

POLITICO- ADMINISTRATIVE RELATIONS

WHO RULES?

Edited by
Tony Verheijen



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

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Edited by

Tony Verheijen, Chief Technical Adviser, UNDP Regional Support Centre, Bratislava, Slovak Republic

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(The Network of Institutes and Schools of Public administration in Central and Eastern Europe)

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NISPAcee is an international association focused on the public administration and its mission is to foster the development of public administration disciplines and training programmes in post-Communist countries, increase the quality of instruction and research and assist its member institutions development at both international and national levels.

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Foreword

This volume is the result of a three-year team effort of some twenty academics from Europe, Asia and the USA to promote a greater understanding of the complex nature of politico-administrative relations in the Post-communist states of Europe and the CIS.

Thanks go first of all to the whole team of contributors, all of whom worked tirelessly to achieve this first concrete output of the NISPAcee Working Group on Politico-Administrative relations, which was established in March 1997. My special thanks go to the co-chair of the Working Group, Ms Aleksandra Rabrenovic, who was instrumental in creating the Working Group and worked with me on the design of the research protocol which formed the basis for all the country studies, and also to my colleague Lisa Smirl for going through the whole text to assess its inner logic and the quality of the English.

Furthermore I wish to thank four organisations which have supported this project, either with financial or in-kind support. First and foremost thanks to Viera, Ludmila and Juraj at the NISPAcee secretariat for making the major effort to backstop the work of the group for more than three years. Second, thanks to the Local Government and Public service Reform Initiative of the Open Society Institute, Budapest, for the financial support and substantive feed-back which made it possible to produce this book. Finally, thanks to OECD/SIGMA in Paris and the UNDP Regional Support Centre in Bratislava, for providing the necessary support and encouragement to bring this first result of the working group from ideas to press.

Tony Verheijen
Bratislava, December 2000

Chapter 1: Introduction

Tony Verheijen

The study of the relations between elected politicians and appointed officials has been at the core of the study of Public administration since the emergence of the discipline in the 19th century. As is illustrated in the literature review in chapter two, the relative importance attached to this essential component of the study of Public administration has varied with time, but the subject has never been out of the picture. Developments in public administration theory and practise over the last two decades have generated a renewed and strong interest in the study of politico-administrative relations, both in OECD states and in the Post-communist states of Europe and the CIS.

The development of New Public Management as a 'new'¹ stream of thought in Public administration theory focused attention on politico-administrative relations in many OECD states. New Public Management argued that the primacy of politics in politico-administrative relations should be re-established. The proponents of this theoretical stream claimed that politicians had lost control over ever-expanding administrative systems and that politicians needed to establish new forms of control over bureaucracies, in particular in policy development and setting targets for public managers to improve efficiency, in particular to cut cost. It is important to note that New Public management does not argue for the politicisation of the administration. However, reviews of reform processes based on New Public management theory clearly indicate that these reforms have often led to a rise in levels of politicisation, albeit as a side effect (Keraudren and van Mierlo *in* Verheijen and Coombes, 1998; Keraudren *in* Verheijen and Coombes, 1998).

The second half of the 1990s saw a return to the discussion of 'classical issues' in Public administration, focusing in particular on re-defining accountability systems and, also, improving policy capacities in the administration. Again the discussion on politico-administrative relations was central to the academic debate. Politico-Administrative relations have thus been a permanent element of academic discussion on public administration in OECD states over the last 20 years, even if the focus and orientation in this debate has changed radically in the last years.

The discussion on politico-administrative relations has been given an important additional impetus by the transformation processes in the Post-communist states in Europe and the CIS. Public administration reform was much neglected in the early years of the transition process. This was partly due to the prevalence of Neo-Liberalism in economic thinking at the time of the start of the transition, and partly to

1 As van Mierlo and Keraudren (1998) have argued, New Public Management is a new combination of existing strands of theory, such as Neo-Taylorism and Public choice

the backlash against ‘the State’ in the new democracies in Central Europe and Russia in particular. Incremental changes to systems of public administration were made. The direct connection, even integration, between state and Party administration, which was a typical feature of the previous regime, was broken and there was a high degree of turnover in the administration as many top officials found more profitable positions in the emerging private sector. The links between the administration and the economy were also put on a new footing, though one should note that recent reviews of administrative systems in states such as Lithuania, Slovakia, Kyrgyzstan and Kazakhstan revealed that the separation of the state and private sector is much less complete than might be assumed.

It is, however, the development of new Civil Service systems, and in particular the definition of the interface between politico-administrative relations, where most problems have occurred. These problems are surprisingly universal, as the debate on defining Civil Service Systems continues in states such as Poland and Kazakhstan alike. A recent UNDP Round Table discussion bringing together Civil Service representatives of Central Asia, Baltic and Central European States confirmed that even if there is a significant difference in the degree of progress made in these states, their new Civil Service systems cannot be considered **irreversible and sure to survive a change of government**. Defining the politico-administrative interface was highlighted as one of the most difficult elements in the process, as this requires a change in attitude and role perceptions among politicians and officials alike. This change is likely to come about only slowly, unless ‘outsiders’, in particular academics in the states concerned, are able to convince stakeholders in the process of the importance of a more radical and comprehensive change in systems and patterns of behaviour.

Unfortunately there has been too little attention in academic research and writing on the development of new systems of politico-administrative relations. In particular the material produced by academic from Post-communist states remains limited. This is problematic, as the inclusion of courses and programmes in politico-administrative relations at academic and training institutions can be a key element in bringing about a better understanding of politico-administrative relations, which eventually may lead to a change in the actual systems in place. The NISPAcee Working Group on politico-administrative relations was established in March 1997 with the aim to develop a better understanding of the nature of politico-administrative relations in Post-communist states. This would help to identify the main causes for the lack of progress in this area and to assess the feasibility of different options to address the problem.

This volume is the result of more than three years of research work undertaken by a team of researchers from more than 10 states from Europe, the CIS and beyond. It provides, in the first part, theoretical and methodological insights into the study of politico-administrative relations, which should serve as a basis for the subsequent parts of the book. The theoretical section consists of two chapters. Chapter Two contains

a review and analysis of the theoretical literature on politico-administrative relations. In chapter Three David Coombes assesses the relevance of the presented theories for transition states. Chapter Four contains a review of methodological approaches to the classification and comparative study of politico-administrative relations.

The second part of the book consists of nine country studies, carried out according to a research protocol specially defined for the purpose of this study. The country studies cover a broad range of states, mainly from Central and Southeastern Europe and the Baltic States, but also include a study of Kyrgyzstan with comparative sections on other Central Asian states. The broad range of the country studies ensures the relevance of the book for academics, students and professionals across Europe and the CIS.

The third section highlights three key aspects of politico-administrative relations, which were identified as potentially key to addressing the current problems in politico-administrative relations. The first is the definition of the role of civil servants in the delivery of policy advice. The failure of public administrations in the region to define viable policy options has become notorious in recent years as governments across the region have struggled to overcome setbacks in the economic reform processes. The lack of ability in public administrations to provide policy advice is caused in part by the lack of mutual trust between politicians and civil servants, which has led politicians to look 'outside' for policy advice and for civil servants to refrain from developing capacities to provide professional advice. The study on delivery of policy advice reviews both relevant theory on the delivery of policy advice and examines how and under what conditions the 'policy role' of civil servants can be successfully developed. The study on professionalisation as a way to bridge the divide between politics and administration review literature on professionalisation and its applicability in the current prevailing conditions in Post-communist states. The final horizontal study addresses the question of Ethics and the difference in ethical standards for politicians and officials. The study reviews the rich literature on professional Ethics and draws conclusions on how relevant systems of Ethics can be created and implemented in the complex reality of politico-administrative relations in Post-communist states.

In the final section comparative conclusions are drawn based on the theories and methodologies outlined in the first part, the country studies and the horizontal studies in part III. The conclusions highlight the complexity of explaining politico-administrative relations in a transition context as well as a need to find comprehensive solutions, drawing on different instruments to bring about change.

This volume, mainly destined for universities and training institutions, is designed to support the change process in the Post-communist states of Europe and the CIS, by promoting a greater understanding of the complexities involved in defining new systems of politico-administrative relations. It aims to provide food for thought to politicians and officials, both of the present day and of the future.

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Chapter 2: Review of Theory on Politico–Administrative relations

Aleksandra Rabrenovic¹

1. Introduction

The relation between politics and administration has been a key issue for debate among public administration theorists and practitioners ever since the emergence of modern political systems. This should not be surprising bearing in mind that the way in which the relationship between politicians and bureaucrats is defined, both *de jure* and *de facto*, has an overwhelming impact on governance processes and hence the development of society as a whole. The modes in which politico–administrative relations operate strongly shape citizens’ perception of Public administration and Government. If the relations between the two are co–operative, the legitimacy of Government will be reinforced, while hostile and non co–operative behaviour will lead to ineffective governance, with a negative effect on levels of legitimacy.

Politico–administrative relations have been addressed by number of theorists, who often highlight quite different aspects of this phenomenon. Very often the relationship between these two actors is analysed through other, broader issues. Thus, the study of the Civil Service as a social system focuses on the values and norms within the Civil Service, examining its influence on relations between officials themselves and other groups – ministers, legislators, interest groups, etc.. A vast amount of literature explores the relation between bureaucracy and democracy and ways in which the seemingly notorious bureaucratic power can be limited by putting in place institutional mechanisms for its control.

This chapter restricts itself to a review of academic literature that explores relations between politicians and civil servants in the policy–making process. In that sense, I will provide an overview of major descriptive, explanatory and normative inquiries on patterns of interactions between political executives and career civil servants in policy–making and consequently the views on the amount of power which these two actors possess in the governance process in general. Particular emphasis will be placed on the attempts at theoretical conceptualisation of the politico–administrative relations in academic writing. Furthermore, a brief review will be made of elements that might influence politico–administrative relations in the Policy Process. The chapter analyses academic work that describes and explains different models of politico–administrative relations depending on various institutional and constitutional settings. A distinction will be made between the relations of politicians and bureaucracy in the common law and continental traditions, as well as in parliamentary and presidential government.

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The purpose of this review is twofold:

- it will provide the current research on the politico–administrative relations in Post–communist states with a broader theoretical perspective of the development of respective relations in academic writing, so that it can be more easily related to other work in this field;
- It will enable the reader to better understand the complexity and the development of politico–administrative relations, as the distinction between the two is often not obvious.

2. Civil Servants and Politicians in the Policy Process

Many inquiries into politico–administrative relationship start with a tricky question: ‘Who rules?’ For Page the answer to this question is quite simple: “both officials and politicians rule” (1992). Aberbach and Rockman (1998), however, distinguish between formal and informal rule. From a Formal–legal point of view, the answer is ‘politicians’, surely. However, if one views the issue from a more informal perspective, things are not that clear. In Aberbach and Rockman’s opinion, this due to the fact that “civil servants possess valuable knowledge about how Government works that politicians lack” (Aberbach and Rockman 1998, p. 1). Campbell and Peters have a similar perspective on “who is the boss”. They argue that politicians naturally expect to make important policy decisions when they come into office. Later on they realise that the officials may usurp their power. Page’s counter–argument is that it is really not possible to answer “who rules” question as the concepts of “influence” and “power” are notoriously controversial social science concepts. Furthermore, an evaluation of the influence of officials and ministers would presuppose our prior knowledge of the real goals of officials and ministers, which is impossible to obtain (Page, 1992).

In spite of the above–mentioned difficulties concerning the “who rules” question, many theorists continue searching for an answer, concentrate on the formal rules that guide the behaviour of politicians and bureaucrats in the Policy Process. The main notion describing such a relation has for quite a long time been the concept of the politics–administration dichotomy.

2.1 Politics–administration dichotomy – a long surviving myth

The concept of politics–administration dichotomy is one of the most contentious notions in the theory of public administration. The origins of this concept, its practical existence and general desirability have been discussed for a long time. From its first appearance until now, the concept of politics–administration dichotomy has had its strong presence in academic literature, being highly praised and forcefully disputed. Notwithstanding the constant challenges, the advocates of the theory of politics–administration dichotomy, however, managed to catch their breath, with the theory becoming one of the few surviving public administration myths.

The central argument of the politics–administration dichotomy is the existence of a clear distinction between politics, i.e. policy–making on the one hand and policy implementation on the other hand. This conventional view perceives the relation between politics and administration as one between ends and means. While politicians are concerned with political objectives, the administration is responsible only for their translation into practice (Self, 1975). Politicians and administrators are perceived as living in self–contained worlds, with their own separate values, rules and methods (Sayre, 1958). The dichotomy is further considered a desirable model, providing a normative base for assessment of appropriateness of behaviour (Svara, 1985).

The politics–administration dichotomy model is based on idea of democratic control and the Rule of Law (Svara, 1985). Policy has to be made by democratically elected officials and then implemented by the administrators. The separation of the two actors limits corruption and increases the efficiency, which might be undermined by politicians’ greater involvement into “details of administration” (Svara, 1985).

Woodrow Wilson is often cited as the founder of the politics–administration dichotomy. In his article “The study of administration” Wilson argued: “Administration lies outside the proper sphere of politics. Administrative questions are not political questions. Although politics sets the tasks for administration, it should not be suffered to manipulate its offices.”

The politics–administration dichotomy is also often related to Weber’s work. Weber clearly distinguished bureaucrats from politicians, claiming that their mutual existence would strongly mark the political processes of the 20th century. One of Weber’s main concerns was the fear of bureaucratic rule (*Beamtenherrschaft*), where broad distributive government policies were replaced by problems of bureaucratic organisational survival. In order to prevent this, Weber developed a number of mechanisms which would serve to limit the power of administrators. Weber found the main instruments to restrict bureaucratic power in legal norms, effective parliaments and most importantly, the political leaders who would be appointed to head administrative organisations (1946). In this way, the relation between politicians and administrators is perceived as dichotomous, with politicians as policy makers and bureaucrats as policy implementers.

In a similar vein Goodnow (1905) spoke about two separate government function. He argued: “Enough has been said, it is believed, to show that there are two distinct functions of government, and that their differentiation results in a differentiation, though less complete, of the organs of government provided by the formal governmental system. These two functions of government may for purposes of convenience be designated respectively as Politics and Administration. Politics has to do with policies or expressions of the will of the State. Administration has to do with the execution of these policies.”

Gulick (1937) believed that administrative involvement in politics would only bring about negative effects: “We are faced by two heterogeneous functions, “politics”

and “administration”, the combination of which cannot be undertaken within the structure of the administration without producing inefficiency.”

The above authors are often cited as founding fathers of politics–administration dichotomy. However, their writings remain subject to quite different interpretations (O’Toole, 1987). Wilson’s article is often interpreted as having the intention to exclude officials from the policy–making process. However, it might be argued that Wilson’s intentions were quite different. It should be born in mind that Wilson was a representative of American progressive reformers, whose main aim was the elimination of political patronage from public administration sphere (Aberbach and Rockman, 1988). Known for his dislike of American politics at the time, Wilson most likely wanted to strengthen the independence of administrators and to protect them from political interference, rather than to restrict their involvement in the policy–making process (Peters, 1988). Weber’s theory of bureaucracy might be interpreted in a similar way. Weber’s main concern was not to ensure the power of politicians over bureaucracy, but quite the opposite – to prevent the possibilities of usurpation of administrative powers by political leaders (Peters, 1988). Goodnow’s work also provides us with many reasons to believe that the idea was to protect administration from the sphere of politics: “For reasons of both convenience and propriety, it is believed that the interpretation of the will of the state shall be made by some authority more or less independent of the legislature” (p.73).

Svara (1999) has recently pointed out the wrong interpretation of the “founding fathers” of the politics–administration dichotomy. He argues that Wilson and Goodnow did stress the importance of insulation and neutrality concepts, but that there was no mention of a comprehensive model of dichotomy which would preclude close interaction of administrators and elected officials, and administrative interference in the policy process. Instead, Wilson was calling for administrators to be controlled and to be held accountable, but at the same time to be active actors in governance processes (Svara, 1999).

An interpretation of Gulick’s work, on the other hand, requires us to turn to the ideas of another early public administration strand – scientific organisation. Proponents of scientific organisation were primarily concerned with creation of clear definitions of roles and functions in order to generate rationally efficient organisation. In that sense, the separation of policy–making and policy–execution, as proposed by Gulick, was quite an important and valuable task.

The politics–administration dichotomy reached its zenith in the 1920s and 1930s. The strong representation of politics–administration dichotomy in academic writing and practice of that time might be explained by the following reasons. Firstly, it should be born in mind that the first decades of 20th century mark a period of the institutionalisation of Public administration as a field of study, followed by an intensive search for unique subject of research (Roberts, 1995). The politics–administration dichotomy thus provided one of the starting points for building the “science” of

administration, concerned solely with the most efficient means for achieving political objectives (Self, 1977). On the other hand, reasons for the popularity of the politics–administration dichotomy might be found in the turbulent historical events of that time. The economic depression of the 1930s brought about the expansion of government. The significant growth of administrative agencies, in terms of both size and complexity, required rational tools which the field of public administration could offer (Sayre, 1958). In these circumstances the politics–administration dichotomy seemed to find its fertile deployment.

From the early 1940s, the politics–administration dichotomy became a subject of severe criticism. The model was attacked from three main angles: a conceptual angle, calling for the redefinition of key terms in political science; an empirical angle, demonstrating the practical evidence of significant involvement of administrators in policy–making process; and a normative angle, claiming the desirability of administration involvement in policy–making, as this would guarantee the promotion of values rarely advanced by elected officials (Svara, 1985).

The most severe critics of the politics–administration dichotomy were political scientists concerned with political theory and political process, who believed that the administration was undoubtedly involved in politics (Sayre, 1958). Thus, Friedrich (1940) argued that “this misleading distinction has become a fetish... Public policy, to put it flatly, is a continuous process, the formation of which is inseparable from its execution... Politics and administration play a continuous role in both formation and execution”.

In a similar way, the first public administration textbooks which appeared after the war emphasised the involvement of administrators and administrative agencies in policy formulation (Sayre, 1958). Appleby (1949) assertively and pervasively describes administration as “the eight political process”. Simon, Smithburg and Thompson (1950) systematically analyse public administration as a political and group process. In 1952, the first casebook of public administration, titled *Public administration and Policy Development* appeared (Stein ed.). In each of the case studies, authors stress the political role of administrators. Public administration, being deeply involved in policy and values, is thus perceived as politics. The emerging idea of politics–administration complementarity has perhaps been best summarised in Sayre’s (1958) finding: “Public administration is one of the major political processes. The exercise of discretionary power, the making of value choices, is a characteristic and increasing function of administrators and bureaucrats: they are thus importantly engaged in politics.”

Despite serious challenges, the concept of politics–administration dichotomy was preserved in some of the post–war academic writings, especially in the works of authors from developing nations. Their proponents argue that the separation between politics and administration is a prerequisite for maintenance of firm political control over bureaucracy (Riggs, 1963). A need for strong political control stems from the fear of “overdeveloped bureaucracy”, as one of the major threats to political and democratic

development and to nation–state building. This problem especially arises in the wake of social revolutions, when new leaders want to abolish the old bureaucratic machine and create a new trustworthy civil servants system (Farazmand, 1989). In their later discussions, however, the above mentioned authors also recognised the duality of the role of the bureaucracy (Riggs, 1994). This would imply the final disappearance of the politics–administration dichotomy from contemporary literature.

The emergence of New Public management as a dominant Public administration ‘doctrine’ in the last decades of 20th century brought the politics–administration dichotomy back into the centre of academic discussions. Aucoin (1990) argues that various theoretical foundations of New Public management, i.e. public choice theory and managerialism, in the same time reassert and deny the existence of the politics–administration dichotomy. The public choice paradigm removes the distinction between policy and administration, while managerialism reasserts the dichotomy (Aucoin, 1990).

It is interesting to note that the idea of separation of policy making and policy implementation remains alive not only in academic writing and professional discussion, but also in the thoughts of politicians and bureaucrats. Trying to provide the answer for the “survival of the myth”, Peters (1988) claims that both politicians and civil servants are actually interested in sustaining the dichotomy. For politicians the dichotomy might provide a good and useful excuse for failures during their political mandate. For civil servants, on the other hand, the politics–administration dichotomy might provide an impetus for their increased role in the policy process. Being aware that the distinction between technical and political decisions is often blurred and artificial and uses the shelter of anonymity of pure policy execution, civil servants might significantly influence policy–making processes, while avoiding any kind of public accountability.

Whatever we may think about politics–administration dichotomy today, it is sure that up to now there has been no other theoretical model that has been so persistently present in academic literature on public administration. There have been many other attempts of theoretical conceptualisation of relations between politicians and bureaucrats, which will be reviewed in depth later. However, none of these have been fully developed and they remain only an attempt at explaining the complexities of politico–administrative relations.

Svara (1999), who proposes the model of politics–administration complementarity, has recently offered one of the best alternatives to the politics–administration dichotomy. Svara’s model embraces much of the critics of the dichotomy, with the underlying idea of joint elected officials and administrators action in governance processes. Svara points out the wide scope of the new model, which encompasses “the separate and distinct roles that a complementarity relationship entails and the neutrality and insulation that administrators require for accountability” (p.679). However, Svara admits that a full development of complementarity model is quite

a demanding and difficult task. His discussion, in fact, provides only an outline for further research. Therefore it still remains to be seen if and how the complementarity model will evolve in the future. It seems that Svvara's attempt provide a good basis for further academic research, which has for quite some time been expected to provide a fully established alternative for a long surviving politics-administration myth.

2.2 Review of Other Theoretical Models – where is the line?

One of the main theoretical attempts to re-conceptualise politico-administrative relations in policy-making process, is Aberbach, Rockman and Putnam,s “Bureaucrats and Politicians in Western Democracies”. Aberbach, Rockman and Putnam develop four ideal type images in which relations between politicians and public administrators may be framed. Image I (policy/administration) upholds the politics-administration dichotomy as perceived by early public administration theorists. In image II (facts/interests), officials are involved in policy-making tasks, but their role in that respect is quite restricted. They give a neutral expertise, based on facts and knowledge, while politicians are concerned with values and broader policy choices. Image III (energy/equilibrium) confirms that both politicians and civil servants are engaged in the policy process. However, “whereas politicians articulate broad, diffuse interests of unorganised individuals, bureaucrats mediate narrow, focused interests of organised clientele”. Politicians are thus perceived as “energisers” which direct policy change, while bureaucrats are seen as “stabilisers”, which guide and adjust policy to concrete situations. The fourth image (pure hybrid) suggests that the distinction between the roles of politicians and civil servants in policy-making process is gradually disappearing, claiming that both groups tend to converge. This especially refers to senior civil servants, who are endowed not only by technical ability but also with great political enthusiasm, often with the clear emphasis on the latter. At the same time, there has been an ongoing process of significant political influence over the appointments to higher Civil Service positions, which brings about a high rate of personnel circulation between political and administrative posts. Therefore, the line between the political and administrative leadership is slowly but surely blurred.

Peters (1988) develops Image IV further, differentiating between its three broad subdivisions – Image IV.1, Image IV.2a and Image IV.2b. The distinction between Image IV.1 and IV.2 is in the nature of engagement in politico-administrative relations. Image IV.1 assumes the defensive and obstructive behaviour of senior officials against politicians, therefore referred to as “reactive” behaviour, while Image IV.2 accommodates a more positive engagement in the respective relation, in Peters terminology – a “proactive” stance. A further distinction is drawn between “proactive” civil servants as policy professionals and party-political officials. Policy professionals posses valuable knowledge of governance processes, often specialising in at least one key policy sector. Party political officials, on the other hand, base their proactive orientation on partisan views, often identifying with the attitudes of a particular political party.

Peters' subdivision of the Image IV resembles Putnam's (1973) earlier differentiation between types of senior civil servants. Putnam distinguishes two main 'models' of senior civil servants, based on their attitudes towards politics – the "classical" and the "political" bureaucrat. The classical bureaucrat operates within his perception of public interest, believing that public issues can be resolved in terms of some "objective standard of justice, or of legality, or of technical practicality" (p.259). This is why he perceives his decisions as impartial and objective, defining any political interference as an infringement of the permanent interests of the state. The political bureaucrat, on the other hand, has a much more pluralistic conception of the public interest, recognising different political influences on policy–making as legitimate. Being aware of the political realities, he is ready to bargain, make concessions and compromises as well as to openly advocate and fight for his own preferred policies. Putnam therefore addresses the classical bureaucrat as "procedure" or "rule" oriented, while the political bureaucrat is "problem" or "program" oriented. The classical bureaucrat in great many ways resembles the classical ideal of an impartial civil servant. This, however, makes him much less responsive to the society, in contrast to the political bureaucrat, who shows greater responsiveness to public demands.

It should be noted that empirical reality has recently witnessed an increasing politicisation of Western Civil Service systems. This occurrence has been noticed by Peters and Wright (1996), who, associating it with "new managerialism", talk about "new patrimonialism", where politicians attempt to gain greater control over Civil Service appointments and attain greater civil servants loyalty. Aucoin (1990) also points out the "increased degree of politicisation of various kinds to control bureaucracy" (p.133). Similarly, Page and Wright (1999) argue that politicisation is a dominant tendency in most Western democracies. These findings undoubtedly imply that the role of Putnam's 'political' bureaucrat and Peter's 'party–political' official in the modern state is increasing. Also, it appears that the Aberbach, Rockman and Putnam Image IV is having a quite wide application in practice. Putting the same in a different way, the above mentioned theoretical conceptualisations seem to "accurately" reflect reality.

It is quite obvious that position and roles of senior civil servants attract great deal of contemporary academic attention. While aforementioned models tend to explain existing relations between senior civil servants *vis-à-vis* politicians, normative academic theory calls for a deeper involvement of senior servants' role in government processes. Proponents of this view argue that senior civil servants should attain more power in policy–making, together with greater scope of autonomy in relation to politicians. They believe that, unlike politicians, higher civil servants are able to promote broad general public interests and prevent politicians from any kind of abuse of power (Friedrich 1940, Farazmand 1997).

The other significant conceptualisation of interactions between politicians and civil servants in policy–making process is Peters' classification. Peters (1987) argues that there are five very basic and in a way extreme modes of politico–administrative

relations, approaching Giddens' "ideal type" constructions. In Peters' classification Civil Service systems are generally classified into five groups. In the first model the clear separation between politicians and the administration exists, in which civil servants are ready to unquestioningly follow the orders of the political appointees. The second model (called "Village life") assumes that civil servants and politicians are both part of a unified state elite and they should not be in conflict over power within the government structure itself. The third model (called "functional Village life") assumes some degree of integration in Civil Service and political careers. A politician and civil servant from one government department have more in common than a minister with his political cabinet colleagues heading different government portfolios. The fourth model (the "adverse model") assumes a significant separation between the two groups (politicians and bureaucrats) but also there is no clear resolution in their struggle for power. The fifth model assumes a clear separation between policy-makers and administration, but in which civil servants are the dominant force.

Peters analyses several dimensions of the above patterns of interactions, which capture other distinctions between the set modes. The first dimension, "tone" of interaction, describes the general tenor of the interactions between the main actors. Peters infers that only the adversarial model has a sharp and combative tone, while the other four models assume a smooth or integrated pattern of interaction. Being quite important not only for working relations, but also for the successful Management of organisation, the tone of interaction will have a great impact on the execution of policies. Therefore it is very likely that policy implementation in adversarial mode will be slow and constrained.

The second dimension provides the answer to the "who rules" question, trying to find the winner in the political processes. In the Formal-Legal model, politicians are the ones who are on top in the game, since they shape policies that civil servants implement. In the Administrative State model, the situation is quite the reverse. Here bureaucrats attain the role of policy-makers, which is just legitimised by politicians. In the Village and Functional Village life models politicians and bureaucrats coalesce against legislators and other groups, in order to gain a privileged status within the Government. The adversarial model, however, does not recognise any general winner in political process. Instead, the winner is determined by concrete set of conditions existing at the time.

The third dimension explores the style of conflict resolution between the two actors. While in Formal and Administrative State models conflict is resolved quite easily, through "Yes, minister" in the former and virtual abdication of policy-making powers of politicians in the latter, Village life and Functional Village models resolve the dispute through process of Bargaining. Bargaining might take place within the politico-administrative elite as a whole (Village life) or within particular Government subsections (Functional Village life).

Peters further discusses the factors which might predict the development of one pattern of politico–administrative relations vis-à-vis another in different political systems or even in the single government. He implies that in some cases politico–administrative modes of interaction depend on the specific issues being addressed at the time. For instance, if the issue in question affects the Civil Service as an institution, involving the questions of pay, unionisation etc., it may be expected that the adversarial or Administrative state model would develop. The other aspect that should be taken into account is the technicality of the issue. If the issue in question is of technical nature, it is likely that the bureaucracy would take the lead, leading to an evolving Administrative state model. Finally, patterns of politico–administrative interaction will depend on the degree of public concern over particular issues. The more the public is involved in carrying out certain policies, the better are chances for the development of Functional Village life model, where political executives would have a more or less marginal function. Therefore, Functional Village life might further evolve into an adversarial model, where bureaucrats and interest groups are allying against the politicians, especially when they are new in the office.

Finally, Peters focuses his attention on the particular features of political executives and civil servants, which might affect their interaction. The first is the number of political executives, which often alters with the change of governing party. If the number of political executives in the Government is high, it is very likely that they would tend to fully comply with Government policies. Otherwise they probably would not have gained their positions. The other factor, which might influence politico–administrative relations, is the existence of politicians’ independent advisory bodies, i.e. cabinets or personal secretaries. If such bodies are established, it is very likely that politicians and permanent civil servants would develop an adversarial relationship. Furthermore, the type of training political executives receive may influence politico–administrative relations. Here a distinction is made between the generalist British orientation and a more specialised continental system of education and training. Unlike political executives with specialised training, generalists are likely to have problems in contesting issues on substantive grounds and therefore are expected to develop Village life modes of interaction, which might evolve towards Administrative state model. Finally, the type of civil servants training might influence politico–administrative relations. Here the distinction is again between the British and the continental European pattern of training. The British “Oxbridge” pattern of generalist training makes politicians and civil servants more alike, as they both lack detailed policy knowledge. This would facilitate the development of a Village life model. The continental European pattern of training, having for a long time focused on the study of law, tends to facilitate the development of a Formal–legal mode of interaction. Having in mind that continental legal systems often explicitly underscore the role of the political leaders as policy–makers and civil servants as policy–implementers, only legal training might facilitate willingness of the civil servants to accept their narrowly shaped role.

Peters' configurations undoubtedly represent another well-established theoretical framework for understanding the relationship between politicians and bureaucrats. It perhaps suffices to say that the models and their various dimensional characteristics are rather theoretical and represent a stylised illustration of interactive behaviour. Administrative reality naturally embraces different patterns of interaction between politicians and the Civil Service, often combining the features of distinct models.

3. Review of elements that influence politico-administrative relations

Relations between politicians and civil servants in the policy process may be strongly influenced by various "external" factors, such as the legal framework, interest (pressure) groups, the political system, political parties, the degree of local autonomy (in local governments) etc.. In this chapter two main factors will be considered, which are the ones most widely explored in academic literature: the importance of the legal framework and the influence of interest groups.

