the capacity of the elected officials to control their and the people's government and to produce the type of policies promised in the electoral campaign (Rose, 1976). Although the normative values in such a relationship are all in favour of the elected officials, the more practical considerations tend to give the permanent civil service a number of advantages, and often seem to balance the relationship in favour of the bureaucrats. The bureaucracy is more numerous, more expert, and can afford to wait for politicians to come and go, and thereby maintain the "path" on which the organisation in question has been embarked. Political leaders may come and go, but the bureaucracy largely remains in place and continues to perform its functions regardless of the political leadership.

Although for democratic reasons we may tend to favour the elected officials, it is important not to think always of the bureaucracy as a malevolent force in government. The persistence of individual bureaucrats and their organisations provides a number of positive contributions to governing. Perhaps the most important contribution comes from their accumulation of expertise. Although in many political systems the bureaucracy is not recruited with regard to substantive knowledge and education but rather according to their general abilities, over time they develop that expertise on the job, and rarely can a minister match that experience and knowledge.²¹ The experience that these civil servants have, and the resulting organisational memory that is produced in any successful organisation, can themselves also help to prevent errors and to make government more effective. Further, civil servants generally develop a sincere commitment to their department and their programs, and their apparent recalcitrance in the face of demands from ministers may be the product of that commitment, rather from than any absence of commitment to democratic values.

The relationship between politicians and civil servants is especially problematic in central and eastern European countries that have been undergoing processes of democratisation, marketisation and social change taken more broadly. The long domination by a single group of politicians who have now largely been discredited has tended to make politicians somewhat suspect for many people.³² Further, there is, in many cases, a shortage of trained and experienced civil servants who are not compromised in some ways through an involvement with the old regime. Thus, governments must decide how best to use the talent they have, how best to train and

2 For example, the British bureaucracy historically has been recruited as "talented amateurs" with general intellectual abilities over time they develop substantial capacities in the work of their ministries.

3 The extent of the rejection of politics varies markedly across countries, but the failure of new governments to radically transform the lives of many people, at least for the better, and the resulting disappointments has tended to undermine public confidence in their governments. That having been said about the newer democracies, much of the same could be said about the more established democracies.

bring along the younger prospects for the public sector and how to design mechanisms for ensuring effective interactions.

In the need to design institutions and more informal mechanisms for control within the public sector, governments may consider a variety of options. At one extreme governments may attempt to create a rather complete separation between the political and the administrative elites. The logic of this approach to governing is that the political elites should dominate decisions in the public sector, while the administrators should be able to serve any political master. The assumption of this approach to the political control of the bureaucracy is that permanence and expertise are more important than immediate responsiveness for the bureaucracy, and further that a professional bureaucracy can indeed serve a range of political masters. This model of the bureaucracy and its relationship with politicians has been common in the Anglo-American democracies, although it is threatened by various forms of politicisation such as a proliferation in the appointment of advisors and the unforeseen impacts of reform processes

The clearest alternative to the Westminster model has been one in which the upper levels of the public service are political, and change in response to changes in the parties in control of government. For example, in Germany when there is a change in governments the top echelon of the civil service tends to turn over, with very top civil servants associated with the losing party taking temporary retirement, and a new set of administrative leaders assuming office (see Derlien, 1995). This pattern of using a more committed civil service is designed to ensure that there is an effective pattern of communication between the political elite and the bureaucracy, and also that there will be greater commitment to implementing the program of the government of the day.

The obvious advantage of the German system of selecting senior civil servants is that they are both expert *and* politically committed. Other institutionalised forms of politicisation include the Belgian example of *cabinets* which is illustrated in this volume. In contrast, the higher positions in American government are filled by political appointment generally from outside any experience in the career public service. Thus, as has been demonstrated in cases such as the response to Hurricane Katrina those appointees often are unqualified, and incompetent in managing large organisations. The difficult task in designing public institutions, therefore, is finding the way of ensuring both political commitment and expertise on the part of high level administrators. That having been said, however, also involving more expertise on the political side of government may also be useful in producing more effective governance.

Coalition governments represent a particular challenge to political controls over the bureaucracy (see Peters Verheijen and Vass 2005). Even if there is a model like the German example that permits political leaders to appoint their own loyalists to position in government, in a coalition there is a question of who gets to do the

appointing. Is it to be the party of the Prime Minister or (more likely) the individual ministers selecting their own staff? In the latter case, aren't the divisions that exist within the government likely to be replicated in the staff, with consequent problems in providing effective policy coordination and coherence? Thus, while each minister will almost certainly want to pursue his or her own goals in office, the overall pattern of governance may be diminished.

The ideas of New Public Management (NPM) also have been presenting a major challenge to traditional understandings of the relationship between public servants and their political leaders. Although NPM means many different things (see Hood, 1991; Christensen and Lægreid, 2000) to many different people, one of the defining features of this approach to governing is that it tends to emphasize the importance of senior public managers in governance and to devalue the role of politicians. Many of the constraints associated with political control are considered to be sources of inefficiency, and government would be better if the politicians would just "let the managers manage".

The ideology of New Public Management⁴³ has advocated dividing governments into relatively small organisations, each operating much as a firm might within the market. This division, associated with managerialist ideology of NPM, has tended to make governing as a collectivity difficult for any public sector. That type of disaggregated structure and the lack of coherence that may result are difficult for more institutionalized democracies, but may be particularly difficult for the newer democracies (see Tavits and Annis, 2006) which still need to focus on strategic use of resources, human as well as physical. Even in the more institutionalised political democracies, however, many political leaders and public servants in central agencies (Jensen, 2004) identify the current absence of effective coordination and policy integration to be a significant problem for governance.

Involving Civil Society

To this point we have been talking about the managerial reforms of government, but there are also important participatory reforms. In particular, the conventional boundaries between State and society have been eroding. On the one hand governments have found that they need to be able to involve the expertise, the energy, and the resources of civil society actors if they want to be effective in controlling, making and implementing policy. On the other hand organisations in civil society have found that the public sector is a source of funding for them, and also that their involvement in the public sector may be crucial for their ability to shape outcomes for themselves and their clients. Most government organisations are now surrounded

4 The term ideology is used advisedly. Although purportedly merely a set of ideas about public management, the implications are in fact much broader, and affect governance more generally. The fundamental assumption that the primary requirement for good government is good administration has numerous implications for governing.

by extensive networks of organisations that provide them with advice as well as with the means of putting their programs into effect.

It is not only organisations in society that have become more involved with the public sector; individual citizens also are becoming more engaged directly. To some extent this involvement has been encouraged by the public sector itself, with government programs encouraging public participation and “citizen engagement” in making policy. Programs of this sort have ranged from simply increasing the transparency of government programs to full-scale attempts to increase participation by the public and enhancing their ability to exert influence over the programs that are important for them. The countries that have undertaken programs of enhanced participation are able to utilize that involvement as a means of shaping policy, and also as a means of co-opting members of the society into accepting programs. If nothing else, employing social actors as instruments for service delivery can serve as the means of softening the image of the government bureaucracy and making implementation more palatable to many members of society.

For the countries of Central and Eastern Europe that continue to be impacted by their long years of Soviet domination the need to build civic involvement in the public sector is even greater than in other democracies. The nature of the previous regime was such that there was little autonomous development of social organisation so that there was not the social basis for effective governance. One does not have to accept all of the now familiar Putnam (1993) arguments about the importance of civil society in governance to understand that having society level organisations that can help in governance is a real advantage for any public sector. The logic of this involvement goes well beyond that expressed by Putnam and involves a range of formats for political organisation such as corporatism and corporate pluralism.

Just as did the question of interactions between civil servants and politicians, these interactions between State and society also raise important questions about how direction is being supplied to the public sector, and therefore also raise some issues about the public interest. While it is important to involve a range of social actors in government, there is the associated need to prevent domination by those interests. This is especially true for countries that have had relatively little experience with the use of such organisations. Likewise, when there is a limited history of independent social organisation in a society the distribution of organisations may be very skewed so that the range of interests in society is not really represented.⁵⁴

Further, even if there is an agreement that policymaking should include a range of social actors finding effective mechanisms for so doing is difficult. It is not difficult to ask groups and individuals to participate in making policy, but it is

5 The experience of many countries developing their civil societies has been that some types of interests, e.g. environmental groups and business, are quicker to organise than are others (Clark, 2003).

difficult for the networks formed from those groups to make decisions effectively. The institutions of government have clear rules for making decisions in the face of competing ideas, but networks usually do not have such rules and tend to work toward consensus. Reaching such a consensus is difficult in the best of circumstances but may be especially difficult when there has been less history of political involvement.

Contents

The papers contained in this book address these on-going themes of the NISPAce working group on politico-administrative relations. The papers in the first section cover familiar themes such as policy making roles, accountability mechanisms and politicisation examining the ways in which politicians and bureaucrats in several countries in Central and Eastern Europe are able to work together to govern, or compete over power within government. Cases on Belgium and Ireland also consider similar patterns in western European countries, demonstrating both the similarities, and the peculiarities, of the newer democracies in Europe. As well as looking at these relationships in a static manner, several of the papers also examine the dynamics of reform, and the manner in which administrative traditions interact with pressures for change, to produce new patterns of administration.

Papers on the Baltic countries examine the emerging and increasingly significant patterns of interaction between state and society in Central and Eastern Europe. These patterns of interaction are by no means as well institutionalized as in other democratic systems, but there are important changes in these governments that permit civil society greater influence. These emerging patterns, in turn, raise questions about the capacity of these governments to institutionalize effective and accountable policy-making while also developing participatory democracies and the continuing development of relationships between State and society will be a challenge for these governments.

Summary

This book represents another step in the ongoing development of our understanding of how governments in Central and Eastern Europe are transforming themselves. There are a number of processes of change in these countries that reflect their adaptation to the international environment and to internal social processes. Politicians and civil servants continue to be principal actors in these processes, and there are now pressures from civil society for their involvement. Our working group within NISPAce has been examining these processes for over a decade, and these papers are a reflection of our continuing commitment to interpreting political change.

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Section I

New Faces of Traditional Dilemma: Experiences from East and West

Politicians and Top Civil Servants in Former Yugoslav States: Back to Discarded Traditions?

*Aleksandra Rabrenovic, Tony Verheijen*¹

1. Context

Earlier research work conducted under the NISPAcee Working Group on politico-administrative relations and other studies on Civil Service systems in Central and Eastern Europe (Verheijen, 1999, and Verheijen *in* Pierre and Peters, 2003) have highlighted the specificity of the former Yugoslav states when it comes to civil service development, both in a positive and a negative sense.

On the one hand, the former Yugoslavia retained traditions of a professional and impartial civil service well into the period in office of the Communist regimes.² On the other hand, the collapse of Yugoslavia led to a period of extreme politicisation of the Civil Service, due to the polarisation that came with the Yugoslav wars and the growing pains of the establishment of new states. Whereas previously existing legislation on civil service was not necessarily discarded in all cases, their interpretation and application became significantly more political (Sevic *in* Verheijen, 2001 and Sevic and Rabrenovic *in* Verheijen, 1999).

With the possible exception of Slovenia,³ hyper-politicisation was a major contributing factor to the virtual collapse of Civil Service systems across this part of the Southeast European region. Civil Service systems across the sub-region were in a state of strong decline by the early years of this decade, in particular in Serbia, Montenegro, but also in Bosnia and Herzegovina, Macedonia and Croatia. Deep politicisation of civil service structures made the administration unattractive for young graduates and stifled career prospects for those already employed. The negative image associated with the regimes in place in many of the states concerned further affected the image of the civil service.

The regime changes in the region, beginning with Montenegro and followed by Croatia and later Serbia, as well as the gradual stabilisation of Bosnia and Herze-

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2 Civil Service legislation remained in place until the late 1970s and professional standards were maintained through an extensive training network. It should also be noted that under earlier periods of authoritarian rule, the professional standards in the civil service were largely maintained (Sevic *in*: Verheijen, 2001).

3 Even though Slovenia did not show the same patterns of extreme politicisation as other states, the development of a professional civil service system in Slovenia continues to lag behind other new EU member states.

govina, provided an opportunity for reform, while in Macedonia, reforms began in the mid-1990s but stalled in the years around the Kosovo conflict, were re-launched following the conclusion of the Ohrid agreement, which ended a brief civil conflict. However, even if conditions for reform in the region had improved, the rapid development of civil service reform policies in the last two years nevertheless has come as something of a surprise to outside observers. This article will examine the nature of civil service reform in former Yugoslav states and aim to answer the questions why reforms were initiated at this specific point in time across the area, and what are the common elements and risks to the reform process.

2. Politicisation and the decline of civil service systems

Politicisation is one of the key causes of the decline in civil service systems in central and east European states. The lack of job security, brought about by politically based decisions on recruitment, promotion and dismissal and the lack of career prospects for young staff, due to the ever increasing number of posts subject to political appointments, were key factors in reducing the quality of staff in the civil service, together with inadequate employment conditions, in particular low wages. In Serbia, for instance, appointments down to the level of Department Head were decided primarily based on political criteria only (World Bank and DFID (2004c)). The lack of clear provisions on merit-based recruitment and promotions in civil service legislation, or the lack of enforcement of rules where they existed, made it easier for politicians to use their office to reward loyal supporters with government positions.

In addition, the drive for more political appointments led to an expansion in staff numbers in the civil service, notably in small states with limited employment opportunities, such as Montenegro (World Bank, 2004a) and Macedonia. This in turn led to a further decline in the competitiveness of the Civil Service as an employer, as the scope for improvement in wage levels was reduced, due to the need to fund an ever increasing number of staff from stagnating public funds.

The emerging turnaround of this situation, though only in its initial stage, is somewhat surprising to outside observers. The political situation is not much less polarised now than it was a few years ago. Serbia, Montenegro, Croatia and Macedonia are all governed by either governments that hold slim majorities in parliament, or are minority governments. In addition, government-opposition relations tend to be highly polarised. Finally, the prospect of EU membership, which has often driven attempts at professionalisation of the civil service in other parts of the region, in particular in states such as Bulgaria, is still rather far removed in most of this region, except for Croatia. However, even in the latter, state civil service reform is still a relatively low profile aspect of the accession process, as political criteria now overshadow institutional reform issues. There are several hypotheses one

might consider as an explanation for the recent flurry of reform initiatives in former Yugoslav states.

The first is a *determinist or historical* hypothesis, which would assume that the historically developed pattern of strong law-based civil service systems would re-emerge once the initial stabilisation of the political situation in the different republics would have taken place. This kind of approach has been underlying much of the analysis of central and east European governance systems in the last decade, and driven (often flawed) assumptions on reform paths in individual states (i.e. predicting smooth and rapid reforms in the Czech Republic, but reform failure in Slovakia after independence, an assumption in the meantime repeatedly taken over by reality).

A second hypothesis is the *integration* hypothesis. This would assume that the long term prospect of EU accession, combined with the developing notion of the European Administrative Space (as first coined by Fournier in SIGMA, 1998) acts as a magnet for European states and will help drive reforms in public administration even without direct pressure from the EU.

A third hypothesis is the *reform dynamic* hypothesis, according to which politicians interested in furthering economic and social sector reforms realise that reforms do not deliver results unless the institutional capacity to implement and sustain reforms is created. A politicised and weak administration prevents the implementation of economic and social reforms, and therefore those that support this hypothesis would expect politicians with a reform agenda to eventually pay attention to the quality of the civil service. In this line of thinking, it matters less whether governments have a majority in parliament, but more whether the overall political climate is conducive to the implementation of a reform agenda. This hypothesis is built to some degree on the literature on growth and governance (see, for instance, Barro, 1991, Knack and Keefer, 1995, Rauch and Evans, 2000), that have successfully argued that there is a causal relation between the quality of governance, including bureaucratic quality, the quality of policies and progress in economic development. Whereas this paper does not aim to shed new light on this issue as such, the hypothesis that bureaucratic collapse would have become an impediment to policy reform and economic development is nevertheless a powerful one.

The analysis in this paper will help to answer the question “what has been the most likely driver of the rapid initiation of reforms in former Yugoslav states over the last three years, based on an analysis of the reforms and their political context”?

3. The reversal of trends: how serious?

The last three years have seen a flurry of reform initiatives in civil service systems in Serbia, Montenegro, Croatia, Macedonia and Bosnia and Herzegovina. All these states and republics have either adopted, or are close to adopting new legislation

on the civil service, or have revamped reform processes that had previously stalled. Without exception, the motivation for the new legislation has been the need to professionalise and de-politicise the civil service. New legislation in all the above states and republics imposes enforceable restrictions on political appointments at the top level of the Civil Service. At the same time, in the majority of the above cases, special provisions have been included in this legislation that govern the employment conditions of top civil servants, often based on Anglo-Saxon approaches. This constitutes a departure from traditional approaches to civil service management in former Yugoslavia and may represent a compromise solution essential to ensure de-politicisation while guaranteeing broad based political support for reforms.

3.1 Montenegro, Serbia and Croatia: similarities in objectives, timing and methods?

Among the states and republics discussed here, the three above cases are the most straightforward. Montenegro, Serbia and Croatia are all in a process of fundamentally altering the legal basis for the management of appointments, promotions and dismissals in the civil service. In each of the cases, new or draft legislation also includes provisions for separate treatment of senior officials, even if they are part of new civil service legislation, and subject to the same rules as other civil servants.

3.1.1 Origins of the problems

The Croatian case is possibly the most complex. In 2000, Croatia launched a radical reform of civil service and public administration legislation, which aimed on the one hand to modernise the existing legal framework, but on the other hand to contain the cost of the civil service. A key element of the reform was the move of previous senior civil servants out of the civil service system and into the framework of a new Law on Rights and Obligations of State Officials. This included Secretaries-General of Ministries as well as Assistant Ministers, previously the most senior management and substantive ranks in the civil service. All these posts became subject to political appointment, and professional (merit) criteria for the appointment of staff to these posts were dropped.

One of the main reasons for this move was the perceived need to reduce civil service wages since Croatia had (and still has) one of the highest levels of expenditure on public sector wages in Europe.⁴ A new wage system introduced in 2001 under a new Law on Salaries (2000) effectively reduced wages by a significant percentage across the civil service. However, the rate of reduction varied between ministries, due to the inconsistent application of the salary law (World Bank, 2004). Moving a relatively small group of top officials out of the salary system for civil servants was seen as a pragmatic way of addressing the need to reduce the level of

⁴ The wages to GDP ratio is 12.5% and wages to public expenditure over 27%, only Bosnia and Herzegovina has a higher ratio among European states.

civil service wages (which in 2000 were still significantly higher than wages in the private sector), while at the same time allowing the retention of senior officials. The linkage between the wages of those employed under the Law on Civil Servants and Employees and those employed under the Law on Officials was severed, allowing for higher salary payments to state officials.

What started as a pragmatic solution to a problem, subsequently became a trigger for the politicisation of top level professional positions, as the coalition government in place used the new arrangements to put in place party control mechanisms in individual institutions. Furthermore, the new rules raised resentment in the broader civil service, and were among the main reasons why talented officials left the administration. Finally, the politicisation of top level appointments was seen as one of the factors in the weakening of policy coordination mechanisms, as professional capacity at senior level declined (World Bank, 2004).

The widespread politicisation of senior appointments **in Serbia and Montenegro** had slightly different origins, but led to a similar end situation. In both republics, the lack of rules on professional criteria governing the appointment and dismissal of senior officials was to blame for increasing levels of politicisation. The formal status of Government officials was regulated by the Law on Labour Relations in State Bodies (1982). The Law recognises three classes of Civil Servants: 'elected', i.e. ministers, 'appointed', i.e. members of service who have been appointed by the government and all the other 'employed' personnel, who are 'ordinary' civil servants, i.e. 'career civil servants'. Positions of Deputy Minister, Assistant Ministers and Secretary of Ministry fall within the category of appointed personnel. They are appointed by the government for four years, but with any government reshuffle changes tend to occur, especially at the level of Deputy Minister and Assistant Minister and, to a lesser degree, Secretary General (Rabrenovic, unpublished paper, 2003). The category of appointed personnel thus institutionalised the right of interference by politicians in the very top layers of the administration, mainly to ensure that politicians get policy advice delivered by civil servants they consider 'reliable'.

It should also be noted that top administrative appointments have been the subject of intensive political bargaining within governing coalitions, restricting the influence of ministers in making the appointments. All this implies a strong 'political' nature of the 'appointed personnel' category, even if senior officials may not necessarily hold the same political colour as the politicians they serve. A similar arrangement was in place in Montenegro, exacerbated in that case by the process of gradual expansion of the civil service as a result of political pressures to create additional posts (World Bank. 2004 a). In both cases the shift in political climate is largely seen as a variable that enhanced the level of politicisation in top level positions. The authoritarian regime of the 1990s and the fragile coalitions that succeeded this in both Serbia and Montenegro led politicians – using the possibilities

inherent in existing legislation – to make the civil service a largely political tool in the hands of the ruling party or coalition.

3.1.2 Initiation and nature of changes

The initiation of reforms in all three cases began in and around 2003. In Montenegro, previous attempts at administrative reform, launched in 1999, had stalled due to political instability, until more conclusive elections and constitutional reform re-shaped the political landscape and created the political opportunity to re-launch the process.

In Serbia, the need to stabilise the economy and the political system following the overthrow of the Milosevic regime, prevented any serious discussion on administrative reform in the first years after the regime change, despite numerous efforts to launch a reform of the obsolete administrative system. Following a period of political uncertainty after the assassination of Zoran Djindjic in March 2003, the new Government, installed in early 2004, announced institutional reform as one of its main political priorities.

Croatian reforms were re-launched in 2003 as part of the process of preparation for their EU accession bid, but also as a consequence of the widespread realisation that the 2000 and 2001 reforms had neither reduced the public sector wage bill, as had been intended, nor helped in moving forward the intended administrative renewal process.

Whereas in Serbia and Montenegro, reforms were defined largely in the context of adopted Public Administration Reform strategies, civil service reforms in Croatia, though referred to in the overall government program, have proceeded without the adoption of a dedicated Administrative Reform Program.

Montenegro adopted its strategy on public administration reform in July 2003, providing a clear programmatic basis for reforming the over-expanded and largely unreformed public administration system. Whereas the strategy contains elements of New Public Management (separating policy from delivery functions, reliance on contracting out etc.), it was relatively incremental in its approach to the reform of the Civil Service. New Laws on Civil Service and on Civil Service Salaries were adopted in April 2004, including provisions to open top level positions to competition. The separation of management and career positions, with the former to be filled based on five-year appointments and the latter on a permanent basis, continues to some degree the previously highlighted trend of separating provisions for recruitment, promotion and dismissal of top management and other positions in the civil service. At the same time, however, the provisions in the new law should help enhance transparency on top level appointments, as secondary legislation on competition and recruitment has also been put in place and a new Civil Service Agency has been created to oversee their application. However, the real impact of these innovations on the professionalisation of the civil service can be established

only in a few years' time, once they have been more firmly established. Whereas the provisions on appointments for senior officials therefore continue to raise some concerns, the clarification of their position is nevertheless an important step forward.

The adoption of the new legal framework for politico-administrative relations **in Serbia** is still largely on the drawing board. The new Law on State Administration includes important provisions on the management system in the state administration, defining political and non-political positions, including the definition of the Assistant Minister and Secretary-General posts as civil service positions. The Law is still under discussion in Parliament, and may therefore be subject to changes. The new draft Civil Service Law has not yet been adopted by Parliament, and any discussion on its provisions is therefore still tentative. Similar to the Montenegrin case, the draft Law separates appointment and career management provisions of managing staff (Secretaries-General, Assistant Ministers) and executive civil servants (all other professional posts), defining the former as appointments by the Government and the latter as appointments by the Ministries. In both cases, appointments are based on results of open or internal competition, which should provide transparency, professionalism and, to some extent, political impartiality. Whereas appointments by the Government as a whole carry less risk of politicisation compared to appointments by a Minister, it remains to be seen to what degree professional criteria will be written into secondary legislation to safeguard the merit element of senior level appointments. A further point for concern is the fact that career management and dismissal provisions are different for management and executive positions respectively, which may carry further risks of a continuation of current practices of treating senior level appointments on a strictly political basis. Still the clarification of appointment and career management provisions is important in its own right, as it is, to a large extent, the loopholes and lack of clarity in legislation that allowed politicisation to become as engrained in the political culture of Serbia as it is today.

The Croatian case is the most complex of the three cases discussed in this section. As noted above, the reform process in Croatia began from the re-drafting of the 2001 Civil Service Law, with the aim to better enshrine merit principles in the Civil Service system and to reduce levels of politicisation. However, the approach to the reform process has made it prone to last minute reversals, as was proven in December 2004, when the Government decided at the last moment to remove all provisions on the de-politicisation of senior posts from the draft law. The fact that this could happen is, in itself, proof of the weakness of the policy coordination mechanisms in Croatia, as the law had supposedly passed all previous consultant hurdles and amendments as significant as the ones made at the Government session should have arisen earlier in the consultation process. Furthermore, the use of transitory provisions in the Civil Service Law to force amendments in the Law on Officials and the Law on State Administration was not deemed acceptable from the perspective of legal drafting technique, which required changes in the approach

to the implementation process of the Law. The process of adopting new legislation therefore stalled and was delayed some 8 months, until the Law was finally adopted in July 2005

The level of political controversy over the law can be illustrated by the degree of detail to which de-politicisation is being discussed. Whereas, crucially, agreement has been reached on the need to move Assistant Minister and Secretary-General posts to the Civil Service Law, agreement on a number of other posts, including all Head of Department positions at the Office of the Government (OG) and the Secretary General and Deputy Secretary General of the OG, has still not been reached. In view of the weaknesses in policy management and coordination systems inherent in the Croatian public administration (see James and Staronova, 2003), the conversion of these posts to career posts, with appointment based on merit, is essential for systemic changes to have the expected impact on the quality of the public administration. The Croatian process proves above all that political interest in controlling the appointment and dismissal of key office holders remains strong. This is due, to a large extent, to the polarisation of politics and the coalition dynamics in the country, which makes politicians nervous about any reduction in their ability to what they see as strategic posts to control the policy process. At the same time, the fact that the debate has come down to a discussion on a relatively small number of specific posts also is an indication that the acceptance of the principle of merit and professionalisation is growing, even in the difficult political context of Croatia.

Finally, it is interesting to note the relative absence so far of any direct pressure from the EU. In previous accession rounds, the EU took a pro-active stance on de-politicisation in several instances (e.g. Slovakia, Latvia), requiring governments to adopt and implement Civil Service legislation as a condition for progress in accession talks. However, the EU has not always been consistent in raising this issue, whereas serious political pressure was exerted on Slovakia and Latvia, states such as Slovenia and the Czech Republic, which fared little better in introducing de-politicisation measures, were not subject to serious criticism.

In the case of Croatia, which is an EU candidate state, a more pro-active role could have been expected, especially when taking into account the general EU policy towards Southeast European states, which includes a strong focus on 'Institution Building',⁵ and a generally pro-active approach to supporting administrative development. This pro-active approach was applied even to Serbia and Montenegro, though SAA negotiations are yet to be started. At the same time, the high proportion of institutional development and public administration reform in technical assistance projects has not in any of the cases been matched by a strong political engagement on Public Administration Reform. In particular in Croatia, the EU has not intervened in the discussion on the Civil Service Law, even if the issues con-

5 Which in EU terms implies both horizontal or general institutional development as well as the development of dedicated sectoral capacities to manage specific elements of the *Acquis*.

cerned related to a core aspect of EU membership criteria. This could be mainly due to the ongoing political dialogue on other, more political issues, related to ICTY,⁶ but is, nevertheless, surprising. Whereas EU membership ambitions are often used to motivate civil service reforms internally, there has so far been little emphasis on this issue from the EU side.

3.2 Macedonia and Bosnia and Herzegovina, driven by ethnic considerations?

Reform patterns in Macedonia and Bosnia and Herzegovina are different from those in the other three states and republics in a number of ways. Macedonia has seen the most long term reform path among the states discussed here. Whereas serious issues remain, in particular civil servants' turnover levels, inadequate wages and problems with professionalisation, gradual progress in reform has been made, with the Civil Service Agency gradually emerging as a guardian of professional standards and merit. In addition, in the last couple of years the discussion on civil service reform has changed, shifting its focus to the affirmative action for the Albanian minority in filling public positions and attempts to marry affirmative action with upholding merit principles.

3.2.1 Origins of problems

The Macedonian case has not been an exception to strong waves of politicisation of the civil service, ever since Macedonia gained its independence in 1991. There has been an obvious distrust between political parties coming to power and civil servants that served the previous Governments. Hence, there exists a tendency to appoint political supporters to senior civil service positions and, to a lesser extent, middle management and lower civil service positions. Given the peculiarities of Macedonian society, politicians have often managed to reward not only their political supporters, but also their relatives and friends, blatantly misusing the public office for personal gain (Psaltirov, 2002). The politicisation trend has been pointed out on many occasions as a major obstacle in the development of Macedonian public administration: "The politicisation of the administration, through appointment based on party affiliation, continues to pose a major constraint on the development of a modern, professional civil service" (European Commission, 2002).

The increasing politicisation has brought about an expansion of staff in the civil service and exacerbated the problem of a fairly large scope of the Macedonian public sector. Similarly to other ex-Yugoslav republics, Macedonia has preserved a very extensive public sector, which has been putting strong pressure on budgetary expenditure. Instead of decreasing the number of employees in the public adminis-

6 The Tribunal charged with investigating War Crimes in all former Yugoslav states.

tration, the Government has in fact gradually increased the number of personnel,⁷ which has put even more pressure on the limited budgetary funds. At the end of the 1990s, it became obvious that Macedonia could not sustain its rate of employment in the state sector, including the civil service, which needed to be considerably downsized.

Escalating problems have triggered the need for deep reforms of public administration which began in 1999. However, the initial reforms were stalled in 2001 due to the outbreak of an armed conflict in the country. The conflict was settled in 2001, with the signing of the Ohrid Framework Agreement, which stipulated adoption and implementation of constitutional and other reforms to improve the rights of ethnic minorities. This has further complicated the unstable politico-administrative interface, adding to it a strong element of ethnic considerations, as will be explained in more detail later.

Bosnia and Herzegovina is undoubtedly the most specific case among all former Yugoslav Republics. The 92 – 95 war caused tectonic changes in the demographics of Bosnia and Herzegovina and its institutional setting. Since after the war, public administration of BiH has grown substantially, with both local and international power holders creating new government structures, each according to its own vision and resources. The absence of a strategic institutional plan had many drawbacks, as institutional structures were fragmented across as many as 14 administrative systems. This resulted in a high degree of institutional duplication and a tendency to multiply chairs and portfolios as an expression of the ethnic coalition nature of government majorities (European Commission, 2005).

Public administration of Bosnia and Herzegovina (BiH) has three main levels: State (central) level and two main entities: the Federation of Bosnia and Herzegovina (Federation of BiH) and the Republika Srpska (RS). In addition, the district of Brcko in the north-east is a self-governing administrative unit under the sovereignty of the central state. The Federation of BiH is further divided into ten cantons, of which two are ethnically mixed, five have a Bosnian majority, and three a Bosnian Croat majority.

Under the Dayton agreement, and until two years ago, elections were held every two years. This has resulted in a frequent and high turnover of senior civil service and hence increasing politicisation. Now that there is a 4-year mandate, more stable politico-administrative interface should be easier to sustain.

In 2001, all three levels of administration have initiated public administration reforms, partly due to the increasing pressure of the international donor community. The reforms were quite well coordinated between the three levels and resulted in drafting of fairly similar civil service laws, adopted in 2002 in Republika Srpska

⁷ For example, only in 1998, the Government has employed 4000 people in overstuffed public administration. (Psaltirov, 2002).

and the state level and in 2003 in BiH federation. One of the key objectives of the reform process has been to separate the political from the administrative sphere and the three civil service laws are well on the way to achieving that. Nevertheless, the ethnical elements remain strongly entrenched in the system and continue to shape the politico-administrative interface, especially at the state level and in the Bosnian-Croatian federation and, to a lesser extent, in the Republika Srpska as well.

3.2.2 Nature of changes

Macedonia was the first ex-Yugoslav state to adopt the public administration reform Strategy in 1999. The adoption of the Civil Service law followed quickly in 2000. It is based on modern principles of a professional, politically neutral, efficient and accountable civil service which provides high quality and timely services to citizens.

Civil servants, depending on the official tasks they perform, are classified by the Civil Service law into three groups: managerial, expert and expert-administrative. All three groups of civil servants generally have the same status regarding recruitment, promotion and dismissal procedures. Managerial civil servants posts are: State Secretary, State Advisor, Head of Department, Assistant to the Head of Department and Head of Unit. Most of managerial posts are clearly career civil service posts. This is a very positive development which makes the Macedonian civil service, at least *de jure*, substantively de-politicised.

The only exception to the career nature of managerial civil service posts is the position of a State Secretary, which can be considered as predominantly a political post. A state secretary is appointed by the Government on the proposal of the minister and his/her term in office is linked to the Government's term of office. A certain degree of de-politicisation of this post is secured through the provision of the Civil Service law which provides that State Secretaries are selected from the managerial civil service posts in the ministries and other state administration bodies, which implies that state secretaries at some point must have been recruited by competition and would therefore meet certain minimum professional standards.. Nevertheless, most of the features of this position imply a political nature of the post. This, however, should not be considered problematic, as most European administrative systems have one politically coloured layer of administration to bridge political and administrative worlds together.

The implementation of the new civil service system has been entrusted to the Civil Service Agency, responsible for implementing and coordinating human resource management policies within the public administration, developing secondary legislation and introducing organisational and performance standards for the

entire public administration.⁸ In a short period of time, the Agency emerged as an important actor in safeguarding the principles of merit and professionalism in the civil service.

However, the Agency has been faced with many difficulties in the implementation of the well designed legislative framework. First of all, the Agency lacks sufficient means to enforce the existing legislation, and this leaves considerable leeway to state bodies to circumvent the application of the law, especially for most *de facto* politically sensitive senior civil service posts. The Director of the Agency has, on a number of occasions, protested that officials in ministries and other administrative bodies had ignored the role of the Agency and breached the Law on Civil servants. For instance, instead of decreasing the number of civil servants, more personnel have been employed disrespecting the envisaged procedure. Many of the senior civil service posts have become occupied by ruling coalition parties' members, who did not have the relevant degree or professional experience required for their posts and managed to get around the prescribed recruitment and promotion procedure (Psaltirov, 2002). In spite of protests by the Civil Service Agency Director and the dissatisfaction of the public, coalition partners were, in most cases, able to get their way and keep their senior civil service positions.

The politico-administrative interface has become even more complex after the signing of the Ohrid Framework Agreement in August 2001. Following the adoption of the agreement, the Civil Service Law was amended, declaring the principle of proportional national representation:

“Principle of adequate and equitable representation of citizens belonging to all communities, in all positions established by this Law, and respect of the expertise and competence criteria, shall apply to the employment in all *Government* bodies.....”⁹

The key emerging question is how to combine the two apparently conflicting principles of equitable representation and expertise and competence. Furthermore, given the large scope of the Macedonian public sector, it is questionable how to achieve adequate ethnic representation without further increasing the number of staff in the civil service and burdening the limited budgetary resources, unless an extensive reduction in the number of civil servants is undertaken.

8 It is interesting to note that the Agency is an autonomous body of the Parliament and not of the Government. This rather unusual solution has been introduced in the amendments of the law on Civil Service in 2001, in order to secure the independence of the Agency against the executive. Although some international observers consider this as a breach of the principle of division of power that could increase politicisation (SIGMA, 2003), we do not share this view and think that placing the Agency under the Parliament has only strengthened the autonomy, independence and overall performance of the Agency. The director of the Agency is appointed by Parliament for seven years.

9 Article 3a of the SCL.

The answers to these questions are not easy and their solution will require considerable efforts over a longer period of time. It would be quite risky to try to achieve proportional ethnic representation in all public bodies as a *short term* measure, as it would bring about further unnecessary surpluses in the administration. Instead, equitable representation should be an important part of the *long-term plan* of development of overall public administration.

The positive affirmative ethnic action has, in the short-term, further complicated politico-administrative relations in Macedonia, which have obtained a strong ethnical feature. In the first years of implementation of equitable representation, ethnic characteristics have dominated over competence and professionalism. This had an additional adverse effect on the development of the Macedonian civil service and stabilisation of relations between civil servants and politicians. It is hoped that in the next few years, a more suitable balance between ethnic and professional considerations will be found, with the ultimate triumph of the values of the latter.

In Bosnia and Herzegovina's entity of Republika Srpska the Civil Service Act¹⁰ came fully into operation on 1 January 2003, followed by the new Rules of procedure on open competition for entering employment, nomination and appointment of civil servants, which were subsequently amended at the end of 2003. Top level positions (Assistant Minister, Secretary of Ministry) became civil service positions and a special role was given to the Civil Service Agency.

Similar to other ex-Yugoslav republics, the Law makes a distinction in the recruitment process between managerial and other civil service posts. Managerial civil servants (assistant minister, secretary of ministry, head of administrative organisation, deputy and assistant of head of administrative organisation) are appointed by the Government for an indefinite period of time on the basis of an open competition. Other civil servants, in turn, are entering employment on the basis of either internal or open competition, depending on the post in question. The decision on their employment is made by the head of a Ministry or other state body on a proposal by the Civil Service Agency. All other conditions of promotion and dismissal are the same for both categories of civil servants, which is a positive development that strengthens the career civil service nature of senior posts.

The key role in human resource management has been given to the Civil Service Agency of Republika Srpska. It is interesting to note that the powers of the Agency in the recruitment process for both management and other civil service posts were stronger in the first version of the Rules of procedure (Culibrk, 2004). A Government/Minister was initially required to accept the final proposal of the Agency in the selection of candidates, based on open/internal competition. This

10 Full name of the Act is: The Law on Administrative Service in the Administration of Republika Srpska. It is a fairly comprehensive document, containing provision on organisation of administration, civil servants and salaries of civil servants, which are usually regulated by a number of different laws: on state administration, civil servants and salaries of civil servants.

position was changed by later 2003 amendments, which significantly reduced the powers of the Agency in the recruitment process. The amendments of the Rules of procedure have enabled the Government, i.e. head of the administrative organ to reject the proposal of the Agency, obliging them only to inform the Agency of the reasons for such a rejection. This is an interesting example on how initially accepted ideas of comprehensive depoliticisation embedded in the legal rules are often quickly changed, due to strong resistance of politicians, who retain a great desire to control the recruitment process.

Notwithstanding all these difficulties, the introduction of the civil service law and creation of the Civil Service Agency have undoubtedly had a positive impact on the civil service professionalism and politico-administrative stability in Republika Srpska. The recent change of the Government, initiated by the High International Representative, has not led to a substantial turnover of senior civil service staff, which could be at least partly attributed to the improved politico-administrative framework.

Ethnic considerations have not been very visible in the development of the senior civil service of Republika Srpska, which according to estimates of the Civil Service Agency consists of 95% of ethnic Serbs. This perhaps should not be surprising as Serbs constitute more than 90% of the population of Republika Srpska.¹¹ Nevertheless, the Civil Service Law was amended in 2003, requiring the Republika Srpska authorities to aim to achieve the national structure of civil servants based on the statistical census of 1991.¹² The same goes for the state level administration which, in the formation of different institutions, took into consideration the need for a nationally balanced workforce, which has created a unique, ethnically balanced senior civil service layer of administration.

At the state level of Bosnia and Herzegovina, the civil service law also started being implemented successfully in 2003. The Civil service Agency is pushing ahead with all the necessary changes. New recruitment and selection procedures are in place, training has taken place across the civil service, the HRM units in Ministries are developing their new functions and the new database of staff is being developed (DFID, 2003).

Although the structures at the state level are much simpler than in RS and BiH Federation, with only 9 Ministries and maximum 700 civil servants, ethnic considerations at this level are much more apparent and are a cause for deeper concern. Even the Government membership organisational structure is conditioned by ethnic proportion, with an informal requirement that each of the ethnic groups

11 Serbs constitute around 90% of Republika Srpska population, Bosniaks 7% and other groups 3%.

12 According to the 1991 statistical census, the Republic of Bosnia and Herzegovina had 31% of Serbian population, 17,3% of Croats, 43,7% of Muslim population and 5,5% of Yugoslavs.

receives the same number of Ministerial appointments, i.e. holds the equal number of Ministries.¹³

The number and nature of senior civil service posts in Republika Srpska is also subject of ethnical considerations. There exist two different posts of a secretary of ministry – secretary and secretary with special assignment – mainly in order to allow for two different ethnic communities to obtain one of the secretaries' posts (whereas the third ethnic group is represented in the post of a Minister). The post of an Assistant Minister is also a senior civil service post and the number of such posts is always proportionately divided between the three ethnic groups. Whereas all other civil servants are appointed to their posts directly by the Civil Service Agency, the appointments of senior officials are left to the heads of the respective institutions, on a proposal of the Civil Service Agency. Although there are no determined quotas for civil service recruitment, the informal, strictly followed rule is that one ethnical group cannot be more strongly represented than the other. In this way, the professional standards and merit are likely to give way to ethnical considerations.

At the level of the Federation of BiH, the position is even more complicated. With the Civil Service law passed in July 2003, no substantive progress has yet been made. The biggest single difference lies in the definition of civil servant, which has been extended to include the relevant people, not only in the BiH Federation, but also with the 10 cantons established by the Dayton agreement, as well as the municipalities (SIGMA, 2004) (unlike in Republika Srpska where there is a distinct regime for civil servants from the central and local level).

Until Annex 7 of the Dayton Peace Agreement (which provides for the free return of refugees and displaced persons to their places of origin) is fully implemented, at least 15 per cent of the members of the Government have to be from one ethnic group and at least 35 per cent from two constitutive peoples combined, while at least one member of the Government has to come from among the others. The similar proportional structure should also be reflected in the composition of the civil service, especially for senior appointments.

The generally accepted opinion at all three levels of the administration is very much against the imposition of quotas in the civil service, as it endangers the merit based selection process. Even without any formal system of quotas, the professionalism criteria for senior appointments are strongly endangered, as ethnical considerations are clearly presiding over those of merit. This problem needs to be tackled seriously to enable the development of a truly professional and depoliticised civil service, in which merit criteria will be given priority above all other factors, including ethnical.

13 Thus, the Dayton Piece Agreement initially provided three ministries in 1995, and in the following years the new ones were added proportionally so that in 2004 the Council of Ministers numbers nine ministries, where each community has 3 Ministers.

4. Drivers for reform: which hypothesis fits?

All of the five former Yugoslav states discussed in this paper have, in the last two years, initiated significant reforms in their civil service system. Though all of them are at different stages of preparation for EU accession, the EU has engaged with all five of them on issues of Public Administration Reform, though in different ways.

One common point in their relations with the EU is the prevalence of political criteria, in particular those related to human/minority rights in their dialogue with the EU, most visibly in the case of Croatia, which has had the start of membership negotiations postponed for failing to meet certain political criteria.

In all states, the issue of civil service professionalisation, and the need to strike a new balance between political and professional criteria in civil service management, has been a core issue on the reform agenda, and progress has been made in all states, even if political opposition has at times been strong. This contrasts strongly with the hyper-politicisation that characterised the 1990s.

The question which we have tried to find answers to in this discussion is how we can explain the relatively rapid reversal of what was an extremely strong and often destructive process of polarisation and politicisation in the 1990s. Is it that traditions do matter? I.e. possibly the institutional tradition of the professional civil service was so strong that politicians started to consider – after the end of the war and other turmoil – the selfish moves they previously made. Did this trigger the re-balancing of politico-administrative roles in the governance in these countries? Is the ‘pull’ of the European Union as strong as to have an impact even in states that are rather far removed from membership, or did the deterioration in administrative capacity paralyse policy management systems to such a degree that other reforms, in key socio-economic areas, became endangered?

At first glance, the *integration hypothesis* would seem to have the strongest validity. The EU has, in recent years, stepped up its rhetoric on the need for administrative reform, and in the previous accession process did put strong pressure on some of the candidates to put in place at least the basis for the professionalisation of the administration. The strong emphasis on political criteria in discussions with Southeast European states would seem to imply that civil service reform issues could also play a major role in the pre-accession dialogue in this part of Europe. However, upon closer examination, the EU factor would seem much less valid as an explanation than might have been expected. Even if the Commission has at times made statements on the need to move forward on professionalisation of the civil service, in reality this has not gone much beyond formal statements. The Croatian ‘avis’ makes little mention of the administrative capacity deficient in the country since its issuance has been fully dominated by the issue of co-operation with ICTY. In a similar way, discussions with Serbia and Montenegro have been dominated by this issue, and the question of the future of the Union, while the dialogue with

Macedonia has focused largely on inter-ethnic issues (even if this has of course an impact on civil service development) as has been the case with Bosnia and Herzegovina. Interestingly, the International Financial Institutions (IFIs), and in particular the World Bank, have, in most cases, taken a stronger position in favour of civil service professionalisation than the EU. Therefore, even if one could of course argue that the very notion of future EU demands in the area of civil service professionalisation could have impacted politicians of those countries even at this point, this is not necessarily plausible, and the integration hypothesis therefore would appear to be rather less plausible than could have been expected.

The *influence of traditions* is a second possible hypothesis. In this interpretation of events, the ongoing processes in former Yugoslav states are rather a return to the institutional consistency of civil service in this region. The specific tradition of an impartial and professional civil service, having survived even to some degree the Communist period, influencing current reform patterns is also potentially plausible. In this reading, the wars of the 1990s and the ensuing problems in state building caused a temporary deviation from what was otherwise a well established tradition of professional civil service. The ongoing dialogue in some of the states would seem to support this hypothesis. While reforms in Serbia are very rarely directly linked with EU accession, the main initiators of the reforms often argue their case with the need to bring back the previous tradition of professional and relatively impartial civil service systems. Similar references to home grown traditions and the need to use these as a basis for reform have also been used in the Croatian debate on civil service reform, and are often seen as at least at par with, or even more important than the need to meet EU requirements. At the same time, Macedonia and Montenegro provide evidence to the contrary. In both states the EU imperative has been strong, and in Montenegro an explicit institutional linkage between politico-administrative reforms and EU accession is being built through the UNDP-managed Capacity Development Program. Finally, the contents of the initiated reforms can also tell us more about their driving force, as the extent to which in terms of substance we are seeing a return to traditional notions of impartiality and professionalisation based on the Austro-Hungarian model, or whether innovations from elsewhere have been taken on board. In this respect, reforms are, in both Serbia and Croatia, aimed at creating a mixture of traditional continental career notions and more Northern European position based systems, with complexity of work starting to play an increasing role in the classification of civil service posts. However, regardless of the introduction of some innovations, the draft civil service laws of Croatia and Serbia, as well as the new laws in Montenegro, Macedonia and Bosnia and Herzegovina, still have strong roots in the traditional Yugoslav model.

Finally, *reform dynamic* constitutes a third alternative explanation underlying the direction and nature of civil service reforms in former Yugoslav states. Under this explanation, reforms cannot proceed beyond a certain point unless the institutional infrastructure of the state is adequate for this. This explanation is rooted

in literature on Governance and Growth, which has attempted to prove the causal relation between the quality of Governance and the level of economic development of states. Whereas several key studies (Barro, 1991, Knack and Keefer, 1995, Rauch and Evans, 2000) have made a powerful case providing proof that this linkage does exist, most of the evidence is based on large multi-country regression analysis, carried out over long periods of time (usually around twenty years). The study of the debate on civil service and public administration reform in former Yugoslav states provides some evidence of awareness among politicians that significant progress in economic reform could not be made without addressing the institutional crisis that resulted from the virtual collapse of administrative systems. Again, the linkage has been made most directly in Serbia and Croatia, in the former case in particular by the last two Ministers of Finance, Djelic and Dinkic. The growth and economic reform argumentation has been less pronounced in the other states, with the exception of discussions on the need to reduce the size of the civil service wage bill, as a way to 'free up space' for private sector development.

An examination of the reasons behind the emerging civil service professionalisation efforts in former Yugoslav states proves, above all, that there is no single explanation for this. Whereas in the larger and more self-conscious states, such as Serbia and Croatia, reforms appear to be driven and defined to a very large degree by a return to traditional models and, to a lesser degree, by competitiveness and growth arguments, Montenegro and Macedonia, in particular, have built their reforms much more on integration rationale, in particular in the case of Macedonia. However, even in these two states the substance of reforms is still very much influenced by tradition. The relatively limited impact of EU accession, at least for now, is probably somewhat of a surprise to those who follow the enlargement debate. The EU has strengthened its rhetoric on administrative capacity, but has not in reality given much attention to administrative capacity issues in its interactions with former Yugoslav states thus far, apart of course, from providing significant funding to administrative reform efforts. Therefore, whereas in the EU-8 we may have seen a rather strong direct influence from the EU on the way administrative systems shaped up (Verheijen, 2004), this is unlikely to be the case for the former Yugoslav states treated in this discussion, or at least to a much lesser extent. From the current direction of reform, a return to traditions of professional, strong and impartial civil service systems based on the system of the former Yugoslavia (or at least those held until the late 1980s) seems a more likely proposition.

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Democratic Values and Bureaucracy in Slovenia

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1. Introduction

How can a complex contemporary state be governed in a democratic manner? This question has long been of vital concern to political science researchers. Elitist theorists have argued that “every system of leadership is in fact incompatible with the most essential postulates of democracy” (Michels 1962: 364). More expatiating reformers have conceived a long list of institutional devices made to ensure government responsiveness towards the general public. But the still more rapid expansion of the bureaucracy and its apparently increasing insulation from popular control seem to render the underlying dilemma even more difficult (Aberbach et al 1981: 170). Many researchers have come to the conclusion that the central piece of the puzzle involves the norms and values that guide decision makers. For instance Ronald Pennock (1979: 244) has argued that “a commitment of the elite to democratic principles and procedures and a willingness to do all in their power to support the democratic regime is virtually a necessary condition for a stable democracy”. In contemporary democracies, civil servants have outgrown their classic role of mere implementers of orders given to them by politicians as their nominal masters. The civil service has outgrown its instrumental role as a personnel system, and is now playing an increasingly important role in the exercising of authority – a role that heavily depends on politicians. Heady (1991: 448) defined the relationship between civil servants and politicians using six configurations, later combined by Hojnacki (1996: 144) into two basic configurations: in one, politicians, in the pursuit of their political aims, dominate civil servants who have lost much of their independence and are only a tool in their hands. In the other, civil servants have maintained a high degree of independence and power, which they use in the pursuit of their own aims, as opposed to those of politicians.

Throughout the processes of democratic transition and consolidation, civil service systems in central European countries have been, above all, marked by the need for rapid depoliticisation of public administration, lack of legal instruments to safeguard civil servants against political abuse, significant dependence upon legalism, and application of employment legislation without regard for the specifics of

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the civil service (Verheijen 1999: 2–3). We will base our analysis on the hypothesis put forward by Aberbach et al (1981: 171) that “the level of democracy (also) depends on the commitment of high-ranking civil servants and politicians to democratic principles.” The idea that democratic ideals and values affect the development of democratic tradition and democratic institutions is manifested in the history of western constitutional democracy. Each important institutional development was preceded by a philosophical exploration of the underlying social and moral principles. Such ideals and values then gradually spread to the general public and were finally embodied in institutional form. The democratic institutions themselves have made a powerful independent contribution to government responsiveness; democratic practice has influenced the theory and vice-versa (Aberbach et al 1981: 171–174). We can see that much of the discussion about democracy in theory and in practice can be cast in terms of two fundamental themes. From the philosophical perspective, we can point out what Pennock (1979: 16) stresses – that “liberty” and “equality” comprise the basic elements of the democratic beliefs.

Both liberty and equality are often used as symbols of democracy, as standards of judging the policies of government. However, our concern here is regarding standards for judging the process of government – political liberty and political equality. In this sense, liberty refers to the freedom of political thought and action that has been broadly proclaimed in the West by the 19th century, though not universally implemented. Political equality refers to the distribution of access to this political freedom and the sharing of political influences among all citizens (Aberbach et al 1981: 172). Dahl has drawn a distinction between two somewhat theoretical dimensions of democratisation from a more institutional perspective. The first (contestation) refers to the extent to which at least some members of society are guaranteed those political rights that enable them to contest the conduct of government. The second dimension (participation) refers to the proportion of the general public entitled to participate on a more or less equal plane in controlling and contesting the conduct of government (Dahl 1971: 5).

In our research of commitment of Slovenian political and bureaucratic elites to democratic values, we will focus above all on two key dimensions of democracy, i.e. political freedom (or contestation) and political equality (or participation). Given that all countries included in the study² are representative democracies, we can assume that their (political) leaders generally support these two basic democratic values.³ Both civil servants and politicians serve the same democratic state,

2 For the comparative aspects we have also included some data on elites in several western European countries and the USA according to the empirical research made by Aberbach et al (1981).

3 However, we must point out that the length of democratic tradition significantly differs among western countries with long democratic traditions on one side and Slovenia as a relatively new democracy on the other. Also political freedom and political equality are not absolute but relative dimensions, matters of a degree, and are as such not equally accepted among individuals.

and both are heirs to the democratic evolution. Our hypothesis is based mainly on the historically developed division of labour between bureaucracy and politics. As several studies have pointed out,⁴ the growth of electoral democracy and the growth of professional bureaucracy are more or less coeval processes.

Nevertheless, several indicators led us to raise the hypothesis according to which we expect politicians to be more enthusiastic supporters of democratic values than senior civil servants. Civil servants have never been tasked with creating the conditions for more democracy in the state, but instead with creating the conditions for a more effective and successful state. Given that political bodies in which politicians operate have been established as the institutionalisation of democracy, the basic task of politicians is above all the promotion of democracy, its values and norms. This assumption is expected to be even more valid in a country with a relatively short political tradition; in a country, where democratic ideals, values and institutions have almost no legal acceptance and status in national history. Slovenia is now a modern and democratic European country and a member of the European Union, but only 15 years ago, Slovenia was part of communist country, where democratic ideals, values and institutions were non-existent for over 75 years. Elected political bodies are designed as an institutional embodiment of democracy, but bureaucracy on the other hand, is primarily supposed to make the state more efficient and effective. Politicians seeking re-election may be more likely to appreciate the rights to contestation. Bureaucrats bear the responsibility for carrying out policies that are being contested, so they may see less virtue in contestation and conflict. To verify our hypothesis, we will use several mutually complementary methods and techniques, among them also detailed empirical research.

Our Slovenian empirical study at the national level targets two main groups, one consisting of senior civil servants and one of politicians. The purpose of this division was to establish whether there existed different images and perceptions about the role these two groups of actors played in the policy process, and to find out about the relationship between them. The senior civil servants group consisted of 469 persons, i.e. of all secretaries general of ministries and of all under-secretaries. Under the Civil Servants Act (2002: article 80), both groups occupy the highest positions within the Slovenian civil service system. The politicians' group consisted of 228 persons, and of these, ninety were employed in the legislative branch and 138 in the executive branch of government. We were mainly interested in the executive branch for two reasons: first, because it also employs senior civil servants and second, because research on the relationship between senior civil servants and politicians would usually focus on this branch (Peters, 1988). We conducted the survey

4 See Aberbach et al (1981), Page (1988) or Stillman (1996).

towards the end of 2003 and at the beginning of 2004.⁵ We also conducted empirical research on the local level of Slovenian government (i.e. municipal level), where the group of senior civil servants consisted of 193 persons⁶ and the same number of politicians.⁷ We were mainly interested in the local level because of the alluring possibilities of comparison with the central government.⁸

2. Measuring support to political freedom and competition

Freedom of political expression is the oldest of the set of democratic values. The nominal commitment to freedom of speech is wide-spread in democratic states; in one of the studies made by Aberbach et al (1981: 175), which involved a sample of adults from Great Britain, all respondents agreed with the following statement: “The possibility to ever learn the truth decreases without the freedom to express different views.” The majority of Western European countries have lasting experiences with democracy, but historical experience in democracy in Slovenia is very brief. Slovenia gained independence from the former Yugoslavia and established its democratic political system in 1990–1991. With this distinction in mind, we strive to estimate the attitude of the general public towards democracy and democratic norms and then, at least indirectly, compare it to the attitude of administrative and political elites. Table 1 explains the relationship of the general public towards political freedom and equality. It may be observed that the majority of the Slovenian population is benevolent towards political freedom (76.8 per cent believe that democracy and political equality should go hand in hand), social equalities, multi-party system and equality of all people before the law. Yet another survey (Tos 2004: 465)⁹ has investigated the attitudes of the Slovenian public towards different forms of political participation. The findings were not surprising. The Slovenian public (91.3 per cent of respondents) does not agree with revolutionary activity as a possible form of society transformation, but general elections as a form of political participation are generally accepted by the majority (84.3 per cent of respondents) of the population (Tos 2004: 513).

Of course, all the questions to the general public were very generic in nature, so it is not possible to compare them directly with the much more specific questions

5 The response rate (numbers in brackets) was very good: we received 342 completed questionnaires (49.1%), of which 233 came from high-ranking civil servants (49.7%), 64 from politicians employed in the executive branch (46.4%), and 45 from politicians employed in the legislative branch of government (50.0%).

6 According to Article 80 of the Civil Servants Act (2002) the only high-ranking civil servants in Slovenian municipalities are the local administration managers.

7 i.e. mayors of Slovenian municipalities.

8 The response rate (numbers in brackets): we received 134 completed questionnaires (34.7%), of which 66 came from high-ranking civil servants (34.2%) and 68 from politicians (35.2%).

9 The question was »Do you agree or disagree with the following forms of political participation« (N=1042).

we posed to the administrative and political elites. That was never our intention, anyway. We merely attempted to expose the general attitude of the Slovenian public towards democracy and the values it represents fifteen years after the change in the political system. With this in mind, we have successfully demonstrated that the majority of the general public is strongly in favour of democratic values and norms. Table 2 shows the statements that Slovenian administrative and political elites were asked to agree or disagree with. Our intention was to establish how firmly they defended the right to express an objection, to criticise and to have a different view.

Table 1

Attitude of the general public towards the political freedom and political equality (in %)

I think that democracy should include...	Strongly agree with	Agree with	Disagree with	Strongly disagree with	Do not know
...political freedom	37.7	39.1	11.9	1.1	10.1
...higher social equality	14.0	44.4	26.6	4.9	10.2
... equality of all people before the law	36.3	36.6	14.1	3.5	9.5
... multi-party system	29.1	34.9	17.5	4.7	13.8

(N=1073) Source: Slovenian public opinion survey, see Tos (2004: 455).

The first statement (A.) refers to the possibility that “certain extremist organisations” engage in “unfair or illegitimate tactics”. The question that administrative and political elites were asked was whether more control over such activities should be necessary. The question was intentionally formulated in this way in order to explore whether respondents thought such destructive measures should be left uncontrolled. We were almost asking our respondents whether subversives should be allowed free play. The aim was to press support for civil freedom to the breaking point.¹⁰ The second question (B.) explored whether respondents thought the freedom of political propaganda should be unlimited. Similarly as in the previous question, Table 2 also enables a comparison with some western European countries.

10 Although the wave of political terrorism had not yet crested Europe at the time of our survey, the large number of our respondents noted the need to control physical violence, even if it were politically motivated.

Table 2Support of administrative and political elites to political freedom and pluralism
(in %)

Statement	Answers in selected western countries (in %)*		Slovenia National level		Slovenia Local level	
	Higher civil servants	Politicians	Higher civil servants	Politicians	Higher Civil servants	Politicians
A. "Some maintain that certain extreme organisations use dishonest or illegitimate measures. Is enhanced control over such measures necessary?" Yes, unconditionally necessary. Yes, under certain conditions. No, no control is required.	26 43 31 (N=242)	23 41 36 (N=249)	50 45 5 (N=226)	37 57 6 (N=107)	- - -	- - -
B. "Freedom of political propaganda shall not be unlimited; it shall be carefully controlled by the state." I agree. I disagree.	40 60 (N=254)	27 73 (N=277)	37 63 (N=218)	39 61 (N=102)	35 65 (N=60)	51 49 (N=65)
C. "Conflicts in a society are negative." I agree. I disagree. Can't say.	24 44 32 (N=373)	19 50 31 (N=388)	23 71 6 (N=232)	30 63 7 (N=109)	30 70 - (N=63)	49 51 - (N=65)
D. "Modern societies develop mainly as a result of social conflicts." I agree. I disagree.	55 45 (N=256)	64 36 (N=263)	45 55 (N=225)	45 55 (N=103)	43 57 (N=63)	33 67 (N=61)

Table 2 ... continued

Statement	Slovenia Executive branch	Slovenia Legislative branch
*	Politicians	Politicians
"Some claim that certain extreme organisations use dishonest or illegitimate measures. Is increased control over such measures necessary in your opinion?" Yes, unconditionally. Yes, under certain conditions. No, control is not required.	41 51 8 (N=63)	32 66 2 (N=44)
"Freedom of political propaganda shall not be unlimited; it shall be carefully controlled by the state." I agree. I disagree.	41 59 (N=59)	37 63 (N=41)
"Conflicts in a society are negative." I agree. I disagree. Can't say.	31 62 7 (N=64)	29 64 7 (N=45)
"Modern societies develop mainly as a result of social conflicts." I agree. I disagree.	43 57 (N=60)	47 53 (N=43)

Source: Aberbach et al (1981: 177); for Slovenia Hacek (2004).

* Evenly distributed samples from Great Britain, Germany and Italy were included in the first two questions; evenly distributed samples from Great Britain, Germany, Italy and The Netherlands were included in the third question; evenly distributed samples from Great Britain, Germany and The Netherlands were included in the last question.

We can see that the majority of European elites rejected the possibility of control over political freedom, however without expressing an anti-liberal attitude; only a minority of elites (though a slightly larger proportion of members of the administrative elite) did express an anti-liberal attitude.¹¹ Three-quarters of European leaders (at least partly) opposed the restriction of the right to different views, even in the case of extreme organisations. We can see that the attitude of Slovenia's administrative and political elite is slightly more anti-liberal, in particular as regards members of the administrative elite, half of whom speak in favour of unconditional restriction of political expression. Further, slightly more Slovenian politicians than their European counterparts are of the opinion that the freedom of political propaganda should be controlled by the state.

11 As Aberbach et al (1981) found out later, "anti-liberals" are well represented, in particular, among Italian civil servants.