3.1 The legal framework

The legal framework is perhaps the most important "external" element that may influence politico-administrative relationship. One key theoretical distinction between Civil Service systems is the difference parliamentary and presidential systems (Price, 1942; Linz, 1990). Usually it is assumed that the (supposed) integration between executive and legislative powers in a parliamentary system should lead to a more co-operative relationship between politics and administration. Civil servants should not be caught in the crossfire of partisan political combat, and professionalism and competence are strongly emphasised.

Legal theory in the continental European legal tradition creates a firm separation of "executive power" into an executive political power and an executive administrative power. Executive political power is in the hands of politicians who are ministers in the government of the day, while executive administrative power is in the hands of separate governmental portfolios – ministries. The government, in the exercise of executive political power, defines the current and strategic policy issues, while ministries in their executive administrative capacity apply laws and implement policy. This concept works fairly well in parliamentary systems, in which the government is derived from the parliament, having support from the majority of MPs. However, this is an attempt made by theoreticians to cope with a problem of inter-sections between the government and public administration. Theoretically and *de jure* it is very easy to define the points of separation between these two, while in real life the government-administration relationship is much more complex. In a presidential system the relationship between civil servants and politicians is even more complex.

In a parliamentary system the government is, in many ways, an executive body derived from the parliamentary majority. As a result government proposals are likely to be backed up by politicians in the parliament. In a presidential system, the Civil Service has to maintain relations with politicians sitting in both the cabinet and

legislature. This makes the overall situation more complicated. The president and cabinet members put pressure upon the public administration, while on the other side the legislative body has its own ideas about the administration. American scholars (Peters, for instance) point out that there is a relatively clear and sharp theoretical and practical distinction between political and administrative aspects of government established within the Anglo–Saxon (or rather Anglo–American) tradition. This distinction is assumed to exist for policy–making vs. administering adopted public policies, as well as for the type of staff involved in both processes. Some of the above empirical studies support this assertion (Aberbach, Putnam and Rockman, 1981; Hecl, 1977), along with classical theoretical studies concerned with the problem of what constitutes good government (Wilson, 1887; Appleby, 1949). Here the general assumption is that the individuals in government positions must be career neutral, regardless of whether they are civil servants or political appointees (Peters, 1994).

In the Anglo–American concept politicians and public servants confront each other in the struggle for power within the government. It is further believed that elected politicians are better than administrators in serving the public interests, since the dedication of “bureaucrats” to the public is generally in doubt (Niskanen, 1971; Bodiguel and Rouban, 1991). In contrast to continental legal theory, where the concept of the State has long prevailed over the concept of the public, the Anglo–American way of reasoning is more individualistic, even when it deals with common values. The public interest is derived from within the society for every particular case and is checked in regular general elections.

3.2 Interests (pressure) groups

Interest groups may have quite an influential role in policy–making process. This can have strong implications on the policy roles of politicians and bureaucrats.

Peters (1984) distinguishes two types of interaction between interest groups and bureaucracy: legitimate and illegitimate. Legitimate interactions, performed by legitimate groups, are those that are accepted by the government agencies. Legitimate groups (unions, Professional associations etc.) are government partners in the policy process, which provide information and assist with the implementation of certain policies. Illegitimate groups, on the other hand, are those which are not accepted as partners by the Government. Their involvement thus may have quite different implications for the policy process and politico–administrative relations.

First, the involvement of interests groups might lead to emergence of a so–called “iron triangle”. The “iron triangle” model assumes a high level of co–operation between politicians, senior bureaucrats and leaders of the pressure groups in the formulation of policies. While leaders of the pressure groups provide electoral support for politicians, politicians make sure bureaucratic agencies are sufficiently and adequately supplied. Agencies in turn provide services to pressure groups.

Second, politicians can use pressure groups in their “fight” against bureaucracy. Pressure groups may provide politicians information usually only available to civil servants. They can also work on provision of a general public support for certain policies or for the actions against bureaucracy. Politicians might further use pressure groups as a means of control over bureaucracy.

Finally, interests groups may in many situations be an important and useful ally to bureaucrats. This can be the case in particular when bureaucrats want to impose a certain policy or when they are trying to obtain additional funds and resources.

4. Conclusion

Following this review of literature on politico-administrative relations, we return to our first and perhaps most controversial question – who rules? Who is the boss in the policy-process – the experienced and “eternal” bureaucrat or the newly arrived politician? As we could see, the answer to this question is far more complicated than it might seem on the first sight. The roles of the politicians and civil servants are constantly changing, following the patterns of their broader social environment. Public administration theory has tried, with some success, to describe and explain these turbulent events, but has been less successful in establishing normative views on politico-administrative relations.

This literature review, therefore, brings us to conclusion that the field of politico-administrative relations is one of those where public administration theory has been more dependent upon practice than *vice versa*. Theoretical conceptualisations on politico-administrative relations thus seem to arise to explain and justify what is already true in practice.

The further criticism on public administration theory in the area of politico-administrative relations lies in the often found lack of clearly established causal links, which some authors, although referring to theoretical conceptualisations, call “the lack of theory” (Page, 1992).

Having these criticisms in mind, we need to come up with “adequate” agenda for future research on politico-administrative relations. In our opinion, this agenda should embrace the three following elements.

First, if we agree that the aim of public administration, as an academic discipline, is not only to know the world, but also to change it (Nelson, 1996), the task for administrative theory is to find the appropriate normative model of politico-administrative relations. In this way, the concept of politics-administration dichotomy would finally get a real alternative.

Second, there is certainly a strong need for further research on causal links in politico-administration relations. This especially refers to explanation of causes of shifts in developed configuration models.

Finally, public administration theory, in our opinion, should further explore the cultural factors that influence establishment of different politico–administrative patterns in various legal and cultural settings.

If public administration theory provide us the answers to these questions, we still may not get the answer to the *who* rules question. But, we will certainly have the better understanding of – *what* and *why*?

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Chapter 3: Politics and Bureaucracy in the Modern Administrative State: Comparing Western and Eastern Europe

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1. Introduction

The relationship between politics and administration can crucially affect, for better or worse, any modern European state's capacity for good government. However, neither the laws ordained by legislators nor those revealed by scientists seem able to free that relationship from muddle and confusion. The problematic may be inherent in the condition of modernity itself, rooted in the legislative compulsion typical of all modern or modernising societies. Some recent political and social theorists have linked that compulsion to a corresponding intellectual dependence on systematic interpretation of social change, which belongs to the same secular project of progressivist reformism (Bauman 1987, 1992; Lyotard 1984; Scott 1998; Wallerstein 1991).

The relationship between politics and administration is exceptionally problematic in the states in transition from communism, not only because the conditions of 'post-communism' are themselves certainly extraordinary, but also because of an excessive and misguided effort to justify Assimilation to the western model, in which that relationship plays such an important part. The Assimilation may of course be unavoidable and may eventually bring genuine material benefits. It is the attempt to glorify the process as an adaptation to something essentially new, and as such liberating and even uniquely improving, that risks engendering both false expectations, on the one hand, and unfounded complacency, on the other.

The demise of Marxist–Leninism as an active political ideology, and the apparent alienation of traditional media of social integration, such as religion, suggest that the positivist social science constructed in the west has definitively triumphed over geography and history. As a result, it may be claimed, liberal democratic capitalism is now the unique world system (Fukuyama 1992). In fact, the victory of liberalism, in opposition to Marxist–Leninism, signals only the success of one version of modernity relative to another (Beck 1998; Villa 1992). It is largely on the strength of their claims to empirical validation that the exponents of orthodox political and administrative science have become responsible for providing the very definition of the western (in effect, Euro–American) model, the *technique* for its proper application and even its ultimate legitimisation (Bauman 1992, Beck 1998, Leotard 1979, Ricci 1984). All these products of social science are now as much envied and coveted where they are lacking as western motor cars, fast food, and popular music.

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However, the model is ‘western’ only by geographical and historical accident. The laws invoked to justify it belong theoretically to an autonomous social science applicable anywhere at any time (though geographical and historical contingencies must be taken carefully into account when formulating and applying those laws). Both liberal and Marxist versions of applied science suffer from the same inherent defect: not that their respective practitioners are, despite themselves, excessively subjective, but rather that they try too hard and for the wrong reasons to be objective.

In summary, then, my argument will be that the difficulty of defining an autonomous realm of public administration in both eastern and western Europe reflects a wider crisis of legitimacy, associated with the – now almost universal – condition of late modernity itself. No modern European state can adequately overcome this crisis, least of all those in transition from Communism, without greater external economic and political assistance than is currently available. After first interpreting the conventions governing the separation of administration from politics in a broad historical perspective, I shall try to demonstrate the ambiguity and in some respects deception to which the orthodox ‘western’ view is liable, and then identify some of the major problems likely to be faced by eastern post-communist states when trying to provide for a satisfactory relationship between administration and politics, concluding with an assessment of those states’ needs and of the possible contribution of European Union.

2. The primacy of public administration in the European state tradition

The Civil Service, *fonction publique*, or *Staatsbeamtenariat* is fundamental to the modern state, as it emerged historically in Europe. The idea that the highest-ranking civilian employees of the various departments state should be endowed with special status, privileges and responsibilities endowed public administration or Management (whether central or local) as an activity with the quality of a profession that set it apart from the managerial responsibilities of entrepreneurship and proprietorship in private practice, and set it on a par with membership of the legal profession or even the judiciary. Indeed, on the mainland of Europe public administration had its own system of law. This idea of the superiority of public officialdom is probably as old as the incontestable assumption that human life is better within a stable and well-ordered political community than without it.

Nevertheless, the idea of political community developed relatively late in European experience. It had to be re-constructed in the fifteenth and sixteenth centuries from records of its presence in classical form in ancient Greece and Rome. This ‘Machiavellian moment’ (Pocock 1975), which effectively gave birth to the idea of the modern state, simultaneously introduced two principles of government that were eventually to become so commonplace as to be hardly worth mentioning, but which were at that time extremely radical.

The first of these principles is that those with power to rule over others should use that power for the benefit of the community as a whole and not only to satisfy their own pleasures or advance their own personal interests. The second is that the same power can, and should, be used to combat the systematic unpredictability and unreliability of human affairs, in other words to provide a material order enabling as many citizens as possible to pursue the good life in their current lifetime. From these foundations is derived the modern conception that a political community is capable of having a collective interest and will of its own, durable over time as well as effective over space, and in these respects superior to the sum of the individual interests and wills of those who belong to it. In effect, this new order in which state and society were theoretically re-united, fortune being propitiated by virtue, was intended to repair the schism between temporal and spiritual.

However, the new order contained the seeds of a new schism. It became necessary to differentiate administration from politics, in order to bind rulers, who were previously legitimated for the most part by religious authority, to conduct themselves and their offices in a manner likely to serve the public interest. This new republicanism required the use of public power to become restricted by constitutional laws and conventions, of varying degrees of formality, designed to protect the public interest from undue or harmful interference by private or sectional interests, including those of the ruler and his or her entourage.

Initially (by the seventeenth century) the main concern was to protect the public administration against the personal ambitions and misdemeanours of princes, then (by the eighteenth century) against the politics of the court, and later (by the nineteenth century) against electoral and parliamentary politics. In each case the underlying motive was to safeguard the continuity of the state over time and the reliability of its command of territorial space, both of which were of course necessary for the growth of capitalism (the permanence of the state to guarantee future income from investment, and the state's territorial presence to enable the earning of rent from land ownership or other kinds of proprietorial interest).

Of course, the ideal modern prince (like Frederick the Great of Prussia and Napoleon Bonaparte) provided the necessary guarantees himself (and the office by that time had become an almost exclusive male preserve) by personifying the public good and assuming personal responsibility for the efficiency and loyalty of the civilian and military personnel under his command.

In Great Britain especially the ideal modern parliament had the same beneficent effect. The belief that good government requires the executive power to be clearly identifiable and operational helps to explain the influence of the doctrine of the separation of powers on the makers and upholders of constitutions, whether in monarchies or republics. The corresponding concern to provide safeguards against the abuse or misuse of legislative power runs throughout the steady growth of constitutionalism from the seventeenth century to the twentieth. Both Locke and Montesquieu were at

pains to emphasise the special role of the executive (called by Locke the 'federative' power, with reference primarily to the state's external relations), and doubtless had foremost in mind as their model the British constitutional monarchy, which still today serves as the primary object of loyalty and discipline for the civil and military services of the United Kingdom.

Although constitutional and political reformers on the mainland of Europe had, therefore, been attracted by the British model as early as the eighteenth century, what they copied was an idealised version. Only with the help of a highly centralised and exclusive system of political parties, capable of sharing power serially or simultaneously, has it been possible to ensure that the model provides government free of ideological divisions and consequently more stable. Since the second world war, however, the British model has again been very influential on the mainland, as the makers of new constitutions sought to strengthen direct links between the executive (especially the chief executive in person – the French president of the republic and the German chancellor), on the one hand, and the citizens *en masse* as general electorate, on the other. The express aim of this 'personalisation of power' has been to restrict opportunities for parliamentary obstruction and indiscipline, and to encourage the consolidation of parliamentary factions into large-scale national parties capable of sharing power as alternates or partners in government (Held 1987).

However, the need to provide for such a neutral, stabilising element has been a major consideration in all successful constitutional regimes, along with provision for an independent judiciary. Failure to provide adequately for either executive or judicial independence is a common cause of deficiency in such regimes, and of their ultimate demise following recurrent political crisis, as in successive French republics before 1958, the German Weimar republic, and post-war republican Italy. This customary nervousness about political activity as a possible threat to the republic or commonwealth, especially when manifested in the machinations of political factions or parties, marks a decisive shift from classical to modern conceptions of politics.

The need consequently to maintain an intellectual as well as a practical distinction between policy and administration thus became an established orthodoxy down to the present day. Its origins, however, lie deep in the foundations of political science as a discipline, especially in the USA (where German ideas of the state were very influential at this time, see Ricci 1984). The distinction provided grounds for assuming that a scientific approach would be enable experts to ordain rules of conduct that in application could be of practical use in maximising efficiency. Hence the famous statement of the distinction by Woodrow Wilson, both founding father of American political science and later distinguished practitioner (Wilson 1887). Ultimately of course the same assumptions about the practical applicability of scientific reasoning in the social sciences gave rise to a whole movement of administrative and Management sciences intended mainly for use in private business Management. The separation of politics and administration stemmed in scientific circles from an attempt to grapple with an underlying contradiction between the scientific approach to government,

which understood legitimacy in terms of the empirical and rationalistic pursuit of truth, and democratic politics, which regards the right action as whatever the will of the majority dictates. The reasons why it was thought necessary to try to resolve this contradiction go to the heart of both the predicament of political science and modernity itself (Lyotard 1984; Ricci 1984).

3. The modern dilemma of policy and administration

In modern usage 'politics' is ambiguous, both retaining the classical reference to public affairs as a type of concern morally superior to private business or personal interest, as in the Aristotelian *polis*, or on the contrary describing the self-interested, manipulative, often devious behaviour of those who seek to use public power for particular ends (though not necessarily only for personal advantage) in the sense associated with Machiavelli.

In English usage the second of these meanings, already at the time of Shakespeare, was more often denoted by the term 'policy' (Parsons 1994 pp. 7ff). Except in the '*policey*' (later *Polizei* translated into English as 'police') of the Cameralist school of public management, which flourished in Germany and other parts of north-eastern Europe before the nineteenth century, that term has had no equivalent on the mainland of Europe (Hood 1998, pp.82–7). The French, *politique*, and German, *Politik*, refer both to the struggle for power mainly for selfish motives *and* to the altruistic protection and cultivation of the welfare of a people brought together as a political community. Nevertheless, *science politique* and *Politikwissenschaft*, at least until American influence became so irresistible after the second world war, referred to the formal, systematic study of the latter (and with a strong component of law as well as some economics) rather than the former (though in French the distinction can be made by using the same noun with different gender). And this is certainly what the Cameralists intended and practised by 'policy science'.

As the appropriation of political science by Anglo-Saxon behaviouralism and positivism progressed, the English word 'policy' staged a comeback, appearing as an import in French and German writing with a meaning close to the Cameralist one, but not so close as to be synonymous. The contemporary usage of the English 'policy' proceeds from a more developed phase of modernity in which the use of public power (*Herrschaft*) can be adequately legitimated only in terms of some rational conception of ends and derivation of means from those ends. This is now the ordinary meaning of 'policy' in the everyday practice of government (*Regierung*), not only throughout Europe but also anywhere the drive to modernisation has taken sufficient hold on the ruling elite.

Indeed, every modern government – whatever its political alignment – now goes out of its way to have a pre-meditated, circumstantial and prospective programme, presented to the mass electorate for validation as serving the general interest. Policy in this sense may include general aims and methods of government or it may deal

with specialised functions (for example: agriculture; education; public health; industry, technology and trade; regional development; social services). However, all public administration ideally works in accordance with some overarching public policy, regarded as 'a rational basis for action or inaction' (Parsons 1994 p.14), and used as a standard reference for accountability. This same political programme, once endorsed by the electoral success of the parties subscribing to it, provides the administration with both a source of legitimisation and a paradigm for efficiency.

Whether or not the policy thus established does genuinely represent the general will, above sectional interest, as well as above also merely 'political' opinion and motive, depends no less on the endorsement of those qualified to assess the programme's authenticity in terms of what is factual and what is feasible. It is vitally important for those wanting to exercise power in a modern state to demonstrate a sufficient capacity to command the support and assistance of those with recognised qualities, both of specialised knowledge and skills (in modern parlance 'expertise'), and neutrality with respect to the politics of faction and patronage (Heady 1991; Wright 1994).

On the one hand, therefore, too much political interference in the Civil Service has to be avoided lest it undermine the latter's qualification to be both expert and impartial in formulating and executing policy. On the other hand, public administration (with which the Civil Service is directly charged) has to be strictly subordinate to the overall directions and principles enunciated as policy. To understand how this dilemma arose it is necessary to retrace the historical development of modernity and take into account formative ideas characteristic of that development in Europe, which were nevertheless so co-dependent with the growth of the modern capitalist economy that they have with the spread of that system to other continents become pervasive wherever it is used as a model.

4. The formation of the modern administrative state

The first of these formative ideas is nationalism, which in the American and French revolutions of the eighteenth century began the career that would culminate in its becoming regarded in the twentieth century as the primary ideological foundation for binding state to society. The principle of national sovereignty, in providing the grounds for that bond, had both integrative and disintegrative consequences. On the one hand it was an extremely powerful, naturalistic basis for uniting geographically dispersed, and often politically divided and oppressed, communities into centralised, consolidated nation-states, for the sake of both cultural and economic rationalisation and development. On the other hand, as part of that same process it tended to break up existing dominions and empires, thus marginalising minorities, especially when these had strong cultural bonds of their own, or rather turning traditional communities into minorities problematically in order to rationalise the craving for social homogeneity induced by modernisation (Bauman 1990; Beck 1998; Keane 1998). In either case, nationalism greatly simplified the relationship between politics and

administration, by supplying national interest as the overriding and all-encompassing purpose of policy.

Especially by the twentieth century nationalism could determine limits to politics, as contested interest and opinion, if not eliminate them altogether as an unwelcome threat to national solidarity and progress. The role of the Civil Service was thus enormously strengthened, as both assisting 'de-politicisation', and representing the national identity. Indeed, groups not sharing the distinctive characteristics of national identity were now commonly excluded from the public service, for example, by making knowledge of a national language compulsory for entry, though the language concerned was in some cases only a modernised adaptation of a vernacular, dialect or domestic *patois*.

The second significant idea of modernity is that of *bureaucracy*. This expression in any language now commonly has a pejorative meaning: to refer to undue and excessive use of public power by anonymous officials of the state, or by analogy by officials of any large-scale organisation. It was originally coined to describe a general characteristic of modernity discovered by social scientists, which is the immense potential of relationships of power justified by reason and enacted by means of authority delegated hierarchically (Bendix 1966). Also from a sociological perspective, it appeared that both the chief value to society of power exercised in this way, and the expected 'pay-off' to the agents, was its efficiency, particularly in the economic sense (of maximum benefit for a minimum cost). Although thus identified as a by-product of the emphasis on technology and production typical of industrial society, bureaucracy also describes an entirely new relationship between state and society now legitimated by 'rational-legal' authority.

The modernising effect of bureaucracy is significant for the relationship between politics and administration in two main respects. First, it tends where it occurs to eliminate patronage, and the use of public power for personal advantage. Consequently, bureaucratic administration should in theory lessen the effects of both incompetence and self-interest as causes of administrative failure or corruption. The reliability and accountability of the administrative state are proportionately increased. If in this way bureaucracy might be seen as preventing unwanted political interference, secondly, it may actually greatly increase the power of the Civil Service, enabling it to use power with more self-reliance and self-justification. To the extent that civil servants as bureaucrats can successfully claim authority derived directly from the law, even legislation adopted according to a due process, they can acquire a stronger and more durable hold on power than politicians themselves.

The consolidation of nation-states in Europe, and the growth of bureaucracy, made possible a third modern development that has also altered the terms of the relationship between politics and administration, *representative democracy*. Although before the second half of the twentieth century it prevailed in only a minor part of Europe and with significant interruption in other parts, this principle of govern-

ment became the norm in western Europe after the second world war. It further complicated the relationship between politics and administration. On the one hand, democracy facilitated and encouraged the growth of professionalism in politics, as the function of elected public representative itself tended to become full-time, salaried, and pensionable, and even to become part of a recognised career system (with a certain security of tenure, in so far as those who lose an electoral mandate are accommodated with alternative employment with the help of their parties until such time as they can be re-elected). In fact, elected politicians have increasingly resembled career civil servants sociologically, not only in social background but also conditions of employment and style of living (Barber 1984; Heady 1991; Page 1999; Page and Wright 1999).

On the other hand, the growth of democracy encourages mistrust of the power available to the modern administrative state. Even with growing professionalism, elected politicians are not always sufficiently skilled or informed to make viable policy let alone implement it or to ensure that the Civil Service conforms to policy. Moreover, sensitivity to public opinion becomes so acute, and desire to retain power so intense, that civil servants tend to be influenced by pragmatic, short-term considerations of political survival as much as do their political masters. They may even become more adept at the kind of manipulative techniques this kind of power encourages. The ultimate result of representative democracy, in combination with national integration and bureaucracy, is thus to shift the classical view of the politics/administration dichotomy in a new, and even contrary, direction.

5. The resurgence of politics and public administration reform

The second world war marked an end to the classical understanding of public administration as a neutral activity protected from political influence. During the post-war years west European governments set out to re-examine basic assumptions about the role of the public service, taking account of political, social and historical factors. The overriding concern was to provide better safeguards for elected politicians against possible undermining of their representative functions by the Civil Service, or, conversely, to ensure that bureaucratic power could be adequately controlled by those entrusted with a popular mandate to govern. (For a general review, see Page, 1995, Bekke et. al. 1996). Reform of the Civil Service came immediately after the cessation of hostilities in France before spreading later to all the major states in western Europe, including West-Germany in the 1950s, and eventually by the 1960s Britain and eventually Italy. Reform was sometimes politically inspired and directed, consistently with a political programme of broader constitutional and social reform. Although there were significant variations from between different countries

2 The chief remedy employed in France, which was intended to break the privileges of the *grands corps* was the establishment of the *Ecole Nationale d'Administration* to provide compulsory training for all aspiring to higher posts, whatever their social background, and also the systematic provision of open, competitive examination for all parts of the Civil Service.

and nowhere did the Civil Service give up its special status, including the right to self-Management, there were generally three main motives for reform of public administration, whether this proved successful or not.²

The first was to ensure adequate political control of the public administration, by various methods of strengthening ministers who had been appointed with parliamentary support. In France this took the form mainly of developing the system of *cabinets ministériels*, in Germany of recognising the right of ministers to appoint 'political' secretaries of state, and in the UK of enabling ministers to draw on a wider range of advice outside the career Civil Service (Page and Wright 1999; Bekke et. al.1996.).

A second, closely related purpose was to make the public administration more representative socially, especially the personnel of the higher Civil Service, who had so much influence on policy. Especially in France and Britain the concern was that the higher Civil Service had become excessively elitist in terms of both political influence and social composition. The latter was unacceptable on account of the former, but also because post-war governments tended to be generally committed to strengthening democracy and social equality. In Germany, The Netherlands and some other states the main concern was less social status than educational bias in favour of law. Deliberate efforts have been made in those countries (though surprisingly late in the Netherlands and hardly at all yet in Italy, despite many complaints among reformers) to break the seeming monopoly of those with formal state-recognised legal qualifications. Since one complaint against the Juristenmonopol and its equivalent bias elsewhere is that it tends to confine entry to graduates of particular elite universities, the reasons for this reform also have much to do with social class (Page and Wright 1999).

Thirdly, the public service in large parts of mainland Europe was considered corrupted and tainted by its association with Nazi and Fascist dictatorships. Purging the public service of known sympathisers or collaborators was one method of satisfying this motive for reform, but there was also a general feeling that something more lasting and radical should be done to restore public confidence. The fact is that large numbers of those employed in the service of the state had condoned, when they had not actively assisted, criminal acts on the part of public authorities, demonstrating the negative side of the very stability and efficiency for which bureaucracy had been celebrated. There was also a growing realisation that the principles of bureaucracy had actually helped the perpetrators of acts against humanity in their effort to excuse what they had done in the name of modernisation and progress (Bauman 1990; Beck 1998).

These various attempts at reform, spread over a number of decades, had only very limited successful in meeting their objectives. The structural causes that gave such exceptional power to higher civil servants could not be so easily disabled. What did change perceptibly in most places, however, was the willingness of civil servants to admit their political functions and recognise the impossibility in practice of sepa-

rating politics and administration completely. Officials' own political affiliation had always played some part in their careers in most countries, though not usually or necessarily a major part, and not such as to give the higher civil servant a permanent bias (Page and Wright 1999).³ The restricted social background of higher officials was a more fundamental cause of mistrust and of disbelief in claims that a professional bureaucracy could be genuinely neutral, or disinterested. In particular, those on the political left were inclined to suspect career civil servants of sharing the same basic social prejudice as bourgeois politicians, which made it unlikely they would admit the necessity of class conflict as a way to genuine improvement in the social condition of the people. In post-war western Europe, therefore, unless there was already a very comprehensive, notably purposive and well-determined plan of social progress, in which the use of public power was instrumental and pre-ordained, political influence in public administration was a necessary means to achieving overdue social reforms, including economic policies to encourage increased investment and full employment.

Thus the theory of bureaucracy as a potentially all-pervasive mode of sustaining political order on the basis of rational and legal authority has now become generally unrealistic and inapplicable to west European experience (Hood 1998; Parsons 1994). It is significant in this regard that when a subsequent wave of reforming activity came to the surface in the 1980s, its emphasis was on finding alternatives to state bureaucracy, the functions of which were now suggestively re-named 'public management'. This new reform movement, which was and remains predominantly Anglo-Saxon, was inspired and guided by ideological motives, but of the political right (Keraudren and Van Mierlo 1998; Parsons 1996; Self 1993). Nevertheless, as a search for alternatives to the welfare state this neo-liberal reform did respond to a genuine change in economic and social conditions, which had made the costs of public provision less acceptable to larger numbers of people. Despite its own contradictions and shortcomings, 'New Public Management' drew attention to anomalies and inconsistencies in the doctrines that had once justified the modern administrative state. After its models of control and accountability that had become established under previous reforming movements could no longer be accepted uncritically. Henceforth the concept of bureaucracy has a mainly pejorative, if not purely hypothetical, meaning, while the primacy of politics over administration in determining the main principles and objectives governing the use of public power is irresistible (Acherbach et.al. 1981; Peters 1996; Wright 1994).

3 The influence of political allegiance on careers probably balances out in most places, if only over time. The exclusion of individuals on political grounds has been most questionable in Germany (where it was highly controversial on the late sixties) and Britain, where hypocritically political allegiance is by custom denied, though all know it must exist as must exclusion or disfavour on grounds of extremely unconventional connections (or behaviour). The case of republican Italy demonstrates the futility of trying to stop perverse political influence by legal/bureaucratic means, which result only in immobilising public administration and intensifying reactionary tendencies towards corruption and 'colonisation' by sectional and private interests. In such a case only political intervention has any hope of bringing reform. (See Cassese in Page and Wright 1999 pp. 55-64).

6. The politics of public administration reform after communism

Under Communism, the central and east European states now in transition were governed according to a theoretically very strict separation of administration from politics, but one that saw the second of these categories as empty. Once the Communist Party had assumed absolute power, politics should have become redundant. The only guarantee needed to ensure that public administration did, indeed, serve the public interest should have been sufficient control by the Communist Party. The party did, indeed, set up its own apparatus for this purpose, which was itself subject to rigid hierarchical direction and supervision. Consequently, the Civil Service had no responsibility to make policy, which was just whatever the central organs of the party declared it to be. This is not to say civil servants lacked power actually to determine what was, or was not, done in the name of public authority. They must have been decisive at times, especially when the party had not itself given clear or relevant direction. However, control by the party was so pervasive, especially in appointments to key posts, that the public administration was in one sense, and paradoxically, completely politicised.

The true relationship between politics and administration in the former communist regimes, therefore, did not after all bring liberation from a hierarchical state bureaucracy run in the interests of a privileged class. On the contrary, the new regimes took advantage wherever possible of traditions of highly centralised public administration, both in countries where autocracy had formerly prevailed and also in those where liberal democracy had already developed (and invariably failed) on the model of the *Rechtstaat*. In fact, the classical system of bureaucracy became politicised on both sides of the ideological divide in Europe, and on both sides the instrument of politicisation was the centrally-organised mass party. Also on both sides it was difficult to distinguish with any certainty between policy as a genuine commitment to improve the conditions of the people and policy as a strategy for the acquisition and retention of personal power. These may have coincided more in the west than in the east, but even that is disputable. What is not disputable is that ordinary people living in the west enjoyed more political freedom, personal liberty and eventually material benefit also.

Nevertheless, seen as aspects of the same process of modernisation, the main difference between western liberalism and eastern communism was one of degree. In the west, as we have seen, there was far more awareness of the shortcomings of the modern administrative state along with real opportunity to reform it, as well as willingness to do so even on the part of those with political responsibility. However, those who had directly experienced communist rule as its subjects came to despair of the state bureaucracy altogether, associating it with corruption, incompetence and tyranny. Indeed, the attitude to bureaucracy prevailing after 1989 in central and eastern Europe is comparable to the similar reaction to totalitarianism in western Europe after 1945. In neither case was a mere change of political organisation, even with the appointment of new personalities through democratic procedures, sufficient

either to deal with the enormous economic and social difficulties of transition or to purify the public administration from its past misdemeanour (even if this was limited to acquiescence). In the east now, as in the west then, public administration reform cannot be left to civil servants themselves and definitely requires political intervention. The key question is whether political intervention of an appropriate kind is likely to be available.

The biggest problem for those who have acquired responsibility for government in any of the Post-Communist countries is to re-establish the legitimacy of public authority, and of the Civil Service in particular. Of course, this problem has varied in kind and degree according to local circumstances, and how the transfer of power took place, particularly the extent to which it entailed a complete change of personnel at the top. We also have to take into account differences between states that were formerly constituents of the USSR and others whose sovereignty always remained nominally intact (most of which are now candidates to accede to EU). Things have clearly been better where the new political class has itself demonstrated a lot of self-confidence and cohesion in the viability and legitimacy of the state (including the ability to tolerate opposition and accept alternation in office), where this trust is shared by the people and by a sufficient number of permanent officials, and where it includes a broadly-based consensus on economic and social reform. Change is more important than continuity, but is everywhere more difficult for professional bureaucrats to accept. Certain kinds of change can greatly complicate the process of reform, as where transition has provoked the formation of new sovereign states altogether, as it has done very widely of course throughout central and eastern Europe. Political intervention in the affairs in public administration will always be de-stabilising to some extent, more in some places than others, and it will also always be ambivalently poised between mere patronage and genuine reform, usually combining both in varying degrees. The sudden introduction of representative democracy exacerbates all these causes of instability. But instability is still better than paralysis for political communities with this kind of history faced with the need to survive in the contemporary world.

Political responses to the general loss of stability and reliability seem to belong to three main types, crudely differentiated for heuristic purposes only as follows.⁴ While all have been present to some extent in most countries, none has so far become wholly predominant, except the first in former Yugoslavia and in large parts of the former USSR.

4 The following categorization matches to a large extent that used by Claus Offe to explain factors that contribute to consolidation of newly democratic regimes, viz.: identity-based politics; ideological cleavage, especially between supporters and opponents of the old regime; and a cleavage over distributional issues, mainly on lines of class conflict typical of advanced industrial societies. As in Offe's presentation my own suggests that the third is more advantageous for democracy and reform than the first two, but especially than the first. (Elster, Offe and Preuss 1999).

- Authoritarian nationalism Political forces surrounding one or more key individuals, usually strategically placed as 'loyal dissidents' within the party apparatus under the former regime, seek to mobilise an overall electoral majority, co-opt powerful private economic interests (sometimes by the misappropriation of public assets and funds), maintain the old state apparatus (including the security services) for purposes of patronage and also political mobilisation, keep open the possibility of external support from sources other than EU and USA, and do all this more or less in the name of a new *politics of* national identity.
- Centrifugal individualism Out of ideological reaction to the former regime, and led mainly by its former opponents, liberals with strong support from western governments and from domestic and international non-governmental organisations, seek to devolve power from the central state, on the one hand, to self-governing local authorities and, on the other hand, to private owners operating in a free market. Although it seems to have lost its original missionary fervour of the post-1989 period, this tendency may nevertheless be in the throes of a revival, especially in central Europe and where conservative, liberal and social democratic parties find it possible to share power (serially or simultaneously).
- Assimilation A third alternative, much more compatible with the second than the first, is *integration* or Assimilation into western economic, legal and administrative structures; this seems to be the course on which most Post-Communist states outside the former USSR are now embarked; no-one knows how irreversibly or with what prospect of success.

Each of these hypothetical alternatives has its own consequences for the relations between politics and administration.

The neo-nationalist politics, which often takes an autocratic form and replaces the communist apparatus as a source of hierarchical authority for the state bureaucracy, inevitably leads to a continuation of bureaucratic subordination to the rule of a dominant party, if not individual or clique. Corruption and abuse are likely to be more transparent, though possibly even more difficult to eliminate, where those in power have strong electoral support. The Civil Service will thus continue to function in a generally passive, mechanical fashion, reacting to a lack of political initiative with inertia or inflexible application of rules (subject to bribery and personal influence). Appointments at all levels of the public service, both centrally and locally, are likely to depend on political influence and patronage, and political allegiance to the party hierarchy to count for more than qualifications and competence. In fact, public administration will depend very much on the establishment and maintenance of rules designed mainly to guarantee security of tenure for the Civil Service and even their political masters, while allowing both to evade responsibility, and demand some kind of special direct payment from citizens for discretionary decisions in their favour.

Two qualities, which political scientists consider essential for the 'consolidation' of democracy, will thus tend to be lacking: willingness of civil servants to take responsibility for the interpretation and adaptation of rules; and institutional pluralism,

allowing a range of separate agencies and groups to influence the use of public power. In other words, although the administration might appear largely independent of politics, in fact its subordination to political responsibility is almost complete. The formal efficiency of the administrative state will have been purchased at the price of inflexibility, passivity, and a tendency to alienate citizens from public authority (Elster et. al. 1998).

The centrifugal tendency, in contrast, reflects the general enthusiasm for alternatives to the state that was so highly popular and effective in the events of 1989 and during the early period of post-communism. A priority for virtually all the new regimes outside the USSR, was the establishment of self-governing (that is, directly-elected with constitutional guarantees of autonomy) municipal, and sometimes also regional or district, authorities. These were usually intended to assume powers formerly exercised directly by the state ministries through their own territorial offices. Replacing local government answerable hierarchically to the central state authorities with that answerable directly to citizens living within the locality concerned is still viewed by political groups across a wide spectrum as a principal step towards solving the problem of bureaucracy and transforming the state into a pluralist democracy, where it is only one among different sources of public power. The territorial decentralisation of power is often combined, in the same spirit, with a more general diffusion, or dissolution of power, encouraging 'privatisation', sometimes even to the lengths encouraged by the 'new public management' practised in the UK, Australia, New Zealand and some west European countries (Verheijen and Coombes 1999).

Whether the emphasis is on developing viable forms of territorially-based community self-government or simply getting rid of state functions, the centrifugal approach generally derives justification from the concept of 'civil society', especially as this was understood among organised dissidents to the old regime. It is thus an approach that is generally very popular among non-governmental organisations, and also echoes significant reforming voices in the west in its search, in effect, for a more genuine and workable form of democracy, designed to engage people in their own government far more effectively even than the liberal democratic state, many of the defects of which it is intended to remedy (see, for example, Barber 1984; Held 1987; Keane 1998). However, the centrifugal approach contains crucial inconsistencies and is difficult to apply in any pure form in contemporary conditions.

The concept of civil society is itself, of course vague and invariably used out of context to mean different things to different people.⁵ Civil society is not only itself

5 It is nowadays often overlooked (even by august institutions like the UNDP) that civil society, when introduced by Hegel in particular to describe a condition of advanced civilisation and a necessary accompaniment to a viable modern state, includes the system of economic activity made possible by industrial capitalism, for which it also provides the basic rules of normal operation (so that the market is not a mechanism capable of operating on its own alongside, and independently of state and civil society).

dependent on the development of a viable state but something that has to be striven for, and deliberately cultivated, including the use of public power for economic and social purposes, and associated practices of government legitimated by custom and consent (Keane 1999). In fact, the ambiguity of 'civil society' is reflected in the 'anti-statist' approach to reform of public administration, which often finds itself having to reconcile, on the one hand, a kind of 'communitarianism' that wishes to develop alternatives to bureaucracy chiefly as a means of promoting greater – not lesser – collectivism and, on the other hand, an 'individualist' faith in competitive market mechanisms and mistrust of public power.⁶

The third possible course, that of accession to western federal institutions, can produce outcomes valued by both the other more extreme approaches. On the one hand, membership of a European federal structure might be the only safe and ultimately also practicable way of enabling diverse national identities to flourish, and by means of a degree of political autonomy in internal affairs as well as greater cultural and economic independence. On the other hand, it could also in theory provide the security, including guarantees of human rights and civic freedoms, as well as economic and monetary stability, that currently the states of central and eastern Europe find it so difficult to provide on their own without the maintenance of state structures that are in effect obsolete. In other words, European integration could provide the conditions in which both civil and economic freedom might take root, and over-dependency on state bureaucracy be finally but safely relinquished. In a system where the use of public power was widely diffused, and shared between different levels, undue political intervention would not be eliminated, but would involve much lower stakes, while the greater closeness of much administration to the citizen would make the relationship between politics and administration far less problematic.⁷

There are, however, some major impediments to realising any such solution in practice, at least by means of European federation. One of the strongest obstacles would of course be reluctance to forego hard-won independence so soon after what most of the peoples of central and eastern Europe seem to regard as a liberation from the hegemony of the USSR. It remains to be seen whether the momentum for nationalism has already advanced too far to prevent such a federal solution. However, even if such a solution were widely acceptable in central and eastern Europe, there are limited prospects of the European Union transforming itself into a genuine federation before the next enlargement of membership (though such a step has been

6 The first, communitarian aspect might be considered equivalent to the 'egalitarian' tendency belonging to Hood's categorisation of administrative styles according to cultural or rhetorical criteria. The second, individualist aspect thus corresponds to Hood's 'individualist' style. And the approach characterised here as nationalist corresponds to Hood's hierarchical style. (Hood 1999). My own conclusions (see below) have more than a touch of Hood's 'fatalism' about them.

7 It is true that Benjamin Barber and others reject the federal solution, along with any other form of representation, in favour of a highly purist form of citizen self-government. (Barber 1984). It is difficult to see how this ideal could be realised in contemporary conditions, without some kind of at least transitional arrangement in which states continue to exercise some of their existing functions.

proposed by the German foreign minister, see *La Libération* 7 July 2000). Even if such a transformation were achieved, it would still require the new member states to have developed sufficient capacity of governance and public management to be capable of assuming their rights and obligations as members. These include: domestic implementation of EU law, representation of national interests in the Union's institutions, and providing public services in conformity with overall EU policy but still without excessive reliance on administrative or budgetary support. Finally, of course, the option of belonging to a strengthened European Union is not realistically available to most former states of the USSR (though the alternative option of forming some kind of federal system among themselves does remain theoretically open).

7. Conclusion

It would not be surprising if the public administration in conditions of Post-Communism lacked the self-determination and autonomy, and the necessary *esprit de corps*, to fill the gap left by the party monopoly and become a political institution in its own right, capable also of initiating and managing its own reform, thus ultimately matching the sense of mission 'configured' by Ferrel Heady as a one of 'constitutional responsiveness' or 'guidance' (Heady 1991 pp. 219–20) or capable of developing a 'policy role' (Verheijen and Rabrenovic 1999). However, even within a more effective European federal union, the Post-Communist states of central and eastern Europe will need just such a committed and skilled higher Civil Service to represent the national interest abroad, resolve internal conflicts, and ensure adequate provision for an economic infrastructure, both physical and social. It is difficult to see how such a need could be filled without considerable political intervention, in the sense that only decisive action by those willing to take responsibility before democratic institutions will be sufficient. Neither reform designed to preserve the previous state bureaucracy, nor the decentralisation and disestablishment of state functions and agencies, will do.

There simply is no available model of a satisfactory relationship between politics and administration from past experience even in the west. A whole range of different possibilities exists within the European Union, which moreover seems to have managed so far not only with great variation in the governing capacities of its different member states, but also with a confusion of politics and administration as an accepted fact. If anything, the states where government and administration are commonly regarded as being weakest (such as Italy and Greece) are precisely those where a highly formalistic and literal separation of politics and administration stubbornly persists. The decline of confidence in state bureaucracy is fairly widespread and has provoked reform in all types of system. At the same time the role of the 'political bureaucrat' (Acherbach et.al. 1981) continues to be vital to government in most modern European states. The significant difference is between political intervention in the classical sense of 'policy' to mean basically the exercise of party patronage to advance the special interests of a person or group, and the participation of civil servants in 'public policy'.

Those who still believe that the two meanings of 'policy' are indeed distinct must hope in the case of contemporary central and eastern Europe that conditions prove favourable to the cultivation of a genuine public service, not detached from politics but not disposed either to undue political interference. Four such conditions can be proposed:

- Government as far as possible by coalitions of political forces of the centre, which avoid either extreme of neo-nationalist authoritarianism and centrifugal liberalism, but which nevertheless ideally produce a working consensus of conservatives, liberals and social democrats.
- Substantial reduction in the total numbers of those employed by the state, which in addition to its general benefit from a fiscal point of view will enable the hiring of individuals at much better salaries and conditions and with broader experience and a more positive outlook.
- A willingness to moderate the amount of corruption and malpractice in government, though these need not be eliminated entirely and have of course been permitted in most EU member states, as well as in the European Commission (though not without protest and outrage).
- A continuation of economic and social policies to guarantee high levels of employment generally (partly in order to take up redundant public servants) and adequate provision of public and social services (thus restoring public trust in government).

The EU and its member states can encourage such conditions, through the active external influence of their own political groupings, by helping financially to assist the central and east European states meet the financial costs of compensating redundant public servants, by demonstrating a stricter attitude to corruption and malpractice in their own institutions and by pursuing economic and monetary policies themselves to promote employment and economic growth throughout Europe.

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Chapter 4: Methodological Frameworks for the Study of Politico– Administrative relations and their Applicability in Post– communist Settings

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1. Introduction

Political Science literature that has focused on the transformation process in Central and Eastern Europe has paid particular attention to the deliberate design as well as the spontaneous emergence of institutions in democratisation and marketisation. At a theoretical level this has led to a re–examination of ‘what democracy is and what it is not’ (Karl/Schmitter 1991) and whether liberal democracy has “one form or many” (Ware 1992). At an empirical level, the debate has revolved around the determinants and the appropriateness of constitutional choices, as well as the differences and similarities between countries and institutional sectors regarding the consolidation of the new order. This has led to broad agreement that the complex interaction of the communist legacy, the initial decisions taken by political leaders, and the institutions created during the period of extrication from communist rule are the central determinants for the speed and the direction of the process of post–communist transformation (Crawford/Lijphart 1997, Elster/Offe/Preuß 1998). By contrast, Political Scientists have devoted few efforts to assess the consequences of regime change for the politics of policy–making. This is particularly the case for the relationship between politicians and bureaucrats at the central government level.

The relationship between elected politicians or those appointed by elected officials and permanent career civil servants belongs to the central arenas of institutional politics in industrialised democracies. Their interactions at the centre of government crucially contribute to the capacity of governments to perform their routine tasks and to make and implement decisions required of modern political systems. Moreover, the relationship between politics and administration is central for the practice and quality of political democracy. Politicians often take advantage of bureaucratic expertise in policy development and invariably rely on civil servants when implementing the policies they adopt. As a result, politicians can realise efficiency gains in the Policy Process that come about through a division of labour with the bureaucracy. At the same time, this division of labour can reduce their control over government action, if circumstances allow civil servants to pursue their own interests while casting aside the mandate politicians have gained in democratic elections. Therefore, politicians are required to create conditions that mitigate bureaucratic non–compliance but favour the achievement of policy outcomes they desire. The relationship between

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politicians and civil servants is of particular relevance for the new democracies in Central and Eastern Europe and the CIS. Political Science has so far mainly focused on the consolidation of basic democratic regime parameters. Ultimately, however, the survival of the new democratic regimes and their legitimacy in the eyes of the citizens fundamentally depends on the quality of democratic processes and their ability to deliver the required and demanded social and economic reforms. Therefore, the nature of the relationship between politicians and civil servants at the central executive level of post-communist polities is a central aspect in the development of effective and democratic governance and strongly contributes to the overall success of the transformation process.

Any analysis of politico-administrative relations in Central and Eastern Europe and the CIS, however, has to take into account the specific context of post-communist transformation. The often-cited dilemma of simultaneous political and economic reform has been considered a major obstacle to the success of the transformation process (Offe 1991). Another problematic constellation arises in the realm of public administration. On the one hand, public administration is the chief agent in the implementation of reforms, on the other, it is itself a prime object of reform. Following the major constitutional changes, governments' reform efforts aimed at deconcentrating and decentralising the state apparatus, and bringing public administrative institutions strictly under the rule of law in order to guarantee the legality of public acts. Some observers have regarded the process of administrative transformation to be on the path towards gradual Westernisation (e.g. Hesse 1993; 1998; for a critique see Goetz 1995, Goetz and Margetts 1999), but these judgements seem to have been premature. More recent research on the "state after communism" (Nunberg 1999) has revealed that the reforms at the central government level are far from completed. Governments across the region are still experimenting with the reform and revision of the structures and decision-making processes at the centre of government as well as the establishment of new institutions and procedures for the supervision and oversight of administrative processes. Moreover, the development of a professional Civil Service continues to be on the agenda, but although many governments in the region have by now adopted a Civil Service Act, formal-legal frameworks have remained incomplete and further reform efforts are required.

At the same time, first empirical research that has examined the relationship between politicians and bureaucrats in post-communist context of permanent institutional reform has revealed two main characteristics. Firstly, the politics-administration nexus in Central and Eastern Europe tends to be unstable in terms of personnel, since incoming governments have generally shown little willingness to continue working with the administrative staff that has served the former government. As a result, the comparably low durability of post-communist governments has entailed a frequent and a high degree of personnel turnover among high and to a lesser extent middle ranking administrative officials contributing to discontinuity in the Management and implementation of government policies. Furthermore, it has been observed that in

contrast to Western practice, administrative officials in Central and Eastern Europe and in CIS states tend to be virtually excluded from the process of policy development, despite the adoption of formal policy–making structures at the centre of government that favour their involvement. Instead, governments tend to heavily rely on outside advice when it comes to the development of policy and strategy (Verheijen and Rabrenovic 1999). Both features are likely to impact on the nature of government output and raise questions of government capacity and accountability. Schmitter (1994), for instance, has raised the prospect of permanent “non–consolidation” in countries that have undergone a regime transition, and, similarly, O’Donnell (1994) has argued that new types of democratic regimes such as a “delegative democracy” could become the future norm. Correspondingly, the ‘freezing’ of particular post–communist patterns of politico–administrative relations may become more likely the longer the process of administrative transformation lasts.

First attempts to explain these specific developments have explored a variety of frameworks and explanations (Verheijen and Rabrenovic 1999). Yet, it seems that explanatory frameworks borrowed from the study of politico–administrative relations in Western democracies uneasily fit the dynamic context of post–communist transformation. Moreover, explanations that correspond by and large to the insights of Political Science transition literature either insufficiently explain the characteristics of post–communist patterns of politico–administrative relations or require substantial refinements if meaningful insights are to be derived. Therefore, it is an essential task for further empirical research to develop a theoretical framework that is able to both describe and explain how the relations between politicians and bureaucrats in post–communist countries have developed in general as much as with respect to the two features outlined above.

It is the objective of this chapter to explore the possibilities of adapting four theoretical frameworks for the study of politicians–bureaucrats relations in western democracies to post–communist settings. The chapter is divided in three parts. The first part will outline the role approach developed by Aberbach, Putnam and Rockman (1981) and discuss the value of using it for empirical research in Central and Eastern European democracies. The second part takes issue with the theoretical frameworks developed by Peters (1988) and Page (1992), which both emphasise the impact of structural factors on politicians–bureaucrats relations. Finally, the third part outlines the concept of ‘public–service bargains’ recently developed by Hood (1999) for the purpose of analysing public service reform outcomes in western democracies.

2. Politicians’ and Bureaucrats’ Role Perceptions: Towards Early Hybridisation?

The main comparative study that investigates the role perceptions of civil servants and politicians in the political process is Aberbach/Putnam/Rockman’s (1981) *Politicians and Bureaucrats in Western Democracies*. For this study, the authors interviewed a large

number of politicians from national parliaments and high-ranking administrators in six Western European countries and the United States. Instead of analysing the role behaviour of both elite groups in systematic case studies, the authors seek to reveal the role perceptions of individual politicians and civil servants by directly inquiring into their beliefs. Their main objective is to uncover “both role-related and culturally influenced patterns of elite thinking about society, politics and the policy-making process, and a spectrum of relationships between administrative and political elites and between those who govern and the public”. This includes an investigation of the social backgrounds and career patterns of both elite groups, their roles and styles in policy-making, as well as an inquiry into their beliefs towards issues such as democratic politics or the role of government in social and economic affairs (Aberbach et.al. 1981, pp. 32–33).

The authors admit that the link between beliefs and behaviour is inherently problematic because the existence of contextual factors inhibits the direct translation of beliefs into behaviour. However, the main purpose of their analysis is not to predict future behaviour of the two elite groups on the basis of the current beliefs. Instead, they argue that an inquiry into their beliefs “provide us with the broadest vista from which to assess the contemporary roles of Western politicians and bureaucrats”. As a consequence, they argue that an improved understanding of the cognitive worlds of both elite groups complement the insights of existing case studies of policy processes about the kind of division of labour between both groups of players as well as the kind of influence civil servants exert in the Policy Process (Aberbach et.al. 1981, pp. 31–32).

Aberbach et.al. (1981) develop four possible images of politician–bureaucrat relations in order to classify the outcomes of their empirical investigation. Image I “policy/administration” assumes that politicians make policy and bureaucrats merely implement them. This conception goes originally back to Wilson who argued that politics and administration are two distinct spheres and to Weber’s ideal conception of bureaucracy as the administrative staff typical for legal–rational systems of rule. Image I implies that the relation between both groups of actors is strictly hierarchical and that it is exclusively the politician who is involved in policy development, as well as the mediation and articulation of interests. As a result, political supremacy is secured both in formal and practical terms. Secondly, Image II “facts/interests” assumes that politicians and bureaucrats both participate in policy-making but that they make distinctive contributions. The distinction between their roles is that civil servants emphasise expertise and technical efficacy of policy, whereas politicians stress their responsiveness to interests and values. Hence, political actors concentrate on the task of articulating, balancing and mediating diverse claims and divergent interests of both their broader electoral constituency as well as particularistic interest groups (Aberbach et.al. 1981, pp. 4–8).

Image III “energy/equilibrium” assumes that politicians and bureaucrats are involved in both policy-making and politics. The distinction between both groups of actors is that “whereas politicians articulate broad, diffuse interests of unorganised individuals, bureaucrats mediate narrow focused interests of organised clienteles” (Aberbach et.al. 1981, p. 9). Consequently, Image III takes into account both that politicians tend to delegate the reconciliation of political conflicts to administrative agencies in circumstances when they are unable to reach a consensus, and that administrators develop close relationships with the organised clientele of their policy area. Finally, Aberbach et.al. (1981) suggest an Image IV which they label “the pure hybrid”. The pure hybrid assumes that there is little or no role difference between politicians and bureaucrats. Both are involved in policy-making, articulate and mediate narrow interests as well as they are equally committed to assuring specific policy outcomes. As a consequence, the formal authority relation between politics and administration is effectively non-existent in practice, both politicians and bureaucrats are equally passionate about policy problems, and it makes no difference for the policy-making results whether the participants are elected politicians or appointed officials.

Aberbach et.al. (1981) found evidence for both Image II and III, though at the time of research Image III prevailed. However, taking into account the developments of the 1970s in several Western democracies they conclude that the pure hybrid is in the process of institutionalisation and may become the future norm. Subsequent conceptual work on role perceptions mainly sought to differentiate the role of Image IV bureaucrats. Campbell (1988), for instance, distinguished between proactive and reactive career bureaucrats, the latter fitting “the stereotype of the pathologically incremental or intractably obstructive mandarins (...) who make use of their knowledge of institutional history and/or expertise to confound their bureaucratic rivals and political masters” (Campbell 1988, p. 248). By contrast, proactive careerists are characterised by wielding fairly broad and flexible authority in the policy-making process often strengthened by close ties to political executives; a role they derive from either their experience and expertise (policy professionals) or their connections and identification with the governing political party or coalition behind their professional activities (partisan amphibians). Moreover, Campbell (1988) makes it a matter of distinction whether Image IV bureaucrats engage in inter-departmental contests and co-ordination, or whether they tend to channel their political passion into a departmental focus.

One of the main problem with Aberbach et.al.’s (1981) study is that they draw a picture of politicians’ and bureaucrats’ roles which over time has developed from a neat division of labour to a virtual merger of roles in the pure hybrid category. Yet, they do not compare role perceptions over time nor do they offer a theoretical explanation why any hybridisation should occur. As a result, their study effectively confirms the general argument that bureaucrats are involved in the political process and hence that they do exert a certain kinds of influence, but it remains unanswered what factors determine their levels of influence across polities and/or over time.

However, in a later contribution, Aberbach and Rockman (1988, p. 10) argue the 'pure hybrid' official is essentially a motivational construct created by political leaders, "which derives mainly from the desire to impose more direction, control, and co-ordination over policy through organisational mechanisms other than traditional line departments". The ability to do so, however, is dependent upon the availability of officials who are more interested in proximity to power of small units than in the security and routines of traditional bureaucratic departments.

In general, an application of Aberbach et.al.'s (1981) approach and the subsequent refinements for the investigation of political and administrative personnel, their sociological backgrounds and their roles to post-communist settings is by and large possible both in methodological and conceptual terms. Furthermore, it can generate important insights about the type of people and their working relationships in central governments of Post-communist states as much as it would yield empirical data for subsequent theoretical explanation. Firstly, empirical research on the personnel as well as their social origins and career paths could reveal who has actually occupied the 'heights of power' during the first ten years after the collapse of state socialism. Such an exercise can be designed in a way as to identify the degree of elite continuity from the former communist regime as well as the degree of personnel instability mentioned in the introduction as a central feature of politico-administrative relations in Central and Eastern Europe and the CIS. So far, the research on personnel has not gone beyond the general statements about the goods and bads of elite continuity in transition countries (Szablowsky and Derlien 1993), and the general observation that the turnover of administrative and political personnel is comparably high. Systematic empirical research, however, is a first step to qualify these general statements. For instance, it may well be found that personnel instability rather takes the form of personnel rotation of small elite circles between the political and the administrative sphere as well as between government and the private sector.

Similar to Aberbach et.al. (1981), empirical research on the personnel can usefully be linked to an inquiry into the role perceptions of those individuals occupying nominally administrative posts and those formally in political positions. This will first of all shed more light on the role perception of nominal administrators about their involvement in the Policy Process and qualify the observation that they do not participate (see introduction). Moreover, their attitudes towards democratic governance, issues such as social, economic and political transformation, or the role of government in managing the reformed economy would help to illuminate the role played by top bureaucrats in the transformation process. Generally, Aberbach et.al.'s (1981) four Images can be used as a reference point for such an investigation. However, the existing differentiation of Image IV types of bureaucrats as well as further qualifications of the other three Images, for instance, with a closer look on the past state socialist practice, are usefully incorporated to better disentangle the often fuzzy interactions and roles at the centre of government.

The most likely finding is probably a large degree of heterogeneity rather than differentiation in the role perceptions between as well as within the two groups of actors. Moreover, the picture is likely to have changed considerably over the last ten years, though an investigation of past roles is inherently problematic unless one engages in doing policy specific case studies to reveal actual role behaviour. For instance, preliminary interviews conducted with higher civil servants in Hungary in 1999 indicated that in the first two, three years after the end of communist rule, top administrators were often more or less left alone with their policy area unless major restructuring or privatisation issues were at stake. Hence, whether or not any action would be taken mainly depended on their own initiative. Ministers at that time were still lacking the expertise and information to manage their policy sector or they were busy with constitutional politics and the most immediate aspects of economic reform. However, even in these areas high-ranking administrators played a central role and contributed their specialist knowledge in the policy-making process. As a consequence, Hungarian top civil servants played an important role in shaping the initial transition policies, while in less salient areas they had a virtually free hand in drafting and negotiating policy proposals.

However, the picture of 'government by state secretaries' changed towards the end of the first government (1990–1994), when politicians increasingly tried to (re) establish their political supremacy. Top civil servants have remained important participants in drafting and co-ordinating policies programs. For instance, the Meeting of Administrative State secretaries serves as a formal preparation stage and an important professional filter for Government Meetings. But at the same time, recent organisational changes in the Prime Minister's Office well reflect the tendency of the political executive to increase political control and co-ordination over government policy. The centre-right government led by Prime Minister Orban (since 1998) established a form of mirror structure within the Prime Minister's Office to improve the Management and co-ordination of ministries with its officials regularly participating in line ministerial sessions. Moreover, a strategic planning unit was placed in the Prime Minister's Office that works as an inside think tank institute to analyse the consequences of government decisions, to prepare policy strategies and keep contacts to outside research institutes. Both organisational changes were accompanied by the recruitment of former civil servants, as well as experts recruited from the private sector and within the Civil Service. The task structure of these civil servants may well have entailed the emergence of different types of proactive, more or less openly partisan, officials in the Prime Minister's Office who engage in interdepartmental contests. This tendency may be less evident in the line ministries, though it is commonly recognised among civil servants that on average the higher one climbs the hierarchy, the more party political loyalty and involvement in the political process is informally required. Hence, top civil servants in the line ministries may be no less proactive and partisan than their colleagues in the Prime Minister's Office with the possible difference that they concentrate more on fighting their re-

spective departmental corner. As a consequence, one could hypothesise that top civil servants in the Hungarian central government have continuously had considerable influence in the policy-making process. However, the role of top civil servants has changed from one that emphasises a more technocratic role to one that increasingly combines their involvement in the political process and party political commitment. If these initial observations receive confirmation in further empirical research, we can conclude that the roles of politicians and civil servants at least at the Hungarian central government level have undergone a process of early hybridisation.

3. Structural Approaches to Politicians–Bureaucrats Relations: From ‘Party Politicised Villages’ to Permanent Conflict at the Centre of Government?

Literature that emphasises the structural relationship between politics and administration concentrates on the impact of institutional arrangements on the pattern of interactions between both groups of actors. Institutionalist approaches are based on the premise that the institutional structure of the politico-administrative system shapes the kind of working relations between civil servants and politicians as much as it creates conditions that are more or less favourable for bureaucratic influence

Box 1

The institutionalist approach to politico-administrative relations:
key definitions

There is no single best way of defining ‘institutions’ and assessing their impact on the behaviour of individuals because different kinds of institutionalist approaches emphasise different dimensions of institutions. For instance, historical institutionalism, most relevant in the context of section 3., has a broad understanding of institutions defined “as the formal or informal procedures, routines, norms and conventions embedded in the organisational structure of the polity or political economy” (Hall/Taylor 1996: 938). Individuals are assumed to be satisficing entities. This means that individuals choose their course of action according to their interpretation of a given situation, and institutions provide individuals with a clue of what is ‘appropriate’ in a given situation and what not (cf. March/Olson 1989). From this point of view, institutions fulfil a socialising function. On the other hand, it must be stressed that institutions perform regulatory functions, i.e. they must cope with specific problems in their environment. For instance, if individuals are assumed to be rather rationally calculating, utility maximising entities they may seek to ‘design’ institutions for the purpose of overcoming collective action problems occurring in social and political life. The socialising aspect of institutions is usually emphasised by institutionalist approaches rooted in sociological theory (including historical institutionalism), whereas their functional dimension is stressed by rational choice approaches to institutional analysis rooted in economic theory.

Hall, P. A.; Taylor, R. (1996) Political Science and the Three New Institutionalisms, in: Political Studies, 44, pp. 936–957

March, J.; Olson, J. (1989) Rediscovering Institutions: The Organisational Basis of Politics, New York: Free Press

in the political process. A good deal of the literature, for instance, has examined in what ways systems of recruitment and training as well as the organisational structure of government either favour or hinder the politicisation of the Civil Service or the bureaucratisation of politics. (e.g. Suleiman 1984) In this section, the two comparative frameworks by Peters (1988) and Page (1992) both based more or less explicitly on institutionalist premises will be outlined. Subsequently, the discussion will turn to the problems of transferring mainstream institutionalist approaches to post-communist settings.