The next two questions (C., D.) measured the support of administrative and political elites to political freedom and pluralism and explored the desirability or harmfulness of social conflict. Table 2 shows that more than half of the members of administrative (55%) and political (64%) elites in four western European countries thought that, in a modern society, social conflict promotes this development. In Slovenia, a slightly smaller proportion (45%) of administrative and political elites shares the same opinion. We can also see that Slovenian politicians give slightly more support to political freedom and pluralism than Slovenian senior civil servants. It goes without saying that with the four variables used, we were not able to determine absolute support for political freedom and pluralism, but we were, however, able to highlight some differences between the two Slovenian elites and between Slovenia as a relatively new democracy and some traditionally democratic western European states.

3 Measuring support to political equality and participation

Similarly as when measuring the support to political freedom and competition, we used several questions to measure the support of administrative and political elites to political equality and participation. The simplest of all was the first question that explored the role the public should play in politics in general and in the policy-making process. We can see that Slovenian elites (in particular when compared with those from western Europe) give relatively high support to direct public involvement in politics, whereby there are practically no differences between the views of our senior civil servants and politicians. As one might expect, the administrative and especially political elites at the local level of government are even more inclined towards direct public involvement in politics; but this is hardly a surprise in a country where “local democracy” has been the primary guidance in reforming and reinventing the local self-government system (Brezovsek and Hacek 2004: 76).

Table 3
Support of administrative and political elites to political equality and populism (in %)

Statement	Answers in selected western countries (in %)*		Slovenia National level		Slovenia Local level	
	Higher civil servants	Politicians	Higher civil servants	Politicians	Higher Civil servants	Politicians
E. "What role shall the public play in politics in general and in policy-making?" 1) Its role shall be limited to participation in elections. 2) The public shall take interest in politics and communicate its opinions to its representatives. 3) The public shall be directly involved in politics.	16	9	2	2	3	0
	45	30	36	32	10	3
	39	61	62	66	87	97
	(N=388)	(N=434)	(N=227)	(N=104)	(N=62)	(N=63)
F. "For several years now, there has been an ongoing debate in some countries on increased control of the public over authorities and increased public participation in the exercising of authority. What is your opinion in this regard?" 1) Favourable 2) Undefined 3) Not favourable	44	66	87	87	-	-
	26	18	13	11	-	-
	30	16	0	2	-	-
	(N=478)	(N=532)	(N=232)	(N=109)		
G. Elitistic index** 1) high 2) medium 3) low	15	6	18	13	30	29
	46	36	51	52	34	40
	39	58	31	35	36	31
	(N=330)	(N=361)	(N=159)	(N=77)	(N=47)	(N=46)
H. "We are interested in your opinion on your own role. In comparison with the broader public, how do you feel as regards your knowledge, skills and sense of responsibility?" 1) very superior 2) superior in a limited sense 3) not superior	20	8	6	3	3	12
	58	42	36	38	31	37
	22	50	58	59	66	51
	(N=481)	(N=539)	(N=232)	(N=108)	(N=64)	(N=65)

Table 3 ... continued

Statement	Slovenia Executive branch	Slovenia Legislative branch
*	politicians	Politicians
"What role shall the public play in politics in general and in policy-making?" 1) Its role shall be limited to participation in elections. 2) The public shall take interest in politics and communicate its opinions to its representatives. 3) The public shall be directly involved in politics.	2 28 70 (N=61)	2 37 61 (N=43)
"For several years now, there has been an ongoing debate in some countries on increased control of the public over authorities and increased public participation in the exercising of authority. What is your opinion in this regard?" 1) Favourable 2) Undefined 3) Not favourable	86 12 2 (N=64)	89 9 2 (N=45)
Elitistic index*** 1) high 2) medium 3) low	14 51 35 (N=49)	11 53 36 (N=28)
"We are interested in your opinion on your own role. In comparison with the broader public, how do you feel as regards your knowledge, skills and -sense of responsibility?" 1) very superior 2) superior in a limited sense 3) not superior	0 42 58 (N=64)	7 32 61 (N=44)

Source: Aberbach et al (1981: 182-183); Hacek (2004).

* Evenly distributed samples from Great Britain, Germany Italy, Sweden and France were included in the first question; evenly distributed samples from Great Britain, Germany, Italy, the Netherlands, France and Sweden were included in the second question; evenly distributed samples from Great Britain, Germany, Italy, the Netherlands, France and Sweden were included in the last question.

** Elitistic index is an aggregate index composed of answers to six statements, whereby the inclusion in the index is conditional upon an affirmative answer ("I agree.") to the last two questions.

- 1) In a complex world like ours, it makes no sense talking about an increased control of citizens over the authorities.
- 2) There must always be strong, qualified individuals capable of leading the country.

- 3) Some people have better qualifications for leading the country because of tradition and family.
- 4) Few people know what their long-term real interest is.
- 5) All people shall be given an equal opportunity to exercise influence over authorities.
- 6) All people shall be given an opportunity to vote, although they may not be capable of doing this competently.

The first category, which comprises members of administrative and political elites who are least enthusiastic about political equality, is almost undetectable in Slovenia, both at national and local levels. In western European countries there are twice as many senior civil servants as politicians among the “opponents” to political equality. The former are also less favourable to direct public involvement in politics. Their answers suggest that Slovenia’s administrative and political elite is more in favour of – in comparison with the western European colleagues – a fairly active role of the public in politics in general and in policy-making. Politicians (as compared with senior civil servants) both in western European countries and in Slovenia lead. Politicians express more support to participation and high-ranking civil servants to communication in Western Europe whereas this trend is relatively weak or even non-existent in Slovenia. The question may be posed at this time why is this difference inclined to be weaker in the Slovenian case? Without further research we cannot give a definite answer, but the most probable reason is a certain falsehood of Slovenian elites. On the one hand we have no doubt that the majority of them would always express support to political equality, but on the other hand we very much doubt that they are really sincere about it. As Slovenia is a relatively new democratic state and has almost no democratic tradition, there are still some patterns in political and administrative culture that cannot be described as democratic at its core. One of these patterns – especially noticeable in the bureaucracy – is a certain apprehension to political equality and public involvement in areas that were for so long the exclusive domain of either political decision-making or bureaucratic processes. This double-dealing of Slovenian elites cannot be seen from their official statements or even from the in-depth survey we have conducted, but can sometimes be seen from their real-life actions.

In the next part of the study (F.) exploring support of administrative and political elites to political equality and public participation, we asked a less philosophical question, probing the attitude of respondents towards participatory democracy. Looking at the results obtained in western European countries, we can see that two-thirds of politicians and almost half of the senior civil servants in six western European countries are favourable to increased public participation and control over authorities. Those more in favour of changes are members of the administrative elite. The results obtained in Slovenia are quite different; namely, a great majority of administrative and political elites are favourable to increased public participation

and control over authorities, whereas there are practically no differences between the views of senior civil servants and politicians.

The third part of the study (G.) exploring support of the administrative and political elites to political equality and public participation was labelled “elitistic index” (Aberbach et al 1981: 183). The index is composed of affirmative answers to six statements. A high elitistic index suggests that administrative and political elites feel superior to “ordinary” citizens. Both in western European countries and in Slovenia the proportion of those included in the index, based on their answers, is larger among senior civil servants.¹² Compared with their western European colleagues, slightly more members of Slovenia’s elite are included in the high or middle elitistic index, whereas there are practically no differences between senior civil servants and politicians elitism. The only difference worth mentioning was observed in connection with the last statement;¹³ in Slovenia, 85 per cent of senior civil servants, 86 per cent of Members of Parliament, and 92 per cent of politicians from the executive branch agreed with this statement. More politicians (87%) than senior civil servants (84%) also agreed with the statement that “all people shall be given an equal opportunity to exercise influence over authorities” but, as mentioned, the differences are relatively small. Full political equality is a commendable ideal, still very alive in a relatively new democracy as surely is Slovenia, but results from traditional and long-lasting democracies are more realistic. People cannot be equally competent to deal with the complexities of public issues. Some efforts to increase public access to government are useful, but some form of leadership from the top will most likely always be present. In stating this modal view, we can also expect that more and more bureaucrats in Slovenia will start to emphasise the “realistic” need for competence and leadership, whereas politicians will always be more in favour of the “idealistic” goals of ever greater political equality.¹⁴

The last part of the study (H.) explores the support of administrative and political elites to political equality and public participation and inquires whether members of the elite feel superior in comparison with the broader public on account of their roles.¹⁵ The answers suggest that the majority of members of Slovenia’s elite both at the national and local levels do not feel superior, but in any case they feel less superior than their Western European colleagues. Those who feel most superior

12 Interesting are the answers obtained in Slovenia from local-level elites who were included in the high elitistic index, much higher than the index in which their national-level colleagues were included. Most probably, this is the result of the reform and process of local-self government reinvention which have been ongoing over the last eleven years, and consequently of the change in local-level elites.

13 i.e. “all people shall be given the opportunity to vote, although they may not be capable of doing this competently”.

14 See also Aberbach et al (1981: 182–187).

15 The question was: “We are interested in your opinion on your own role. In comparison with the broader public, how do you feel as regards your knowledge, skills and feeling of responsibility?”

are politicians at local level and Members of Parliament, although their proportion is very low and completely comparable with Western Europe.¹⁶

4 Final observations

Let us remember that in exploring the commitment of both elites to democratic principles, we focused on two key dimensions of democracy, i.e. political freedom and pluralism on the one hand and political equality and participation on the other, all of which were the main hypothesis of this paper. Our analysis gave the following answers: both Slovenian senior civil servants and politicians are generally favourable to political freedom and equality, even more so than their Western European colleagues included in the study of Aberbach et al (1981). In addition, the general attitudes of both elites are not much different from the general attitudes of the general public, who are, to a large degree, very much in favour of democracy and its ideals and values. The differences between the two elites in Slovenia are relatively small and are most noticeable with regard to the question about control over certain extreme organisations. Here, more than half of the senior civil servants expressed their support to unconditional restriction of political expression.¹⁷ Further, we established that slightly more Slovenian politicians, compared to their western European colleagues, feel superior in comparison with the broader public. At the same time, the similarity of democratic values of both elites points towards the etatist model of relationship between civil servants and politicians (Peters 1988), but there is insufficient evidence to confirm that presumption. Based on their perception of their own role, Slovenian senior civil servants feel less superior than their Western European counterparts. What is interesting is that these findings are based on the elitistic index, whereby respondents had to answer a set of indirect questions and to a much smaller degree, on the question directly asking about their feeling of superiority.¹⁸ To conclude, politicians are slightly more favourable to political freedom and political equality than high-ranking civil servants. However, the difference is very small so that the general impression that both elites are favourable to political freedom and political equality prevails.¹⁹ The question remains, however, why both

16 In western European countries, the proportion of those who feel superior is the largest among members of the administrative elite (20%). The proportion of those who do not feel superior is the smallest among members of the administrative elite (22%).

17 The same support was expressed by 37% of politicians. Members of Parliament (32%) were less supportive to unconditional restricting of political expression, whilst politicians employed in the executive branch were more supportive (41%).

18 The question was: "We are interested in your opinion on your own role. In comparison with the broader public, how do you feel as regards your knowledge, skills and feeling of responsibility?"

19 Aberbach et al (1981: 205–208) made the same conclusion, i.e., that politicians were slightly more favourable to political freedom and political equality than high-ranking civil servants, with the only difference that differences between the two elites were slightly bigger in western European countries than in Slovenia.

Slovenian politicians and senior civil servants differ from their colleagues in Western democracies. A foolproof answer will require further data collection and in-depth analysis, but we can (try to) ascertain that the differences are as follows: a) the consequences of a half-century long undemocratic tradition and enthusiasm about a relatively new democratic political system, and b) of semi-consolidated political and, especially, bureaucratic elites who are still not fully prepared to be responsible for dealing with realistic and complex public issues.

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The Impact of Reform on Politico-administrative Relations in Ireland: Enlightening or Confusing Roles of Political and Managerial Accountability?

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1. Introduction

In March 2005, an interim report on the investigation of the charges imposed on residents in long-term residential nursing homes over a twenty-eight year period was presented to the Houses of the Oireachtas (Parliament). This report has become known as the Travers report² named after its author – John Travers – who was appointed by the Minister for Health to prepare it. Travers referred to the inaction to carry out an examination of the issues and implications of this practice as representing a major failure of administration. The ramifications of this case are significant in that the state now faces a possible bill of two billion euros to repay the illegally charged fees. The report is clear that responsibility to carry out an analysis of the situation over the years “rested clearly and unambiguously with officials.”

The main information base and corporate memory on the issues involved lay with the administrative system of the Department of Health....Ministers could not reasonably be expected to be aware of the full extent of the issues that surrounded the practices of long-stay care in health board institutions held in the information base of the department if these were not brought forward in clear, convincing and recordable format. (Travers, 2005)

This case also presents an opportunity to investigate the impact of recent reforms in the Irish system, aimed to clarify the roles and responsibilities of Ministers and their civil servants. It is yet another example of how complex the relationship between the civil service and its political masters in policy making and implementation has become in contemporary times. In relation to reform the Irish case is an interesting one insofar as its public sector modernisation programme was largely the brainchild of senior civil servants. In other countries, reform programmes have predominantly been the prerogative of the politicians (Pollitt and Bouckaert, 2004) whereas in Ireland they endorsed them. It may be argued, however, that in the Irish

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2 The precise title of the report is Interim report on the report on certain issues of management and administration in the Department of Health and Children associated with the practice of charges for persons in long stay health care in health board institutions and related matters presented to the Houses of the Oireachtas Joint Committee on Health and children 9th March 2005. For ease of reference it will be referred to as the “Travers Report” in this discussion.

case the whole relationship between the political accountability of Ministers and the managerial accountability of civil servants has had little serious discussion. This paper aims to investigate political and managerial accountability in Ireland using the case of the illegal nursing home charges and the ensuing Travers report to illustrate that recent legislative reform seeking to clarify political and administrative roles does not appear to have had the anticipated impact desired. Although civil servants in the Department of Health have been identified with serial failings that are inexcusable and have culminated in the resignation of its most senior official, there has been no corresponding political accountability from the Minister. The former Minister for Health, Micheal Martin (FF), appears to have escaped relatively politically unscathed as he is virtually exonerated in the report. “*The shortcomings at the political level since 1976 in probing further were considerably less than those of the system of public administration*”. (Travers, 2005)

The paper is organised in four sections. First, some background information on this case study is presented. The second section focuses generally on the concept of accountability (administrative and political mechanisms) as enshrined in the traditional model of public administration and comments on how reform has attempted to improve, but arguably has complicated, the application of this doctrine within public administration systems. It is also apparent that the cases from Challenger in the USA to the Prison Services in the UK represent a few among many, and are witness not only to the increasing failure of governmental systems and processes, but to widespread and intense public concern over accountability (Gregory, 2003). In the third part, this discussion is continued with a short overview of characteristics of the Irish political system, how political and administrative accountability is defined and the impact of reform initiatives in the 1990s upon the structure of this system. The remainder of the paper looks at how the operation of the politico-administrative system through the analysis of a select case – the aforementioned nursing homes charges fiasco. The discussion focuses on the relevance of traditions as a means of explaining the way certain practices occur, the nature of Minister-mandarin relations in the Irish case and the impact of the proliferation of special Ministerial advisers on politico-administrative relations. Above all the paper attempts to investigate issues surrounding power and responsibility and to what degree the disparity between the long-standing doctrine of Ministerial responsibility and reality is more exposed in the wake of reform.

2. Background to the case

The crux of this case is that for twenty-eight years, charges were imposed on residents in long stay public institutions without any legal basis. In 1954, Institutional Assistance Regulations were introduced on foot of the Health Act 1953, which provided that people in long-term care could be charged for shelter and maintenance in the county home or similar institution. They provided that those with full eligibility

i.e. people with medical cards could be charged for shelter and maintenance. In 1970, a new Health Act was introduced, in which, for the first time, the concept of full and limited eligibility was introduced. This stated that those with full eligibility could not be charged for what were called in-patient services which were defined in section 51 as institutional services provided for persons while maintained in a hospital, convalescent home etc. Full eligibility applied to those with a medical card and limited eligibility applied to others. In 1978, the Eastern Health Board sought legal opinion, which made it clear that primary legislation could not be changed by means of a regulation and that the Oireachtas had failed to introduce legislation to provide for these charges. Officials wrote to the Department of Health and stated that while legislation remained ambiguous, any assessment of charges against long stay patients would remain open to challenge with inevitable loss of income. The board strongly advocated that “consideration be given to introducing amending legislation and at ending the present confused and ambiguous situation.” (Joint Committee on Health and Children, 2005) Advice internally and externally was to the effect that there was no legal basis for doing what was being done, yet the issue remained unresolved even though, over time, there were several pressure points signalling the need for a solution, in particular, the 2001 act which extended eligibility for medical cards to everyone over seventy (regardless of how rich).

This is not a case which involved personal financial gain. The issue of resolving the problems surrounding charges for long term care was one that never featured very high on the agenda of the Department of Health and the money obtained from the allowances of those in long term residential care was a fund of much needed income independent of exchequer handouts in years of fiscal pressures. The view of the department over the years was that the collection of these funds was justifiable given that essential services were being provided. A key problem was that this conclusion was reached without any authoritative legal advice. Ironically, it has been argued that a technically uncomplicated amendment to the 1970 Health Act would have provided a sound legal foundation for the practice. The Tánaiste Mary Harney (PD) became Minister for Health in October 2005. She has claimed that in late 2004 she was supplied with misleading information regarding the nursing home charges. Namely that the department had never been advised the charges were illegal and that they had been levied in good faith. She later claimed that civil servants used inadequate briefing documents and that they failed to mention concerns over the legality of nursing home charges. This left a gap in the cabinet’s knowledge as it introduced emergency laws before Christmas 2004 designed to legitimise the fees retrospectively. The Health (Amendment) Bill was referred to by the President to the Supreme Court which deemed it unconstitutional in March 2005 and has left the state facing a massive bill in order to pay those who were illegally charged.

3. The principle of accountability

Accountability is a central issue in any democratic system of government. Government organisations are created by the public, for the public and need to be accountable to it. Elcock (1998:23) notes that accountability is debatably the defining concept of public administration as the accountability of public servants to elected politicians and through them to their country's citizens, fundamentally differentiates public administration from business management. Accountability systems are made up of a number of distinct accountability mechanisms, namely – administrative/managerial accountability to a political superior, political accountability through parliamentary control, political accountability through institutions affiliated to parliament, judicial review, constituency relations and (quasi-) market forces (Verheijen and Millar, 1998). The table below illustrates types of direct and indirect mechanisms of parliamentary accountability.

Table 1
Parliamentary accountability: direct and indirect accountability mechanisms

Parliamentary Control	
Direct accountability mechanisms	Indirect accountability mechanisms
<ul style="list-style-type: none">• Collective responsibility	<ul style="list-style-type: none">• Office of ombudsman
<ul style="list-style-type: none">• Ministerial responsibility	<ul style="list-style-type: none">• Comptroller & Auditor General
<ul style="list-style-type: none">• Parliamentary inquiry and scrutiny	

It has been suggested that accountability is a basic, yet intractable concept (Gregory, 2003; de Leon, 1998). The basic notion of accountability is that those acting on behalf of another person or group, report back to the person or group, or are responsible to them in some way. In other words, there is a principal / agent relationship where the agent carries out tasks on behalf of the principals and reports on how they have been performed. Generally the function of accountability is to keep organisational performance up to standard. In the public sector the system of accountability is what ties the administrative part of government with the political part and ultimately to the public itself (Hughes, 2003). Any acts of government are supposed to be ultimately acts of the citizens themselves through their representatives whereby accountability at the bureaucratic and political level is supposed to be ensured through the party political process. It does not only involve reactive responses to public expectations but also involves efforts to anticipate emerging performance standards in order to take proactive steps to ensure that the public trust is served (Kearns, 2003: 584).

In the traditional model of public administration, Ministerial accountability to parliament was seen as the ideal type of political accountability. The bureauc-

racy was deemed to advise the political leadership on policy and manage public resources and effective implementation of public policies, as well as possible, on behalf of the political leadership. Therefore, the traditional understanding of accountability is strongly informed by a particular set of institutional arrangements. Weberian public servants' accountability is ensured through their compliance with the institutionally, constitutionally and legally mandated rules and processes under and within which they carry out their functions (Gregory, 2003). Every public servant is technically accountable through the hierarchical structure of the department, to the political leadership and then to the people. In addition, there is supposed to be the strict separation between matters of policy and administration as advocated by the contentious politics-administration dichotomy (Wilson, 1887). The origins of the doctrine of Ministerial responsibility lie in attempts by 19th century British liberal democrats to reconcile the requirement of an emerging democracy with a salaried bureaucracy that was not accountable to the people. Parliament was content to delegate responsibility for various agencies and departments to Ministers, who would be the final authority and fully answerable to it for the actions of those bodies. However, the role of the permanent civil service was critical to achieving that balance and reforms in order to fulfil the necessary tasks are apparent in the Northcote-Trevelyan Report, 1854.

The Diceyan doctrine of 1959 states that Ministers are accountable to the public, via parliament, for their own decisions and for the work of their departments; civil servants are accountable internally – and only internally – to their political chiefs. This doctrine implies that Ministers cannot blame their civil servants and vice versa, as this would violate the impartiality and anonymity of the civil service, so undermining the authority of democratically elected Ministers (Elcock, 1998). To add to this is the notion that if Ministers are deemed at fault, then so too is parliament, since it is through Ministers that parliament seeks to bring the executive to account. Accountability is interpreted narrowly and the system evolves into one that aims at avoiding mistakes and so encourages risk-averse behaviour. In addition, it neglects that genuine accountability breaks down at the interaction of the political and the bureaucratic process – i.e. the relationship between administrative head of a ministry and the Minister (Hughes, 2003) in the policy making process.

To a large degree, the concept of accountability tends to be interpreted in a negative sense. It becomes part of the vernacular when things go wrong and a witch-hunt ensues for someone to blame. Gregory (2003:558) notes that the concepts of accountability and responsibility are frequently used as if they were synonymous, but they are not. He clarifies that by comparison, accountability is a matter of political and organisational housekeeping, whereas responsibility is often about moral conflicts and issues of life and death. However, in Westminster democracies, accountability as a concept has been traditionally treated as subordinate to the concept of responsibility, whereby the notion of accountability has tended to be introduced as a relatively straightforward component of the explanation of responsibility

(Stone, 1995:507). As a result of larger scale and more complex departments, it became increasingly unrealistic to expect Ministers to take personal responsibility for actions undertaken in their name. However appropriate this doctrine might have been when public organisations were tiny and officials were nothing more than personal servants of the Minister, it falls well short of what is needed in contemporary times to ensure the responsible and effective exercise of public authority. The deficiencies of Ministerial responsibility are apparent when serious mistakes are made. Likewise, administrators can claim instructions were not given, or were given in an unclear way so they can evade responsibility. Hence, more watered down notions of accountability such as Ministerial 'answerability' for departmental actions began to emerge, though accountability remains associated with a punitive response and finding head(s) to roll rather than a potential opportunity to learn from mistakes.

In the past three decades, traditional accountability systems have become more outdated and impotent as a result of problems arising from the increasing complexity of government and the evolution of the welfare state into a mass delivery state. To further complicate relationships and structures is the increasing reliance on expertise and professionalism from outside the traditional civil service. The implementation of radical reforms in public administration and management created an additional impetus for a fundamental redefinition of accountability mechanisms (Verheijen and Millar, 1998). Indeed, a principal reason for the absorption of managerialism was the perceived failure of the system of accountability under the traditional model of administration and accountability relationships in the private sector were increasingly seen as a model for the public sector. While still remaining accountable to the public through the electoral process, the bureaucracy was required to become more directly accountable to the public for its own performance (Hughes, 2003). The mantra associated with the New Public Management (NPM) approach, such as client focused and responsive bureaucracy, taking personal accountability for results, contracting out and privatisation are examples of reforms associated with improving accountability mechanisms. But, despite the highlighting of important problems in ensuring the effective accountability of public services, it may be argued that public management reforms have not managed to satisfactorily close the gap between the disparity between practice and the theoretical principle of accountability. Rather, they have both exacerbated and further exposed fault lines (Barberis, 1998) and this is evident from an examination of NPM's theoretical influences (Aucoin, 1990; Pollitt and Bouckaert, 2004) and from political escapades such as the prison services case in the UK.³

3 This case raised several questions regarding accountability in the wake of public management reform – namely the 'next steps' initiative. Two very serious prison escape attempts in 1994 – 5 prompted the UK Home Secretary Michael Howard, to dismiss the Prison Service Head Derek Lewis (a contracted businessman) who successfully sued for full compensation and costs. This sacking and law suit were unprecedented events which highlighted familiar tensions about the 'policy' and 'administrative' ('operational') distinction and what passes for the theory of individual ministerial responsibility to Parliament.

But, despite its own contradictions and shortcomings, NPM has drawn attention to anomalies and inconsistencies in the doctrines that had once justified the modern administrative state (Coombes, 2001: 35). As a result, models of control and accountability that had become established under previous reforming movements following the second world war, could no longer be accepted uncritically (ibid) and the 1990s were marked by a resurgence of interest within both private and public sector organisations in the linked themes of corporate governance, probity and accountability. Other political and administrative transformations during the 1990s have also highlighted challenges to reforming accountability mechanisms. In central and eastern European states, accountability gaps have been exacerbated by the weak structures of civil society, the predominance of consultants in the policy making process which operate outside systems of accountability and control (Verheijen and Rabrenovic, 2001). The following part 4 provides an overview of several structural, functional and cultural features of Irish public administration in order to set the context for the subsequent discussion.

4. Structural, cultural and functional features of Irish public administration

4.1 Characteristics of the Irish political system

Each administrative system is unique, but its nature is closely linked with those of administrative systems that share intellectual and historical roots (Peters, 2003). The Irish system of government is derived from the Westminster model and upon independence in 1922, absorbed rather than changed, the system of public administration.

The political institutions were therefore built on pre-1922 roots with the constitution providing for government by cabinet and led by a Prime Minister (Taoiseach), an Oireachtas (Parliament), comprising a President and made up of the Dáil (lower house) and the Seanad (upper house), and a judiciary. Traditionally, the Irish political system has been characterised as unitary, highly centralised and hierarchical in nature with clientelism prevailing (Chubb 1992). National politics remain highly localised, with politicians engaged in dense networks built on personal relationships and acting on behalf of their constituents. Political expediency therefore reinforces a tendency to steer away from the difficult choices and long term solutions that are unpalatable in local constituencies. In many respects, this image holds true until the late 1980s, when piecemeal reforms to government heralded some change at the national level, ultimately leading greater political change in the 1990s and 2000s, such as the Strategic Management Initiative (SMI) and the abolition of the dual mandate. The SMI programme suggested a shift from a culture dominated by the Official Secrets Act to a culture based on openness; from a public service which was provider driven to one focused on the customer; and towards a culture which puts accountability to the customer and not just to the Minister,

centre stage. An element of this reform process has been the provision of new legislation to clarify the respective roles of civil servants and Ministers. Using the five characteristics used by Pollitt and Bouckaert (2004) in their comparative analysis of public management reform the Irish politico-administrative regime is summarised in the table below.

Table 2
Type of politico-administrative regime

State structure	Unitary; centralised; written constitution; coordinated
Executive Government	Current coalition of Fianna Fáil and Progressive Democrats (1997 –)
Minister/Mandarin Relations	Separate; not politicized
Administrative Culture	Public interest
Diversity of Policy Advice	Mainly civil service; increase in special advisers in recent decades

The next section will focus on the principle of accountability in the Irish system with reference to the concept and modus operandi of Ministerial responsibility. Ministerial responsibility is not the only doctrine of accountability in the Irish administrative system but is the main principle on which the operation of the civil service is based (Verheijen and Millar, 1998). From a legal point of view, the civil service is seen to play a subservient role, thus parliamentary control of the civil service is indirect in nature, occurring through the Ministers and the government. It is the government administration and not the civil service, as such, which is subjected to parliamentary control (ibid). How Ministerial responsibility is defined within the Irish context will be explored in tandem with a short review of the principal attempts to introduce reform in the past four decades.

4.2 Political and Administrative Accountability – Ministers and Secretaries Act 1924

In Ireland, government departments are organised on functional lines to cover the major areas of policy, such as agriculture, health and foreign affairs. The distribution of business and the designation of members of the government to be the Ministers in charge of particular departments are matters governed by law. Ministerial responsibility was given legislative basis in the Irish Free State through the Ministers and Secretaries Act 1924. The 1924 act designated the eleven departments then set up and indicated the work allocated to each. It provided that the Minister in charge of each department would be a “corporation sole”, i.e. that he or she could sue and be sued as the corporate entity rather than as an individual (Dooney and O’Toole, 1998:2). In effect, the Minister is the department, and his/her servants have no separate existence. Every decision made by a government department comes, strictly

speaking, from the Minister. It is he/she that is held accountable for all policies implemented and decisions made by being directly answerable to the government and the Houses of the Oireachtas. How the system works in practice is that the civil servants' decisions are regarded as being those which the Minister would have made had the issues been brought to his/her personal attention (*ibid*, p.138). The work is carried on through a system of implicit delegation from the Minister to the secretary-general of the department and on down through the various grades.

Though much has been made of the legal element of this act, which decreed that a Minister as "corporation sole" for his or her department could be sued, it has been at the expense of a full analysis of the political and managerial elements. This system has clearly had a major impact on the way in which the civil service does its work and has bred an over cautious approach aimed in particular at ensuring the Minister is not embarrassed by civil service actions/decisions. In addition, Ministers concentrated on protecting themselves from the possibility of being held accountable by the Dáil by tightly controlling the activities of the civil service. Instead of being preoccupied with broad questions of policy making they became burdened with matters of detail. In this system there is one type of opinion – that of the Minister, hence the popular phrase heralded so often by Sir Humphrey in the TV series – "yes Minister". It is not surprising therefore that administrative accountability has been weak, dealt with internally within the departmental hierarchy and rarely were civil servants held publicly to account for their actions/inactions. With regard to political accountability it has been extremely rare for a Minister to resign due to administrative error or poor performance. In 1961 a crucial parliamentary debate set the ground rules about Ministerial responsibility. It involved the Mental Health (Amendment) Act which sought retrospectively to legalise the detention of a number of people in mental hospital. It had emerged that the procedures whereby they become inmates had not been followed correctly and that they were, in effect, illegally detained. The opposition called for the resignation of the Minister Sean MacEntee, but those calls were resisted on the basis that he could not possibly have known what had happened. In relation to the illegal nursing home charges, the former Minister Micheal Martin has claimed that he did not know of the legal problems associated with case. The problem was raised at a meeting of the Management Advisory Committee (MAC) in December 2003 but the Minister was absent for that part of the meeting during which it was raised.

4.3 The impact of reform on politico-administrative relations

Traditionally, the relationship between public servants and their political masters may be aligned to the 'village life' model (Peters, 1987) whereby both groups are envisaged as having relatively similar values and goals. To this end, connections between the public administrators and politicians are those of mutually cooperative elites with a primary interest in maintaining the state and promoting its efficient and appropriate functioning in the interests of the public. The two groups have tended

to cooperate in maintaining that functioning regardless of the political complexion of the government of the day.

Despite the changes that EU membership brought the civil service in terms of adapting to the European policy process, it may be argued that the Irish administrative system continued to preserve the essential characteristics of the inherited British structure of government. It is stressed that the characteristics of the existing political and administrative systems act as shaping influences over processes of management change (Pollitt and Bouckaert, 2004). Attempts to reform the Irish system were generally not successful and it has been remarked that proposals suggested as early as the late 1950s to reform the civil service had been successfully resisted by senior officers in various departments (Chubb, 1992:219). Two reform initiatives of note were the review by the Public Services Organisation Review Group culminating in the *Devlin Report* (1969) and the White Paper *Serving the Country Better* (1985). Although both recommended the need for change and modernisation neither were destined to be comprehensively implemented. The Devlin Report provided an overall blueprint for change and had diagnosed two particular defects in the administration – inadequate emphasis on policy making and lack of coordination within the service as a whole. In relation to the principle of Ministerial responsibility it recommended that policy making should be confined to those areas of broad policy and overall management; executive functions and policy management should be separated. The White Paper *Serving the Country Better* (1985) emphasised the need to install management systems based on personal responsibility for results and value for money. The idea was to facilitate civil service managers to have greater managerial authority. While Ministers would be responsible for departmental policy, they would be relieved from being answerable for day to day operational details. The emphasis was predominantly on changing the administrative process through invoking greater attention to management principles, but the concept of “corporation sole” remained intact (Connolly, 2005). However, by the late 1980s, reform became associated with reducing the size of the civil service in a period of fiscal austerity to the detriment of structural and operational improvements.

Reform was not back on the agenda until 1994 with the launch of the Strategic Management Initiative. The aims of this initiative may be summarised as delivering excellent service to the customer, maximum contribution to national development and efficient and effective use of resources (Murray and Teahon, 1998). More or less paralleling with the launch of this internal strategic review was the surge of a series of controversies⁴, which drew attention to the relationship between civil servants and Ministers and thrust issues of accountability and transparency into public debate. Such concerns were reflected in a pledge to institutional reform with due at-

4 Political scandal and allegations of corruption have culminated in the establishment of several public inquiries since the mid-1990s. In 1994 controversy arose regarding the handling of the extradition file on the paedophile priest Brendan Smyth and became a catalyst in the fall of the Fianna Fáil-Labour coalition government (1992 – 1994).

tention to accountability, transparency and freedom of information within the programme for government introduced by the Fine Gael, Labour and Democratic Left coalition government which came into office in 1994. In March 1995 the Government requested a coordinating group of secretaries to “review existing systems for making decisions, allocating responsibility and ensuring accountability in the Irish Civil Service” (report of the coordinating group of secretaries (1996). Recommendations were made for a set of mechanisms for facilitating and mandating change. In May 1996 *Delivering Better Government* was published which sets out the overall framework for change, specifically within the civil service but with the intention of broadening the process to the wider public service. These were new frameworks for authority and accountability, for human resource management, financial management and for information technology.

Of particular interest to this discussion are the proposals which recommended a reform of the Ministers and Secretaries Act 1924 as the introduction of a managerialist agenda necessitated a review of the existing outmoded accountability mechanisms. The most recent legislation dealing with the relationships between Government Departments is the Public Service Management Act 1997. This act is also founded on the principle of Ministerial accountability to the Dáil but it does provide for the transfer of responsibility, where appropriate, downwards in the public service hierarchy. It outlines among other things, the respective responsibilities of the Minister and the secretary general of a department, and also the role and functions of special advisers. The cornerstone of this structure implies that individuals know and recognise the extent of their responsibility and the ways in which they are answerable for the exercise of their responsibility.

The 1997 act states “A Minister of the government having charge of a department shall, in accordance with the Ministers and Secretaries Act 1924 to 1995, be responsible for the performance of functions that are assigned to the department pursuant to any of those acts.” A secretary of a department shall, “subject to the determination of matters of policy by the Minister” have responsibility for carrying out a number of specified functions. These include managing the department, preparing and submitting a strategy statement, providing progress reports and assigning responsibilities. The act also states that the secretary’s duties include “providing advice to the Minister...with respect to any matter within, affecting or connected with the responsibilities of the Minister or the department...giving rise to material expenditure chargeable to its appropriation account.”⁵ The act also provides for civil servants to appear before parliamentary committees and has made significant additions to the arrangements in the Ministers and Secretaries Act, which did not provide for the formal assignment of statutory responsibility to secretaries or their

5 This is clearly of relevance for the case in question – illegal charges to residential care patients holding medical cards.

subordinates for the exercise of functions on behalf of the Minister (Dooney and O'Toole, 1998:139).

Managerial responsibility for the department is therefore assigned to the secretary general (as secretaries were re-titled in the act), while the Minister retains overall responsibility for the performance of functions of the department. The 1997 act has therefore sought to graft modern managerial thinking on to the “corporation sole”. However, it does not address how the Minister’s will, as mandated through the political process, would be imposed on the department. Verheijen and Millar, writing in 1998, commented that at first glance this type of reform carries important risks for the civil service and politicians and that maintaining the definition of Ministerial responsibility would, in the long run, likely to be damaging to politicians as well as to the civil service. The following section discusses some issues pertaining to the clarification of these responsibilities in practice and whether confusion still remains regarding the doctrine of Ministerial responsibility in the wake of the Travers report.

5. Ministers’, Senior Civil Servants’ and Advisers’ roles in policy making and implementation – lost in translation?

5.1 The Role of the Minister and the Secretary-General – clarified or complicated?

The Department of Health and Children is a complex, politically sensitive department within the government hierarchy which is no stranger to controversy⁶ and it has been suggested that the department really requires two secretary-generals – one for fire fighting and one for policy and legislation. The question may be posed whether that irrespective of all the reforms that have been set in place and the new rules on accountability, benchmarking and business plans, is reality that the system continues to function broadly along the same lines as it always has?

In the case of illegally charged nursing home fees, the Travers report attempted to provide an explanation for why an obviously dubious system was allowed to exist for so long⁷ and referred to a “weakness in risk assessment procedures”. However, the issues raised by the report point to more than simply the compounded effects of administrative errors and poor decision making. Many reviews of practice were carried out and all concluded that the legal basis for the charges was uncertain. Pro-

6 One such example is the Hepatitis C and infected blood case of the late 1990s.

7 Amongst the explanations are a desire to protect the health board’s income, a failure to confront the legal concerns, the embedding of practice over time and an undue concern about political sensitivity. It is apparent from the report that health officials had a long term policy of settling out of court any individual challenges to the levies, clearly out of an appreciation of what would happen should the floodgates open given that approximately 315,000 people have been affected by these charges.

posals to deal with the situation were ‘parked’ in 2001⁸ and a departmental file on legal advice on the matter has gone missing. In his evidence, the former secretary-general of the Department of Health, Michael Kelly, stressed that the “culture of the department over the years had leaned too far in the direction of facilitating ease of manoeuvre at political level.” (Travers, 2005) It would appear that despite the rhetoric of reform, cultural inertia persisted with the practice of protecting the Minister. Travers’ report recommends that in the future, concern for the political sensitivity of an issue must no longer be allowed to interfere with making a clear case for action. In addition, where the politicians throughout the years have clearly failed has been in conveying to their civil service staff any real determination to make their departments efficient, accountable and responsive. There is failure to translate their promises into any motivating force for civil servants who have not wanted “embedded” routines disturbed.

Although the primary duty to ensure that the legal basis of long-stay nursing home charges was ‘straightened out’ lay with the public service, political responsibility should not be dismissed. The issue of whether a Minister should resign has also been raised in the ongoing debate on this case. In Ireland, resignation from office is seen as an admission of personal guilt on the Minister’s part for whatever wrongdoing or mistakes were made. Collins and Cradden (2001:55) refer to Departmental Secretaries General, their Assistant Secretaries and Principal Officers as the most powerful public servants in the government bureaucracy whose ideas of what is desirable, possible and, to a degree, politically advantageous for the government are most influential in deciding what is done. It is highly unlikely that no indications of the difficulties associated with the long-term charges were conveyed to Ministers over the years but there is no documented evidence of it. The Irish policy style is often characterised as informal and in this instance it would appear that briefings would have been verbal only. In the case of illegal charging the secretary general was blamed for supplying misleading information to Minister Harney and by extension to the government. The Minister was told the department had never been advised the charges were illegal and that they had been levied in good faith, which was not the case. With regard to accountability, Minister Harney clearly did not feel obliged to be responsible for the mistakes of civil servants. In addition, the evidence from the former secretary-general Michael Kelly was in direct conflict with that of the former Health Minister Micheal Martin who claimed that he had not been adequately briefed on the affair and never saw a file, including a letter seeking advice from the Attorney General that the secretary general claims to have sent him. Opposition parties have claimed that Minister Martin failed to accept responsibility for the performance of functions in his department as set in legislation.

8 In 2001 the government extended the medical card scheme to everyone over 70 years old (regardless of income) which inevitably increased the problem. Some health boards sought the department’s advice on the implications of the new freedoms for the over 70s and it did not deal with the requests.

The case illustrates that reform has not adequately clarified the responsibilities of Ministers and the extent to which they can be reasonably held accountable for the actions of their departments.

5.2. The proliferation of advisers – efficient and effective?

Is there a difference in the Minister's degree of responsibility for public servants and for those he has personally appointed as political advisers? It may be argued that on the one hand, the introduction of 'special advisers' has further complicated lines of accountability and overcrowded the most crucial point in the political-administrative nexus. On the other hand the introduction of Ministerial advisers who share the Minister's aims and philosophy goes some way to correct imbalances within the administration and strengthen political control.

The Civil Service Commissioners Act 1956 and the Civil Service Regulation Act 1956 granted the Minister of Finance wide powers relative to regulating civil service and allow certain exceptions to the requirement that positions be filled by competition. Until 1993 the appointment of special advisers was relatively sporadic. The practice of appointing outside advisers to Ministers is deemed to have originated with Taoiseach Eamon de Valera who retained the services of Professor Timothy A Smiddy of University College Cork on an ad hoc basis on principally economic matters (Zimmerman, 1997:538). However the entrenchment of special advisers within the system is associated with the Fine Gael-Labour coalition in 1973. They were concerned that the civil service, having served so long under Fianna Fáil administrations, would be biased against the new government. Hence, the coalition sought to bring in its own professional expertise into departments as a defence. Following this initiative the practice of introducing of advisers waxed and waned, perhaps climaxing with the added introduction of programme managers in the Fianna Fáil-Labour government 1992 – 1994.⁹ Ministerial advisers, personal secretaries and programme managers from outside the civil service are appointed to "excluded positions". These appointments are temporary and end when the Minister's term of office ends. Although they are creatures of the Minister, the presence of special advisers within the system can reduce the secretary-general's access to the Minister and thereby affects his/her policy advice role.

The 1997 act institutionalises and also sets out for the first time the role and duties of special advisers. These include providing advice, monitoring, facilitating and securing the achievement of government objectives and performing such other functions as may be directed by the Minister. Special advisers are accountable to the Minister in the performance of their functions. The role of the special advis-

⁹ Programme Managers were introduced to help coordinate the efficient delivery of policy and programmes. On the Fianna Fáil side programme managers were largely drawn from the civil service ranks. The 'rainbow coalition' that followed 1994 – 1997 replaced the civil servants with external political appointees. Under the current Fianna Fáil-Progressive Democrats administration 1997 – programme managers have been drastically scaled back to two.

ers was drawn into the illegal nursing home charges debacle, as the Minister's two advisers were in attendance at a significant meeting in December 2003 whereby it was decided to seek the advice of the Attorney General¹⁰. The secretary-general has argued that it was expected that these advisers should have been able to brief the Minister who was absent or follow up on any concerns they had in their own right. The fact that the Minister remained in the dark about the details of the charges has spotlighted the role of advisers generally. The 1997 act does not lay out whether such special advisers represent the Minister at meetings which he/she is unable to attend, or whether they are expected to report the contents of such meetings to the Minister. The Travers report indicates that advisers should not stray beyond the roles set down for them in legislation and neither should they be regarded as part of the line management system of a department. The briefing of special advisers by departmental officials and the fact that advisers attend particular meetings should not be accepted as alternative to the direct briefing of a Minister on important areas of business.

The special advisers in attendance at the meeting have stated that they did not read briefing material that contained a summary of legal opinion obtained by the South Eastern Health Board, suggesting that charges levied on patients in public nursing homes were illegal. A former adviser to the leader of the Labour party, Fergus Finlay, has commented that if an important matter was discussed, it was important that the Minister was informed and had a good flavour of the discussion. In other words, a Minister should not be left unawares if his adviser attended the meeting. It may be noted that two junior Ministers¹¹ were also at the meeting but anticipated that departmental officials – as should be the norm – would brief the Minister given that the issues involved did not fall within the remit of their responsibilities.

As noted, part of the fallout of this fiasco is the claim that the system of special advisers is not working as it was intended i.e. the Minister's political advisers did not forewarn of potential political time bombs and provide an integrated system of communication across departments. It should also be noted that there are other types of advisers, such as those who undertake constituency business for the Minister. In sum, this would illustrate that there is no defined role for advisers who are supposed to be wholly accountable to the Minister. Advisers cannot be interpreted as being available to act as intermediaries or in *loco parentis* with senior civil servants.

10 The Attorney General is the adviser of the government in matters of law and legal opinion and is appointed by the President on the nomination of the Taoiseach.

11 Ministers of State (junior ministers) are not members of the government and have no right of attendance at government meetings.

6. Some tentative conclusions

The Travers report gives those concerned with the reform of the public service in Ireland much to consider. The core issue of responsibility of various actors for decision making remains unresolved and will continue to cause problems for the public service, politicians and public. These are issues that, despite numerous controversies in the past several years, have not been subject to any sustained debate. The exact role of the civil service in contributing to policy formulation and advice has never been adequately addressed and the concern with these issues precedes the ill-fated Devlin Report in 1969. It would be surprising if findings from the Travers report detailing the problems in the Department of Health and Children are unique across the civil service – in relation to dealing with gaps in competencies, legality issues, Ministerial-top management relationships and personal versus corporate responsibility. Addressing wider issues of relationships between the main actors remains essential to ensuring the satisfactory performance of the public service and continuing with the reform agenda. Other issues raised indirectly by the report, such as the failure of parliamentary questions to elicit the required information, inadequate oversight of secondary legislation, and even the relationship between Ministers and Ministers of state, also require further analysis and reforms.

As noted, the inadequate responses and mistakes in this case have been labelled as being due to “long term systematic and corporate failure” with far less rigour paid to political responsibilities. The Minister is responsible at law and in constitutional terms for his/her department. There are several issues in this case, which are of interest for politico-administrative relations. One issue that arises is the obvious indication that Ministers want desired political results but that there needs to be an upgrade in managerial reforms to ensure that political accountability is reinforced. Travers recommended that Ministers should insist on full and periodic briefings on key issues of policy and operational performance. This is basic sense in any system of government, whereby Ministers are entitled to be warned of 30-year old skeletons in the cupboard, as was the case in this instance. Likewise, the civil servants in question should ensure that all such briefings are adequately documented. The 1997 act gave a public, legal accountability to the secretary-general of each department and acknowledged the key strategic and managerial role holders of this office play. A stronger sense of political ownership may have quickened the pace of, or even changed the nature of, the reforms. To heap the blame publicly on the civil service could lead to a confrontation between politicians and their most trusted civil servants which would clearly steer relationships away from the ‘village life’ scenario. One commentator has noted that the real fall out of this case is not the failure of political accountability but the undermining of the civil service (O’Cinneide, 2005).

As noted, the nursing home debacle also focuses the spotlight on the role of Ministerial advisers. A number of issues were in the public domain from the many

concerns raised in individual cases and from a number of internal and external reports prepared over the years. This question arises – what are advisers for? As Travers comments, “Ministers and their special advisors might have been expected to more actively probe and analyse the underlying issues involved.” Advisers should not involve themselves in department activities but at the same time there is the expectation that they should head off these types of political messes and contribute to making policy making more and not less efficient.

In conclusion, this case is ongoing and clearly this policy / decision making fiasco will have consequences for the funding and delivery of the health service as well as the government’s fiscal strategy. The inquiry report of the Houses of the Oireachtas Joint Committee on Health and Children has reported that there is an urgent need to clarify the responsibilities of Ministers and the extent to which they can reasonably be held accountable for the actions of the department and agencies under their charge. There has been a clear emphasis on explaining where things went wrong in respect of this case but alternative mechanisms to improve accountability systems and clarify these roles are not currently being addressed.

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Personal Advisors of Ministers: More than Personal Loyal Agents?

*Christophe Pelgrims*¹

1. Introduction²

In many countries across Europe, ministers are surrounded by personal advisors. Even in the UK, traditionally a country without personal advisors, their number is increasing. They even increase at such a level that certain authors mention that the Whitehall model is at risk (Campbell & Wilson, 1995). In Belgium and Flanders, personal advisors are institutionalised in ministerial cabinets (Ziller, 1993). Ministerial cabinets may be defined as a policy supportive body of the minister, composed of political and policy advisors with a temporary nomination. The minister appoints his/her staff members personally and they are not part of the administrative hierarchy (Pelgrims, 2003).

During the last three decades, Belgium changed from a unitary to a genuinely federal state in a process of state reform in four steps (1970, 1980, 1988, and 1993). The federation is composed of three communities and three regions, each with legislative powers, and thus with their own parliament, government, and administration: the Flemish, Walloon, and the Brussels regions on the one hand and the Dutch-speaking, French-speaking and German-speaking communities on the other. The Flemish government combines the competences of both the Flemish region and the Dutch-speaking community. Apart from the political level, it comprises the Ministry of the Flemish Community (core civil service) and a number of “Flemish Public Institutions” (agencies). During the creation of the federal state, the regions and communities take over the old custom of ministerial cabinets from the federal level.

Often, only political functions are subscribed to ministerial cabinets. Traditionally, they are considered as an extension of politicians. However, ministerial cabinets do not only fulfil political functions. They also fulfil policy functions (Pelgrims, 2001). The combination of the different functions makes ministerial cabinets more than a combination of a minister’s private secretary, political advisors and spokesperson. Due to the influence ministerial cabinets have on politico-administrative relations, they create an important study field in public administration. The

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ministerial cabinets' role in policy advice is so intense that they often shield the minister from the civil servants (Van Hassel, 1974). Also, a parallel bureaucracy is created, which shuts out the civil servants. This parallel bureaucracy is also involved in the policy preparation as in executive tasks. They even interfere in internal affairs of the administration (Van Hassel, 1974; Rouban, 2003). Hood illustrates a classic example of hybrid bargains in cabinets where politicians pick their teams of trusted counsellors and work with them on a team basis (Hood, 2000).

Traditionally, members of cabinet were linked to a specific minister. This is also the reason why the postulation can often be found that they come and go with the minister (Dierickx, 2003; Suetens & Walgrave, 2001). In this sense, they could be characterised as trustees to one minister. If a minister leaves the government, the trustees will also disappear. In this article, we argue that this traditional concept needs updating. On the basis of empirical research, we will conclude that members of the cabinet are more than loyal agents. Because of their professional expertise, they fulfil a stabilising role on the political level. New incoming ministers recruit professional expertise from other ministerial cabinets, trying to reduce uncertainty. Literature allocates many functions to ministerial cabinets. On the basis of this article, we may add a new function, namely a stabilising role on the political level. In this sense, ministerial cabinets operate as mechanisms to absorb changes at the political level.

First, the article focuses on the reasons why ministerial cabinets were created in Belgium and functions assigned by literature. Next, we design our hypotheses and research framework. In the following section we analyse movements of members of the cabinet on the basis of changes in government and analyse their stabilising role.

2. Personal advisors in Belgium: between policy and politics

2.1 The “raison d’être”

Ministerial cabinets have always existed in Belgium, but their size, structure, and roles have strongly evolved during the 20th century. The growth of ministerial cabinets answered the need of ministers to free them from the King's influence. The first modest expansion of the personal secretariats of ministers consecrated the emancipation of ministers from the King's influence (Van Hassel, 1975; Luyckx & Platel, 1985). The proliferation of cabinet members really started taking momentum after World War II, following the growth of the welfare state and party political developments (Brans, Pelgrims, & Hoet, 2005). Government expansion increased not only the number of ministerial departments, but also affected the nature of the ministerial tasks, in that the latter became more heterogeneous (Crabbe, 1960). In principle, the production of policy advice and control of departments could also have been delivered by the civil service. Yet, the impact of party politics on politico-administrative relations did not allow the smoothness such an option would have required.

The turnover of Liberal and Christian democratic governments and their extensive use of informal politicisation of administrative positions, created a dialectic that favoured the expansion of ministerial cabinets (Van Hassel, 1975). Consecutive politicisations of recruitment and promotions negatively affected the ministers' trust of civil servants. Partisans of government parties with a low turnover have been overrepresented and partisans of the opposition parties under-represented (Majersdorf & Dierickx, 1992). In 1990, 62 percent of the top three senior civil servants of the federal ministries belonged to the Christian Democratic Party; 21 percent to the Socialist parties and 11 per cent to the Liberal. Only 6 percent were independent and 1 per cent Flemish nationalists (Brans & Hondeghem, 1999). At any rate, to ministers, the option of recruiting partisan spoils in ministerial cabinets was more attractive than involving civil servants, either as modest partisans or neutral agents. We may conclude that the ministers' perception that civil servants lack loyalty is the main reason to recruit personal advisors.

2.2 Functions of ministerial cabinets discussed in literature

In literature, authors distinguish between policy functions and political functions, often also referred to as manifest and latent functions (Brans, Pelgrims, & Hoet, 2005; Pelgrims, 2001).

Cabinets play a central role in the production of policy advice. Advisors in ministerial cabinets analyse policy problems and evaluate solutions in such a way that technical expertise is combined with political feasibility. In contrast to civil servants (Majersdorf & Dierickx, 1992), members of ministerial cabinets are outward-looking and engage in extensive contacts with all other players in the policy-making process. Ministerial cabinets are centres of communication and co-ordination. Average cabinet members devote 60 % of their working week to vertical and horizontal contacts with the administration and other ministerial cabinets and with the minister's party organisation, the parliamentary party and local governments (Suetens & Walgrave, 2001). Ministerial cabinets will engage in vertical contacts with the administration and often also recruit trusted civil servants into their teams. This provides the Minister access to the secrets of the bureaucracy and first hand information on informal rules and hierarchies that the Minister might otherwise miss. Ministerial cabinets are clearly at the mediating heart of government. This also applies to the gathering of policy support from civil society. It is to ministerial cabinets that interest groups turn, not to the administration. Ministerial cabinets often explicitly co-opt members from interest organisations with the aim of facilitating interest intermediation (Pelgrims, 2001). They also play an important role in rendering services to the ministers' constituents, ranging from the supply of information to what is called social service, the latter of which comes close to clientelism.

Ministerial cabinets provide important functions to the recruitment and careers of professional politicians. They are stepping-stones to higher political office and serve as “...an ‘ante-room’ for non-elected politicians waiting for a new mandate” (Van Hassel, 1974; Dewachter, 1995; Brans, 1999; Pelgrims, 2001). Cabinets also help to smooth relations within a coalition government, which at the Federal level in Belgium comprises at least four, but more commonly, six political parties. It happens that ministerial cabinets comprise members delegated by other coalition parties to control the minister’s policies (Dewinter, 1981). Cabinet positions are also used for party control. Political parties may push for a strong *chef du cabinet* when they consider the Minister is weak (Vandezande, 1999). Finally, cabinets have also served as a covert means of party financing. Cabinets sometimes comprise what are called ghosts. These ghosts are formally included in the composition of cabinets, but never show up since they are politically active elsewhere, as local councillors for instance, or as party functionaries (Pelgrims, 2001).

2.3 Recent intentions to downsize ministerial cabinets

Recently, the government tried to reduce the impact of ministerial cabinets on policy. In its Coalition Agreement of 1999, the previous Flemish government explicitly agreed to reform the administration and to downsize ministerial cabinets (Vlaamse regering, 1999). Two principles underpin the proposed reforms.

The first is the “restoration of the primacy of politics”³. In the mid-nineties, Guy Verhofstadt, then a prominent member of the liberal-democrat party, later on Prime Minister, put this issue on the political agenda. Initially, the concept referred to the balance of power between politics on the one hand and the trade unions and other interest groups on the other (Stouthuysen, 2002). In the years after its introduction, the meaning of the concept “primacy of politics” gradually evolved and increasingly also referred to politico-administrative relations and the necessarily dominant role for politics. As such, accountability and democracy have become basic principles for the concept. According to Bouckaert, ‘political primacy’ means: “legislative power has precedence over executive power, ministers over civil servants/managers and the public interest has priority over particular interests” (Bouckaert, 1997).

A second core principle of the reform was to downsize ministerial cabinets and to strengthen the policy capacities of the administration. With their dominant role in the policy-making process, cabinets would have marginalised the administration in policy formulation, fuelled further politicisation, ruptured the trust between Ministers and their civil servants and encumbered accepted lines of communication, all elements of which have fostered an adversarial dynamic within the formal

3 The role of the concepts “New Political Culture” and “primacy of politics” in the agenda setting process of administrative and political reform has been described by Maesschalck J., Hondeghe A. & C. Pelgrims (Maesschalck, Hondeghe, & Pelgrims, 2002).

legal model of politico-administrative relations. The administration is marginalised in the production of policy advice and acts as a mere executing agent (Hondeghe, 1996). But the cabinets' weight in the policy process has gone beyond playing a role only at one side of the policy – implementation dichotomy. Cabinets not only produce policy advice, but have also developed into shadow administrations, taking on secondary legislation and even mere executive tasks. This left the civil service not only marginalised in the rendering of policy advice, but also frustrated in the execution of policy programmes. In the Flemish Coalition Agreement of 1999, the government explicitly acknowledged that downsizing ministerial cabinets is necessary to strengthen the policy capacities of the administration (Vlaamse regering, 1999).

During the previous legislature, ministerial cabinets did not downsize. Government only paid lip service towards this intention. On the contrary, the most recent step in the state reform process (2001) further devolved competencies to the Flemish level, led to an increase in the number of political advisors in the previous legislature (Besluit van de Vlaamse regering van 14 September 2001, 29/10/2001; Deweerdt, 04/03/2002). The present government (elected in 2004) continued the reforms of the administration, but remained silent about the intention to downsize the cabinets. It looks as if this intention of the previous government left the agenda. Research showed that failed intentions to abolish ministerial cabinets on the federal level, led to an increase in their budgetary importance afterwards (Dereu, 2005).

3. Ambiguous indicators of loyalty

We may conclude that cabinets play a central role in the production of policy advice (Brans & Hondeghe, 1999). Flexible policy support, specific expertise and unconditional loyalty are central assets for the short-term projects of generalist ministers (Suetens & Walgrave, 2001). Members of cabinets seem to fit more into the political rationality compared to civil servants (Majersdorf & Dierickx, 1992; Dierickx, 2003). In addition, cabinets are characterised by a more flexible personnel management and organisational structure compared to the administration (Pelgrims, 2002). Besides, they also own specific expertise. 96 % of members of cabinets obtained a university degree or other higher education. Many of them obtained more than one degree. If we asked which criteria were decisive to recruit them, they ranked technical expertise and work experience on top (Pelgrims, 2001; Pelgrims, 2002).

In the previous paragraph we mentioned that due to politicisation of the civil service, ministers do not trust the administration. Suetens and Walgrave notice two types of administration: the senior civil service may be neutral or may be a politically appointed bureaucracy (Suetens & Walgrave, 2001). This distinction goes back to the traditional concept of administration as a merit or spoils system. However, Belgium displays a hybrid concept. Brans and Hondeghe state that the informal service models clash with the formal Weberian one (Brans & Hondeghe, 1999).

Officially, recruitment and promotion of civil servants are apolitical, however top positions are politicised. Senior civil servants are appointed for life and cannot be dismissed (Suetens & Walgrave, 2001). Due to this hybrid system, the minister may doubt the loyalty of the civil service. In their personal advisors they find unconditional loyalty. 40 % of those officials stated they were personally asked by the minister and 60 % indicated the minister as decisive for their recruitment (Pelgrims, 2001). Moreover, a quarter of them in the federal and regional governments lived in the same constituency as their minister (Suetens & Walgrave, 1999; Pelgrims, 2001).

Out of these arguments, we may conclude that members of government are loyal agents towards 'their' minister. Due to this loyalty, we could expect if a minister leaves government, his loyal agents will leave too. A new minister would have little reason to trust the personal advisors of his predecessor and would wish to appoint his/her own cabinet. On top, when competences are transferred from one minister towards another minister, ministers tend to appoint a new member of cabinet on the basis of loyalty, rather than transfer the personal advisors from another minister. This leads towards hypothesis 1a and 2a.

Hypothesis 1a: "If a minister leaves government, his/her members of cabinet will also leave government"

Hypothesis 2a: "When a competence is transferred towards another minister, cabinet members will leave government."

Research also shows other indicators which give reason to doubt the 'personal' loyalty. The average career of cabinet members was six years, although legislatures take normally only four years. It may be noted that 25 % of cabinet members indicated that their career in cabinets took more than seven and a half years, while 53 % of the members of ministerial cabinets in the Flemish government between 1996 and 1999 already had experience in ministerial cabinets in the past (Pelgrims, 2001). Other research registered the same results (Suetens & Walgrave, 1999). Half of the population in this research was already present in other ministerial cabinets in the past. One-third spent four to ten years in cabinets, while 15 % had a career over more than 10 years. These figures indicate the opposite idea of loyal agents. Members of cabinets appear to build careers in cabinets, over legislatures and perhaps even over different ministers. Ministers seem to come and go, while 'personal' advisors stay. If cabinet members do not show only 'personal' loyalty and if they are recruited on their technical and work experience, we could state that they are more linked to an expertise field rather than to 'their' minister. Therefore we could expect that when a competence is transferred from one minister towards another, members of the cabinet also transfer in the same direction. Therefore we formulate hypothesis 1b and 2b.

Hypothesis 1b: "When a minister is leaving government, the cabinet members stay in government"

Hypothesis 2b: "When a competence is transferred towards another minister, cabinet members are transferred in the same direction"

4 Research Design

To test our hypotheses we designed a single holistic case study (Yin, 1994) namely, the Flemish government between 1999 and 2003. The Flemish government, appointed in 1999 by parliament, was composed of nine ministers offered by 4 different political parties.⁴ At the end of December 2003, six months before the elections, the government was composed of 10 ministers. Only three ministers were also present in 1999 and in December 2003.⁵ Between 1999 and 2003 two ministers were introduced and replaced in the same legislature (for overview see Table 1). Different reasons caused these changes, though this article is not the place to go more into detail. These changes also brought about many transfers of competences. Complete packages of competences transferred from a minister towards a new one. Besides, sometimes competences were also divided over a few ministers when a replacement took place.

First, we registered members of these cabinets over different time periods. We began registering members of the cabinet in December 1999 and ended in December 2003. In between we gave special attention to members of the cabinet when a minister was replaced. We counted 384 members in ministerial cabinets during the period 1999 – 2003. The amount of members of cabinets on our list was the amount which was present during the whole legislature. This means that in December 2003, 384 cabinet members were present. Some could have left the ministerial cabinets during the life span of this legislature. To register the members, we used official information on the website of the Flemish Government (www.vlaanderen.be). Although this information might not be completely up-to-date, it is the only available data. After registering cabinet members, we contacted the different ministerial cabinets to check our data. This control makes data more valid for analysis.

The methodology of the IDU-matrix constructed by Evers and Verhoeven was used to analyse the list of these officials (Evers & Verhoeven, 1999). Both authors use this instrument for personnel accounting. Thus, although the instrument was not originally constructed for the purpose of analysing membership of ministerial cabinets, it provided a practical instrument for our research. A matrix visualises influx, flow and outflow in an organisation between two periods. The IDU-matrix only represents a certain moment of an organisation (December 1999 and December 2003). This immediately shows a shortcoming of this instrument. Movements

4 The political parties which were members of the government were the Liberal Party (3 ministers), Socialist Party (2 ministers), The Greens (2 ministers) and the Flemish-nationalist party (1 minister).