Peters (1988) develops five ideal models of structural relationships between politics and administration based on a reassessment of empirical case studies. Moreover, Peters (1988) advances three sets of explanatory variables such as the nature of the issue, the institutional characteristics of the political executive and the Civil Service that are assumed to cause a prevalence of a certain pattern of interaction between the two groups of actors. Each model is characterised by five dimensions such as the general tenor of the interaction among the participants, the “winners” of the institutional politics game, the modes of decision making and conflict resolution as well as the “impacts” of various systems of interaction on the policies adopted by the government.

Peters (1988) five models can be read as a continuum that ranges from a Formal-legal Weberian model to an administrative state model. In the former, politicians and bureaucrats behave fairly much in accordance to the formally prescribed structure of authority, and as a result, policy outcomes reflect the changing policy preferences of the incumbent political party or coalition of parties. Peters (1988) hypothesises that, for instance, a higher Civil Service primarily trained in law may contribute to the prevalence of such a pattern of interaction because civil servants may feel more prepared to behave in accordance with the formal lines of authority. In the administrative state model, by contrast, political executives have effectively abdicated their powers to the administrative apparatus. Such a pattern of interaction, for instance, is likely to dominate the more technical the content of a particular policy proposal is. Moreover, in political systems in which political executives lack specialised education as well as a support structure such as ministerial cabinets or the possibility to appoint politically loyal specialists to strategically important administrative positions, an administrative state model is more likely to emerge.

Between these two poles, Peters (1988) locates three models. Firstly, the Village life model reflects that the institutional arrangements of the politico-administrative system lead to a high degree of integration of values and goals of both politicians and bureaucrats with the most important being the maintenance of government and the smooth functioning of the executive branch. The Village life is primarily coined on Hecló and Wildavsky' (1981) study of the British Treasury though it is equally applicable to the central government as a whole. Accordingly, Peters (1988) hypothesises that politico-administrative systems in which both politicians and higher civil

servants have received a generalist training and in which their careers has involved work in several departments, their pattern of interaction approximates the Village life model. Secondly, the functional Village life model is a variant of the former but it takes into account that institutional arrangements favour the functional alignment of executive elites leading to a vertical integration within the same policy area as well as close ties to social interest groups in the respective sector. The functional Village life model is mainly associated with the openness of the government and its ministries to organised groups in society. Furthermore, civil servants with specialist training and little career mobility can be expected to develop a high degree of identification with the interests of organised groups in their policy areas. Finally, the adversarial model assumes that the relationship between political and bureaucratic officials is characterised by conflict, in which both groups are competing for control over public policy. Peters (1988) argues that adversarial relationships tends to be primarily associated with institutional issues rather than substantively policy related issues because both camps attempt to gain control over institutional resources.

While Peters (1988) tries to explain a number of dimensions that describe the pattern of interaction between politicians and bureaucrats, Page (1992), by contrast, adopts an institutionalist perspective to examine explicitly the relation between bureaucracy and democracy. Page (1992) uses an interpretation of Weber's treatment of bureaucracy assessing to what extent the politico-administrative systems in the US, France, Britain and Germany reflect Weber's ideal-type characterisation of bureaucracy as well as the mechanisms and conditions suggested by Weber to mitigate bureaucratic autonomy. According to Weber, it is the exercise of political leadership that is crucial in limiting the power of the bureaucracy; "the coincidence of politicians at the head of a bureaucratic organisation, which is based upon a formal hierarchy, which can carry out the command of the politician" (Page 1992, p. 151). Page argues that the scope of political leadership can be measured as the degree to which there is, first, "the supply of political people who have made their careers out of the political struggle for power with the capacity to mobilise political support for the preferred policy initiatives; and second, the existence of a comprehensive, hierarchically-structured governmental organisation" (Page 1992, p. 151).

As a consequence, a problem of supply occurs in political systems which do not generate political leaders that have been "schooled in the political profession of mobilising public support and compromise" prior to taking government office (Page 1992, p. 155). For instance, he argues that France is characterised by a problem of supply, since civil servants often become cabinet ministers. Furthermore, their involvement in policy-making is comparably high. By contrast, Britain is characterised by a different problem of supply. Although British cabinet ministers have usually undergone a career in politics, Page (1992) claims that the short average period they spend in office as well as the lack of apprenticeship to effectively direct ministerial departments translates into a lack of political leadership skill. On the other hand, a problem of exercising leadership authority occurs in systems, in which the governmen-

tal structure is fragmented and in which ministers are constrained by the existence of strong pluralistic groups and strong pressures from the legislature. For instance, while there exists something of a clear political career for German politicians, the exercise of political leadership is constrained by the federalist structure of the state and the existence of strong pressure groups maintaining close contacts to federal line departments. Page (1992, p. 176) concludes that the systems with no or little scope for the exercise of political leadership do not necessarily lead to inefficient or bad government, but they raise normative concerns about the quality of democracy because ultimately “they are systems over which there is no public control”.

The structural approaches to the study of politics and administration are by far more difficult to transfer to post-communist settings than the approach to politicians’ and bureaucrats’ roles discussed in Part 2. For instance, it seems doubtful to generate hypotheses on the basis of Page’s concept of the scope of political leadership in a context of regime transition; at best an assessment would, on average, yield serious normative concerns about the role of the bureaucracy in the new democracies in Central and Eastern Europe. At first glance, the explanatory concept developed by Peters (1988) seems more suitable for the analysis of politician–bureaucrat relations in post-communist settings. Even though Peters’ (1988) five ideal models are originally based on national case studies, the conceptual framework can be understood in a way that different models co-exist in one country at a particular point of time. For instance, if conditions such as the nature of the issue vary across policy sectors, the model of interaction should vary accordingly. Moreover, models of interaction can change over time according to the change of institutional arrangements governing the Civil Service and the political executive.

Following an attempt by Peters and Pierre (1999) to accommodate the consequences of public sector reform on the relationship between politicians and bureaucrats in Western democracies, one can assume, for instance, that at the end of the 1980s, Central and Eastern European politico-administrative systems departed from the communist variants of the Village life models. They can be labelled ‘party politicised Village life model’ and ‘party politicised functional Village life model’. All other factors assumed to be equal, the former is more characteristic for countries which have maintained strong party political control until the end of communism as the main integrating factor over the administration such as Czechoslovakia, Bulgaria or the GDR. The functional variant of the party politicised Village life model applies probably more to a country like Hungary that slowly loosened the party’s role in providing glue for the state administration since the 1970s, and, as a result, allowed more functional and technocratic alignments along individual policy sectors.

As a consequence of the regime change in 1989/90, it is simple to hypothesise that both types of party politicised villages have collapsed because above all the integrating factor of party control and membership disappeared. At the same time, the institutional arrangements of the political executive have also been subject to

wholesale change, while those of the Civil Service have eventually become a matter of more or less intense reform efforts. In contrast to Peters/Pierre (1999), it is not possible to draw a line between status quo defenders and advocates of public sector reform activities. Instead, there are only two possible outcomes: with the beginning of wholesale administrative reform conflict or consensus between (new) politicians and administrators emerges over the course of the reform activity. However, since the governance of the Civil Service is itself a prime object of reform, Peters' (1988) framework suggests that politicians and bureaucrats are likely to get into conflict over the rights and duties that are distributed in the reform process. Therefore, the emergence of adversarial models across Central and Eastern Europe seems almost inevitable.

Difficulties, however, arise when not only the issue of reform is considered but also other structural variables are factored into the analysis. This is not to say that Peters' (1988) framework is not applicable. Rather, it seems problematic to draw conclusions about the systemic pattern of interaction between politicians and civil servants as a function of institutions when these institutions are subject to continuous change. Therefore, it is analytically more appropriate to concentrate in a first step on the process of changing and re-building the institutional system that governs both groups of actors. This perspective, however, implies that we have to adopt a process-related approach, and, moreover, that we have to take into account the significance of the relevant collective actors in choosing and implementing new formal rules. This will eventually facilitate the understanding of evolving systemic patterns of interaction between politicians and bureaucrats.

4. Politicians, Bureaucrats and Institutional Reform: Striking 'Public-Service Bargains' in Post-communist Europe?

Christopher Hood (1999) has recently developed the concept of "public-service bargains" as an analytical tool for the assessment of New Public management reform outcomes in Western democracies. A public service bargain is defined "as some real or constructive deal concluded between public servants and other actors in the political system over their respective entitlements and duties, and expressed in convention or formal law or a mixture of both". Public service bargains are a matter of imagination, since no such arrangements exist in practice, but it is appropriate to assume that "politicians and public servants behave *as if* such a bargain had in fact been concluded" (Hood 1999: 3, underlined in the original). Hood argues that the advantage of the public service bargain as a tool for comparative analysis is the possibility to characterise the institutional development of public bureaucracies at a particular point of time and to undertake strategic actor analysis for an explanation of administrative reform outcomes.

Hood (1999) distinguishes two broad types of bargains themselves taking on different subtypes in order to benchmark the institutional entry point in the New Public management era as well as the current public service arrangement. Generally,

Box 2

Transaction Costs Economics

Transaction Costs Economics is a comparative institutional approach to the study of economic organisations. According to Williamson (1985, p. 19) transaction costs are defined as “the economic equivalent of friction in physical systems”. They are contrasted with production costs. Transaction costs result from environmental factors such as asset specificity and uncertainty as well as human factors like bounded rationality and opportunism. Hence, the central argument of Transaction Costs Economics is that economic institutions of capitalism, for instance, the existence and shape of firms, can be explained as a function of economic actors’ incentive to economise on different levels of transaction costs.

Williamson, Oliver E. (1985) *The Economic Institutions of Capitalism*, New York: Free Press

the types of bargains by and large vary with respect to the size of the arrangement. First, ‘systemic’ public service bargains reflect a fundamental constitutional settlement (Hood 1999, p. 4). They include ‘consociational’ arrangements such as in Belgium, Switzerland or the European Unions in which the domination of one social group over another is prevented by giving a share of administrative power to different social groups. Furthermore, the constitutional role granted to the Civil Service in Germany belongs to this category. Second, ‘pragmatic’ bargains reflect more group specific arrangement over roles, duties, and working relationships between politicians and civil servants. At one end, Hood locates forms of large ‘pragmatic’ group bargains such as in the UK where “public servants provide loyalty and competent service to the government of the day in exchange for trust, anonymity, merit selection and permanent (or at least indefinite) tenure” (Hood 1999, p. 7). At the other end, there are ‘managerial’ or ‘regulatory’ bargains, in which working contracts are negotiated on an individual basis, for instance, contracts worked out with chief executives of newly created regulatory agencies. In such arrangements, politicians grant operational autonomy and managerial space to those chief executive public servants in exchange for expected higher quality output as much as the opportunity to blame them for regulatory and operational errors. Between these two ends, Hood (1999) locates a ‘hybrid’ category that allows for small group deals between politicians and civil servants within a broader collective public service arrangement. For instance, in the French and the EU Cabinet systems such bargains can be found when politicians receive competent service with party or personal loyalty in exchange for granting trust and limited public blame for policy errors (Hood 1999, p. 8).

Following an assessment of New Public management reforms in Western democracies, Hood seeks to explain varying reform efforts and outcomes. In brief, his central argument is twofold. First, the type of bargain that marks the institutional entry point strongly shapes the public service reform action or inaction in each Western political system because the original bargain poses different incentives and constraints for poli-

ticians who attempt to re-design a bargain. For instance, it seems much more difficult for politicians to change systemic bargains than pragmatic bargains. Second, Hood (1999) argues that politicians favour to shift from one form of bargain to another, if they can reduce transaction costs involved in operating the current public service arrangement. However, Hood (1999) adds what he calls 'cheating costs and opportunities'. As a consequence, public service reform outcomes and the re-arrangement of public service bargains effectively depend on the opportunity for each 'contracting party' to either cheat or deliver over the public service bargain. As in the Prisoners' Dilemma game, both parties may either choose between "possibilities that include delivery by both sides, cheating by both sides, or cheating by one side but not the other" (Hood 1999, p. 21). Therefore, an explanation of public service reform outcomes has to take into account that politicians are likely to factor opportunities for cheating by civil servants into their calculations about institutional design.

The concept of public service bargains is suitable for the analysis of politician-bureaucrat relations in a dynamic context such as post-communist transformation, although the process of striking new public service bargains in Post-communist states has not been concluded yet. It is not possible here to make a major assessment of developments in Central and Eastern Europe and the CIS using the notion of a bargain struck between civil servants and other actors of the political system. However, in order to account for the evolutionary character of public service arrangements, one idea may be to examine them in each country at different points of time according to different stages of the process of institutionalising new bargains in post-communist Europe. First, Hood (1999) argues that the entry point into the New Public Management era strongly impinges on the reform outcomes in each Western political system. Correspondingly, the kind of bargain that had evolved under the communist regime prior to the events of 1989/90/91 should be subject to investigation. The second stage to be considered is the period between the breakdown of the communist regime and the point of time when a new Civil Service law which governs the rules, procedures and systems of personnel Management. Following the adoption of a new Civil Service law, politico-administrative systems enter a stage of tentative arrangements which basically covers the practice during the period of implementing the legal act as well as adopting and implementing secondary legislation. In this period, the Formal-legal framework that link politics and administration still provides a variety of options that can be selected in practice by the respective actors and can become eligible for subsequent generalisation. Moreover, it should be matter of assessment to what extent the public service bargains have become institutionalised, hence, the extent to which the new formal rules have become both generalised and followed by both groups of actors.

Most countries have by now entered the stage of tentative public service arrangements. However, the developments across Central and Eastern Europe, for instance, have differed substantially since 1990. Hungary adopted its Civil Service law already in 1992 and has amended it in 1997. The Czech Civil Service, by contrast, still

governed by the Labour Code, while Bulgaria has entered the stage of tentative arrangements only in 1999. At the same time, it is reasonable to assume that public service bargains have not been fully institutionalised in any of the Central and Eastern European and CIS states. It is certainly problematic to speculate about the driving forces of the process of striking new bargains in post-communist Europe, unless the development has been properly researched and assessed with reference to the notion of public service bargains. However, Hood (1999) provides the starting point for the formulation of two hypotheses.

First, it is likely that the kind of Civil Service arrangement that dominated at the end of the 1980s impinges to some extent on the development after the regime change. The public service arrangements at the end of the 1980s corresponded in varying degrees to Leninist principles of state organisation. Second, it can be hypothesised that the process of institutionalisation proceeds faster and more co-operative the more the public service arrangements deviated from an ideal Leninist bargain. In Hungary, for instance, the bureaucracy had increasingly been professionalised for about two decades before the beginning of the transformation. Politicians increasingly incorporated top bureaucrats as well as distinguished academics in the Policy Process and allowed them more access to political power. In exchange, the ruling party could benefit from more expertise in the development of policy strategy and planning. Moreover, higher civil servants have played an important role in preparing the economic, political and social reforms enacted right after the first elections in 1990. This co-operative and inclusive constellation prior to the regime change has certainly strongly contributed to the early adoption of a Civil Service law that had already been prepared before 1989.

In Bulgaria, by contrast, Velinova (2000) reports that the arrangement between party rulers and state administrators in Bulgaria primarily still reflected very much a Leninist bargain at the end of the 1980s. However, a new formal legal framework for the Civil Service has only been adopted in 1999 after a period that was dominated by the co-existence of party politicised ad hoc arrangements at the top and a low trust constellation between the new political class and the core of the Civil Service. After the beginning of the regime change, the Leninist arrangement was initially preserved for a short period in informal terms when the former Communist Party, who was re-named as Bulgarian Socialist Party, won the first elections in 1990 and could form the first government. Ruling politicians and the remaining old administrative cadres formed a natural coalition based on the joint interest to 'survive' under the new conditions (see also Verheijen 1999).

This situation changed after 1991. Between 1991 and 1997 six more or less short lived governments ruled the country, and each incoming government has tended to dismiss a large number of higher and to a lesser extent middle rank civil servants. These positions were eventually filled with political affiliates in order to ensure political loyalty of the administration. At the same time, remaining higher and middle

rank officials felt increasingly suspicious and alienated from politicians, since the only strategy to 'survive' required them to be close to their respective minister and to play the political game with each minister as long as possible. Despite several attempts to draft a Civil Service law, none of them made it to the parliamentary floor until the currently ruling Kostov (UDF) government was able to adopt a State Administration Act in 1998 and a Civil Service Act in 1999. As a result, it is reasonable to presume that the well intact Leninist type of public service bargain in Bulgaria of the end 1980s has strongly contributed to the high degree of distrust of new political leaders towards the Civil Service, and hence the protracted path of striking any new bargain. At the same time, one has to bear in mind that the long arm of the past is likely to lose explanatory value the longer ago the breakdown of the former communist regime is.

Therefore, the main driving forces for the development of public service arrangements in Central and Eastern Europe are probably rather the incentives of politicians to engage in reform activities. First, politicians in post-communist polities face comparably high agency costs at least as long as a proper 'contract' with the civil servant agent has not been set up. Moreover, provided they have been built, other institutional mechanisms of controlling the administration such as the administrative courts, state audit offices or ombudsmen are likely to lack the efficacy necessary to induce bureaucratic compliance. Moreover, post-communist politicians have had to deal with a high degree of uncertainty about their own future. Following the regime change, new political parties have been subject to acts of conscious creation and continuous change while operating in a context in which there is high uncertainty about present political forces as much as about any tenable future alliance. Wiesenthal (1996: 6) for instance, argues that "political actors are struggling for both the consolidation of their organisation and the establishment of representational links with their constituency".

As a consequence, political parties may often just be too weak to engage in any long-term investment of building public service institutions because they are struggling for their short-term survival. If that is the case, political actors are likely to favour short-term solutions, which alleviate their most immediate problems. The most promising strategy to reduce the agency problem under such conditions, however, is certainly the hiring and firing of personnel in the administration. This, however, is a policy that would lead to politicised ad hoc bargains of rather small groups between the ruling politicians and the top administrative officials in the ministries and strategically important agencies. The extent to which such ad hoc arrangements are integrated at the top is likely to depend on the type of government. For instance, a single party government is likely to create more cohesion than a multiparty government, where ministers surround themselves with loyal followers at the top of the ministry. Such patterns are probably stable and co-operative exactly as long as the government stays in office, but they are likely to frustrate middle rank officials who know that they have to enter the political game if they want to advance. But

this inevitably implies for them to make a trade-off between political commitment and promotion in exchange for high insecurity of tenure. Hence, the Civil Service proper is likely to perceive such an arrangement as 'cheating' by politicians, to use Hood's terminology again.

Based on this argument it is possible to derive a hypothesis about the role of collective actors in institutionalising public service arrangements. The higher agency costs and the higher the uncertainty of political actors about their future role in the political game, the slower the process of striking new bargains in Central and Eastern Europe and the larger the likelihood of lasting unstable low trust public service arrangements. So far, the discussion has mainly been related to the shift from the stage where no specific legislation for the public service has been enacted to the stage of tentative arrangements. It is likely, however, that the two variables of agency costs and the uncertainty of political actors about the future role in politics are no less relevant during the implementation stage. In any case, reducing the salience of these two problems for politicians is probably a necessary condition for the proper institutionalisation of post-communist public service bargains.

5. Conclusion

This chapter has explored the possibility of applying three different comparative approaches to conceptualise the relationship between politicians and bureaucrats in Western democracies and to theorise about the nature of their relation to post-communist settings. It has been shown, firstly, that empirical research on the sociological characteristics of political and administrative elites as well as their roles in the political process can generate important insights about the type of people and their working relations in the central governments of Post-communist states. Second, it has been argued that structural approaches to the subject are difficult to apply to post-communist settings because it is problematic to derive systemic patterns of interaction between politicians and civil servants from institutions that are subject to continuous change. Therefore, it has been suggested to focus on the character and the incentives of political and administrative actors in the process of changing those institutional arrangements, which are usually assumed to impact on their working relations.

As a consequence, an attempt has been made to adapt Hood's (1999) concept of "public-service bargains" as a framework for the analysis of the 'process of striking bargains in Central and Eastern European executives'. For the time being the main advantages of the modified version of this theoretical concept may be twofold. First, the development of politicians-bureaucrats relations in Central and Eastern Europe and the CIS is construed into three different stages according to the dynamic character of post-communist transformation and the process of institutionalising public service arrangements in order to adopt a process-related perspective. Second, as Hood (1999) points out, the notion that politicians and civil servants enter an exchange relation makes possible a strategic actor analysis of institutional reform processes and outcomes. Hence, the explanation of reform paths in post-communist Europe can

be associated with political actors' incentives to engage in reform activities. However, both the conceptual suggestions as well as the hypotheses about the driving forces of Central and Eastern European reform paths are tentative and require further theoretical and conceptual thinking to develop a proper understanding of politico-administrative relations in a reform context such as the transformation in Central and Eastern Europe and the CIS.

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Chapter 5: Politico-Administrative relations in Bulgaria

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1. Introduction

Since the beginning of the transformation period, Bulgaria has experienced continuous changes of government and political instability, resulting in poor economic performance. The political situation has stabilised since the right-oriented government of Prime Minister Ivan Kostov came into office in May 1997 and with the introduction of the currency board. A parliamentary majority under the leadership of the United Democratic Forces, committed to reform, has helped to secure support for market economy reforms and further integration of the country into the European Union. EU membership is a key priority in the government's agenda and a major inspiration for internal reform policies.

In its *Avis* of 1998 on Bulgaria, the European Commission considers that the country meets the Copenhagen political criteria for membership. Nevertheless, the Commission states that the fight against corruption needs to be strengthened and the weakness of the judiciary has to be overcome. In terms of meeting the economic criteria, "Bulgaria cannot be regarded as a functioning market economy although it has made substantial progress in adopting the necessary measures and in establishing macroeconomic stability" (European Commission 1998). Efforts should be made to enhance the privatisation process and to improve competitiveness in order to be able to withstand the competitive pressures of the EU internal market. The remaining challenges include the implementation of legal and institutional reforms and the avoidance of policy reversals. The latest *Avis*, or what are now called *Regular Reports*, confirms that the country fulfils the Copenhagen political criteria but "is not yet in a position to cope with competitive pressure and market forces within the Union" (European Commission 1999).

Following the European Council decision in Helsinki (10–11 December 1999) to start negotiations with six candidate countries, the Bulgarian government began a process of restructuring. The number of ministries was reduced from sixteen to fifteen while nine new ministers were appointed. In particular, the Prime Minister himself decided to take over the Ministry of State Administration announcing that "at last this part of the reform will be advanced" (Tosheva 1999).

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The Ministry of Justice and Legal Euro–Integration, which had been in competition with the Ministry of Foreign Affairs, and which had been looking for a greater role in the integration process, was stymied. A Council of European integration (CEI) was established within the Council of Ministers, as a mini–cabinet on European affairs, and was charged with the task of defining the position and mandate for the dialogue with the EU institutions. The CEI is presided over by the Prime Minister. A new Parliamentary committee was also set up to decide which draft laws should have a priority in the Parliament’s agenda in terms of their importance for the negotiation process with the EU.

The modernisation of the public administration sector is among one of the most important reform areas. In 1998 the Bulgarian government developed a “Strategy for the Establishment of a Modern Administrative System in the Republic of Bulgaria” in compliance with its programme “Bulgaria 2001”, which defines the principal guidelines for the development of the country until the end of the present government’s mandate. In the context of this programme, overall public administration reform is perceived as a crucial element in the transition process. The main strategic goals of government in the reform of the state system are as follows:

- Raising the prestige of the state institutions on the basis of the principle of division of power;
- Reforming the relationships between society and the state institutions;
- Building a modern structure of state administration, introducing new information technologies and bringing about a new administrative and information culture as an important condition for achieving transparency in the work of the state administration.

The reform of the Civil Service is advancing in terms of adoption of the necessary legal framework, but implementation is slow. With regard to the legislative process, not all basic legal texts have been endorsed. To date, the Administration Act, the Civil Service Act, and the Act on the Administrative Service of Natural and Legal Persons have been adopted and the Access to Public Information Act has passed its first reading in Parliament. The amendment to the Law on Normative Acts is still under preparation.

In its Regular report of 1999 on Bulgaria’s progress towards accession, the European Commission acknowledges the continuous efforts of the Bulgarian government to modernize the legal framework for the public administration reform. Still, the Commission notes that the two key laws adopted, the Administration Act and the Civil Service Act, “fail to address a number of key issues indispensable for a modern and efficient administration, such as creating working conditions and career opportunities, ensuring that public servants with appropriate knowledge and skills are recruited, developed and retained.” Other areas of concern include the low level of salaries, the need for assurance of open competition for entering the Civil Service,

and implementation of clear procedures and mechanisms for investigating corruption and maladministration (European Commission 1999).

Given that the regulatory framework and its implementation is not complete and that the developments in this field have still to follow, this analysis focuses on the latest efforts towards designing a modern system of politico-administrative relations at central government level, as an integral part of the pre-accession process.

2. Overview of the Administrative Structure of the State

The Administration Act which came into force on 5 December 1998, established the structure of the national administration, the basic principles of its organisation and activity, the hierarchy of positions, and the prerogatives of the executive. The basic principles of the administration's activity, as mentioned in the Act, include the principle of legality, openness, accessibility, responsibility and co-ordination.

In terms of structure, until very recently the situation referring to the organisation and activity of the central executive power was rather disturbing. Firstly, there were a great number of institutions of non-ministerial rank, established in various ways either by the Council of Ministers, by Ministers or by the institutions themselves. These institutions had no clear place in the state hierarchy. Some enjoyed unjustified autonomy thus leading to a problem with their subordination and control. Secondly, under these circumstances, some institutions were not competent in their actions and in certain cases duplication of functions occurred.

The new Administration Act addresses this issue by defining five levels of central administration (within the executive): administration of the Council of Ministers, the Ministries, the State agencies, the State committees, and the Executive agencies. It is the Council of Ministers (CoM) which establishes, transforms or closes down institutions which do not have the rank of a ministry. The Minister of State Administration runs the administrative staff of the Council of Ministers. They carry out the daily work of the Council and co-ordinate the activities of the central and territorial administration of the executive. A Ministry consists of administrative staff who assists their Minister in fulfilling his/her responsibilities. A State Agency is directly subordinated to the CoM and is in charge of activities which have not been assigned to a ministry. A State Committee is a collegial body within the CoM or attached to any Minister with special functions referring to the enforcement of a law or by-law. In the Administration Act the Executive Agency is defined as an administration which is obliged to fulfil administrative functions to support a Minister's responsibilities.

According to the character of their legal power and the type of activity, the administration of an executive body, as defined in the recently adopted Act, may have general competence, or special competence.

The administration with general competence performs the technical work as regards the duties of the respective executive body and of its specialised administration. It is also in charge of providing administrative services to the citizens and the

legal entities. The specialised administration possesses elements of state power since it assists the respective executive body in performing its duties.

The central bodies of the executive are: the Council of Ministers, the Prime Minister, the Deputy Prime Ministers, and the Ministers. At regional level, it is the Governor, appointed by the Prime Minister who conducts governmental policy and co–ordinates both the national and local interests. Thus, the Governor acts as a representative of the state government at the local level. Deputy Governors responsible for certain sectors assist the Governor. The presidents of the State Agencies and State Committees, as well as the Executive Directors of the Executive Agencies, are also considered bodies of the executive.

Any Minister may set up territorial administrative branches or offices subordinate to them, functioning locally either as directorates within the structure of the regional administration or outside it. Actually, these regional units fulfil tasks on behalf of the central bodies (in the field of health, education, transport, etc.) and also represent an example of de–concentrated state administration. De–concentrated offices are financially dependent on the state budget and for this reason their managers avoid any confrontation with the central executive bodies in case this leads to problems with the instalment of the state grant. Moreover, there exists a great fear of personnel reductions, which is another reason for holding the civil servants in a position of obedience.

Until recently, the existing administrative and territorial division of the country did not allow the District Governors to efficiently fulfil their functions since their activities encompassed a great number of districts. Besides, territorial units of the ministries were not located in compliance with the actual districts' division of the country. With the old method of territorial division into 28 districts (*okruzi*) restored, it is expected that Governors will be more successful in their co–ordination efforts.

In 1999 a Law on Regional Development was enacted aimed at creating the institutional framework for an effective long–term strategic planning and cooperation at regional level that would allow for meeting national priorities with local interests. The Law entrusted the Regional Governors of the 28 districts with coordination functions related to the functioning of the Districts Councils for Regional Development and the preparation of Regional Development Plans. They were provided, however, with only limited capacities and competencies to influence the regional development policies. In this respect, decision–making is still the exclusive responsibility of central authorities and regional development is centrally planned and oriented. In addition, the Law on Regional Development did not provide mechanisms for effective interaction between the municipalities and the regional governors and, so far, the Regional Plans for Development have been prepared following a top–down approach.

Two entities within Central Government assume the responsibility for the development of local governance: the Council of Ministers and the Ministry of Regional Development and Public Works.

- The *Council of Ministers* assumes mainly an administrative function. It maintains close relations with the 28 districts, monitoring their work and supervising the correct implementation of national policies at district level. In this respect, the primary responsibility of the Council of Ministers consists in ensuring that the Government's priorities are followed and it is not directly involved in the development of local self-government.
- The *Ministry for Regional Development and Public Works* (MRDPW) assumes the main responsibility for drafting the legislation related to local governance and for maintaining the close operational relations with municipalities. The MRDPW is the main counterpart authority on behalf of Central Government to local governments and regional authorities providing them with technical assistance and guidance.

In administrative terms the 28 Bulgarian regions are subdivided into 262 municipalities. The *Municipality* is the basic administrative and territorial unit in Bulgaria wherein local self-governance is exercised. According to the Local Government and Local Administration Law each municipality is a legal entity and has the right to own property and to have an independent municipal budget. A dual system of power exists at municipal level: the *Municipal Council* is the highest decision-making body that is directly elected for a period of four years. The *Mayor* is the executive authority in the municipality and is also elected by direct popular vote for a 4-year mandate.

Municipalities in Bulgaria have different decision-making power in the provision of public services. The services in the field of education, health care, social assistance, culture and arts, environment, urban planning, infrastructure and maintenance of roads are the shared responsibility of central government and municipalities. Local governments assume full responsibility in the provision of specific public services such as urban development and community facilities while decisions related to policies in areas of shared responsibility are exclusively within the competence of the central government. Local authorities are not provided with mechanisms for influencing the state policies and their role is limited to a mere execution of decisions taken at central level.

The *District* is a unit created for administrative purposes where no elected bodies of local self-government are created. The Regional Governor is responsible for the implementation of the government policy. His responsibilities include ensuring the legality of the municipalities' administrative acts, supervision of the local governments and the pursuit of an effective regional policy. The Municipalities participate in the Regional Councils for Development with two representatives – the Mayor and the Chairman of Municipal Council.

3. History and the Traditional Position of Civil Service, vis-à-vis Politics

The evolution of the politico-administrative relations at central government level is traced back to the emergence of the modern state during the 1870s. The formation of

the state system in Bulgaria after 1878 followed the pattern of the Balkans. Politically, a modern style of organisation was introduced, including a liberal constitution, a centralised bureaucracy, political struggles, and the intrusive power of the army and the police. Economic backwardness and the peasant character of society allowed for practical political control to rest in the hands of an educated minority. Organised into competing political parties and factions, the *élite* alternated in government and associated patronage (Jelavich 1993). This resulted in the emergence of a strong sovereign in search of a personal regime.

Although the population was highly homogenous, the Ottoman background prevented the newly formed state from developing along the lines of the Western European model. The Tanzimat¹ reform had managed to create a centralised administrative system. However, failure to facilitate the rise of a strong middle class did not achieve social cohesion when Bulgaria embarked on the building of new structures and institutions.

For administrative purposes, the country² was divided into regions (*okruzi*), districts (*okolii*), and municipalities (*obshtini*). The regions were administered by a prefect, appointed by the prince, and were assisted by a regional council elected for three years by universal suffrage. The council assessed taxes, prepared budgets, and administered regional property. The subdivisions of the regions (the districts) were directed by sub–prefects, in charge of the police and responsible for public order. The smallest unit was the municipality. Its elected council chose the mayor and two assistants. The mayor administered the town or village and served as the link with the higher offices of government (Jelavich 1993).

The period 1881–1951 witnessed the adoption of some eight different legislations on the status of the civil servant, amongst which were the Regional Governors and District Prefects Act (1882) and the Provisional Rules for the State Employees³ (1881). Attention should be paid to the Civil Service Act, in force since 1922. Its structure regulated: procedures for appointment, shifts and dismissals; obligations; rights, including remuneration, promotions, holidays, daily allowances and travel expenses, awards, bonus and relief funds, as well as pensions; disciplinary responsi-

1 A series of reforms reorganised the Ottoman Empire between 1839 and 1876. Centralisation of administration, influenced by European ideas, gradually modernised the Ottoman state.

2 In 1885 the Kingdom of Bulgaria was unified with Eastern Rumelia. Until then, Eastern Rumelia remained tributary to the Sultan and its Organic Statute introduced the French system of administration.

3 The traditional interpretation of the status of the civil servant both according to the law of 1922 and the Soviet–influenced nomenclature of ranks is threefold. Civil servants are considered: the officials in managerial positions, the employees servicing the state with their professional knowledge – doctors, teachers, engineers and architects, and the technical staff. Therefore, in new constitutional parlance the term ‘state employee’ is used in a narrower sense, denoting a servant in the state administration, as opposed to any official receiving their salary from the state budget.

bility and penalties; and associations of civil servants (Lazarov 1996). The scope and the operation of these laws separated the administrative machinery from politics.

The Labour Code of 1951 replaced the Civil Service Act and stressed the common features between the labour and the status of the civil servant and those of the worker (Lazarov 1996). The ramifications were that division of power was substituted for political centralism. Formally, the executive, the legislature and the judiciary existed as separate institutions. In practice, decision taking and control functions intertwined, to the effect where the executive branch dominated a state with a strictly hierarchical administration (Nikolova 1997). About one tenth of the population were Communist Party members, “which gave a much smaller apparatus something of a mass base” (Okey 1991). A successful professional career was dependent on party membership. This politicisation of state and society was mirrored in the organisation of the state, modeled on the organisation of the Communist Party.

The transition period, marked by frequent changes in government, has hindered the design and implementation of a far-reaching and comprehensive restructuring of the Bulgarian administration. The ensuing polarisation of society, combined with a tradition of politicised administrations, has led to a recurrence of the pre-War pattern of political dismissals.

The willingness to divorce central administration from political activity, far from de-politicising the state employees, has made them even more responsive to the government of the day. The Political Parties Act of 1990 forbids political parties to interfere in the administration and its institutional functioning. It also imposes a ban on political membership on the staff of the Presidency, the Ministry of Foreign Affairs, the Ministry of Interior and the security services, the Armed Forces, as well as on judges, prosecutors and investigating magistrates (Nikolova 1997). The new Constitution stipulated in Article 116 that civil servants “shall be the executors of the nation’s will and interests,” who “in the performance of their duty shall be guided solely by law and shall be politically neutral.” Whereas certain categories of officials are protected under specified statutes,⁴ a general law treating the common status of all civil servants has been passed recently (in force since August 1999). In addition, the state budget has served as a common denominator in the grouping of the estimated 5,769 civil servants under the definition of ‘state employees’, i.e. a total of over 300,000 people drawing a state salary. The repercussions for the civil servant are that in the public’s view, they have maintained a tarnished reputation and suffer from low levels of self-respect

The difficulty in enacting legislation on the Civil Service lies in the fact that the new law is not intended to legitimise existing functions. Instead, it serves the purpose of establishing new social relationships, corresponding to the role of the state

4 Judiciary Act, Ministry of Internal Affairs Act, Defence and Armed Forces Act, and even Local Self-Government and Local Administration Act.

in a democratic parliamentary system with a market economy (Panov 1996). In an attempt to remain in power, the first two governments of the Bulgarian Socialist Party confined themselves to de–politicisation of the military and intelligence services. The government which followed in December 1990 was a multi–party government of experts. The Institute for State Administration and Economic Management at the Council of Ministers carried out a study, recommending the drafting of a law on a politically impartial Civil Service. No practical steps were taken. When the government of the Union of Democratic Forces came to power in 1991, they dismissed a great number of middle–ranking to upper–level professional civil servants. The de–communisation was legalised with an amendment to the Labour Code, in force until 1996. A Centre for Administration was created by the Council of Ministers to draft a law on the Civil Service which would forbid the replacement of political appointees on political grounds. Neither this nor the several other drafts existing until 1996 entered the National Assembly. Subsequent governments followed the same path of placing political affiliates in middle and top managerial positions (Nikolova 1997).

It was not until 1995 that the then socialist government made administrative reform a priority of its programme. New structures and organisational mechanisms were set up with a view to improving the decision–making process at the Council of Ministers, designing and implementing a strategy for “*A New Administration*”, drafting Civil Service legislation, and devising a training system for public administration. An external factor influencing the political consensus on reorganising the Civil Service was membership of the European Union, which required, *inter alia*, an effectively performing administration. The fall of the government prevented this coming to fruition (Nikolova 1997).

The current government of the United Democratic Forces has reverted to the rationalisation of all spheres of government. Its programme “*Bulgaria 2001*” pursues a reform in the state administration as an instrument for improving governance and rendering it into conformity with the standards in the European Union. The process of creating an administratively effective Management is two–dimensional: institutional changes are aimed at raising the prestige of the state and organisational reforms are intended to create and consolidate a unified model for organising the administrative structure. Accordingly, a “*Strategy for the Establishment of a Modern Administrative System in the Republic of Bulgaria*” has been devised to improve the co–ordination within and between the state bodies, as well as between the administration and civil society. Protection of the status of the civil servant and an active information policy propose to separate managerial decision–making from policy implementation. It is believed that the division of responsibilities between the specialised and the general administration makes the system of public administration more transparent and efficient.

Box 1
The Strategy for Establishing and Modern Administrative
System in Bulgaria

The content of the Strategy refers to the structure of the public administration sector and the design of a new organisational model of the executive power. The main elements of public sector reform include: creation of a new administrative structure, coordination among state power bodies, endorsement of a new civil servant status, bringing of the judiciary doctrine in accordance with the principle for separation of power, and the implementation of an active information policy towards society regarding the reform process. The restructuring of the executive power branch refers to the establishment of a common organisational model for all administrative bodies within the system of the executive power, enhancement of the potential for governance of the social processes, introduction of up-to-date information technologies, increased effectiveness of the administrative services rendered to citizens and legal persons, etc.

The legal framework for achieving the objectives of the Strategy comprises the Administration Act, the Civil Service Act, the Access to Public Information Act, the Law on Normative Acts and the Public Procurement Law. Three legal acts from this package have been adopted up to date, namely the Administration Act, the Civil Service Act, and the Public Procurement Law.

It is difficult to assess the impact of this package of laws on the changing position of public administration vis-à-vis the politicians, as the three mentioned pieces of legislation have only become fully operational fairly recently. It can be said that these laws will not conflict with the longstanding political tradition of looking upon the Civil Service as a state service. Although the reorganisation of the structure and process of the administration – together with the conditions for appointment of civil servants and their legal position – may classify the modern Bulgarian Civil Service as a public one, the lack of a proper financing mechanism, a systematic training policy and service-consciousness will slow down the process of establishing a new administrative culture.

**4. Formal Relations, Constitutional and Legal norms, Guiding Relations
between Elected Politicians and Appointed Officials**

The purpose of this section is to provide an overview of the formal relationship between civil servants and politicians by outlining the constitutional and legal norms and attempting to conceptualise the Bulgarian situation in terms of the theoretical models developed by Guy Peters (1988). The analysis of the estimated configuration will be enlarged upon and consequently applied in section six.

First, the basic provisions stipulated in the Constitution will be briefly presented. Secondly, the Civil Service Act (CSA), in force since 27 August 1999, will be described in detail. The CSA must be given close attention, as it is the basic element of the legal framework regulating the relations between politicians and civil servants and for setting up the status of the civil servants and the administrative framework together with the Administration Act discussed in Section 1 above.

In the 1991 Constitution of the Republic of Bulgaria there are regulations regarding the state power inter–relations originating from the set up: organisation and activity of the national representative bodies; the range and execution of the President’s and Vice–President’s prerogatives; the definition of the fundamental principles of the executive power, including the Council of Ministers, the Ministers and the central administration institutions, as well as the judicial power and local self–government and the Constitutional court.

Article 116, paragraph 1 of the Constitution states that “state employees” should act according to the will and interests of the nation and whilst performing their duties, they should abide by the law and be politically neutral. These are the basic principles on which the legal norms regarding civil servants should be based (Mruchkov 1996). The above principles are upheld by the CSA – the basic legal norm specifying the relationship between the civil servant and the state with regard to their state service. It is a logical follow up and an indispensable part of the strategy for the establishment of a modern administrative system in Bulgaria.

According to the law, the definition of a “civil servant” is a person who has a permanent position within the administration and who has legal labour relations with the state, represented by the respective state body. The rules and regulations of the different administrations define the designations and positions of the civil servants according to the unified classification of the administrative positions. The CSA contains the following employment distinctions:

- political versus administrative positions, and
- between civil servants and other public employment positions within the administrative positions, as the employment relations of the latter are covered not by the CSA, but the Labour Code.

The main requirement towards the civil servant is stipulated in Article 4 of the Civil Service Act which states that the civil servant should act according to the will and interests of the nation. They should observe the constitutional and legal norms and defend the rights, the legal interests and citizen’s freedom while fulfilling their duties. They should be politically neutral. The civil servant must observe the law and the legal acts of the higher bodies. He/she should be dedicated to his/her work according to the principles of “lawfulness, loyalty, responsibility, stability, political neutrality and hierarchical subordination” (Article 18).

The CSA regulates the conditions for occupation of a Civil Service position, e.g. age, citizenship, education requirements; the duties of the civil servant – working time, subordination, confidentiality, prohibition for making statements, keeping the Civil Service prestige in their professional and personal lives; their rights – of salary, according to position and rank, as defined by the Council of Ministers (the basic salary should not be lower than the triple minimum salary for the country), their right to holidays, promotion, welfare benefits, opinion, trade unions; responsibility and discipline (awards and sanctions); settling of disputes and control for maintaining the status of a civil servant (by the State Administrative Commission).

Box 2
The Bulgarian Civil Service Act

The Civil Service Act is a one of the key laws intended to reform Bulgaria's Civil Service system. The bill defines a civil servant as a state employee who occupies a Management or expert position in the constitutional bodies of state administration. Candidates are to be selected on a competitive basis, and be Bulgarian citizens with appropriate qualifications. They must also be politically neutral and not have relatives in senior public office. The definition of a civil servant excludes doctors, nurses, police, the military and judges. The bill is an attempt to create a core set of key public employees whose employment status is designed to ensure that they are insulated from arbitrary personnel actions and determined to enhance their professional performance, citizen-orientation, openness and transparency.

With regard to the establishment of modern and stable administration, following the Civil Service Act, secondary legislation was adopted and just recently entered into force:

- Ordinance of the Council of Ministers Nr. 34/20.03.2000 for implementing the Regulation on the Status of Civil Servants;
- Ordinance of the Council of Ministers Nr. 35/20.03.2000 for adopting an Unified Classification of the Administrative Positions and Regulation for its implementation;
- Regulation No 1 of the Minister of State Administration from 21.03.2000 for the Documents for Joining the Civil Service.

However, since the implementation of the Civil Service Act and the subsequent secondary legislation is yet in an initial phase, it is not possible to judge the extent to which it contributes to the establishment of an efficient and professional Civil Service.

This section analyses the existing situation and the administrative system's potential to implement the government's agenda for reform by using the results from a comprehensive empirical survey conducted in 1997 by Strategma, a local consultancy firm that advised the Minister of State Administration. The research was conducted through a survey based on a questionnaire distributed to the 93 existing administrative units. The overall objectives of the survey were to provide an overview of the current state of the system's human resources, their potential, and the conditions under which they could meet the new requirements for civil servants.

The survey suggested that the current administration system is characterised by "a high degree of uncertainty and improvisation" (Report on the Draft Decision of the Council of Ministers 1998). There is no common rule for the definition of the hierarchical subordination amongst the different institutional units. The objective of the administration is preservation of the *status quo*. Civil servants are in constant fear of change; there is an absence of cohesion and team spirit and a lack of joint objectives (Report on the Draft Decision of the Council of Ministers 1998). In many administrative units, there is no clear distribution of tasks and responsibilities thus leading to a lack of co-ordination and an overlap of activities. These factors place Bulgarian civil servants in the classical Weberian type – politicians/regime responsive.

The administrative staff are more involved in the process of administering policies and implementing decisions, rather than in the actual policy–making. Although some officials at the expert level participate in the preparation and drafting of policy documents (e.g. in ministerial working groups or at parliamentary committee meetings held to discuss draft legislation prepared by their respective ministry, etc.). But, they not are politically responsible and do not have a decisive say in the policy making process. This is mainly due to the lack of a professional tradition and continuity in this field.

The need for modernisation of the administrative apparatus is widely recognised by the President and the Government. This is manifest in “Strategy for the Establishment of a Modern Administrative System in the Republic of Bulgaria” and the two acts – the Administration Act and the Civil Service Act discussed above. The aim is to create an efficient bureaucracy functioning according to professional standards and having sufficient expertise to provide for its development and continuity. Unfortunately, the new updated version of the Government programme confirms that this aim is far from being achieved (Updates 2000). Two core issues regarding the administrative reform are again stressed:

- the completion of the implementation process of the new public servant statute in view of providing stability and permanence of the public service, and
- the implementation of a general system of professional development and retraining of public servants including the establishment and functioning of a specialised Institute for Public administration and European integration.

A considerable effort still needs to be made to implement the recently ratified legislation including the newly adopted by–laws in order to build an operational and efficient government administration.

In the context of making the Civil Service more attractive for young people, internships were offered to those interested in working in the administration of the different ministries. There they could get involved in the daily work of the civil servants and fulfil practical assignments under the supervision of ministry officials.

Since the analytical configurations will be discussed later in this paper (see section six below), it is possible here to consider how the envisaged legal norms and the current situation might provide a basis for the conceptualisation of the administrative system in Bulgaria according to Peters’ models of politico–administrative interaction. Due to its inconsistency and uncertainty, it is difficult to fit the situation in Bulgaria within any of the existing models, still, it approaches the Formal–Legal model of politico–administrative relations. Despite the reforms which have been undertaken, the current relationship between politicians and civil servants does not go further than this formal model where there is a clear separation between the administration and political appointees. It is envisaged that over time the Functional Village life model might evolve replacing the formal–legal relationship between both sets of actors (Verheijen and Rabrenovic 1999).

5. Political Culture and Attitudes

As mentioned in the historical overview, the newly chosen model of professionalisation of the Civil Service has not penetrated the legal consciousness of Bulgarian citizens. The relatively late codification of the status of civil servant may be perceived as an advantage to the extent that the principle of building a de-politicised and neutral public administration is vested in the respective legal norms, thereby constructing a Bulgarian system complying not only with the philosophy of European integration, but also responding to the needs of society. Alternatively, traditional polarisation of political life may undermine the philosophy of establishing effective government institutions not as ends in and of themselves, but as a means to serve the public. This explains why – during periods of severe partisan struggles and in unstable economic situations – the functioning of the administration has not been the focus of public attention.

Few opinion polls and surveys have been produced outside the framework of the working groups on the administrative reform under the different governments. Although the subject of their study has not been bureaucracy *per se*, certain conclusions can be drawn on the attitude of the general public towards the state administration and the relationship between the Civil Service and politicians. History has left us with a legacy of conflict between town and village and society and the state. The poor economic situation and the socialist concentration of public administration in the cities (mainly the capital) have only added to the antagonism between the professional groups and those living in the country. Additionally, interaction with the central administration has affected the public's general acceptance of the state institutions. After 1989, disrespect for state authority spread to the democratically elected branches of government and the new Constitution. However, with the gradual stabilisation of the political and economic situations, citizens' perceptions have changed for the better.

The organisation of central government has been characterised by poor co-ordination and lack of coherence. Frequent changes at the top level of the Civil Service have de-motivated officials at the lower levels. The lack of proper controls has resulted in ineffective policy implementation. A lack of political responsiveness and low morale have prevented civil servants from developing any feeling of having a specific mission. At the same time, they have developed a status-quo mentality and a reluctance to work in a team. Moreover, staff officers maintain no corporate identity and avoid taking responsibility (Report on the Draft Decision of the Council of Ministers 1998).

This disillusionment amongst civil servants has influenced the legitimacy of the government structures. Ironically, although more accessible, unlike during the communist period, the institutions still demonstrate an unwillingness to provide information, both in the sense of sharing it within the administration and in distributing it publicly. Coupled with the phenomenon of allegedly widespread corruption, the

need for information has dissociated the administrative culture from communicating with society in an open and transparent way.

Support for reform is in competition with the étatism instilled in the mass consciousness. The very philosophy of the transformation process outweighs the psychological and material state of the people's readiness for reform. With the exception of civil demonstrations, which have contributed to the change in government, citizens have remained passive witnesses, rather than active participants in the political process. Public opinion is that bureaucracy is one of the opponents of restructuring. The absence of sufficient information on the areas in which changes are necessary, renders social support "impulsive and abstract"; 61.9 per cent of citizens admit they are inadequately informed on the essence of administrative reform (National Centre for the Study of Public Opinion 1997). Since 1997 when this survey was made, the situation has not changed significantly. The Prime–Minister has recognised publicly the lack of effective communication between politicians and people as a basic shortcoming of current governance. Therefore, strengthening the information efforts towards society in all spheres of reform is considered to be of utmost importance in overcoming the decrease in public support.

In this context, the Draft Access to Public Information Act (DAPIA) may provide a way of achieving greater synergy between the public administration sector and society. It is perceived to be crucial for the essence of public administration reform in Bulgaria. The draft has been passed on first reading in Parliament and has provoked wide spread public debate in the country. However, a number of considerations should be taken into consideration. Firstly, it is the first law which regulates the right of access to official information concerning the public life in the country, ever elaborated in Bulgaria. It provides for transparency of governance but is not a law on the openness of the Government such as the Law on Open Government in Belgium, or the US government's Sunshine Law. Therefore, this draft encompasses the features but not the objectives of the above mentioned legal acts. On the basis of this, it is possible to talk about the passive transparency of governance rather than active transparency of state bodies in Bulgaria.

Secondly, since a Privacy law does not exist in the country, the draft act in question touches on this issue as well. Thirdly, there is also a lack of a Data protection law. All these considerations help to explain the convergent character of the Draft Access to Public Information Act. The debate in society has produced important recommendations, such as the need for enumeration and specification of the legitimate exemptions, the protection of the media and other non–public sectors of society, the protection of those who disclose information, the possibility for appealing before the administrative body concerned or an independent body.

Another negative attitude towards state officials is illustrated by the feeling of Bulgarians towards corruption. The high level of public intolerance towards its various forms differs from any readiness to accept such conduct from MPs and civil

servants. According to 75 % of Bulgarian citizens, most politicians and administrators⁵ are corrupt. However, there is more criticism regarding the behaviour of public servants than that of MPs. While accepting extra remuneration in the performance of their professional duties is perceived as acceptable for civil servants, sharing inside information for personal benefit is seen to be the worst abuse within public office (Vitoshka Research 1997). To summarise, susceptibility to corrupt practices results from the absence of legitimate mechanisms to deal effectively with policy problems (Coalition 2000, 1998). Curbing this widespread social phenomenon will depend on the sustainability of the economic and political progress achieved by the current reform government, but also on the control mechanisms and the enforcement of the relevant legal framework.

The weak structures of civil society cannot exercise sufficient pressure on Civil Service performance. As far as the public is concerned, avoidance of responsibility on the part of the administration is commensurate with its subservience to the political party in power. It is expected that streamlining the legislation on the reorganisation of the Civil Service will rectify the accountability gap. In the political field, efforts are being directed towards minimising the potential for conflict through a programme for better integration of the ethnic minorities in the process of governance.

6. The Policy Process in Practice

The formal policy-making procedure at the central level involves four phases – legislative initiatives, discussions on draft legislation in the parliamentary standing committees, debates and voting in the National Assembly, and promulgation of the adopted law by the President. Article 87(1) of the Constitution and the Statutes on the Parliament activities gives the power of a legislative initiative to individual MPs, the Council of Ministers, the Parliamentary standing committees and parliamentary groups. In practice, most bills are proposed by the Council of Ministers. A ministry initiates draft laws and legislative initiatives which are usually based in the government programme. The initiating ministry carries out the actual drafting work. Normally an *ad hoc* working group comprising expert civil servants is set up between all line ministries involved in the drafting of a particular piece of legislation.

The Legal Department at the Council of Ministers makes an assessment of compliance of the draft law with the Constitution and Bulgarian laws, as well as with European Law and International Treaties which Bulgaria has signed. Each draft law is sent for an opinion on its financial aspects to the Ministry of Finance, in view of the financial discipline imposed by the Currency Board. After its adoption by the Council of Ministers, the law is submitted to the National Assembly.

5 It is interesting to note that the term 'state officials' has been used in the survey to denote not only employees in the administration but also ministers, mayors, directors of state enterprises etc. This illustrates the lack of understanding in society about the proper role of the Civil Service.

The draft law is then submitted to the Chairman of the National Assembly who sends it to the respective standing committees. The draft law is in principle sent to the committee relevant to the sector of the proposed law, this committee co–ordinates the process of review of the draft law. In addition, other committees may deal with the same law when the matter refers to them, making them subsidiary committees. The standing committees discuss the draft legislation and then submit their decision to the Chairman of the National Assembly. The decisions of the standing committees and the draft law itself are submitted to the MPs. Draft legislation is discussed and voted in two readings. After the National Assembly adopts the draft law, it is sent to the President for endorsement and promulgation.

It can be seen from the above description that the formal policy making process is carried out within the governmental institutions and is completed in Parliament. The general public still has a limited influence on this process, however growing public pressure may have a positive impact. In a few cases non–governmental organisations and professional groups debated draft laws, as in with the cases of the Law on Media, Draft Access to Public Information Act and the Law on the State Budget. As a result, certain changes were or are expected to be introduced in the legislation.

Regarding the involvement of civil servants in policy–making, they participate at the level of preparation and drafting, as contributors to but not as the dominant makers of public policy. The negotiation process with the European Union will require better co–ordination of policy, improvement of the decision–making mechanism, and further development of the institutions. The adjustment of the work organisation in relation to European integration already necessitates that a new scheme be put in place. A fundamental element of this scheme appears to be “the attribution of responsibilities and delegation of rights also to lower levels” of the public servants (Preparing for EU 1999). This means that the existing units within the co–ordination mechanism will receive more powers while senior administrators will gradually have an increased role in the Policy Process.

It is also important to note that the current Government has already undertaken initial steps towards building up an informed public opinion on the key issues of European integration. Governmental communications strategy in the field is prepared and will soon start to be implemented. A web Page “Dialogue 2001” has been created to provoke public debate on all a range of issues of concern to the country’s development. The value of such endeavours, although still modest, is widely recognised. Such developments suggest that there is sufficient political will to make the policy–making process in Bulgaria more transparent involving the lower echelons of public bureaucracy and civic society.

7. Classification According to the Theoretical Framework

This section will attempt to conclude the analysis of the Civil Service system in compliance with the theoretical model developed by Peters (1988).

Measuring power

In Bulgaria, traditionally, bureaucrats do not tend to believe that they are in competition with their political masters or have a better understanding in the area of policy. In the socialist past, the bureaucracy was a sort of privileged elite since high-ranking administrative positions were included in the Communist Party nomenclature. Thus, top administrators strictly followed the political guidelines. When applying a concept for measuring power, we could say that during the communist period, civil servants were powerful in relation to citizens and powerless in relation to their political leaders. The interaction between both sets of actors was based on the principle of obedience.

Since the beginning of the transformation period, the political affiliation has gradually become a disadvantage since it was the key administrators who were subjected to dismissals by every newly elected government. Political loyalty became risky. The process of de-politicisation and enhancement of professional development in the Bulgarian administration, however, does not place it on an equal footing with political appointees. Current government legal and political initiatives would seem to support the long-existing firm distinction between civil servants and political executives. However, quite important differentiation in terms of legal status has been introduced with the new legislation between the senior and lower ranks of civil servants. The Government was even accused of being overly concerned with ensuring bureaucratic comforts for the high-ranking public officials. This means that the inertia processes from the past are gradually giving way to the political will for an increase in Civil Service status in society. On such basis, it might be predicted that over time political executives and civil servants, although not equal partners, would co-operate along functional lines.

Model of interaction

It is difficult to classify the current Bulgarian model of interaction between the two sets of actors within the given theoretical framework, because this type of analysis requires a relatively stable system of relations and the politico-administrative system in Bulgaria is going through a dynamic transition.

For a long period of development, politics in Bulgaria were conducted within the Formal-Legal model of interaction, in which the role of the civil servant in policy-making is reduced to saying "Yes, Minister" (Peters 1998). The long-lasting totalitarian style of governance and the processes of inertia in society emerged to justify the retaining of this *status quo* even in the transition period. Bulgaria has gone through the different policy experiments of various governments, each of them producing different political outputs. It is worth noting that politicians themselves have never referred to civil servants, but to their political predecessors to justify any lack of political success.

In the period of democratic consolidation the model of interaction between the actors involved in the policy–making process is likely to become more coherent, based on a common business orientation. When it comes to their own self–interest, they tend to cooperate between themselves or with other actors in society, including business circles. More increasingly politicians and administrators choose integrative tone of communication while the conflict resolution is conducted through Bargaining, especially in cases of real or imagined threats from outsiders, like media for example. In conclusion, this suggests that it is possible to develop the “Functional Village life model”, despite that the mutual interaction sought at present is not in favour of but against the public good.

Type of executive system

Peters (1988) considers that patterns of interaction are also influenced by the *nature of political executives*. People with specialised training dominate the new generation of political appointees in Bulgaria. Contrary to the communist past, today the executives from the upper echelon are mostly technocrats. They have predominantly either legal or economic backgrounds – a fact which is always strongly underlined, since it is already implanted in the public opinion that people with those backgrounds are the most appropriate to conduct the country’s reform process. Although expert–oriented, Bulgarian ministers and deputy ministers frequently act as “policy entrepreneurs” or as managers, experiencing external job commitments and involving themselves in large business networks (Peters 1988). Achieving professionalism, which is completely detached from political affiliation or mercantile inclination is not a realistic objective. Thus, the pattern of relationship, which is evolving in Bulgaria, might well adopt a functional Village life conception of the role of the political executives.

In summary, according to the key variables analysed, the Bulgarian administrative system fluctuates between the Formal–legal and the Functional Village–life patterns of politico–administrative relations. Since these are simply conceptual configurations, they may not completely fit existing cases, especially in transition systems such as Bulgaria. This will remain the objective of further development and targeted empirical research.

8. Conclusions

On the basis of our analysis, it can be concluded that there is strong political will to reform the public administration in Bulgaria. The task of rationalising the public service has been assigned to a specially nominated Minister of State Administration; political and economic stabilisation have facilitated the process of restructuring.

The concrete steps undertaken by the government demonstrate that the process is following the correct road towards modernisation. The government’s strategy proves that there exists a coherent vision on all components of the future Civil Service system. At an institutional level, it is intended that the public administration structures will work along the principles of legality, co–ordination, and openness.

At the organisational level, it is expected that the Civil Service will evolve from a state bureaucracy to a client-oriented, professional and accountable administration. As regards politico-administrative interaction, where it is the political appointees who make the decisions and the administrators who implement them, the Formal-legal pattern is prevalent. However, the "Functional Village life" model may evolve in Bulgaria in the future as some degree of integration between Civil Service and political careers is observed. .

Despite the enforcement of the two key laws on public administration in Bulgaria, the Administration Act and the Civil Service Act, the European Commission's official opinion is that it is too early to assess the results of the administrative reform processes. The implementation of these laws is still at an early stage, therefore "it is premature to judge to what extent the new legal framework will contribute to the establishment of an independent, efficient and professional Civil Service" (European Commission 1999). The Commission shares the view that the current rapid pace of adopting laws regarding the public administration reform will increase the challenge of their effective implementation, which in turn will be burdensome for the underdeveloped institutional capacity. The Commission underlines that despite the existing Strategy for the Establishment of a Modern Administrative System, urgent steps have to be undertaken for the effective implementation, monitoring and enforcing of the newly adopted laws so that progress in the public administration reform is ensured (European Commission 1999).

Although the EU's overall assessment of the administrative reform is that Bulgaria has made little progress in the restructuring of its public administration, it is expected that in the short run the new legal and political environment will have a positive impact on the functioning of the administrative bodies and on the status of the civil servant. Nevertheless, problems such as administrative culture, motivation, and transparency will not be solved immediately because they are deeply rooted in the political tradition and the development of civil society.

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**Annex 1:
GLOSSARY**

Administration – according to the Administration Act, the administrative staff working with the executive bodies.

Civil servant – according to the Civil Service Act, the person who has a permanent position within the administration and who has legal labour relations with the state, represented by the respective state body. In practice this status was given to the state employees holding senior positions within the administration.

Corruption – abuse of public office for private gain and penetration of personal and family relationships in the decision–making process.

De–communisation – a term used by the Union of the Democratic Forces, whose government came to power in 1991, to denote dismantling of the communist political system and building of a democratic one.

Lustration – legal provision forbidding former high–ranking communist functionaries to take top managerial positions within the public administration.

State employees – for the purposes of this study, as there is no adequate translation of Civil Service in Bulgarian, the terms ‘civil servants’, ‘public servants’, ‘administrators’, ‘bureaucrats’, ‘state officials’ and ‘state employees’ have been used interchangeably.