5 Between December 2003 and the elections another minister was replaced. This change is not included in this research.

in between are invisible in the matrix. Because we checked membership after each change in government and as we updated our data by contacting ministerial cabinets, we could optimise our data. Apparently newcomers in cabinets, turned out to already be in other cabinets during the same legislature. Therefore we constructed a group of *adjusted influx* and *adjusted flow* between ministerial cabinets. Real newcomers showed up in the adjusted influx, while members already present in cabinets (except in our data) were registered as adjusted flow. Through this, we were able to protect our instrument against inter-legislature blindness.

5 How personal are ‘personal’ advisors?

5.1 Cabinet shuffles in Government

Table 1 shows the changes in ministers over the period concerned. The left-hand column represents the Flemish government in December 1999. The column on the right illustrates ministers in December 2003. In between, changes in government are represented according to the period in which changes took place.

Table 1
Changes in ministers (december 1999 – december 2003)

December 1999	May 2001	July 2001	March 2003	June 2003	December 2003
Dewael (DW)				Somers (SO)	Somers
Van Mechelen (VM)					Van Mechelen
Stevaert (ST)			Bossuyt (BO)		Bossuyt
Dua (DU)				Sannen (SA)	Sannen
Anciaux (AN)			Van Hengel (VH)	Keulen (KE)	Keulen
Vogels(VO)				Byttebier (BY)	Byttebier
Van der Poorten (VD)					Van der Poorten
Landuyt (LA)					Landuyt
Sauwens (SU)	Van Grembergen (VG)				Van Grembergen
		Gabriëls (GA)		Ceysens (CE)	Ceysens

Besides the changes of ministers, many transfers in competences took place during the period concerned. We turned the available information into a matrix

visualising the transfers of competences (Table 2). Because some competences were transferred more than once, we divided our matrix into two components.

The first period is found on the left side. The members of government in December 1999 are identified in a horizontal axis. In the middle of the matrix, members of government by June 2003 are identified in a vertical axis. The interpretation of the left side starts from the left horizontal axis and moves towards the middle of the matrix (as visualised by the arrow). The shaded cells illustrate the diagonal in each side of the matrix. This represents a crossing between two different periods. Crossings made by the same abbreviation of a minister's name, means the minister stayed in office otherwise he or she was replaced. For example the minister for Education and Training (VD) is also mentioned in December 1999 and in June 2003. When the crossing is not made by the same minister, a replacement is visualised. For example, the left area of the matrix (December 1999) shows SU, however the crossing in the shaded cell is made by VG. Consequently, SU left government between December 1999 and June 2003. A similar conclusion concerning other ministers may also be drawn from Table 1. Besides, the different cells also indicate the transfers of competences from one ministerial post to another during this period. For example, minister Stevaert (ST) left government between December 1999 and June 2003 and his competences – Mobility, Public Works and Energy – went to Minister Bossuyt (BO). The “vice-minister president” transferred to Minister Landuyt (LA).

The right side of the matrix visualises the second period, namely December 2003 (as mentioned in the row underneath). This makes a comparison between June 2003 and December 2003. The interpretation of the right side part is similar to the left side period, only starting in the middle and moving to the right horizontal axis below as the arrow indicates. (See arrow). Again, shaded cells symbolise the diagonal on which movement of ministers and competences can be found. For instance, the competence ‘Housing’ transferred from Minister Gabriëls (GA) to his successor, Minister Keulen (KE).

The combination of both sides of the matrix facilitates viewing an evolution in transfers. The competence ‘sport’ was transferred initially from Minister Sauwens (SU) to Minister Van Hengel (VH). Because he left government and was replaced by Minister Keulen, ‘sport’ moved from Van Hengel (VH) to Minister Keulen (KE). Another example is the competence ‘Brussels affairs’. In the first place it was transferred in March 2003 from Minister Anciaux (AN) to Minister Van Hengel (VH). After he left government, the competence moved to the successor of the minister-president in June 2003.

5.2 Movements of members between different ministerial cabinets

The construction of the IDU matrix included the ministerial cabinet members, adjusted with the information we received in between. This gave us the possibil-

ity to verify how many members of the ministerial cabinets stayed in the Flemish government.

Table 3
Number of members moved between ministerial cabinets

	SO	VM	BO	SA	KE	BY	VD	LA	VG	CE
DE	9	7								1
VM		<i>13</i>			4					1
ST			12					8		
DU				18						
AN	1				2				13	1
VO	1			6		13				
VD							12			
LA								<u>13</u>		
SA								1	9	
Adjusted influx	4	9	1	2	6	8	4	6	2	7
Adjusted flow	3	0	2	13	8	6	0	0	10	7

Table 3 shows the amount of members (in bold) who changed ministerial cabinet. The abbreviation in the first row and column symbolises the ministers, as in Table 2. Bear in mind that ministers in Table 3 are only those in December 1999 and December 2003. The changes in between were corrected by the adjusted influx and adjusted flow combined with the corrections out of the contacts we had with ministerial cabinets. Table 3 folds in the different periods in Table 2. Normally we would have lost information, because our instrument of analysis only visualises two points of a period. Through the adjusted flow, we could correct our calculations and include members of the cabinet moving due to competences which changed more than once. For example, if we considered only the situation in December 1999 and the situation in 2003, we would assume that the competence ‘Housing’ moved from Minister Anciaux (AN) to Minister Keulen (KE), although we know that the competence first passed Minister Gabriëls (GA) and then to Minister Keulen (KE). Table 3 would not visualise this transfer and thus would bias our calculations. Creating adjusted flow and influx allows us to take into account transfers of members of cabinets in between December 1999 and December 2003.

The italic figures symbolise the amount of cabinet members present in the ministerial cabinets of ministers who stayed in office between December 1999 and December 2003. The underlined figure symbolises a minister who stayed in office, but received more competences.

To calculate the percentage of members of cabinet who stayed in office although ministers changed, we counted the total amount of members still in cabi-

nets summarised by the adjusted flow and divided it over the average amount of members of cabinet present in between the two periods. ⁶ We noticed 76.17 % of members of cabinet stayed in office, although ministers changed. Out of the group which stayed during the period, 80.51% moved from one ministerial cabinet to another [total number of members (corrected by adjusted flow) minus not-transferred members and divided by the average amount of cabinet members]. These results seem to support hypothesis 1b: When a minister is leaving government, the cabinet members stay in government.

5.3 Linking movements of members of cabinet to portfolios

In the previous paragraph, we concluded that most members of cabinets, although their masters left, stayed in service. In this section, we will try to verify whether members of cabinets also follow the transfer of competences between ministers. Therefore we compared data in Table 2 and Table 3.

The change of the ‘Minister-President’ shows a transfer of nine members of cabinet from the old minister’s cabinet to the new Minister-President, while the transfer of ‘Finance and Budget’ resulted in the transfer of seven members to the new cabinet. In the third row of Table 3 (ST), transferring ‘Mobility, Public Works and Energy’ is consistent with the movement of twelve members of cabinet from ST towards the new minister (BO). The transfer of ‘Vice-minister President’ competence resulted in a transfer of eight members. The resignation of Minister Dua (DU) led to a transfer of eighteen members of former cabinet transferred to the new minister for Environment and Agriculture (SA). The change in the minister of ‘Welfare, Health and Equal opportunities’ (BY), brought about a transfer of thirteen members. Transferring ‘Culture and Youth’ from Minister Anciaux (AN) to Minister Van Grembergen (VG), also resulted in the transfer of thirteen officials from one cabinet to another. Leaving government for Minister Sauwens (SA) and transferring the competence ‘Civil Service’ and ‘Home Affairs’ shows a movement of nine members to Minister Van Grembergen (VG).

Besides these changes, we also see less explicit changes. The transfer of ‘Brussels Affairs’ meant the transfer of one member of cabinet. Transfer of the competence ‘Media’ resulted in the mobility of four officials. We have to bear in mind that both tables only make a comparison between December 1999 and 2003. The changes in between make it more difficult to identify how many members of the cabinet were replaced or transferred after replacement of their minister or ministerial competence therefore, adjusted flow might be interesting. In the ministerial cabinet of Minister Keulen (KE) and Minister Ceysens (CE), we found an adjusted flow of eight and seven officials. Although our data does not allow us to link these members to specific competences, we may speculate that this link exists. Besides

⁶ The percentages below were worked out on the basis of the average amount of members who were present between December 1999 and December 2003 ($x=256$).

these two ministers, there are also other ministers where the adjusted flow is quite high. This illustrates immediately that data that is officially published is not always complete. The information we received via ministerial cabinets further illustrates this importance.

Combining changes in government and the transfer of members of ministerial cabinets allows us to state that members of cabinets are linked to 'their' expertise rather than to 'their' minister. This conclusion supports hypothesis 2b: When a competence is transferred to another minister, cabinet members are transferred in the same direction.

5.4 Impact of cabinet reshuffles on outflow and influx of members of cabinets

Of course, changes in government do not only mean that officials move between different cabinets. We also noticed outflow and influx in cabinets. Previous research showed that the average outflow in the Flemish government between 1995 and 1999 was 7.5 % (Pelgrims, 2001). Compared to the initial period of our research, 45 % of cabinet members left the government.⁷ Changes show an increase of outflow. Nevertheless, it was not possible to draw a line in the outflow. Cabinets of ministers staying in government showed a higher outflow, compared to ministers who left government and vice versa. We could state here that changes during the legislature show a noticeable increase, but no conclusions could be drawn. Table 4 shows the outflow of ministerial cabinets of the minister who were in government in December 1999.

The same conclusion could be drawn out of the influx. In general, we registered an average adjusted influx of 19.1 %. Previous research showed an average influx of 31.8% in the period 1995 – 1999 (Pelgrims, 2001). We may conclude that new ministers recruit some new members in their cabinets, although we may not state that a new minister recruits fewer or more cabinet members in comparison to another minister. Table 5 shows the influx for the ministerial cabinets of December 2003. It would not be correct to link the outflow and influx, because the data characterises details of different ministers.

⁷ Notice that it would not be correct to count the flow, influx and outflow, due to changes in the amount of ministers. The increase of ministers in government showed an increase in the total amount of cabinet members (Art 7 §1 1° f en art 7. §1 3° c Treaty September 14, 2001). The total amount of cabinet members rose in between. For this reason, counting flow, influx and outflow would create a distortion. It is important if numbers are shown, indicating to which they are compared.

Table 4

Outflow for ministerial cabinets for the ministers present in December 1999

	Category	%
Minister-President of the Government of Flanders Flemish Minister for Finance and Budget, Foreign Policy and European Affairs	3	60
Flemish Minister for Economy, Town and Country Planning and Media	2	21.73
Vice-Minister-President of the Government of Flanders Flemish minister for Mobility, Public Works and Energy	1	25
Flemish Minister for Environment and Agriculture	3	30
Flemish Minister for Culture, Youth, Housing and Brussels Affairs	3	48
Flemish Minister for Welfare, Health and Equal Opportunities	3	50
Flemish Minister for Education and Training	1	52
Flemish Minister for Employment and Tourism	2	48
Flemish Minister for Home Affairs, Civil Service and Sport	3	60

Table 5

Influx for ministerial cabinets on December 1999

	Category	%
Minister-President of the Government of Flanders	3	22.2
Vice-Minister-President of the Government of Flanders Flemish Minister for Employment and Tourism	2	20.7
Flemish Minister for Education and Training	1	25
Flemish Minister for Finance and Budget, Town and Country Planning, Sciences and Technological Innovation	2	31
Flemish Minister for Home Affairs, Culture, Youth and the Civil Service	3	5.9
Flemish Minister for Mobility, Public Works and Energy	3	6.7
Flemish Minister for Environment, Agriculture and Development Cooperation	3	5.1
Flemish Minister for Welfare, Health and Equal Opportunities	3	29.6
Flemish Minister for Economy, Foreign Policy and E-Government	3	41.2
Flemish Minister for Housing, Media and Sport	3	30

6 Stability in change

In the traditional concept of personal advisors, members of the cabinet leave together with their minister, while civil servants take care of the stability. In the previous sections, our results verified hypothesis 1b and 2b. We may conclude ministerial cabinets are more than 'personal'. Officials are more connected to their expertise

than to 'their' minister. This implies that they stay much longer in government compared to ministers. The period of time politicians and civil servants are in office is a crucial variable to understand politico-administrative relations (Aberbach, Putnam, & Rockman, 1981; Peters, 1987; Hood, 2000). Traditionally, politicians are only 'in town' for a short period of time (Peters, 1987). In contrast, in the typically Weberian concept, civil servants have permanent tenure. Through this, permanent civil servants take care of the stability of policy while politicians change.

If members of cabinets are more than just loyal agents and are also connected towards 'their' expertise they may fulfil a stabilising role – a stability which normally might come under pressure due to changes in ministers.

Therefore, we constructed three categories of change. In the first category, ministers did not change at all. In the second category, a minister stayed in office, but received one or more competences. The third category classifies the replacement of a minister by another minister. We assume that these categories rise from no change in government, towards high change in government. If ministerial cabinets fulfil a stabilising role we could expect that the higher the change in government, the higher the amount of transferred members. Therefore, we considered the latest period (December 2003) and calculated the amount of members in ministerial cabinets, coming from another ministerial cabinet.⁸

The minister for Education and Training (VD) is a minister that can be characterised as an example of this first category. In this ministerial cabinet, no member of government was seen coming from another cabinet (the only one in this case).

In the second category we noticed two ministers. First, the minister for 'Employment and Tourism' (LA) stayed in office, but also received the function of 'Vice-Minister-President'. In total we calculated 55.2 % of members in this cabinet transfer from another ministerial cabinet. The minister for 'Finance and budget, Town and Country Planning, Sciences and Technological Innovation' (VM) also stayed in office. He acquired the competence of 'Finance and Budget' from the first Minister-President. In his ministerial cabinet we found that 24.1 % of members were already active in another ministerial cabinet.

The third and last category consists of seven ministers who were replaced. One of the new ministers replaced the previous 'Vice-Minister-President'. Although the competence 'Vice-Minister-President' went to the minister of 'Employment and Tourism', the new executive took over the competences of 'Mobility, Public Works and Energy' (BO). The total amount of members from another cabinet totalled 86.7%. The new minister for 'Home Affairs and Civil Service' (VG), also obtained the competence 'Youth and Culture' when the minister for 'Culture, Youth and Brussels Affairs' left government. In the ministerial cabinet of the minister for 'Home

⁸ The percentages below were worked out on the basis of the average amount of members who were present in each ministerial cabinet between December 1999 and December 2003.

Affairs, Culture, Youth and the Civil Service' we noticed 94.1 % of members coming from another ministerial cabinet and other ministers replaced both ministers of the Green Party. The cabinet of the Minister of 'Environment and Agriculture' (SA) consists of 94.8 % of members of another cabinet. The ministerial cabinet of the Minister of 'Welfare, Health and Equal Opportunities' was made up of 70.4 % of another ministerial cabinet.

As previously mentioned, two out of seven new ministers were already successors of successors. The latest Minister for 'Housing, Media and Sport' (KE) who replaced the minister for 'Sport and Brussels Affairs' (VH) did not receive the competence 'Brussels affairs' but obtained the competencies 'Housing' and 'Media'. In his ministerial cabinet we count 70 % of members from other ministerial cabinets. The latest Minister for 'Economy, Foreign Policy' (CE) replaced the minister for 'Economy, Housing and Foreign Policy' (GA). Due to this change we again view transfers in competences. 'E-Government' was included in the title of the minister; 'Housing' was again transferred towards the other newcomer as mentioned above. Notice this was already the fourth minister responsible for 'Housing'.⁹ Our research shows that in the last case, the total amount of members found in other ministerial cabinets was 58.8 %.

Flanders saw a change in 'Minister-President' (SO) during 2003. The new 'Minister-President' also became responsible for 'Brussels Affairs'. The total amount of members from another ministerial cabinet from the latest Minister-President is 77.8 %.

Although most changes took place between ministers of the same political party, there are also exceptions. 'Housing', 'Brussels Affairs' and 'Sport' were competences under ministers from different political parties. This makes it also possible that we counted five members of cabinets who were transferred between ministers from a different political party. Although this is only a small minority, it would have been unimaginable in the past (Pelgrims, 2001). Table 6 presents an overview of the mentioned numbers above.

The results show the effect of changes in government on the different ministerial cabinets. Although most of the ministers changed, the majority of their members of cabinets were already involved in other ministerial cabinets during the legislature. The results above show a clear difference between the three categories. A minister who stayed in office (cat. 1) and whose competences were not changed, scored a "0" on the number of members involved in other ministerial cabinets. Ministers from category 2 display a higher number of members from other cabinets. The ministers in category 3 are most apparent. The rate of members of other cabinets can be found between 58.8 % and 94.8 %. We could conclude here by postulating:

⁹ The first change was only a minor shift between two ministers due to the differences between Regional competences and Community competences.

the more profound the change in the political leadership of a ministry, the higher the amount of members from other ministerial cabinets.

Table 6
Number of members from another ministerial cabinet in December 2003

	Category	%
Minister-President of the Government of Flanders	3	77.8
Vice-Minister-President of the Government of Flanders Flemish Minister for Employment and Tourism	2	55.2
Flemish Minister for Education and Training	1	0
Flemish Minister for Finance and Budget, Town and Country Planning, Sciences and Technological Innovation	2	24.1
Flemish Minister for Home Affairs, Culture, Youth and the Civil Service	3	94.1
Flemish Minister for Mobility, Public Works and Energy	3	86.7
Flemish Minister for Environment, Agriculture and Development Cooperation	3	94.8
Flemish Minister for Welfare, Health and Equal Opportunities	3	70.4
Flemish Minister for Economy, Foreign Policy and E-Government	3	58.8
Flemish Minister for Housing, Media and Sport	3	70

7 Conclusion

Ministers in many countries are surrounded by personal advisors and in Belgium and Flanders personal advisors are institutionalised in ministerial cabinets. Therefore, they may be a good indicator for other countries to gain insight about the role of personal advisors in politico-administrative relations. Traditionally, members of ministerial cabinets are often considered to be trustees of ministers and as an extension of politicians. They are supposed to be loyal agents. Therefore if 'their' minister left the government, then members of the cabinet also left. On the basis of this article, we can no longer not question this assumption. Although many ministers left government, we calculated that 76.15 % of the members of their cabinets remained. Out of the group which stayed, 80.51 % moved from one ministerial cabinet to another. On the basis of these results, we could verify hypothesis 1b: *When a minister is leaving government, the cabinet members stay in government.* Linking transfers of competence to transfers of members of the cabinet, we concluded that they are linked to their 'expertise' rather than 'their' minister. This supports hypothesis 2b: *When a competence is transferred to another minister, cabinet members are transferred in the same direction.*

The Flemish government, appointed in 1999 by parliament¹⁰, was composed of nine ministers from four different political parties. This government was often re-

10 In Flanders government is appointed by the parliament.

shuffled. Six months before the elections (end December 2003), the government included ten ministers. Only three ministers were also present in 1999 and December 2003. Between 1999 and 2003 two ministers were introduced and replaced in the same legislature. Due to changes in ministers, competences were also transferred from one minister to another during this period of the legislature.

The strong impact of political parties on society and administration might be an explanation for our result (Walgrave, Caals, Suetens, & De Swert, 2004). We noticed that members of cabinet transferred to cabinets which were headed by a member of another party. Although only a minority, this illustrates that a political party as a variable might not be sufficient in explaining the facts. Uncertainty and signalling theory (Hondeghe, 1990) may be used as an addition to explain these social facts. Uncertainty consists of four dimensions: time, information, frequency and function (Kanter, 1977). Selecting people in top positions for non-routine functions, enforced by bounded rationality (Simon, 1976) raises uncertainty. New ministers selecting their personal advisors are confronted with high uncertainty. Lack of information and time for more rational selection leads ministers to focus on more obvious signals such as degrees, status, experience in other ministerial cabinets etc. Political affiliation may be another signal on which ministers may entrust recruitment of personal advisors. Recruiting members from another ministerial cabinet is a possibility for new-ministers to reduce uncertainty.

Further we constructed different categories, to classify changes in government. We assumed that the higher the intensity of change, the more impact change would have on membership of the cabinet. Our results showed that the more profound the change, the more the members come from other cabinets during the same legislature. This gave us the possibility to conclude that members of cabinets stabilise changes in government. This is a new function which is still unknown in literature.

The results of this article also have consequences for the politico-administrative relations. Most theories agree on the fact that civil servants and bureaucracy are the factors of continuity in relation to the political level. Ministers come and go, but civil servants stay in office. This is mostly one of the starting points for the complexity of politico-administrative relations as traditionally, civil servants ensure stability and continuity. This article reveals one more important source of stability in Belgium: ministerial cabinets and their members who ensure more continuity at the political level.

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In Search of a Task Division in Policy-making between Civil Servants and Personal Advisers in Ministerial Cabinets: A Multiple Case Exploration in Flanders (Belgium)

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1. Introduction

Scholars in public administration have studied the policy-making role of civil servants intensively (Aberbach, Putnam, Rockman & Anton, 1981; Dierickx & Majersdorf, 1994, Hoppe & Jeliaskova, 1996; Hoppe, Van der Meer & Besseling, 1988; Hood & Lodge, 2002; Meltsner, 1976; Noordegraaf, 2000; Page, 2001; Page, 2002; Page, 2003; Page, 2005). Reviewing the literature, two empirical approaches can be discerned. First and predominantly, the politico-administrative relation literature (Aberbach, Putnam, Rockman, 1981; Dierickx & Majersdorf, 1994) has produced a clear view of differences between politicians and officials. However, these studies were focused on the beliefs and values of civil servants, rather than on their concrete and daily work. Moreover, they did not use a subtle and detailed model of policy-making processes. By contrast, a second ‘policy sciences’ approach is characterised by detailed reconstructions of policy processes, focusing on the role of civil servants in complex multi-actor processes (Hoppe, Van der Meer & Besseling, 1988, Hood & Lodge, 2002; Page, 2001; Page, 2002, Page, 2003, Page, 2005)

Our contribution combines features of both research traditions. It focuses on the work of civil servants in policy-making processes, but puts it in the perspective of politico-administrative relations by comparing civil servants’ work with that of special advisers in Ministers’ cabinets. By connecting the traditional dichotomy between civil servants and politicians/political advisers with a detailed view on tasks in policy work, we try to refine the academic insights about the policy role of civil servants. Given the debate on and the (planned) reforms in the division of tasks between civil servants and special advisers in countries such as the UKⁱ and Belgiumⁱⁱ, we believe our approach may also be of use for governments working with special advisers. We share the opinion of Clark (2003) that the debate about special advisers is surrounded by myths and falsehoods. Due to a lack of evidence, little is known about what they really do. Yet, empirical evidence about the policy work of both groups is indispensable if one intends to shift tasks and responsibilities between civil servants and special advisers.

Given these gaps in both academic studies and practice, we decided to undertake a multiple-case-study in order to analyse to what extent and in what (different)

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way civil servants and special advisers work (together) in policy-making processes. Our case-research was exploratory. We reconstructed the policy-making process of three specific measures of the Flemish Government. In the following, the cases will be described and the policy work of both actors will be analysed. For a proper understanding, it is, however, necessary to sketch first the conceptual framework of policy work we used for our study, as well as to introduce the Flemish policy-making system in which the policy-making processes took place.

2. Conceptual framework: Policy-making work

To obtain a clear picture of the work that has to be fulfilled in a policy-making process, it is necessary to have a good understanding of policy-making. Like many other authors, we see policy-making as a complex and iterative elaboration of a policy measure. That elaboration process counts several sub-processes, beginning with the analysis of the problem on the policy agenda and ending with the start of the delivery process. All the activities that are undertaken during this chain of processes are objects of our study. But since there are so many processes, and since each process contains multiple activities, it is not easy to list all activities of policy-makers. With the help of some theoretical insights, we elaborated a conceptual framework for analysing policy-making work.

First, as all sub-processes of the policy-making process can be seen as activities, it is useful to label the 'chain of life' of a policy measure using the concepts of Hoppe & Van de Graaf (1992) and Page (2002). It all begins with a certain problem on the policy agenda that one decides to solve. Starting as an idea or as a set of choices, the main lines of the content of the measure have to be specified in detailed rules and definitions. Afterwards or simultaneously, all preparations for the delivery have to be taken. Translated in the concepts of Page (2002) the measure is 'initiated' ("*advocating a particular approach to dealing with a problem*"), 'fleshed out' ("*The process of developing ways of translating broad policy aspirations into practice*") and 'enacted'² ("*put in place – making sure that the legal, financial, personnel or advisory mechanisms are in place to deliver a policy*").

Second, in the prescriptive rational-comprehensive model of public policy-making, one discerns two clusters of activities: problem analysis and problem solving. Problem analysis' activities intend to clarify the type, the extent and the causes of an undesired societal situation. Examples of those activities are measuring the problem, collecting information, interpreting existing studies and studying the demands of interest groups. Problem solving activities are meant to elaborate and to compare different policy alternatives. Examples of those activities are the explora-

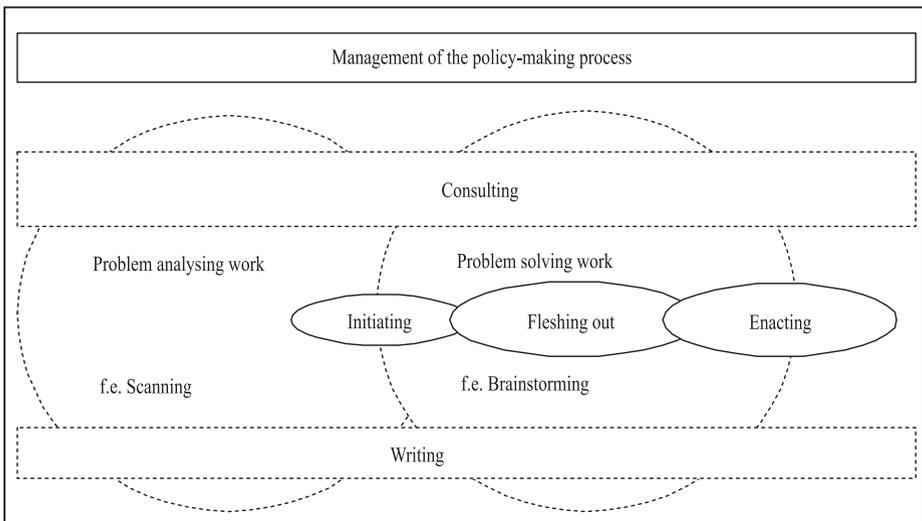
2 According to Hoppe & Van de Graaf this last activity or process could also be called 'programming' (the disentangling of the policy measure in operational tasks), 'the design of the policy delivery', the 'executive translation' (Hoppe & Van de Graaf, 1992, p. 339) or the 'implementation' of the policy, although implementation is also used in a more broad way, depicting the execution of the policy itself.

tion, studying, choosing and elaboration of a measure that is being written down. The analysis of similar measures in other countries and the opportunities for policy transfer is also a commonly used problem solving activity.

Third, other scholars – such as William Dunn – have a more dimensional understanding of policy work, whereby the policy-maker has to operate in three fields: ‘facts’, ‘values’ & ‘actions’ (Dunn, 1994). This three-dimensional field of activities is also recognised by Hoppe & Van de Graaf (1992). They see a policy-making process evolving around three ‘lines’: it is a process of *intellectual maturation*, a *democratic-political process* (eventually with conflicting values) and a *management process* (Hoppe & Van de Graaf, 1992). Interesting in Dunn’s work is that he discerns some continuous tasks in policy-making, such as the production of policy texts or the communication over policy. Interesting to Hoppe’s work is that he attaches great importance to the management of the process, what also could be labelled as a continuous or *transversal* task.

Based on the insights of the mentioned authors, we have elaborated a conceptual framework for policy work (see Figure 1). The framework is constructed along the difference between problem analysing and problem solving-work. The ‘solution-phase’ is specified and refined via the difference between ‘initiating’, ‘fleshing out’ and ‘enacting’. In reality, the sub-phases often overlap. The framework makes it clear that there exist some transversal tasks that are being executed during the whole process: ‘Writing’, ‘consulting’ and ‘managing the policy-making process’.

Figure 1
Analysis of policy-making tasks



The transfer activities consist first of writing policy texts. During a policy process, a lot of policy documents are being written: headline notes, bills, procedures, press notifications. Policy documents form the basis of discussions, deliberations and decisions. In this way, writing is a continuous task for policy-makers.

A second transfer task is consulting, the presentation of ideas, notes and draft of bills to other, non-departmental actors. Consultation can take place in many possible forms and degrees (information, communication, deliberation, negotiation) and with many different actors, both internal – other departments, other politicians (Members of Parliament, other Ministers) – and external – (societal) stakeholders –.

A last task is presented in the figure above the process, because it consists of planning, steering and direction of the policy-making process *as such*, what Hoppe calls ‘policy-making management’. It contains the following substantive and procedural activities (Hoppe & Van de Graaf, 1992, p. 300):

- Deciding about the organisation of the process and about the feedback to politicians;
- Recruitment and selection of the ‘policy-making team’;
- Monitoring the progress, deciding about pace and deadlines;
- Judging the interim drafts and products.

Armed with this conceptual framework, we analysed three policy-making processes of the Flemish Government. Before presenting this analysis, we give a short introduction to the Flemish policy-making system in which the processes took place. To facilitate the understanding of the cases, we describe successively the position of the Flemish Community in the Belgian State and the actors of the executive branch.

3. Executive policy-making in Flanders, an overview of institutions and actors

Flanders, part of the complex federal state of Belgium

Belgium is a federal country, composed of different, but to some extent, overlapping member states: three Regions and three Communities. Demographically, Flanders is the largest (approximately 6 million inhabitants) of these member states and it is a special one, since it has merged the powers of the Community and those of the Region into one Flemish Community, counting just one (legislature) Parliament and one single Executive. The latter body implements the Decrees issued by Parliament and is responsible for the day-to-day running of the Community competences. Consistent with other policy-making systems, the Executive is the main initiator of policies.

The executive branch of the Flemish Community

Flanders has a multiparty system with no dominant party, and the Government is typically a coalition of parties. At present, the Government has 10 Ministers, delegated by three political parties/alliances. Such offices as Junior Ministers or State Secretaries are absent in the Flemish Government.

To elaborate and execute its policies, the Government can call on different types of actors/services. First, we have the Flemish civil service, which is an organisation of approximately 40.000 people. The civil service is fragmented in one central Ministry with seven departments and several public institutions or external agencies, the latter comprising 2/3rds of the total number of Flemish public employees.

The Flemish civil service system is organised along levels, ranks and grades. Level A posts require a university degree. The A level consists of 5 ranks: A1, A2, A2A, A3 (Director General) & A4 (Secretary-General). A Secretary-General is responsible for a department, composed of different administrations. A Director-General is responsible for an administration (level policy domain), composed of different sections or divisions (level policy field). Most policy work is done at section level, by the section-head (A2A) and his collaborators (A1's). The highest senior civil servants play more a role of coordination or are working on policy issues that exceed the sectoral level.

Typical for the Belgian executive landscape is the existence – besides the civil service – of what are called '*ministerial cabinets*' (MC), a staff of personal (special) advisers whom the Minister personally appoints when (s)he takes office and who do not belong to the administrative hierarchy (Suetens & Walgrave 2001). According to Brans, Pelgrims and Hoet (forthcoming 2006), the existence of MC diminishes the policy role of the administration. This is not surprising, given their scale. At the time of writing (July 2005), there are – for ten Ministers – approximately 490 people working in the MC. Although MC are very large in size, one has to mention that these 490 people are not all advisors, as the cabinets employ an army of secretaries, translators, telephonists, kitchen staff and drivers (Suetens and Walgrave, 1999). According to our own calculations, about two-thirds of them are real policy personnel (+/- 30 advisors per Minister). The MC hierarchy comprises the following functions: chief of cabinet, deputy chief of the cabinet, advisor, expert and spokesperson.

We now turn to an overview of the core, context and course of the policy processes. For each case, we will successively describe the goal and content of the measure, reconstruct the process and describe the work done by civil servants and special advisers. Special attention will be paid to the way in which both actors work together.

4. Introduction to the cases

We selected three policy measures, labelled as ‘Training vouchers’, ‘Personal assistance budget’ (PAB) and ‘spatial executive plan for the urban region of Aalst’. These three cases were chosen for several reasons:

- The policy-making processes were – at the start of our study – just or nearly finished, so the retrieval of the evidence was relatively easy and the respondents still had a vivid recollection of the policy process.
- As we wanted to take stock of a variety in policy measures, we opted to select the most different cases that differed in several ways:
 - **Different policy sectors:** We tried to select different policy sectors. The cases were drawn from economic policy (Case ‘Training vouchers’), spatial planning (the spatial executive plan Aalst) and welfare policy (Case ‘PAB’). These policy fields are populated by different external stakeholders, ranging from traditional socio-economic interests to not-for-profit associations, and individual citizens or action groups.
 - The measures **differ in their judicial nature**, as one case required a vote in Parliament before the measure was elaborated by Governmental decisions, while in the other cases the policy formation process consisted only of the elaboration of a Governmental decision. Our multiple case designs thus contained both primary and secondary legislation, which implied different involvement-patterns of societal actors.
- **Differing types of policy issues:** As patterns of politics are significantly determined by the content of policies (Lowi 1972, Wilson 1980, Velthut 2003), we tried to include some variation in the type of policy issue. The *training voucher measure* is (mainlyⁱⁱⁱ) a **distributive** measure, in which the benefits go to most of the employers and in which the financial costs are dispersed across society. Even the natural adversaries of the employers, the employees and their associations (trade unions), benefited from this measure, since their opportunities for professional training to enhance their potential have increased. We will see that there was strong opposition against the selectivity of benefits for limited types of companies. Our second case – *the personal assistance budget system* – appears distributive, but is in fact, **redistributive**, since the powerful traditional welfare institutions lost or could have lost by this measure. Our third case – the *spatial executive plan* – distributes benefits and costs among a variety of losers and winners. At the same time, spatial planning measures are of a special kind, since the costs and benefits are often unclear or are situated in the long term. As the case dealt with planning in an urban area containing different problematic sites, one could expect to have no clear winners or users for the whole case, but a diffuse variety of winners and losers, regarding particular sites in that area.

The processes were analysed in several phases. First, an explorative interview was held with the official in charge in order to get a rough picture of the process and to arrange the study of administrative archives. Based on these archives and on supplementary documents (press-, information, parliamentary documents etc.), the processes were reconstructed, the network was depicted and the interactions in the network were analysed, along with the task division between bureaucrats and ministerial cabinets. Following this analysis, we interviewed the relevant actors. The interviews clarified and corroborated some features of the policy process. We also asked detailed questions about the work they did, in order to get an in-depth view of the division of labour.

We now turn to an overview of the core, context and course of the three policy processes. For each case, we will successively describe the goal and content of the measure and reconstruct the process, before analysing the division of labour.

Case 1: Training vouchers

Case-description

The ‘Training vouchers’ measure was launched in 2002 after an elaboration period of approximately 1 year. With the training vouchers, the Government wanted to stimulate and support companies in their efforts to invest in human capital. The system consists of financial support by the Government for the training expenses of enterprises. Each company can buy a certain amount of vouchers (max. 200 a year, a ratio of 30 euros) that can be used for training expenses paid to accredited training institutes. The Flemish Government pays 50% of the voucher amount.

Reconstruction of the policy-making process

The Government in 1999 wanted to modernise its industrial support policy, and created an ad-hoc working group to explore innovative measures. This working group consisted of representatives from ministerial cabinets, administrations and relevant socio-economic actors. It was during the work of this mixed ‘vision-group’ that one – suggested by the external group UNIZO (the interest group of the SME’s) – came across a system of training vouchers, as was used in another Belgian region. Such a system appealed to the Minister and his staff because it seemed more effective and more efficient than the existing support measure for training (called *Vlamivorm*). *Vlamivorm* was not only inefficient by its administrative complexity (fiscal advantages for investments in training, resulting in a heavy case-load for the administration). In addition, its effectiveness was rather poor, since most of the resources went to bigger companies, while several studies had pointed out the stronger need of smaller Flemish enterprises, since these traditionally invested little in training.

The Minister (from the Liberal party) thus welcomed this suggestion by UNIZO and launched the training voucher idea at the end of 2000 in his ‘White Paper’ – his action plan for the coming legislature. He succeeded in convincing the social

partners to postpone the allocation of means of other measures and to shift their funds to the new support measure for training. The policy idea was further elaborated and operationalised by the administration^{iv}, in close co-operation with two members of the Ministerial cabinet and in an open and frequent collaboration with the relevant socio-economic actors of VESOC³, the forum for the tripartite dialogue between Government, trade unions and employers. At the end of this elaboration process (mid-July 2001), the SERV, the Social and Economic Advisory Council, pro-actively^v advised negatively on some modalities of the regulation. The Council amended the draft proposal of the Governmental decision and pressed the Minister to delete the selective nature of the measure (only for SME's) in order to include also larger enterprises. The Minister agreed to follow this advice, leading to an adaptation of the Governmental Decision. This adjusted version was formally approved by the Government at the end of July. After this decision, the implementation of the measure was further prepared, leading to a final adoption of the Governmental Decision in December 2001 and to the approval of the Ministerial Decision, dealing with all the operational details. The measure was made public at the beginning of February 2002.

Analysis of the policy work

In our view, the policy-making process can be divided in three stages. The first phase – the exploration of possible measures – begins with the installation of the mixed working group and lasts until the initiating of the measure in the White Paper of the Minister. The second phase – the fleshing out-phase – concerns the elaboration of the chosen policy solution before the Governmental decision of July 2001. The third phase – the enacting-phase – starts after the Governmental decision and lasts until the launch of the measure in February 2002.

In the **first phase**, civil servants and advisers of the ministerial cabinet worked together in search of better policy measures. Both actors were present in the mixed working group, the officials doing most of the supporting work for that working group. They studied, for example, the division of competences between the Ministers regarding training; they studied the demands and remarks of the interest groups about the training policy and they evaluated costs and benefits of the existing policy measures concerning training.

Once the Minister, his cabinet, and the administration were convinced about the added value of the training voucher instrument and once the social partners were persuaded to shift the means from other measures, the civil servants and the ministerial cabinet fleshed out (**second phase**) the voucher idea. The officials started with a thorough analysis of the strengths and weaknesses of the Walloon measure, resulting in several proposals to ameliorate the system. For instance, quite early in the process, one made the choice to implement the measure as an administrative simple 'e-gov'

3 The Flemish Economic and Social Deliberative Committee.

application. From a budget-maximising orientation, one could say that this measure conflicted with the interests of the civil servants, being demand-oriented and administratively simple. The officials did not take such a position, as they were convinced that a reorientation of the economic support policy was necessary.

Most of the problems during the elaboration process thus derived from European jurisdiction about the permitted aid levels. One had to decide under what regulation the governmental initiative would be notified to the European Commission. This decision was an important one. The choice would not only determine the size of the support (the value of the vouchers and the amount of the subsidy), but also the benefiting group, as some EU-regulations excluded sectors from governmental aid.^{vi} The officials spent a lot of energy in studying the European rules. They also made numerous simulations in order to determine the ideal and permitted amount of the subsidy and to fix the number of vouchers every company could command. These calculations were not without importance, as one had to keep within the permitted state-aid percentages. The civil servants did this part of the job, while the advisers of the ministerial cabinet were estimating the budgetary costs of the measure. In fact, both actors worked very intensively together and the relation between them was very cooperative^{vii}, supported by a lot of communication and deliberation.

Despite this close cooperation, a neat task separation existed between both actors: First of all it is important to mention that co-operation took place in a vertical relation, which means that the civil servants had to follow the instructions of the special advisers, speaking in the name of the Minister. In fact, all discussion notes and drafts of proposals were approved (and often amended) by the special advisers before they were sent to the Minister or to the social partners. Although they are not part of the administrative hierarchy, it is thus accepted that members of ministerial cabinets can give orders to officials and that they can steer their work.^{viii}

Second and third, the administration neither engaged in the consultation of other ministerial cabinets, nor in the consultation of the social partners. The former took place in so-called inter-cabinet working groups (*IKW's*), consisting only of special advisers. The latter took place in *VESOC*^{ix} – the forum for the tripartite dialogue between Government, trade unions and employers. It was the special advisers who assisted the Minister during the *VESOC*-meeting. The formal deliberations were paralleled by informal meetings between the ministerial cabinet and each of the interest groups. Sometimes the civil servants were invited to these meetings, but this was not always the case. On several occasions the officials asked by e-mail for some feedback about the discussions in those formal organs and informal meetings. Regarding this societal consultation role, it is interesting to mention that the Ministerial cabinet of the Minister for Economy is located in the same building of the *SERV*, which physically facilitates direct contacts between both parties. The administration is located in another building, three kilometres further down.

In the **third phase**, the e-gov application was developed by an external IT-consultant, but the civil servants recruited, assisted, steered and controlled these consultants. Simultaneously, the judicial policy documents (Governmental decision + Ministerial decision) were written and the media campaign was prepared. The latter was the task of a civil servant, supervised by the ministerial spokesperson, who worked as special adviser in the ministerial cabinet. The ministerial cabinet was thus less present at this stage of the process. It only had to watch the enacting-process, preventing that the launch of the measure would become endangered.

Case-conclusions concerning the division of tasks

The special advisers steered the substantive process, advised and informed the Minister and consulted the other cabinets, as well as the social partners. The civil servants did a lot of useful policy-making work in support of, and complementary with, the ministerial cabinet. The administration particularly focused on technical feasibility, European admissibility and the operational details of the executive process. During the fleshing out phase, they worked intensively with the special advisers, whereas during the enacting phase, they enjoyed more autonomy, illustrating that the enacting work is mainly their task. While the ministerial cabinet managed the fleshing out phase, the enacting phase principally was being managed by the section head.

Case 2: The Personal Assistance Budget system (PAB-system)

Case-description

The personal assistance budget system was intended to augment the independence and the freedom of choice of disabled persons. The system grants persons with a disability a budget from the Government which they can use to pay someone for necessary assistance during daily activities. The disabled person thus becomes a kind of employer. The great advantage is that the disabled can choose by whom, when, where and how they are assisted. This freedom of choice did not exist before, since the Flemish welfare sector for disabled people nearly always consisted of professional welfare organisations, which obviously did not supply the same freedom of choice or could not deliver the tailor-made services of the PAB-system. Under the new system, disabled people can receive annual budgets varying from 7.500 EUR to 35.000 EUR.

Case-reconstruction

Although the PAB-measure was implemented in 2001, it had a history going back to the mid nineties. From 1993 onwards, *Independent Living Flanders* – an association of physically disabled persons demanding legal recognition of the personal assistance budget – put a lot of pressure on members of the Flemish Parliament and on the Minister to get the PAB-system on the policy agenda. After three years

of pressure, they finally convinced a Member of Parliament to write a legislative proposal. This case was thus clearly externally initiated. After discussions in the Flemish Parliament on this draft of Decree, an experiment with assistance budgets was launched for 15 persons in 1997. In 1998, the Parliament discussed the results of that experiment intensively. The Parliamentary Committee for welfare organised several hearing-sessions with participants in the experiment and with stakeholders from the field (associations and welfare organisations). One decided not only to continue the experiment, but also to broaden its scope, and to include people with mental and sensory disabilities. This extension had been claimed by the associations of these interests. After the elections of 1999 and with a new coalition Government, a new draft Decree was submitted by MP's of the majority, in close collaboration with the Minister of Welfare. The Decree introducing the PAB system was voted in July 2000. The Governmental Decision dealing with the operational matters followed in December of that year. It had been elaborated by civil servants of the Flemish Fund for the Social Integration of Disabled People, a public agency, in close collaboration with the ministerial cabinet. Their work was discussed in an ad hoc working group (Steering Group PAB), composed of all relevant societal actors. In reality, the writing processes of the Decree and the Governmental decision took place quite separately, resulting in divergent choices. By narrowing the target group and the subsidised assistance-activities, the civil servants of the Flemish Fund wanted to install a realistic and financially feasible system. Unwilling to disappoint the interest groups of the disabled people whose pressure at that time was unremitting, the majority of politicians, however, wanted to install a progressive and open system. The associations of disabled people in the Governance Board of the Flemish Fund and in the steering group PAB succeeded in defending the broad operationalisation, leading to a system that was even accessible to disabled children who paid their parents as assistants. After the announcement of the Government decision, the civil servants worked on the implementation of these general lines, being confronted with multiple problems (difficulties with definitions, with the design of instruments to measure the need of assistance, with designing decision-rules to judge budget requests and determine the amount of budget).

Analysis of the policy work

Looking back on the work done by civil servants and special advisers during the process, we have to say that on the one hand they worked together, but on the other hand they worked separately, as the ministerial cabinet played an ambiguous double role in the fleshing out- process.

It was clear that the civil servants of the Flemish Fund had their own views about the content of the PAB-measure. They did not react favourably to the broadening of the measure (regarding target group and subsidised assistance activities) that was demanded by the interest groups of the disabled persons.^x In the beginning, the special advisers shared this opinion. However, the Minister and the Members

of Parliament were not willing (or able?) to resist pressure from the associations of disabled persons and opted for installing a broad and open subsidy-system. The special advisers had to follow and defend this decision, resulting in a break-down of the constructive cooperation between officials and special advisers. While they had been working together in a small policy-making team to start fleshing out and enacting the measure, after the breakdown in the ministerial cabinet, they worked quite independently and without giving feedback to the administration. The civil servants continued to draft the Governmental and Ministerial decisions, but it was the ministerial cabinet that discussed these drafts with coalition partners (either in discussions with Members of Parliament belonging to the majority, or in discussions with the cabinets of Ministers of other parties) and with societal actors (in selective bilateral meetings with associations of disabled persons). These bilateral meetings paralleled discussions in the Governance board of the Flemish Fund and in the ad hoc working group (Steering group PAB) installed to follow up the elaboration of the drafts of secondary legislation. The administration was not involved in these 'secret' consultations. When these discussions resulted in textual changes, the ministerial cabinet often made these themselves. As the administration was given little feedback about these discussions, frustrations rose and the co-operation diminished.

Once the fleshing-out process was completed (with the Governmental and Ministerial decisions), the administration of the Flemish Fund was asked to enact the measure. As the differences of opinions were conciliated, the administration fulfilled this task in a loyal manner. It had to develop an instrument to assess the need for assistance; it had to develop decision rules to determine the amount of the budget and it had to instruct and train the delivery organisations. The civil servants could draw up these aspects with a lot of discretion. Their work was hardly controlled or steered by the special advisers. They were not interested in the operational details; they simply wanted to launch the system as soon as possible.

Case-conclusions concerning the division of tasks

It is clear that the civil servants were involved in elaborating the PAB-measure. They participated in the substantive process and not only in the fleshing out. They had a proper view on the main lines of the measure and tried to impose their views in writing the Governmental decision. In the end it all turned out differently, illustrating the predominance of the ministerial cabinet over the administration. The special advisers thus controlled the substantive process, advised and informed the Minister and consulted the other cabinets, the Members of Parliament, as well as the societal organisations. It used the decision-making authority of the Minister to instruct civil servants and to amend policy drafts. During the fleshing out-phase, civil servants and special advisers worked together on the same issues, while the enacting-work was mainly and autonomously done by the civil servants, proving once again that this is their main duty in policy-making.

Case 3: The spatial executive plan of the urban region Aalst

Context of the measure

In 1996, the Flemish Region created a new planning code. The most important objective of this planning decree was to provide the legal basis for *structure plans* on the regional as well as on the provincial and local levels, resulting in an integrated system of spatial planning, in which spatial vision and actions smoothly flow over. The regional plan '*Ruimtelijk Structuurplan Vlaanderen*' (Spatial structure plan for Flanders) was adopted in 1998 and became operational in 2000. This regional structure plan delineates the general lines for the spatial organisation of Flanders. The leading principle is the choice that Flanders, as a region, has to be open and urban at the same time. This principle has been translated in different numeric targets – and thus different policies – for the societal functions 'living' and 'industry' both in rural and urban areas (Ministerie van de Vlaamse gemeenschap, 2002).

The wish to pursue specific policies for rural and urban areas implies that the areas surrounding the cities have to be demarcated precisely, via what are called '*demarcation processes*'. It was also foreseen that the demarcation processes – through the elaboration of spatial executive plans – dealt with the land use⁴ in that area and even with the land layout and – eventually – with the land management. All this required a process in which 1) a thorough analysis was made of the characteristics and opportunities of the area, and 2) in which – based on this prior analysis – a kind of spatial vision was elaborated for the area, a vision that had to be operationalised through specific actions. For all the areas, the authority to demarcate was assigned to a specific administrative section of the Flemish administration (division of spatial planning), which had to set up, steer and guide planning processes for each area. It is interesting to mention that the regional structure plan for Flanders ordered the Flemish policy makers to work together with the local authorities of the areas and with other relevant administrations.

Aalst was one city in which the urban area had to be demarcated from the rural or other urban areas and it was the first area to be demarcated⁵. For the civil servants, this kind of work was completely new, since they were used to handling 'files' at their desk since they did not have that much personal contact with societal actors, local governments or citizens. Before the start, the administration made some remarkable choices about the design of the process. First, they hired two external bureaus to assist them with the process: one professional planning office to do most of the analysis and writing, and a professional communication office to design and guide the communication and interaction process between the participating

4 Designating what parts of the area will be designed for what societal activity: living, working, producing.

5 This process had to result in 5700 additional housing facilities and in the creation of 70 hectare industry parks.

actors, and between those actors and the citizens of that area. Secondly, they tried to construct a broad *ad-hoc* network, bringing together all relevant stakeholders. More specifically, the process was enacted by a project team, consisting of the central actors (politicians & officials from local authorities + officials of the division spatial planning), assisted by the private offices. A working group of civil servants, with representatives of other local and regional administrations (environmental sector, public works etc.) also existed. The whole structure was supervised by a steering group that consisted of politicians and societal actors. In this steering group they even invited civil society actors such as the farmers' organisation, trade unions, environmental organisations, associations of local employers etc. Although not every actor showed up or participated fully, the invitation reflected the good intentions of the Flemish Community.

Case reconstruction

From January 1998 until May 2000, this *ad-hoc* or project network engaged in an intensive '*open planning process*', comprising 28 formal meetings between the central actors. Once one had made an analysis of the needs and possibilities of the region and had formulated a vision for the area, an open forum for citizens was held. Following the choice of transforming an open fertile⁶ plain called *Siesegemkouter* into an industrial park, the open forum resulted in significant protest and in critical questions from neighbouring citizens, farmers and green associations, all of which put heavy pressure on the local authority.

During the process, elections took place at the regional and the local level. The regional elections of 1999 led to a coalition-shift at the Flemish level, in which the Liberals, Greens and Flemish Nationalists replaced the Christian Democrats in the Government as partners of the Socialists (SP-a). The portfolio of Spatial Planning went to a liberal Minister. As his party (VLD) came to power for the first time, the new Minister – with no governing experience – had to learn his competences. Regarding the demarcation-processes, he was confronted with a new type of policy-making, the value of which he had to be convinced. With regard to the demarcation of Aalst, he entered the scene when the open planning process was in its final phase. Hence, the process suffered at least somewhat from this discontinuity in authority.

The *planning process* suffered even more from the local elections. As the project group – after two years of studies and debates – agreed on a proposal of demarcation that afterwards was sent to all actors (local authorities, other administrations etc.) for advice and consent, the local Councils had to take a decisive position on a demarcation-proposal in April 2000. However, afraid of losing votes, most politicians did not want to make explicit choices just before the elections, resulting in

6 Partly used for agriculture.

delayed advice of the central municipalities, Aalst and Denderleeuw.⁷ Moreover, one of the central actors (the Province of East-Flanders) surprisingly rejected the proposal⁸, taking a position against the intended change of use of the plain *Siesegemkouter*. This resulted in a breakdown of the process.

The *open planning method* was not picked up again after this negative advice, except from one plenary session with all stakeholders in the autumn, of 2001. In this session, the stakeholders could make comments on a pre-proposal of Spatial Executive Plan that – although it was almost the translation of the demarcation-process – was **unilaterally** developed by the administration. After this session, the Flemish administration continued to work on a proposal for a spatial executive plan. Confronted with the first spatial executive plan ever, one had to solve several time-consuming jurisdictional and definitional ‘problems’. In February 2002, the ministerial cabinet ‘asked’ the administration to alter some elements of the compromise, since it believed that some sites could be developed in another and better or more intensive way. Regarding the specific plane *Siesegemkouter*, it wanted to enlarge the space for the business park and wanted to start as soon as possible with the development of the whole plain, while the process-compromise had proposed a phased and smaller transformation. All this reflected the demands of the city of Aalst, which obviously had contacted the Minister – being from the same party – informally. The administration had to quickly adapt the documents to this new turn as the Minister wanted to arrive at results with this process. The administration answered this request, but not without stating formally that “*the chosen options would do harm to the reached compromise*” and that “*it was not fair to the ‘planning partners’ to make drastic changes, without informing them or giving them the opportunity to react*”. They argued that without the detailed level of some modalities about the land use and land management of *Siesegemkouter*, the definitive demarcation-proposal would never have been accepted by the process partners⁹.

Once the adaptations were made, the decision-making process at Flemish level started, a phase in which an ‘*interkabinettenwerkgroep* (IKW)’ (a working group of members of ministerial cabinets, with representatives from all coalition-parties) discussed and negotiated the demarcation-line and the executive plan. During this decision-process, other rules, rationalities and interactions dominated the process. None of the members of those IKW’s had been present in the demarcation process. Even the civil servants of the administration for spatial planning (who had been leading the open planning process) did not fully participate in these IKW-meetings. Following the meetings of the IKW, the administration had to adapt the proposal

7 Fortunately for the continuation of the process, the local coalition in Aalst (SPA-VLD) did not change after the elections of May 2000.

8 It was said that this was due to bad representation by an official, who did not give feedback to his deputies and his council.

9 The modalities made up the compromise, as they concerned the preservation of the environmental value of the plain and the life quality for the neighbouring citizens.

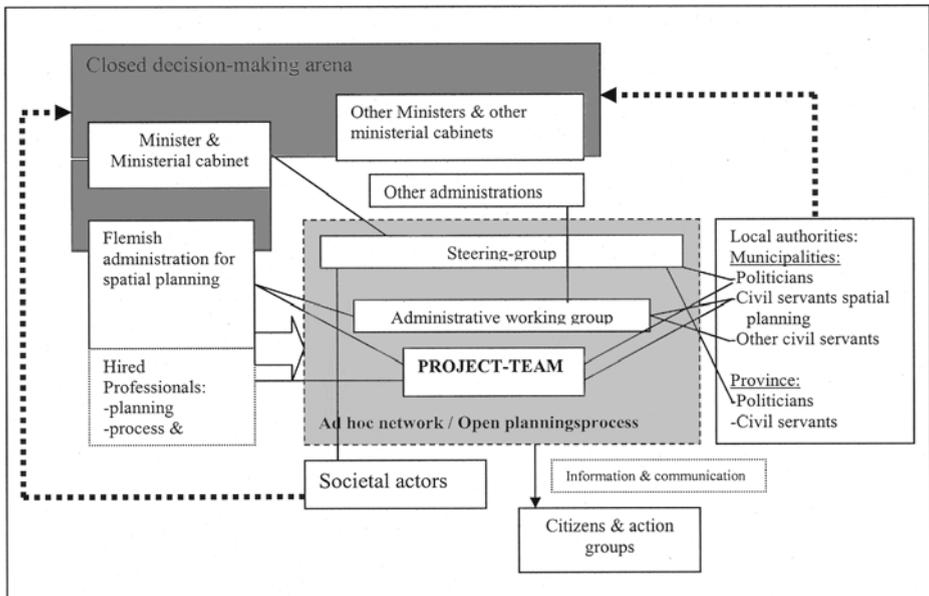
continuously to the successive decisions of the IKW. In June 2002, the spatial executive plan was approved by the Flemish Government, followed by preparations for a public inquiry. In March 2003, the spatial executive plan was formally approved.

Analysis of the policy work

It may be clear that the policy-making process of the spatial executive plan of Aalst differs a lot from the other two cases, as it was more complex (involving several administrations and numerous societal groups, representing conflicting interests), lasted several years, and did not result in a simple subsidy-system. It was, in fact, a complex Governance-process, set up to elaborate a shared vision and to select concrete actions for achieving this vision.

Furthermore, civil servants played a different role in this process, compared to their work in the other two cases. In this process they were the central actor, at least in the main part of the process, which indeed was broken up into three phases. In the following figure we try to illustrate how the policy work of the officials differed in each constituent phase, and how they interacted with other stakeholders and the MC.

Figure 2
Phases in the policy-making process ‘Spatial executive Plan Aalst’



The first phase – the planning-process – was characterised by an open style of participation, formally institutionalised by a complicated structure in which the civil servants of the Flemish administration were the central actors. They planned,

steered and directed the selection of the main lines, as well as the fleshing-out process. They had direct contacts with the local authorities and societal actors in the formal structures of the planning process. During the meetings of this ad hoc project structure, policy options were discussed, elaborated and negotiated in the absence of special advisers. If necessary, they autonomously had bilateral consultations with relevant actors.

When the process broke down in 2000, the policy formation process was continued by the administration, the ministerial cabinet and the Minister in a closed way. The civil servants were translating unilaterally the choices from the *open planning process* into a draft of a spatial executive plan. There were, however, actors who were able to enter into this process, through bilateral, secret and informal contacts with the Minister and his cabinet or through contacts with other Ministers or ministerial cabinets. The open interactivity was ended and replaced by the politics and the secrecy of bilateral, informal, party networks. Local authorities with an executive that carried the same colour as the Minister, lobbied and met the Minister to have their interests in the decision looked after. Societal actors did the same. It was the ministerial cabinet they turned to. Following these discrete consultations, the special advisers made binding decisions and instructed the civil servants to adapt and/or rewrite some of the policy options for the area. One could say that the ministerial cabinet took up its 'normal' position, pushing aside the civil servants into a supportive, less visible and subordinate role. For the civil servants this was not always that easy, as they had difficulties in coping with what seemed to be some sort of a dual loyalty. On the one hand they had to respect the primacy of their Minister and his ministerial cabinet and on the other hand they wanted to defend or protect as much as possible the agreed compromise from the network, guarding the quality of some specific sites.

Afterwards, the third phase or process – the real decision-making process – began at the political level of the Flemish executive with the meetings of the *'inter-kabinetten werkgroep'* (IKW). This process was also closed, although some actors were able to reach 'their' representative in the negotiations. In this phase, all the consultation work was done by the special advisers, while none of them had been present during the *'open planning process'*. They instructed the civil servants to translate the compromises between the coalition partners in the drafts of the spatial executive plan. Even the smallest details of land use and land management were the subject of these discussions and adaptations.

Case-conclusions concerning the division of tasks

The complete policy-making process of the spatial executive plan Aalst illustrates that this case challenged the traditional division of labour and authority between officials and special advisers. As the process lasted several years, crossed a shift in Government, and involved many files and documents, ministerial cabinets were

not able to play their normal role, resulting in a new and central policy-making role for civil servants. This new role required other competences from civil servants. Leading and directing a complex policy process and deliberating and negotiating with other authorities and societal actors was new to them, so that special training was organised for them. But, the new role also undermined the decision-making freedom of the Minister and his special advisers and did not take into account the interests of all coalition parties, leading to two new rounds of decision-making. In these phases, the special advisers in the ministerial cabinet dominated the process and directed societal and political consultations, pushing aside the civil servants into a more assisting and subordinate role. This situation was particularly difficult to cope with for the local authorities and societal actors who invested a lot of time and energy in the demarcation-process. They were confronted with an unstable partner, who was changing positions and opinions during the process. In such complex processes, politics should be brought in at the moment of decision-making. Ideally, politicians or their special advisers should be involved from the beginning of the process or officials should get clear mandates and instructions from politicians. Neither happened, resulting in policy-making roles that were not aligned to one another.

Conclusions

In this article we analysed three different Flemish policy-making processes in order to gain more in-depth insight into task divisions between civil servants and special advisers in ministerial cabinets. Leading questions for this analysis were: what kind of policy work does civil servants and special advisers take on and how do both actors cooperate? Given the discussions on special advisers in countries such as the UK, it is first of all important to state very clearly that special advisers in Flanders have a special position in the Flemish policy-making system. They are working in ministerial cabinets around the Minister, and are placed in between the Minister and the administration. This position hinders civil servants from having direct access to the Minister, implying that all advice and notes must pass the ministerial cabinet first. As the latter also refers Ministerial answers and directions to the administration, it should not be a surprise that their position allocates them the authority to steer and direct the policy-making processes, including the policy work of civil servants. Although the relations between both actors can be very constructive and cooperative, it thus is intrinsically a vertical relation, dominated by special advisers. This became obvious in all cases.

However, the cases illustrated that special advisers do more than steer and direct the processes. They even perform some of the other policy activities themselves. In the training voucher case, they were busy with budgetary simulations and in the PAB-case they participated in the fleshing out of the main lines. More important is that some tasks seem to be the prerogative of special advisers. Based on this

and on former research, we think the following tasks are the explicit authority of the ministerial cabinets:

- Decision-making: As the ministerial cabinet assists the Minister in everyday decision-making, it has itself a lot of discreet decision-making power. In the cases, all relevant notes had to be approved by the ministerial cabinet.
- Following this decision-making power in a coalition-government, the deliberations and negotiations with other coalition-partners are the explicit responsibility of the advisers in the ministerial cabinet. In all cases they had political deliberations with members of other ministerial cabinets in so-called 'Inter-cabinet working groups'. In the PAB-case, they were even responsible for the deliberations with Members of Parliament belonging to the parliamentary majority.
- A third prerogative can be found in the contacts with the media. Although press campaigns can be prepared by civil servants, the real ministerial spokespersons are working in the ministerial cabinets, not in the civil service.
- Special advisers in the ministerial cabinet do take most of the consultative work with societal actors. In another way, they also function as the most important consultation partner for the societal actors.¹⁰ All three cases illustrated this, although in a different way. In the training voucher-process, it was the special advisers that supported the Minister in his deliberations with social partners, and it was the special advisers that invited and welcomed interest groups for bilateral meetings. In the PAB-process, the special advisers held – parallel to the formal consultation structures – discrete and bilateral meetings with some of the interest groups. In the spatial planning case, the special advisers reopened the consultations after the open planning process, indicating that this kind of consultation was their job.

Following this list of prerogatives, we can conclude that Ministerial cabinets are the communication and consultation nodes in the Flemish policy-making system. They consult, deliberate and negotiate with different kinds of actors, while civil servants usually play a minor, more neutral, supportive policy role, fleshing out the operational and judicial details. Compared to other countries, links between society and bureaucracy are less developed. Civil servants are important and necessary actors in Flemish policy making, but they are not the 'animators' of the policy networks. It is to ministerial cabinets that interest groups turn (Brans, Pelgrims and Hoet forthcoming 2006) and it is around the Ministerial cabinets that the policy networks are constructed (Suetens & Walgrave, 2001). The ministerial cabinet en-

10 Regarding this prerogative, it is important to mention that Ministers often explicitly co-opt members from interest organisations into their cabinet, with the aim of facilitating interest intermediation (Brans, 2002). Doing so, Ministers get in direct contact with societal organisations, providing him/her with expertise, field experience and societal contacts. In turn, societal organisations get direct access into decision-making.

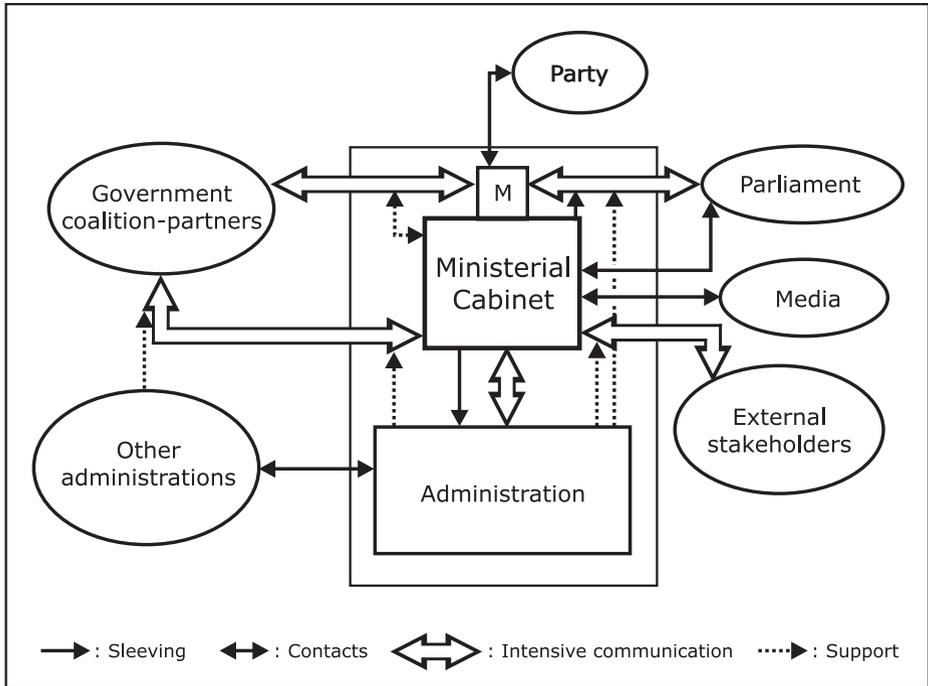
gages in extensive contacts with all other players in the policy-making process, usually supported by the civil servants for the writing, fleshing-out and enacting of the policy measures. Some officials have told us that even they are not supposed to inform societal actors of governmental decisions, indicating that in some policy fields, ministerial cabinets tend to monopolise all interactions with societal actors. This consultative and decision-making functionality of the ministerial cabinets is sometimes overlooked at times when the position of ministerial cabinets is questioned and when one discusses the pros and cons of their abolition. We assume that this consultative role is even functional for the public service. The existence of ministerial cabinets shields the administration from external pressures and permits the civil servants to act as autonomous, neutral and professional as possible.

We have tried to summarise the central policy-making role of special advisers from the ministerial cabinets in the following figure (Vancoppenolle & Brans, 2003).

Given their position and their decision-making function, it is easily understood that the Flemish policy-making system is severely challenged when officials take care of deliberations and consultations, either with other administrations or with external actors. Based on the analysis of the spatial planning case, we see three reasons for these difficulties. First of all, as consultations require clear opinions and stable decisions, the actors who participate in these processes should have decision-making powers. The demarcation-process of the spatial executive plan Aalst made it clear that this was not the case for civil servants. Second, in a small region like Flanders, regional Ministers must be aware of the interests of their local constituency, leading to a preoccupation of Ministers with the political implications of policy processes for their constituency, making the consultations with actors as local authorities and local interest groups highly political. Special advisers are an ideal instrument to watch these local interests, while one cannot expect that neutral civil servants be aware of these interests. Third, as the Flemish Government is a coalition Government, every policy measure has to be approved by the coalition partners, implying once again that every measure becomes political. As it is not expected that civil servants participate in a give and take between the coalition parties, this task is normally assigned to special advisers in the ministerial cabinet. This is therefore one of the main functions of ministerial cabinets, if not the most important. By fulfilling a coalition stabilisation role, Flemish special advisers can hardly be compared to special advisers in a majority system.

Figure 3

Patterns of communication of special advisers and civil servants in the Flemish policy-making system



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Endnotes

- i Evidence of the debate can be found in the following titles in the media: 'The advisers: Modernisation or Politicisation', in *BBC News Online*, 12 January 2000; 'Special advisers under scrutiny', in *BBC News Online*, 28 June 2002; 'Spin doctors face Parliament scrutiny', in *Times Online*, 24 September 2003; 'MPs urge to curb special advisers', in *The Guardian Unlimited*, 5 January 2004; 'Special advisers to get more power over policy', in *The Guardian*, 16 May 2005. For planned reforms see the Government's Response to the Ninth Report of the Committee on Standards (2003).
- ii See the article of Tegenbos (1997, 2004, 2005) in 'De Standaard', 'Afschaffen van kabinetten is niet evident, Financieel Economische Tijd, 2003. For planned reforms see Victor & Stroobants (2000) and Federale Overheidsdienst Personeel & organisatie (2004) Vlaamse Regering, Persmededeling van de Vlaamse Regering, 17 november 2000.
- iii The measure is mainly distributive, although it contains also some redistributive characteristics, since the vouchers replaced an old system with a different repartition of costs and benefits.
- iv A team of four persons, with different competencies (jurisdictional, technical & substantive), led by the section-head.
- v Normally, an Advisory Council advises a proposal after a formal request by a Minister, following the formal approval in principle by the Government.
- vi In the end, the measure was brought under the '*de minimis*' regulation.
- vii This is due to the fact that most interests of both actors coincided, to the fact that the administration accepted the primacy of politics and put in a lot of heavy work, appreciated by the cabinet.
- viii Compared to countries as the Netherlands or the UK, this is rather particular, since ministerial staff in these countries are kept out the line and are not allowed to give directions to the civil service. (See Vancoppenolle and Brans 2003).
- ix The Flemish Economic and Social Deliberative Committee.
- x Their opinion was at least partly inspired by concerns about the financial consequences and the operational feasibility of these decision, although the Minister presumed also political reasons. After all, some of the officials in the Flemish Fund had been working in the ministerial cabinets of the Christian-democrat party, a party that has narrow ties with the numerous catholic welfare institutions that lost from this individual and demand-oriented policy instrument.

Vertical and Horizontal Strains on Administrative and Policy Vectors in Structures Affecting and Affected by Supranational Impacts: The Case of the EU, its Member States and the World Trade Organisation

*Donald Fuller*¹

1. Introduction

The challenge of multi-level bargaining across vertical and horizontal spaces has left the European Union (EU) with dilemmas not easily solved. Unlike the typical model of a federation (e.g. the United States and the German model) the bargaining parameters are still developing. Failure of the Growth and Stability Pact exemplifies the fluid policy boundaries within the EU affecting both member countries and EU staff. The addition of the World Trade Organisation (WTO) adds a level of bargaining that complicates policy decisions across three levels. Member countries are represented by the EU in matters before the WTO. Yet deliberations between the EU and the WTO, representing some 147 countries, affect EU governments differentially (e.g., France, Germany and Poland agriculturally). Since both the EU and the WTO are new organisations, policy parameters are still developing. Attempting to resolve policy decisions within consensus decision making in a policy arena marked by diversity becomes a potential framework for deadlock. The strategies of public officials, buffeted by globalisation externally and maintaining incumbency in endogenous, domestic political positions, constitute a matrix of challenging trade-offs to public officials. The manner in which they resolve multi-level disputes will affect integration vs. intergovernmental bargaining either positively or negatively.

The discussion will examine two questions: (1) what impact will multi-level negotiation/bargaining and endogenous/exogenous issues have upon politicians, top administrators and civil servants? (2) assuming different historical/cultural path dependencies, will such diversity cause grid or deadlock among key decision makers? The paper concludes that the mix of multi-level horizontal/vertical influences will transform traditionally narrow national policy orientations, and that it will produce avenues of escape from decision traps in cases offering increased marginal benefits to EU members and to the EU as a whole.

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2. Theoretical Framework

Integration and intergovernmental theory have stimulated an important body of literature aimed at conceptualising the EU policy making process.² The general model presented in this discussion embraces the contrast between integration and inter-governmentalism. This is a parallel model to a supranational vs. intergovernmental model in political science. They are not synonymous, however. A federation may be thought of as closer to integration. Yet the federations in the United States, Germany, Russia and Switzerland are operationally not the same. Thus, we prefer to concentrate on, perhaps, a mythical state of integration vs. the intergovernmental model. The EU stands somewhere between these two 'forms' of government. The intergovernmental model is not really a model but is a mechanism. Rather than become distracted by the federation, confederation and unitary state concepts, the paper argues that the EU, while containing many elements and traces of existing models, need not be forced into one or more of them. That is not the intent of the paper. We deal with the EU as a 'developing' project that has implications for policy actors/decision makers.

The paper views the operating model as a decision making model across multiple horizontal/vertical levels. Since the bargaining parameters are not set, the process of negotiation vacillates between resistance, negation, compromise, and capitulation. Guides to outcomes will more likely present themselves in the political/economic sphere as well as more familiar European predilections. Much of this resides in the trade-off between endogenous/internal tradeoffs vs. the globalised/exogenous pressures arising from organisations such as the World Trade Organisation. Yet were it not for the exogenous development of globalisation exhibited in dynamics of trade, foreign direct investment and currency trading, it is argued that escapes from deadlock would not as easily present themselves. Perhaps, not since 1945, has such an opportunity existed to forge important relationships brought about by the competition of the private with the public sectors. While, perhaps, not reminiscent of the Silk Route, it has the potential to exceed Silk Route outcomes. These outcomes extend beyond the confines of this paper. Yet they influence the framework in which multi-level policy making is occurring. There are two aspects to the operational model. They are depicted below:

Table 1
Political Economy Tradeoffs

	Endogenous	Exogenous
Capital	Gain/loss	Gain/loss
Labour	Gain/loss	Gain/loss
Consumer	Gain/loss	Gain/loss

2 See Rosamond (2000), Stone Sweet, Sandholtz and Fligstein (eds.) (2001), Heritier (1999).

Note: In resolving endogenous/exogenous policies from a path/dependent perspective, political/administrative actors have tended to bargain from the *status quo*. That is, EU members representing the ‘old’ membership may seek alliances with other old members particularly the largest (France and Germany). The *new* members (EU-10) may seek alliances with other new members and perhaps a *swing* member among the old. More than likely such alliances lead to grid or deadlock among the EU-25 on the policy matter. As change occurs, these alliances may break down. The paper argues that globalisation affects political/economic factors, thus providing opportunity for negotiation toward change. Such negotiation will hold the EU together in the presence of mutual benefit to the entire EU-25. This adjustment weakens path dependent approaches. To some extent, the new mobility of labour, both trans-nationally; outsourcing; and the *actual* movement of labour: Ukrainians to Czech Republic and other Visegrad Four countries, Czechs to Ireland, Slovaks to Czech Republic; and the increase in foreign direct investment, has moved the political/economic equilibrium point toward negotiation. Governments, as well as capital (less so with labour) have recalibrated the consumer, not only as an endogenous voter, but exogenously as a market participant that will respond more readily to the proximity of a foreign, joint venture catering to local market preferences, and vice versa.³

While Table 1 postulates a paradigm for relating capital, labour and the consumer to endogenous and exogenous impacts, the paper’s focus moves more narrowly to the resulting impact on political/administrative actors and their operational choices now embraced, in part, by globalisation. This is depicted in Table 2.

Table 2
Policy Tradeoffs

	Push	Pull	Policy Decision
Path dependency	Status quo	Status quo	Deadlock
New pol/econ dynamics	Yes	Yes	Negotiate

Note: path dependency may lead to inflexibility constraining the impact of push/pull that may threaten the *status quo*. Because of endogenous/exogenous impact upon capital, labour and consumers, governments may, however, experience new push/pull phenomena permitting negotiation toward marginal benefit.

3. Path Dependencies

It is tempting to pose the policy making choices as indigenous to European styles of decision making vs. other cultural predilections. Is there an Asian, North American, Muslim, European and African way of conceptualising? Yes and no. It depends on the stakes. Turkey’s accession to the EU is fraught with such thinking. The Turks

³ Raised in Fuller (2004).

say, what do we have to do to get in? The Europeans say, how can a non-Christian nation, dominated by the military, and historically weak on human rights qualify for accession? By changing. It has already secularised; passed a new penal code; outlawed torture and, done what was asked. If one were to be concerned about the Roma population in the EU 25, one would expect change. Such evidence is miniscule. Roma plight remains path dependent. The EU needs Turkey and vice versa. The EU needs Turkey in view of its large Muslim population. Turkey needs the EU to open its markets to a European free trade area and not to become isolated and surrounded by EU members. Morally, no politician can oppose its entry on the basis of religion (though it is mentioned). Change comes at the margin when the benefit is greater than the cost. Turkey understands this. The EU will need to consider it. There is an incentive: **a push** and **a pull**. It exists on both sides. On the EU side, the *push* comes from the presence of a large EU Muslim population; the *pull* comes from the prospective need for EU labour amidst an ageing indigenous European population. On the Turkish side, the *push* comes from its attractiveness for foreign direct investment; the *pull* comes from the benefit of a free trade area. The paper is not about Turkey and accession, however. It is about the impact of globalisation upon the EU that requires a change in mindset among EU policy makers and administrative personnel. It is about examining political/economic tradeoffs in an environment of diversity. Rather than exclude that environment, policy makers have opportunities to find marginal benefits. If the European Union is to be a positive force in its region and beyond, it can no longer exclude propitious opportunities. It cannot, since the *private sector within EU member countries is already moving beyond national borders*. These movements are causing problems in sectors such as competition, public support for private companies, outsourcing, tax rates, wages, labour job security and trade protections. The triad of government, business and labour cannot maintain a path dependent policy set of options. This is so in view of the commoditisation of production that now embraces trans-national sectors, world-wide.

Analytical Construct. Taking the operational model, we focus on its application to EU politicians and top administrative personnel. We construct a model that would demonstrate differences between the ‘European’ view and the ‘national view.’ In this way we might detect path dependencies and emerging cosmopolitan or ‘European’ views. We presume that actors thinking in a national way reflect a path-dependent posture. More specifically, the contrast highlights an independent or ‘national’ (what’s in it for us?) position that would calculate benefits to the individual EU member. Actors exhibiting a ‘European’ perspective would be expected to expand their positions beyond one country and prefer to show the benefit to the wider European ‘zone.’ By definition then, the ‘nationals’ prefer to calculate the benefit to a single member while the European view would calculate a greater benefit to the EU as a whole, and to its members, by stressing an ‘inclusive’ rather than ‘exclusive’ position. As an example, accession of Turkey might be seen by the na-

tional actors as harming their individual countries; the European view would press for the wider benefit to the entire EU. The construct is shown below in Table 3.

Table 3
Analytical Construct: Nationals vs. Europeans

ISSUES	NATIONALS	EUROPEANS
Migration/immigration	Screening centres; safe site	Free movement after early exemption period
Accession of Turkey	Muslim problem; 68 mln people; labour excess	Ageing Europe will benefit from a younger labour supply
Subsidies (e.g., agriculture)	Maintain	Abolish
Growth & Stability Pact	Reformulate	Reformulate but enforce
Anti-competition policy	Subsidize industry	No subsidies
Business tax rates	Harmonize	Laissez faire

Note: we postulate that the overriding concern to a ‘national’ will be to protect the member’s country and that the ‘Europeans’ will prefer to take a collective view that will benefit the entire EU. On the surface, the preference for nationals to *harmonize* the tax rates might seem to be more European. However, this is the current position of Sarkozy in France, and conceivably Schroeder in Germany that the ‘Race to the Bottom’ in the EU-10 is harming the EU-15 and ‘unfair;’ ergo, it is ‘national.’

We would expect to find surveys and media quotes, not only for Table 3’s examples, but for similar examples. The goal of the paper is not to belittle either the ‘nationals’ or the ‘Europeans.’ The intent is to postulate the dilemma between those who view the EU as leading to a division or ‘regionalisation’ vs. those who prefer to start with the global or European space and resolve conflicts therein. The ‘Europeans’ fear that regionalisation or an EU with a core, semi-periphery and periphery will perpetuate exclusion. The nationals believe that without such differentiation, the EU will be like another United Nations, this time located in Europe. Thus, we intend to alert policy makers: politicians and top civil servants that (1) these issues exist, and (2) that they must be dealt with. To date, the EU has tended to move slowly using bureaucratic stages. It was assumed that sensitive political questions might be better handled with stage-by-stage, ‘technical’ requirements. As the EU considers expansion, these ‘technical’ considerations may become ever more perplexing to policy makers. Thus, the paper explores possibilities of finding escapes from decision traps made possible by globalisation and political/economy.

4. Political Economy

Political economy has its effects not only endogenously, regarding EU members, the EU itself, particularly within the Commission, and with the WTO, but exogenously as well. The effects differ. One can speak of the political/economy affecting the Euro

zone and the unified currency (as well as those who have opted out);⁴ one can speak of the dynamics of economic integration in the EU (Pelkmans, 2001). The paper will draw upon these resources; however, it will focus on the political/economy dynamics caused by globalisation that affects the WTO, the EU, its members and political/administrative actors. The paper will argue that the effects are interactive because the exogenous effects are dynamic and reach across multiple decision levels within our focus: the WTO, the EU, largely its Commission, and the EU members. Were this not the case, our political/administrative actors could eschew the impact of trade, foreign direct investment, currency trading, outsourcing and movement of labour across borders. It is this phenomenon that causes us to consider whether or not the EU, its members, and the WTO will find opportunities to cooperate (negotiate) or divide the world into trading groups. Nevertheless, our focus is on whether or not the policy/administrative actors are likely to respond to these challenges. If they are, will their responses be fashioned by path dependent approaches? Or, are they likely to be motivated by opportunities that seem to promise mutual gain at the margins? The paper argues that the latter outcome is possible. National and supranational policy/administrative actors will be inclined to seek negotiating positions in matters with potential benefit at the margin. Yet, the stakes are high. Rather than independent decisions made non-transparently, national and supranational actors will be forced into transparent policy questions. The political/economic influences will force attention toward problem solving. The primary stimulus lies in globalisation.

5. Collective vs. Individual Responses and Deadlocks

Heritier (1999) postulates several strategies to remove oneself from deadlock. Bargaining and organisation theory tend to emerge as particularly salient. She tends to align bargaining toward issues having known parameters. Organisation theory aligns better with unknown parameters. Yet the difference lies in the proclivity for organisation theory to decide issues in which the European Commission acts in a lead position calculating that its power may resolve the issue. The implicit argument is: well, if you don't like it, we'll go to the EU courts of first and second instance: a primary source of the 'Democratic Deficit.' Bargaining theory seems more likely to emerge when distributive outcomes are potentially possible and negotiating at the margin will yield benefits for both.

Let us now turn to the analytical construct. The construct shows two dimensions to conflict resolution that are identified as European vs. National. We may flesh these out with data to support that, at least, by proxy, we are able to postulate a model demonstrating specific reactions to policy issues. While there are obviously individuals within member countries who opine differently than others in their own country, and more like similar persons in other countries (e.g., greens,

4 See Levitt and Lord (2000).

socialists, rightists, etc.), we tend to look at countries as illustrating the differences. Our purpose is to show that differences can be either state-bound, lumping all individuals in a state together, such as in a 'French policy position' or individually bound within an *individual* in a state. We do this so that in future research we may examine different policy positions of various policy actors or states. In this way, politicians and top civil servants may not only examine individual as well as state differences, but may hypothesize, from constructs similar to the European/National dichotomy, policy recommendations that are explicitly cognizant of, at least, these two dimensions. Using a two dimensional construct simplifies the analysis. It demonstrates a policy construct illuminating at least two types of policy preferences among conceivably more (such as alignment along European party lines, 'old' and new members, big and small or east and west). They may be obvious to most but policy actors need to detect whether the nature of the conflict is along a particular dimension or not. If so, after repeated trials, strategies such as bargaining vs. organisation theory may be more useful. The paper argues, however, that the globalised dynamics of political economy will create parameters and potential solutions in such a way that exits from deadlock become more explicit and increasingly transparent. It is the confluence of political economy juncturing with regionalism and multilateralism that is unique to the globalisation outcome. This analysis gives us our final framework for sketching the process:

Table 4
Airbus/Boeing

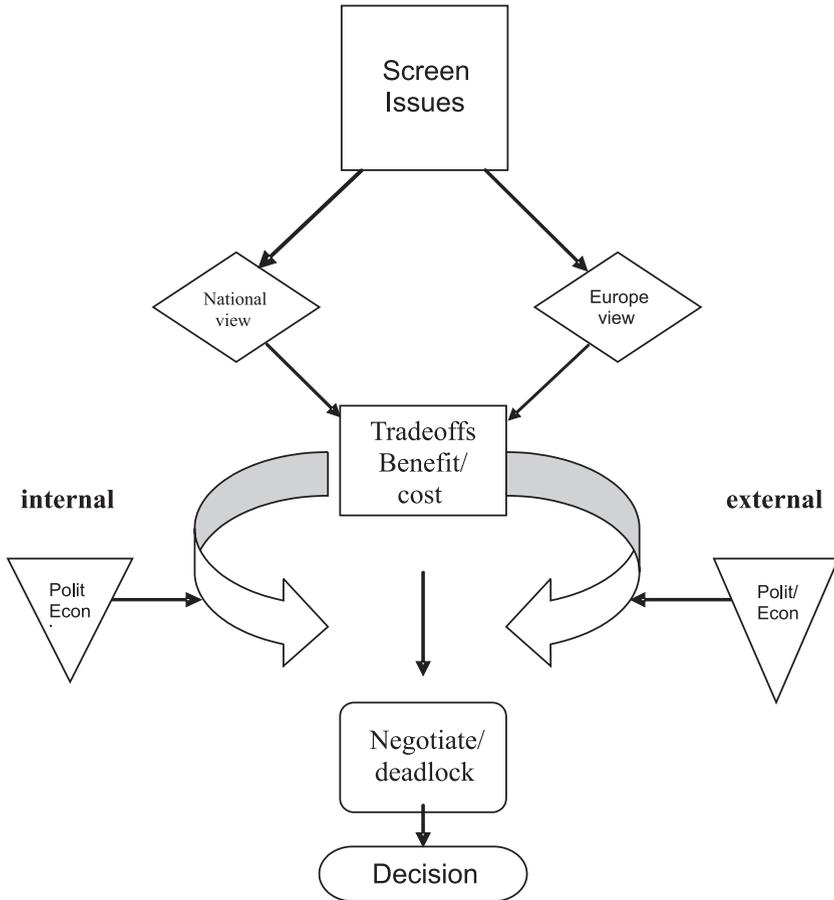
Parties	Issue	Options	Tradeoffs	Rationale
EU	Boeing must eliminate subsidies	Go to WTO (N)*; or negotiate (E)	Fine; no fine	Lower cost by negotiating vs. WTO court decision (E)
USA	Airbus must eliminate subsidies	Go to WTO (N); or negotiate (E)	Fine; no fine	Lower cost by negotiating vs. WTO court decision (E)

Note: This issue has to do with a conflict between aircraft makers Boeing (U.S.) and Airbus (a European consortium.) The issue essentially is how to resolve subsidies to both Boeing and Airbus by their respective governments. Boeing is threatening to take the case to the WTO. However, Airbus may also be penalized by the WTO if the matter cannot be negotiated on a bi-lateral basis. (N)* and (E) refer to 'Nationals' and 'Europeans.' The 'Nationals' would prefer to force the issue by moving the issue to the WTO Court. Interestingly, however, the EU realizes that the WTO may decide to punish the EU with a fine as well since, similar to the U.S., the EU has been providing a subsidy⁵. The EU may elect to negotiate in order to avoid both parties being fined and directed by the WTO Court to abolish the subsidies. The EU might then adopt a 'European' negotiation strategy to avoid payment of its own fine assuming that both the EU and the U.S. will gain at the margin by a negotiated position between them. The U.S. is likely to use the WTO as a threat and then adopt an (E) strategy to lower the cost of adjudication.

⁵ *Financial Times* (2004).

Our various constructs help us to produce a model as follows:

Figure 1
Extrication of ‘National’ and ‘European’ Preferences: Implications for Deadlock and Resolution amidst Political Economic Influences



Note: In screening the issues, policy actors will deal with both National and European views. Policy actors will screen the issues attempting to disaggregate the views into a benefit/cost or trade-off that will identify the weight of logic upon the policy problem. The task is not made easier by logic that differs depending on the level of the policy actor. To yield or not to yield may be signalled strongly by level, i.e., the WTO, EU, or EU member. Policy actors will seek escapes from deadlock in order to (1) hold the system together, and (2) advance the interests of each level. The paper argues that globalisation will enhance mutual options that formerly lay buried within National preferences. Certain cases, such as the Growth and Stability Pact will illustrate that National interests, involving severe political loss to national interests, will not tolerate a mutual gain at the margin. Forcing such a gain would eviscerate the Union.

Table 5
Policy Choices in a ‘National’ and ‘European’ Setting

Parties	Issue	Options	Tradeoffs	Rationale ⁱ
EU	Airbus ⁱⁱ	Subsidise/non-subsidise	Settle or face WTO fine	Negotiation will avoid fine and protect member consortium(E)
US	Airbus	Subsidise/non- subsidise	Settle or go to WTO Court	Court will be costly; negotiation will avoid fine/save WTO Court for future filing (E)
EU	Agricultural Subsidies ⁱⁱⁱ	Maintain/abolish	If maintains: loses penetration into emerging markets	Abolishing hurts members yet additionally opens emerging markets to members (E)
U.S.	Agricultural subsidies	Maintain/abolish	Same as EU	Same as EU (E)
WTO	Agricultural Subsidies	Maintain/abolish	If negotiates EU abolition, protects WTO members competing in low cost commodities with subsidised EU; if fails in negotiation, might go to WTO Court or cut-off further EU market penetration	Seen as zero-sum game: failure to negotiate EU abolition will continue to harm majority of members unable to compete vs. subsidies; granting further market penetration seen as worth the price. (E)
EU	Growth & Stability Pact ^{iv}	Enforce deficit & debt limits/ do not enforce	Enforce treaty/do not enforce treaty	Zero-sum; members must conform to treaty agreements (E)
EU members	Growth & Stability Pact	Abide by deficit & debt limits or not abide	Abide and commit political suicide; do not abide and maintain political support	Zero sum: abide by limits & cause serious weakening of polit/economy; test case in EU Court & hope for favourable decision; argue that limits do not sustain adequate economic growth & stability (N) *
EU	Turkish Accession ^v	Admit/non-admit	Full membership/partial membership	Cannot refuse a Muslim country into the ‘Christian Club;’ EU will need Turkish labour in ageing EU-15; cannot enforce different accession standards (E)
EU members	Turkish Accession	Admit/non-admit	Full, partial membership or denial	Poor country dominated by military with poor human rights’ record; too many Muslims and unskilled labour (N)**
EU	Constitution (convention) ^{vi}	Sustain qualified majority voting; maintain initial voting rights of Poland and State representation	If sustains qualified majority voting, may lose certain smaller members; if abandons qualified majority voting, may lose France & Germany	Sustaining qualified majority voting will hold France & Germany while protecting rights of individual states less preference for Poland’s high number of votes(E)
EU Members	Constitution (convention)	Abide by qualified majority voting/not abide	France, Germany, Italy cannot accept Poland’s votes virtually same as Germany’s; loss of qualified majority voting might shift balance of power	Might opt out if loses qualified majority voting; does not believe EU would sustain loss of France & Germany; Poland and EU-10 might opt out without Poland’s high number of votes, though loss might not be critical (N)
EU	Rejection of new EU Commission	Refuse to withdraw any new Commission member/ replace a contested member or significantly redefine duties	Rejection of Commissioners might signal shift of power to Parliament/might also signal deprecation of former Portuguese Prime Minister, a payback for weak appointments to France and other founding EU members	Might view as zero-sum yet knows ECJ should sustain Parliament’s failure to approve Commissioners; would have support of Italy and The Vatican; might be willing to negotiate (E)

EU Parliament	Rejection of new EU Commissioners	Accept the new Commissioners as proposed; reject the entire list; negotiate withdrawal of the one commissioner	Parliament would assert its right to reject the entire list, thus strengthening its current political power; Parliament would act as rubber stamp for the Commission's new President	Not clear whether this is zero-sum; yet, new information surfacing that this commissioner has criminal/ethical defects that might cause removal from consideration. (N) ^{vii}
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*See fn. 7.

**See fn. 9.

- i See "note" in Table 4 for discussion of rationale.
- ii Both the EU and the U.S. have been subsidizing the production of the Airbus and Boeing passenger aircraft. Airbus is a consortium of EU members. The EU wishes to fine Boeing since it operates in EU space. Yet the U.S. argues that the Airbus is also subsidised. Therefore, the former wants to sue in the WTO Court since both are WTO members. The EU prefers to negotiate over the EU case since submission of the issue to the WTO may result in a fine to the Airbus. Thus, grounds exist for negotiation. In this case we have a case involving an (E) strategy and an (N) strategy.
- iii While both the U.S. and EU have been subsidizing agriculture, their proclivities (dependent path) have been to eschew abolition. The EU, in order to open emerging markets and to placate the WTO that speaks for such markets, argues that it will be harmed if the U.S. does not follow suit. The U.S., in this case, somewhat reluctantly (the EU shares this reluctance) seems ready to abolish or lessen subsidies in order to gain access to the same emerging markets. Negotiation seems likely in view of national gain by the U.S. and European gain by the EU and its members (except, perhaps, the large French farmers who are likely not to suffer critically).
- iv France, Germany and Italy have essentially exceeded the deficit limits of 3% set by the Growth and Stability Act for more than one year. France and Germany essentially claimed it would attempt to meet the limits in succeeding years but was unsuccessful. Germany, in particular, has attempted to lower the budget deficit. France has been less inclined though has engendered some political protests. Both countries argue that due to the ECB and the Euro economy, they are unable to do more in lowering government deficits. Germany has made significant political proposals for lowering the social safety net expenditures. The EU case went to the EU Court of First Instance. That court found against the Commission for permitting its members to disavow its treaty obligations. The EU is reformulating the essential ingredients of the Act. See for example, *International Tribune* (2004b). This case illustrates the unlikelihood that an EU member will commit political suicide in order to abide by a political/economic requirement. The EU can ill afford to lose France, Germany and Italy.
- v Turkey is seeking accession to the EU. The EU has taken the position that it should be admitted. Certain EU members: France, Germany (the major opposition party, Christian Democrats) have indicated disfavor with Turkey's accession. Two other EU Commissioners have argued against accession as have several other politicians. Turkey argues that the standard for its admission should not be different than for any other acceding country. As the only prospective Muslim country, its accession is being closely watched. Beyond Islam, its 68 million population represents a formidable voting bloc. Further, its labourers represent a formidable addition to the EU labour force. Many are unskilled. Yet, the EU's ageing population is and will be in need of unskilled workers (in the short run). Several existing EU members are threatening a referendum on the matter. Turkey objects since such an event would constitute differential treatment. See for example, *International Herald Tribune*, (2004a).
- vi The proposed constitution could pit the 'old' members against the 'new' members. The question of qualified majority could affect the balance of power within the EU. It is likely that negotiation will result in retention of the qualified majority voting. Even Poland cannot sustain the argument that it should almost equal Germany in voting power (though it was promised this prior to accession). See for example, *International Herald Tribune* (2004a).
- vii This is a classic tradeoff of Parliamentary power vs. the EU Commission. Such 'organisational' politics might be blamed on the EU-10. Nevertheless, a number of members, France in particular, have been waiting to 'payback' the new Commission President for 'slighting' their appointments to the Commission. This could move to zero-sum. Let the Court decide. Of course, Parliament is within its rights. The Court would have little to adjudicate. It is likely that new information suggesting prior criminal/ethical contacts will cause an unamicable removal of the candidate, thus exonerating both parties and lessening the protest of Italy and the Vatican. Yet, the unacceptable behavior is allegedly hearsay and might be seen as a smear against a Catholic believer. Others of the proposed candidates were not strongly supported as well. Yet a wholesale veto of the entire list might carry zero-sum too far. Negotiation likely. Refusal to remove nomination would lead to zero-sum. The EU Courts would have to sustain Parliament. (The Commission President was ultimately forced to remove and reconstitute the entire Commission).

7. Analysis

Analysis of the six cases presented, the scorecards are as follows:

Parties	Issue	Strategies	Likely outcome
EU, U.S.	Airbus/Boeing	Airbus favours (E); Boeing threatens with Court filing, likely to negotiate (E)	Negotiation
EU, EU Members	Growth & Stability Pact	EU favours European Solution but is reformulating requirements; for Members, is zero-sum game; cannot accept	Negotiation; already went to EU Court: produced judgment but problem not solved since sanctions not imposed
EU, U.S., WTO	Agricultural subsidies	Each favours political/economy benefits (E,E,E)	Negotiation
EU, EU Members	Turkish Accession	EU favours accession (E); several members favour denial (N)	Crossed strategies could lead to zero-sum and deadlock; likely to lead to delay until votes could be retaken; negotiation seems unlikely except for partial membership for Turkey causing Turkey to withdraw application until later.
EU, EU members	Constitution	EU favours acceptance (E); members favour either denial or change (N); some advocate referenda	Crossed strategies; Poland likely to yield on number of votes; qualified majority voting may yield to different method though not clear; delay and negotiation likely; difficult to permit partial support for Union-wide constitution without opt-outs.
EU, EU Parliament	Reject New Commissioners	EU favours acceptance (E); Several members favour rejection or removal of contested candidate (N)	New information suggests criminal/non-ethical behaviour by candidate; may provide space for negotiation; otherwise would lead to rejection of entire list of candidates: crossed strategies can only be resolved by replacement of candidate through negotiation. Because of the President's intransigence, we recode this as (N).

Thus, in **Airbus/Boeing**, negotiation seems possible. This outcome is a positive political/economy outcome. Both parties will benefit through negotiation; will avoid a fine; and, will keep the WTO out of the matter. This harmonisation of interest does not come easily. Boeing is falling slightly behind Airbus in international orders. It believes that without production support, it cannot continue to compete. Negotiation seems likely, however, since both companies would eliminate the subsidy, therefore, not critically altering the terms of trade.

In **Growth and Stability Pact**, The EU Court has already found the Commissioners derelict in not fining France, Germany and Italy. Yet, the parties have taken action to reduce their budget deficits. The dominant argument is that no politician in each of the large, founding countries will accept the political risk of (a) further pushing their economies into recession, and (b) reducing their social safety nets to far lower levels. The EU does not want to lose these three countries; *they* do not want to depart the EU. Discussions about reformulating the requirements continue. Thus, in this case, despite being treaty signatories to the 3% budget limit and 60% debt limit, the three members are arguing for changing the rules. Interestingly, those countries outside the Euro zone do not share the same problem. This comparison, however, is not entirely clear-cut. What is clear is that the ‘National’ view must be

respected in a case leading to political suicide in a member country. Accordingly, reformulation is likely through negotiation.

In **Agricultural Subsidies**, all parties seem ready to negotiate. This has evolved, however, by direct third party intervention across bargaining levels. The WTO has refused to negotiate the 'Singapore' issues in view of subsidies by the U.S. and the EU. The EU would not have such subsidies were it not for France, and to a lesser extent, Germany (Poland might have wished to keep them as well). However, agricultural subsidies constitute a deadweight economic loss.⁶ Economically large farmers can exist without the subsidy. Small farmers are already operating at the margin. Further, the withdrawal of the EU and U.S. subsidy would save a substantial expenditure. Yet the defining reason is not sudden wisdom on the part of the EU and the U.S. The cause is the potential to penetrate emerging markets more fully. Without such action the WTO would continue to deny such entry (presumably). Thus, this negotiating concurrence is grounded in positive political/economy affecting all parties. Without the stimulus of globalisation, the outcome would lie dormant in a dependent path.

In **Turkish Accession**, the reasoning is a bit convoluted. We have crossed strategies (E and N). The E strategy attempts to overcome an opportunity to admit a Muslim nation to the 'Christian Club.' Secondly, it is mindful of four million Turks in Europe, 2.5 mln of them in Germany. It is also mindful of other Muslim immigrants from North Africa, Asia and elsewhere. They are already in the EU (except for Switzerland and Norway though the latter has signed all the key treaties). Third, though it is a weaker argument, the large unskilled Turkish labour force can augment the declining EU 15 unskilled labour force particularly in the absence of youth. It is a weaker argument since these Turkish workers can apply for work permits at the moment. Certainly Ukrainians have little difficulty. Finally, a market of 68 million persons is not to be disregarded. Current trade relationships with, for example, Germany are positive. Turkey needs additional capital that should benefit from EU membership.

As for the N strategy, the exclusion philosophy is vocal: we have enough Muslims; the military seems to run things and the human rights record is awful. Of course, The Turks have changed their laws in significant ways to ameliorate such charges. Yet, for the N-people the religion and geography is detrimental. Change your human rights record and we'll think about it. This is a non-sequitur. Religion and geography cannot be changed by human rights protections. Further, the N-people fear the onslaught of unskilled labourers. They are and will be, however, in need of such a labour supply. A welfare program for unemployed immigrants might be necessary. There is current concern about the measures to be taken for asylum seekers, particularly from North Africa. Thus, we have the makings of a zero-sum. By threatening a referendum on the issue (several countries including France), the

6 Raised in Fuller (2004).

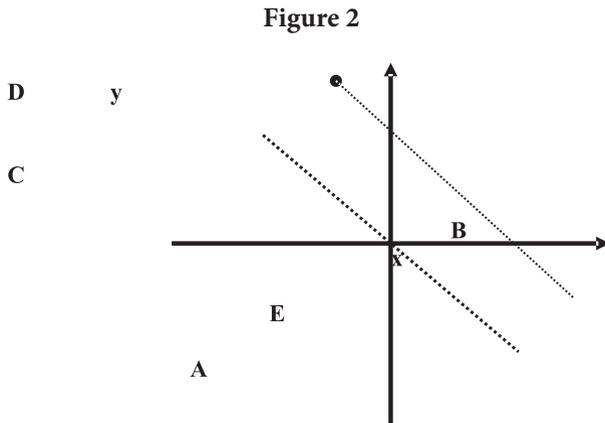
Turks are already on guard against discriminatory accession phenomena. Rejection of the Turks would isolate them from free trade and national dignity while surrounding them with EU members, some of which have been admitted long after Turkey's first application (1963). This case is likely to lead to delay and conceivable partial membership in the absence of exceeding leadership by the E-people.

In **Constitution**, the EU balance of power is at issue, among other things. Poland had been promised representation at a level slightly below Germany. The old members object to this and Poland is probably ready to yield on the point. Second, the qualified majority voting (QMV) promises to favour members or coalitions with large populations. The new members may not be ready to yield on this point. The possible accession of Turkey would arouse the old members assuming that Turkey could mount an effective veto or legislative bill with or without the old members (assuming Turkey could garner other votes). But, the constitution with or without Turkey promises a struggle. The struggle tends to be old vs. new members, assuming that one can predict their preferences. This is not entirely clear but concern exists on both sides. The old members favour the QMV; the new members do not. Secondly, all member countries must concur with the proposed Constitution by referenda. This seems unlikely, given concerns voiced by many Constitutions are expected to be rather vague and ambiguous. They typically espouse constitutional principles. Details are left for later laws. The proposed EU constitution tries to anticipate everything. Should further law be necessary, 25 referenda each time will constitute a challenge. It is likely that the EU-25 will sign the constitution. It is extremely problematic that unanimous consent will ensue from the voters. Thus, delay and negotiation seem inevitable.

In **Reject New Commissioners**, the argument will be made by the E members that the new President (five year term) deserves to have his Commission approved. The N voters will protest that Parliament has the right to disagree. That refusal to accept one Commissioner means a veto of the entire list of appointees has been set by law. Unless Parliament sincerely wants to derail the new President: failure to accept the Commission would require that the existing President (Prodi) and Commissioners continue to serve until the matter can be resolved. Parliament, particularly Socialists and Greens, seem ready to veto the entire Commission if one (at the moment only one in particular) is not withdrawn by the President. The President is arguing separation of powers rather than the substance of the argument that is steeped in Catholic religious concordats. Many Europeans are Catholic. They may assume that politicians must carry out the law rather than religious preferences. One could assume (perhaps without grounds) that secular matters containing religious implications would necessarily have to be passed by Parliament rather than executed by a Commissioner. Of course, without a Constitution, the lawyers might not agree on a controlling set of principles (other than majority vote). The President (elect) has refused to offer more than minor adjustments to the proposed Commissioner's portfolio. A related cause of the debate may have to do with certain coun-

tries feeling slighted by their portfolio appointments (France in particular). This presents an opportunity for Parliament to strike back at the Commission President (who was not the choice of France and Germany, rather preferring the Prime Minister of Luxembourg to become Commission President). Though certain allegations of criminal/unethical behaviour have surfaced against the proposed Commissioner, it is not clear whether such charges are more than hearsay. This issue cannot be resolved without ultimate negotiation. The EU Court can hardly fail to sustain Parliament should they carry out the veto. Some kind of negotiation seems inevitable. In view of the apparent intransigence of the President-elect, we are forced to recode his strategy as (N). Thus, we have a direct zero-sum.

Process Alignment and Vectors. Of the six cases, we find one deadlock, Reject New Commissioners, with strategies (N) and (N); one negotiation likely, Constitution: (E) and (N); three negotiations (Airbus): (E) (E), Agricultural Subsidies (E) (E) (E); Growth and Stability Pact (E) (N); one delay with negotiation possible, Turkish Accession: (E) (N). This dispersion leads to the following mix shown by a graphic:



Source: Scharpf, F.W. (1993)

The two axes, x and y, represent the prospects for decision vs. deadlock.⁷ The northeast quadrant offers the area for negotiation. X will be restricted to support a proposal to the right (east) of the y axis; Y will support a proposal above (north) of the x axis. Thus, projects B and C are of interest to both x and y; y would not support A and E and would prefer D; x would not support E and D but would prefer A. While A seems located far beyond x's zone, E is far outside y's zone. We can assume that B and C offer negotiation possibilities.

⁷ Figure 2 is derived from Scharpf (1993) cited in Messner (1997), p. 204.

For the purposes of our paper, a vector to the east that would bring D within X's range might yield to negotiation. However, the vector would need to be drawn from B to C in order to appeal to x. The zone, however, narrows quickly unless y gives up significant ground. Similarly, while B is attractive to x, it is less attractive to y; but a vector drawn slightly to the northwest would improve its attractiveness to y. Thus, policy actors must consider the vector possibilities and what might be required. There may be political/economic limits constraining a breakthrough. The deadlocks, as always, may defy negotiation. Yet, unilateral action by either side is likely to engender substantial resistance from the other party or parties.

We can classify our six cases against the model by first identifying them on a political economic/continuum as follows:

Pure political....Political/Economic....Pure Economic....Other

Thus, **Boeing/Airbus** falls within Political/Economic; **Growth and Stability Pact** falls within Political/Economic; **Agricultural Subsidies** fall within Political/Economic; **Turkish Accession** falls within Political/Economic with a strong pure political element; **Constitution** falls within Pure Political; **Reject New Commissioners** falls within Pure Political. It would have been possible to include *other* cases such as asylum seeking or migration/immigration, criminal justice, and Pure Economic cases such as monetary policy. There are many more examples for each of the categories. The purpose was to propose a preliminary schematic for policy tradeoffs as well as predictions based upon other than pure power or hierarchic analysis. Those days have been diminished due to globalisation that now embraces networks including the EU, WTO, NAFTA, MERCOSUR and APEC. Rather than pure power, the potential for negotiation has been increased.

Fitting the Cases to Figure 2. **Airbus/Boeing, Agricultural Subsidies and Growth and Stability Pact** fall in the northeast quadrant. **Growth and Stability Pact** has one N strategy but the EU is reformulating the economic criteria for compliance. A delay is likely to produce a result. The EU can hardly get along without Germany and France, and vice versa. Thus, if x was the EU, point B might locate the relative positions of the EU and its members. We can only know this *ex post*. In our *ex ante* analysis, we would have coded the situation at D. A vector to C would not have been expected (that the ECJ would decide against the European Commission and France and Germany would not have been penalised).

Constitution falls in the area of point D. It has E and N strategies. Yet the likelihood of delay seems promising. Naturally, proposals for referenda could negate agreement. Those proposals are means to disengage premiers Chirac and Schroeder (chancellor) from pushing their respective populations. Time, however, should resolve this issue by negotiation. Both sides seem to want an agreement.

Turkish Accession is likely to be the most intransigent deadlock. The EU wants its accession. Thus, if the EU is x, A probably corresponds to the deadlock

location. To bring it up to the northeast quadrant within those whose N strategies are opposing accession will take substantial political will and survival through referenda, a condition not applied to prior accessionees. Only time can help move the vector in the right direction (to the north). While it seems likely, it is too close to call this one.

We coded (on October 27, 2004) **Reject New Commissioners** as N, N, on the basis of the President-elect's intransigence toward withdrawal of any commissioner. The following day he relented and removed the entire list of nominees. Consequently, we can now code (*ex post*) the situation as N for the EU members, who will wait to see the ensuing revised list, and E for the President-elect who showed evidence that (a) he understood a deadlock when he saw one, and (b) he demonstrated an ability to reach for a solution that would benefit the entire EU. He commented, that "I don't see my authority weakened. On the contrary I see it reinforced" (*Herald Tribune*, 2004a).

8. Conclusions

Conclusions are as follows:

1. Hertier (1999) had postulated that two options were available in extricating from deadlock: (a) hierarchical action inherent in the power of the European Commission, and (b) negotiating power when the Commission was unable to exert such power. Messner (1997) has suggested that hierarchical power no longer can compete with social networks. This paper observes that a social network has broken out in the EU Parliament based upon pan-European politics. That is, trans-national representatives from European Socialists, Greens, left of centre and right of centre parties, opposed the President-elect's nominees for Commission appointments in **Reject New Commissioners**, at least in one case, sufficient to mount a threat of veto, and, conceivably in several others, about whom the Parliament had expressed reservations. That particular nominee was enough to provide a checkmate against the President-elect. He withdrew the *entire* list, perhaps attempting not to cast the decision entirely on one candidate and to resurrect some degree of respectability for Italy, the President of Italy and the Vatican. He also did not want to revisit other proposed nominees whose approvals had been lukewarm. Thus, he provided the needed escape from deadlock so prudent in such cases (demonstrated in textbook fashion by President John Kennedy in the Cuban Missile Crisis). While this paper is not ready to speculate about social networks, it is quite possible that supporters can cite this case. Yet, it should be remembered that in the law, facts often lead to decisions that determine precedent (often extreme cases such as *Miranda* and *Gault*). In our case we had several 'forcing' components: the President-elect was seen as right of centre and the Socialists and some supporters protested an apparent right of centre position by the President-elect; the Parliament, among whom were many new electees,

sensed an opportunity to assert a Separation of Powers principle, that is, not to roll over and 'rubber stamp' the President-elect; many Parliamentarians were unhappy not only with a number of nominees but with slights shown toward their respective countries in allocating portfolios to the proposed nominees. The ensuing negotiations will show us whether or not, *ex post*, the President decides to redistribute portfolios with slightly different vectors. Some seem tempted to talk about 'democracy' emerging, presumably removing some of the 'deficit' so frequently mentioned. Should Parliament continue in this direction, the constitution might eventually have to show this newfound strength.

2. Scharpf (1993) has been helpful in contributing a schematic that can be instructive for policy analysis, more specifically to EU policy actors. This is not to suggest that policy actors are bereft of politics and economics among other things. Yet, the cases of **Airbus/Boeing**, **Agricultural Subsidies Growth and Stability Pact** have involved substantial amounts of time and political staying power. The result led to what appears to be outcomes of significant political/economy interest to the interested parties. While both Scharpf and Messner had warned that larger numbers would imply greater opportunity for deadlock, these cases suggest that greater numbers are not necessarily dispositive. In a sense, the greater numbers led to diverging centres of power causing obstruction to unilateral positions by one party. Thus, coalitions were formed among large numbers of parties that had been rather submissive as individual entities. This, however, remains an open question. It is relatively clear, that the Commission may speak somewhat hierarchically in cases upheld by treaties signed and decisions rendered by the EU Courts. That was not the case in **Growth and Stability Pact** even when the Court admonished the Commission for not executing the penalties. The result was to reformulate the rule. Neither the EU nor France and Germany wanted a complete schism. Thus, the element of politics created a deadlock. Yet the result was to begin reformulating the rule. Thus, the EU moved to an E strategy modified by a rule change, the EU members will not move away from an N strategy until becoming a party to the rule change. Of course, they were parties to the first rule. It is obvious that political suicide is not an option for N strategists when the last resort for a given rule has been exhausted. Delay had even been exhausted. Ergo, change the rule. The EU had nothing further to offer. From a political/economic standpoint, it is likely that the reformulated rule will need to be enforceable; otherwise, back to deadlock.
3. Two more cases, **Turkish Accession** and **Constitution** are unlikely to be resolved by political/economic factors. In the former, there is a population of 68 million that might offer marketing possibilities for the EU 25. Yet, the fear of an unskilled worker, influx supports the N strategy. That they are Muslim can have a positive/negative effect. Those already experiencing Turkish immigration, particularly France, Germany and the Netherlands seem reluctant. Others may argue that the immigrated Turks have not caused problems in their new countries,

and isolation of a secular country of Muslims is no different than the relationship of most European countries to Christianity and or other religions. Unless we deconstruct to ethnicity and 'too many doner kebabs' (hardly defensible in a unified Europe) the basic argument evolves to inclusion vs. exclusion. Europe has absorbed many immigrants on work visas. The present and forthcoming ageing problem (unskilled labour needed and pension relief needed) in Europe is a political/economy argument. The UK continually demonstrates the viability of Indian, Pakistani and Bangladeshi immigrants not only at the unskilled level but higher in the value-added chain. They continue to earn their subsistence and pay more taxes than welfare benefits claimed. In fact, the UK has made employment a condition of immigration (at least in the short run). **Constitution** is likely to experience delay as the various referenda are completed for or against. Precedent certainly exists for referring constitutions to the people. In some respects, the EU might benefit by this type of delay. The public has long groused about being unfamiliar with EU requirements. Referenda will put the burden on those who must explain both the benefits and the shortfalls. If this cannot be explained to populations, only continued negotiations offer an escape. Certainly the length of the proposed constitution makes it seem more like a legislative bill. Qualified Majority Voting may be an important obstacle. Yet a constitution can resolve shifts in power and nuances that even now are surfacing. The alacrity with which the Parliament protested against the President-elect's proposed commissioners may have done more for constitutionality than anything Valéry Giscard d'Estaing could have written. Time seems to favour negotiation.

4. The six cases start very prematurely to suggest that policy choices have an impact on the emerging EU policy parameters. The cases are hardly all conclusive. They do illustrate the potential for tracking statements and juxtaposing them on a schematic to obtain a 'reading' on probable outcomes. This, in itself, is not trivial. Despite Michels' belief in the propensity for oligarchy, and Robert Dahl's requirement of opposition, the decision space is still ill-defined. That is, we have supranational 'organisations' (EU and WTO plus the various trade associations) and we have individual members of the 'organisations,' and we have independent countries dealing across associational boundaries such as the U.S. The U.S., of course deals as well with NAFTA, an association of which the U.S. is a member. The paper argues that these relationships coupled with globalised political economy have altered patterns of deadlock and negotiation. That is so, since multilateralism has emerged (multiple centres of power). While it is clear that China has propelled the WTO and APEC, it has also exerted an independent force upon individual members of associations such as the EU and those that are not in the EU such as the U.S. This 'realignment' of earlier trade and FDI, dominated by unilateral actions of developed countries has created complexity. Policy actors within the EU and other regional associations must consider these interactions because of globalisation. The private sector has extended market penetration in

a de-territorialised fashion. While this is true of currencies, it is, to some extent true of countries as well. Multinationals (MNCs) do have a country of origin. But they operate abroad in increasingly comprehensive fashion. Emerging competition abroad may be indigenous to a particular country (local competition) or exogenous (BMW competing with VW in China). Policy actors must devise decision schemes to cope with these multi-level activities.

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Section II

Politico-administrative Roles of Actors in the Policy Process

The Impact of Administrative Traditions on Public Administration Reform: The Baltic Case

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Until economic liberalism finally peaked in the mid-1990s, management and market principles had been presented as the generic solution to the failures of traditional centralised, hierarchical and rule-driven public administration. Based on a perception of mankind as motivated exclusively by calculation of individual utility, inefficiency was seen as an inherently technical problem. Once appropriate institutions (and incentive structures) were in place, actors would, allegedly, adapt to the new rules of the game – regardless of time and place. However, experience soon proved that similar institutions produced very different outcomes in different contexts, implying that each country, ‘faces its own policy challenges, unique history, constitutional and political systems, and cultural and social circumstances’ and that: ‘Good administration hinges on context dependent purposes, values, interests, capabilities, and institutional traditions’ (Dahl, 1947; March 1997 quoted in Olsen, 2004: 72; Chen, 1990; Pawson and Tilly, 1997). Hence, solutions are much more complex, because ‘...[A]ctors are driven by habit, emotion, coercion, interpretation of internalised rules, and principles, as well as calculated expected utility and incentive structures’ (Olsen, 2004: 75).

The purpose of this discussion is to examine the impact of one of these context variables, and probably the most diffuse one: administrative traditions. The nature and persistency of administrative traditions will be explored in the three Baltic States – Estonia, Latvia, and Lithuania. These three neighbouring countries are exemplary cases for comparative analyses because their starting points and external demands for public administration reform – the EU factor – were almost identical, whereas their pre-communist traditions, post-communist political developments and, consequently, PAR outcomes differ. Secondly, from a more practical perspective, the authors have conducted two surveys of administrative elites in the three states, one in early 1993 and the second in 2001 – 2002, that provide a unique opportunity to conduct two-dimensional analyses on the impact of administrative traditions: a cross-country comparison at the beginning of reforms and in 2001 – 2002, and a two-step time series analysis within each country. Combining these two dimensions should help us to better understand the extent to which different administrative traditions have survived during the communist era and if differences became less distinct or reinforced in the decade following its demise.

This chapter consists of three parts. The first part discusses the concept of ‘administrative tradition’ and presents an operational definition of the concept to

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be applied in the subsequent analyses. Section two portrays and compares the administrative traditions in the three states in 1993 and 2001 – 2002. Section three summarises the findings and presents a future research agenda.

1. Conceptualising administrative traditions

Administrative tradition, as a concept, is as widely used as it is nebulous. In general, everyone agrees that traditions in broad terms refer to aspects of the past that influence present developments. However, a quick look through titles and headlines soon reveals a dividing line between what are basically two understandings of the concept – a narrow and a broad interpretation. The narrow perspective emphasises the cognitive and ideational character of traditions: “Tradition is a set of beliefs someone picks up during a process of socialisation. This heritage comes to each individual who, through their agency, can then modify and transform it, even as they pass it on to others.” [...] ‘A government tradition is a set of inherited beliefs about the institutions and history of government’ (Rhodes, 1999: 352). Hence, traditions are belief systems that through cognition and the formation of value systems may influence behaviour and the formation of institutions. The broad perspective, in contrast, sees tradition as consisting of not only belief systems, but also habituated patterns of behaviour and institutions: “By tradition, we refer to clusters of institutions and cultural practices that constitute a set of expectations about behaviour” (Perez-Diaz 1993: 7 as quoted in Peters, 2000). Here, tradition is anything that with certain regularity is carried over from the past and influences the present – be it values, belief systems, institutions or informal patterns of behaviour or networks.

Theoretically the two versions represent different ideas about how and through which mechanisms administrative traditions affect the present. The narrow perspective is theoretically grounded in a version of sociological institutionalism, in that, ‘Administrative traditions structure the process of adaptation to new institutional arrangements by affecting not only the strategies, but also the preferences of relevant actors; i.e. new demands are assessed in light of existing rules and standard operating procedures’ (Knill, 1998: 2). For the broad perspective, administrative traditions work through the constraining effect of established institutions, thus adding a behavioural and institutional dimension to the causal model(s): ‘The *organisation* of a regulatory regime constrains choices by structuring the incorporation of interest groups, defining state capabilities, and shaping state and societal interests’ [–] ‘At the broadest level, a nation’s regulatory regime reflects its history of industrialisation’ (Vogel, 1996: 22). Insofar as the emphasis here is on the contingent influence of traditional institutions, this version comes closest to the tenets of rational choice institutionalism, and – if we add the historical origin and path dependencies of formal and informal institutions – historical institutionalism (Hall and Taylor, 1996). The latter, however, also includes the role of ideas and thus combines the tenets of sociological and rational choice intuitionism by adding a contingent historical dimension.

Our operational definition of administrative tradition comes close to the latter version of historical institutionalism (Steinmo, Thelen, and Longstreth, 1992). From this perspective we prefer to deal with three interrelated levels of national administrative history: the extent to which a public administration has been institutionalised into formal rules (institutional tradition), into habituated patterns of behaviour (behavioural tradition) or exists as the beliefs and values of the political elite, of citizens or of the civil servants themselves (ideational tradition). These three levels of appearance are reflected in Table 1. The table distinguishes between what we on the vertical axis term *levels of PA traditions* and on the vertical axis identify *dimensions of PA traditions*. For the present purpose we have chosen to focus on three core aspects of any state administration: the relationship between the state and society, the politico-administrative relationship and the administrative structure. Public administrative reforms is anything that incurs change at the institutional level, while the ideational and behavioural levels expose the feasibility, viability and impact of institutional reform.

Table 1
Levels and dimension of public administration (PA) traditions

Dimensions/Levels	State-society relations	Politico-administrative relations	Administrative structure
Ideational			
Institutional			
Behavioural			

Turning to the content of tradition, a necessary first step in any comparison is to establish a typology or scheme that can be used to classify the observed traditions. As a navigating (or organising) tool we apply the classical distinction between those who see the state as the constituting element (either fused with or superior to civil society) and those who see society as constituting the basis for the existence of the state based on a contractual accord (Peters, 2000). The statist tradition will grow out of a society with a hierarchical culture and intrinsic collective values, while the contractual version reflects a society that leans towards more individualistic values. This is of course a very general statement, and in real life many mixed forms appear. In this overall perspective we follow Grief (1994), who examines how collectivist and individualist societies impact the workings of formal institutions, and concludes that: *'The effect of organisations is a function of their impact on the rules of the game and the cultural beliefs of the society within which this game is embedded. Analyzing economic and political institutions and the impact of organisational modifications requires the examination of the historical development and of the related cultural beliefs'* (ibid. 944).

This basic distinction can be divided into a number of sub-categories related to concrete historical examples. Following the basic distinction based on the conception on the nature of the state, we distinguish between 5 types of administrative states. In the 'statist' category, we put the German, the French and the Russian examples and in the societal category the Anglo-Saxon countries, while the Scandinavian countries represent a mixture of elements from both the statist and the societal tradition.

In policy terms the statist approach may reflect what we will term a classical Weberian (or traditional) administrative system and contractual approach reflects that organised along the market centred beliefs of new public management. A statist or organic understanding of state-society relations sees the two sides as indistinguishable parts of the one whole, it is instituted in continental constitutional law and practised and symbolised by the German concept of 'Staatsbürger' (and not 'Bürger'!) In contrast, contractual or market-based understandings of the state-society relationship see the state as a human made construction deliberately installed by independent citizens. This tradition is expressed in the Anglo-American world, where terms similar to 'state citizen' would be unthinkable. This is again a very broad classification, and the reality is much more complex in regards to the relationship between state and society. However for the purpose of this analysis we apply these ideal type categorisations. In operational terms a Public Administration formed in the statist tradition will typically harbour institutionalised corporatist arrangements where interaction between society and the state is perceived as a plus-sum game benefiting both sides, although this feature is stronger in the German than in the French and traditional Russian cases. It will also tend to be a unitary state without significant independent regional and/or functional agencies, although the corporate post-war German state (installed by the allies) somewhat confuses this picture. While the size and scope of the state is not a constituting part of this dichotomy, organic states generally tend to have greater responsibilities concerning management of the economy and care for its citizens. Regime type is not part of this taxonomy, although here the statist tradition has a strong affiliation with the existence of authoritarian or totalitarian systems, as exemplified by the fascist and Russian autocratic and communist regimes.

This elementary dichotomy is also mirrored in the politico-administrative dimension: the perception of the civil servant as an unwavering executor of the state's laws versus one who is a flexible manager skilfully navigating to implement the intentions rather than the words of the legislation. In the statist tradition a civil servant will abide by the law, which is the end point of any decision, although authoritarian systems often harbour intensive informal networks and patronage systems where the limits between politics and administration become obscure. However, in the classical statist system a civil servant will keep a distance to the politician and only in rare cases, and at the highest level, provide political advice or be exposed to political interference in day-to-day affairs. In the contractual state the civil servant sees himself as a manager and an arbitrator between competing interests, and

consequently responds to the ins and outs of politics. Laws will here often have the character of broad frameworks that leave a wide margin for administrative interpretation, reflecting the contingent character of administrative tasks.

This constitutive dichotomy may be further nuanced by Peters' (1988) attempt to capture politico-administrative relations in 5 ideal types. In the first model the political and administrative levels are clearly separated, and the bureaucracy is seen as the loyal and mechanical implementer of policies designed and decided by politicians. A second model (village life) perceives the politicians and bureaucrats as members of unified state elite without severe internal conflict. In the third model (functional village life) political and administrative careers are more or less integrated, outside interests will influence internal decision making and sectoral identities develop, implying that politicians and administrators in one ministry may unite in conflicts against other parts of the state administration. The fourth model (the adverse model) imagines a significant, but still unresolved conflict between politicians and bureaucrats, while the fifth model assumes a clear separation between politicians and bureaucrats, but with bureaucrats as the strong part.