Chapter 6: Politico–Administrative relations in the Czech Republic

Olga Vidláková

1. Introduction

The Czech Republic started its existence as an independent state on 1 January 1993, following the split of the Czech and Slovak Federal Republic. Shortly before that date, in November 1989, the communist system of government had collapsed, after having ruled the country for more than forty years. The origin of the new state was thus preceded by two exceptional events in the field of state organisation, both of which had a peaceful form, free of violence and bloodshed. The November 1989 revolution is known in history as the so-called Velvet Revolution, while the split of the federation, effectuated on the basis of an agreement between both parts of the federation, Czech Republic and Slovak Republic, was no revolution at all.

Simultaneously with the establishment of the Czech Republic its Constitution entered into force. It characterises the Czech Republic as a sovereign, unitary and democratic state, based on the rule of law and on the respect for human rights and freedoms. The bodies of the legislative, executive and judicial power exercise state power. The legislative power is vested in the Parliament, which consists of two chambers: the Chamber of Deputies with 200 deputies elected for a term of four years, and the Senate with 81 senators elected for a term of six years. One third of the senators are elected every two years. The first elections to the Senate, for which transitional rules regarding the length of the senators' terms of office applied, took place in November 1996. The second elections took place in November 1998 and the last (third) elections took place in November 2000. Currently, the Four Party-coalition holds 39 seats, the Civic Democratic Party 22, the Czech Social Democratic Party 15 and the Communist Party of Bohemia and Moravia 3. Two seats are occupied by independent senators.

The last elections to the Chamber of Deputies were held in June 1998. Five political parties are represented there: the Czech Social Democratic Party with 74 seats, the Civic Democratic Party with 63 seats, the Communist Party of Bohemia and Moravia with 24 seats, the Christian Democratic Union – Czechoslovak People's Party with 20 seats and the Freedom Union with 19 seats. The latter is a relatively new party, which emerged after a split in the Civic Democratic Party.

Following the elections, Miloš Zeman, the leader of the Czech Social Democratic Party, was appointed Prime Minister. After unsuccessful attempts to establish a coalition government with the Christian Democratic Party, he formed a minority Government that was approved by the President on 22 July 1998. With the exception of the Minister of Justice, all members of the government are social democrats.

In January 1998 Václav Havel was re–elected President of the Republic at a joint meeting of both chambers of the Parliament for a five–year term of office.

It is worth noting that following the general elections in June 1998 the Czech Social Democratic Party and the Civic Democratic Party concluded an “Agreement on the creation of stable political environment in the Czech Republic”, which created the conditions which should enable the rule of the minority Government of the Czech Social Democratic Party. Although the Civic Democratic Party remains outside the Government, the Agreement stipulates that the two parties “undertake to consult... “the mode of approach to foreign and home policy issues before they are debated in the Parliament of the Czech Republic”. In the parlance of the media this agreement between the Government party and the biggest opposition party is commonly called “opposition agreement”. All other right–wing or right–centre parties reproached the party of the former Prime Minister, Václav Klaus, contending that it was supporting the left–wing government and practically betraying its own programme. That is also why both parties to the Agreement are called “the Government parties”.

The opposition agreement was extended on 14 January 2000, after the Chamber of Deputies of the Parliament had twice rejected the Draft State Budget for 2000 at the end of 1999. The two parties adopted five supplements to the Agreement which, in addition to the State budget for 2000 and a budget forecast for 2001 and 2002, concern the definition of material conditions for the toleration of minority Government, the communication of Deputy and Senator clubs of both parties, the preparation for the admission of the Czech Republic to EU and particularly the principal parameters for changing the electoral system. This last supplement necessitates the amendment of Acts concerning the elections both to the Chamber of Deputies and to the bodies of territorial self–government. The system of elections to the Chamber of Deputies should be amended in a way as to facilitate the establishment of a majority Government composed of maximally two political forces.

The above supplements to the opposition agreement caused a wave of criticism in the media. This is due particularly to the fact that they create a situation in the Chamber of Deputies in which important Acts are decided by the political secretariats of two political parties – the left–wing government party and the biggest opposition party which declares itself as strongly conservative. One of its founders, the Chairman of the Civic Democratic Party and the Chairman of the Chamber of Deputies, Václav Klaus¹, called this complex of five supplements to the Agreement “the Toleration Edict”. In early March 2000 the Parliament enacted the Act on the State Budget with a deficit of 35,2 billion Czech Crowns. By the end of March it was decided that there should be six replacements in the Government which reduced total number of members of the Government was reduced by two (from 19 to 17).

1 Prime Minister from 1992–1997

The above situation arrangements will allow the social democratic Government to rule until the end of its mandate, i.e. June 2002. Moreover, it allows the Government to continue the previously outlined direction of public administration reform, including the review and adoption of the Civil Service Act intended to form the fundamental legal framework for the establishment of a non-political, professional and impartial Civil Service. In accordance with the Government legislative plan, the draft of this Act should be submitted to the Government by the Minister of Labour and Social Affairs by the end of June 2000, so that the Act could be adopted by the Parliament in the first half of 2001 at the latest and enter into force from January 2002.

2. Overview of the Administrative Structure of the State

The Government is the central policy-making and executive body. It consists of the Prime Minister, Deputy Prime Ministers and ministers. The law does not determine the number of Deputy Prime Ministers. The Government currently consists of 17 members, including the Prime Minister, four Deputy Prime Ministers (three of who simultaneously act as ministers and 13 ministers, one of them without portfolio and acting as the Head of the Prime Minister's Office (Office of the Government). There are 14 ministries (headed by ministers).²

In addition to the ministries other central state administration bodies operate at the central administrative level:³

At **sub-national level** there are three administrative tiers – **regions, districts and communes**. Currently there are 14 regions, including the capital Prague, 73 districts and 6251 communes. **The district is** the only administrative tier without self-government. In the territories of districts there are two types of state administration:

District offices are based on the generalist principle and are managed and controlled by the government. Their heads are appointed and recalled by the government upon the proposal of the Minister of the Interior who submits the proposal for the appointment of the head of the district office after a competition. The government also unifies the activities of the ministries and other central state administration bodies in relation to District offices. The Ministry of the Interior is the co-ordinating body. Thus the District offices are the manifestation of territorial de-concentration of state administration in their territories.

2 Ministry of Foreign Affairs, of Defence, of Finance, of Interior, of Industry and Trade, of Transport and Communications, of Justice, of Labour and Social Affairs, of Agriculture, of Environment, of Public Health, of Education, Youth and Physical Education, of Culture, for Regional Development

3 Administration of State Material Commodities Resources, Commission for Securities, Czech Geodetic and Land Registry Office, Czech Mining Office, Czech Statistical Office, National Security Office, Office for Industrial Ownership, Office for Protection of Economic Competition, Office for the State Information System, State Office for Nuclear Safety.

Apart from District offices there are the offices of **de–concentrated state administration**, organised on the basis of the functional principle, operating within the remit of individual ministries, such as financial and custom offices (Ministry of Finance), labour offices (Ministry of Labour and Social Affairs), school offices (Ministry of Education, Youth and Physical Education) and Kadaster offices (Czech Geodetic and Land Registry Office). It should be noted, however, that the boundaries of territorial competence of these offices are not always identical with the boundaries of the districts (e.g. financial offices which operate in 23 smaller territories).

It can be concluded that the territorial state administration is a combination of both organisational forms, i.e. both special de–concentrated bodies operating in the framework of one central state administration institution, and all–purpose bodies (District offices) controlled by the government.

Local self–governing authorities operate at **municipal** (since November 1990) and **regional** (since November 2000) level.

The Czech Republic is known for its high number of municipalities. For a population of 10.3 million it has 6 251 communes. This is due, on the one hand, to the dispersed pattern of settlement, and on the other hand to the reaction of the communities on their authoritative integration under communist rule which took place in the first half of the 1980s. After the adoption of the Communal Act in 1990 the municipalities, having been previously integrated into major units, were again divided. This is how the number of municipalities increased by 52% in the course of three years (1990–1992). All communities are entitled to self–government. However, since 60% of them have a population below 500 and 80% below 1000, all small municipalities cannot guarantee the exercise of the transferred state administration, as they lack the necessary financial means and managerial capacity. Only those municipalities which have a so–called designated communal office can exercise transferred state administration. The 383 designated communal offices were specified by the Government by Order (which is a generally binding regulation) to exercise transferred state administration in the areas defined by the respective District Office.

The regional self–government was established under the Constitutional Act on the Higher Territorial Self–governing Units (Act No.347/1997 CoL) and the first elections to the 13 regional councils (except the capital Prague) took place on 12 November 2000. In addition to their self–government activities they also exercise, through their Regional Offices, the transferred state administration in areas matters specified by law. Apart from the Regional Offices, however, special, de–concentrated state administration bodies under the jurisdiction of the individual ministries also exercise state administration in regions.

It is difficult to classify the Local self–governing authorities according to the Leemans system. On the one hand one might classify the Czech system as a “dual” system, as there is no representative of executive power in the Czech commune system. The mayor of the municipality and the governor of the region are elected by

the local/regional councillors from their midst without interference of the executive power. However, it is also possible to classify the system as “fused”, as municipalities, particularly those having a designated municipal office, and regions exercise transferred state administration, in the exercise of which they are managed by the respective ministries through internal rules issued by them, while in their self-governing competence they are limited by law only.

3. History, Traditional Position of Civil Service vis-à-vis Politics

The historical typology developed by Raadschelders (Raadschelders *in* Bekke, Perry and Toonen 1996) is hardly applicable to the Czech Republic, where the Civil Service does not exist yet *ex lege*. Therefore one must adopt an historical approach. The roots of understanding of the status of Czech Civil servants in modern times must be sought as far back as at the beginning of the 17th century. A historically significant moment was the year 1620 when the country lost its independence to become a part of Austria, and later the Austro-Hungarian monarchy, for 300 years. The lost statehood, replaced with Austrian oppression, manifested in all fields of life, influenced the perception of the government and its servants (officials) by the Czech public until modern times. Their relation was mutually inimical; the officials represented foreign power, they spoke a foreign language and were somehow “ubiquitous”. As the state administration of the time was primarily authoritarian and the state in some periods was a police state, particularly during Bach’s absolutism, officials were not liked.

That attitude was transferred also to the period following the First World War, when the Czech people started rebuilding their own state on the ruins of the disintegrated monarchy. It is interesting that after the war all states which abolished monarchist regimes and adopted the republican government form (Germany, Austria as well as Czechoslovakia and Poland) expressed in their constitutions considerable mistrust of the executive power. And it is essential to note that these democratic republican states originated in the territories formerly ruled by the so-called constitutional monarchy (à *contrario* parliamentary monarchy) characterised by the dominance of the monarch over the Parliament. The reservations about establishing a strong executive power in the new constitutions of the states in the territories of former constitutional monarchies, particularly their provisions assuring the supremacy of the Parliament over the head of state and the Government, must be understood as a reaction to preceding regimes.

Practically, however, it was difficult to find a sufficient number of people ready for Parliamentary rule and fit to monitor the implementation of all issues required for public welfare. However, even if a sufficient number of such people had been available, it did not mean that all of them would get into the Parliament. That was the problem the young Czechoslovak Republic, which started building a democratic system of governance, had to cope with. The only opponent to the rule of political parties at the time was the Office of the President of the Republic and this only due to the high authority of the first president, TG Masaryk. According to the 1920

Constitution of Czechoslovakia, however, the President did not have enough constitutional power to effectively challenge the rule of political parties.

Various authors, particularly constitutional lawyers of the time, criticised the excessive power granted to the Parliament and argued for strengthening the ruling and executive power (J.Krejčí, 1935). It can be concluded that in the period between the two world wars the dominance of political power over the Civil Service prevailed also in the Czechoslovak Republic. “Political sponsorship” in all probability existed and the political affiliation of the applicant for a Civil Service post played an important role in recruitment decisions. After all, the dictatorships which originated in Central Europe relatively shortly after the war, testified to the fact that this region lacked the long political tradition and high standard of political consciousness of the nation which formed the basis of Parliamentary democracy in states such as the United Kingdom.

The twenty years of development of the democratic Czechoslovak Republic represented a period which was much too short to enable the population to acquire greater confidence in the Civil Service. In the first post war years the mistrust of the Civil Service resulted from previous experience with a foreign power. Moreover, before this mistrust could start receding, its division into two parts forcefully broke the pattern of development of the state. In March 1939 the territory of the state was reduced by the cession of border regions with German population to Germany on the basis of the Munich Accord of September 1938, the cession of Těšín region to Poland in October 1938 and the transfer of South and East Slovakia as well as a considerable part of Carpathian Ruthenia to Hungary. Slovakia seceded to form an independent state supported by Germany, and the western part of Czechoslovakia was turned into the Protectorate of Bohemia and Moravia, established by an edict of Adolf Hitler of 16 March 1939. Formally the Protectorate had an autonomous administration, government and state president, but actually it was totally subordinated to the occupying power. The Office of the Reichsprotector in Bohemia and Moravia represented the German Reich. There was also a Reichsministry for Bohemia and Moravia, but the communal self–government was entirely suppressed.

From a legal point of view Czechoslovakia between the two World Wars had a regular Civil Service based legally on the Service Rules (s.c. “Služební pragmatika”). These were the fundamental legal service regulations and formed the basis of further legal rules valid for civil/public service, such as the Salary Act of 1926. This status was changed in 1950 under the communist regime by the adoption of the Act (No. 66/1950 CoL) on work and salary relations of state employees. This Act regulated the Civil Service on the basis of an entirely different concept from the pre–war Service Rules. The concept did not make any distinction between public and private employment relationships and considered the Civil Service merely a specific type of generally uniform employment relationship. The adoption of the Labour Code (Act No. 66/1965 CoL), in force since 1 January 1966, eliminated provisions concerning the Civil Service or adjusted them to general requirements, such as the transfer of

employer subjectivity from the state to the individual state authorities. In this way the legal relations governing the status of civil servants were changed into labour law relations and the distinction between an employee (factory worker, railwayman, member of a co-operative, etc.) and the concept of “civil servant” was entirely eliminated (O. Vidláková, 1999).

During the more than 40 year period of the rule of the Communist Party which, in the wording of the socialist constitution, was the leading force in the state, the Civil Service was completely destroyed. Therefore it is very difficult to define the relation between the officials and the ministers or between the officials and the President. There was no career Senior Civil Service. Immediately after the communist putsch in February 1948, all persons suspected of a hostile attitude to the new state power were dismissed from the Civil Service. This termination of employment relationship did not respect any legal conditions and terms; politically undesirable civil servants were simply fired on the spot, if they were not imprisoned. The ministries and further administrative authorities of the central and territorial administration were staffed with politically trustworthy people (from the viewpoint of the representatives of the Communist Party), often not only without adequate education (which was no longer required), but very often without any professional education at all. Selection was no longer based on open competition. All this resulted in a complete degradation of the Civil Service, which continued to be controlled by party secretariats of the respective level (central, regional, district and local). This deformation of state administration became an onerous burden to the reform endeavour after November 1989 and its consequences can still be felt in administrative offices and other state bodies, including the courts. It has become one of the main factors slowing the progress of public administration reform.

4. Formal Relations, Constitutional and Legal norms, Guiding Relations between Elected Politicians and Appointed Officials

The Constitution of the Czech Republic stipulates (Art. 79, para. 2): “The legal relations of state employees in the ministries and other administrative offices shall be regulated by an Act of the Parliament”. This formulation means “civil servants” who are employed in the “Civil Service”. It is the only provision of the Constitution referring directly to officials. Otherwise the whole Chapter Three of the Constitution, named “Executive power” contains the provisions concerning the President of the Republic, i.e. the head of state, on the one hand, and the Government as “the supreme organ of state power” on the other hand. The provisions on the Government deal exclusively with the Prime Minister and the members of the Government as well as with their relations with the Parliament and the President, but there are no references to the relations between politicians and civil servants.

The Act stipulated by the Constitution to regulate the legal relations of civil servants has not been adopted yet, although work on a draft law started in the Czech Republic since independence in 1993. In its programme declaration, the first Klaus

coalition Government, formed after Parliamentary elections in June 1992, declared it would combat the still surviving administrative methods in state administration and enhance the improvement of its quality, professionalism, technical and information equipment and restore its public prestige. Therefore the Government promised to rapidly prepare a draft act on the legal status of state administration employees “defining the requirements imposed on these employees and their duties as well as certain compensating measures assuring stability and independence of their status”. The principles underlying the Act, submitted to government by the Minister of Labour and Social Affairs in June 1993, was approved by the government in August 1993 and subsequently positively assessed by the respective Committees of the Chamber of Deputies of the Parliament. On the basis of the approved principles the full text of the draft law was elaborated and submitted to the Prime Minister in July 1994. This was followed by a complicated Bargaining process and the draft law was revised several times. It can be assumed that the selected approach intending to provide a comprehensive regulation of the legal conditions of civil servants in the form of a code comprising almost 300 sections was not acceptable politically. Equally politically unacceptable, obviously, was the proposal for the establishment of a permanent Civil Service (tenure) and the application of the career system.

The second Klaus coalition government in its programme declaration of 1996 again promised “to prepare a draft of a Civil Service Act regulating the status of civil servants and their claims accentuating their political and party independence”. An external working group established within the Ministry of Labour and Social Affairs started its work immediately. However, as a result of budgetary problems 1997, further legislative work on the Act was suspended. In many ways the drafts produced were true Civil Service codes and referred only to a minor degree they referred to the Labour Code.

In March 1998, Tošovský’s “caretaker” government adopted a Resolution on the Proposal of Further Government Procedure in Public administration reform, which also included drafting a Civil Service Act. Unfortunately this Government, which served only for 7 months, did not have time to review the substantive aspects of the Act.

The President of the Republic, Václav Havel, pointed the significance of a stable Civil Service and its legal regulation out several times also. In his address to the Chamber of Deputies of the Parliament of 14 March 1995, for instance, he stated that the backbone of every well functioning and stable state is a well functioning, stable and efficient state administration. He also stated that the Civil Service Act would be a significant step in this direction, although no act in itself could provide automatically a more respectable and better state administration. He emphasised that the process would be of long duration and that it was necessary to create such conditions “as would ensure that no one would consider the profession of a civil servant as something inferior or entirely disadvantageous, but on the contrary as a sort of honour, as it is the case in many developed countries”.

The Zeman Social Democratic government of the day included in its programme declaration of August 1998 as a principal measure “the de-politicisation of state administration by the adoption of a Civil Service Act to stabilise the state apparatus, improve its efficiency and eliminate its dependence on short-term political pressures”. The government simultaneously promised to draft a Civil Service Act imposing high requirements for the professional standards of public servants, and protecting them in the performance of their activities. The government promised also to elaborate a system of education and training of public servants, comprising both the medium-level and particularly high-level education of prospective public servants and the training of existing public servants in the lifelong education system. The legislative work was concentrated, once again, in the Ministry of Labour and Social Affairs, which established a working group comprised of representatives of individual ministries, independent experts and representatives of trade unions. The result of its effort is the Civil Service Bill, approved by government in November 2000, which will be passed to Parliament in early 2001. Its envisaged date for entry into force is January 2002.

At the current time therefore, the legal framework for all employees of ministries and other administrative offices is represented by the general employment law, i.e. the Labour Code (the Act No. 65/1965 CoL, as amended). The Code specifies further duties for public servants and some other employees⁴, beyond the framework applicable to all employees under the jurisdiction of the Labour Code, on the basis of an amendment (Act No. 231/1992 CoL, in force since 29 May 1992). These duties include:

- a) to act and decide impartially and refrain from anything that could threaten the confidence and the impartiality of decision;
- b) to keep silence about the facts learned in the course of the performance of their employment and which cannot be communicated to other parties in the interest of the employer; this does not apply, if they have been relieved of this duty by a statutory body or by the managing employee authorised thereto, in connection with the performance of their employment;
- c) not to accept any gifts except for gifts or advantages granted by their employer or on the basis of legal regulations and collective agreements;
- d) to refrain from conduct that could result in a conflict of public interest with personal interests, in particular not to abuse information acquired in connection with the performance of employment to the benefit of themselves or other parties.

Moreover, these employees cannot be members of managing or supervisory bodies of legal entities performing business activities unless they have been deployed to such bodies by their employer; in connection with this membership they shall not receive any remuneration from the respective legal entity performing business activities. The

4. Those working at the Office of the President of the Republic, the Parliament Office, the Government Office, the Supreme Audit Office, and others

employees may perform business activities only with the previous written consent of their employer; this provision does not apply to scientific, pedagogical, journalistic, literary or artistic activities and the administration of their own property.

As early as the time of adoption of this supplement to the Labour Code it was obvious that the amendment was merely a temporary solution, to remain in force until the adoption of the definite codification regulating the legal status of civil servants, on new legal foundations. However, this temporary legal regulation is still in force.

There are some special groups of public servants in central state administration, such as the members of the Police of the Czech Republic, customs officers, members of the Penitentiary Service and the Judicial Guard and, to a certain extent, also firemen, who are in the jurisdiction of special acts regulating their status and service relationship. A special act on state attorneys regulates the state and employment relationship of state attorneys in a different way from the generally applicable Labour Code.

This brief survey of the legal framework reveals that the legislation in force contains no provisions for the relation between civil servants and politicians. Moreover, the law does not know this term; civil servant has no special status; in the meaning of the general Labour Code he/she is an employee like any other worker. There is no principal legal provision on their different status and there is no provision stipulating who does or does not have the status of civil servant and who is a political appointee in public administration. It is clear that the politicians in central state administration are the ministers, but it is not clear whether deputy ministers are politicians or civil servants. The status of the persons heading other central administrative offices, such as the Czech Statistical Office, Czech Geodetic and Land Registry Office, State Office for Nuclear Safety, etc. (about ten in number) is not clear, either. The law merely provides that a member of the Government (minister) does not head these offices. Most heads of these offices declare themselves to be professional experts and not politicians. That is confirmed by the prepared Civil Service Bill, which, on the other hand, ranks the function of deputy minister among political (i.e. temporary) functions.

In this situation, when the term “civil servant” is not clearly defined and the rights and obligations of this subject are not defined, it is difficult to classify the applied model. The author suggests that the Civil Service and state administration are of the Weberian type. The Czech state administration is deeply embedded in the classical continental European concept, although some elements of the British (Anglo–American) concept seem to be slowly penetrating into it. These new elements are particularly managerial methods, emphasising New Public management, and a number of other methods and types of managerial behaviour of not only senior officials, but also of all individuals and their teams. However, it is impossible to make a correct theoretical distinction between the above mentioned systems, as the application of these methods and techniques has not become a part of an integral concept of Civil Service development in the Czech Republic. It represents mostly

individual attempts at improving the Civil Service. Such ad hoc penetration of these elements are merely a fashionable measure enforced by the pressure of some lobbies (including foreign influence) rather than the necessary prerequisite for the improvement of the functioning and performance of the Civil Service.

5. Political Culture and Attitudes

The shortcomings in legislation are highlighted by the repeated postponement of the review by the Government of the prepared draft of the Civil Service Act and its introduction in the Parliament. This contributes to that fact that most of the general public does not differentiate between the political part of the Government and the state administration proper, i.e. the professional exercise of executive power. This is typical of the central state administration. At local level it is different: in the communes people know how to differentiate the officials of communal (municipal) offices from the town hall with its councillors, i.e. elected representatives. At central level, on the other hand, the term “government” covers not only the ministers and their deputies, representing political executive power, but also the ministries, i.e. the bodies representing central state administration. Hence most citizens perceive that civil servants (in Czech law and practice “employees in ministries and other central state administration authorities”) and the Government are considered as an integral whole.

Public opinion surveys do not differentiate between politicians and officials. They enquire merely about the Government. It is questionable, however, whether the respondents expressing their preferences or criticisms consider only the ministries and other central state administration authorities as a whole, or whether they include also the officials of territorial administrative offices, as these de-concentrated state administration bodies are controlled by the individual state bodies in the sectors concerned. The same applies to District offices performing important state administration tasks, controlled by the Government which co-ordinates the activities of individual ministries vis-à-vis the District offices. Should the respondents not take into account the officials employed in these territorial administration offices, the prevailing majority of civil servants would remain outside the framework of these surveys. Unfortunately this important “detail” is not described, defined or analysed in any public opinion survey.

The Institute of Public Opinion Research (IVVM), which is one of the agencies concerned with public polls, also carries out longitudinal research on confidence/no-confidence levels of the population in the President, the Government and the Parliament, divided since 1997 into the Chamber of Deputies and the Senate. Apart from that it ascertains from time to time also the confidence/non-confidence in selected constitutional and social institutions including the army and the police. The two last-named institutions form part of central state administration, but are exclusively armed forces, i.e. different from civil state administration; therefore, it cannot be assumed that the ascertained results could be in any significant cor-

relation with the unknown quota of Civil Service, forming part of the surveyed item “Government”.

Surveys of the confidence of the population in the President, the Government and the Parliament (see Diagrams 1 and 2 in Annex 2) reveal that the position of the Government is somewhere between that of the President and the Parliament. The confidence in the President was high particularly in the first half of the 1990s and increased from 70% in 1994 to an outstanding 87% at the turn of 1996 and 1997. The subsequent steep drop was due to issues related to the personal life of the President.⁵ The approval level reached its lowest point – 46% – in January 1999, but has been recovering since to the present 53%.

The confidence of the population in the Parliament is permanently low; in the first half of the 1990s it fluctuated between 20% and 30%. An entirely exceptional 41% confidence rating of July 1996 was the reaction to the first parliamentary elections in the independent Czech Republic and reflected the hopes of the population. Nevertheless these hopes were soon dashed and the level of confidence fell to 13%. After the next elections in June 1998, which resulted, for the first time since November 1989, in the victory of left–wing Social Democratic Party, the confidence in the Chamber of Deputies rose again to 30 %. At present the Chamber of Deputies enjoys the confidence of 19 % of the citizens while 76 % feel non–confidence in it. The present rates of confidence and non–confidence in the Chamber of Deputies are the same as in the period before the 1998 elections.

Since its establishment in 1996 the Senate is the constitutional institution which enjoys the lowest confidence of the citizens. The population was not and still is not convinced of its necessity, although its confidence in the Senate slightly grew in the final months of 1999 to 15%, with 76% of respondents expressing their lack of confidence.

The government enjoyed relatively stable preferences in 1994–1996 when they fluctuated between 50% and 58%, much more favourable than the figures for the Parliament. At that time a right–wing coalition Government headed by Vaclav Klaus was in power. In the course of 1996 the level of confidence dropped several times below 50% to rise above 50% again after the June 1996 elections, in which the right–wing coalition won again, and once again in September (53%). At that time the Government found greatest support among respondents of 15–19 years of age, people with higher education, students, businessmen and people with a good standard of living. The earlier mentioned drop of credibility of the Government was manifest most in the age group of 20–29 years, respondents with incomplete medium–grade education, manual workers, technical and administrative (!) employees and in small

5. relatively early marriage after the death of his first wife in 1996; the President’s late wife was extremely popular while his second wife, a relatively young actress, has not found favour in the eyes of the public as the first lady

municipalities with a population below 500. From the beginning of 1997, a period of considerable economic difficulties which forced the government to adopt the so-called “packages” of austerity measures, the drop of preferences continued and fell to 22 % in June 1997 and 14 % in December 1997, i.e. after the resignation of the Government.

In January 1998 the “caretaker” government stepped into office, consisting partly of politicians, partly of experts, with J. Tošovský, an expert himself (until then Governor General of Czech National Bank), as Prime Minister. In February 1998 citizens’ confidence in the Government rose to 50%, but dropped subsequently again to 39% (June 1998). After the June elections, won by the Czech Social Democratic Party, the confidence rate rose a little, but remained only slightly above 40%. The Government consisted almost exclusively of the members of the Social Democratic Party, except for a single non-party member, the Minister of Justice. As the Prime Minister, Miloš Zeman, failed to form a coalition, the Government has been ruling as a minority Government. In the course of 1999 the position of the Government suffered a marked relapse. While the number of respondents showing confidence in the Government dropped has by 25% since September 1998, the rate of no confidence in the period has increased by 33%. The popularity of the Government reached its historical minimum of 19% and its present situation is worse than it was in the first few months after its succession in 1998. This investigation makes it possible to conclude that respondents really assess the Government and all officials as an integral whole.

6. The policy process in Practice

For the purpose of this chapter it is necessary to give a brief summary of the legislation regulating the policy process. The Constitution does not define political impartiality and the professional independence of public servants. It is expected that this provision will be included in the prepared Civil Service Act.

There are no legal restrictions on public servants belonging to or playing an active role in any political parties or engaging in other political activities. However, such activities are forbidden by law to some groups of public servants. For instance, the Customs Act forbids customs officers to become members of political parties or to be active in a political movement for the duration of their service relationship. The Act also forbids them to perform any activities for the benefit of political parties or movements not connected with the exercise of their service duties. Analogous restrictions apply also to members of the Police of the Czech Republic under Act No. 186/1992 CoL: “During his service relationship the policeman may not become a member of any political party or be active in any political movement or perform any activities for their benefit not connected with the fulfilment of his service tasks”. It should be noted that the above mentioned laws establish the state-employment relationship of these groups of employees, thus substituting the Labour Code, which is still applicable the “Civil Service” as a whole.

Box 1

The relations between civil servants and politicians

1. The territorial state administration bodies (Financial Offices, Labour Offices, Kadaster Offices, School Offices, and numerous others) including the most important District offices are considered by the public as state authorities and their employees as administrators (civil servants) and not as politicians. Nevertheless a certain difference can be perceived even here. Directors appointed by the respective minister head all territorial administrative offices of the de–concentrated state administration bodies which can take legally binding decisions. The Government upon the proposal of the Minister of the Interior, on the other hand, appoints the heads of District offices. The Minister of the Interior is generally considered one of the most powerful ministers, particularly because he controls the police and further state security service. The fact that he controls also the so–called civil administration sector is considered as a part of this strong position (due to the control of armed forces). In some people this may arouse, to a certain extent, the feeling of dependence of these offices on the strong, superior political power.
2. The fact that the District offices are not always perceived as purely professional offices, but rather as “political” offices, is testified to also by extensive press commentaries on the changes of the heads of District offices which are relatively frequent and often are connected with the change of the Government. The public does not, and even cannot know that in most cases the change is due to objective and serious reasons on the part of the Government. It is assumed that the heads of District offices will be in the jurisdiction of the Civil Service Act because continuity is of utmost importance to the state administration.
3. The situation in central state administration is more complex, as politicians and civil servants work together closely at this level. The lack of clarity of these relations is contributed particular to the lack of uniformity in the status of Deputy Ministers. It is an important function, as every minister has several deputies. The larger the ministry, the greater the number of diverse activities and the higher the number of Deputy Ministers, each of whom is responsible for a certain sector. The coalition agreements concluded by first two coalition Governments (1992 – 1997) included the provision that the Deputy Ministers of important ministries (such as Foreign Affairs, Interior, Defence) must be the representatives of the individual coalition parties, to supplement the party of the Minister. These ministries, consequently, had a clearly defined political function of Deputy Minister. Other ministries had and still have (even though to a smaller extent under the present Government) also non–political Deputy Ministers, i.e. people without party affiliation.
4. The law does not regulate the issue of the changes of officials with the changes of the Government. In practice Deputy Ministers and some top managers in ministries are replaced with the change of the Government in most cases. These high officials are recalled from their positions, but their recalling does not terminate their employment relationship. In most cases, however, it is severed by mutual agreement. As there are no legal provisions differentiating permanent public servants and officials performing political functions, there are, consequently, no different arrangements for their replacement.