The statist-contractual distinction will also be reflected in the structure of the administration and in the way separate administrations relate to each other. In the statist tradition, the internal relations in an administration will typically be strictly hierarchical, with separate departments referring to a common superior government department, the president's, or the prime minister's office, or the ministry of finance, with little or non-binding contacts between different agencies on the same organisational level. In contrast, in a contractual system we will see more direct horizontal contact between functionally different agencies outside the control of a superior controlling agency.

In Table 2 is a summary of the three dimensions of the five administrative traditions.

Table 2
Selected Features of Five State Traditions

	Anglo-Saxon	Germanic	French	Scandinavian	Russian
Conception of the state	Contractual	Constituting	Constituting	Mixed	Constituting
State-society relations	Pluralistic	Organic	Antagonistic	Organic	Organic
Politico-administrative relations	Separated	Separated but fused closer to top	Fused	Separated	Fused
Administrative structure	More horizontal coordination/ agency independence	Hierarchical	Hierarchical	Hierarchical	Hierarchical

Sources: Peters (2000).

In the following, we compare the nature and impact of administrative traditions across the three Baltic countries and across the last decade of the 20th century. In our analysis of these three dimensions and 3 levels of administrative reforms, we draw on three sets of sources: normative texts issued by public institutions in the countries concerned, analytical texts produced by international organisations and, to a lesser extent, by individual researchers, and finally, two surveys of core administrative elites in the 15 post-communist countries. The normative texts by definition only tell us about the formal institutions, the major instrument available to politicians when they want to launch reforms, while the surveys provide insights into the informal, behaviourally defined institutions and the ideas held by the core bureaucracy.

The indicators chosen as proxies for the three dimensions of administrative reform represent three fundamentals of the reform process in these spheres. Thus, the state-society relationship will be pictured as the degree of formalisation of state-society interaction (normative and behavioural) and the endorsement of such procedures by the civil servants (the ideational level). The politico-administrative relations will be depicted in terms of Peters' five images of the politico-administrative relationship. Finally, the internal organisation of the core administrations will be portrayed through developments in administrative structures. To the extent permitted by available data, we will provide a picture of how far institutional reforms have moved and to what extent they have been consolidated by behavioural and attitudinal changes.

2. Administrative traditions in the Baltic States at the beginning of reforms

In May – June 1993 a group of interviewers supervised by Ole Nørgaard conducted 230 structured interviews with politicians, civil servants, researchers and businessmen in the three Baltic States.² The interviews covered a wide range of issues related to developments after the return to national independence. Among the issues was also the role of public administration in the new democracies, how civil servants perceived their own position, how other elite groups viewed their position and activity, and how the daily affairs of government were conducted. Below we first summarize the status of the public service reforms at the time of the interviews (the formal institutional level) and then present the picture of the public administration in the three states as reflected by the 1993 interviews (the behavioural and institutional levels).

2 The interviews were taped and summarised in focused research reports that have been used for the present purpose. The original interviews were used for the book 'The Baltic States after Independence' (Ole Nørgaard and Lars Johannsen), Edward Elgar, 1996 and 1999.

2.1. Public administration reforms in the three Baltic States in early 1993

The impetus to undertake administrative reform was initiated by the desire to join the EU. In 1993, however, administrative reform was still in its early stages. The public administrations were chaotic after the breakdown of the communist system and much energy was focused on securing independence, and less on building a well-functioning public administration. The reforms in public administration in the early 1990s were conceptually weak and most innovations were imitations of Western practises and creation of new government services. However, it is possible to identify elements of institutional change along the reform dimensions discussed in this chapter.

2.1.1 State-society relations

The ideal model of state-society relations is somewhat different in the three countries. The Estonian ideal was a small effective state with minimal and passive regulation and state intervention policy. Many Estonian top policy-makers favoured downsizing and rationalisation of the public sector, reflecting the image of a contractual state. The civil service reform agenda has been a combination of a Weberian bureaucracy and more New Public Management (NPM) inspired reforms. The Latvian vision was less clear. Their ideal came closer to a social market economy – focusing more on the balance between state and market. Concerning public administrative reforms, the main tendencies have been to decrease the role of the state and increase the openness and responsibility of the administration – again a combination of Weber's ideals and NPM. In Lithuania the ideal has been a Weberian merit-based civil service system. As in the other Baltic States there was a wish to rationalize the state and make it more effective, but this was not as unambiguous as in the other countries as the Lithuanian state ideal came closer to the continental statist tradition and therefore a larger state.

In the interviews from 1993 we asked about which country they would like to resemble. Where Estonia clearly points to Scandinavian countries (66 per cent), Latvia and Lithuania are less prone to do so (respectively 41 and 53 per cent). These countries point more to other Continental European countries, such as Germany and Belgium, and to the United States.

Estonia adopted its new constitution in 1992. It was partly based on the constitution from 1938, but revised considerably according to modern democratic principles. The Constitution contained only a few comments on the workings and organisation of the public sector and the relationship between state and society such as the citizenship of officials. Actual regulation and delimitation of the public service, however, came with the Public Service Act, the first draft of which was presented in 1993. Before the Public Service Act was adopted, there was no legal separation of public and private employment. By 1992, all questions of labour were

regulated by the Labour Code of Soviet Socialistic Republic of Estonia (passed in 1972). The draft presented in 1993 was primarily German based carrying the Weberian principles. The Public Service Act delimited the scope of the civil service, created a post-based system and regulated the recruitment, employment and personnel management of the civil service. The Act was finally passed by parliament in 1995, and came into force in 1996. In the first draft from 1993, the concept of public service was still very broad and inclusive, whereas the 1995 concept was far narrower – defining the public service as state and local administrative agencies financed by the public budget and exercising public authority. It also left out all elected posts and health and social service workers (Randma, 1999; Estonian Public Service Act, 1995). Besides, later drafts and amendment as well as reforms of training etc. developed it towards the contractual-open system. Thus, despite having a clear vision of a clearly delimited and insulated state by the mid 1990-s, this was not achieved in 1993.

There were, however, elements of contractual institutions limiting the integration of state and society. The constitution opened up for restricting the right of public servants to engage in enterprise and to belong to political parties, organisations and non-profit associations etc. (§§ 30). This regulation was institutionalised with the Public Service Act and further developed with the Code of Ethics of Public Service from 1999. This clearly circumscribed interaction by the Estonian administration with civil society and private business. There was not at that time any other institutional arrangement for involving society interests in political decision-making or implementation.

Estonia put great emphasis on re-establishing local government structures, and was radically decentralising former state functions to very autonomous Local Government. In fact, administrative reform was almost synonymous with territorial reform in the early 1990s. But this reform can also be seen in connection with the ongoing rationalisation of state structures, as minimal state became the most important symbol in Estonia.

Concerning the size of the state, Estonia had some success with staff reductions during the first years of independence. Altogether 37 per cent of civil service personnel were replaced between the fall of 1992 and spring 1994 (Sootla, 2001: 129). The Estonian transition government also had success with its privatisation programs. Between 1991 and 1995 almost all small businesses (app. 1200) formerly owned by the state were privatised (Phare, 1999). In addition, the central administration was rationalised, reducing the number of ministries. Hence, in 1993 the downsizing of the state was further ahead than the creation of a modern bureaucracy and stable and clearly delimited state-society structures. Estonia thus started from statist German position but due to solutions of practical issues it moved towards the contractual position.

Having declared independence from the USSR in 1990, Latvia restored the constitution of 1922. It was first amended in 1994, and several times after that. The new Latvian state was a unitary state with a concentrated power structure. The state administration was organised according to the principles of a functionalist state (Jansone, 2000). Although the need to reform the legacy of the old administrative model, which was based on democratic centralism, was discussed repeatedly, actual changes were instituted only very gradually (Kress and Miller, 1996).

The Latvian reform process throughout the 1990s was quite chaotic and reflected the lack of a co-ordinated approach and a clear vision. In the first phase (1990 – 1993) administrative reform efforts were largely ad hoc. The most important reform initiated was the attempt to redraw the boundaries between politics and administration, and between government and the emerging private sector. Reform acts also involved the decentralisation of governmental functions and the development of local self-government (Kress and Miller, 1996). These reform efforts during the first years of independence were implemented very gradually and therefore re-launched in many versions throughout the 1990s.

The more focused rebuilding of the Public Service was not really put on the reform agenda until late 1993, when a far-reaching re-design of the civil service system inherited from the Soviet era was launched (Jansone, 2000). Most significant were the Ministry of State Reforms and the adoption of the Law on Civil Service in 1994. This introduced a predominately carrier-based civil service system. It expressed a very restrictive concept of civil service, narrowing it down to include only employment in central government institutions and leaving out all elected positions. After this period reforms came to a halt due to lack of political and bureaucratic will and the new laws were therefore not fully implemented (Vanagunas, 1997; Goldmane and More, 2000). The secondary legislation needed to further regulate employment, grades, salary, etc., was left unfinished. Cutbacks and rationalisations of the administrative apparatus were not initiated until the end of the 1990s.

The relationship between the state administration and societal interest was not institutionalised during these first years of reforms, and the influence and involvement of societal interests was quite uncoordinated and chaotic.

Contrary to Latvia, Lithuania drafted a new constitution that was adopted in a referendum in 1992. The constitution contained a clear definition of neither state nor local government structures, and until 1995 all public sector reforms were un-coordinated and viewed as part of other sectoral reforms (Lazareviciute, 1999; Staras, 1994).

The state administration was built up from practically zero. To accomplish this enormous task a Ministry of Public Administration Reforms and Local Authorities was set up in 1994. One such task was to draft the Law on Officials of the Republic of Lithuania and a number of secondary Acts, providing some definition and

delimitation of the public administration, as well as requirements for qualifications, principles and order of training, etc. This law was however very vague, had many deficiencies and was not comprehensive (Lazareviciute, 1999). A comprehensive Law on Public Service and a Law on Administration were not adopted until 1999. Hence, in 1993 only very little can be said about public administration reform in Lithuania. Before the adoption of the Civil Service Law in 1999, all public servants were subject to the Lithuanian Labour Contract Law, and therefore not regulated separately from the private labour force.

In the constitution the state is seen as closely integrated with society, resembling the organic state tradition. According to the Law on Officials, civil servants were barred from other employment and from representing the interest of organisations, political parties, enterprises, etc. The organisations themselves were, however, regularly invited to participate in negotiations.

Despite officially sharing the vision of down-sizing the state, Lithuania found this especially difficult to accomplish at the beginning of independence. In 1992 the number of civil servants in the core administration was 21,800 (Staras, 1994), and this rose to 23,300 in 1996 (Vanagunas, 1997), indicating a relatively large transition employment. Besides there were all those working in other public sectors, altogether 587,200, amounting to almost half of the total work force (Vanagunas, 1997).

2.1.2 Politico-administrative relations

In Estonia, the Republic of the Government Act from 1992 does not clearly separate the role of the government as a political institution from that of the government as a regulative and implementing organisation, but is intended to regulate both sides of the executive. According to the Estonian Civil Service Act, the status of civil servants also applies to officials appointed by the government – that is, politically appointed officials with predominantly political tasks. However the Law on Government from 1992 defined the status of the chancellors and his subordinates as career civil servants and thereby differentiating these from officials who leave their post due to change of government. Despite the official policy of recruiting according to merit principles, recruitment and career development were not totally free of political influence. The principle of legality was officially strong. However, discretion was allowed within the scope of the law (Randma, 1999). The role of the civil servant as a flexible manager was therefore already apparent in the early transition years.

In Latvia the only position officially open to political appointment was that of State Secretary, and even this position was only filled politically in case of serious disagreement between minister and official (Jansone, 2000). This amounts to a formal separation between political and administrative systems. But in practice progress has been far more inconsistent and slow. The constitution did not provide a clear framework for the civil service. Civil service issues were open to governmental decisions, creating the potential danger of politicisation of the administration.

The Law on Civil Service adopted in 1994 called for recruitment of Civil Service personnel on merit principles. But in 1993 and many years after, there was still evidence of nepotism and patronage all across the system (Jansone, 2000). The relationship between politicians and bureaucrats has been characterised by distrust and mutual pressure and criticism. Legality in the administration was very low, and bureaucrats reacted to political opinions and changes in the political situation or attitudes of the public rather than to legislative acts (Jansone, 2000). Discretion in the implementation of government decisions was rather high. Bureaucrats were also involved in policy formulation and decision-making. Bribery at all levels was also a common practice in the Latvian administration at that time.

The Lithuanian legislation was an attempt to separate the political and the administrative functions of the bureaucracy. Already in the early stages of preparing the Law on Officials the issue of distinguishing between politically appointed officials and career civil servants was discussed. The Law defines these two categories of civil servants as A and B levels and defines tasks and employment conditions. However, this division was not at all clear in 1993. Politicisation of the administration was a problem in Lithuania. Even though the law officially protected career civil servants from dismissal due to political changes after elections, it did not protect from dismissal for other political reasons, such as disagreement with official policies, etc. Merit criteria for recruitment and promotion were not implemented effectively either.

Administrative discretion in, for example, implementing regulations on the civil service and determining individual salaries was very wide (Sigma, 2002). Petty corruption in the administration was also a very prevalent feature at that time.

2.1.3 Administrative structure

Estonia initially established a contractual (principal-agent) structure with independent agencies subordinated to the Cabinet. The independence of ministers was also institutionalised at an early stage. However, the horizontal coordination was very weak.

In Latvia the need for more horizontal coordination and functional division within the central administration was identified early on. But the new structures were not developed in the first stages of reform.

In Lithuania the constitution and other laws define hierarchical subordination. Horizontal coordination was, however, left unelaborated during this time.

2.2. Behavioural and ideational dimensions of public administration in 1993

In early 1993 the three Baltic States had been independent for just over a year. All aspects of their lives were deeply influenced by relics of (or reactions to) the Soviet system – institutions (legal system), informal networks and ideas and values. Yet, in

these early days of independence our interviews identified some distinctive differences between the three countries, not only in their varying capacity to adopt and implement formal institutional reforms, but also in the way their administrative systems worked and how officials thought about the present and the future.

2.2.1 State-society relations

In 1993 Estonia came closest to what we term the contractual state. Initially the main inspiration was the interwar administrative-legal context, influenced by German administrative traditions, however at the same time Estonia was deeply inspired by radical liberal contractual values formed by the economic reform ideologies. These values became dominating in minds and behaviour as well. Lobbyism was a widespread and to some extent an accepted practice, although one of our informants commented that the practice was obvious, '...especially when parliament adopts idiotic laws'. There were no balanced institutional links between organised interests and the state administration, nor were such balances deemed necessary or useful because, '...the state does not approve of strong trade unions, a normal phenomenon in market economic countries'. However other interest organisations such as the Employers union and the Union of Banks had great influence on law making. The state was however perceived still as separated from civil society, a trend also reflected in the very weak social underpinning of the party system. One respondent explained this distinct division between state and society as a consequence of the traditional control of the state by foreign powers: 'History is important. The Estonians are pragmatic people. They have learned to isolate themselves from foreign pressure and influence. That is also why there were so few resistance groups during the Nazi time.'

Also in Latvia our interviews left the impression of a state apparatus separated from society. Political parties were portrayed as artificial creations without a clear political base: 'Organic parties do not exist. Parties are artificial and thus unstable creations'. We were also told that people are apathetic, which is described as a legacy of the Soviet era: 'Ordinary people remain unable to influence the political top, which also explains the [horizontal] cleavages inside the parties. The Soviet system is responsible for the political apathy of ordinary citizens'. Political access was very unevenly distributed among interest groups. However, the individualism and selfishness that now dominates public life is also regretted by many who deplore the loss of social cohesion and solidarity. The general picture, however, is not that the clear division between the state administration and society reflects a distinct historical tradition. Rather, it symbolizes the chaotic legacy of the Soviet state system and a society divided by strong social and ethnic cleavages.

Lithuania, finally, is placed somewhere at the other end of the statist-contractual axis. None of the major parties has a clear social basis, and this also applies to the reformed communist party: 'There are large interests which are not yet repre-

sented in the party system: Workers in the countryside, owners all over the country and business people do not have their own party’.

The civil society organisations interviewed did feel able to influence rule making and implementation, and the opportunity to have influence – whether institutionalised or through lobbying, – was perceived as a positive phenomenon. ‘Yes, we do have influence and we stabilize the political life’, as it was expressed by the head of a major organisation. Especially agricultural interests have a strong institutionalised stand. There were also distinct pleas for the instalment of more stable corporatist institutions. Also Lithuanians feel alienated vis-à-vis the political system and the state apparatus: ‘The major problem is ‘homo Sovieticus’ – people are indifferent. In addition they are evil-minded and self-centred. The only correct attitude is their own’. Yet, despite this distinct Soviet legacy, of the three countries Lithuania comes closest to the organic vision of the state-society relationship.

2.2.2 Politico-administrative relations

In 1993 relations between politicians and civil servants in the Baltic States were still in a formative stage. The memory of strict political control of the bureaucracy by a parallel party structure was still vivid. Positions on this point were very much reactions to the incumbent system and the ideal vision in all three countries came very close to the Weberian model of the independent bureaucrat guided only by the law. In Estonia it was a persistent complaint that the legal base inherited from the Soviet system was insufficient to guide the civil servants, who then by default often had to take political decisions. In contrast, it was a clear ambition to separate the bureaucracy from politics. In Latvia we heard the same complaints, but also that the bureaucracy was thoroughly corrupt and beyond democratic control. The problems with a disoriented and politically uncontrollable bureaucracy seemed least serious in Lithuania. While complaints about the insufficient legal base for a rational administration were repeated, informants also claimed that direct political interference in administrative work was rare. Hence, in Peters’ terminology the central administrations in Estonia and Lithuania in 1993 came close to what is termed ‘village life’, while the infiltration by outside forces sent Latvia closer to the ‘functional village life’ model.

2.2.3 Administrative structure

The administrative structure was still influenced by the extreme hierarchy and institutional segmentation of the Soviet era. Also the disappearance of the communist party as the supreme coordinating centre is felt in all three countries. Latvia in this respect leaves the impression of the country where the transition created the greatest administrative chaos. There was no effective coordination between ministries and in general our respondents were unable to identify or even propose a coordinating centre. Also Estonia felt the havoc of transition and lack of coordination, and the presidency, government and parliament were seen as institutions competing for

control. Lithuania again stood out as the most orderly system. Lack of coordination between ministries was not a major complaint, and most respondents emphasised the central role of the presidency.

2.3 Summarising traditions

Below we have tried to illustrate how the ‘public administrations’ worked in relative terms in 1993 (the behavioural level) on the three dimensions.

The figures illustrate that although all three countries in 1993 were still heavily dominated by the legacy of the Soviet system, the turmoil of transition and a lack of systemic coherence, it was still possible to identify consistent differences between the three countries with deeper historical roots, what we here term administrative traditions, both on the institutional, behavioural and ideational levels. Estonia at that time came closest to the contractual state with strong political aspirations to separate the state administration from politicians and from civil society. This aspiration lay behind the initial reform initiatives and is also reflected in the picture we obtained from the interviews, although the systemic incoherence at the time distorted the picture of the politico-administrative relations and the administrative structure. Lithuania was at the other end of the statist-contractual continuum, with well-established linkages between the state-administration and organisations, separation of the state administration and politicians and a hierarchical administrative structure. Latvia, however, seemed to be somewhere in-between, first of all characterised by systemic incoherence and legacies of the Soviet system. It was at that point difficult to recognize any distinct administrative tradition in this country. If these were the administrative traditions (and lack thereof) in the early 1993, how did they fare over the next decade? Would they disappear or be revived through the reform efforts of 1990s?

Figure 1
State-society relations

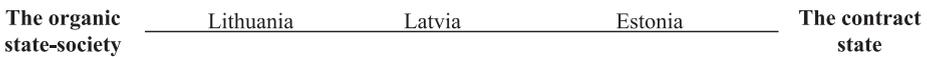
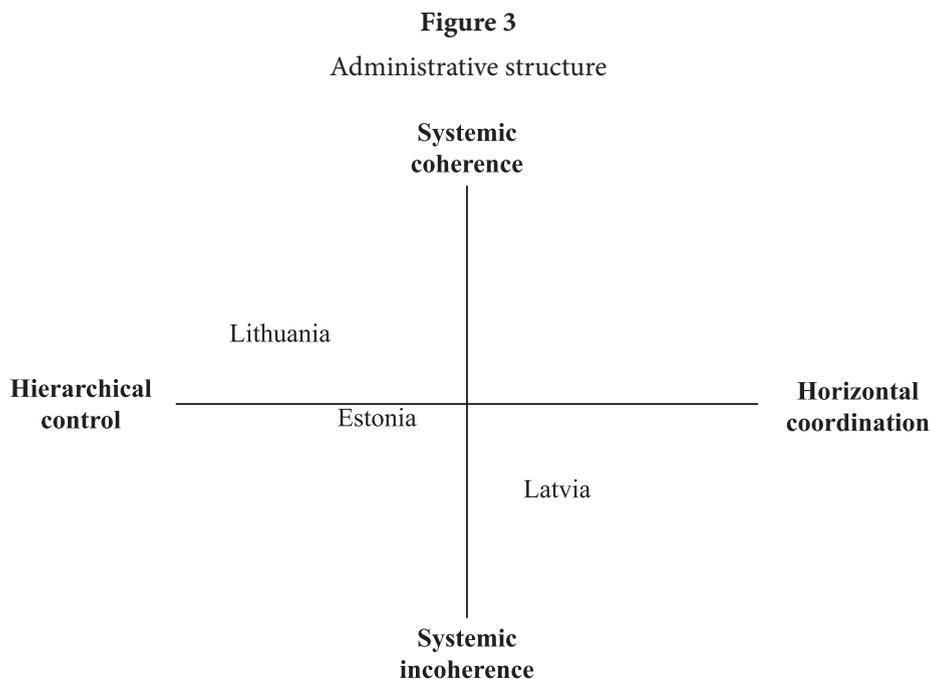


Figure 2
Politico-administrative relations





3. Administrative traditions a decade after independence

From 2000 to 2002 we, as part of a larger comparative project, conducted surveys of centrally placed political-administrative elites in the three Baltic States – ministers and top executives in core ministries. By core ministries we mean those central to decision-making within political structures. Below we first describe how far the institutional reforms of state-society relationships, politico-administrative linkages and administrative structure have moved in the three countries at the beginning of the new millennium, and then report the extent to which the formal reforms were underpinned by real behavioural and ideational changes, reflecting or challenging the administrative traditions.³

3.1 Administrative reforms at the beginning of the millennium

3.1.1 State-Society relations

In Estonia, the Public Service Act (PSA) came into force on January 1, 1996. Major amendments have been made in 1999, 2000, and 2001. The act provided a legal

³ Owing to the small (and varied numbers of) N and the level of measurement there are limitations as to what kinds of statistical analyses can be made. The results are therefore presented in simple percentages. We thank Thomas Frank for his help with the statistical analyses.

framework for the public service, and civil servants and public sector officials now have an independent judicial position. However, there were some conceptual weaknesses in the legal framework and important relations were not regulated by the law. Political and bureaucratic support for these administrative reforms has been unstable because of the frequent changes of governments and general political instability, which has caused delays and discontinuity. Despite this, a large part of the reforms has been successfully implemented.

The government that took office in 1999 had public administration reforms at the top of its agenda, and went on to develop a new and more comprehensive and coordinated Program for Public Administration Reform, which was adopted by the government in April 2001. Among the central principles were a legitimate and fair administration, openness and transparency, protecting the rights of individuals, efficiency and effectiveness, and the subsidiarity principle. The concrete reforms included: Local government reform, optimising functional divisions and co-operation, budget reform and strengthening financial management and internal audit, developing a citizen-oriented public administration, and developing the civil service. The civil service reform focused on determining the scope of the civil service, reviewing recruitment policies and the selection system, training, reorganisation of the pay system and motivation mechanisms, and on developing human resource management. The principles were those of professionalism, political neutrality, merit, and transparency, but also performance and contract regulation. The recruitment and promotion processes established in the Estonian civil service came close to a Weberian ideal with recruitment by public competition and selection based on merit (Randma, 1999). However after 1995 all further steps were targeted to move away from the career model integrated in the Weberian logic and to develop an open (position) system of civil service.

The Estonian public service was thus established as an open position-based system with but with few elements of career service. (Civil Service Act, 1995). This has led to extensive mobility between private and public sector employment. But there are only few institutionalised links between society and the state administration. When asked in 2001 about how concerned interests were incorporated or consulted in the decision-making processes, 44 per cent indicated that there could be informal fora, whereas only 26 per cent answered that there were institutional fora for discussion and cooperation. This shows that corporatist structures are very weak in Estonia.

There has been a slow, but steady increase in the number of public servants throughout the late 1990s despite the declared intention of the governments to downsize. The number of civil servants rose from 19,977 in 1997 to a maximum of 20,472 in 2000 (Ministry of Finance, 2004). Then the government succeeded in breaking the curve, and by the end of 2003, the number of civil servants was down to 18,998 (Ministry of Finance, 2004). The privatisation program continued

throughout the 1990s as the government privatised a large part of the industrial sector, utilities and infrastructure companies and almost completed the land reforms. Despite the high level of privatisation, the Estonian government launched further privatisation initiatives in the 2001 reform program, which focused on transferring the functions that were not inherent to the central administration to the private and third sector, thereby further reducing the state (State Chancellery, 2001).

The Latvian public administration and Civil Service Reform was started in 1993 and was followed up by the Law on Civil Service of 1994 and the Public Administration Reform Concept of 1995. Despite a lack of a co-ordinated approach and effective implementation mechanisms, and in the face of strong resistance from all levels of public administration, some significant public administrative reforms were actually carried out (Goldmane and More, 2000). Among them, the relationship between the administration and the public has been reformed, gradually broadening the input of society in decision-making processes. The involvement of autonomous organisations in the policy-making and problem-solving processes is facilitated by legislation and institutional settings within the ministries, and some functions were even delegated to the third sector, largely to non-governmental organisations. Interest in such cooperation has increased on both sides (Goldmane and More, 2000; Jansone, 2000). Other than that the general privatisation process has been very slow compared to that in Estonia (Goldmane and More, 2000). Administrative territorial reform was begun in 1998, but has advanced at an exceedingly slow pace.

The Civil Service Act, 2000 gives a clearer and stricter definition of a civil servant according to the tasks he performs. To fully develop a modern effective state administration, however, it is still necessary to continue the development of secondary legislation (recruitment, remuneration and career development) (Goldmane and More, 2000; Jansone, 2000).

Concerning the size of the public sector, Latvia finally began a process of structural changes in the late 1990s. The number of civil servants was reduced from 11,046 in 1996 to 8,181 in 1999 (Jansone, 2000). This decrease has mainly been accomplished by re-defining part of the former civil service within public administration institutions in accordance with the new administrative concept as being out of the civil service. (Strategy of State Civil Service Administration, Riga 2001).

Reforms of state-society relations have been slow in Lithuania. Despite having adopted several comprehensive policy documents in the mid-1990s, including a commitment to civil service reforms such as functional reviews of the state administration, increasing effectiveness and ethical norms and performance standards for the civil service, these reforms were not yet fully implemented at the end of the 1990s. The process was slow because of poor coordination of the administrative reorganisation efforts and lack of political and bureaucratic support (Lazareviciute, 1999). The civil service law was adopted in 1999. The act

reinforced the career principles in the civil service and ensured the autonomy of civil servants. There have been problems because there were no clear delimitations of the administration vis-à-vis the private sector, as well as problems of politicisation. After 1999, the administration achieved a higher degree of professionalism and stability (Sigma Lithuania, 2002). Further reforms in this area have covered rationalisation of the state structure, delimiting the functions of each ministry and agency, creating accountability mechanisms, and further elaborating civil servant recruitment procedures.

In 1999 came the law on Lobbying activities, establishing the rules for lobbying and procedures for how civil servants and politicians are to interact with interest groups and lobbyists. Collective decision-making is recognised in Lithuanian institutions and accountability mechanisms for such decisions are being developed.

Regarding the size of the public sector, Lithuania began to reorganise in 1998, reducing the number of ministries and cutting down the number of civil servants by 30 per cent (EC, 1998). Most ministries are understaffed due to lack of qualified personnel and resources (EC, 2003). Reorganisation was continued in order to avoid duplication of work among institutions, and several ministries have been merged, making the structure more simple and transparent (Lazareviciute, 1999; EC, 2000).

3.1.2 Politico-administrative relations

The classical political-administrative dichotomy had yet to be clearly articulated in Estonian legislation at the beginning of the millennium. The specific roles of politicians and bureaucrats, respectively, were not defined and have therefore largely been shaped in an ad hoc fashion. Among the central goals of the reforms was to redefine the roles of politicians and civil servants. There have been intense fluctuations – towards politicisation at one time and towards neutrality at another (Sootla, 2001). According to the Public Service Act some posts can be filled by way of political appointments, and as such posts are quite numerous and often in cardinal positions, open and competitive recruitment does not function as well as it might seem at first glance. Headhunting, parallel to formal public competition, has also been a widespread method of recruitment. The Public Service Act introduced a distinction between career civil servants and state servants appointed by parliament and president and those working for politicians during their term in office. Hence there are neutral civil servants and politicised state servants. Furthermore, politicisation has been more pronounced towards the top as higher officials, who can be appointed politically, are involved in policy-making and have close working relationships with ministers. In 2001 the new law enabled to fire top officials if the minister found problems with their cooperation. There remains a wide scope for administrative discretion in the implementation of political decisions. But in order to ensure the

legality of the administration, the judiciary is charged with controlling the use of administrative discretion (Randma, 1999).

The Latvian Law on Civil Service from 1994 established a civil service concept modelled on that of Germany, and based on principles of political neutrality, merit, and career advancement (Kress and Miller, 1996). But the objective of setting up professional and qualified civil service acting in accordance with uniform principles of law and high performance standards has been met only partially. The law separates civil servants from political appointees, and ensures protection against political dismissal. In order to facilitate the principle of legality in the administration, a law on administrative processes was adopted. But bureaucratic discretion in implementing governmental decisions is still significant. And the bureaucracy is also involved in policy formulation and decision-making – making it difficult for the public to separate the political from the administrative system and making it possible for politicians to put the blame for unpopular decisions on the bureaucracy (Jansone, 2000). While such mutual distrust and blame-avoidance remains a problem, adversarial relations between politicians and bureaucracy have become more visible. To facilitate integrity and reinforce the ethics of officials, a Code of Conduct has been adopted, but not yet fully implemented due to lack of implementation mechanisms (Goldmane and More, 2000).

Some top officials are still shifted around when new ministers come into office, but the reason to make changes is most often not political, but based on professional competence. The recruitment of civil service personnel is officially organised according to merit principles, but evidence of nepotism and patronage is still found. There is a need for clearer and more transparent rules and practices for promotion and career development based on merit and open competition. Political interference in the everyday operations of the administration is limited, however (Jansone, 2000).

Lithuania's official aim was to establish a Weberian merit-based civil service system. To that end it was attempted to distinguish clearly between the political and the administrative levels in the ministries. The law on Officials from 1995 introduced a distinction between A and B level officials, where B level civil servants were officially recruited on merit and according to objective criteria described in the civil service law. Only A level officials were appointed politically and could be replaced upon changes of government.

The Law on Civil Service from 1999 was to ensure impartiality when appointing civil servants and ensure that civil servants are autonomous from political interference. However, the recruitment and dismissal procedures have not been entirely free from political interference, mainly because of the complexity and ambiguity of the procedures. The new Law on Civil Service from 2002 was meant to simplify these procedures and increase transparency as well as reinforcing the rule of law, political neutrality, transparency and efficiency (EC, 2002). In 2002 all sec-

ondary legislation covering the civil service was passed as well. Furthermore, the Law on the Government was amended to ensure a clearer differentiation between political posts and public administration posts within the ministries, leaving only two positions open to political appointments (EC, 2002). This has improved the independence of the bureaucracy and reduced undue political influence. But petty corruption is still a problem in Lithuanian public administration (Sigma, 2002). Managerial discretion to determine salaries is also very wide, and the arbitrary distribution has been said to have had an adverse effect on development of civil service professionalism (Sigma, 2002; EC, 2003).

3.1.3 Administrative structure

Personnel management is decentralised in the Estonian public administration. Each ministry or executive agency is responsible for organising the work of its civil servants within the common framework of the Public Service Act. This situation where different ministries and bodies together have overall responsibility for civil service management means that in reality there is no control or co-ordination (Randma, 2001). This has led to fragmentation and diversification of management modes between ministries and, at times, even within ministerial departments. However, when it comes to coordinating EU issues, horizontal coordination has also shown to very weak.

More recent reform efforts in Latvia have attempted to ensure a uniform structure and organisation reflected in strategic planning involving the entire public administration. The reforms also involved strengthening the horizontal links among public institutions as the latter was much weaker than vertical coordination (Goldman and More, 2000). Regarding the EU integration process significant horizontal co-ordination has been placed in the Council of Senior Officials, consisting of officials from all ministries responsible for EU issues.

To improve the efficiency of Lithuanian public administration, inter-departmental coordination has been reinforced, but it still remains rather weak. Also EU integration has given rise to problems with internal coordination (EC, 2000; EC, 1997; Lazareviciute, 1999). This has, however, improved significantly over the years. The organic approach to governance in Lithuania is quit compatible with the EU institutional logic. Mechanisms to ensure common civil service management standards are being developed, but are not yet fully operational (Sigma Lithuania, 2002).

3.2 Behavioural aspects

Were the administrative traditions identified in the three countries still reflected in the actual administrative behaviour, values and attitudes of high ranking officials after a decade of institutional reforms?

First, the state-society dimension Table (q26) illustrates that regular and structured interaction between ministries and organisations in society remains highest in Lithuania and lowest in Estonia, which is consistent with our observations from 1993. In this perspective, the statist, continental tradition in its German ‘organic’ version still prevails in Lithuania, while Estonia comes closer to the contractual tradition with a clearer separation between the state administration and organisations in society. Latvia is placed between the two other countries.

Q 26: In your time as minister did your civil servants have close working relationships with major interest organisations within the ministry’s resort? (In per cent)

	Yes, most of the time		Yes, but only concerning important issues		NO		Total	
	Pct.	(N)	Pct.	(N)	Pct.	(N)	Pct.	(N)
Estonia	24	(12)	56,0	(28)	20,0	(10)	100,0	(50)
Latvia	25	(12)	39,6	(19)	35,4	(17)	100,0	(48)
Lithuania	53,7	(22)	41,5	(17)	4,9	(2)	100,0	(41)
Total	31,1	(46)	46,0	(64)	20,9	(29)	100,0	(139)

The same trend is found in the politico-administrative relations from the perspective of how many civil servants are replaced when a new minister from another party takes office. Again, we here observe that Lithuania stands out as the most ‘organic’ country with very limited political replacement of civil servants in connection with government changes. Both Estonia and Latvia have a closer integration of political and administrative careers.

Q 10. In general how many of the civil servants are (were) replaced when a new minister from another party appears/-ed in the ministry?

	None		Less than half		About half		Most		Total	
	Pct.	(N)	Pct.	(N)	Pct.	(N)	Pct.	(N)	Pct.	(N)
Estonia	14,3	(6)	69,0	(29)	9,5	(4)	7,1	(3)	100,0	(42)
Latvia	4,9	(2)	78,0	(32)	9,8	(4)	7,3	(3)	100,0	(41)
Lithuania	33,3	(17)	66,7	(34)	0	(0)	0	(0)	100,0	(51)
Total	18,7	(25)	70,9	(95)	6,0	(8)	4,5	(6)	100,0	(134)

Finally, on administrative structure, all governments in the three countries lean towards what Peters terms ‘village life’, with Latvia as the most clear example of ‘functional’ village life where outside interests influence internal decision making.

Q 21: from your point of view, when other ministries or parties interfered in your business, could it be that a third party outside the realm of politics has interfered in the decision-making?

	Agree		Disagree		Do not know		Total	
	Pct.	(N)	Pct.	(N)	Pct.	(N)	Pct.	(N)
Estonia	58,0	(29)	22,0	(11)	20,0	(10)	100,0	(50)
Latvia	80,0	(40)	18,0	(9)	2,0	(1)	100,0	(50)
Lithuania	69,6	(32)	17,4	(8)	13,0	(6)	100,0	(46)
Total	69,2	(101)	19,2	(28)	11,6	(17)	100,0	(146)

On the behavioural dimension the administrative traditions thus seem to have survived the reforms and political turbulence of the 1990s. Lithuania still appears to be firmly anchored in the organic continental tradition; Estonia still leans towards the contract – or Scandinavian – type of state, and Latvia remains somewhere in the middle, apparently overloaded by the political and social ordeals of transition.

3.3. Ideational aspects

The ideas expressed by officials in the three countries about public administrative reforms underpin the patterns described in the previous section. First, Lithuania is clearly the country whose officials are most positive about active participation by organised interests in rule-making, as shown in Table q28.

Q 28 Do you believe that decisions are improved when concerned interests are incorporated or consulted in the process of formulation?

	Yes, mostly		Yes, sometimes		No, only rarely / No, worse		Total	
	Pct.	(N)	Pct.	(N)	Pct.	(N)	Pct.	(N)
Estonia	84,0	(42)	14,0	(7)	2,0	(1)	100,0	(50)
Latvia	81,3	(39)	16,7	(8)	2,1	(1)	100,0	(48)
Lithuania	94,2	(49)	5,8	(3)	0	(0)	100,0	(52)
Total	86,7	(130)	12,0	(18)	1,3	(2)	100,0	(150)

This was reversed when we asked about attitude to lobbying, that is, non-institutionalised pressure on decision-makers. Here Lithuanian officials are the most negative and Estonians the most positive, illustrating that the value of institutionalised versus non-institutionalised participation is judged in opposite terms in the two countries.

Q 27: *Concerning lobbying, that is, when outside interests attempt to influence the decision making process, would you in most cases find it?*

	Positive		Neutral		Negative		Total	
	Pct.	(N)	Pct.	(N)	Pct.	(N)	Pct.	(N)
Estonia	78,0	(39)	18,0	(9)	4,0	(2)	100,0	(50)
Latvia	36,6	(15)	46,3	(19)	17,1	(7)	100,0	(41)
Lithuania	32,1	(17)	43,4	(23)	13,0	(13)	100,0	(53)
Total	49,3	(71)	35,4	(51)	22,0	(22)	100,0	(144)

On politico-administrative relations Table (q12) reveals that a majority of Lithuanian officials see politicians and civil servants as parts of one integrated whole, and they indicate that civil servants should back up politicians with both technical and political advice. Positions on this point are much more diverse in the two other countries.

Q 12. *Civil servants should advise on:*

	Only technical matters		Technical matters and political strategy		Only political strategy		Total	
	Pct.	(N)	Pct.	(N)	Pct.	(N)	Pct.	(N)
Estonia	51,1	(24)	46,8	(22)	2,1	(1)	100,0	(47)
Latvia	45,1	(23)	51,0	(26)	3,9	(2)	100,0	(51)
Lithuania	25,0	(12)	70,8	(34)	4,2	(2)	100,0	(53)
Total	40,4	(59)	56,2	(82)	3,4	(5)	100,0	(146)

Table q13 reports the responses to whether officials prefer if ministers can appoint their own officials, and it is rather more difficult to interpret. We would expect here that Lithuanian officials would be the most sceptical about merging politicians and civil servants in this way, while expectations of Estonian respondents are the opposite. The picture is more complex, however. In Lithuania we identified strong support for politically appointed civil servants, in Estonia a small majority were in favour of the idea, while only 42 per cent expressed support in Latvia. The surprising outcome in the case of Lithuania probably reflects the system of A and B level officials in Lithuania that clearly delimits which posts are open for political appointments, thereby reducing the risk of unjustified political influence.

Q 13. *In your opinion, is it better when ministers themselves can appoint their civil servants?*

	Strongly disagree	Disagree	Agree	Strongly agree	Total
	Pct. (N)	Pct. (N)	Pct. (N)	Pct. (N)	Pct. (N)
Estonia	2,1 (1)	38,3 (18)	53,2 (25)	6,4 (3)	100,0 (47)
Latvia	14,3 (7)	38,8 (19)	40,8 (20)	6,1 (3)	100,0 (49)
Lithuania	2,0 (1)	12,0 (6)	46,0 (23)	40,0 (20)	100,0 (50)
Total	6,2 (9)	29,5 (43)	46,6 (68)	17,8 (26)	100,0 (146)

Concerning administrative structure, Table (q19) shows that horizontal coordination and interference by other ministries is much more accepted in Latvia than in the two other countries. This may be due to the relatively larger focus on horizontal coordination in Latvia. Alternatively, the chaos surrounding the Latvian reform process could lead ministers to accept interference and loss of control as a necessary reality.

Q 19: *If other ministries tried/try to influence proposals in your own ministry, causing you to lose competence or resources, how would you perceive it?*

	Generally acceptable		Generally not acceptable		Total	
	Pct.	(N)	Pct.	(N)	Pct.	(N)
Estonia	22,9	(11)	77,1	(37)	100,0	(48)
Latvia	90,2	(46)	9,8	(5)	100,0	(54)
Lithuania	24,5	(12)	75,5	(37)	100,0	(49)
Total	46,6	(69)	53,4	(79)	100,0	(148)

4. Conclusions

The purpose of this paper was to identify and examine the impact of public administration reform in the three Baltic States – Estonia, Latvia, and Lithuania. First, we defined administrative tradition as any institution, idea or habituated pattern of behaviour (the three levels of traditions) formed in the past that influences present outcomes. Second, we identified 5 types of administrative traditions – grouped in two main categories – a statist and a contractual tradition, and made them operational by focusing on practices as they were apparent on three dimensions. Starting from these definitions, we explored the administrative practices as they appeared in early 1993 and again a decade later. To bring our conclusions on a firm footing we summarised the institutional changes as they developed in subsequent public administration re-

forms in the three countries and examined whether, and to what extent, institutional traditions were replicated at the behavioural and ideational levels.

Our findings demonstrate, first, that there are different administrative traditions in the three Baltic States, and that these traditions had survived the 50 years of uniform Soviet rule. Second, our findings also indicated that these differences did not disappear, but rather seemed to be reinforced during a decade of post-Soviet independence. Third, concerning the content of the different traditions, our findings showed that Estonia was and is leaning towards what we called the contractual state epitomised by the Anglo-Saxon countries, or perhaps rather the mixed Scandinavian model. In any case, Estonia stood out as the country where reforms as well as behaviour and ideas mirrored the insulated state and a deep scepticism about broad societal involvement in government. Estonia also saw increasing mobility between the private and public sectors and expressed a vision of the civil servant as an independent manager rather than a subservient bureaucrat. Lithuania is at the other end of the continuum, reflecting the continental, or rather the organic German, tradition. Here we found close interaction between the state and society organisations. Civil servants were separated from politicians and the administrative structure remained hierarchical. Obviously, all three countries remain deeply influenced by 50 years of Soviet impact, both in terms of inherited structures and institutions and in the form of habituated behaviour observed, for example, in the continuation of illicit practices. This legacy is most apparent in Latvia, where it is difficult to detect any distinct tradition. It could also be that Latvia has an in-between and inconsistent system.

This discussion has posed the question if there are different administrative traditions, and if so, what they are and if they have survived the Soviet system and the turmoil of transition. We have not discussed where these different traditions come from and what their impact is or can be expected to be on future policies, especially in a situation where they have to adapt to the institutions and legislation of the EU. One may expect different possibilities and constraints in implementing further public administrative reforms in the three countries.

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Division of Labour in Administrative Reform Policy: Decentralisation or Centralisation?

*Markku Temmes*¹

1. The long and demanding process to institutionalise administrative reform units

Most western European countries have a long tradition in the development of various administrative reform units. In Central and Eastern Europe, the development of coordinating institutions for reforms began in the 1990's because of the urgent requirement to plan and implement essential administrative reforms. In the transition countries, the necessity for comprehensive administrative reform policies was even greater than western administrations because of the radical redesign of the whole system of governance. The development of these units was discussed in a comparative analysis of the experiences in Finland, Estonia and Russia (Temmes, Sootla and Larjavaara, 2004). This analysis illustrates the extent to which these countries urgently need administrative reform units which can professionally plan and direct administrative reforms, and how complicated the creation of such units is within the core executive.

In this article, I use Finland as an example of the administrative development and reform activities in European Union countries. Of course, there are many other examples and in many cases, probably better examples, but access to the necessary comparative material about the administrative reform units and their activities in other EU countries is not available at the current time. In general, there are three stages in the development of continuity and expertise of administrative reform organisation.

1.1. An ad hoc committee model

In most western European countries an ad hoc committee as the coordinating device was the starting point and first stage of the organisation of administrative reform activities. This model suggests that administrative reform preparations were organised on an ad hoc basis, using committees of experts originating mostly from the administration. In Finland, the period of the administrative reform committees lasted until the end of the 1980's. In the 1990's, the national level committee institution was replaced by a workshop and preparatory tasks undertaken by one official. During the last decades the ad hoc committees worked together with the permanent reform units and NPM-type reforms were elaborated within the administrative reform committees founded by the government.

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1.2. A permanent reform unit model

At the next stage, an expert unit was developed which specialised in planning and directing the administrative reforms at national level. These units have played a main role when international networking and benchmarking practices were developed in Finland in order to apply administrative reform innovations from other countries. The history of these kinds of units dates back to the 1940s in Western Europe. In many cases, the activities of these units were targeted primarily on rationalisation, effectiveness and productive work in public administration. From the 1970's onwards, the scope of activities of these units widened to such areas as in-service training of the civil servants and various kinds of management reforms.

In Finland, the first specific administrative reform unit was founded for the first time in 1944. It began as a unit at the Ministry of Finance. The head of that unit had special authority to plan and direct administrative and organisational development activities in the state administrative machinery. This role had some similarities to the roles of ombudsmen in the Nordic administrative tradition. The first head of this unit was Urho Kekkonen, who later served as President of the Republic for 24 years.

The next step in developing the administrative development unit in the Finnish State administration was the foundation in 1971 of the Finnish Institute of Public Management (HAUS former VKK). This unit was initially subordinated to the Ministry of Finance and in the beginning it was purely an institute for the in-service training of civil servants. But since the 1980's it has widened the scope of its activities, including consulting and various kinds of management projects implemented in the administration. At the end of the 1990's, it was reorganised as a public enterprise, which is a specific organisation model of state agencies working in the market environment. In 2003, it was reorganised as a state-owned company, which is now in partnership with another consulting company owned by the University of Helsinki. The third other remarkable change in the development of administrative reform units in Finland has been the growing role of the Ministry of Interior in developing regional and local administration, especially in reforming the relationships between State and municipal levels of the administration.

This type of administrative reform unit can be called a lead agency (Corkery et al, 1998) because of their central role in planning the architecture of administrative reform policies. In western European countries, the main tasks of the lead agency are:

- To prepare administrative reform plans at the level of the central administration. These activities are supervised by the political decision makers, which normally mean parliamentary-controlled Government, but can also be a unit of presidential administration. In fact, at the ministerial level, lead agencies work mainly

as secretariats for different kinds of preparatory units, such as committees and ministerial groups.

- Networking with international colleagues and with other sources of information and expertise regarding the themes, best practices and methods for the administrative reforms. The role of sub-units specialised in training and consultancy is remarkable in this area.
- Encouraging and catalysing other change actors to launch or be actively involved in the administrative reform process, such as political decision makers, the ministries and agencies and (in the transition environment), the donor organisations.
- Analysing and evaluating the needs for and results of the administrative reforms (Temmes, Sootla and Larjavaara, 2004, p.10).

The role and the tasks of the lead agency depend on the position it has in the government administration. A unit at the ministry, the lead agency has a national role, which is independent of the tasks of the “mother ministry”. In fact, it works as a tool for the “manager” of the whole Government. This “manager” can be the Prime Minister (as Margaret Thatcher was in the UK) or the minister, who is assigned to this kind of management role in the Government. In many western European countries, the Minister of Finance, the Minister of Interior or the Minister specialised in administrative or civil service issues is responsible for the administrative reform policies. The “manager” can also be a president who is outside direct parliamentary control. This model is in use in many transition countries (Temmes, Sootla and Larjavaara, 2004, p.9). In Finland, the Ministry of Finance is primarily responsible for administrative reforms. However, the Ministry of Interior is, to some extent, its competitor, given its responsibility for the development of the regional and local administrations. The modern lead agency can also be a unit, which is specialised in consulting on administrative reforms and in the in-service training of civil servants. Mostly, these units are subordinate to the ministerial unit of the lead agency. In Finland, as described above, these tasks developed initially in the agency called VKK, followed by public enterprise and a company called HAUS.

In EU countries, civil servants’ training institutes (or public administration schools or national schools), have been the main units to implement administrative reforms at the level of street-level bureaucracy. According to Norwegian research, in the majority of the EU countries, a national school, institute or college are part of the governmental structure. In the 1990’s, however, many of them were reorganised as public corporations or state-owned companies. In Sweden, following the reorganisation in the 1980’s, there is no national level central training institute for the training of public employees. Agency-type governmental training institutes can be found in the UK, Belgium, Spain, Italy, Portugal, Germany, Austria, France and Greece. In The Netherlands, Denmark, Ireland and Finland there are institutes which are organised along the lines of a company model or other semi-privatised

models. In the case of the UK, during Tony Blair's regime, this unit has been brought back into the governmental structure (Temmes, Sootla and Larjavaara, 2004: p.9)

1.3. Decentralised reform responsibility

The most recent coordination device developed can be called a **decentralised reform responsibility model**. This model is influenced, to a large extent, by the New Public Management (NPM) doctrine, which has been the dominant reform conception since the 1980's in most western European countries (Pollitt and Bouckaert, 2000). It promotes a more decentralised institutional arrangement and managerial approach to administrative reform activities. The managerial approach was already partially adopted at the stage of the permanent reform unit model in developing consulting and training activities by the lead agencies.

The NPM doctrine was largely created in the UK during the regime of Margaret Thatcher. In its first phase it was clearly a political and ideological tool of the Conservative Party but gradually it evolved into a new liberal democratic phenomenon. In the 1980's and 1990's NPM became more and more integrated within the professional baggage of administrative reform tools which have been used to solve the problems of the welfare state and the growing bureaucracy. The NPM-type provider-producer model, the Next Steps agency and market type mechanisms such as contracting out have become typical common tools for administrative reform in EU states.

We may ask, in the light of the NPM-type decentralisation experience" is it still feasible to speak about centralised administrative reform policy and a lead agency as a headquarters with the role of planning and directing this policy? We have many examples of changes of roles and internal structure of the lead agencies in western European countries. The "client" organisations for reform policy – the ministries and agencies – are more independent in initiating and managing administrative reforms. They can also avail of private training and consulting organisations to fulfil their training and reform tasks. The specific training and consultant units of the public sector have also been privatised or reorganised to be more independent companies. Because of these changes, it is really difficult to conceive how the administrative reform activities are organised in the post-NPM era. At least, it is difficult to foresee which issues must be decentralised and which should be kept centralised.

2. Did the New Public Management destroy the conventional administration? (Impacts of decentralisation).

There are many examples of changes in the external and internal structures and steering systems of the administrative machinery since the 1990's in Western European countries. As a result of NPM developments, we can no longer speak about homogenous administrative machinery. The ministries and agencies are now more autonomous in managing administrative reforms. Many functions and agencies of

the public sector have been privatised or reorganised into more independent bodies, i.e. companies. Frequently it is really difficult to imagine how the government can direct complex sets of public and private bodies that resemble more a tangled skein of threads than an organised network of actors. We can speak about a transformation from the conventional administration via NPM-type reforms into post-NPM administration, which has quite different governance problems (Peters, 1998 and 2003).

These developments have occurred during the last two decades and have also resulted in the decrease in the role of lead agencies which have been in charge of planning and implementing NPM-type administrative reforms. The question may be asked: what would the consequences of the emergence of the decentralised model in administrative reform policy be?

Decentralisation has advantages but could also prompt dysfunctions within the administration. Any large scale decentralisation may promote the effectiveness of the organisation because of better possibilities to respond to grass root needs (Hollis and Plokker, 1995). Decentralisation can cause dysfunctions if it weakens or destroys important structures of coordination of cross-sectional and multi-level activities. Decentralisation can also create dysfunctional impacts if radical changes are necessary, which have controversial support/ resistance from decentralised units and constituents at large. From time to time, the administrative reforms must be planned to respond to the national level strategies and to meet new requirements (fiscal restraints) of state budget policy. This presumes centralised strategies in directing administrative reforms, especially in case of budget cuts and rationalisation of public administration. If the responsibility is decentralised to independent agencies and street-level bureaucracy, serious implementation problems would emerge.

In the following table, an analysis of the impacts of decentralisation/centralisation on the administrative reform activities is presented. This analysis follows the framework, which was used in the comparison of the lead agencies in the three countries studied (Finland, Estonia and Russia) undertaken by Temmes, Sootla and Larjavaara (2004).

Table: 1

A comparison between the permanent reform unit and decentralised model in administrative reform policy²

Code1*	Permanent Reform Unit Model	Decentralised Reform Responsibility Model
1A	Depends on the role and powers of the Lead agency	A mixed model necessary
1B	Depends on the co-operation between the government and the Lead agency	A mixed situation difficult to control
2A	The Lead agency represents national level expertise	Expertise differentiated, difficult to catalyse
2B	The Lead agency is channelling international benchmarking information	Difficult to create high level channels abroad
2C	Centralised arrangements possible	Lack of comprehensive reform architecture
2D	The Lead agency represents continuity and evolutionary development of reform expertise	Different development paths
2E	The Lead agency guarantees necessary co-operation	Problems in co-operation

It is paradoxical that the permanent administrative reform units seem to have lost the war against the decentralised development model. It has occurred without any heavy battles and political debates, as if it were some imminent part of NPM-type decentralisation and marketisation strategy. The outcomes of this development are, however, difficult to foresee. The private consultancy markets are not ready to solve all public sector governance problems; politicians are not ready to surrender their power in defining administrative reform policy and international co-operation between administrative reform experts has become more difficult. All these dysfunctions can threaten the future development of the public administration.

If we look closely at the comparative analysis of reform policies, which are built on permanent reform units, on the one hand and on the decentralised responsibility model on the other hand, we can see a more detailed picture of these threats.

2 Codebook for Table 1:

1A: Political and technocratic support for administrative reforms;

1B: Ability of the Government and the civil service to make decisions in administrative reforms;

2A: Quality and expertise of the lead agencies;

2B: Modelling of the lead agencies;

2C: Responsibility mechanisms in the administrative reform activities;

2D: Continuity and stability of reform activities and creating expertise;

2E: Co-operation with the macro-economic core organisations.

First, the decentralised administrative reform policy would meet obvious difficulties in launching and carrying out those reforms, which ought to purposefully change the direction of development. For instance, the campaigns of expenditures economy or introduction of completely new ways of steering the whole administrative machinery can hardly start in a decentralised system. Of course, these ends are possible to reach in a decentralised way if many of the ministries and agencies simultaneously follow the same reform logic. Unpopular and complex reforms are, however, difficult to direct successfully by using a decentralised method.

The low capacity of the government and the civil service to make decisions in a decentralised administrative reform system is also a threat to national level reform policy. One of the roles of the lead agency is to encourage the politicians and the civil servants in charge to initiate and implement necessary administrative reforms. The role of the lead agency is especially crucial especially when these necessary reforms are politically unpopular or if the reforms are seen as threats to the privileges of the same groups of civil servants. A good quality of preparatory work of the reforms and good co-operation between the reform actors – for instance with budget officials – can guarantee the adoption of necessary decisions although these decisions might be politically difficult.

The most urgent problem in the decentralised system is the possible loss of capacity of the national level expertise in administrative reform policies. The sources of this kind of expertise are both national and international. The lead agency must have good relationships with the domestic sources of reform expertise such as the universities and the research institutes as well as with all probable actors of the reform. Internationally, the most important are the relations between the national lead agency with lead agencies in those countries which are involved in networking and exchange of useful benchmarking information for the national administrative reform policies. This kind of networking is difficult to maintain in the decentralised system of administrative reform management. In the decentralised model, this kind of networking, if there is networking at all, can happen when market type mechanisms between actors are used. These rules draw on business secrets and competition. Within consultancy companies and among the close partners, this kind of networking is obviously effective, but at national level, where all actors should be involved in the purposeful development of expertise, it can be lost sight of. To follow relevant benchmarking practices, the decentralised model requires extraordinary efforts from the government and from those civil servants who are in charge, to direct the administrative reform policy. At the same time they are not eager to leave it to the private consultancy firms.

The responsibility mechanisms of the administrative reform activities are, in principle, the same as in all public policy elaboration and decision making: the civil servants have to prepare the proposals and the politicians must make the decisions. The crucial problem is the continuity and quality of the decisions. The centralised

system guarantees that the necessary reform will be taken into the Government agenda and the required expertise will be involved for the elaboration of proposals. In the decentralised model, the preparation of proposals is often in the hands of the generalists who are not sufficiently aware of the needs and possible outcomes of the specific administrative reforms. Sometimes there are tendencies to consider the professionally most claiming administrative reforms purely as a part of ordinary management tasks. If, in that case, the necessary expertise of the consultancy firms is not involved or its quality is low, reforms will not achieve expected results or fail completely.

The long experience of the development of the lead agencies in western European countries illustrates how urgent the development of such administrative reform expertise can be. The most visible and profound administrative reforms which have drawn on NPM doctrines have been no exception. Moreover, the lead agencies in most successful NPM reform countries have played a main role in planning and directing these reforms. At the current time, the need to develop and maintain the administrative reform expertise is still crucial. In the decentralised system of public administration, which resulted from NPM type administrative reform policy, the continuity of the expertise might not be secured. In the majority of in-house administrative reforms in ministries and agencies this kind of expertise plays a secondary role. In the post-NPM stage, the impact of a lead agency must be ensured to producing and distributing information about good governance. Although the glory days of using the centralised powers and direct administrative steering are over, the expertise to ensure good public management and governance is still necessary.

The relationship between the lead agency and units of the central macro-economic administration – normally the Budget Department – is one of the key questions in justifying the need for a strong lead agency. In order to act effectively, the permanent reform units must work in close co-operation with budget officials. This co-operation is one of the assignments of this unit to make it able to bear responsibility in drafting the national level administrative reform policy. In the decentralised model, this kind of co-operation is very difficult to create.

3. Do we need a mixed model?

It seems quite clear that administrative reform policies at the national level and the work of the lead agencies in implementing these policies are a crucial dimension in the work of the government. Administrative reforms may increase the cohesion of government, and management of the reform would promote leadership role of the Prime Minister. A substantial part of these activities can be devolved to the ministries and agencies. This might create, for these organisations, supplementary responsibility for management and quality development. There are, however, important aspects of management of administrative reforms, where decentralisation could cause dysfunctions.

It is difficult to define when reforms should be managed at the national level and when it is more feasible to plan and implement reforms through a decentralised management system. However, we can point out some key activities of the lead agency, which must be kept in the hands of a centralised reform unit – a lead agency.

The most important key activity, which cannot be decentralised, is the overall responsibility for administrative development strategy. This task is linked with international networking activities, which provides a possibility to benchmark best foreign experiences in the domestic context.

Second, there is a clear need for centralised administrative reform management and for the lead agency, in cases where administrative reforms would not gain sufficient support or even are unpopular for lower levels of administration. The unpopularity of these reforms can be caused by negative outcomes of reforms on the status of civil servants or due to various political reasons. If these kinds of administrative reforms are urgently required, there is also a need for centralised planning and implementation and for a strong lead agency.

The third area in which the lead agency is useful is in international networking. The national level lead agency is a very suitable common representative in international co-operation between the national governments. In the EU, this kind of co-operation is not yet very active, but is increasingly becoming so.

The fourth rationale for the national level lead agency is its use when national governments would like to evaluate the impacts and outcomes of the administrative reforms. In modern post-NPM administration, this kind of evaluation culture is rapidly evolving. The coordination and responsibility for the good quality of evaluation is an imminent and important function of the lead agency.

These four aspects can form the basis of the role of the modern lead agency. In decentralised administrative reform, the management context lead agency ought to steer through information management, coordinate the evaluation activities and represent government administration in networking for good public management and good governance at the international level. This could be considered as a general outline of the mixed model of administrative reform management, in which the lead agency has adopted new roles alongside the existence of a decentralised system of reform management.

4. Administrative reform policy in the transition environment – the necessity of centralised administrative reform units and reform policies

The analysis of administrative reform policy in western European countries since the 1980's shows that they have rather different aims and tasks, i.e. are at different stages, in comparison with transition countries. The former are at the post-NPM

stage of the development of an administrative reform management system, which relies on the mixed model.

The transition countries are implementing societal and economic reforms in order to achieve radical shifts:

– Through using evolutionary tools and means – in society and in their politico-administrative system. The context where the mission of the transition must be realised is so complex that all actors, such as governments, political parties and the organisations of civic society, hardly have clear views or plans of how to build up a new system of governance. In this kind of institutional environment, the lead agencies, which orient and plan political and administrative reforms, are of crucial importance in regard to the success of the transition process. These units are also politically significant.

Nevertheless, some elements of a mixed model would also be feasible to apply to transition countries in the future. However, the adoption of the decentralised administrative reform model in the early years of transition development could be a drastic mistake. Of course, the international consultancy and training companies can offer high level expert services to the governments and the administrations of transition countries. The problem is how to develop the national level units which can take care of the national interests in the administrative reform policy and which have the necessary expertise to catalyse reforms and control the quality of the reform projects. Already, co-operation with the donor organisations needs these kinds of capacities.

It is obvious that the transition type development urgently needs the national level lead agency, including the in-service training units and consultancy units. It is also obvious that the development of the lead agency management capacities is one of the most urgent tasks of administrative development in transition countries. It is urgent because the lead agency's role is to represent national interests and ensure the quality of international expertise in planning the main architecture of the administrative machinery and its procedures. The development of a liberal democracy, a market economy and legal state is impossible without the development of effective and efficient administration.

EU support continues to principally target the development of legislation connected to the common market and the avoidance of corruption and other aspects of bad administration. The scope of this support should be extended to ensure a more comprehensive development of the public sectors of transition societies. In that kind of development, the lead agency's expertise is crucial. In some EU twinning projects, for instance in developing the national in-service training institutes, there have been good examples of how the lead agency development can catalyse the entire transition development.

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Leadership as an Endogenous Factor in Developing Centre-periphery Relations

Gabriele Burbulyte¹

1. Leadership and local governance

The ongoing changes in contemporary society require greater citizen involvement in the policy process and broader dialogue among different political institutions. The focus on governance, rather than on traditional hierarchical government, implies a shift more towards the idea of a *new public service* than *new public management*. The cornerstone concept of the *new public service* is the idea that citizens – instead of the *new public management* consumers – are the main targets of public administration. Therefore, instead of studying static and hierarchical government structures, as well as traditional policy-makers, i.e. politicians and civil servants, the *new public service* concept promotes a broader, more dynamic and differentiated concept of *governance*. This differentiation focuses on not only politicians and civil servants, but also on citizens as actors in the policy-making process.

Governance may be interpreted to mean a broad variety of “self-organising intergovernmental networks” (Rhodes, 1997). These networks of ‘centre-periphery relations’ (more popularly known as ‘intergovernmental relations’ (Smith, 2003, p.621)) traditionally cover “the relationship between central, local and intermediary (for example, regional) levels of government” (Smith, 2003, p.621). In the context of public governance, however, this traditional notion should be extended to include an additional level – *citizens*. Governance, therefore, can be defined as the process of coordination of public and private actors, civil society, social groups and institutions in order to attain clear aims (Jessop, 1995, p.317). Local governance should be extended to fundamental social relations as it forms an intrinsic part of local economic space and could be seen as reducing tensions between the local and global levels – tensions which contribute to territorial irregularities and peculiarities (Gilly, Wallet, 2001, p.508). It includes numerous formal and informal channels through which commands flow in the form of goals framed, directives issued and policies pursued (Hope, 2000, p.519).

Whilst being a highly progressive concept, governance implies two interconnected problems as it is implemented:

First is the problem of democracy. Although democracies enable universal participation, a high level of participation is hardly possible in contemporary societies (even with the widely promoted e-governance) without supplementary efforts.

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Therefore the main task lies in creating effective channels for citizens to participate. Most often, institutions other than classical representative bodies, such as non-governmental organisations, take an active role in expressing and promoting the so-called public interest of the community.

Second, such new channels cannot ensure by themselves the necessary public input to democratic development. Thus, “countries are finding something missing between existing public service cultures and the public interest. A common complaint is lack of dedication to the underlying values of public service and the interests of the citizens served. A common response seems to be the attempt to promote a certain kind of leadership” (OECD, 2001, p.17).

Public governance serves as an endogenous factor (Davies, 2002) for sub-national territorial units’ administrative development. As authors argue (Johansson, 2000), differently over exogenous factors, endogenous factors refer to a situation where the long-term trends are determined by the working of the system itself. In this case, there is a strong need for effective human resources in order to permit public governance to work as an endogenous factor influencing development processes. Leadership, being one (possible) public governance element, is an undoubtedly endogenous variable. Though it is a very hard to define factor, countries from Central and Eastern Europe (CEE) tend to consider promoting effective leadership as only a small component of overall human resources development. It could be explained by the fact that there have been no effective methods for researching the role of leadership in ensuring smooth governance in CEE countries, especially at local level.

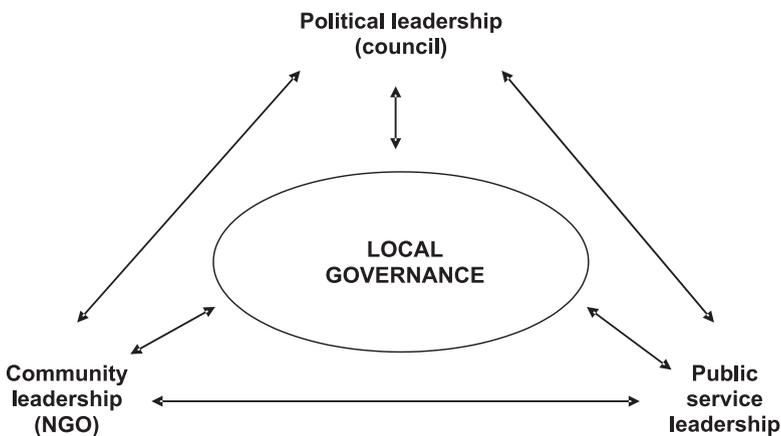
2. Institutional isomorphism and resembling activity model

Using the notion of institutional *isomorphism* (Powell and DiMaggio, 1991) it was possible to strengthen the analytical and methodological content of the concepts of local governance and its key element – leadership – that can promote to change the centre-periphery relations. Protagonists of the new public management doctrine refer quite often to mechanisms of institutional isomorphism to affirm that global pressures are producing an inevitable and inexorable global homogeneity on what they term “entrepreneurial government”. Obviously, globalisation promotes the homogeneity of the environment in which various organisations are acting. Globalisation creates a strong need “for new capacities to exploit new opportunities to deal with international implications of policy issues” (OECD, 2001, p.13). Nevertheless, as Pollitt (2001) argues, the trend towards institutional homogeneity does not necessarily have anything directly to do with global economic pressures or with warranted gains in efficiency or effectiveness. Along with the development of entrepreneurial governments, the “greater decentralisation of national policy is increasing fragmentation of policy responsibilities, posing major challenges of policy co-ordination, accountability and coherence. Rapid development of information

and technology gives the potential for governments to cope with new problems in a swift, transparent and flexible manner [...]. The growing need for people to think and act [...] requires leaders to pay more attention to policy coherence” (OECD, 2001, p.13).

Therefore the notion of *institutional isomorphism* should not be treated only as a variable that could condition the diffusion of public management in different countries. It should also promote the structural fit or common activities of different levels and types of organisations in one actual territorial unit. It means that instead of different territorial units’ organisational convergence, different organisations of one territorial unit’s activities come to resemble one another. The need for public local governance is the best example of institutional isomorphism. Under the influence of globalisation, decentralisation, IT and a growing need for public governance, the three most important elements of local self-government (the representative institution, i.e. local council; the civil service institution, i.e. local administration and the civic institution, i.e. local community of citizens) are gaining more common features. Under conditions of fragmentation of society, various organisations have to repudiate the earlier fashionable *power’s depersonalisation* (Weberian model). In other words, there is a growing demand from the local council (main governmental institution) to be more *entrepreneurial* (as recommended by the *new public management*), from the civil servants’ side to be more (politically) responsible and independent (as the *new public service* presume), and from the citizens’ side – to be more active in controlling the first two, as well as to participate more actively in decision making.

Figure 1
Resembling activity model in local governance



The *resembling activity model* may be influenced by numerous variables. One of the most important variables for local/public governance is leadership. Almost all theories maintain that organisations undergoing reform require strong leadership. It is especially evident in transition countries such as Lithuania. Nevertheless, it is very difficult to create a fixed model of leadership in countries of democratic transition because there is a danger that current leaders, under specific circumstances, may become closed strata, pursuing their own interests. For example, during the initial period of transition, the leadership was perceived as being only political. But, public local governance presumes that there could be different types of leadership: managerial, political, civic, professional etc. Nonetheless, leadership should be treated differently from management: “they share many common features in that both are based on institutional structures and systems, and both are oriented towards better performance of the organisation. But [...] leadership means paying more attention to the development of attributes that focus on integrity, vision, the ability to inspire others, awareness of self, courage to innovate, and judgment. [...]. While management puts more emphasis on formal systems, processes and incentives, leadership is more about informal influence – how to mobilise people through values and visions” (OECD, 2001, p.14-15).

This article presents the idea that public governance, whilst being a quite acceptable idea in mature Western democracies, is not an ideal one for countries experiencing transition (i.e. CEE). Choosing the performance of public governance at local level – local governance – as well as one of its key elements – leadership, and the particular local unit – Klaipeda municipality (Lithuania), the research will demonstrate the fragmentation and lack of ability to promote governance in transition countries.

3. Local self-government in Lithuania 1995 – 2004

The process of territorial decentralisation in Lithuania began in 1995, when the new territorial-administrative reform was introduced. Until then, the administrative division inherited from the Soviet Union, had functioned. In accordance with the Law on Administrative Territorial Units, Lithuania was divided into two main sub-national territorial administrative tiers: 10 counties – higher administrative units, whose management is organised by the Government and 56 municipalities – lower administrative units, where self-government was preserved (since the year 2000, there are 60 lower administrative units). By decision of the municipal council, a municipality may divide its territory into smaller units – wards. Lithuania differs from its neighbours in that it has established large municipalities in terms of territory (through amalgamation of different settlements in one municipal territory) and the population.

The reform has centralised some important aspects of local life. For instance, certain of the municipalities' powers were granted to the newly formed counties. As

a result, elected members of municipal councils do not have sufficient authority to make independent decisions. The rights of local self-government are very restricted since the activity of local self-government institutions in Lithuania requires numerous procedural steps prescribed by national legal acts. Narrow decision-making powers limit the possibilities and abilities of local municipalities to react adequately to local needs or to adjust to socio-environmental changes. Municipalities have powers in many areas of socio-economic development. They are partially autonomous in the areas of education/training, employment, physical culture and sport, tourism, environment protection and protection of cultural heritage and business development. In some areas, the autonomy of the municipalities is limited by the implementation of tasks assigned by the state. For example, the Law on Local Self-Government establishes that participation in the formulation and implementation of regional development programmes is an assigned (limited independence) function. In performing this function, a municipal council delegates its members (according to a set quota) to regional councils/commissions, granting them the relevant authority to act. The mayor represents the municipality in the regional development council, with the right of a decisive vote in formulating and implementing the regional development programme. According to the legal provisions, municipalities themselves could allocate resources for at least partial financing of regional development institutions and their activities. However during the start-up phase, with no prior experience, this is hardly possible. First of all, municipalities themselves lack the finance for the preparation and implementation of their own economic and social development plans. Furthermore, it would be complicated to reach an agreement between municipalities on the proportions and priorities to be financed. Planning of territories and implementation of prescriptions of the detailed plans of the municipal territory are also assigned functions.

Analysis of the interactions of these different levels of governing produces some interesting outcomes. Conventionally, the relationship between central government, counties and municipalities should be as follows: central government – county/region – municipality. The Law on Local Self-government, however, introduces some deviations from the conventional model. The main reason is that the law implies direct interaction between municipalities and central government. The Law on the Governing of the County also introduces some deviations from the conventional model, while the law implies direct interaction between county governors and citizens, and hence the main principle of subsidiarity is infringed. Nevertheless, the reform is not yet complete and there are some positive steps towards the clarification of relations between the different levels of governing.

The main aims of the further reform are the clarification of the relations between different levels/tiers of governing and minimisation of the distance between governmental authorities and citizens (actually, this is the main task of public governance). The situation is quite complicated because above the state administration level – county, – the new administrative level – region, – was introduced. Regional

level differs from county level because the former is oriented more towards self-governing than to exercising the state's authority, therefore it has more autonomous roles. The practice of developed Western democracies implies that local self-governments should be oriented towards solving the problems of local community, as the regional level is solving more extensive problems such as economic development, investments etc. In Lithuania, it becomes hard to follow that distinction because local self-governments are rather large in terms of territory and population (average number of population living in local self-governments in Lithuania is 60,000). Moreover, there are plans to allow only partial self-governing at the regional level, while the practice of Western democracies (and the Helsinki Declaration on Regional Self-Government proposes) allow direct and full regional self-governing.

4. Leadership as an endogenous factor in local self-government: Klaipeda case

4.1 Leadership in local councils

The first elections after the implementation of territorial-administrative reform were held in 1995. Members of local councils were elected for a two-year term in multi-member constituencies on the basis of universal and equal suffrage, by secret ballot in direct elections according to the proportional election system. In 1997, the term was extended to three-years and since legal amendments in 2002 members of municipal councils are elected for a four-year term (the same as parliament). Elections presume direct accountability of those persons representing the community to their electorate. But the structure of the social economic background of representatives in a local council differs substantially from the socio-economic structure of the population of a city.

First, despite the fact that women make up 54% of the city population, their under-representation in local councils is apparent. As represented in Figure 2, the disproportion of men and women in the council has seen almost no change since 1995.

Second, there was an apparent over-representation of some very small national minorities during the first three elections. The main two national groups in Klaipeda city are Lithuanians and Russians forming, respectively, 71 % and 21 % of the city's population. The other nationalities are not so apparent but, as shown in Figure 3, they had representatives in the council. Until 2003, Poles, Ukrainians and Byelorussians were represented in council by 3 – 6.5 %, while their composition was only 0.4 %, 2.4 % and 1.9 % respectively.

Figure 2
Proportion of men/women in the local council 1995 – 2003²

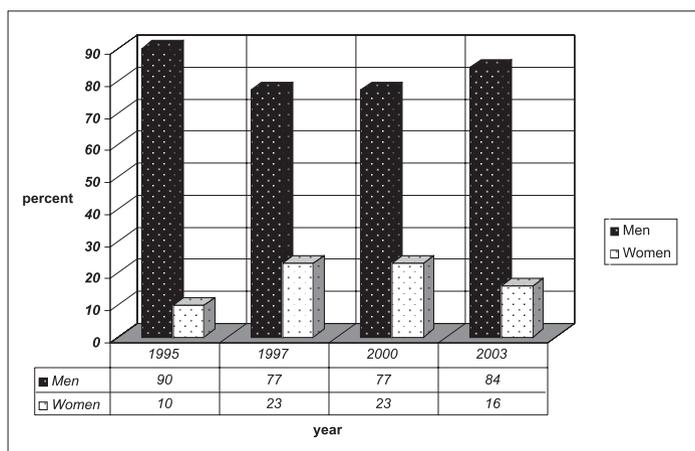
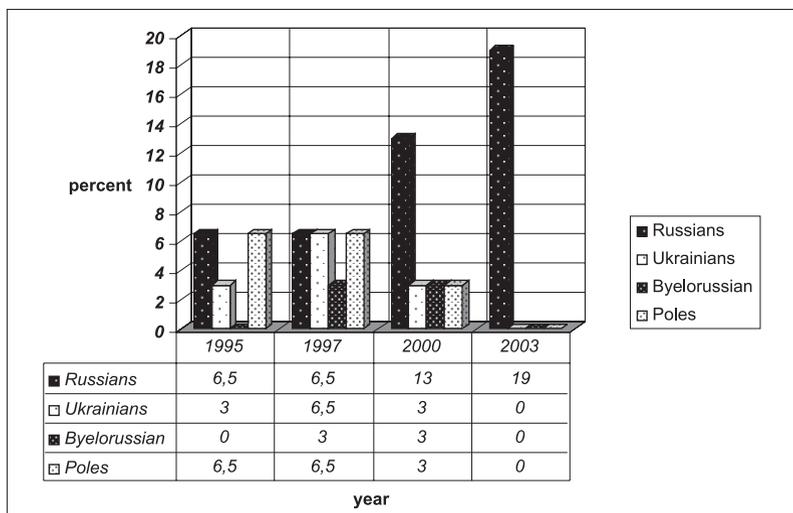


Figure 3
Representation of national minorities in the local council 1995 – 2003³



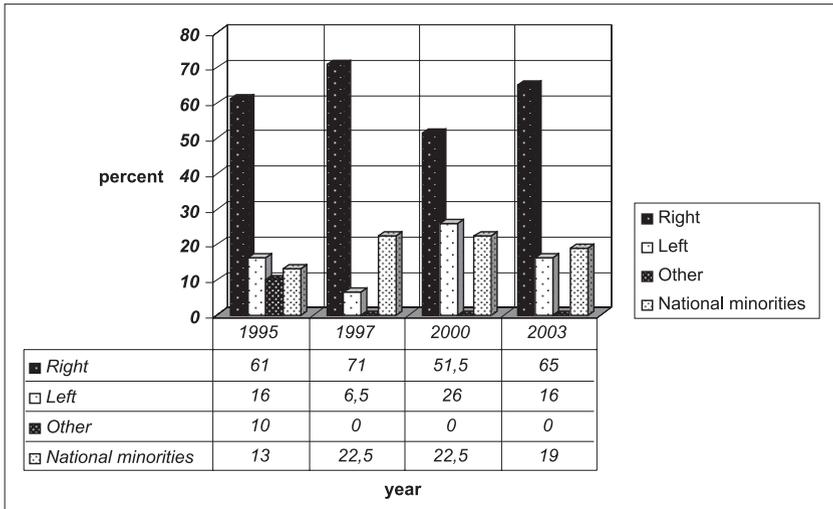
The third interesting aspect about national minorities is that almost all representatives participate as members of independent political actors. As shown in

2 Author's calculations using statistical information from www.vrk.lt

3 Author's calculations using statistical information from www.vrk.lt

Figure 4, political groupings, representing national minorities, tend to be elected to local councils as independent political actors.

Figure 4
Political affiliation representation in the local council 1995 – 2003⁴



Another specific of political affiliation is that support to right or central-right political actors has been consistent during the entire period. This may be caused and explained by the rapid economic growth of the city. However, as shown in Figures 5a and 5b, as opposed to the age structure of the city, the local council was and is dominated by the 40 – 49 age groups.

⁴ Author's calculations using statistical information from www.vrk.lt

Figure 5a

Age groups' representation in Klaipeda municipality council 1995 – 2003⁵

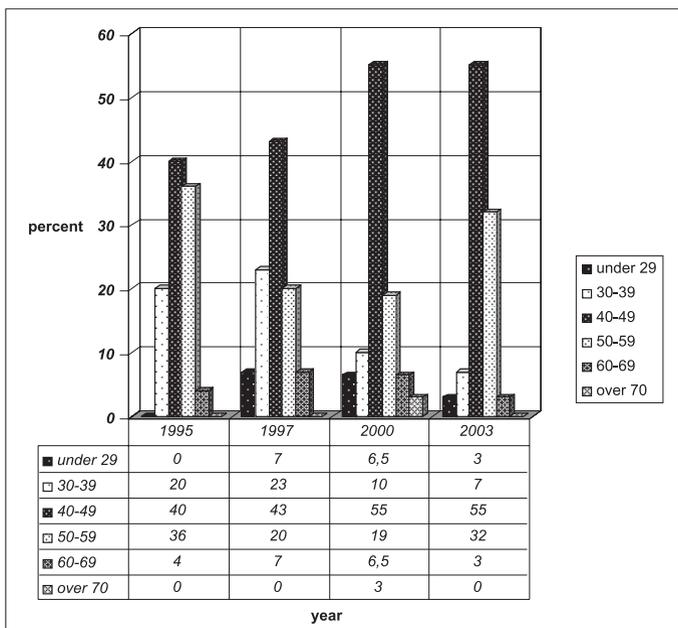
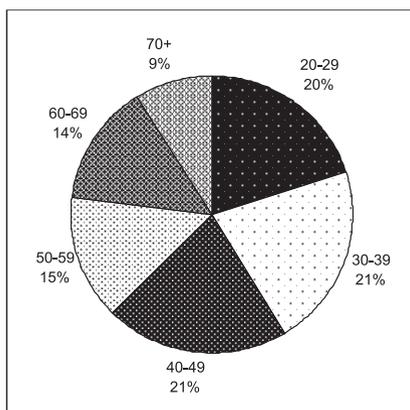


Figure 5b

Age groups' representation in Klaipeda city 2001⁶

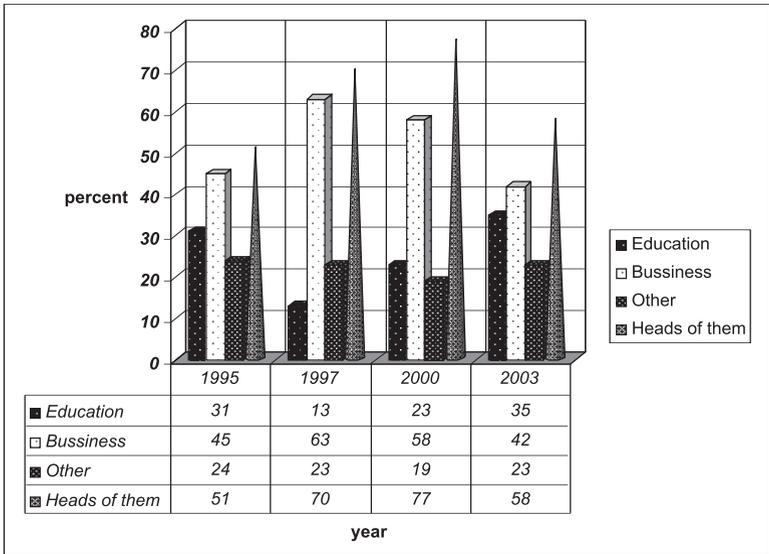


5 Author's calculation using Housing census statistical information from www.std.lt

6 Author's calculations using statistical information from www.vrk.lt

Furthermore, as shown in Figure 6, until 2003 the local council was dominated by business, while the minor portion of councillors came from the education sector and from other occupational groups. Besides, in all occupational groups, more than 50 % of members of local councils were/are heads of various organisations and primarily heads of business organisations.

Figure 6
Representation of occupational groups in the local council 1995 – 2003⁷



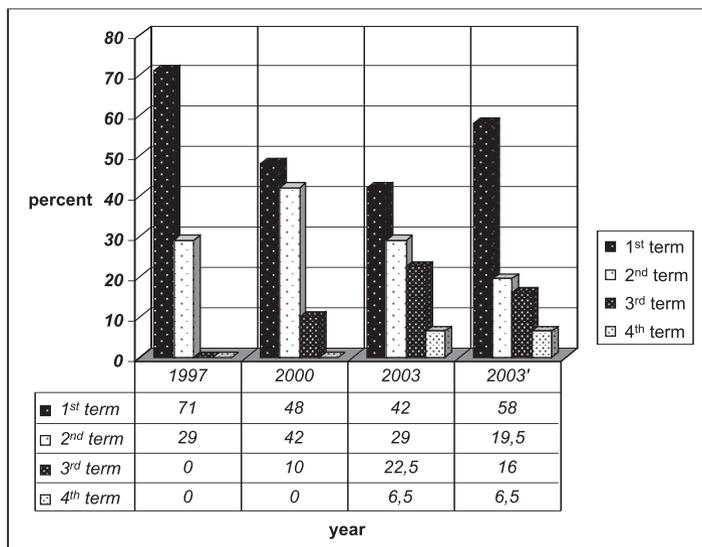
The difference in representation of those socio-economic groups was very remarkable during the period 1997 – 2000, when there was the most significant wave of privatisation in Lithuania. It may be argued that the dialogue between government and society was not very efficient and political leaders were becoming a closed stratum.

Nevertheless, there are some positive changes towards more adequate representation. The impetus for change came from central government (as a top-down initiative) but it has had a very positive and progressive impact on local self-government. Previously, when members of Parliament could become simultaneously members of municipal councils, there was a strong tendency towards incumbency of local representatives at the next elections. After a decision by the Constitutional Court, which forbade this practice, more newcomers and young people became members of the local council (as shown in Figure 7 as 2003').

⁷ Author's calculations using statistical information from www.vrk.lt

Figure 7

The change in the members of the municipal council 1997 – 2003



The main problem concerning leadership in local councils is how to achieve democratic and transparent representation of the population being served. As all the figures of this chapter demonstrate, in Lithuania during transition, the political leadership (especially in local communities) tend to become a closed stratum. Local society, concerned mostly with its own (socio-economic) survival during the transition period, is not able to dissolve these closed strata and therefore the bottom-up initiative is not effective.

4.2 Community leadership

Community leadership, as proven in various analyses (Johansson, 2000), could be a very effective endogenous factor.

Community leadership most often is related with:

- 1) Non-governmental community organisations, namely NGO's;
- 2) Direct participation (various movements, IT possibilities etc.).

NGO's have been shown to be the main endogenous source for local (economic) development (Johansson, 2000), as they are the most capable of endowing resources. However, as in the case of Klaipeda, the leadership at the existing NGO's is difficult to identify, for various reasons. It can be seen (though not yet proven em-

pirically), that local council members who are active in NGOs take up the leading positions in various other organisations.

It would appear that citizens are less interested in using traditional methods for participation and are more interested in the ways for direct participation and influence. According to the *Finnish Participation Programme* (Kurikka, 2004b), the main trends of direct participation by citizens were grouped as follows in **Table 1**, while marks show the intensity of participation possibilities in Klaipeda municipality (1 – no possibility to participate, 2 – little possibility to participate, 3 – good possibility to participate, 4 – very good possibility to participate):

Table 1
Intensity of participation possibilities in Klaipeda municipality⁸

	Information – participation	Planning – participation	Decision – participation	Action – participation
1				
2		+		+
3	+		+	
4				

Information – participation means forms of participation and involvement, such as delivery of information to citizens, listening to the citizens, replies to questionnaires and service quality norms (Kurikka, 2004b). This form is mostly related to e-government development which is improving in Klaipeda municipality and county. A comparative research of all Lithuania's municipalities and counties, however, shows that Klaipeda municipality and county are not the best in developing e-government (Petrauskas, et al, 2003).

Planning – participation is deeper co-operation between municipality and citizens than information exchange. It includes joint planning processes and city forums (Kurikka, 2004b). Planning and participation has not yet been sufficiently implemented. The simplest example is the case where city authorities decided to build a statue in the centre of the city without any in-depth discussions with the local community, although there was widespread opinion against this statue. In this case, local authorities take public concerns into account but direct participation in planning procedures is quite restricted and mostly only accessible to those who are well-informed.

Decision – participation may include joint production of services or direct participation in decision making on the citizens' neighbourhoods (Kurikka, 2004b).

8 Author's calculations according to Kurikka, P. (2004b). Best practices to promote citizens participation and influence on local affairs in Finland. www.savivalda.lt

This form of participation tends to take multiple routes when the so-called tribune or citizens' jury is introduced.

Action – participation is citizens' own actions in their living environment or in the service or operational unit (Kurikka, 2004b). However, Klaipeda city is not divided into smaller territorial-administrative units, namely wards, therefore the abilities of taking any local actions is quite complicated.

The research of Klaipeda municipality showed that there are some participation channels, but they are not effectively used and are quite limited. Public democracy and participation will not work adequately until some ability to create sub-local territorial units – wards – is introduced for Klaipeda citizens.

De Vries (2003) investigated attitudes towards leadership and participation which, when compared to Klaipeda municipality data, provide for quite similar results which are distinctive for the whole CEE region. The dominating attitude that most decisions should be left to the judgement of experts (de Vries, 2003, p.57) was also confirmed in Lithuanian local self-governments. There are many experts working for Lithuanian municipalities, especially from Scandinavian (including The Netherlands) countries. This explains why Lithuanian municipalities have established many elements similar to the Scandinavian type of self-governing, while the whole environment and historical heritage is completely different and not always suitable for it. The principle of isomorphism is also working here to varying scope and degree.

The research of Klaipeda municipality confirms another statement from de Vries' research, namely that Eastern European local elites are, however, much less favourable about public participation as such. Local elites in Eastern Europe are much more skeptical about public participation in general and like the decision processes to be restricted to knowledgeable people (2003, p.59).

In summary, it is possible to state that citizens are not participating as much as they could. The channels for participation have been formally created, but there is a lack of information on how to use them. The problem could be solved if there were some top-down impulses, but this is not really expected, for the reasons stated above: local self-governments are over-politicised and community leadership here greatly depends on the political leadership.

4.3 Public service leadership

Leadership in the public service is one of the weakest links in creating local governance in Klaipeda municipality. Nevertheless, Klaipeda is one of the best examples among all the Lithuanian municipalities of this style of leadership. Tendencies towards the *new public management* are the most obvious in Vilnius, Klaipeda and Neringa municipalities. The reason for this is that almost constantly, the councils of these municipalities were dominated by central-right wing parties which support

NPM's elements in their programs. Above all, Klaipeda municipality was the first in Lithuania to introduce the Strategic Development Plan.

The basic starting principle for effective public service is the application of a Weberian style public administration. Mature Western democracies have transferred gradually from the Weberian style to public governance. Countries experiencing transition are specific since their public service combines different elements of public administration styles from different historical periods. First, the communist heritage could only be described as pseudo-Weberian. Second, during the time when countries of the *new democracy* began to introduce new structures of public administration, countries in the rest of the world were experiencing the development of the *new public management* idea. At the moment, public administration is experiencing some kind of post-NPM period, while public service in countries of the *new democracy* provide for a mixture of Weberian, NPM, post-NPM ideas and some elements of the communist heritage. It complicates not only the research, but also the possibilities for future prognosis and reform directions. The leadership variable works here, at least to a limited degree.

Conclusions

The objective of the paper was to introduce a concept that centre-periphery (or inter-governmental) relations in the context of local public governance which includes not only central, local and intermediary levels of government, but also the *level of citizens*. Leadership becomes the most active endogenous element in promoting these relations. As the system of local governance is formed from three main components – political institutions, community and administration – the leadership becomes a *resembling activity*. It means that there is a growing demand for the local council (main political institution) to be more *entrepreneurial*, for the administration to be more (politically) responsible and independent, and for citizens to be more active in controlling the first two, as well as participating more actively in the decision-making processes.

The results of the research, nonetheless, showed that this ideal model of local public governance does not function properly in a transition country such as Lithuania. The element of leadership is widely used only by one group of people – by businessmen. They dominate in political institutions; they form the most active part of community and their influence in the sphere of the public service is very evident. Therefore, it is possible to come to conclude that:

First, while the reform of territorial-administrative decentralisation has not yet been completed, it is very difficult to create effective public governance because the relations between the different levels/tiers of government and citizens have not yet been settled. Second, local self-government is over-politicised therefore leadership in the three main components of local governance is distributed disproportionately. Citizens do not have sufficient information and knowledge about their

ability to participate therefore the main networking channels remain unused. Third, public governance in a country undergoing a process of democratic transition is a rather controversial phenomenon.

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Balancing Political and Administrative Actors in Networks: The Case of the Elaboration and Implementation of the Estonian Forestry Policy from 1995 – 2004

Georg Sootla, Erik Sootla¹

1. Introduction.

1.1 Participation as a democratic norm and as a core mechanism of the policy process

The traditional comprehensive rational actor approach, which is still the most widespread in the analysis of specific policies, does not leave much room for specific mechanisms of policy-making to be treated as variables of policy success. According to this presumption, the correct plan, clear aims and appropriate fit of options with values (Hogwood & Gunn, 1984) are presumptions that *per se* ensure the success or failure of a policy. The major problem in ensuring successful policy implementation could be the resistance of different participants and constituents, who may not accept the declared policy aims. In this sense, the rational actor approach has to be considered as basically anti-participatory in relation to the policy process.

There are a wide variety of new theories of the policy process that emerged after the discipline of policy analysis came to the forefront as a practical problem in explaining policy failures in the mid-1960s (B. Radin, 2000). One part of them focuses on the elaboration of more sophisticated tools and methods of analysis and planning of outputs and outcomes of the policy. Another part focuses on the analysis of roles and activities of different actors in explaining the mechanisms of policy development. In this approach the borderline between policy elaboration and implementation tends to be blurred.

Approaches which emphasised the role of policy actors departed from the critique of basic premises of political science (pluralism), policy process (rational actor) and organisational theory (mechanical bureaucracy) (Klijn, 1997). Such new concepts as corporatism, policy communities, sub-governments etc. emerged to identify configurations of actors in the policy process. Actors in the policy process are, in conventional theories of policy, divided into internal and external actors. Internal actors are official or institutional actors, such as ministers, top civil servants,

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representatives of core interest groups etc. which held in their hands the power and resources to make or not to make decisions on certain issues. External actors are constituents, who are, to a different extent, concerned or affected by certain policy and *are invited* by core actors into the policy-making process at different stages. There are different reasons for these invitations: from manipulating public opinion and co-opting the most dissatisfied citizens' groups, on the one hand, to the development of dialogue and ensuring citizen control on the other (Taylor, 2003: 117).

Various explanatory paradigms of policy-making have been elaborated after the concept of modern governance became fashionable: policy networks (Rhodes, 1992), neo-administrative state (Durant, 2000), networked community governance (Stoker, 1991). These conceptions tried to avoid the hierarchical pattern of actors' organisation in the policy process, because the role of the traditional policy-making core has changed considerably. The most radical versions suggest, starting from the implementation structures, not only in policy analysis but also in policy-making, because successful policy and its outcomes tend to be rather a reflection of interest and incentives of constituent and target groups, than intentions of the policy-making politico-administrative core (Hjern, Hull, 1987; Bogason, 2000). As we will see, Estonian Forestry policy development has many traits of the backward but also the forward mapping process (Elmore, 1979/80, Sabatier, 1997): the parties involved formed network-type patterns where traditional policy core had no dominant role in the policy elaboration process.

1.2 Networks as a variable of sustainability of the policy process

Two very fashionable concepts emerged in the framework of the governance paradigm: networks as a new form of organisation and sustainability as a new paradigm of success that contested such concept policy effectiveness. Unfortunately, both have serious methodological deficiencies that do not enable them to be considered as a theoretical point of departure without falling into the normative over-emphasis and tautology in defining variables². We consider the wide involvement of the various actors to be a mechanism that could improve the quality of the policy program, of the effectiveness of its implementation and adaptability of the policy sector to contingencies and complex turbulent environments. Because this causal link could not be explained (Dowding 1995), we use the case study method to demonstrate what variables in this network type pattern play an independent role in determining sustainable policy outcomes. In the course of this study we would, in addition, strive to concretise the indicators of sustainable development (Sootla, 2002 a, 2002 b).

2 The networks approach has been heavily criticised because it could not be used analytically as an independent variable, as it is still defined *via* other concepts and variables (Dowding, March 1995). The concept of sustainability is still heavily inclined towards the normative ecologism (Sootla, 2001), although its roots in the system analysis enable to interpret it as a set of indicators for the identification of systemic mechanisms and outcomes of policy (Sootla, 2002).

Policy networks are generally used as a metaphor that is used as a framework to be filled with different variables, developed separately (Dowding, 1995). The Estonian Forestry policy case in our interpretation is no different. Although the network approach is very attractive, in that it serves as a solution to methodological dilemmas in many policy theories (Kickert et al., 1997), nevertheless, there is no clear link between the network structure and policy outcomes (Peters, 1998).

In our case, we identify the policy network departing from its widest definition as a stable pattern of interdependency between autonomous and principally equal actors, and which is aimed at the self-investment in the policy process (policy formulation, policy implementation, policy strategy definition, definition of policy preferences) through the collective process of resource exchange (Kickert et al., 1997).

Even with this normative definition, it has been difficult to determine the exact location of the Estonian Forestry policy along the lines of the basic classification of policy networks: i.e. issue networks *versus* policy communities (March, 1998: 6-7). On the one hand, the process was open and effectively included anyone who manifested some interest (Estonian Forestry policy, 1997: 1); on the other, the decision-making capacity of stakeholders was substantial, to the point where the final policy draft was accepted almost without any substantial change. This was a hybrid model, which could be explained by the transformation of the “government into governance” in process: the role of foreign experts definitely played the role of catalyst in introducing a participation-based consultative decision-making style into the traditional rational actor central rule model of Estonian government. In fact, Guy Peters’ description of a structure, which could serve as an alternative to the networks, matches to the last detail, what were the main stages and organisation of the Forestry policy decision-making (Peters, 1998: 28). At the same time, the government’s role in the policy process has been rather formal, or at least *post factum*, when the policy had already “taken root” (Puustjärvi, Onemar, 1995: 4). *En tout état de cause*, the hybridisation of the network in the case of Estonian Forestry calls for additional variables, such as sustainability variables, to be introduced.

2. Developments in the Estonian forestry before the reform was analysed through the prism of sustainability criteria

2.1. The Soviet period

In the Soviet system, Forest enterprises were similar to *kolkhozes* and *sovhozes*³ – the main institutions of organisation of economic activity and social life in rural areas (municipality level was *de facto* absent.) Unlike agriculture, forestry in Estonia did not have a considerable economical-political importance in comparison, for instance, to neighbouring Russia. But, forests had a strategic importance. Estonia

3 Colhoz – collective agricultural farm; Sovhoz – state farm.

was an important frontier area of the SU, where strategic troops were located. It is similarly noteworthy that post-war resistance movements hid in the forests, which in the 1940s and even 50s were the battlefields of the resistance. Forest managers, as well as forest protection servicemen, had the right to exert physical force comparable to the police. They had uniforms and they were armed.

The only area where civilians could own and dispose of guns was hunting – an area, which represented a relatively popular recreation activity, especially for local, as well as national elites. Organisation of hunting and receptions for domestic and Moscow ‘*boyars*’ was one of the arenas of policy-making and distribution of scarce resources, investments and exceptional freedom from central restrictions in the local economy. This made forestry enterprises and management politically very pronounced and powerful at the local level. Their autonomy was even more extensive because the forestry and environment remained under the subordination of the Republic’s authorities.

There was one very important specific of forestry enterprises in comparison with *kolkhozes* under the Soviet regime. The state forestry system in Estonia emerged from the forestry system built up by the Baltic Germans before Estonia’s independence in 1918. In the independent Estonia, those forestlands were not privatised and a centralised state forestry system was established and managed. After the Estonian *sovietisation*, the state forest system was created on this land. At the same time, in the private lands that were subject to collectivisation, the forests’ management remained under the competence of *kolkhozes* as a secondary responsibility and declined considerably. Hence, one can imagine the political, economic and social position of forestry and forestry management in Estonia prior to transition.

2.2 Forestry sector after independence

After independence, forestry remained a rather politically insensitive sector. The restoration of the land property rights that were expropriated in the 1940’s stimulated the creation of a large number of small landholders. Some of them became forest owners, who could make some economic profit from forestry. The centralised state forestry organisation began to crumble into autonomous forest management units, which were oriented to the emerging and rather unstructured round-wood and timber market. The main public resource – the forest – remained in actual autonomous control of the local forest managers, whereas environmental issues, as well as market competition, were extremely weakly regulated. Centralised chains of command from the Ministry and Forestry Agency crumbled and started to rely largely on informal networks that were rather strong in forestry.

This period (1993—1996) was later called “the golden age in forestry”. Heads of public forests management units acquired wide discretion in cutting round-wood and selling wood ‘cutting rights’ in forests to private companies. The scope of cutting was increasing extremely quickly. On the one hand, a rather low level of

planned production output during the Soviet time made cutting ecologically feasible. On the other hand, open markets provided forestry equipment and machines that were several times more productive. Different managers took different strategies in managing their units. Investments were made into equipment, facilities, offices, roads etc. Obviously some portion of the resources was deployed in private interests. Surprising as it may be, this almost anarchic situation which generally resulted in intensive corruption and de-institutionalisation did not result in the de-institutionalisation of forestry. Foresters continued to follow – of course, each according to individual understanding – the perception of forestry management as a public resource. Meaningful ecological harm to forests – which becomes endemic in private forests – was not reported. Forestry units retained the previous level of employment despite (some 30 – 40 % during three consecutive years) recession in the countryside in general.

The only meaningful negative outcome of significance was the distortion of the regional (Baltic and Scandinavian) round wood and timber markets. Presumably, this was one of the reasons that triggered the reforms in the forestry sector. Soon the inflation that constituted the profit of the forestry sector, made the sector face some financial restraints and development deadlocks because of out-of-date organisation structures and management.

Thus, forestry was a rather well institutionalised sector throughout different political regimes. Strong values of forest management and life played an important role in ensuring the consistency of forestry as a sector of environmental reproduction. Among the new generation of local forest managers, who started to acquire modern knowledge in management and marketing, many were actually second, third or fourth generation foresters. Thus, the development perspectives of forestry were also closely connected to social status and legitimacy in the local community. Although local forest managers acquired much autonomy, they were not very satisfied with the developments in the public forestry, in particular as an institution and with the enlarging violation of rules of environmental reproduction in private forestry in general. The balance between the short-term interests of economic profit from the cutting and selling of round wood, on the one hand, and the long-term interests of reproduction of forests as a public good, still had a significant resource of balance in Estonia in the mid-1990s when reforms commenced.

As a consequence, the entrance into the radical libertarian market environment did not considerably change the institutional identities. Presumably, the destructive developments in private forestry and in agriculture strengthened these identities on the eve of radical reforms. In these conditions the top down reforms that were launched in other sectors were impossible.

2.3. Cabinet's dynamic at the beginning of the 1990s

In 1992 the first coalition took office after independence. This was a classical activist type of government (Sootla 2000, 2001), which emphasised the political coordination of decision-making and focused primarily on politically sensitive and urgent policy issues. Forestry was not among these. The 1992 cabinet promoted a collegial but top-down policy-making style, which did not allow any possibility for wide involvement of constituencies and civil servants into the policy process. Thus, there were no preconditions for the reform of forestry in the first part of the 1990s, although in 1993 the Forestry Act was adopted, which remained largely intact.

In 1995, a new coalition was formed between the Coalition party and several smaller rural parties. Ideological distance between them was not very sharp, but due to the high number of coalition partners, the ends of the spectrum created some considerable distance. Nevertheless, these parties had a strong element in common which served as a unifying variable: they represented former Soviet urban and rural managers' / employees' interests. These were people who had lost their status and/or wealth as a result of the radical market transition. The coalition promoted such values as reconciliation between parties of different spectrum ends, development of durable, consistent policy strategies and professionalisation of policy-making. Seven out of 15 ministers of the 1997 coalition Cabinets could be considered as politically neutral field professionals (Sootla et al, 2004). This institutional environment was extremely conducive to the formation of network type arrangements in the policy process. In the forestry sector, the pattern of actors emerged largely during previous stages of the developments. The difficulty was to organise actors into an appropriate network for sustainable policy-making.

3. Basic premises of institutional reform of forestry

There were two agendas for the Forestry reform: institutional and economic agenda. In the institutional dimension, the reform of forestry had to put an end to the situation, where one actor in the forestry sector was simultaneously representing the public authority (preparation and adoption of rules of forestry) and interests of the state's forests' owners. On the one hand, economic interests of owners could come into conflict with public interests of the government, which is expected to ensure the reproduction of forests and prepare space for public recreation activities. On the other hand, government as an owner could develop rules that would harm the interests of other producers in the forestry sector. Namely, the role of state as a neutral regulatory agency in the forest markets, as well as environmental affairs should be increased and direct economic interests decreased after the conflict of interest is abolished.

The economic agenda included more complicated questions. The first of them was the development of the balanced market with low transaction costs for producers. In the government sector, this was expected to be achieved by the centralisa-

tion of marketing and by the creation – from the side of round-wood producers – of enough of a strong subject, which could balance out strong and experienced companies, which mediated round-wood to direct producers, predominantly in the Nordic countries. As the scope of Estonian round wood is several dozen times smaller than in the Nordic area, this measure was directed primarily towards the equalisation of the round-wood price.

The second aim was even more important because of its complexity. Small forest owners lacked almost any capacity in forest management and forest renewal after cutting. Their role in destabilising the round-wood market has been even more significant than in the case of the larger state producers. Hence, the reform strategy presumed the delegation of the role of assistance to private foresters to the government agencies (State Forestry Board). Extension services were created at local administrations and were financed from the state budget. Even more important was the role of the government in developing cooperation within the group of private foresters, which would serve to balance out the pressure of big companies, in favour of smaller, less experienced companies.

The reform of forestry was successful with the change in state forestry. In 1999, the State Forest Management Organisation (SFMO) was created, but its marketing structures had already been designed and activated in 1997. Contract prices of round-wood and cutting licences in forests became stable and closer to regional prices. Large lots enabled the cutting and sale of round wood to be more efficient and the reduction in the workforce was very significant. The number of forestry units in the regions was reduced. Many activities that could have been carried out by small firms (cutting, maintenance of forests etc.) were contracted out.

Figure 1
Volume of wood cutting in state forestry, mln. m³

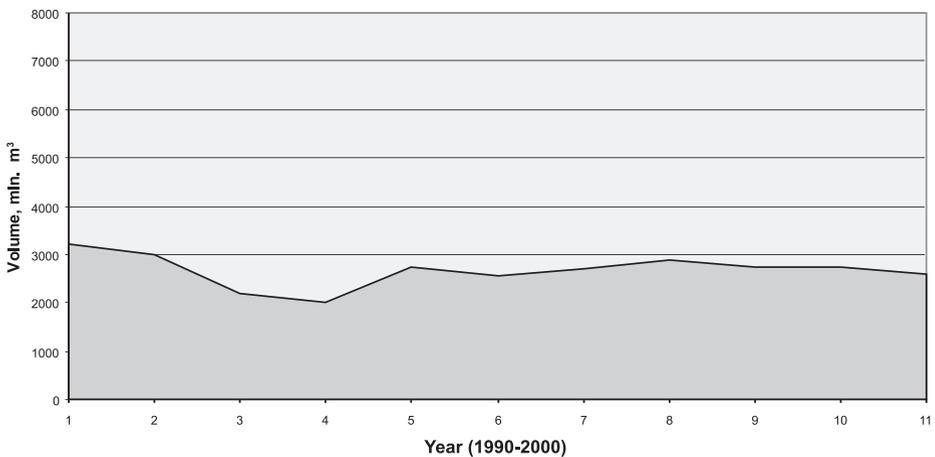
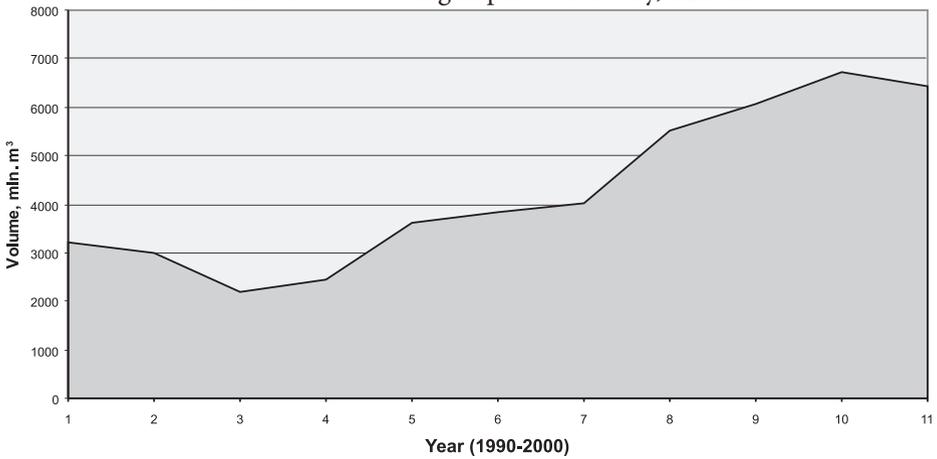


Figure 2
Volume of wood cutting in private forestry, mln. m³



The reform was much less successful, or even failed, regarding the role of the government. Because of the domination by political aims, the governance of forestry was reorganised in such a way that the state lost its ability to ensure the supervision of forests as a public good. This role is still largely exercised by the SFMO. The government was unable to assist private foresters in the development of their capacity to manage forests and sell wood. Cases of illegal cuts of wood are still frequent and the costs are huge.

Table 1
Volumes of standing crop and timber thefts in 1999 – 2000:

	1999		2000	
	Quantity (m3)	Amount (million EEK)	Quantity (m3)	Amount (million EEK)
Timber	6,990	2.6	4,750	2.6
Standing crop	12,675	2.1	12,288	2.3

Source: SFMO development plan for years 2001 – 2003: 22

Private foresters largely neglect the priority of an environmental reproduction of forests after cutting: private forests have, during the last 10 years, lost a considerable proportion of their commercial value.

The development of forestry policy did not come to an end with the establishment of the State Forest Management Centre (SFMC) and of local branches of the Forestry Agency, which should focus on the supervision of the environmental dimensions of forestry, as well as on the assistance to private forestry in the transformation into economically and ecologically sustainable units.

4. Developing forestry reform strategy: arenas and participants

In September 1995 a three-year Estonian Forestry Development Program (EFDP) was launched (Puustjärvi, 1998: 1). The Program was financed and main expert assistance provided by two ministries of Finland (Agriculture and Forestry and Foreign Affairs) and the Danish Ministry of Foreign Affairs (Puustjärvi, Onemar, 1996: 3; 1997: 5-6). 10 sub-programs were targeted, mostly to the environmental / technical aspects of forestry and forests. Three sub-programs – policy development, forest administration and private forestry, were directly targeted to the development of the Forestry Policy. Later, other public and private sponsors and assistance from Finland, Sweden and Denmark joined the program. The coordination of technical assistance from the Nordic side was contracted out to the Finnish company, Indufor Ltd., and was ensured by E. Puustjärvi (Puustjärvi, Onemar, 1996: 3; 1997: 5-6). Presumably, such a foundation – such as open assistance and financing mechanisms – enabled the attraction of the necessary resources in the course of strategy development which made EFDP especially sustainable.

Such an overwhelming development program became possible because of extensive foreign aid from neighbouring countries. They invested not only in terms of financial and expert resources, but also in terms of specific traditions of strategy development as part of the policy-making process in those countries. Policy transfer was a considerable variable that shaped the character of the Forestry policy-making process in Estonia.

First, the process was kept relatively separate from the conventional administrative structures and routine of administrative practices: Finland in this respect differed, because at the beginning of 1990, it abolished independent administrative agencies. The question was to what extent such arrangements would be incorporated into the conventional hierarchical chain of the policy-making process of Estonian authorities. This depended largely on the skills of the EFDP leadership.

Initially, the elaboration of the Forestry Policy and EFDP was assigned to the Forestry Agency at the Ministry of Environment. This decision was later contested by several parties – Ministry of Agriculture, private forest owners' organisations and the forest industry (Puustjärvi, 1998: 4). At the same time, the mechanisms of financing of the Program did not leave the main powers – powers to command resources – in the hands of the Forestry Agency. As a compromise, the EDFFP National Coordinator's Office was established as an independent public body at the Ministry of Environment. The issue of neutrality was at the core of policy design and also at the later stages of policy adoption (*ibid.*).

Second, the elaboration of the strategy was expected to achieve aims that would be as rational and negotiated as possible. This presumed an extensive in-

volvement of constituents and stakeholders through the various decision-making arenas (ibid.).

4.1 Main decision-making arenas

4.1.1 *Lead agency of Forestry reform*

The first discussion that was raised in relation to the planned reform was not about the institutional structure of the forestry sector, but was a debate over the institutional structure of the reform management. The initial proposal to assign the central steering to the Forestry Agency at the Ministry of Environment was criticised by representatives of institutional and non-institutional actors: the Ministry of Agriculture, private forest owners, the forestry industry (Puustjärvi, 1998: 1-2). Besides, the assignment of a steering role to the Forestry Agency was not possible because of a project-based financing scheme that excluded financing *via* government agencies' budgets. *The issue of neutrality of the core coordinating body in a network building would be considered a crucial point.* Later, it was revealed that this arrangement considerably increased the motivation of interest and stakeholder groups in participating in the network's decision-making and prepared favourable conditions for mutual trust between participants. Above all, it made the policy proposals that came from working groups legitimate in the eyes of politicians and representatives of other institutional actors on the Steering Committee.

The EFDP National Coordinator's Office was an independent unit institutionally placed as part of an independent organisation of the Ministry of Environment – the Centre of Information and Economy of Forests (Puustjärvi, Onemar, 1996: 6). The only official link to the administration was the National Coordinator as the Director of that technical centre, being a part-time employee at the EFDP in the initial stages. Actually, the position of director of the centre served as an official umbrella for the head of the Forestry reform coordinator, who was previously known as a leader of the pilot project on forestry management on one of Estonia's island regions. Many ideas from this project were transferred into the Forestry policy from the regional pilot project.

The Coordinator's Office played a crucial role in the planning of and steering the activities of the entire network, developing information channels and mediating feedback from stakeholder groups, controlling the scheduling of work of experts in the working groups, and integrating proposals from the working groups into a coherent policy document. The Coordinator's Office also acted as a policy-making capacity builder in order to boost the efficiency of the network that was, in the beginning, rather low (Puustjärvi, 1998: 6).

We should not overestimate, however, the administrative/ steering monopoly of this Office. The head of the Office was not formally subordinated – as were many experts and participants of the EFDP – to the Forestry Agency. A close relationship

developed between the two institutions in the coordination of visions and actions, especially in the initial stages of organising and triggering the policy process.

4.1.2 Expert groups at the EFDP

Expert groups at the EFDP were formally part of the official working groups. There were ten of them. The main aim of those groups was to organise systematic analytical work in certain sectors or dimensions of forestry and to work out conceptual solutions for the Forestry policy. In those areas which were closely linked to the Forestry policy, the preparation of background analysis was more successful. More technical working groups need more time for analysis and less pressure to contribute to the policy development by deadlines. However, these groups did not work less intensively because they prepared analytical materials for the Development program.

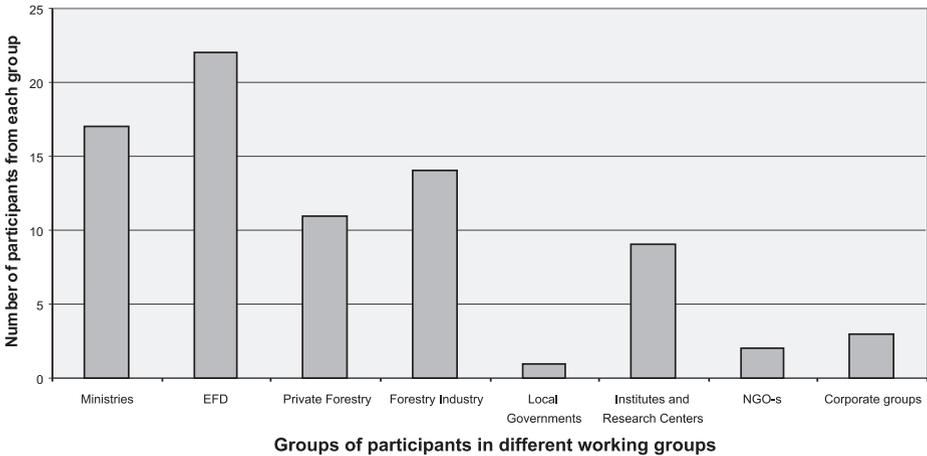
Expert groups involved those who were staff members of the EFDP or civil servants and professionals from public agencies of the Estonian forestry. The latter came from different public organisations, from contracted public or private organisations and from the Forestry Agency. Expert groups were formed according to the main guidelines of the Program. Its members were more closely connected with the EFDP as the program for technical assistance, which, among others, was aimed at the elaboration of the Estonian Forestry Development Plan. The aim of the EFDP was “to build up the local capacity to carry out similar exercises in the future” (Puustjärvi, Onemar, 1996: 4). Expert groups functioned on a permanent basis and work in the groups was partly compensated. In 1997, the Estonian staff input was already 67 people/month (Kallas et al, 1997). However, experts coming from the Forestry Agency and other forestry organisations were not formally assigned as part-time experts from their main work. Thus, members of the expert groups had no formal subordination to their home organisations in respect of their functions in the Program, although informal connections with their home institutions remained important.

4.1.3 National working groups or steering working groups

These groups were formed to test policy proposals elaborated by experts at stakeholders’ and constituents’ meetings. National working or steering groups involved members on a formal basis from the Ministries, government agencies, institutes and universities and other public organisations (Puustjärvi, Onemar, 1996: 6). Besides, representatives of seven different stakeholder unions were involved together with the Estonian Green Movement and the Estonian Nature Fund (Puustjärvi 1998: 9). The initial aim of the extended working groups’ meetings was “the introduction of a participatory decision-making process” (Puustjärvi, Onemar, 1996: 4). From the outset this was also considered as “a prerequisite for the successful and effective implementation of the future Forest Policy”, because “it is largely accepted by those who are affected by it and that it receives full support from decision-makers” (ibid.).

Unlike members of the expert core, these extended working groups did not have a formal link to the EFDP as a technical assistance program. Nevertheless, extended working groups were actually binding links between this technical assistance (foreign aid program) and the conventional policy-making process (see Figure 3).

Figure 3
Intensity of participation in working groups of the Estonian forestry policy development



Source: Draft Terms of Reference, Estonian Forestry Development Program 1995 – 1998.

It was indicative that representatives of ministries considered these working groups as traditional “talk chambers” and, initially, at the stage of the formulation of the basic presumptions of the Forestry Policy, did not actively participate in working groups’ meetings.

Such an attitude and behaviour of officials at the preparatory inter-ministerial working groups was rather characteristic in cases where policy advice and political decision-making are functionally separate from the policy-making process. After the presentation of a proposal of experts to the “higher” politico-administrative level, the new parallel mechanisms of coordination and professional-political input began to function. The work of the previous body was, as a rule, nullified or considerably revised and often without any convincing comments. This conventional mutually unconnected multilevel coordination and input system would cause considerable discrepancies in the strategy development, because the various layers of professional and political output could not meet and harmonise their understanding.

EFDP was able to avoid this unconnected interest of potential stakeholders, but it made a supplementary effort to trigger the interests of neighbouring ministries and politicians.

There was also another side to the coin of consensus-based decision-making that was intentionally introduced at that level. Extended working groups involved organised groups and their representatives. However, the efficiency of the stakeholders' input was low, especially in the beginning, which was the main reason for the pessimistic attitude of ministerial representatives (Puustjärvi, 1998: 6). The development of collective decision-making skills and culture was one of the key activities of the EFDP's leading managers. The National Coordinator's Office worked out several tools that assisted the development of the policy-making capacity of participants. The Office experts worked out guidelines for the working procedures of the working groups to increase the overall effectiveness of the meetings. To avoid spontaneous discussions and unnecessary topics, each working group had to develop a clear agenda and a list of problems that should be solved during the meetings of a working group (Puustjärvi, 1998: 6). The Office organised training on methods of managing the working groups. These measures and accumulated experience reduced the emotion during discussions and disabled, to some extent, the potential of the negative sum game.

At the outset of the process the leadership of the EFDP was aware that extended working groups had the effect of "the therapeutic democracy" (Chandler, 2000). Until the Forestry policy, there was practically no experience or skills in the democratic policy-making process in Estonia. At the same time, the dominance of sectoral and parochial group identities did not allow the finding of a common language or a cooperative disposition by participants from different organisations and groups. Discussions in working groups were, first of all, targeted to the development of such a common language and such dispositions. This purpose was soon achieved.

It is no accident that we emphasise the role of the working groups as a link between different policy-making arenas. On the one hand, the discussion of proposals prepared by experts was carried out under the guidance of experts and in an atmosphere that enabled stakeholders to rely on rational arguments. The more rational arguments were involved the less active, but more constructive, was the contribution of group representatives. Initially, working groups' participants coming to the network to present their particular interests, soon started to deliberate in terms of the overall optimality of policy proposals. The role of the working groups in the networking process (as opposed to simple discussion arenas) between different stakeholders and constituents was gradually achieved.

On the other hand, connection to the Steering Committee played a crucial role, but it was undermined by the delay in the establishment of the Committee. Policy advice of experts made the working groups more legitimate, which facili-

tated the political confirmation of policy proposals at the level of the steering committee. However, the feedback from the political Steering Committee was equally important, because members of the working groups wanted to have some confirmation of the significance of their involvement in shaping the outcome of the policy process. The recognition of the actual significance of their input by stakeholders is an especially important parameter of network-based decision-making. Frequently, the absence of such recognition in the framework of bureaucratic policy-making (which results from the mutually unconnected multilevel coordination) can hinder the formation of the policy ownership among civil servants.

4.1.4 Steering and/or Government Committee

The EFDP program was launched and enacted in its first year without any political steering and/or without any clear policy directives from the government. “[...] the establishment of the Steering Committee was delayed until the first draft of Forest Policy became available” (Puustjärvi, 1998: 7). This is the second peculiarity of the political steering of the Forestry policy.

At the first meeting with Program officials, politicians expressed dissatisfaction because they expected to have the right to issue basic policy directives to the experts. However, the politicians’ discontent was ignored because the Minister of the Environment was a former forestry sector specialist (former director of the Forestry Vocational Training Centre) and was perfectly informed about the activities of the EFDP. Presumably, politicians were not so optimistic about the effectiveness of the EFDP.

In spring 1997, when the formulation of the Forestry policy entered its final stage, the EFDP National Coordinator’s Office became concerned that the lack of interest on the part of the government and the Minister might hinder the planned schedule of the policy development. One of the reasons for such a gap between the policy development program and the political leadership initiative was the unusual organisation of the policy process. The ministerial apparatus was almost completely external to the process and the Minister did not feel sufficiently responsible for the development in a sector which did not have a unit of policy advice established at the ministry because this function was formally assigned to the independent Forestry Agency.

The National Coordinator’s Office started to lobby the process at the Environmental Commission of the Parliament, where Cabinet members were frequent guests. The Steering Committee was brought back and during a limited period (May–November 1996) it presented the final draft proposal of the Forestry policy to the Cabinet. The role of the Steering Committee, as an arena, was not so pronounced as that of other inter-ministerial commissions, although the draft proposal was discussed and revised several times at the Steering Committee.

Working groups, based on a wide consensus of constituents' groups, already tentatively legitimised and ensured professional support to the majority of proposals that had far-reaching political and institutional consequences. It was not so easy to oppose proposals that were supported by important groups and organisations. The same applied later to parliamentary debates. The parliamentary commission was informed about the elaboration of the Forestry policy at its earlier stages. When the draft proposals from the government reached Parliament they were criticised by certain interest groups, primarily by the Farmers' interest organisations (Kallas 1997: 1). The current coalition was characterised by a relatively autonomous stance in relation to Parliament. Government proposals were frequently considerably revised and contested by Parliament's commissions and even at plenary sessions. The pressures from interest groups on a relatively open Parliament commission triggered a new round of debates. But, Parliament soon reached an almost unanimous decision (only 2 votes were cast against the policy).

After the adoption of the Forestry policy, the Steering Committee ceased to meet, although the elaboration of the Forestry Development Program continued with the creation of the State Forestry Management Organisation. The National Coordination of the EFDP was put in charge of the SFMO at the beginning of 1997, which strongly undermined the coordination capacity of the EFDP. This new structure of the division of labour and of the coordinative capacity stimulated confusion among different interests groups and other parties, in relation to the status and responsibilities of the Program (Puustjärvi, 1998). The confusion was also caused because of the delay in the administrative reorganisation of the Forestry Agency (and of the Environmental administration in general), which was only launched in September 1997 (Kallas, 1997). The third development that eroded the effective policy implementation was the delay of the revision and adoption of the Forestry Law (Puustjärvi, Onemar, 1997: 8). This delay was caused by technical, as well as by political reasons.

The main reason for the delay was the over-bureaucratisation of the policy-making process at that stage. The preparation of proposals to revise the law (actually it was an entirely new document) was assigned to the Ministry of Environment. The commission was chaired by an advisor to the minister. The intensity of work, as well as the involvement, decreased dramatically. The main obstacle was a dispute with the Ministry of Justice over the status of the new SFMO. After arriving at an agreement with the Ministry of Justice, the Ministry of Finance started to contest the status of the SFMO. (Un)fortunately, the veto right of those two ministries was abolished by that time and the law was passed without the consent of the Ministry of Finance.