The provisions of the Act No. 238/1992 CoL, on some measures connected with the protection of public interest, as amended in 1995 and 1997, are valid only for “public functionaries”. Under this Act, a conflict of interest consists of such action or omission of an official that threatens the confidence in his/her impartiality, or in the course of which the official abuses his/her position to obtain unlawful benefits for himself/herself or another natural person or legal entity. Officials in the meaning of the quoted Act are deputies and senators, members of the government and heads of other central state administration bodies. This legislation illustrates a blend of political and administrative elements, as the group of “politicians” includes also the heads of other central state administration authorities that, as already mentioned in section four, consider themselves experts and not politicians. This should be confirmed also in the new Civil Service Act, which will be passed to parliament in January 2001. In practice all this results the pattern described in Box 1, above.

It should be noted that the Ministers generally do make use of civil servants to obtain professional and impartial policy advice. However, no objective data of the fact are available.

For almost one and a half election periods (less than six years) the Czech Republic was ruled by coalition Governments of the same coalition parties and under the same Prime Minister, V. Klaus, chairman of the Civic Democratic Party. The orientation of this coalition was to the right of the centre. After the resignation of the Government at the end of 1996, due to serious disagreements within the coalition and a split in the biggest coalition party (the Civic Democratic Party), the President of the Republic appointed a “caretaker” government comprising the representatives of several parties of the former coalition and some experts, with J. Tošovský, as an expert Prime Minister. This Government ruled only from January to June 1998. Since July 1998 the Czech Republic has the minority Government of the Czech Social Democratic Party, i.e. the first left-wing government since the Velvet Revolution. In this way the Czech Republic has had the advantage of a much longer period of stable government than other post-communist countries which experienced numerous changes of government. Nevertheless, in the very field of public administration and Civil Service reform that period was not exploited sufficiently. The “economically-minded” Prime Minister Klaus intentionally did not want to give these issues the required attention. He did not see the importance of effective and rational state administration for the economic development of the state. The consequences of this attitude can be felt still by the country as a whole and by the public.

There are no public opinion surveys or other research material that could provide relevant data on the evaluation of civil servants separately from politicians. The legislation is missing, practice is confused and different in individual ministries, as are the personnel problems. The preparation and further education of officials are not mutually co-ordinated and centrally controlled, but left within the competence of individual ministers or heads of other central state administration authorities. The

interaction of civil servants and politicians in policy formulation, decision–making and policy implementation is also different in individual ministries. This interaction is at a high level and permanent in some ministries and at a low level and rather occasional in others. It depends on the individual ministers, but also on pressures from civil servants in individual ministries. There is insufficient research–based information to allow for meaningful conclusions.

7. Classification according to Theoretical Framework

This section requires first a few words on Peters' classification system and its applicability to the Czech politico–administrative relations. In the first place it is necessary to recall that there is no adequate analysis of complex and diverse relations to permit a theoretical classification, due to the acutely felt absence of legislative regulation of the Civil Service. Second, it is necessary to take into account the absence of the necessary empirical surveys or case studies. However it is possible to express an opinion on the five Peters models (see Meyer–Sahling in this volume). The first model is not applicable to the Czech Republic. The second model, called the Village model, could be considered to a certain extent. It appears to approach the former communist regime at which it aims by its “unified state elite”, although in the former regime this term should be modified to read the “party elite” of the single ruling Communist Party, which was identical with the state. Fortunately, this is no longer so and, therefore, the second model does not fit either, although some of its elements are still visible. Also the third model (functional Village model) occurs sometimes, and – strange as it may seem – also in the present one–colour, i.e. non–coalition Government. The fourth model, probably, is out of the question and the fifth model is definitely out of question although it is possible to imagine that in some state administration sector civil servants may be the dominant force, but certainly, not in general. I agree that “all these models are rather theoretical, and practice itself shows different patterns of interaction between politicians and Civil Service” (Verheijen and Rabrenovic 1999).

The comparison of post–communist administrative development and its classification could be enhanced, if we concentrate on some cornerstones of democratic government and the Civil Service. One should note in particular the concept of accountability. Joachim Jens Hesse pointed out that administrative reforms in that part of Europe – by which they differ from the reforms in the western world – include “the transition from what were systems of one–party rule to pluralist, multi–party parliamentary systems with democratically elected and **accountable** governments” (Hesse, J.J., 1995). One should underline the term of “accountable government”, extend it to “accountable Civil Service” and ask whether we have really accountable systems in these states. Are there any relevant surveys? Doubts arise from the experience of the Czech Republic, which does not differ much in this respect from other countries of this region. There are different interpretations of the term of “accountability”.

Box 2

Reasons for the different perception of the accountability concept

- There are still significant numbers of persons serving as appointed officials or even as politicians or elected representatives or judges who did not get rid (or did not want to get rid themselves, either) of the old rigid way of thinking and making decisions. They are not capable of reforming themselves and do not want to be reformed (are dogmatic, not re-trainable) and impact on the institutions in which they do their work in an unaccountable way.
- The tools which are used in democracies for the promotion of accountability, as, for example controls, audits, justice, press, etc. have been also used in the former totalitarian regimes in these countries. The fact that their sense and use must have been different and mostly contradictory to their use in democracies, *ex definitione*, is often being forgotten.
- The importance of legal, economic and administrative mechanisms for enhancing accountability need to be carefully interpreted; personnel policy and personnel systems (the use of such standards as recruitment, promotion, disciplinary, training, appraisal and appeal systems) should be better understood (Vidláková, O., 1999).

“Before 1989” as M. Kulesza argues (1993), the “Council of Ministers did not actually “govern”, but acted more as a co-ordinating committee subject to the **political** power of the centre which was in fact the real government.... The current situation calls therefore for a new definition and organisation of the functions previously fulfilled under the provisions of the leading role of the Communist Party and through the use of the party-state structure”. Such a situation was common in all CEE and CIS states, and one should ask the question whether we are really sure that we have re-defined and re-organised all those functions which used to be the sole domain of the Communist Party. Is there not the impression that some of our new government parties behave similarly? And is this not due to the fact that both civil servants and politicians still retain their experience, they did not get rid of it and they do not want to get rid of it and continue to propagate it furtively in their activities? Have enough new people been educated for the Civil Service and for political functions? Until we have answered these and other principal questions and illustrated our answers with relevant data, all systems and models of politico-administrative relations will be at least unconvincing, however well they will be elaborated theoretically.

In the first years of the reform, the Czech Republic achieved notable success in economic transformation. Later on, however, it has come to light that not all of it was entirely without problems in subsequent development. We have achieved successfully the first phase of administrative reform – the decentralisation of state administration to self-governing communes, and are still working on an extensive reform of the whole legal system in order to harmonise it with Community law. In the course of the past decade we have performed successfully various reforms the result of which are palpable. However, after ten years of experience, there is

no doubt that it will be the process of enhancing accountability that will be most difficult and most protracted. It is not a technical, how ever exacting matter, but a matter of human morals, the morals of all those from whom accountability is required, as well as those who require it at whatever level. It is impossible to change the morals of any society within one decade; it is a matter of cultural change, indeed. The change of the “accountability” from the old regime into a democratic, legally founded accountability, the true accountability of politicians and civil servants, adequately recognised and respected by them, cannot be merely ordered; it must be absorbed and transferred into their bloodstream (Vidláková, O., 1999a).

8. Conclusions

To conclude the case of the Czech Republic, it is necessary to recall several important achievements:

1. Public administration reform was triggered immediately after the change of 1989. The first phase of decentralisation was successful: municipalities exist and prosper.
2. At the end of 1992 the federal state – the Czech and Slovak Federal Republic – split peacefully into two independent states. In the Czech Republic this resulted in the delay of the second phase of public administration reform: the expected establishment of higher territorial self–governing units – regions, as well as the reform of central state administration.
3. Economic reform was fairly successful in the first years of the past decade. The years 1996–1997, when the first shortcomings of the “hurried” economic transformation without adequate legislative framework emerged, were more dramatic.
4. Since 1993 public administration reform was repeatedly postponed because of the “lack of political will”. Civil servants were powerless at that time, all documents and drafts of laws were prepared, but the politicians did not act, but quibbled over details. It is only at present that we see that it was not “a lack of capacity” or “lack of political will” but rather the fear of political elites that too much power had been “handed out” to municipalities and the central state power began disliking it.

The present result is that the Government has prepared again draft laws for the implementation of the second phase of decentralisation, i.e. the establishment of 14 regions. However, the environment in which this phase is taking place is different. The society is no longer full of the pro–reform enthusiasm of the beginning of the 1990s, which accompanied the restoration of self–governing communes. The deterioration of the economic situation, increasing unemployment, rise of prices particularly of services (energies, housing, etc.) do not create a favourable climate for the establishment of regions: citizens consider it a source of ineffective expenditure and useless increase of the number of officials. And officials themselves have lost motivation, too. The long promised Civil Service Act is still not in sight, the salaries of civil servants are very low in comparison

with western countries, the proposed institutional organisation of self-government and state administration at regional level does not agree with the initial conceptual proposals. The result is that the ministries and other state administration authorities are unwilling to hand over their competences to the regions, whether to self-governing bodies of the regions or to the regional state administration level in the case of de-concentration.

In this unwillingness the civil servants in some ministries agree with their ministers, in other ministries it is the influence of officials on their ministers who are unable to resist these pressures rather than agreement. By adopting this course the Government as well as the civil servants are getting estranged from society, civic initiatives and NGOs. It is no wonder, therefore, that various initiatives have appeared lately criticising both the Government, i.e. politicians, and the civil servants and clamouring for a change. One of such initiatives, which aroused considerable response in society, is the initiative of young people who headed the students' movement in November 1989, ten years ago. The aim of this initiative called "Thank you, but go" was to achieve the resignation of the present politicians. An anecdote which is a fit conclusion to this text reads: the politicians addressed by the above initiative are alleged to have answered: "Don't thank us, we are staying".

In summary, potential solutions consist of the rapid adoption of the Civil Service Act and its swift implementation. It is necessary to work intensively on the improvement of the quality and professionalism of officials, which requires complete restructuring of personnel policy and a higher transparency and accountability of governance and Civil Service. However, we can hardly expect to have an accountable government and an accountable Civil Service in a society which is not accountable itself. Therefore, it is necessary to use all means available for the achievement of a cultural change to enable us to elect into political functions on central level accountable politicians who will not treat the electorate with arrogance.

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Annex 1: **Glossary of terms**

Administrative reform in Central and Eastern European Countries involves nothing less than the definition of a new conception of statehood. The distinguishing features include the transition from what were effectively, if not in name, systems of one-party rule, in which the leading role of the Communist Party in all sectors of society was firmly entrenched, to pluralist, multi-party parliamentary systems with democratically elected and accountable governments; the abandoning of the principle of democratic centralism in favour of a far-reaching decentralisation and de-concentration of political power to be exercised under the rule of law; the rejection of the principle of unity between politics and the economy which involves the emergence of distinct spheres of political and economic life. It is in this sense that the term administrative reform is used in this chapter.

Public administration is considered a part of the public sector, which includes both state administration and self-government, in the context of this study, however, exclusively territorial self-government. The terms which follow reflect particularly the situation in the Czech Republic.

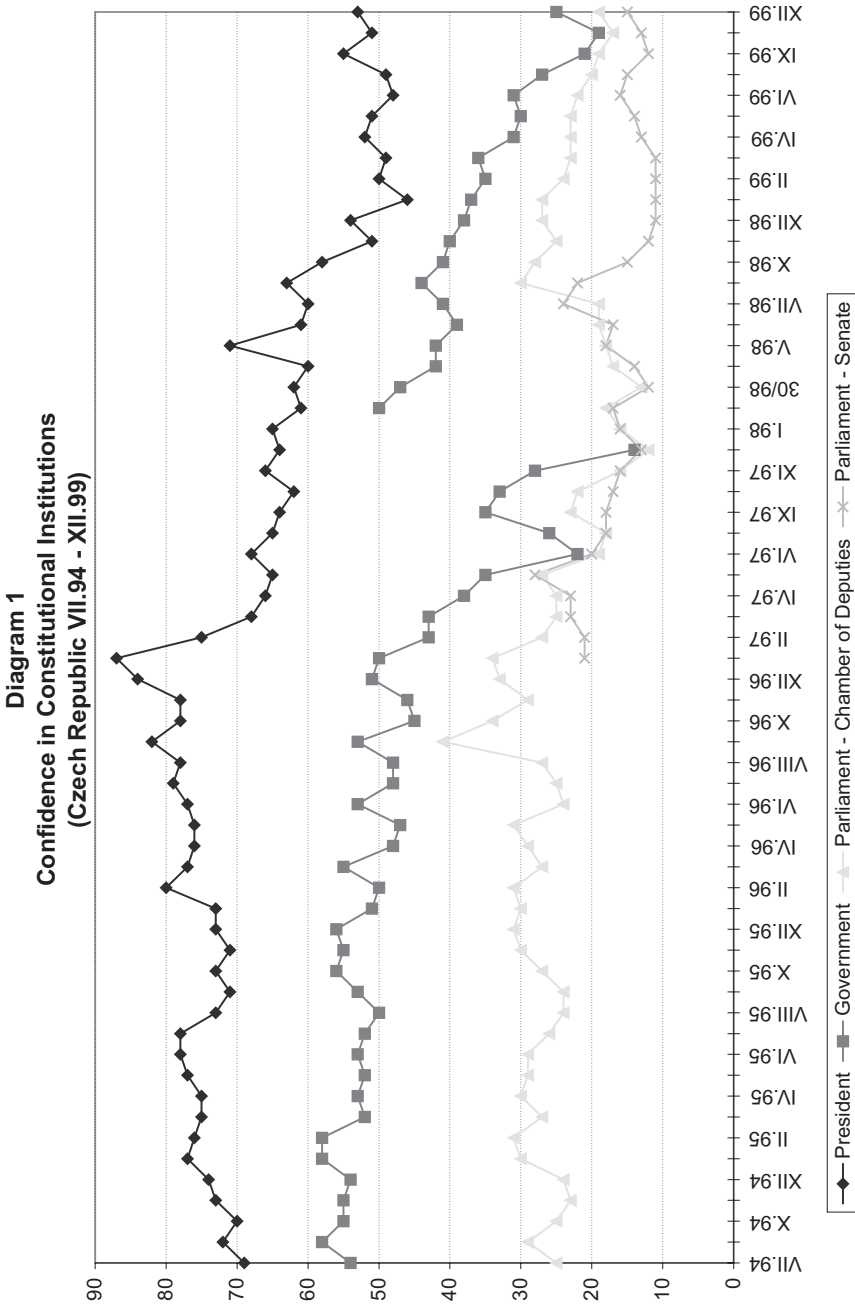
State administration means both central and territorial state administration, the sum of which represents the executive power in the meaning of the Constitution. The supreme body of executive power is the Government; apart from the Government, however, there are further central administration authorities on central administrative level. The difference is that the Government, apart from the Prime Minister and Deputy Prime Ministers whose number is not specified by the Constitution, consists of ministers heading the ministries, while other central state administration authorities are headed by appointed high officials, i.e. not politicians. In the territory there are territorial state administration authorities which are also state administration authorities in character, viz. the so-called de-concentrated state administration authorities organised on the functional principle. In districts there are District offices organised on the generalist principle.

Self-government (local government) means local self-government which currently exists in the Czech Republic only at the level of self-governing communes. The establishment of regional self-government on the basis of the Constitutional Act on the Establishment of Higher Territorial Self-governing Units, i.e. regions, is under preparation. On both tiers, this self-government includes elected councils and other elected bodies as well as Communal and Regional Offices. These offices are not administrative offices, as they are established by self-governing bodies and exercise the competencies forming part of the self-governing competencies of communes and the future regions. To some extent they exercise also state administration, the so-called transferred state administration.

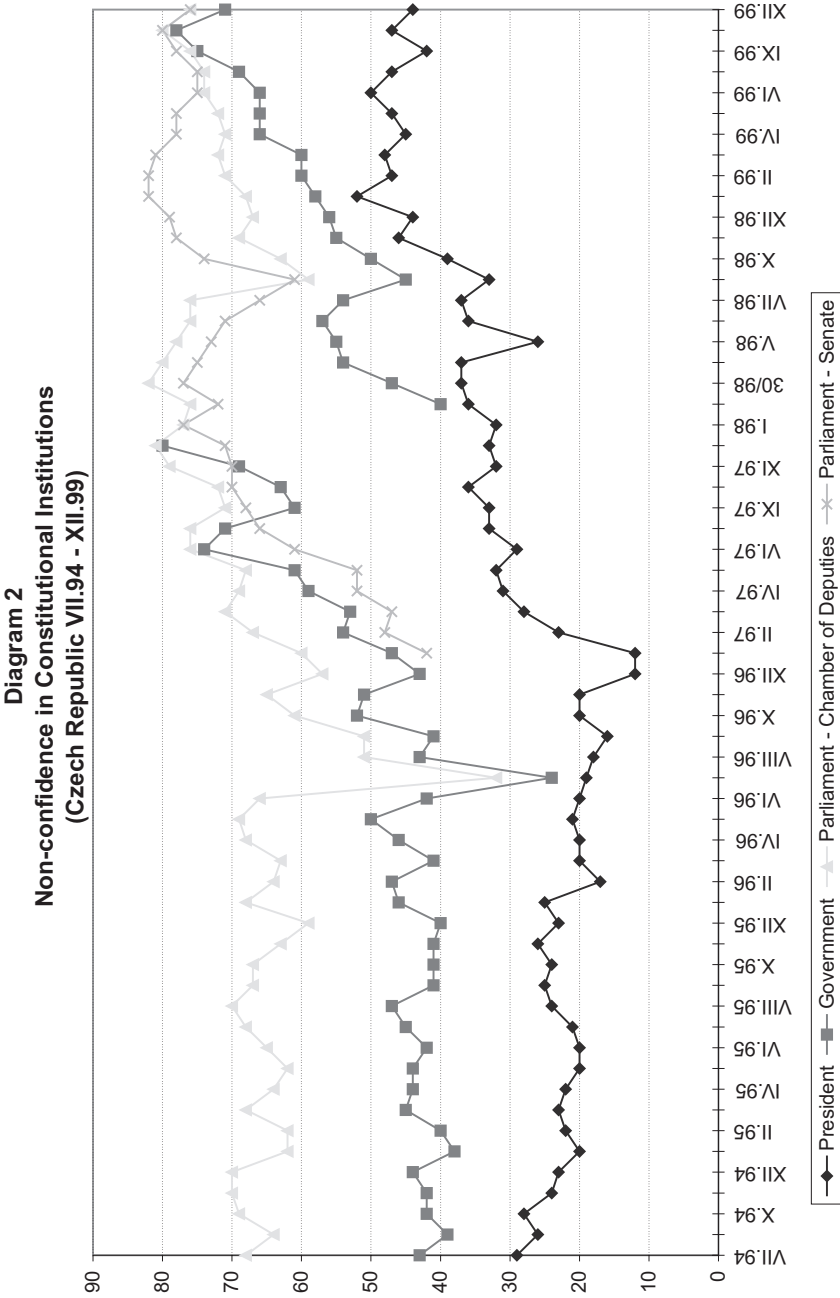
Decentralisation means the devolution of state executive power to elected self-government at sub-national level.

De-concentration means the transfer of competencies to a lower level within the state administration (executive).

Annex 2:
Diagram on the public confidence in state institutions



Source: A.Seidlová, Institute of Sociology, Czech Academy of Sciences



Source: A.Seidlová, Institute of Sociology, Czech Academy of Sciences

Chapter 7: Evolution of Roles of Politicians and Civil Servants During the Post–communist Transition in Estonia

*By Georg Sootla**

1. Introduction

The last government coalition in Estonia took office in March 1999 after regular elections. The need to increase the capacity of political leadership in the policy–making process was set as the highest priority in the Coalition agreement (Coalition Agreement of Estonian Reform Party, Pro Patria and Moderates 1999: §1). This objective was defined during intensive discussions on the roles of politicians and civil servants in 1997–98, after the inability of the government resolve problems and make important political decisions became evident (PHARE 1998).

The new coalition began to reshape the roles of politicians and civil servants. Government became consistent and effective in making decisions on the issues they had promised in the coalition agreement. However, after one year in office, controversies began to emerge in the cabinet. The consequences of policies they had initiated became evident, primarily in the budget policy. The remedies that the new cabinet used in treating problems in relations between politicians and officials under the former government, produced other problems that could not be effectively treated with tried and tested methods.in the previous manner

In the 1990s, relations between politicians and civil servants in Estonia had not moved into equilibrium. Instead, developments proceeded via oscillations from one configuration of unbalanced relations to another. Also, in the last decades of the century, the Western world has entered into a period of substantial revision of interrelations between politicians and civil servants. My research has revealed that in Post-Communist countries, fluctuation of these relations is caused by the communist legacy and by the radical nature of transition, where the primacy of politics has been overwhelming. The history of policy evolution in post–war Europe has revealed that during certain periods, policy–making styles presumed an inevitable inclination towards politicisation or towards neutrality in relations between politicians and civil servants (De Vries, 1999). In transition countries with a radical stance, these inevitable oscillations are for smaller periods of time, but are more intensive than they are in more stable nations. For this reason, stable configurations of relations between politicians and civil servants, as envisaged by Guy Peters (Guy Peters, 1988) have not emerged in Estonia in the 1990's. In this chapter, variables will be analysed that contributed to the development of various configurations which almost exactly coincide with his typology.

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In analysing politico-administrative relations, we must clearly define our concepts and parameters. On the one hand, it is necessary to distinguish between two sets of relations. The first is the relation between “politics” and “administration” where “politics is any activity that involves the exercise of power, especially the mobilisation of various kinds of resources in order to achieve a chosen set of ends in a situation where the interests of various parties concerned potentially or actually conflict.” (Ch. Pollitt, G. Bouckaert 2000, 135)

Here, these concepts designate various types of activities in the policy making process. In this framework, politicians can act as administrators when arranging the process of change and when intervening into the everyday affairs of subordinate government organisations, whereas civil servants might be involved in policy-making as experts to their political superiors. In this role they may exercise considerable autonomy at various stages of the Policy Process, especially at the stage of implementation.

The second are relations between “politicians” and “civil servants” that are determined by roles formally assigned or acquired via elections. This analysis could establish how these roles are followed in practice: either politicians have delegated some part of their roles to civil servants, or the latter have usurped these functions as skilful chairs in organisational politics.¹ Alternately, politicians have intervened into the realm of Civil Service in trying to direct policy implementation through administrative tools. Politicians can also appropriate functions of policy expertise that is usually the duty of civil servants.

The objective of this study is to separate these dimensions of relations and to demonstrate that politicians in Estonia are confusing these roles in public discussion and legislative activities. This would be one explanation for the deep oscillations in the development of relations between politicians and civil servants.

Furthermore, it is necessary to identify the locus of these relations (Hogwood: 1987).² For instance J. Blondel³ focuses on the politico-administrative dimension of government decision-making. In that case the Government support structures, as well as ministries, are considered to be the administrative side of the configuration. The typology presented by B. Guy Peters (Guy Peters 1989b) considers these relations on the level of ministry, as the relations between politically appointed officials and top officials nominated through employment contracts. In this chapter the focus will be primarily on the interrelations of the Minister and top civil servants in the ministerial context. Therefore the configuration of politico administrative relations where roles are not balanced at the level of ministry, but are effectively balanced at

1 D. Buchanan & R. Badham (1999)

2 B. Hogwood has differentiated configurations in the decision-making process dependent on the involvement of various constituencies and openness of the policy-formulation process.

3 J. Blondel, V. Golosov 2000

the level of Government Cabinet, is considered in more critical tones. This does not mean that one configuration is preferred to the other.

It is not easy to understand variables that would shape these relations in the Estonian system of governance without knowledge of its very specific history. In this chapter, specific emphasis will be made on the Estonian historical legacy, as well as on the Soviet–communist legacy in shaping politico administrative relations in Estonia. In my opinion, particularly the latter is still conceived of in a very simplistic manner. This special emphasis on the historical dimension would enable us to consider configurations of politico–administrative relations, not as a purely rational–instrumental device for “producing decisions,” but as a dynamic institution that has been formed under the impact of various dimensions of institutional environments, including the historically evolved dominant mental constructs.⁴ Thus, the more profound dimension of the dimension will emerge for the fastidious reader.

2. The Institutional structure of Governance in Estonia.

The Estonian Constitution⁵ was adopted in June 1992 after intensive but rather consensual discussion at the Constituent Assembly. It was established immediately after the Republic of Estonia restored its independence in August 1991.⁶

Estonia is a typical parliamentary democracy, with the government politically accountable to the parliament (Riigikogu). However, the specific formal devices known in many countries that may strengthen the executive vis à vis the Riigikogu are not present in Estonia,⁷ nor have specific mechanisms of external control over the policy–making by the government and ministers been developed. The Estonian Parliament has too much discretion in amending the technical aspects of draft bills. This practice, especially at the early 1990’s, has frequently lead to the change of initial sense and spirit of the bill or to the installation of Formal–legal controversies into the bills even at the plenary session. Hence, the Riigikogu adopts regulations that should be left to the discretion of the Government, i.e. secondary legislation by the

4 N. Brunnon & J. Olsen (Brunnon and Olsen 1993) are defining institutional environment as the *set of expectations and conceptions, that are deriving from values fashions and norms, existing and dominating in the external environment*. For a comparison of path dependent and traditional evolutionary approaches (that makes more difficult to understand communist legacy in terms of consistency) see: Raadchelders

5 As the Constitution is available in English via internet, I will not spend a time and space for the description of its formal regulations. <http://www.vm.ee/eng/index.html>

6 The minutes of these discussions were published in: Põhiseadus ja Põhiseaduse Assamblee. Tallinn, 1997

7 For instance, the constructive vote of confidence (Germany); adoption of bills in the second reading “in principle” (UK) with the consequent restriction of right of amendments by the MP in the commission; the right to issue the decree in case the Parliament cannot accept the bill in time (France); the committee of rules and other devices that restricts the possibility to vote single items of the draft (government) bill or parts of it etc. (Rasmussen and Moses 1995)

nature,⁸ and the Government is overloaded with technical normative decisions that could be issued by the Minister.

As in other parliamentary democracies, the President of Estonia ought to be the ceremonial representative of the state. The President has, however, used his formal power to influence public policy as well as political processes.⁹ Almost thirty times (since 1992) the President has used his right to promulgate laws and put a suspended veto on bills enacted by the Riigikogu or Government (Kadakmaa 1999). He also has the authority to appoint several categories of civil servants on proposal by the Riigikogu or other officials, and to make proposals himself for appointments to various institutions.¹⁰ Most of all, he influences foreign policy through the appointment of ambassadors. At least on the rhetorical level, the President is responsible for the national interest of Estonia and its international image. Thus, he is demonstrating that he is acting above everyday politics. As in pre-war Estonia, the Presidency is developing into an institution that represents the public interest and public good in the ways and manners that are most legitimate in the eyes of the public.

Estonia has a fragmented multi-party system. To avoid the extreme splintering of coalitions and party spectrum, the 5 % threshold of entrance at the elections to the Riigikogu and the minimal number of members in each party (1000 members) were established. Parties that do not get representation in the Riigikogu twice must renew their registration at the Ministry of Justice. Eight parties are currently represented in the parliament, elected in 1999. Thus far, none of the parties has won enough seats to transform the Estonian party system into a moderate multiparty system (Hagopian 1993) with a dominant coalition party. Furthermore, the large ideological distance between the parties and the inherently adversarial traits of coalition politics have prevented the party system from becoming moderate.

Until 1999, small parties were permitted to form electoral unions. This contributed to the emergence of new parties and the splintering of existing ones (Pettai and Kreuzer 1999). In 1995, 30 parties competed in the parliamentary elections. In that year there were 12 fractions in the Riigikogu (Toomla 1999). As late as 1998, ten

8 The overload of Riigikogu with such type of regulation may be explained by the position of members of Constituent Assembly that all the framework laws adopted in the Riigikogu should be supplemented by the package of by-laws, enabling immediately to start their implementation. Otherwise the Riigikogu as well as government coalition will not have efficient devices of control over the implementation of the policy. Currently, the Government has developed quite efficient device of control over the implementation of secondary legislation, but Riigikogu has no real device of political control over the implementation of laws, except the Question time. But, in parliaments with adversarial politics, like Estonia, this is a highly ritual enterprise.

9 In the 1999 President appointed as the *formateur* of the new government the leader of the party that did not win elections. This is not prohibited by the law, but equally not accepted by traditions.

10 In May, 2000 he has twice denied the appointment of the President of the Bank of Estonia, made by the Council of the Bank.

factions were formed at the Riigikogu (Karatnycky, Motyl, Shor 1997). Electoral unions, as well as the formation of factions inside parliamentary parties, were abolished prior to the last elections. However, this did not mean the complete stabilisation of the party spectrum in Estonia. Before the elections in 1999 some parties with large ideological differences joined, whereas other parties were not able to develop their electoral niche and/or experienced an identity crisis (such as the Coalition party, the winner of elections in 1995).

Table 1
Government coalitions in Estonia in 1990's

	Name of the Prime Minister	Time in the office	Duration in months	Coalition partners; the Prime Minister party is bolded	Comments
1.	Edgar Savisaar	04.1990-01.1992	20,5	Core of Coalition: Popular Front (as the loose coalition of multiple parties and movements)	Government by specialists, who entered into the independent politics
2.	Tiit Vähi	01.1992-10.1992	8,5	Coalition party	Government by specialists, waiting for elections
3.	Mart Laar	10.1992-11.1994	24,5	Pro Patria (6), Estonian National Independence Party [ENIP] (4), Moderates (4), Liberal Democrats (1), independent 2	The first Cabinet in office after the promulgation of Constitution in 1992. Emphasize on political coordination and unity of the Cabinet. Civil servants were left outside of the policy-making locus. Politicization of civil service through the party-political appointments. Formally neutral top officials.
4.	Andres Tarand	11.1994-04.1995	5	Moderates (4), Pro Patria (3), Liberal Democrats/Liberal Party (2), Republicans and Conservatives (3), ENIP (3), independent (2)	It was formed on the basis of previous Cabinet after the vote of non-confidence to the Prime Minister; The Prime Minister was a compromise candidate accepted by both coalition and opposition. Main goal – draw out to next general elections

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	Name of the Prime Minister	Time in the office	Duration in months	Coalition partners; the Prime Minister party is bolded	Comments
5.	Tiit Vähi	04.1995-11.1995	8	Coalition Party (8) , Central Party (5), Rural Peoples Union (RPU) and Pensioners ja Families Union (PFU) (1), 1 independent	Centre-left government. Coalition party was formed by former Soviet industrial leaders and specialists. Emphasis on the policy program coordination.
6.	Tiit Vähi	06.11.1995-01.12.1996	13	Coalition Party (6) , Reform party (6), RPU and PFU (2), 1 independent	Centre right government. Because of conflicting ideologies of coalition partners, very segmented and relatively ineffective.
7.	Tiit Vähi	12.1996-03.1997	3,5	Coalition party (11) , Party of the Development (1), 3 independent	Conflicts in previous government lead to fall of coalition and formation of minority government; incremental style, strong PM
8.	Mart Siimann	03.0997-03.1999	24	Coalition party (8) , farmers (2), 4 independent; party of development (1)	Minority government, consensual policy-making style, domination of civil service in policy-making; PM as a mediator
9.	Mart Laar	25.03.1999-	20 nov. 2000	Pro Patria (5) , Moderates (5), Reform Party (5)	Emphasis on political coordination and unity of the Cabinet. Civil servants were let outside of the policy-making locus. Politicization of civil service through the party-political appointments and formal regulations, concerning top officials.