In summary, after the gradual dissolution of the network of Forestry policy, the process of policy development and implementation faced serious difficulties in comparison to the policy process, based on a network arrangement, which, on the

contrary, is traditionally expected to be more time-consuming and containing numerous obstacles in the form of veto points.

4.1.5 *Supplementary arenas and tools of network management*

There were two other large constituents which were not sufficiently integrated into the elaboration of policy proposals on forestry. One of them – private forestry owners – was rather poorly organised. Their participation at the Forestry policy development was ensured by largely unrepresentative top organisations, which were expressing either highly politicised or highly corporatist interests (Puustjärvi, 1995: 5, 1998: 6; Puustjärvi, Onemar, 1996: 5). The representation and articulation of private forest owners' interests, although highly emphasised by the government, remained the most problematic issue of the Forestry policy at the stage of formulation and especially in its implementation. A survey was conducted, which served to substitute direct participation of private owners and to establish a more or less reliable general image of the position of the private owners concerning different aspects of the Forestry policy (Puustjärvi, 1998: 1, 6; Puustjärvi, Onemar, 1996: 5). Thus, the conclusion could be that interests should be promoted directly by constituencies / stakeholders instead of delegating it to third, hardly legitimate representatives.

The second group consisted of employees of the forestry sector – forestry managers and workers, as well as officials from the regional offices. Formally they were all involved through their peak organisation: the Association of District Foresters and other union-like organisations. Local forest managers, who were formally subordinated to the Forestry Agency, exerted considerable power and possessed substantial material / fiscal resources during the period when the reform initiatives were launched. The discourse with that target group, which was not directly involved in the visible policy-making process, should have been organised into an independent arena of policy formulation and of policy implementation. Unlike the established arenas, the discourse between the EFDP key leaders and experts and forestry managers was held either in *ad hoc* national and regional seminars and meetings or during regular, traditional events of the forestry sector: the Day of Foresters, regular meetings with heads of forestry management units etc. For three years the frequency of such meetings was meaningful. During these years, the culture of the discourse was developed and continued to progress at the SFMO. In order to speed up the exchange of information, a special gazette of the EFDP was printed: in two years of the EFDP there were 12 issues (Puustjärvi, 1998: 1).

4.2 **General configuration of the process of the Forestry policy development**

The scheme of the development of the Estonian forestry policy strongly contradicted the conventional sequence of the policy process. Nevertheless, we witnessed this un-linear structure of the process to enable the creation of supplementary recourses to the sustainability of the policy.

Table 2
Stages and duration of various stages of Forestry policy

Stage	Beginning	Termination	Duration (month)
1. Preparing policy proposal	Sept. 1995	May 1996	9 months
2. Making policy decisions (a) At steering (inter-ministerial) committee (b) At the Cabinet Total	May 1996 November 1996	November 1996 March 1997	6 5 11 month
3. Legitimising policy	March 1997	June 1997	4 months
4. Forest Sector Development Plan 1997 – 2001 (Implementation strategy)	Early Spring 1996	March 1997	12 months
5. Preparation and adoption of the Forestry Law	July 1997	December 1998	17 months
4. Creation of SMFO (a) Creation of the first draft (b) Creation of central and regional offices (c) SFMO legally in force		Oct. – Dec. 1997 January 1999 February 1999	

First, we witnessed that technically more complex and professionally more extensive tasks were fulfilled relatively easily. Political legitimisation of the Forestry policy took 15 months and its implementation also took 15 months. At the same time, the political stage of the policy elaboration was assessed as being relatively successful.

We witnessed many difficulties in the revision of the Forestry Law, which were largely caused by the bureaucratisation of this policy development. According to our evidence, the final consent at the cabinet was largely the result of the EFDP leadership's unofficial lobby. Besides, many of the statements of the Forestry policy, as an already official act, inhibited new provisions into the law that would reverse the whole process of the re-organisation of forestry in Estonia.

Most importantly, we witnessed that many implementation activities were triggered at the time when the adoption of the Forestry policy became more or less ensured. The Forestry policy was adopted in June of 1997. Prior to that (in March 1997), the 'Forest Sector Development Plan for 1997 – 2001' – otherwise considered as an implementation strategy – was completed and the creation of the SFMO was already half-accomplished. The Forestry Law was adopted less than a month *before* the beginning of the first financial year of the SFMO as an integrated organisation.

Hence, the network organisation of the policy development, in which the elaboration of policy precedes the creation of a formal-normative framework, contains some extensive supplementary possibilities to tie up the process of policy develop-

ment and to make it more sustainable. In network arrangements, conflicting interest groups, as well as the sectoral and professional egoism of government agencies, would be substantially balanced out to successfully pass the dead-ends of the policy process. This was also confirmed in the course of the subsequent development.

5. Implementing Forestry reform: arenas and networks.

Soon after the SFMC began its operations and completed its organisational integration (Sootla, Kadakmaa, 2001) the new minimal winning coalition (Laver, Schofield, 1991), with a large ideological outlook took office. Ministerial autonomy in that Cabinet was considerable. The Minister of the Environment came from what appeared to be a libertarian party (Reform party) and, obviously, was the promoter of the interests of the forestry business. Soon the Minister, absolutely independently from the Cabinet PA reform strategy, began to reform the environmental sector and attempted to redesign the previously well-tuned institutional roles in the forestry sector. (This solo policy-making initiative was thoroughly discussed at the Government commission for PA reforms). All field services of the Ministry of Environment at counties, except for inspections, were merged into one Regional Environment Service, in which a major part of the capacity was provided by the Units of Environment Protection that were split off from the County administration with its right to command the regional resources of the Environment Foundations. The latter was obviously the political aim of the reform. Concentration of government roles in Environment protection at the regional level was an urgent task. However, the government role in the extension of private forestry and in safeguarding forests had become rather insufficient after the reform.

Nevertheless, the main aim of that reorganisation was the centralisation of resources at the disposal of the Minister. Formerly, the control over resources was considerably constrained by the bureaucratic hierarchy and by the status of an independent agency. The Forestry Agency was abolished and re-organised into a policy advice unit at the Ministry. This reorganisation was accomplished parallel to the implementation of the Forestry policy becoming a high priority. Obviously, the political leadership was not interested in the implementation of the adopted Forestry policy. Regional services became directly subordinated to the chancellor of the Environment who was politically affiliated to the Minister's party⁴. The Public Environment Foundation was soon reorganised into a private-law organisation, in which the supervision over resources was ensured by a political supervisory council.

The plan of the new Minister departed from the premise that the government was not able to ensure or guarantee public interests in the management of public

4 Interestingly the Chancellor becomes soon main opponent of Minister in issues of Forestry policy. Because his reliance of bureaucratic neutrality many pressures to foresters were balanced and did not result in the revision of basic premises of Forestry Policy.

forests. The new plan of the Minister presumed the restriction of the role of the SFMO in forestry management to the environmental renewal works and protection of forestry resources that ought to be financed from the state budget. Those works were supposed to be financed from taxes of private companies, which had to take over all forest cutting and marketing tasks at the government-owned forests. What was the most impressive fact is that the Minister appealed, during the legitimisation of this plan, to the Soviet-time forestry managers and ‘Greens’ in order to restrain the role of public SFMC in Forest management. This plan was promoted, by the way, during a time when forest resources in private forests approached ecological limits after a 5-year extensive cut.

Why was it necessary to describe the background of this innovation attempt so extensively? Largely because it was targeted and backed up by the interests of the two main actors in forestry which were balanced out during the network-based elaboration of the forestry policy. One of them, the forestry industry, intended to enhance its role in the round-wood and forest management markets. Another actor with opposing interests became an ally of the business interests. The Estonian Fund for Nature expected that the restriction of the SFMO role would better enable the achievement of public or government roles in forestry and principally in ensuring the environmental reproduction of forests. Nevertheless, all other major actors would lose from that model of forestry management, namely because of the loss of control over the returns from the forest management activity.

The network of major actors of forestry policy that were formed in 1996–1998 was strong enough to resist those plans, although political pressures on them were extremely intensive and enduring. The policy network was so balanced that other participants, even from the private sector, and – what was more important – heads of the recently reformed forestry units (who lost their financial independence in the course of the reform) did not support this pressure on the leadership of the SFMO.

6. Conclusions: networks in ensuring sustainable forestry policy

Policy development in the forestry sector has been an edifying case of a network-based decision-making, which ensured the sustainability of the Forestry policy in its major dimensions.

As opposed to other sectors, where reforms were carried out through decentralisation and privatisation, the reform in the forestry sector promoted aims of centralisation, economy of scale and collective identities. The Forestry reform did not follow the overall tendency. Returns from forestry management were considered *as a means* of ensuring sustainable forestry in Estonian state forests (Sootla, Kadakmaa, 2001). It is because the reform was supported and resulted in strengthening values that were the basis of the institutional strength of forestry for such a long time that it survived this turbulent period. At the same time, we should not

underestimate the role of the transfer of major values of a consensual decision-making style by sponsors and experts from Nordic countries.

In our analysis we witnessed different mechanisms, which the network-based policy-making arrangements ensured. These balances ensured, first of all, the optimal equilibrium of forestry needs and capacities during the planning and implementation of the Forestry policy. Radical reform in the majority of sectors was carried out under the priority of interests of capital accumulation, whereas losses were imposed on constituent groups. This is normal in unbalanced systems of governance (Viteritti, 1997). In the forestry sector, the gains and losses from crisis and radical reform of forestry were spread more or less equally among the different stakeholders and constituent groups. This ensured an unusually strong support of groups and constituents to the main reform policy, although losses of all were considerable. For instance, the number of state forestry units decreased by three times; the number of employees was reduced by 2.5 times. At the same time, the government itself was the weakest link in the chain of institutional arrangements that have been damaging to forestry development outside the public forestry sector.

The consistency of policy was also largely ensured by the network arrangement which provided the domination of consensual decisions. Although some political players intended to reverse the achieved consensus, the possibilities of revision of policy have been severely limited. At the same time, in making final decisions, especially in the case of the status of the SFMO, the transition specific was frequently the main argument. The Forestry policy and Development Plan contained several propositions that will be revised as soon as both the forestry and Estonian society have reached a certain point of maturity. First of all, the Forestry policy presumes a gradual reliance on private law firms in forestry management.

Networks also enabled reaching decisions that were based on their appropriateness i.e. decisions were accepted by members of the network, because they were clear to stakeholders and constituents, even if they might have contradicted their particular interests. The Forestry Law might have high regulatory capacity because of the highly institutionalised normative values. Thus, we were able to witness how smoothly the new institution building started, although the formal Law was not yet passed.

Hence, we were able to identify some imminent properties of networks that could be considered as independent variables of institutional organisation of policy-making in modern society.

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Why Do Actors Vary? A Study of the Estonian Pension and Unemployment Insurance Legislations

*Anu Toots*¹

Introduction and theoretical framework

Transformation of the post-communist welfare state has received substantive academic attention in recent years. First, the transformation represents one attempt to adjust the welfare state to the demands of post-industrial society. Second, some common features of the European welfare policy changes can be revealed in CEE countries; namely a shift towards contribution-based social security schemes and in particular, the promotion of social dialogue. Thus, transition countries provide good empirical evidence for comparative studies of modern welfare state systems.

At the same time, although European countries broadly face the same difficulties, a comparison of social policy making reveals that responses vary from country to country. The post-communist countries with a similar political legacy demonstrate different solutions to the welfare reform challenges.

“We find different national trajectories of welfare state adjustment in response to broadly similar challenges. The different reform paths are influenced and shaped by a series of factors: the partisan complexion of government, the power resources and aggregation capacity of trade unions and employers, the system of interest mediation, the room for manoeuvre granted by the nation’s polity and, last but not least, the institutional legacy of the welfare regime.” (Leibfried 2001: 5)

The policy making process in transition countries provides rich empirical data for testing some mainstream theoretical conceptions. In recent works on the welfare state, the neo-institutionalism and especially the concept of “path dependency” are often used in the analysis of empirical data. (Pierson, 1994; Bonoli, 2000; Esping-Andersen, 1999; Palier 2001). According to Bonoli & Palier (2001: 58) “the new institutionalist approach seems particularly helpful to account for the outcomes observed and explains the resistance of different structures to change through past commitments, the political weight of welfare constituencies and the inertia of institutional arrangements. These different factors lead to institutional continuity or “path dependency”.

Some opponents argue that this thesis does not hold for transition countries because of the upheaval in their government regimes. Hinrics (2001) questions the validity of path dependency in welfare reform analysis because current reforms are

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so divergent. Beyer and Wielgoths (2001) argue that original path-dependency theories deal with long-term outcomes whereas policy reforms in CEE can be regarded today as short-run phenomena. Prominent scholars of post-communist governance Elster, Offe and Preuss (1999) support the path dependency theory in a peculiar way, claiming that in realms where a policy does not exist before disruption, policy changes will occur faster. Pierson (2001) points out that the very first measures of the reform process are those which lay down the dependency route for transition societies. Thus, in the policy analysis one should focus on the beginnings of the reform.

Elster et al. (1999) also stress the importance of the configuration of political actors, their veto-power and organisational consolidation in circumstances where the institutional framework of policy-making is not yet firmly established. This notion is particularly relevant in explaining reform processes in post-communist countries.

Research questions

In this discussion an attempt is made to analyse how the assumptions outlined above hold true in the case of two quite similar reform initiatives in Estonia – the introduction of unemployment insurance and the introduction of a three-pillar pension system. These policies are similar in many aspects. They both are based on contributions that define the level of future benefits; their resources are allocated in separate funds instead of the state budget and supervised by the semi-public bodies. There is a consensus among Estonian political parties about the necessity and substance of these reforms. It is also claimed that strong interest from international actors such as the ILO, IMF, WB and EU, in the introduction of social insurance principles in both fields, had a role to play in policy formation.

Despite the aforementioned similarities the legislative process and outcomes of the reforms diverged. In the case of unemployment insurance, non-parliamentary actors were actively involved and the majority of proposals made by social partners have been enacted. The contributory pension legislation, however, was shaped as a result of the work undertaken by a close circle of experts without the engagement of labour market partners.

From here arises the central research question – why do actors vary, despite similarities in the socio-political context and in the content of reforms? To answer this question, the new institutionalist approach is employed and the balance between parliamentary and non-parliamentary actors in these two policy areas will be investigated. In the first section, the party composition of the legislative and executive bodies is analysed and political parties' programs and coalition agreements are compared. The second part of the article focuses on the configuration and character of pressure groups that had access to the policy making process. Many scholars (Pierson 2001, Adolino & Blake 2001, Elster et al. 1999, Bonoli 2000) argue that

fragmented and poorly institutionalised interests are unable to influence the reform process and use veto points, even if they exist in the decision-making framework. Thus, the level of institutionalisation of vested interests deserves special attention.

In the concluding section, the discussion returns to the path dependency theory and evaluates its applicability to the exploration of political actors' variances in post-communist welfare policy making.

Parliamentary actors

In this section, three main questions are addressed. What was the real role of parliament in passing the laws on pension insurance and unemployment insurance? Did the legislature-executive nexus differ in the two cases under study? How divergent have the positions of the major parties been on these issues?

In most post communist countries, welfare issues arrived on the political agenda in the second period of transition when major economic reforms on market liberalisation were completed. Estonian political parties avoided social policy topics in their programs until the middle of the 1990s and trade unions were searching for their new identity in a completely altered environment.

Pension issues evolved onto the Estonian political agenda earlier than unemployment protection. The first legal act on state living allowances was passed in 1993. At the same time, radical solutions were postponed year after year and the reform, which finally led to the implementation of the World Bank pension model, commenced in 1997. This means that the coalition formed by the Coalition party in 1995 took radical initiatives after two years in power. In 1998, three new legal acts (amended Act on Social Tax, Act on Public Pension Insurance and Act on Pension Funds) which played a crucial role in building up the new pension insurance system were passed by parliament.

Two remarkable features must be emphasised here. Firstly, in the coalition agreement, the private sector was seen as the main provider of old-age social security. This was surprising because governmental parties of that period can be characterised as more left-centre oriented than neo-liberal in complexion. Consequently, this advocacy for private pension insurance did not stem from the ideological platforms of governmental parties. Secondly, private pension funds were not just declared as a policy aim, but were also introduced in 1998. As a result, Estonia found itself in a peculiar situation where the first and third pillars of the planned three-legged pension system were set up, whereas the second pillar did not exist. One can clearly see New Right trends in the governmental pension policy although Thatcherism was favoured more by the opposition than by the coalition parties. Therefore, the question arises – what kind of factors urged market-oriented policy design despite the absence of electoral support and ideology of governmental parties toward this line? I argue that relations with the IMF set up by the former cabinet of Mart Laar at the

beginning of transition continued to influence social policy design. An empirical study (Toots 2003) confirmed the neo-institutionalist thesis on the paramount importance of the “open situation” (Beyer & Wielgoths 2001) and of first actions in the course of the reform process for the following policy initiatives (Pierson 2001).

As a result of parliamentary elections in 1999, a new government coalition was formed. Its main objective in pension policy was the implementation of a mandatory fully funded pension scheme (second pillar) and finalisation of the long reform process. As for the former coalition of 1995 – 1999, the first years in power did not bring any principal decisions in pension reform in the cabinet led by M. Laar, the well-known radical reformer. The main preparatory work for completing the three-legged system was carried out in 2000, when electoral interest toward policy declined after the elections held in the spring of 1999. The issue of compulsory pension savings was debated in parliament in early 2001 and the relevant legal act was passed in the autumn. With this last legal component, the long saga of the pension system reform was over. In the next parliamentary elections in the spring of 2003, pension issues were not a significant item in the campaign. Hence, one can refer to the impact of the political business cycle on the tempo of reform in the case of both governments, since sensitive issues were legislated during inter-election periods.

Two kinds of conclusion can be drawn here. First, the positions of political parties on pension reform issues were rather similar and there was no party opposing the World Bank model as such. There was also no public debate about funded components of the pension system that demonstrate their impact on people’s standards of living in the future. Therefore, pension reform issues were hard to use for the political mobilisation of voters. Secondly, political parties divided pension insurance problems according to the issue ownership line. Left-wing parties were concerned with the first pillar, whereas right-wing parties focused on the funded second and third pillars. The former advocated stronger indexation and increases in current pension benefits and the latter promised tax deductions for insurers and the stability of funded schemes. This division of issues contributed to the situation where the parliamentary floor was not the main arena of reform debates and the electorate did not form a united pressure group.

The unemployment issue became a significant agenda item in 1999 when the number of unemployed persons rose sharply as a result of the Russian economic crisis. By this time, a flat rate unemployment assistance existed with an extremely low level of financial benefit (25 EUR per month). It is worth mentioning that almost a decade has passed since market reforms commenced in Estonia, but no radical reforms were even planned in labour market policy. As in other CEE countries, unemployment issues were handled mainly in the context of anti-poverty policies.

The coalition agreement signed after the electoral victory in spring 1999 by two right-wing and one social-democratic party put labour market policy in a prominent position on the agenda. The main focus was on active labour market

instruments, but the introduction of an unemployment insurance based on shared contributions of employers and employees was also declared. Once again, in the first two years in power, only marginal amendments in the existing legal acts have been made. Thus, the pattern of decision making looked quite similar to that of pension policy. Unpopular reforms that increased social insurance contribution rates have been postponed to the inter-election period.

There is one important difference, i.e. the ideology of pension reform was accepted at the very beginning of transition, which Beyer and Wielgoths (2001) call an “open situation” when a new policy path can be chosen. Unemployment policy had to wait years to appear on the agenda, only because of severe economic pressure.

At the beginning of 2001, the government proposed an Unemployment Insurance Act to parliament, which was passed six months later. Compared to the proceeding of the Act on the Mandatory Funded Pension, it took some weeks longer. A closer look reveals that in the case of unemployment legislation, twelve weeks were required to reach the second reading, whereas in the case of pension legislation, this happened within six weeks.

These two pieces of legislation have been processed in parallel in parliament. Thus, we cannot consider the impact of divergent party composition in parliament or an ideological shift in the coalition program as significant factors to explain the diversity of the policy process. To explore divergent decision making patterns, one should turn the analysis to non-parliamentary actors.

Non-parliamentary actors

As pointed out by some scholars, few collective actors are involved *in the old age security policy* (Hinrics, 2001: 79). “It is predominantly money that is (re)-distributed, and even in countries with a federalist state structure, public pension policy is always under the jurisdiction of the central government. However, in contrast to, or to a much larger extent than other arrangements of protection (income replacement in the case of unemployment or sickness, the provision of health care), income security during retirement is regularly marked by components of **private welfare**”(Ibid.). The latter notion is especially relevant to the current analysis because recent Estonian pension reform concerned primarily fully funded schemes managed by market institutions.

The old-age social security in Estonia was monopolised by one actor – the central government – during the Soviet period. A short time after regaining state independence, this vacuum was filled by international organisations. The IMF, WB, ILO and Council of Europe all showed an active interest in social security issues and expanded their activities into the Baltic region. Despite the different composition of these actors, they all had similar motives for policy intervention. As Deacon noted “concern to stabilise the process of market reform and prevent its slowing down

with appropriate attention to the social costs of transition” characterised the activities of all these agencies (Deacon et al. 1997).

The analysis demonstrated that international organisations had a different impact on Estonian pension policy design (Toots 2003). Broad organisations with the complicated institutional structure such as the ILO, Council of Europe and EU, used their existing internal units, whereas the IMF and WB sent their special representatives to the CEE countries. European organisations worked on a very broad scale and co-ordination between various reform areas was random, which reduced their impact on decision-making in Estonia. The IMF and WB concentrated their activities on welfare economics and employed long-term experts for intervention. Country-born experts, whose employment career was in the WB, have become the most influential players in Estonian pension policy design. To elaborate the reform concept, a Commission on Social Security Reform (CSSR) has been established by the government. Two out of five members had explicit relations with the World Bank (WB) and one with the Council of Europe². Another interesting detail is that although the Minister of Social Affairs was responsible for the work of the commission, she was not an official member herself. In the relevant government regulation, it was stated that the commission should pay attention to the financial aspects of social security reform, including cooperation in the field with IBRD. These institutional arrangements in the course of reform provide evidence of how pension issues were quickly shifted from the broad public to the close circle of experts (Toots 2003).

Another point which is relevant to the impact of non-parliamentary players, deals with the classical discussion in welfare state theory on social equity and economic efficiency. For Estonian neo liberal government coalitions, a fast economic growth has always been the ultimate goal. Therefore, they adjusted their social reform programs to the fiscal and economic conditions set by the IMF for receiving standby loans. Absence of an active pensioners’ lobby that would resist the New Right approach to the social security on the one hand, and growing public trust toward private banking sector on the other, contributed to the successful intervention of financial institutions into the pension policy reform. Successful marketing of funded pension insurance can serve as an excellent example of vital public-private partnership. Private banks and insurance companies, which were given the right to administer second pillar contributions, carried out jointly with the government, a powerful advertisement campaign in 2002. As a result, the number of people who joined the second pillar was twice as high as expected. The negative side of the story was a large deficit in the state budget and rising transition costs. Unfortunately, neither parliamentary actors nor non-parliamentary players from business seemed to be seriously concerned about the increasing financial pressure. Casey

2 A. Hanson, counselor to the Prime Minister, worked in 1999 in the World Bank as an expert; in 1994, M. Jesse was local counselor to the WB and later coordinator of the WB-Estonian Health Policy project; L. Leppik worked in the Council of Europe as an expert.

(2003:1) warned, when commenting on this situation, that “policy makers should rather concern themselves with ensuring income adequacy rather than pursuing the doubtful advantages of funding”.

The enactment of *unemployment insurance* illustrates a very different pattern of events from the above case. International actors (the EU, and to some extent, the ILO) played a secondary role suggesting European standards of social protection only. Foreign experts or advisors were not involved, nor was any special committee set up by the government to design the insurance legislation. Instead, trade unions and employer organisations took the initiative. Although unemployment and the relevant policy did not exist in the former Soviet period, there has been a long tradition of cooperation between state authorities and labour market organisations. These well-established actors had the capacity to interfere in the policy-making process when the legal proposal was in the parliamentary committee. A detailed documentary analysis demonstrated that all joint proposals made by the Central Union of Employers and the Central Union of Trade Unions were taken into consideration and in many cases, the draft act has been changed according to their proposals. As a result, a state centred draft, transformed during negotiations in the parliamentary committee, became a labour market centred act (Kallas 2002).

Consequently, traditional norms of cooperation and strong organisation of employers and trade unions’ interests contributed to the success of non-parliamentary actors in the policy-making process. Pierson (1994) points to the institutional strength of pressure groups as being the important predictor of their effective impact. Thus, the case of unemployment policy suggests that the strength of the role an actor plays in a transitional polity is a more important role than the possible institutional legacy inherited from the past.

Involvement of social partners, particularly of labour market institutions into welfare reforms, has merited the attention of many researchers. Bonoli (2000) argues that the main concern in reform debates is management of the schemes, not the level of contributions or benefits. He also finds that government is accustomed to being the player who favours “retrenchment exercises”, whereas social partners can be obstacles for the government (Bonoli, Palier, 2001). In the Estonian case, the situation is the contrary. Levels of insurance benefits and contribution rates have been the most debated issues, whereas in management problems, both sides came easily to a solution. It is also striking that in Estonia, employers’ and employees’ organisations stood for a lower level of social protection, as opposed to the government. The latter preferred to enact the European standard of replacement rate (40 – 50% of previous salary depending on the insurance period). The level of contributions and benefits was the only issue where the proposal of labour market partners has been rejected. In funds management issues, the government gave up its initial positions and agreed upon the establishment of an independent semi-public fund. The employers’ union, trade unions and the government each nominate two mem-

bers to the fund's council; the council elects the chairman. These facts demonstrate that the institutional structure of insurance was not as important for actors as the substance of benefits. It may be argued that such a state of affairs was caused by the weak path dependency in post-communist unemployment policy. Because the cooperation between the state and trade unions in the Soviet period had a completely different context (and employers' organisations were absent), it did not cause rigid standpoints in the current reform process. Additionally, unlike the case of pension insurance, no radical reform plans were made at the very beginning of the transitional period, which could serve as a factor for short-run path dependency.

Path dependency revisited

The current analysis has demonstrated that path dependency in post-communist countries remains a complicated issue.

The legislative process was investigated in two different social insurance areas. In the case of unemployment policy, no path dependency was expected because the unemployment (and thus the relevant policy field) did not exist in Soviet times. Elster *et al* supposed that reforms in this area would occur quickly and smoothly. In the case of the old age pension policy it was assumed that a pattern of path dependency would emerge, because this has been a traditional responsibility of the public sector. How were these assumptions reflected in the case studies undertaken?

The table below reflects that there is no clear-cut answer to this question. The institutional framework and policy realm provided a complicated mix, with diverse outcomes for the two cases studied. It seems that Bonoli's thesis concerning the dominance of the institutional framework, which holds in established welfare states, could not be fully approved of in post-communist countries. Beyer and Wielgohs (2001) came to a similar conclusion in their comparative study of privatisation policy in CEE.

Table 1
Comparison of policy patterns in pension and unemployment insurance.

Criteria	Pension insurance	Unemployment insurance
Existence of the policy area during the pre-transitional period	Yes	No
Continuity of institutional framework	Heavily changed	Modestly changed
Outcome of policy process	New institutions for the old policy	Mainly old institutions for the new policy

If not the former commitments and path dependency, then what is the main factor explaining variance in the policy process? The current study suggests that for

(re)emerging welfare states the organisational strength of non-parliamentary actors and their capability to adjust to the changed policy-making environment play a crucial role.

When investigating the enactment of fully funded schemes, one discovers many similarities with unemployment insurance legislation. First, time spent on parliamentary proceedings was approximately the same. Second, in both cases, non-parliamentary actors have played an influential role. Third, international standards and models have shaped both policies, although in a different extent. The main difference between these two cases concerns the character of non-parliamentary actors. International actors intervened extremely actively in the design of the pension reform and met no opposition from the main political parties. The traditional domestic actors designed the unemployment insurance legislation with international social security standards being modestly incorporated.

There was some variety in handling the public support for reforms. The structure of a three-pillar pension system allows splitting beneficiaries into two different interest groups – current pensioners related to the current political authorities and future pensioners, dependant on capital markets. This fragmentation of interest groups hindered formation of a broad strong opposition able to block radical reforms (Pierson 1994). In the case of unemployment insurance, there was no large public or media attention to the reforms and bottom-up interest groups were poorly organised. Thus, the question of public support was not seriously on the agenda.

A fundamental consensus on social insurance issues among the political parties and their salient position contributed to the policy-making pattern where both old and new non-parliamentary actors played a remarkable role. Political parties have been more closely related to those institutionalised actors as opposed to the voters. As a result, in both cases the most influential actors were well-established bodies with a strong organisational structure. In the case of more radical reform, i.e. pension reform, new players from the international arena were engaged; in the second case old domestic actors re-entered the policy arena, cushioning the effect of employers as a new player.

By agreeing with the significant criticism made on the addressing of path dependency applications in explaining post-communist reform policy, it could still be argued that there is scope for further research. For example, investigation of the stabilisation potential of chosen paths within the cost and benefit (or increasing returns) approach could be a potential topic. As transition countries mature, they will provide us with new empirical data to test and revise contemporary concepts.

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Interests and Patterns of Participation: Secondary Legislation Drafting in Estonia

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1. Introduction

1.1 Focus of the study

The broad interest of the study is how decisions are made in the field of delegated legislation in Estonia. In Estonia, these are called the Regulations of the Minister and Regulations of the Government. (The overview of adoption of regulations in Estonia is given in Appendix 1.) The study considers delegated legislation as instances of public policy. Governments try to deregulate and cut the red tape, and the key functions of government are increasingly carried out by means of secondary and tertiary rules (Baldwin 1995: 60; Baldwin and Cave 1999: 4).

Political scientists have concentrated on 'high politics' and overlooked regulation as instances of policy-making for a long time, although it is big business in modern governments (Hood et al. 1999, 2001; Page 2001). Regulations have been a field occupied predominantly by lawyers and economists. Only recently these academic disciplines have begun to converge, offering enriched and synergetic insights into regulatory politics². The volume of secondary legislation is steadily growing and the supranational regulating bodies, such as the European Union, further foster this complexity and growth. National governments are subject to sophisticated regulation which challenges their administrative capacity. Delegated legislation is often perceived as something obscure, routine, or even unimportant (Page 2001) and there is often relatively little public discussion and media attention around these decisions. Not surprisingly, the issues of responsiveness and democratic accountability of regulating institutions have become one of the most highlighted issues in regulation research.

The central issue about regulation is how the rule-makers deal with the emerging interests. The assumption is that in the case of well-organised and powerful groups, there is a danger that private interests will dominate the public interest. As secondary legislation deals with more specific issues than primary legislation or pol-

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2 See for instance Hall, Scott and Hood (2000) about telecommunications regulation; Hood, Rothstein and Baldwin (2001) about risk regulation. Still, lawyers tend to stress the substantive and procedural aspects of regulation, including the content of rules and their enforcement; political scientists emphasise the modes of interest articulation and policy implementation (Hancher and Moran 1989: 4).

icy programs in general, the emerging interests tend to be focused and have clearly pronounced demands. Interest intermediation is especially appealing in the context of post-communist countries where civil society is not yet well-developed, in contrast to selected powerful business interests. Often, the government is under a heavy time-pressure while drafting secondary legislation. Focusing on the participation in the drafting process we could identify the actors and the interests and analyse how the government was behaving and which patterns of interaction emerged.

The paper examines how the regulations are drafted, how the government is responding to the influence of the interests, and which are the roles and functions of the rule-makers in this process. The main target of the study is the participation in the regulatory drafting, particularly to what extent emerging interest can account for participation in the drafting process.

1.2 Problematic

Interests of actors are considered as a key factor for understanding the outcomes of and participation in the regulatory decision-making process. Regulation has been prevalently explained by interest theories ('*private*', '*public*', '*group*' versions) (Baldwin and Cave 1999: 31) emphasising the economic motivations of actors. Interest intermediation has been the subject of numerous studies and there is a general agreement that we will find a large variety of relationships in the process. Interest group theorists³ consider regulation as the product of relationships between different groups and between such groups and the state (Baldwin, Scott, Hood 1998: 10). However, although regulation is a bargaining process, economic rationale is not considered sufficient to explain the complex dynamics of regulatory policy-making (Majone 1996: 28-31). For instance, Page has suggested that the process has a bureaucratic bias (2001: 11-14). Different bureaucratic cultures can generate different grounds for regulatory drafting and often, the logics of arguing is not monetary, but on the basis of human need or democratic rights of individuals. James Q. Wilson also argued that (1980: 358-363) regulation entails non-tangible incentives besides those which are monetary. Relying on these arguments, Wilson developed a policy typology which combined the economic and political accounts. This framework responds to the critique of economic explanations for regulation by showing under which circumstances economic and non-economic interests tend to emerge. The basic assumption of Wilson's typology is that policies can be classified according to the distribution of costs and benefits of the policy (regulation). He introduced four types of issues – majoritarian, interest, client and entrepreneurial policy – and argued that the pattern of participation systematically varies across these policy types.

Participation in the policy-making process can be analysed in several ways. One of the most popular theoretical frameworks in policy analysis over the last

3 Such theorists range from open-end pluralism to corporatism.

couple of decades has been the policy network approach. Interest intermediation school (Börzel 1998) of policy network analysis developed as a flexible response to the difficulties of pluralism and corporatism to account for the variety and complexity of relationships and participants in contemporary policy making processes. The central theoretical problem with the policy network approach is its difficulty to serve as an explanation. It directs our attention away from the underlying factors which shape the networks, i.e. the reasons why the participation could differ. Instead, the policy network approach focuses on the process and deals with mapping the patterns of participation and interaction. Both policy networks and Wilson's typology deal with the pattern of participation. In our opinion, the fundamental difference between these two frameworks is that networks were *departing* from the large variety of participants and interactions, but Wilson's argument was *concluding* with differences in participants and interactions. Therefore, we are arguing that Wilson's argumentation could implicitly be the response to the weakness of network analysis; by departing from interests, Wilson could look behind the networks.

In order to see the hidden and dynamic forms of relationships in the drafting process, we would need to look at the process of regulation drafting in a detailed manner. An in-depth study seems the obvious way to analyse under which conditions the interests tend to participate in the process and what the obstacles are or restrictions the interested group should take into account. Moreover, we would get to know the area of low politics and understand how the decisions are being taken in the field of secondary legislation. Here, the micro-analysis on the level of the single regulation can give the best understanding and to some extent, we could use the analytical tools of the policy network approach. In other words, the interaction of actors and the emerging pattern of participants could be considered as a small network around one regulation. As the concept of policy networks is very flexible, it would be useful to utilise it for describing the process of regulation drafting.

2. Conceptual Framework

2.1 Theoretical considerations

There are many ways of carrying out policy analysis. One of the widespread lines of argument follows the policy sectors: as governmental departments are more or less sectorally defined and policy is elaborated along these lines, it is a reasonable choice. Another way of looking at policy making would be a policy type's perspective. Here, it is assumed that policy-making does not just vary across policy sectors, but that policy processes are considerably dependent on patterns of actors, scope of outcomes and institutions involved. The vanguard policy typology was developed by Theodore Lowi, who argued that patterns of politics were significantly determined by the kinds of policies which were at issue⁴ (Lowi,1972). In

4 It is often cited as '*policies determine politics*' (Lowi 1972: 299).

every type, there exists a range of networks or linkages of varying density and formality. The typology distinguishes among distributive, redistributive, regulatory and constituent policies (*ibid.*)⁵.

Another policy typology was developed by James Q. Wilson, who built on two different strands of literature. On the one hand, he was following Lowi's (1972) argument that different types of policies embody different types of relationships between actors, but he doubted some of Lowi's claims. He criticised Lowi's typology by saying that it is ambiguous and incomplete: although the insight that the substance of policy influences the role of organisation in its adoption seems correct, it is hard to use it as an analytical classification (Wilson 1973: 328, 330). Wilson argued that the distinction should be made between the adoption of a new policy and the amendment of the existing one, and the incidence of costs and benefits should not be obscured by the use of categories that are hard to define, such as distributive (*ibid.*).

On the other hand, Wilson refined the economic approach by considering in more detail the circumstances in which situations the interest activity would be the most likely (Baldwin and Cave 1999: 24). In this sense, Wilson argued that the regulation is the process where rational actors maximise their wealth (*Ibid.*: 22). He introduced an issue typology about the likelihood of emerging interests according to the *concentration* of costs and benefits of the issue for interested actors. He stressed that it is not plausible to rely only on the simple economic calculation of costs and benefits, and this is the reason why the Chicago school⁶ cannot fully explain the political process. Wilson claimed that one should distinguish between cases in which business influence is likely to be strong and those in which it is likely to be weaker (Wilson 1980: 366). Therefore, Wilson's theory constitutes a combination of economic explanation and Lowi's argument.

Both Lowi and Wilson agreed that not in all cases is the pluralist view of politics accurate and that policy is not necessarily the result of organised group conflict (Wilson 1973: 329). For instance, in some cases there might not be organised groups

5 Distributive policies involve distribution of new resources and it stimulates the activity of small organisations or individuals, each seeking a particular benefit. Redistributive policies change the distribution of existing resources and encourage the activities of broad categories of citizens. Regulatory policies deal with controlling and regulating activities; these decisions involve a government's choice about who will be indulged and who deprived on the basis of some general rule; it deals with sectors (industry, occupations etc) and thus involves a higher degree of organisation and coalition formation. Constituent policy issues involve setting up or reorganisation of institutions (quoted in: Wilson 1973: 328, Parsons 1995: 132).

6 'Chicago' theory (as seen by Stigler and Peltzman) suggested that in the case of failure of competition of the existence of monopoly, the regulated industry would have an incentive to influence the regulator in order to benefit from a 'regulatory rent'. It means that the regulator would be 'captured' by the industry since the latter would have more to lose or gain than the regulator. This economic theory assumed that all actors involved in regulation are income maximisers: regulated industry is maximising their profits, elected officials are their votes, and appointed officials wealth (Wilson 1980: ch 10).

or only one group might lobby. Therefore, Wilson's policy typology was implicitly a response to the rough pluralist perspective that did not allow understanding variance across different policy issues. Next, all the four policy types are introduced and, according to Wilson's arguments, some generalisations about the likely role of the regulator will be made.

When both the costs and the benefits are widely distributed we expect to find majoritarian politics. This means that most of society expects to gain and pay for it. Interest groups have little incentive to mobilise around such issues because no small, definable segment of society (an industry, occupation or region) can capture a disproportional share of benefits. A good example is social security taxes. Citizens have rarely much incentive to join an interest group because everyone will benefit whether or not they are members of the group (Wilson et al. 1995: 457). But, elected officials have an incentive to raise the value of widely distributed benefits; therefore the major organisation which becomes involved is perhaps a political party (Wilson 1980: 366; 1973: 332-333). Hence, organised lobby activity would be relatively low and the expected policy outcome would probably have an inertia bias (Hood, Rothstein, Baldwin 2001: 66). What can we infer about these claims about the roles of the regulators? Although Wilson mentioned that the dominant group might be the political party, the case with delegated legislation could be different. Here, the legislative mandate has specified the matter in such detail that ideological issues would hardly emerge. And as there is no active lobby activity, the bureaucracy tends to become a lead actor in the policy-making process. Therefore, the governmental actors would be the policy initiators and they would lead the decision-making process. When both the costs and the benefits are narrowly concentrated, it generates interest-group politics. The regulation will often benefit a relatively small group at the expense of another comparable group. Therefore, each side has a strong incentive to mobilise and influence the process and issues of this kind tend to be fought by organised interests (Wilson 1980: 368). Decisions will occur as a result of negotiating bargains among pre-existing associations or of changing the balance of power among these interests (Wilson 1973: 336). In the first case, the interests will have to invest in time-consuming mediation and the governmental agency can serve as a mediator solving the societal conflicts. Here, the interests can either influence the bureaucrats or the political leaders, who are responsible for formal approval of the regulation. How many interests will be mobilised is also important. Rule-makers are less likely to be captured if there are several strong interests than facing a single organised beneficiary (*ibid.*). The expected outcome is deadlock, compromise or policy see-saw (Hood et al. 2001: 66). This type of policy puts bureaucrats under heavy pressure and the concept of neutral civil service fulfilling a public will is challenged. The role of the regulator would be mediating the opposing interest or arbitrage. It is the situation where the pluralistic perspective should work and the government could obtain a minimal-state role of not deciding, but mediating in order to achieve the solution. But there might well be situations where despite the existing

organised opposing interests, no substantial discussion would occur between the counterparts. When the benefits are concentrated and the costs are distributed, client politics is likely to occur⁷. It means that some small group will benefit and thus has a powerful incentive to lobby; the costs are distributed at a low *per capita* rate over a large number of people who have little motivation to organise any opposition (even if they had ever heard about the policy) (Wilson 1980: 369). There can easily be backstage intrigue, quiet lobbying and a quick passage with minimum public discussion (*ibid.*). Examples can be found from the areas of regulations licensing and protecting occupations; subsidies to farmers, veterans' benefits, tariffs on commodities, import quotas. However, the lobby of the client groups could be hindered by the public interest associations (*ibid.*). In such cases the arguments that the issue is regulated only in the public interest could emerge (*ibid.*: 370). This is a challenge for the regulators as they would need to justify the preference of such groups. In case the regulators perceive the potential blame, they could use several strategies. For instance, they might take an active role in pronouncing the public interest meaning of the decision; or when realising the probable capture by the client, attempt to maximise the public good elements in the regulation, so that the business profits would not be the most important part of the regulation. For instance, when licensing services, the regulators could guarantee that the established standards must guarantee the safety and well-being of the consumer but maintain at the same time, a free market situation in order to promote competition. Even if the regulation was quietly and quickly passed, the regulators should be aware that the watchdogs could pick it up anytime and use it for general blaming or even for accusations of corruption. It is a sensitive issue for the regulators and the legitimacy of the policy is crucial.

When the benefits are distributed and costs are concentrated, entrepreneurial politics would emerge. A small group will feel the burden keenly and thus have a strong incentive to organise in order that the burdens will not be applied, or at least reduced. In this sense it is remarkable that these kinds of policies are ever adopted (Wilson 1995: 460). The key element in acceptance of these policies is the work of people (policy entrepreneurs) who act on behalf of an unorganised or indifferent majority. They have the ability to dramatise an issue in a convincing way and they can find appropriate time for gaining attention. Sometimes the entrepreneur is not a necessity and legislators may pass these policies themselves. This has mostly occurred when an accident or disaster has happened. These kinds of decisions heavily depend on third parties, such as the media, recognised writers, opinion leaders, heads of voluntary associations, academic researchers (Wilson 1980: 371). Economic interests are only important for opposing parties (industry has to pay high pollution fines, car producers need to invest in safety etc). If it is not possible to block the decision, the 'damaged' industry is often trying to impose the costs to the consumers. Again, the government could be in a tough situation because the powerful or-

7 The beneficiary is considered to be a 'client' of the government.

ganised business interest would probably attack them for restricting the markets. In case the political interests become involved, the situation could be very delicate: the professionals from the government stress the necessity to regulate but politicians do not want to lose votes by being hostile to the business of their potential sponsors.

In his later works Wilson added another aspect to his argument. He mentioned that although the perceived distribution of costs and benefits shapes which kind of actors will participate in the process, it will not necessarily determine who wins (Wilson and DiIulio 1995: 457). It means that coalition forming and other lobby activities predicted according to the policy issue might have little to do with the policy outcome. As mentioned above, it could be fruitful to use the policy network approach as a general toolbox for analysing relationships and membership in the regulatory drafting process in order to have a systematic look at the decision-making arena in this policy field. A combination of Wilson's typology with a policy network approach is functioning as a mutual gap filler. The problem that Wilson's framework does not take institutional effects into account is balanced by the network analysis' ability to identify these effects. Therefore, policy typology developed by Wilson is a theoretical foundation of this study, and network analysis allows mapping and specifying the existing interests and relationships during the drafting process in a systematic way. It means that only a minor part of policy network analysis is used: primarily in order to obtain a thorough understanding of the regulatory drafting process, but not to make theoretical claims on the basis of the policy network analysis. Therefore, a combination of an interests-based theoretical framework and the policy network approach as a toolbox for analysing the rich data in a systematic way will be used in this study.

This study is interested in differences in the drafting process of secondary legislation and the main research question is whether the pattern of participation in the case material is consistent with Wilson's theory and what would account for inconsistency? The theory has also made suggestions about the expected behaviour of the regulating institutions. Hence, it is possible to go further than the participation question and estimate whether the regulating institutions are behaving according to the expectations inferred from the theory. Qualitative case studies could give some evidence about how the bureaucracy responds to the interests and what effect the response has on the decision. These questions would help us to estimate the usefulness of policy typology in policy analysis and also help to answer the question why a certain pattern of participation emerges in different cases.

2.2 Method of inquiry

The underlying assumption of the study is that there is a systematic variance in the participation in regulatory drafting. We are arguing that interests that emerge, shaped by distribution of costs and benefits, can explain the variation in the participation. Therefore, the research design of the study is theory testing.

A policy network approach helps to study the participation in a systematic way; it contributes to explicitness by using special measures and language of comparison and the quality of gathering and presentation of data would only benefit from it. Therefore, the networks are used as observable implications of participation; they help to concentrate on attributes relevant to the theory⁸ when collecting the data. Here, the virtues of the policy network approach are clear: networks function as a tool for organising and analysing the data, as an adequate reflection of the drafting process, and as a model for understanding dynamic and complex relationships between government and society. The study uses a stratified sample⁹ of four cases selected according to Wilson's typology of policy issues. Consequently, the selected cases are approximating to the policy types. The qualitative approach is suitable for our interest because of its capacity to present a more dynamic account of policy-making. A case study is used because it helps to focus on the drafting process and offers a detailed analysis of the sample.

The difficulty in obtaining sufficient data is one of the main problems of network analysts. The study uses triangulation for getting more complete and reliable information. There are two basic sources of data. The most important source is the people who participated in the regulatory drafting. The study uses a semi-structured interview format in order to collect comparable data but still leave enough flexibility.

Documents are the second source of the data. There are several kinds of documents, for instance the Act of Parliament that the regulation under consideration is derived from and other relevant instances of secondary legislation; papers produced during the drafting process (memos, letters, reports etc) and documents on which the regulation is substantially relying (international standards or regulations, suggestions of the professional organisations, strategic development plans, existing orders and the like).

The cases are analysed from three aspects: process, membership (or actors) and interaction (or relationships). The process of drafting gives us a general picture of the decision-making and membership and interaction have a more specific meaning. The first focuses on the size, permeability and stability of the network; the latter concentrates on the frequency and intensity of contacts and atmosphere of interaction¹⁰.

8 King, Keohane and Verba: 'observations are either implications of our theory or irrelevant' (1994: 48).

9 The cases were selected on the basis of the position on some variables (Przeworski and Teune 1970: 31).

10 These characteristics are derived from Marsh and Rhodes (1992).

2.3 Selection of cases

Four regulations of the minister or of the Government were selected according to approximation to Wilson's policy typology. The cases were selected so that all policy types were represented. These cases are from the different policy areas: waste management, safety at work, food safety and inspection of electrical installations. They also vary in respect of their time of adoption (one regulation every year – 1999, 2000, 2001 and 2002) and the issuing authority (two regulations were issued by the Government of the Republic, one by the Minister of Economy and one by the Minister of Environment. The cases are briefly introduced in the following table.

Table 1
The cases of the empirical analysis.

Title of the regulation and policy type	Issued by, number; time of issue; came into force	Primary legislation, delegation.
The procedure, the intervals and the extent of technical inspection depending on the technical characteristics of the electrical installation. CLIENT POLITICS	Minister of Economy; number 35; 28/06/2002; 14/07/2002	Electrical Safety Act (RT I 2002, 49, 310) § 27, 3: "The procedure for technical inspection, the intervals at which technical inspection is to be performed and the extent of technical inspection shall be established by the Minister of Economic Affairs depending on the technical characteristics of the given electrical installation".
Establishing the procedure for the application for and issue of permits for the handling of food for particular nutritional uses. ENTREPRENEURIAL POLITICS	Government of the Rep.; number 26; 31/01/2000; 06/02/2000	Food Act (RT I 1999, 30, 415) § 14, 4: "The Government of the Republic shall establish the procedure for the application for and issue of permits for the handling of food for particular nutritional uses."
Requirements for the construction, operation and closing down of landfills. MAJORITARIAN POLITICS	Minister of Environment; number 34; 26/06/2001; 01/09/2001	Waste Act (RT I 1998, 57, 861) § 12, 4: "The Minister of the Environment shall, by a regulation, establish requirements for the construction, operation and closing down of waste management facilities designated for waste disposal in order to ensure that waste management facilities are safe to health and the environment during the handling of waste and also after the termination of waste handling."
Requirements for health and safety at work at construction sites. INTEREST POLITICS	Government of the Rep.; number 377; 08/12/1999; 01/01/2000	Occupational Health and Safety Act (RT I 1999, 60, 616) § 4, 5: "The occupational health and safety requirements for specific areas of activity shall be established by the Government of the Republic."

3. Comparing and Contrasting the Pattern of Participation

In this section, the main findings of the empirical study are summarised and analysed. The aim is to understand to what extent and in which aspects the observed network characteristics were different and similar.

3.1 Drafting process

We observed a big variation in the drafting process across the cases. Not only did the **length** of preparation vary (from 2 months to 9 years); but also how the drafting was arranged. The longest was the preparation of the landfills regulation; its drafting became part of a lengthy European Union level discussion about the directive of landfills, which had been going on for approximately 10 years before it was finally adopted in June 1999. Another reason for the delayed process was that the system of waste management in Estonia needed to be developed. Several detailed analyses were carried out, the new Waste Act was adopted, and strategic documents (about objectives and alternatives, the existing situation, and also the bill of National Waste Plan) were prepared. The shortest was the drafting process of the technical inspection regulation, which was prepared in two months. It was an exceptional situation: the coordinating department of the ministry was heavily overloaded with legislation drafting. As a result, the preparation of the first draft of the regulation was contracted out. Two remaining regulations – the regulation about occupational health and safety at construction sites and the regulation about handling permits of food for particular nutritional uses – were relatively similar in the sense of time spent on the preparation. In both cases, the preparation time was approximately one year, although the issue emerged earlier as part of the preparation of the primary legislation.

The way the drafting process was **organised** varied too. In three cases¹¹, some kind of working group was formed for the drafting process. However, the role of the working group and also its arrangement was relatively different. The most complicated was the situation with the regulation of landfills, where three working groups operated at different stages of the process. The role and membership of the first two working groups were relatively similar, consisting of experts from the private, public and voluntary sector. The role of the third working group was to draft the regulation so that it would be in accordance with the EU directive. Therefore, it was mostly a bureaucratic activity and all the participants were from government institutions (the ministry, an environmental service and the Estonian Environment Information Centre). A relatively different picture emerged in the case of the technical inspection regulation. The working group was a remedy which relieved the overload of the ministry. The text of the regulation was prepared by mainly one actor from the private sector. The working group functioned primarily as a legitimising body

11 No working group was formed for the drafting of the regulation about occupational health and safety at construction sites.

for the other external actors and as an informing body for the Technical Inspectorate. The other working group members fine-tuned the text of the regulation so that it would be clear, legally and terminologically correct.

Despite the differences in the roles of the working groups, the arrangement of the meetings was quite similar. None of the working groups had regular meetings, nor were minutes taken. The versions of the drafts were usually distributed in advance and the meetings could last for many hours. In three cases¹² the regulation draft went through the official harmonisation procedure with related ministries and other institutions. Logically, it had three kinds of effects: first, it lengthened the process for about one month; second, a larger number of (mostly governmental) institutions became aware of the particular regulation and third, it improved the quality of the regulation in the sense of the accuracy of the legal drafting and terminology.

3.2 Participation

The patterns of participation are analysed through four features: the variety of actors, the size of the network or the number of actors, the continuity of the membership and the permeability of the network.

The actors across all cases were bureaucracy, business, non-profit organisations, academia, and international organisations. In all cases, the leading ministry and the relevant inspectorate were involved. The most extreme case was the regulation of technical inspection: substantial input was coming from the external actors and the ministry's role was to guarantee the legal accuracy and consistency of the regulation with the primary legislation. The case with landfills regulation differed, in that a wide array of actors were involved at the various stages of the drafting; there were specialists from several governmental institutions, experts from private consulting companies, representatives of the waste transport and collection companies, academics, and businesses who had to bear the costs. Although highly experienced experts formed the core of the network, the features of other actors varied in the sense of professional background, region, and main activity. The variety of actors was smallest in the case of occupational health and safety at construction sites: the main drafter was the ministry and some help was sought from the Labour Inspectorate, Estonian Association of Construction Entrepreneurs – EACE) during the drafting. In the final phase of formal harmonisation, the employers' representatives (Estonian Employers' Confederation -EEC) and employees (Confederation of Estonian Trade Unions – CETU) and other ministries were included. However, the last phase did not bring considerable changes to the draft. In the case of regulation about handling permits of particular foodstuffs, the circle of drafters consisted of three governmental actors – two ministries and the inspectorate. Though, in the

¹² The only regulation that was not harmonised was the regulation about technical inspection of electrical installations.

final phase of harmonisation, local business interests become involved. With the two last cases, the round of participants was relatively homogeneous – they were all professionals in the area.

The **size** of network fluctuated from a relatively small group of drafters (here, we are not considering the ministries engaged in a way of formal harmonisation). In the cases of work safety and handling permit regulations, where three actors were involved in consultation and the initial drafting phase – to the largest number of participants in the case of landfills regulation, where in the different phases, altogether more than fifteen actors participated. The case of technical inspection regulation fell somewhere in between these two poles: five actors participated in the drafting process.

The aspect of the networks, in which the variation was the smallest, was **continuity** of membership. In two cases – technical inspection and occupational health and safety – the circle of participants was stable; no new actors emerged during the process. The case of particular food handling permits regulation was similar to the former, as membership of the working group did not change. The only alteration was the involvement of the local business actors in the final phase of drafting. The most different was the continuity of the landfills regulation, but it could be explained to a great extent by the long preparation process. Still, the core of the network was perfectly stable for many years and the changes in continuity derived from specific circumstances of the particular phase. For instance, in the earlier phases, when the principles of the regulation were considered, a discussion was generated among the societal groups who were closely related to the landfills issue. But, the final stage involved only those actors from government institutions. Another aspect of policy networks stressed in the literature is the actors' resources. The configuration of **resources** was relatively similar in all cases. Expertise (knowledge and experience) was an important resource in all cases and information came mostly together with expertise. For instance, in the case of the technical inspectorate regulation, the contracting partner had extensive knowledge and experience, but also information about detailed practical aspects of inspection. As a result, no-one questioned the proposed content of appendices of the regulation. While the resources of the governmental institutions were a combination of formal authority (which was dominant in the case of technical inspection regulation, and to some extent also in the case of occupational health and safety regulation) and expertise (which was dominant in the case of particular food handling permits and landfills regulation), the resources of the external actors were obviously more varied.

For instance, as a result of the trilateral agreement (Trilateral Agreement, 1996) there was a requirement to involve the employers' representatives and the employees in the preparation of the occupational safety regulation. However, the organised business lobby was also observed. There was a case with particular food, where the local producer, Salvest Ltd, quite successfully lobbied for a transition pe-

riod, but had no success with their suggestion to establish a less strict order for handling permits. The power of big construction companies was represented by a well-established umbrella organisation – EACE. They were also consulted during the preparation of the draft, not only in the stage of its final formal harmonisation. A special case was the technical inspection regulation, where the vision about framework, principles and requirements for the process was presented by one of the market leaders (Electricity Control Centre) on the basis of a contract. Their resources were impressive – the best experience, a wide base of information, expert knowledge, time, strong market position and contacts with the Technical Inspectorate (TI). As a result, they were able to steer the discussion from the very beginning. The clearest example of the political influence of business actors was the behaviour of the large corporation, Silmet Ltd, in the case of landfills regulation, where they successfully negotiated establishing a transition period.

3.3 Interaction

The following aspects of interaction between the actors of the network are discussed: the centrality¹³, the density¹⁴ and the level of institutionalisation¹⁵.

The simplest way to analyse the **centrality** of the network is to make a difference between the core and the periphery of the networks. In three cases (landfills, work safety and handling permits of particular food), one single central actor was identifiable and in every instance, this actor was the responsible ministry. The ministry was the link through which communications and information were distributed. Also, the ministry organised the working group meetings, summarised the opinions and revised the draft versions. It is logical because in all of the cases, the ministry was responsible for the preparation of the regulation. Somewhat different was the case of the technical inspection, where the central position was shared by the ministry, and the contracting partner from whom the first version of the regulation was ordered. However, besides a single key actor, in three cases, the core consisted of more than one actor. In addition to the case of shared leadership of the technical inspectorate, the Ministry of Social Affairs and the Health Protection Inspectorate formed the core of the food handling permits regulation. Here, the content of the regulation was largely defined by the EU directive and actually the space for interest negotiations and bargaining was very narrow. Landfills regulation

13 Network centrality tries to capture the property of actors in terms of their links with others. It measures the extent to which communication within a network passes through one central actor. The importance of centrality relies on the crucial role of central actors in decision-making and information processing. (Cole and John: 133-134 in March 1998).

14 Density measures the ratio of the number of interactions in the network with the total possible ties. It is used to understand the extent to which actors interact (Cole and John: 133-134, in Marsh 1998).

15 Level of institutionalisation reflects the establishment of the network, i.e. to what extent the interaction between the actors has rooted, and whether certain kinds of rules of interaction and values have emerged (Dowding 1995).

had the biggest core, consisting of three actors (the Ministry of Environment, the Environmental Information Centre and the specialised planning and analysis firm, Maves Ltd.). The only case where just one actor in the core was identified (the Ministry of Social Affairs), was the case of the occupational health and safety regulation in construction sites. Consequently, the periphery of the networks consisted of an array of other actors described in previous sections.

A substantial variation was also observed in the sense of the **density** of networks. The most frequent interaction went on in the drafting process of the technical inspection regulation; the reason for this could easily be the very heavy time pressure. It is hard to distinguish whether the network was denser in the case of handling permits of particular foods, or in the case of landfills, as the process of the latter involved three separate phases. Still, the density of contact in the last stage of landfill regulation drafting and in the handling permits cases seemed relatively similar. The least active was the interaction in the case of occupational health and safety regulations.

It seems that one important factor which facilitates **institutionalisation** of the network could be whether the actors knew each other before and whether they were also interacting in other situations besides this particular regulation drafting. Because of those variables, it was relatively high in the case of the regulation of landfills and of the handling permits of particular food. However, at the same time, it could be argued that how the drafting process was organised, and how intense the discussions were, could also affect the level of institutionalisation. For instance, as a result of a very intense interaction in the course of the preparation of the technical inspection regulation, a network emerged which is still functioning. Generally, it can be concluded that the level of institutionalisation was highest in the case of landfills regulation; the next well-established network was observed around the handling permits of the particular foods. The case with the technical inspectorate is more complicated because the actors who represented the experts in the area had previously developed some kind of network. The least institutionalised network was observed in the case of the occupational health and safety regulation, where there was one clear leading actor and discussion with other actors was infrequent and also, in some cases, relatively formal.

4. Discussion of Interests in the Drafting Process

4.1 Case 1: Requirements for landfills

In the case of the landfills regulation, the general interests of the core of the network coincided. The objective was to adopt the regulation in harmony with EU legislation and to create a solid basis for the business of landfills in Estonia. But this was, nevertheless, not a simple translation of the directive. The articles of the new regulation, which were not concerned with, or were very loosely formulated in the EU directive, were prepared by the core drafters. It is hard to separate the specific features of

the bureaucratic incentives because they were a part of the core network and did not represent a separate vision.

As the landfills regulation is relatively technical and its content was rather abstract for the citizens, no grass-root interest emerged from the consumers' side. However, the citizens became active when the specific issue emerged about the construction of a new landfill in their municipality, but this discussion was not targeted to influence the content of the regulation. Therefore, the increase in waste removal fees did not become pronounced during the drafting process. Neither were the interests of greens coherently represented, but it may be that the environmental requirements were strict enough not to activate the green groups in society.

Potential conflicts of interest have usually been between environmentally based arguments and economic targets (Malek et al 2001: 2). This regulation placed explicit obligations (which in monetary terms were very significant costs) on a certain group of large polluters and two of them (Silmet Ltd and Estonian Energy) lobbied heavily in the last phase of drafting in order to negotiate favourable transition measures. The case with Estonian Energy reflected a huge problem with industrial waste in north-east Estonia about which the core drafters were perfectly aware. Thus, the scope and seriousness of this problem dictated that it should not be considered as a concern of the industry, but it constituted a major societal difficulty. And if looked at from the costs aspect, it is clear that the costs would, in the long run, be borne by society at large, because the costs of reducing the environmental risk of the industrial waste would be reflected in the price of electric energy. It was obvious that this situation could not be solved quickly. Therefore, a common strategy to negotiate in the European Commission was taken and proved to be successful. The case with Silmet Ltd was rather different; they lobbied in the ministry to obtain a transition period for stopping the disposal of liquid hazardous waste in the landfill. They introduced their program of rearrangements in the ministry and as result a transition date of end 2002 was given.

Other well-organised business interests did not emerge in the drafting of the landfills regulation process because they were persistent at the local level, where contracts with clients were made or were linked with the wider discussion on the location of the landfills in Estonia, which did not emerge during the drafting of this regulation.

It was a complicated case, where, at certain times the rationale was punctuated by the emergence of client politics. This was the case with Silmet Ltd, which has strong economic and political interests. Preparation of this regulation was a staged process and interplay of interests was generally driven by a common goal to build up a functioning and good system of waste management.

4.2 Case 2: Work safety at construction sites

Here, we observed the clear domination of the single bureaucratic organisation – the ministry. The regulation obliged construction companies to improve the general working conditions and to pay more attention to work health and safety on construction sites. Both groups – employers and employees – were involved in the process, but there was no significant lobbying activity by either of them. This case is the closest to the situation where organised business interests were absent and some other interest groups (employer and employee organisations) participated in the discussions. However, the impact of the trade unions was relatively limited; they only succeeded in negotiating stricter requirements in one aspect (which was, incidentally, not specified by the directive, but was derived from the Danish example). The construction workers' trade union did not function. Thus, no coherent group of beneficiaries emerged and there were no well-organised victim interest groups either.

The employers were actually interested in adopting this regulation. On the one hand it helps to develop companies' management and quality systems, and on the other, the regulation is a guarantee for employers to protect themselves against unfair and unreasonable prescriptions. In contrast to the absence of the construction employees' organisation, there was an efficient organisation of the construction entrepreneurs (EACE). In the process of harmonisation of the regulation, the issue was not substantially discussed in the EEC and was forwarded to EACE, who had already been consulted in the earlier stages of the drafting process. The remarks of the construction entrepreneurs were not about negotiating for softer requirements, but rather involved the technical, terminological concerns of the regulation. They also drew the regulator's attention to some practical aspects of sub-contracting. Nevertheless, the existence of the organised interests on the employer's side did not result in a regulation that was more biased towards the interests of the employers rather than the employees. Lobbying from both the employers' and employees' sides was low because the issues of occupational risks were not at the top of the discussion agenda in Estonia. In the area of social security, monetary issues – such the minimum wage and employees' social guarantees – are the most sensitive. There was no activity from the general public – potentially, a dangerous situation at construction sites could also affect pedestrians (e.g. collapsed scaffolding etc.).

In some aspect, the interests of the ministry and the Labour Inspectorate were not consistent. The leading rationale of the ministry was to harmonise Estonian regulations with the European Council directive 92/57/EEC. As explained above, the tone of the directive and hence, the tone of the regulation, is not prescriptive. The regulation is more a guide to a better performance in the field of work safety on construction sites. The interest of the supervising body was thus to get a prescriptive document that contained a detailed set of rules, which could be used, according to the command-and-control principle, by the inspectors and whose fulfilment is

easy to supervise. Another argument for establishing a detailed set of rules was to give explicit criteria according to which the inspectors could make prescriptions for those companies not following the criteria. In such a case, it would be less likely that good attorneys hired by businesses would easily win any potential court cases.

In general, the case of occupational safety involved no significant organised lobbying group that gave any free space of play to the regulators from the ministry.

4.3 Case 3: Technical inspection of electrical installations

The groups whose fortunes could be affected by price control or restrictions to operate in their markets are very likely to be well organised, according to the rational choice perspective. Following Wilson's argument, business interest capture could be most likely in such a case because of the concentrated profits of the market leaders.

Here, the list of businesses represented in the working group could be considered as a homogeneous group for two reasons. First, they were all experts in this area. Second, the respondents explained that the reason for involving these actors was that they were already known to the Technical Inspectorate since they had extensive knowledge and experience. Maybe even more important was the modest remark of the bureaucratic actors that it was known that these actors were willing to contribute their time and share their experiences. But no representative of the lower rank inspection bodies, i.e. the electrical contractors, was involved in the working group, although the regulation could affect the profits of electrical contractors. Many of these contractors probably cannot fulfil the requirements of this regulation unless some investments are made.

The representatives of the ministry were perfectly aware of the potential business capture, and accordingly, they perceived that their interest was to ensure that the delegation of the primary legislation was followed, and that the electrical safety of the general public was guaranteed by this regulation. There was no lobbying from the consumers' side: the arguments of the diffused population of consumers, who had to bear the costs, simply did not arise. This could partly be explained by the short and expert-dominated drafting process, so that the consumers were not informed about the process. Bureaucrats were relying on the deadline for completion of inspection of the more complicated type of electrical installations set down in the previous regulation (adopted in 1999). Their first argument was that they were not questioning the adequacy of the political decision made earlier. The second argument was that postponing this deadline would be unfair to those who followed the requirements in time. As a result, the idea that this regulation could initiate a noisy and emotional discussion, which could seriously damage the image of regulators

and hence the reputation of the minister, did not come up. Actually, this was exactly what happened in Autumn 2002¹⁶.

The result was that these circumstances worked in favour of the dominance of the business group: the ministry had no experts in this area and due to a heavy workload they decided to contract the preparation of the regulation out to the company with the best expert basis, willingness to co-operate, and previous experience in legal drafting. At the same time, this company happened to be the market leader, whose situation had worsened with the liberalisation of the market in 1999. Their incentive was to create a provider monopoly in the market by establishing a unified compulsory set of rules for all users. By becoming a contracting partner, they were free to define the substantial measures of the regulation. Therefore, the regulation was favouring the small coherent and represented group of market leaders, but it was quickly done under the slogan of electrical safety to human health. It is true, that the regulation has a dimension of majoritarian politics as it aimed to reduce the risk deriving from dysfunctional electrical installations. However, the emergence of the cost-bearers was hindered.

4.4 Case 4: Handling permits of food for particular nutritional uses

In that case bureaucrats formed a relatively cohesive group with a clear and consistent view of the need for market regulation in a form of handling permits. They were well organised and the incentives were shared by all the members of the working group. Although both the responsible ministry and the inspectorate had strong positions in the network, there was no conflict of interests among them. Both actors wished to establish a well-functioning system of issuing the handling permits which was as easy to run as possible. The consumers of the particular foods in general, or mothers of small babies, sportsmen, allergic people with needs for particular food more specifically, did not exert any pressure over the regulation. In the final stage of drafting the Ministry of Agriculture, the local producer of the particular foods became active. Salvest Ltd was the only well-organised local producer at that time in Estonia whose interests would be damaged by the regulation. Representation of their interests by the Ministry of Agriculture is logical because they use only Estonian ingredients (vegetables, meat etc) and damaging them would damage local farmers. The business interests acknowledged the requirements of the European Commission directive: they realise that they cannot change the regulatory regime content at the national level, and therefore, their lobby was focused on bargaining for relaxing conditions in a form of transition period. Their only appeal, which did not follow the directive, was about having a simplified order for issuing the

16 The keywords of the consequent public discussion were “heavy fines”, “compulsory inspection before 1st January 2003”, “a short privileged list of inspecting bodies” and the like. At once, the previously technical and neutral solution generating common good become highly sensitive and political. The minister could not ignore the blame (the next general elections were due in 4 months) and as a result, two substantial changes were made.

handling permits for a similar group of foods. Obviously, this call did not find the acceptance of the regulators.

4.5 Conclusions

This analysis suggests that interest groups other than organised business emerged only on a few occasions and even then, they could not influence the substance of regulation significantly. The values and aims of those bureaucratic and professional “interests” comprised were far from uniform. In some cases, the process of drafting was conditioned by the bureaucracy’s behaviour to use shortcuts through the complex questions. An example of this kind of shortcut is the way technical standards were borrowed from international bodies or from other countries with minimal adaptation. A good example was also the case of occupational safety and health. Bureaucratic and regulatory interests were usually coherent, and only in one case some contradiction was observed.

The roles of the regulator were not uniform: in the case of technical inspection, the bureaucrats were upholding the interests of the common good and checked that the principles of primary legislation were followed in the standard-setting process dominated by business groups. Conversely, in the case of occupational health and handling permits of foods, the bureaucrats evidently took a lead role in the drafting process. And in the case of landfills, the bureaucratic interests hardly prevailed; they were part of a network of core drafters which included a selection of societal groups.

5. Empirical Findings and Wilson’s Typology

In this section, we discuss the results of the empirical study in terms of theoretical expectations. The questions discussed below are: how the emerging interests differed from our expectations according to Wilson’s policy typology and to what extent could the participation be explained by Wilson’s theory.

5.1 Client politics – the case of technical inspection of electrical installations

The pattern of participants observed in that case was rather similar to client politics predicted by Wilson’s policy typology. There was a group of accredited technical inspection business who took the lead role in the process. Moreover, it happened to be relatively easy for the business group to achieve a dominant position in the lobby activity. Other features of the client politics were: quiet lobbying, quick passage and a minimum public discussion (Wilson 1980: 369). The electrical contractors – many of them would need to make investments in order to be able to follow the requirements of the regulation – were not involved in the process. Neither was observed any lobby from the side of the diffused group of owners of electrical installation who are the subject of compulsory inspection and have to pay for it.

It was not the purest case of client politics as it had an aspect of majoritarian politics too. In this case it made it easier for the business interest to become involved and to be in an acknowledged expert position. It could be said that both incentives were realised. The first, the motive of the bureaucracy was to establish an order which would reduce the risk of danger to human health, property and environment. The second was the motive of the market leaders to stabilise the market by setting higher standards for conducting technical inspection.

5.2 Interest politics – the case of work safety at construction sites

The prediction made according to the theoretical considerations did not find much confirmation during the empirical study. The regulation was not a decision which occurred in the course of negotiation and real bargaining between the two groups of interest. These interests did not put pressure on the regulator and there were no challenges to the civil service to maintain its neutrality. Hence, the role of the regulator was not to be a mediator, but to take the initiative.

Actually, the participation in a very strict sense matched well – both the employers and the employees were represented – but their participation had little impact on the substance of regulation because the drafting process was driven primarily by a need to harmonise the EU directive that left a very narrow bargaining space for the local interests. This formal-technical role could be explained by the relatively weak role of the trade unions and the employers' organisation support basis in Estonia in that sector. And finally, the occupational health and safety issue has a rather low ranking in a common discussion agenda of the government, the employers and the employees.

Therefore, the pattern of participation in this case would rather match to the one described in the case of majoritarian politics. Although the case was – from the viewpoint of actor's pattern – an example of the interest group politics, the *realpolitik* of Estonia created on that basis the majoritarian politics.

5.3 Entrepreneurial politics – the case of handling permits of foods for particular nutritional uses

Entrepreneurial politics is characterised by the emergence of the policy entrepreneur, who is lobbying against the strong organised interests. The case of handling permits of particular foods matched the prediction, which says that in some cases the legislator can take the role of the entrepreneur (Wilson 1980). Here, the bureaucrats were acting on the behalf of an unorganised and indifferent majority. The motivation behind their activity was to establish some sort of control for the market in order to prevent the distribution of the products which could harm the health of babies, and other consumers of the particular foods. As the so-called policy entrepreneur had the necessary formal authority, there was no need to engage third parties such as the media, the recognised academicians or the opinion leaders in

the process. Theory says that the economic rationale would be important for the opposing groups and this was exactly the case with Salvest Ltd.. They understood that it would be highly unlikely to block the decision, so their strategy was to ask for realistic concessions that proved to be successful.

It was a good case for entrepreneurial politics and the behaviour of the business interest was logical. It could not be said that it added a facet of client politics, because the producer had to bear the costs anyway, not only in the sense of rearranging their production process, but also in the sense of preparation of all the necessary documents and paying the state fees for the permits.

5.4 Majoritarian politics – the case of requirements for landfills

In this case the prediction was that the process of drafting would be incremental and no clear interests emerge. However, the pattern observed was far more complicated with the case of the landfills regulation. First, the complexity was partly due to the delays in the legislative process at EU level, which stretched the process in Estonia too. Second, the landfill regulation was one of the key parts of the waste management regime, and its drafting developed in parallel to elaboration of the general principles of the waste management system in Estonia, which was a long row of strategic planning and in-depth practical analysis.

What matched the predictions was the role of business interests. It was very small in the process, and the drafting was steered by the bureaucracy. However, due to the complexity and extensive substantial impact on society, the additional experts from other governmental institutions and private companies were involved. The question about to what extent is the case of landfills a pure majoritarian politics was discussed above. It was found that although in principle, it was primarily a majoritarian politics, it also contained a few features of client politics too. However, the role of the organised business interests in the process was quite insignificant and did not change the general character of the regulation.

5.5 Explanation of the unexplained results

To what extent has Wilson's typology helped us to explain the participation in the regulatory drafting in these four cases? Which of the alternative explanations could account for the residuals? In two cases, predictions made on the basis of the policy typology were well matched with the observed pattern of participation and interests. These were the cases of entrepreneurial politics (handling permits of particular foods) and client politics (technical inspection of electrical installations). The first was a perfect match in the sense of participation, the behaviour of the regulator, the result of lobby activity, and the purity of the case¹⁷. The second case had a good match in the aspects of participation and the result of the lobby activity. However

¹⁷ By purity of the case we mean the extent to which the studied case was representing the particular policy ideal type.

the case of technical inspection was not the perfect example of client politics as it contained some elements of majoritarian politics. However, as predicted, the interested business groups successfully used a rhetoric of common good in insisting on their particular interests. As expected, the bureaucrats perceived the possibility of business capture and were standing for establishing clear and detailed standards. The irony of the situation lies in the fact that this was exactly the rationale of the business interests, whose aim was to guarantee stabilisation of the market to enable them to get rid of the competitors who cannot or do not want to guarantee a high quality of service. The case with the landfill regulation was an exceptional case both in the sense of majoritarian politics, and in the sense of deviation from a normal drafting process. The reasons for these deviations came from the general context, first of all the lengthy process of drafting which incorporated features of EU level discussions and the creation of the waste handling system in Estonia. As a result, traits of client policy patterns emerged in this case. The biggest deviation from the prediction was observed in the case of occupational health and safety at construction sites. Although the pattern of participation was generally in accordance with the theory, the predicted intermediation of these interests did not occur. No substantial discussion took place between the conflicting counterparts, nor did the regulator take the role of neutral arbiter or of the mediator, in that the case of interest politics transformed into the majoritarian politics.

Two basic alternative explanations can be derived from Wilson's claims. First, the relevance of the concept of *type of decision* could be questioned: instead, the degree of specialisation of the regulation or the question whether the regulation is dealing with routine or strategic matters could account for the variance in participation. Second, there are explanations criticising the claim that *interests matter* dominance of bureaucracy may override the interests or the level of organisation of the group, and the size of stakes might well matter more than the perceived interests. Which of these accounts could fill the gaps of Wilson's typology in the case of two somewhat unexplained observations?

The emergence of incidents of client politics in the case when the emergence of majoritarian politics was predicted could be explained by the argument of the size of the stakes. Silmet Ltd had to bear costs anyway in order to modernise its production process and waste management procedures. They had a lot at stake – success in bargaining for a transition time could extend the period in which they could carry on environmental dumping

The preparation of regulations of work safety at construction sites was the least explained case and here a combination of alternative accounts could fill the gap. The first, despite the trilateral agreement and formal participation of the expected interest peak groups, no substantial lobby from the side of employers' and employees organisations happened. Instead, the bureaucracy dominated the process. It was the outcome of an import of international regulations, so that there was nearly nothing

to negotiate about. The second reason could be the situation when the bargaining positions of one group were apparently weak, but the actual role of the potentially competing group would also not be significant. The only advantage the employers (EACE) had over the employees' organisation (CEE) was that they were briefly consulted with in earlier stages of drafting. Still, this fact did not much increase their impact on the outcome. The last reason why the interest mediation was low could be the low priority of occupational safety and health issues for these groups.

From these alternative accounts, the biggest explanatory power is the first one: the domination of the bureaucracy as a result of absent bargaining space. If the general expected outcomes and the specific means for reaching these outcomes is explicitly fixed by the international legislation subject to harmonisation, the substantial participation could well be eliminated or reduced to a minor role of becoming aware of the process.

6. Conclusions

The networks around the selected regulations were relatively sparsely populated; there was no rigorous competition between the groups or interests for the right and chance to have a say in the process. The regulations aroused the interests of only a small number of specialist actors. Formal authority or responsibility explained quite successfully which actors formed the core of the network. It means that the actor, who was formally in charge of drafting, became the centre of the drafting process (circulating information, revising drafts, consulting with other actors, organising meetings etc). Still, the relationships were rather non-hierarchical, but were based on the common goals, values, and also on previous experience in mutual cooperation.

In Estonia, the process of secondary legislation drafting tends to be the playground of the rank-and-file specialist, and it is not under the keen interests of the political leadership. The observation that people lower in the hierarchies are likely to get involved in regulation drafting was not accurate; only in the case of external interests, which were either represented at the level of top management (which was the case for instance with non-profit actors) or on the level of middle-level managers (which was mostly found in the representation of business groups). The behaviour of the business groups was not surprising; the groups relied on their strong market position, expert basis, and economic and political power. The behaviour of the bureaucracy varied across the cases: in the cases of occupational safety and handling permits of particular foodstuffs, the bureaucracy took the lead role. Landfills regulation was the case, where regulation drafting became an integral part of creating the whole waste management system in Estonia, and it had an international dimension. Here, the bureaucracy was an integral part of the network of various actors who were together discussing the content of the regime of waste management and landfills. And in the case of technical inspection of electrical installations, the bureaucracy had mainly coordinating and legal drafting functions, whereas the

external groups contributed with the substantial part of the regulation. The role of lawyers in the legislative drafting process is mostly confined to the revision of legal drafting and juridical expertise. According to the interviews, their role has increased in the process, but it could be associated with the establishment of the Estonian legal system, but not so much with the lawyers' involvement in the substantial discussion.

The case studies indicated that the process of drafting was not significantly influenced by the media attention or by the party political concerns. What can we say now about the line of arguing that *policies determine politics*? How do we understand the meaning of *politics* in the context of secondary legislation on the basis of the study? We can say that the term *politics* should rather be confined to interest lobby and decision-making situations when the bureaucracy make choices on whom to engage and how to organise the process. No mobilised partisan support or opposition was observed during the preparation and adoption of these regulations. Neither was a coherent and clearly pronounced public opinion observed in these cases. Still, we can ask how much of the drafting process happens behind the scenes? Here, the meaning of *behind the scenes* should not actually be associated with the general public in the sense of wide societal discussion, but rather in terms of the groups who are directly affected by the regulation. We evidenced that in most cases these groups were somehow involved in the process, which does not mean that they definitely had a significant impact on the discussion or on the outcome.

Due to the high level of specialisation of secondary legislation, the array of participants and hence the extent of the public attention and social dialogue could be limited. However, it cannot be said that the government did not engage the societal groups or that the regulation drafting happens behind the scenes in Estonia. The regulators as a rule consulted with the *organised* groups which were affected by the regulation. But we saw the cases where some of the affected groups were not organised and therefore not consulted. Still, the consulting seemed to work quite constructively in the case of organised interests, and here the process of drafting provided evidence about the responsiveness of the bureaucracy. However, the activity of regulators was not targeted to the latent interests. The discussion about this aspect of state-society interaction definitely deserves policy-makers' and researchers' attention, but it extends the scope and limits of our study.

One reason why the debate around the regulation drafting is not loud and why there is no active interest lobbying and struggling going on could be the features of Estonian institutional system. There is no parliamentary scrutiny over secondary legislation and the regulation adoption is exclusively the business of the executive. Neither are there other formal access points designed into the system of secondary legislation drafting for the societal interests. It means that there is no conventional triangle consisting of the regulatory agency, the parliament and the interest groups.

There is a clear tendency to borrow legislation from international organisations and in our opinion it has two aspects. First, it is functioning as a shortcut through complex and highly technical issues. It definitely contributes to the growth of technically high-quality legislation, as there are often no such experts in Estonia who could prepare the regulations with the comparable expertise. Second, a portion of our original law-making is significantly decreasing and that was also revealed in our cases studies. But in these cases, the bargaining space is very narrow and it does not give much possibility for the societal groups to have a say in the process. When societal participation in the substantial discussions is diminishing, the implementing bodies might appear in a difficult situation because the existing controversies of constituents – that would explode in the process of implementation – were not taken into account. This is an important generalisation in the Estonian context. The growing role of supra-state level regulations allows less leeway on the national level and it may be accompanied by a heavy time-pressure. It is a challenging situation for the regulators (especially for the top executive, the ministries), because the involvement of societal interests heavily depends on their initiative. This again leads us to the efforts in the implementation phase. What makes it even more challenging besides the flow of European level regulation is the division of work inside the bureaucracy in Estonia. Our study demonstrated that regulation-drafting is mostly the task of the ministry and it is up to the responsible civil servant how active consultation with other actors inside and outside the government develops. At the same time, the implementation of the regulation is the job of executive agencies and inspectorates. In all the cases studied, the relevant executive bodies were engaged, but their role and contribution varied. Hence, in addition to the involvement of societal interests, another crucial point is about the cooperation between the drafting ministry and the implementing agencies.

To conclude, the features of the drafting process and the interaction among the actors varied considerably across the cases. The biggest variance was observed in the range of actors (bureaucratic dominance, a tight network of professionals from public and private sectors, a strong business representation), in the number of actors (from three to more than fifteen), and in the features of the drafting process (length varied from a couple of months to nearly a decade). The smallest variance occurred in the sense of continuity of actors (the circle of participants was relatively stable); the process of drafting was in most cases rather closed, only the professional actors could get access and the central actor was mostly the relevant ministry. Although the range of actors varied significantly across the cases, we could say that the circle of participants was relatively homogeneous in all the cases: the actors were mostly the experts and practitioners of the relevant policy issue. Therefore, professional identity is a clear feature of the circle of participants in the regulation drafting process in Estonia.

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Appendix 1

Ministers' and Government's regulations in Estonia

The right to issue regulations for the government and of the minister derives from the Constitution (§ 87, 6; § 94 (2)). These are predominantly *intra legem* type of regulations, which means that they are produced in exercise of a power to legislate that is conferred by an Act of *Riigikogu*. Regulation of the Government of the Republic (GRA) and of the ministers is legislation of general application (§ 51, (1)). Both types of regulations are with equal legal power as both are issued on the basis of and for the implementation of primary legislation (GRA § 27, § 51). GRA says that only published regulations of the Government and of the Minister have obligatory force (§ 29, 1; § 51, 3). Regulations of Government and of the Minister are published in *Riigi Teataja*¹⁸. The Estonian system has emphasised the leading role of the ministry in regulatory drafting, although regulatory agencies are widely involved in the process. This bias can be explained by the formal legal reasons: the legislative mandate is given either to the minister or to the government, not to the head of the executive agency or inspectorate.

In case the regulation does not follow the requirements of the existing legal order, it is legally null and void, or invalid. Generally, the regulation is lawful only if it follows the requirements of competence¹⁹, procedure²⁰ and format, and if the content of the regulation corresponds to the existing law (Olle 1999: 102). Although *Riigikogu* gives the legislative mandate to the Government, it does not have any authority to control how the latter has performed the task. In other words, there is no parliamentary scrutiny dealing with secondary legislation in Estonia. It means that *Riigikogu* does not have to approve these regulations in any manner. The State Secretary and the authority giving the regulation is responsible for guaranteeing that the regulation is not *ultra vires*²¹ and that it does not include mistakes. The competent state authorities to challenge the lawfulness of the regulations are the courts and the legal chancellor. Courts can challenge and have challenged the valid-

18 *Riigi Teataja* is an official publication of Republic of Estonia, where legal acts, and other official announcements are published. It is both available in printed format and electronically (free public access through Internet).

19 Requirement of competence means that the relevant institution (Government, Minister, local authority) has a legal authority to issue the regulation on the territory to which its legislative powers apply; and only in these issues in which the legislative mandate has delegated the institution to issue regulation.

20 Requirement of procedure means that the regulation must be adopted by following the certain procedural rules. Olle is arguing that currently this aspect is not sufficiently regulated (1999: 103). GRA specifies the procedural requirements for regulations of the Government (for instance, agenda-setting, necessary documents and their format, sufficient quorum in the Government Session, harmonisation etc), but such general rules are not given for the regulations of the minister.

21 Beyond the powers.

ity of regulations; they can also declare parts of regulations, or the whole regulation to be invalid.

The whole population of secondary legislation is enormous and looking at the titles of regulations, we can see different kinds of issues, problems that the field of *delegated legislation* deals with in Estonia. The majority of the regulations can be divided into two broad categories. First, there are regulations about procedures and structure of governmental institutions. Another huge portion of regulations deals with procedures, orders, standards, and requirements. These may be highly technical and detailed, but many of them are also regulatory in the sense that they express the state involvement into the society.

The average number of regulations of government adopted each year is 360 and an approximate number of *ministers' regulations* issued each year is 500 (see tables 1 and 2 below). From the ministers, the most active regulator has been the Minister of Finance and the most passive the Minister of Foreign Affairs. There has been a steady growth up to 1999 (elections were in March) and a slight decrease since 2000. The number of *Government regulations* gives us a somewhat different picture – there was a rapid growth up to 1994, while the number of regulations nearly doubled, and similarly a quick decrease until 1997 which was again followed by a considerable increase²².

22 The changes might be partly explained by the political situation – 1993 and 1994 were very unstable years, with active radical government launching extensive reforms. At the end of 1994 the coalition broke up and a “compromise” Prime Minister was in office until the next elections in March 1995. The period 1995–97 can be characterized by conflicting ideologies in the coalition, without clear policy-making preferences, which ended up in a minority government being formed in 1997. A new Prime Minister was mediating this minority government, also known as a government of civil servants and specialists, up to the general elections in 1999.

Table 1
Number of Regulations of the Minister per year during 1990 – 2001

Name of the Ministry	Regulations per year													Total	Av.*
	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001*			
M. of Education	md	3	md	md	md	md	32	31	36	46	41	59	248	40	
M. of Justice	md	md	md	12	38	49	35	31	60	65	81	71	442	57	
M. of Defence	md	md	md	md	3	12	2	13	2	6	13	19	70	9	
M. of Environment	3	16	33	31	61	44	64	93	76	107	84	48	660	78	
M. of Culture	md	md	2	md	md	md	13	80	30	27	20	12	184	30	
M. of Economic Aff.	78	63	35	56	54	60	45	45	50	69	48	70	673	54	
M. of Agriculture	md	md	5	22	27	40	17	19	48	44	74	63	359	44	
M. of Finance	14	120	94	208	231	161	104	100	121	125	117	94	1489	110	
M. of Internal Aff.	md	md	md	3	26	27	18	23	66	123	76	88	450	65	
M. of Social Aff.	md	20	9	32	70	66	33	46	73	94	97	105	645	74	
M. of Transp.	md	7	7	41	68	32	46	46	70	81	125	96	619	77	
M. of Foreign Aff.	md	md	md	md	2	1	1	1	8	22	1	9	45	7	
Total	95	229	185	405	580	492	410	528	640	809	777	734	5884	54	

md – missing data in the Internet Average per year 1990-2001 : 490
 AV* – average 1996 – 2001 Average per year 1996-2001 : 650

Shaded cells mean that the number shown was the rank number of the last regulation in the list, but the list was not complete (that is – some numbers of regulations were missing) and it is not clear, whether the last regulation in the list was actually the last.

Table 2
 Number of Regulations of the Government of the Republic per year during 1990 – 2001

	Regulations per year												
	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001*	Total
No. of Regul.	272	280	367	417	494	388	328	269	310	446	458	336	4365
Average:	364												

Analysing Politico-administrative Relations: Extending the Focus

*Georg Sootla, B. Guy Peters, Bernadette Connaughton*¹

1. Introduction.

This book is the third product of this research group, established during the NIS-PAcee Conference in Prague in 1998. During this time the main intention of the researchers, led by Tony Verheijen and Alexandra Rabrenovic was to find the most suitable perspective to understand variables of success and failure of public administration reforms in Eastern Europe. The focus was defined then as the relations between elected politicians and appointed career civil servants. B. Guy Peters' (1989) typology of configurations of politico-administrative relations was taken as the theoretical framework of the analysis (see: Verheijen, 2001)

The research intentions and strategy mirrored the institutional and mental context of that period in the region. The primary aim of political elites in the region, as well as of researchers, was to find some simple solutions to urgent issues of institution building in public administration in CEE countries. First of all, it was necessary to explain the principal reasons for the instability and inconsistency of public administration development (Verheijen and Coombes, 1998). The main political purpose was to become eligible for EU negotiations and the transition was considered as some kind of teleological process in which starting points and points of arrival were rather clear; the only problem was to find a ticket for the train to the future.

The instability of relations between politicians and officials, caused by high levels of civil service politicisation, was seen as the most serious variable of instability and inconsistency in new transition democracies. The term "politicisation" was understood primarily as the widespread practice of appointments to civil service positions not according to formal civil service rules, but according to party-political or personal loyalty to his/her nominator.

The irony was that at the same time, politicisation of public officials' roles was a dominant trend in the development of politico-administrative relations in many Western democracies, as the solution to problems of political control and responsiveness after the welfare state logic lost some of its legitimacy (see Peters and Pierre, 2004). It was considered simply as politicisation of officials and professionalisation of politicians (Aberbach et al, 1981) or as a core of new relations between politicians

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as policymakers and managers as decision-makers on concrete operational issues that must rely on personal trust and personal responsiveness which were based on contracts (Flynn and Strehl, 1996). The breakdown of the governance system was disruptive and dynamic, so new relations could not rely on some established principle, but some kind of new formula of relations of that core had to be legitimised. It was also obvious that the issue of politico-administrative roles itself was politicised because this was a time when the old roles of actors were redefined and a contest for dominance actually took place.

Nevertheless, politicisation of civil servants in Central and Eastern Europe was considered *per se* as a *deviation* from some normative model that would best ensure the “normal” development of public administration arrangements. The classical Weberian role-set of politicians and civil servants was considered as the precondition and normative ideal of public service professionalism, stability and (policy) responsiveness. Hence, the general focus of the public administration research was highly normative and this was also reflected in our starting point. More or less the same normative presumption can also be observed in another major study of governance at that period by Western researchers (see Goetz and Wolmann, 2001).

Normative approaches to relations or configurations of bureaucrats and politicians can be useful in identifying the general context and problems in a system that is indeterminate and faltering. This could be an orientation to find regularity in extreme diversity to be able at least to compare the development of institutional frameworks in different countries. In that sense especially, the first of our books has a clear normative inclination, providing an invaluable contribution in understanding trends of institutional developments in the CEE region in general and in certain countries in particular. Nevertheless, analysis that departs from ideal types – and besides which were used frequently not as cognitive tools but as models of desired imagined reality – cannot sufficiently present an understanding of the internal logic of crumbling old institutions and the new emerging quality and logic of relations between key actors in undetermined and varied national institutional contexts. The methodological focus should be different if one is attempting to conceptualise mechanisms of transitional institutional development, or if one intends to use this knowledge for deliberate institutional design and change that takes into account institutional environments in a country. This conceptualisation became the purpose of the development of our working group in autumn 2002 when we proposed the new research agenda of the Working group “Politico-administrative relations: extending the analysis”. What was the sense of this change in methods and direction?

First, in understanding the logic of transition and its feasible outcomes we must not only depart from normative presumptions concerning the future, but also to understand much more profoundly the point of departure. This departure should be considered from the viewpoint of historical path dependency and not from the viewpoint of our desire to depart quickly from that undesired past. The develop-

ment of a new quality of politico-administrative relations must be considered as transition from the dichotomy of politics and administration, from dual hierarchy and *nomenklatura* (the core of politico-administrative configuration under communism) to a certain kind of balanced interaction that would fit with different national and ideological specifics of liberal democratic policy. Politicisation was a deviation from the normative ideal in our heads, but it was actually the starting point of transition and an indicator of how much we have moved forward in developing new institutions. At the same time, any development and moreover transition is, – although passing the point of bifurcation that would give indeterminate new direction – at the same time path dependent and in a certain sense relying on national traditions, societal values, and the balance of actors.

Secondly, politics and administration are not separate spheres in liberal governance, but they are interacting sub-systems in a functioning system. Hence we cannot properly understand change at one end or role without understanding changes not only in the other role, but also in the system in general. If we define some kind of appointments of civil service as specific deviation we must expect it to be the outcome of some interplay of roles within certain relations; this outcome must also mirror the political end or role, which may be loss of political responsibility or a capture by monopolistic interests. These are sides of the same coin or logic that must be and can be understood as a whole. These relations are mediated and therefore can be understood through this whole i.e. the interplay of politico-administrative relations is some general aspect of institutional interplay in the system of democratic governance, where there are other important *balances*, e.g. the balance in the party spectrum between parties, balances of representative and executive institutions, balances of administrative roles or balances between producers and balances emerging in market relations. This understanding enables us to consider politico-administrative relations more reflectively in context and through the logic of wider structures and sets of actors in democratic governance. So, mediating structures are the context in which the internal logic or mutual determination of politico-administrative relations and its development can be conceived more adequately.

Third, transition in the CEE countries occurs in a rather supportive, if not rather promotional, external environment. New political elites were socialised, old administrative officials were retrained, and new institutions created under considerable pressures from the West. The accession of many states to the European Union and NATO was especially profound. As soon as these developments have a profound impact on domestic arrangements of policymaking, it is interpreted that their impact on the development of politico-administrative balances could be considerable.

So these three shifts characterise our new research strategy and activities, presented in this book. Let us consider this new set of variables in determining the internal dynamic of politic-administrative relations in more detail.

2. From dual hierarchy of politics and administration to balance sets of roles: the role of traditions and culture

2.1 Politico-administrative nature of communism

Usually, communism is considered in terms of its immediate destructive effects on the human and civil rights and denial of conventional basic principles appropriate to the liberal-democratic institutions (competition of interests, freedom of expression, free elections etc.) From the perspective of its ideological roots, Leninist communism could be defined as the instrumental-technocratic system of total administration, which must avoid individual or group value based and alternative interest based deliberations, choices and decisions. Marxism denied the importance of individual interests in liberal capitalist society, and also supposed that only public interest or interests of a society as a whole could be conceived most adequately. In this sense he followed Hegel's concept of totality. In other words, the ultimate aim of Leninist communism was *to abolish politics* – as competition of basic societal private interests – in making the decisions in steering and managing society. The Communist party was not a *political* party in the conventional sense. It was considered the only legitimate (having knowledge of the true public interest) arena for developing and decisions about the “right things” to be done by people who could best understand the single correct way of acting. This justified its legitimacy as an absolute and un-contestable truth and rationale. Politics from a communist point of view – the competition of private interests– is a senseless waste of societal resources. Besides, competition, according to Marx, will be won by those who command economic resources i.e. by the private interests and thus, has unjust outcomes. The aim of communist development was to abolish politics and to rely on the management of society exclusively on the administrative-technocratic resources.

The other side of the coin was that this absolutely technocratic and administrative system could not have mechanisms of integration of people who nevertheless retained private interests and understandings. Communist elites were forced to develop systems of personal dependence, or compulsory cooperation – like the ancient Asiatic empires – because the architects did not accept spontaneous mechanisms of horizontal integration, developed during human history (markets, rights, nations etc.) In the system of governance, this resulted in creating two parallel hierarchies, where one hierarchy (party) was responsible for deciding the “right things to be done” and the other hierarchy (government administration) was responsible for the implementation of those decisions. Because this dichotomous hierarchy could not work on the level of personal incentives and interests (that nevertheless remained strong), the system of personal loyalty and dependence – *nomenklatura*

– was created. This consisted of party administration at all levels (up to the organisation’s units) for the supervision of implementation of party directives by state servants, who used to be absolutely impartial and disinterested technocrats.²

This point of departure brought us to one rather paradoxical conclusion: the main aim and trend of the development of politico-administrative roles is the politicisation of the core executive i.e. to develop a partisan-competitive context of making policy decisions and making the civil service the responsive institution to the government of the day.

“Under communism, the policy formation and arbitration function of central state apparatus was weakly developed; at the same time, the state bureaucracy was comprehensively politicised, as personnel policy emphasised political loyalty and reliability. In policy terms, state administration was “under-politicized”, in personnel terms “over-politicized” (Goetz, Wollman, 2001 p.864).

The general purpose of reform must not simply be the change in role identities (to be committed to other ideologies) but profound changes in executive institutions, which form the framework where these new roles and identities would emerge. What is important is not to confuse the politicisation in the old sense (as personal loyalty) with the necessity to develop the party political context and value-based choices in the policy process, but with the increasing role of professionalism at both dimensions – in politics and administration.

2.2 Historical traditions and the communist legacy

The significance of the role and impact of historical circumstances and traditions on the politico-administrative relations was a core development of our research.³ During the first period of transition, the fear of the communist legacy and possibility of intentional reversion to communist practices was considered the key danger to progressive transition. The main question of institutional development was how to prevent the impact of past social structures and mentality on processes of establishing new institutions and new elites. Hence, the main aim – at least implicitly – in reorganising the politico-administrative core had also to be the creation of new political and administrative elites with no links to the former regime.

This relatively simplistic view on the logic of history presumed that (a) communist rule has been effective in completely replacing values and patterns of behaviour of nations, which could be at best restored. We can speak about profound national specifics of communist regimes. (B) The main aim of transition must be the creation of institutions as close as possible to Western benchmarks i.e. that the logic

2 In my opinion, the party loyalty as the principle and practice of state officials’ appointments vs. professional criteria was overestimated, even at high level of management. Especially in 1960 – 80s the requirement was rather not to be an open contestator of monopoly of party authority and this requirement did not at all exclude the professionalism of the majority of officials.

3 See papers in this book presented by Norgaard, Verheijen and Rabrenovic, Sootla and Sootla).

of transition must copy the logic of the emergence of modern democratic systems of governance.

Today it is clear that the historical role and impact of communism was more complicated as seen in the linear-evolutionary picture. The impact of the communist system of government on structures of everyday life and minds of people was very diverse in different nations. In our opinion, the ability of the communist regime to interrupt the deep archetypes of national traditions was overestimated. But in some cases the communist regime might even have strengthened some traditions in a rather converted form. (Sootla, 2001) Nevertheless, we must take into account two important lines of possible impact. First, the impact of communist logic and mentality was hindered by profound *traditions* of independent statehood and *historical memories* of legitimate national states in CEE countries. Most of these countries – in contrast with China – had very limited traditions of statehood and rather superficial memories at the level of stories and heroes. (Hofstede, 1994) Those memories would be the basis for the creation of strong national feelings about lost independence and hence, strong protective attitudes against possible challenges to national independence. But, like the defensive stage in the development of democracy, this kind of mental construct was quite a fragile basis for the firm set of values that would develop as the ground for institution building after regime change. In some countries those identities and many traditions survived as much deeper values and beliefs and considerably eased the adoption of basic institutional arrangements without adversarial political contest. This has been the basis for a fragile elite consensus concerning governance institutions as the precondition of democratic institution building. First of all, we mean the adoption and implementation of basic Continental principles in institution building by several CEE countries.

Second, our observation (Sootla 1991), confirmed by an authoritative study, (Offe, 1996) was that the character of transition and the way different countries rely on their historical-national traditions depended largely on the character and nature of the links of domestic elites under communism with the centre of the Communist world (Moscow) and its global aims vs. the defence of national interests. Some of the communist regimes in CEE countries tried to legitimise themselves as a stage in the development of national history and challenged openly the model of communist regime imposed by Moscow (Yugoslavia, Romania) (Bunce 1999). In the other group of countries, domestic communist elites tried to earn their temporary legitimacy (more precisely – tolerance of their power) as the creators of obstacles to Moscow's attempts completely to redesign (destroy) civil society into a communist collective global village and of preserving reasonable ways of everyday life, despite directives from "above".

In a third group of countries, communist elites were open proxies of Moscow's rule; or – to be more precise – Moscow has organised intervention to suppress national communist elites and replaced them with loyal assistants. In Es-

tonia, ethnic Estonians who grew up in the Soviet Union replaced the domestic grown communists. Here the communist elites had no legacy or links with national traditions and did not develop even fictional aims (to justify themselves later) of preserving structures and practices of everyday life. In Hungary and Poland, these attempts resulted in reverse developments, i.e. substantial liberalisation of regimes that enabled elites to play more the second type of roles. In some countries, this intervention was very crude and resulted in forceful sovietisation (Czech Republic) and ethnic assimilation (Latvia and Estonia are only minor known examples, whereas in Kazakhstan, Moldova and Ukraine this was more destructive and sweeping). However, we must not forget that these forceful actions against local communist elites resulted from their attempts to obtain relative autonomy, to organise resistance to Moscow's plans to sovietisation and this was testimony to strong national identities at the grass-root level.

2.3 Different scenarios of politico-administrative development

The starting point for the collapse of communist regimes reflects that of other transitions from authoritarian rule (O' Donnell et al 1986). It was not the pressure of internal democratic forces – with some exceptions e.g. Poland – that were not well organised at the level of civil society. The loss in global military-technical competition and worsening economic performance (due to the transformation of industrial technologies) created the context for the collapse of the communist system at its strategic centre. “Rebellion” of “softliners” of communist elites in Moscow, first technocrats of the executive branch, against irresponsible and unprofessional party bureaucrats at the centre of the European communist system – the Soviet Union – was the initial trigger of collapse.⁴

2.3.1 *The first stage of transition*

At the first stage of transition “softliners” from party and professional managers of communist enterprises, who rose in power in the government and administration in the end of the 1980s, insisted on the configuration of *governance without political parties and professional politicians*. Instead, they insisted on governance by professionals who have the most experience and knowledge at that moment in the eve of transition. This stage occurred more or less in all countries but many of them, especially in the C.I.S., stopped at this stage. In countries where national traditions were mixed with communist legacy, the next echelon of communist elites – after abolishing the most odious leaders – were able to restrain the emergence of strong parties and party politics, democratic politico-administrative balance and preserved *de facto* the old system of governance, but without communists and the Communist party. First, in these countries the government, until recently, lost its policymak-

⁴ Obviously they (military and intelligence professionals) also assisted in breaking party dominated regimes in DDR, Czechoslovakia, Romania and Bulgaria, and without any doubt this was done in Baltic States.

ing and coordinating role and individual ministers and heads of numerous services were appointed and continue to appoint officials on the basis of personal loyalty – a revival of *nomenklatura*. Although formally decision-makers were organised into parties, the latter were either very fragile and temporary associations or they were actually “project organisations” for organising corporatist groups or interests for the process of privatisation.

In part of the post-communist world, the process of transformation was temporarily restrained or finished. The public realm was soon occupied by corporatist groups that were tightly bound to government elites. Those elites tried to demonstrate that they were above party politics but were soon captured by those groups (oligarchs in Russia for instance). This system was developed and strengthened where government was “under-politicised”, administrative and corporatist elites dominated and a patrimonial personnel system of appointment was developed even further because it was considerably personified by comparison with the *nomenklatura*—it was the converted form of communist politico-administrative regime without communists. In some countries, the system has begun to stabilise. First of all we see this in Russia, Kazakhstan and, in an extreme form of restoration, in Belarus, where democratic politics are actually absent.⁵

2.3.2 *The next stage or scenario*

Logically the next stage or scenario of development was characterised by a reverse trend. In those countries where communist elites were tightly bound to Moscow’s ruling core and had the weakest links with society, or more precisely people were actively hostile to them, these elites, together with their the second and third echelon, were very soon completely eliminated from government. To a large extent they retreated because of their extremely low legitimacy. New political elites were overwhelmingly “winners” and the *primacy of political and politics* was established. These elites were not confident of their professional expertise or durable support. Hence, to supplement their legitimacy by commitment to democratic values and identities, they intentionally tried to decrease the legitimacy of the administration that was more or less strongly linked with the former regime. This created an image of officials that freed the hands of new political elites to launch a very intensive replacement of key officials from their posts by politically loyal but professionally poorly prepared persons. Thus, paradoxically, opposing versions of transition resulted in the rather similar configuration of politico-administrative relations.

Let us consider this paradox in more detail. According to Hood (2002), we can theoretically expect that relations of politicians and top officials would be based in some kind of bargain or mutually accepted values or rule that forms the basis of trust between them. These roles are mutually expected ways of behaviour that can-

5 As an irony of history, the Communist Party is becoming the only guarantee of political pluralism in Russia.

not erode the power positions of the other actor in that relationship. Durable bargains are also based on more general values. The more particular this bargain is, the more cheating opportunities and distrust will emerge between politicians and top officials. In the first and second scenarios of replacement of the old politico-administrative configuration we observe a similar mechanism: because of a lack of trust, the bargaining over the politico-administrative roles is diminished to personal *ad hoc deals* between the minister and top official, not only in the appointment, but also in the process of negotiations over withdrawal of the previous top officials. Thus, the amalgamation of politico-administrative roles did not result in the 'village-life' community but in a system in which civil servants became more and more individually dependent from their political masters (Sootla et. al. 2002). We can see the return of the *nomenklatura principle* in relations between them, where politicians must increase their authority over professionalised officials through increasing personal dependence on the politicians. Thus, the more politico-administrative relations are out of balance – in this case towards the opposite end – the less institutionalised its role in governance. For example, Estonia (and probably also Latvia and the Czech Republic) today face a rather inconsistent policy process with frequent reversals of policy directions and an adversarial policymaking style; in many areas the decisive institutional choice – among them a kind of bargain between politicians and top officials – has been blocked due to political controversies.

2.4.3 *The third class of countries*

The third class of countries developed according to their own scenario. There was a rather dynamic balance between preservation of traditional patterns and the rejection of actors and structures of the former administration. This balance was, to a large extent, possible first because of a considerably more balanced party spectrum and less profound cleavage in the politico-administrative dimension. In institution building they relied not so much on cultural (ethnic) national rhetoric, but on old traditions of statehood that nations with short histories of statehood could not use. This group of countries – Hungary, Poland and Lithuania deliberately took Continental/Germanic values and understanding of institution building, not as an external fashion, but as tested and reliable practices from the past. This also made those institutional choices more legitimate and less sensitive to the party-political contest and conflict.

Governmentalising the core executive is not only the revolutionary process of inserting a political component into or over the government and administration, but it cannot be an intentional inhibition of an administrative component from political interventions. The configuration of politico-administrative relations under communism can be changed and this change can be first, the (unintentional) outcome of the process of *mutually balanced development*, as in those countries where the balance between two ends and two understandings of the aims of policy were the most balanced. Hence, the most stable configurations of politico-administrative

roles are found in societies where the main actors were mutually restrained in their institutional and policy choices. In countries where old elites relying on administrative authority were able to restrain the emergence of a new political spectrum, as well as in countries where new political elites were decisively distanced from professional administration, the specific form of politicisation – personal/ party loyal appointments of officials – became especially pronounced. However, in the latter cases the options for new institutional choices and solutions remain open.

3. The role of central coordinating and mediating structures

Politicians and top officials are not only abstract actors in bilateral relations. Presumably the initial sense of this dichotomy by Wilson and Weber was to identify preconditions of protection of top administrative positions from direct political manipulation. Today, these actors are participants in diverse decision-making and information exchange arenas, from cabinets' to ad hoc 'think tanks', in a generalised core executive. (Dunleavy et al. 1990) These arenas consist of different structures and patterns of interaction, in which actors' roles depend on a specific mission, purpose and style of conduct. Hence, we look at the roles of politicians and civil servants in a more dynamic and extensive framework of their actual activities. We found that the structural context of the governance system, but not normative roles, determine the actual roles of actors that are becoming more complex. Actual roles of actors vary in different arenas and change depending on the contingencies and roles of other actors. The general politico-administrative balance could be considered an outcome of other balances – as the balance at the Cabinet, balance between principal and agent in a NPM context, balance between interest groups and balance in multilevel governance etc. and this complexity can no longer be fixed as some kind of "model".

There were two directions in our research, designed to extend our analysis: the study of different types of coordination in different policymaking arenas and the study of possible mediating (vs. simply advising roles) of ministerial staff.

3.1 Arenas and types of politico-administrative coordination

If we consider politicians and civil servants in action i.e. as core participants in policymaking and implementation arenas, the very concept of political and administrative relations changes. The study that focuses on certain patterns of interaction can no longer differentiate – even analytically – precise individual roles and patterns of single actors. Instead, the analytical focus shifts to the characteristic of *interaction or network patterns* and to the study of their systemic characteristics. Among them, the major or the most generalised characteristic is *the mechanism coordination* of actors' activities into coherent summit and output (Peters, 1998; Blondel, Golosov 2000; Kassim et al, 2000). So in analysing interrelations of political and administrative ends, the interrelation of political vs. administrative coordination come into fo-

cus first, and then we can analyse the “proportions” of mix or type of intermingling of political and administrative ends or tasks using certain types of coordination.

In general, political coordination attempts to achieve unity, non-controversy or even to avoid splintering of decision-making arenas because of differences of interests of the primary actors, but also because of a loss of support from sponsors by the core executive. It is necessary to gain the support, not only of the parliamentary majority, but also the support or neutrality of major interests or other organised groups in making and implementing every decision. At the same time, this aim – political coordination – is important and is pursued, not only by politicians, but also by civil servants who make (perhaps more than politicians) intensive lobbying efforts among interests groups, parliamentary committees and in the media. This could be called politicisation, but it can be considered a specific politico-administrative configuration in balancing aims of political coordination. Here the instrumental end which may be the survival of coalition and existing arenas, developing the trust between participants of a policy community, is a primary concern and other aspects of policy are subordinated to that aim. Political coordination can also be *coordination of policy outcomes* for target and constituent groups. Their involvement in the policy process through various decision arenas would very effectively balance – as was demonstrated in this book (see Sootla and Sootla, Toots, Velthut) – the imbalances created by the former type of political coordination and arena. Here, mechanisms of politico-administrative relations and balances are more complex in comparison to the interface of minister and his secretary-general.

Administrative coordination at large is aimed at developing certain changes or to ensure the work of existing public programs, either from the viewpoint of content of the strategy (policy coordination), or from the viewpoint of management of programs (coordination of agencies interests and capacities) in order to achieve desired ends. The mechanisms and arenas of administrative coordination might contest some aims and arenas of political coordination because they have a different rationale and rely on different types of rationality. Hence, we can also observe another dichotomy. Nevertheless, more careful analysis indicates that similarly to political coordination in the arenas of *per se* administrative coordination, politicians can play leading or supportive roles. The substitution and blurring of roles and assignments is usual in those arenas. A high level of trust between the main actors is a much more important variable that enables politicians to delegate temporarily their roles to top officials in situations of turbulent and complex environments.

Besides the study of actual behaviour and tasks patterns, our analysis of politico-administrative relations focused on the interrelations or balance of different types of coordination in various politico-administrative regimes. This focus enables us to introduce more effectively the important explanatory variable in understanding mechanisms of variations in politico-administrative relations: the decision-making style of the cabinet or core executive. There is a general opinion that the

main source of institutional instability, inconsistency and incapacity of the policy process in CEE countries is the weakness of structures and arenas of administrative coordination, which splinter the institutional organisation of reforms (see Temmes in this volume) and which does not provide an effective veto or steering power of traditional coordinating ministries – Finance, Interior and Justice.

This is the other version of the politicisation thesis that has convincing supportive data and argumentation. But, this is actually a new version of the normative approach, which implicitly or explicitly argues that continental patterns of policymaking and coordination are best examples of policymaking effectiveness (see statement about Bundeskanzleramt as the benchmark of the Prime Minister's office).⁶ One could not notice that the continental politico-administrative model is heavily inclined towards the administrative end of the balance and produces "depoliticisation" of policy in comparison with the United Kingdom (Knill, 1998). It is true that in CEE countries in transition this unbalance or depoliticisation would ensure the necessary stability, but the continental tradition of bureaucratic policymaking would be useful from the perspective of better integration into the complicated multilevel EU policymaking process to avoid relatively major problems for countries with different national cultural backgrounds in adapting their domestic paradigm of policy coordination with those of the EU (Kassim et al, 2000). However, on the other hand, we can see difficulties in continental Europe in launching even moderate institutional reforms. This could be edifying for CEE countries, – that would promote dynamism and would expect new institutional choices – not to lose momentum to innovative development.

Besides, there are convincing theories explaining the imbalance of coordination mechanisms at transition stages, inclining towards political mechanisms of coordination. T. Lowi (Lowi, Ginzburg, 1991) demonstrated that distributive policy which characterises early democratic development, inclines heavily towards the political tools and ends of coordination. He explained this inclination by weaknesses in the political elites and imbalances of interest groups which make political decision-makers very dependent on the will of dominant and well organised groups. De Vries, (1999) following the idea of policy generations developed by Namenwirth, has explained the dominant role of political vs. administrative coordination somewhat differently. According to their view, different policy generations presume priority of different values of coordination because of different basic aims that should be pursued at certain stages.

6 In stating that only in countries which have continental structures of policy coordination there is the possibility of strong and consistent fiscal policy, the aforementioned authors most outstanding research on institutionalisation of core executive in CEE (Dimitrov, Brusis) is not very correct. Northern Baltic States have adopted a different approach to coordination issues but demonstrate not less but probably more consistent and effective fiscal policy than countries of Central Europe (Hungary, Poland).

At the stage of institution building and revision of the governance paradigm – or during goal attainment generation – political decision-making is a priority and pursuing very pragmatic solutions to pressing problems is crucial. What is important here is not only the priority and inclination towards the tools of political coordination and the central role of politicians in policymaking, but the choice of policymaking style. Balancing variables at that stage involves using consensual mechanisms to make policy. First, we see that even a well – institutionalised politico-administrative balance develops through different configurations at different stages of development. The balance could be inclined towards the political (goal attainment, integration generation) vs. administrative ends (latency and adaptation stages).

Policymaking style enables us to explain balances in situations where formal roles cannot be balanced. This presumes specific style and specific arenas of making policy and the relative weakness of administrative mechanisms of coordination. The problem arises if and when this institutional configuration, where political mechanisms of coordination have high priority, have not been supported by the specific – consensual – policymaking style and appropriate structures and arenas. Hence, in that case, the structures of coordination of policy outcomes (from the viewpoint of target and constituent groups) can play very important roles in ensuring consistent and effective policymaking, as we evidenced in the case of the Estonian forestry policy. In other words, the balance of roles of politicians and civil servants is, to a large extent, ensured and based on the balances in other parts or dimensions of the governing process. The fear that the lack of administrative centralisation, as with Hungarian or Polish PMO's would result *per se* in less effective and consistent policy, has little support. For instance, fiscal policy in Estonia where political forms of coordination dominate has been one of the most effective among the new member states. True, those countries that today do not have such effective mechanisms of administrative coordination suffer more than others from the disruptions and rolling back of policies, they are characterised by weaker capacity in EU policymaking. But this is firstly because these countries were not able to develop structures and traditions of consensual policymaking. (In the 1990s the Czech Republic developed a very peculiar mechanism of “organised” consensus at the expense of the policymaking capacity of the coalition and PM.). However, from the perspective of adaptation to rapidly changing institutional environments, those countries that emphasise the political tools of coordination could have potential future advantages.

The same conclusion can be reached from the study of ministerial staff. This unit, considered simply as an attachment or support structure to the minister, could not ensure better balancing power of a ministers' political role and ministerial responsibility. The ministerial staff – whether it be simply staff of advisors or cabinet to the minister – can fulfil the mediating functions and can balance arenas of strength and weaknesses of both ministers and top officials' roles and create a

favourable structural environment for a more dynamic balance of politico-administrative roles.

4. The role of external impacts in determining politico-administrative balance in transition countries

Besides historical and structural variables, there has been one set of variables that might considerably influence the balance of politico-administrative roles during transition. Many choices in institutional development in the CEE region were made either explicitly or covertly under impact or implicit pressure or even after international intervention (as in the former Yugoslavia) of developed Western democracies and the European Union. This issue was granted significant attention by our research group in this book and the influences of the different types of impacts were analysed (see Sootla and Sootla, Rabrenovic and Verheijen, Velthut and Toots). We can add some generalisations, especially from the viewpoint of the research framework of politico-administrative relations.

External impacts can be considered from two rather opposing perspectives. On the one hand, the impact could be interpreted as a result of the intentional policy transfer of some interesting “lesson” or recommendation or requirement. This direct impact could be considered on a continuum from lesson-drawing (perfect rationality) to coercive transfer (direct imposition). Dolowitz and Marsh (2000) have developed a comprehensive framework to analyse different types of policy transfer along this continuum. At this level, the impact of practices of other countries (or its institutions), organisations or sponsors, is the result of intentional rational actions from both sides: targeted pressures or assistance from sponsors or borrowing by some actors in order to implement them in the home country. Here we can ask what kinds of configurations of politico-administrative actors or organisation of arenas of decision-making would be most conducive to international learning and rational borrowings of best practices vs. what configurations and arenas would be most vulnerable to the imposition of external practices practice. Some practices would be transferred, not because of significant compulsion, but because of rational aims of domestic actors (to get political support for legitimacy) or in relation to other aims (for instance to receive external aid for the sector). Therefore, in this dimension, impacts could not be sufficiently tested empirically. Nonetheless, this would be a perfect framework for modelling politico-administrative (im)balances because of actors’ supplementary external sources of authority and legitimacy.

In the second interpretation, impacts from external environments would be considered as the process towards institutional isomorphism, or the process of the creation and application of rationalised myth or fashions, which is considered as one (or even major) mechanism of the emergence of modern and post-modern institutions (Scott, 1987).

The process of institutionalisation of fashion Brunsson and Olsen (1993), considered as the process of “buying” legitimacy by the leadership of an organisation through the application of fashionable and popular administrative technologies. The more external pressures for certain changes contradict the internal needs and logic of the organisation, more a kind of schizophrenia i.e. simultaneous application of two logics of structuration and management would emerge. In the case of simple organisations, the mechanism of mutual adaptation would be a complicated, but not impossible, task. In the case of a complex system of governance, it would create many unsolvable problems for the general effectiveness and integration of society. We would not accept the position that any trend towards isomorphism is conducive to organisational schizophrenia.⁷ Application of democratic models and patterns as fashion would, in the transition period, ease the adoption of not well reflected innovations and shorten the time necessary for a classical learning process. Nevertheless, the controversy between internal needs and external pressures can, in the transition stage, be several times more powerful than conventional trends towards institutional isomorphism. In that point we discover once more the importance of the politico-administrative core in the institution building process.

Aberbach et al (1981) stated that politicians are more prone to present ideas and prospects (whether they will fly), whereas civil servants look at the same thing from the viewpoint of their realisation (whether they will work). Politicians can see their mission in promoting those external pressures from institutional environments into the governance system to increase their authority and legitimacy without concern for effectiveness. Vice versa, civil servants who are placed in extremely unstable environments in the transition period, try to preserve the status quo because they can perceive the strategy of politicians, not as reasoned by innovative aims and conducive to democracy, but as selfish behaviour in ensuring their authority. But, in a situation of low party-political responsibility, the blame for unsuccessful and unnecessary copying is easy to direct to civil servants because they are primarily responsible for the smooth functioning of the internal dimensions of an organisation in institutional environments. The conservatism of civil servants can be a restraint to isomorphism. This is true in those cases where innovation causes inevitable temporary tensions which would be removed in a longer term perspective. So in transition periods, the imbalance of politico-administrative roles would result in sharp controversies and can tremendously restrain the spread of democratic values and practices. In the case of domination, the extreme sensitivity of politicians to external fashions leads politicians to apply every new arrangement that is primarily aimed to increase or retain support from the environment. And in the case of the civil service fears of accepting any risks related to innovation or

⁷ Note that the Soviet system functioned at its latest stage according to this organisational schizophrenia. Therefore managerial elites with Soviet experience were especially skilful in developing workable mechanisms of adaptation also in case of reorganisations coming from EU.

even because of their bureaucratic interests to restrain an obvious necessity to apply foreign and domestic practices.

Nevertheless, our research resulted in caution when giving universal assessments of types and tools of policy transfer during transition. Sometimes forceful pressure from the outside enables overcoming dead-ends at the domestic level between politicians and top officials. Sometimes – but during transition this happened very often – best practices from developed countries can be simply used as justification and legitimisation of narrow political or constituent interests. Similarly private interests, resources and advertising can contribute to the fast solution of national policy problems – as in the case of the successful Estonian pension reform – because implementation was delegated to private agents who had not only Western knowledge but also an innovative organisational culture.

A similar observation (not to make universal assessments about the feasibility of certain tools) can be made concerning direct financial assistance in policy development even with certain obligatory preconditions from the sponsors' side. The more the politico-administrative interface takes place in a wider structural context – at regular arenas and by mediating units – the more dynamic the balance of politicians and officials' roles. In addition, it is more probable that direct transfer would result in consistent policy or innovation that fits an already developed system. Such transfer of policymaking culture could even create a new benchmark of balanced politico-administrative interface.

In case the transfers are particular, targeted to single organisations or actors (politicians or officials) and in case the issue has not been put in the wider politico-administrative environment which enable more dynamic balance, the policy transfer would serve very specific sponsors or domestic beneficial interest and could cause confusion in sectoral development. This has been especially frequent in targeted policy advice from foreign partners given behind closed doors and in a closed circle of specialists; the strategies and laws created through such policy advice might be passed more easily when the policy process contained few veto points and low political control of the agenda.

The most important and probably most extensive policy transfer was EU accession. How the state of politico-administrative balance could influence the specific of the policy transfer and vice versa, whether the EU accession works towards the institutionalisation of politico-administrative balance or not.

On the one hand, an initial diagnosis that candidate states do not have enough administrative capacity to implement EU legislation gave substantial impetus to a new wave of public administration reforms in member states. On the other hand, direct EU impacts in administrative institution building were negligible, largely because the issue was seen in a narrow normative light: as necessary to increase technical professionalism of the civil service. The necessity to find ways of institutionalising politico-administrative balances that could enable developing more

favourable contexts for accession and later creative partnerships in the policy process was not seriously debated, although this issue is central to the policymaking capacity of new members.

During the accession negotiations the actual success – the achievement of balance of national and general EU interests and in negotiating optimal transition periods in implementation – depended heavily on to what extent the balances the politico-administrative relations were established at national level. On the one hand, accession appeared to be a very valuable source of supplementary political legitimacy in the context of the general decline of the overall support to newly created democratic institutions at the end of 1990s – beginning of 2000. Hence, politicians and parties which enjoyed sufficient autonomy and dominated the preparatory/ decision-making process rather frequently promoted their partial interests and tended to consider the “closing of chapters” as an end itself without necessary bargaining as the easy route to report about shining policy success. The absence of a mutual balance of politicians and civil servants in the negotiation process resulted in fast but disadvantageous results for the country or policy area.

After becoming members of the EU, the importance of politico-administrative balances became even more obvious because failures resulted in palpable losses through fines or restrictions. This role was especially important in ensuring effective membership i.e. in effective influence over policy decisions or at least in readiness to adapt effectively to decisions made at the supranational level and required the balance of *political and administrative devices of coordination*. Countries lacking effective mechanisms of administrative coordination at the accession stage also missed effective mechanisms of political coordination of national decisions after membership, given that effective involvement of politicians (Government) in the European policy process at the domestic level lay through the effective coordination of civil servants’ participation at the preparatory stage at Commission’s working groups and at Council’s working groups (Sootla and Sootla, 2004).

5. In conclusion

Our closing chapter is designed to explain the background and some of the most important results of the extension of the initial agenda of studies of politico-administrative relations from the normative approach and analysis that aimed to identify how development in roles of politicians and civil servants fit with ideal types. The initial agenda was enhanced in three main directions. First, a historical dimension of analysis enabled us to understand the role of legacies, path dependency and mechanisms of emergence of new politico-administrative balances. Second, it was feasible to take a more dynamic view on balances between politics and administration and to consider those as the ends of core executive; its arenas, structures and activities, and also to consider the politico-administrative core as part of a wide network of actors that assists to balance the relations at the core in a dynamic way.

Third, we expect that the accession process and development of multilevel governance makes achievement of the balance between politics and administration even more complicated in those countries not following a continental model of governance. In practice, the ability to achieve effective politico-administrative balance at national level is linked with the question of actual integration of the government into European decision-making and issues of avoidance of a peripheral role in Europe, for small countries in particular.

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