The Estonian party spectrum cannot be adequately perceived along a right – left continuum. The other basic division in the spectrum follows along the line of the winners and losers during the post–communist transition. *Winners* are, first of all, the part of an electorate that considers independence and/or democracy as the basic values of their well–being (Pro Patria, Moderates).

The second group of *winners* had either already, or hopes to have in the foreseeable future attractive opportunities for individual self–realisation. They generally support of the Reform Party. This group of people may not benefit directly from independence and liberal market economy. But they hold subjective myths and fears, shaped by different variables in the past (danger of Russians, personal experience of the repression under the totalitarianism etc.). The majority of *losers* are not in fact persons who enjoyed high status and privileges under the Soviet regime and who lost them in the competitive market economy and democracy. Most of them are from those segments of the population who were the Soviet “middle class”: they enjoyed relative stable social and economic status because of their professional qualities and their importance to the Soviet economy. They have lost their status and stability during the transition and include agricultural labourers, employees of the industry schoolteachers, etc. They are the main electorate for the Centre Party and rural parties.¹¹

Winners and losers formed separate party spectrums, in both of which a left–right continuum emerged. While their structure mirrored each other during the 1990s, neither spectrum had clearly defined left–wing parties to balance the right–wing ones. Parties were inclined to lean heavily to the right side of the spectrum. After the radical right wing lost substantial support in mid 1990, the politics developed into a competition for the space in the imagined centre. Here were the roots of adversarial politics in Estonia.

Parties in both spectra have close contacts with clientele networks, with the participation of the more organised interests groups. In Estonia interests group networks coincide to a lesser or greater extent with different parties. These networks determine to the large extent the content of policy–decisions. The policy decisions are also the result of competition between these groups over public funds and impact on legislation. Real life politico–administrative relations cannot be understood without considering the impact of these networks on the policy–making process (Kickert 1997).

3. Images of the government, politicians and civil servants in the eve of transition

3.1 The essence and the evolution of the politico–administrative dichotomy during the Soviet era.

Marxist theory differed radically from Leninist/Stalinist practice as established in the Soviet Union. According to the original Marxism, the perfect government was self–government by people, who through rational thought and action in their professional lives are continuously following the viewpoint of the public (common) good. Politics as the competition of individual private interests was appropriate for

11 Unfortunately there have not been neutral studies of social composition of the electorate in Estonia. What studies have revealed was that losers are more often elder and less educated.

an antagonistic capitalist world. The Soviet system was therefore defined hence as a totally administrative society (Popov 1986).

However, people cannot become rationally thinking actors immediately after a revolution. Therefore, during the transition from capitalism to communism, the vanguard – people who, according to the Marxist theory, have the high intellectual properties and universal morals – have to formulate and defend that common public interest. These traits would be manifest, according to the doctrine, in persons who did not have any private interests because they did not have any property.¹² They are members of the Communist Party. Actually the majority of persons who constituted the party originated from illiterate landless peasants. Their subculture did not accept any intellectual and universal moral values. It did, however, provide a very suitable ground for Stalin and his successors.

The politics under the Soviet regime was in fact the struggle between party and government elites. Instead of the developing a representative–executive balance and the harmonisation of politico–administrative relations, this system created dual hierarchies (Peters 1989a). This huge machinery, created for the administration of society was supervised and programmed by the party bureaucracy. The Party did not find better devices against autonomy of government bureaucracy than cyclical anti–bureaucratic campaigns. These campaigns were the sense and essence of Stalin’s purges. This was also a device to shift responsibility for policy failures to the government bureaucracy in the eyes of citizens. The asymmetry between them deepened, especially in the post–totalitarian stage.

The first reason lies in different educational and career path. Party officials were recruited – preferably from the lower class – and were educated (or re–educated after the public university) at closed party institutes. The precondition for promotions was absolute loyalty to the ideological values, as well as readiness to be strictly obedient. State officials were recruited from all groups of society and educated at the public universities as specialists. Their socialisation was by and large remote from the direct ideological brainwashing and rituals. The basis for promotion increasingly became professional reliability, because urbanised society and especially military–economic competition with the West, presumed more and more professional decisions and Management. Non–professional party bureaucracy became more dependent on state servants. The tensions between “man on the horse” and “man of the reform” (Hankiss 1994) increased.

The configuration of relations between party officials and bureaucrats became more complicated and resulted, especially in the national regions and at the local level, in complex clientele networks (Sajo 1998). On the surface, one may still observe the political rhetoric about “the leading role of the party.” In reality, either

¹² The term “proletarians” designating this group of people, was borrowed from ancient Rome.

Box. 1:
The Soviet inheritance

The Soviet system of governance relied on dual hierarchies. During the totalitarian stage, politicians dominated these hierarchies. During the post–totalitarian era that began in the 1960s, professional state servants started to countervail party apparatus via clientele networks, especially in the national republics and at the local level. Perestroika was initiated by professional bureaucracy in order to definitively defeat the monopoly of Communist Party. The aim was to establish the system of governance where professional administration would neutralise any politico–ideological considerations in the Policy Process. During the Soviet era the public good as societal value was discredited and acquired a completely negative connotation. The Civil Service as successor of the Soviet bureaucracy became the antithesis to the values of democracy and freedom promoted by the radicalising politicians. Politicians monopolised the interpretation of the public interest. All constituencies in society were in one way or another interested in weakening the government bureaucracy. The presumption of mistrust started to shape the relations between society and Civil Service.

the adversarial and/or a very pragmatic “Village life” model of interaction between the young party and state officials emerged. Perestroika was initiated by professional government officials and the technical military elite, and its aim was to destroy the domination of the Party in the government process.

In the wake of transition, specific visions of the roles of civil servants and politicians formed. Professional state servants thought that they might better express and stand for the public good, because they were best prepared for the expertise and decisions.¹³ The image of a professional and neutral minister took shape. The new generation of politicians was considered to be ignorant newcomers or self–interested conformists who came from outside government structures and who often had a background in humanities. This was the conception of the first Government Arrangement act, adopted at the beginning of 1989.

Another development is important for understanding the Soviet legacy: the communist ideology was based on the notion of public ownership. On the level of rhetoric the public good and public ownership were regarded as having the highest value. The mission of state servants ought to have been to promote that public good. Actually, the system of collective private (privately managed by party elite) ownership was developed; in no way did it serve the public welfare. On the one hand, this converted form of public ownership served the political interests of the communist elite, who intended to promote world revolution. On the other hand, especially in the post–totalitarian stage, the public assets were cynically exploited in the individual interest of selected persons from the elite. Simultaneously, an ordinary foreman might be severely punished for stealing a brick. The very value of public good and

¹³ These attitudes were perfectly confirmed as late as 1997 in survey poll analysed in chapter 5.

interest was discredited, especially among the generation that was socialised during the 1980s, when the double standard was most extreme. It was this generation that came to power in 1992.

3.2 De-institutionalisation of government bureaucracy in the course of democratic transition

During Perestroika, the use of Soviet anti-bureaucratic rhetoric by the democratic quasi-opposition was targeted to condemn the nomenclature and the party legacy. Later it was also targeted against the government officials, who at the beginning of 1990s held the real power that the radicalising opposition intended to take into its hands. This position fits very well with the anti-etatist mood that was developing among Estonians during the last century, especially during the Soviet period.

Relations between politicians and bureaucrats acquired a clear ideological colour. The radically-minded and inexperienced politicians started to dominate the experienced bureaucrats, most of whom were state officials under the Soviet regime. The **Civil Service was identified as the antithesis to the values of democracy and freedom**. For this reason it was told, the public cannot trust bureaucrats. However, as bureaucracy is inevitable, it cannot be abolished, but must be carefully supervised.

The idea of dominance of politicians over the civil servants did not develop from the concept of political (democratic) responsibility, but from the concept of mistrust. Politicians nearly monopolised the right to express and interpret the public interests. The latter were defined by them in an ad hoc manner, using the foil of the communist legacy and of the Russian threat, and latter with reference to European Union standards. Hence, the commitment of the Civil Service to public interests became assessed by highly politicised criteria. For this reason, at the beginning of the transition, any visible link between the Civil Service (as an institution) and the public good (and interests) did not re-emerge. Relations between politicians and officials became the subject of concrete individual bargains, which were only formally related with the normative context. That imbalance was and is one of the most important origins of corruption today.

From the beginning of transition, all of the constituents (politicians, entrepreneurs, local governments, public at large)¹⁴ aimed to minimise the roles of government administration but for a variety of reasons. Administration was **considered simply as a tool in the hands of politicians, rather than an institution of the democratic government system**. The instrumentalist thesis about the inefficient state and of the capable private sector, and the need to delegate as many the functions of government as possible to the private sector, is maybe the best known among these myths. These myths were incited by emerging entrepreneurs searching for the easiest (cheapest) way to create new markets.

¹⁴ The incentives and behaviour of these constituents were analysed by myself.(Sootla, forthcoming)

As a result, relations between the new Civil Service and its constituents from the very beginning rested on negative values, which I once referred to as the **presumption of mistrust** (Sootla, Illner 1997). The old Soviet myth about bureaucracy as an evil force, incapable of independent actions, and a selfish consumer of the public good was reformulated by the new constituents of the transition. The **adversarial bargain** between them and civil servants was institutionalised, forming the starting point for the development of the politico–administrative dichotomy.

4. The evolution of the legal context guiding relations between elected politicians and appointed officials.

In this part, the development of a legal basis of the relations between politicians and civil servants will be analysed. Not only the functions assigned to officials will be analysed, but the impact of the administrative structures on the roles of officials will also be taken into account. In the course of analysis I will refer to the Constitution and to the documents of the Constitutional Assembly (Põhiseadus ja Põhiseaduse Assamblee 1997), to several versions of the Republic of the Government Acts¹⁵ and to the Public service Act.

There is not yet separate legislation in Estonia on the government as an institution, regulated by constitutional law, and the government administration, which might be regulated by the administrative law. The Republic of the Government Act has to regulate both dimensions of the executive. For this reason the roles of government as apolitical institution, responsible for policy–making, has been “lost” in Estonian legislation. The low regulative capacity of this act is the main source of confusion concerning the administrative dimension of government.

4.1 The Definition of Politico–Administrative dichotomy at the Level of Government Cabinet

In the Constitution (Art. 86) the Government is defined via its administrative functions, as the top of the administrative hierarchy. The term “Government Cabinet” is not used in legal vocabulary. Rather, the “Cabinet meeting” is an unofficial term to describe the informal, weekly meetings of the Minister. According to the Constitution, the Government directs agencies and exercises controls over their activities, executes domestic and foreign policy, organises the implementation of legislation, and submits draft legislation to the Parliament. In Article 1 of the Government of Republic Act of 1995, the Government was, in a similar way, defined as the authorised head of the entire administration, which has the basic function of *exercising administrative*

15 The first of them was adopted in 1989 (ENSV Ülemnõukogu Teataja, 1989, N36) [RGA89], the second in 1992 [RGA92] (Riigi Teataja, I osa, 1992 N 45), the third in 1995 [RGA95] (Riigi Teataja I osa, 1995, N 94) that is amended during five years numerous times. <http://www.gov.ee/government/> Currently (fall 2000) the new act: Public administration Arrangement Act (PAAD) is in the final stage of preparation, and will be adopted in this year. We are referring to the version, dated 24.03.2000. (<http://www.just.ee>)

Box 2
Low regulatory capacity of relevant acts

The roles of politicians and civil servants in the institutional context of their activities were not defined in numerous legal acts adopted in Estonia. For this reason, politico-administrative relations in Estonian are shaped to a large extent by the actual balance of power recourses of politicians and civil servants. In similar situation the traditional power recourses of civil servants (Guy Peters, 1989) makes the positions of top officials preferable in the actual policy-making process. Most of the top Estonian civil servants are committed to values of professional neutrality. This legislative context does enable politicians to develop sufficient policy making capacity at the level of Ministry. Instead of developing this capacity, politicians started to erode the status of top officials as career civil servants with the aim of making the top officials completely dependent. Whether this arrangement could strengthen the policy-making capacity of the government will be demonstrated in the last chapters.

power. This makes it very difficult to further define the roles of various administrative institutions. The scope of authority and their place in the chain of administrative subordination were the only criteria that distinguished them from one another. Even the term “policy” is absent in the legislation on Government. Therefore, the politico-administrative dichotomy is not defined in Estonian legislation.

There are two reasons for this shortcoming in the Estonian legal system. First, the framers of the Constitution, as well as of other legislation, have departed from the traditional theoretical argument that *democratic* policymaking and political decisions should be completely left up to the discretion of the representative assembly. The mission and role of the executive branch is the implementation of these decisions.¹⁶ Second, the elaboration of the acts on the Government was completely left to the discretion of lawyers, who relied on the legalistic instrumentalism, i.e. departed from the presumption that Government administration is a technical tool for exercising power and implementing orders and directives from superior levels.

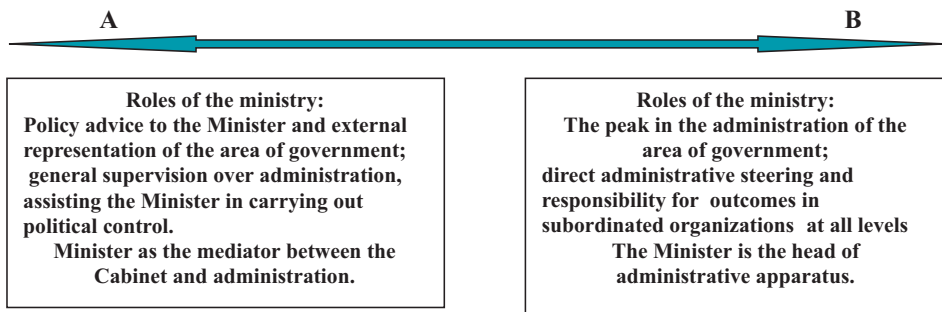
4.2 The legal definition of the politico-administrative dichotomy at the level of ministry

The Ministry as an institution may be defined in the continuum either as the body providing policy advice or as the administrative peak of the state apparatus in a certain area of government (Figure 1). Accordingly, roles of the Minister and its support structures, and top officials (and their support structures) could be defined in accordance of classical configurations, presented by Guy Peters.

¹⁶ In the Constitutional Assembly the roles of the government were not discussed in detail, whereas the CA focused on the roles of the President and Riigikogu.

In the Government of the Republic Act adopted in 1989 (GRA89) the ministry was defined clearly as the organisation responsible for giving professional advice to the minister and for the formation and implementation of strategy in the area of government. The administrative role of the ministry was mentioned in the list of functions as sixth.¹⁷ The top official of the ministry was the minister appointed by the Parliament, the Supreme Council of that period (Art. 2). Deputy ministers were appointed by the head of Government by proposal of the Minister. Both have to resign after the Cabinet leaves office. In that act, the Minister and his direct superiors were clearly defined in legal terms as political figures, separate from career Civil Service.

Figure 1.



In the Government of the Republic Act adopted in 1992, the ministry was defined as the agency “having state power and executing it directly or via ministries and other administrative bodies” (Art. 2). Functions assigned to the Minister (Art. 34) were purely executive, administrative functions: the implementation of tasks given to the ministry and orders received from the government and the Prime Minister, and implementation of regulations. There was no word about policy and responsibility for that mission. Ministry is primarily a tool for the implementation of a superior’s will and the minister as the head of an organisation may only be a typical bureaucrat, but not politician.

The new institution of chancellor to the ministry was also introduced. The neutrality of the chancellor, as with the career Civil Service, was defined indirectly and negatively: “the change of the cabinet ... should not be the reason of the resignation of the chancellor” (art. 36). This was an attempt to introduce the traditional configuration of relations between the political principal and neutral agent. The idea was

¹⁷ Decree on the “Definition of basic functions of ministries” (Riigi Teataja, 1990 N4). The definition was given in the period, where ministries ought to administer numerous budget enterprises. Private enterprises did not exist in this period at all!

borrowed, as was stated by M. Laar, not from the practice of modern democracy, but from the inter-war Republic of Estonia (PHARE seminar, 1998).

The Public service Act adopted in 1995 introduced the difference between career civil servants and state servants appointed by the parliament and President, and employees working for the politicians in the period the latter are elected to the office. The act defined benefits and restrictions that should warrant the stability and neutrality of career civil servants. For instance, a civil servant cannot belong to the leadership of a political party and private company. He/she cannot work in organisations he/she supervised as an official three years after the resignation from the Civil Service. Procedures of appointment and resignation as well as the scheme of compensation of civil servants were also different in comparison with other state servants and politicians. According to the act, civil servants should be recruited and promoted through an open competition. Also a regular evaluation mechanism was introduced. These devices could be effective only where efficient legal procedures were created to protect the individual official against arbitrary decisions of the Minister. In addition, an efficient system of information feedback should be created to establish cases in which a civil servant has violated the law. Both of these mechanisms were developed during the 1990s. However, they were still underdeveloped and could not prevent the covert politicisation of civil servants in Estonia and protect top officials against the arbitrary decisions of politicians. Top officials won several court cases against the government in cases of arbitrary dismissal.

The next Government of the Republic Act was also adopted also in 1995. This act was adopted with the intention to systematise and harmonise previous pieces of legislation on the government. The weak conceptual basis of the act resulted in many controversies in the interpretation of the politico-administrative dichotomy. The legal definitions of the government and ministry in the new act did not reflect this dichotomy more precisely than previous legislation. The specific role of the minister in relation to top officials in the Policy Process was not defined either. The act defined, however, quite a long list of functions of the minister. Most of them were mirrored in the list of functions of the chancellor. The political appointment of the Minister and its superiority over top officials, mentioned in the law, were not sufficient to differentiate the roles of these officials in the Policy Process.

The procedure of appointments of chancellors has also changed. Formerly, the chancellor was appointed by the minister on the proposal of the State secretary. The latter was originally intended to be the career civil servant, but actually became a political appointee. According to the new act the Government, on the proposal of the Minister, appointed the chancellor. This was a step towards the politicisation of chancellors' appointments.

In the previous act (Government of the Republic Act 1992) the role of chancellor was defined more as a general manager and administrator of the ministry. The new act added many other functions to the chancellorship that more or less coincided

with the ministerial ones. This was first of all the preparation and implementation of the budget. The chancellor became formally responsible for the Management and contracting out of resources and assets of the ministry. As previously, the chancellor maintained the formal function of legal supervision over the Minister through the countersignature to the draft bills or other decisions. The Minister's role changed to one of ratifying decisions prepared by the chancellor. These functions increased the role of the chancellor in the Policy Process, in spite of the formal neutrality of his position. It was this development that politicians started to contest most fiercely later on.

The Public service Act introduced devices that could further destabilise the status of the career Civil Service of chancellors. The evaluation and competition procedures for career Civil Service were established by special decree. These procedures did not apply to the position of a chancellor. The chancellor was nominated for an indefinite term and could enter into the service without competition. He/she could not be forced to resign even after an unsuccessful evaluation. These rules obviously involve more political concern than did previous ones. The role of the chancellor in the Policy Process could increase, and he/she could become more dependent on the will of the minister.

The position of vice–chancellor was introduced. They were appointed and fired by the minister. The role of a vice–chancellor was to implement functions, that previously might be in the competence of the chancellor. The vice–chancellor actually became directly responsible to the Minister. Usually, certain areas of government or certain functional roles (assistance in the EU affairs, for instance) were assigned to his/her responsibility. Hence, many of the vice–chancellors became *de facto* deputy Ministers, especially in ministries where the Minister tried to establish direct control over the administration and bypass the neutral chancellor.

This vision of the role of the ministry has reached its final logical form **in the draft Public administration Arrangement Act**, which should be adopted by the Riigikogu in the end of 2000. The purpose of this act is to legally define the universal concept of a public agency or administrative organisation. The only unique aspect of the ministry in comparison with, for instance, the seed inspectorate, is its direct subordination to the Government via the Minister, while other government agencies are simultaneously subordinated to it. The earlier version of the bill grew out of the opposite point of view. In the preparatory comments to the draft bill in the beginning of 1999 the ministry was defined as the “agency for making general policy decisions on administrative matters” and the organisation that should shape the strategy in the area of government.

5. Political Culture and Attitudes

5.1 The Evolution of Basic Assumptions About the Government.

Box 3

Main features of political culture and attitudes

Attitudes of citizens towards the Civil Service as well as attitudes of civil servants themselves reveal quite strong opposition towards the liberal–competitive mechanisms of representation and decision making. Civil Service is ready to follow neutrality. At the same time one part of them is oriented towards individual self–realisation. Politicians have no reason not to trust civil servants. The image of untrustworthy Civil Service and the low prestige of the position is not caused by their low professionalism, but first of all, the low transparency of Civil Service activities. High turnover has eroded traditional values of the Civil Service and rejuvenation has enlarged the role of more individualistic values inside the Civil Service. A crisis of incentives, not the level of salaries, accounts for the low motivation of civil servants in Estonia.

One does not need to the span of centuries to understand the roots of the dominant societal values concerned with the government and authority in Estonia. Until the beginning of the 20th century Estonians did not have access to the government service in their own country. Estonia was a Russian province where the regional administration was concentrated in the hands of the German gentry. After the formal abolishment of serfdom in the beginning of 19th century, the nobility started to delegate responsibility for the delivery of public goods to the rural communities. This was mainly due to the fact that that the foreign rulers felt that the provision of social and economic security was too troublesome to carry out (Sokk, 1992). Hence, from the very beginning, the concept of government as an institution had two radically different meanings for Estonians.

Two completely different sets of normative structures were developed in the public consciousness in Estonia. Government was identified *as the coercive state organisation* in the hands of foreign rulers while self–government was seen *as the provider of public goods and social security*. Supportive attitudes emerged only towards the latter level of governance. The former – the state in traditional sense – was accepted as an unavoidable evil.¹⁸ Estonians as a nation constituted not an independent territorial entity, integrated by the political authority (state), but the cultural community, integrated on the level of symbols and joint mental constructs. For this reason, Estonians have a dual notion of state: as the community composed by ethnic Estonians, and as the

18 Similarly, the Russians consider the government structures as alienated coercive entities. Throughout history they tried to escape these structures and to migrate to other regions, where this coercion could be avoided. Unlike Russians, Estonians worked out very efficient mechanisms of adaptation to these alienated coercive structures, first of all through the very formal obedience to rules.

separate, abstract power structure exercising coercion. In Western countries these paradigms form the basis for different political cultures (Keating 1994; Sootla 1998). In Estonia this dualism formed the institutional context that has shaped specific attitudes towards the government and administration up to the present days. (Ruutsoo, 2000)

Independence (1918) gave an impetus to the intensive institutionalisation of coherent local communities of self-government, especially at the regional level. The structures of the central government were created without any previous practice according to the concepts and traditions (incl. legal traditions) of the Russian–German bureaucracy: the Formal–legal configuration of politico–administrative relations was introduced.

The Community spirit further promoted the *particularist–exclusive* values of self-governance. They were not balanced by the pattern of *universal* societal values, represented and expressed by the coherent political elite. First of all an understanding failed to emerge that the remote state institutions, occupied by their own elite¹⁹ could be a legitimate representative of the public good and public will. The latter were further associated with the national–cultural community. This form of particularity was revealed, for instance, in attitudes towards political competition which were considered not as the mechanism of democratic legitimisation of power, but as a zero–sum game of individual (particular) interests. This was an especially controversial mix of values in the framework of the *egalitarian local corporatism* (Vilms 1936).

The Constitution, adopted in the 1920s, enacted a very liberal version of parliamentary democracy. In reality, political institutions were filled with corporatist connections and spirit. The weakness of universal values of (democratic) governance was caused not only by the dualism of the value system, but also because of weakness of elite who had not reached the consensus even on the level of very general democratic principles (values). Public institutions and public money were directed largely on the basis of private or corporatist ends. The unbalanced party spectrum promoted adversarial politics with extreme inclination towards office seeking motives. The representative government and party competition soon received a very negative connotation as shady Bargaining (in Estonian “the cow trading”). Obviously, politico administrative relations in that institutional context began far from the Formal–Legal model and developed into the Village model, where elites jointly promoted particularistic interests and politics.

¹⁹ Estonia had strong legitimate intellectual and military elites. Both were moved out of governance by the coup in 1934. Corporatism is defined here as the fixed set of horizontal particularist relations between the members of community that is projected or transferred to the external societal institutions in the society. As the result a strong meaning of “us” countered to the “them” is developed inside and between different institutions. Individuals continue to carry their original roles and are not able to develop (new) universal value orientations on the level of democratic societal institutions, incl. on the level of government.

The 1934 coup and the creation of an administrative state were quite a natural result of the above development. Democratic representative institutions were abolished. Instead, the single ruling party and non-representative parliament were introduced: a system where the non-elected council of corporations played the central role. Instead of the democratic rhetoric and values, governing elites started to promote the ideology and practice of national unity. In official propaganda the state was frequently compared to a friendly and unified family. The reform of local government at the end of the 1930s diminished the autonomy and strengthened the control of central government over the regional self-government²⁰ (Parming 1975). The term “Village” was relevant not only to the politico-administrative relations in pre-war Estonia, it was also the official ideology that started to re-shape the structure of the government.

Hence, the historical experience of governance in Estonia did not provide any legitimate structural configuration that might be inherited at the beginning of democratic transition.²¹ This is not true, however, if one considers the basic value assumptions²² (Schein 1992) that had developed and were deeply rooted in the public mind. The Soviet regime destroyed the structures and institutions of the independent state. At the same time the Soviet regime continued to strengthen old mental frameworks and attitudes towards the state and the local community. This was the greatest paradox that determined the communist legacy during the transition in Estonia.²³

5.2 Attitudes Towards Politicians and Civil Servants

The attitudes of Estonians towards governmental institutions are quite positive in comparison with other democracies (Table 2). This relatively favourable picture could be rather different if attitudes of ordinary citizens towards a concrete office or official are considered; relatively high institutionalisation of basic democratic arrangements was accompanied by the “presumption of mistrust.” In the corporatist environment Estonians are usually quite shy and extremely critical of impersonal structures that determine conditions of everyday life but are not directly involved into the corporatist networks.

Governance in such an institutional environment should be as open as possible: interactive and participatory. The Nordic countries are a good example. For instance, the study of Estonian police revealed that more informed persons, even victims of

20 One of the first steps after the coup in 1934 was the reorganisation of regional authorities. The works of councils were halted and the head of government appointed new county governors. (Tomingas, W. (1992)

21 The first government of independent Estonia intended to copy the Formal-legal configuration of the inter-war Estonia, but as shown, without success.

22 Basic constructs or assumptions are not reflected in the everyday consciousness and therefore cannot be identified empirically through verbal discourse.

23 The point that was supported by the nationalist politician (later the Minister of Justice) J. Adams at the constitutional assembly in 1991. (Põhiseadus ja Põhiseaduse Assamblee, p. 122)

crime, evaluate police officers in more positive terms than less informed citizens and/or those who have had no contact with police.²⁴ Estonian public administration is as yet neither open nor transparent, despite the extensive use of information technology²⁵. Citizens have second hand information on the top Civil Service from the Estonian press which is extremely critical towards the officials and government administration. The average Estonian citizen, who does not have permanent contact with government officials, formulate their attitudes towards Civil Service on the basis of interpreted information; the difference between elected and appointed officials has often not been pointed out in the open media, especially at the local level. Although government agencies have developed more effective public relations, their everyday activities still remain closed.²⁶ This is the first reason why the deficit of trust between citizens and officials has persisted.

The other specific aspect of corporatist culture is the suspicious attitudes towards any competition and rivalry inside the corporatist unity. At the same time Estonians are highly competitive and even envious towards the corporatist networks of “others”. The president of Estonia enjoys the highest respect because he often acts as the mediator and conciliator between quarrelling politicians. He has often expressed deep concern for the well–being of the nation, when politicians insist on the privatisation of large industries to foreign companies. The Riigikogu is less respected than the Government in cases where the former initiates discussions on sensitive issues. Citizens observe more unity in activities of the government. Hence, the level of respect for the Estonian government is slightly higher than for the Riigikogu. Political parties have the lowest credibility among democratic institutions. Electoral turnout has been reduced and at the last elections approached 50 percent, possibly indicating a crisis of trust in politics. Beside, the average Estonian has not yet adequately understood and is not yet ready to express his/her real interests at the elections (Palmaru 2000). Therefore the volatility of electorate is very high even if compared with other CEE countries.²⁷

24 I.Aimre, *Actions of Police and Citizens Opinion*. Tallinn, 1988

25 This is not true in the case of the Government Cabinet and some ministries, for instance the Ministry of Environment and The Ministry of Justice

26 In 1998 my colleagues and I carried out a study of the Estonian tax administration. One of the most striking shortcomings that we found was the absence of Internet homepages and the small distribution of the magazine “Taxpayer”. The latter was available mainly for the tax officers. (Sootla et.al. 1998 II)

27 In the 1992 elections, right wing parties did very well. They got 39 out of 101 votes in the Riigikogu. Whereas the alliance Firm Home (composed by the former Soviet, non–communist establishment) got 17 votes. In 1995 the picture was reverse. The former got only 8 votes, whereas the latter (electoral union KMÜ) won elections and got 41 votes. At the elections in 1999 the KMÜ was heavily defeated, because the two of its branches got 14 votes together.

Table. 2

Trust in the government institutions in Estonia.²⁸ Percentage of respondents, who trust institutions.

Institution	September 1995	March 2000
President	66	71
Prime Minister	51	47
Government	53	49
Parliament (Riigikogu)	50	44
Media	55	48
Army	43	55
Police	30	44
Local Government	48	52
Courts	38	44

In Estonian politics interest–group influence is highly unbalanced (Palmaru 2000). Some well–organised (business) interests groups have easy access to and strong impact upon all policy–making bodies, whereas the other sections of interests cannot influence even the policy setting agenda. However, the government is promoting a very liberal and instrumental policy–making style: instead of consensual and participatory decision–making stylised in the corporatist institutional environments, the majoritarian and bargain–like decision–making style was developed. This is the second specific controversy of Estonian democratic governance. Both controversies have paved the way for unbalanced roles of politicians and top officials in the Policy Process. Because these controversies have eroded the trust between them and also reduced the level of political responsibility in the Policy Process. Top officials are becoming increasingly dependent on the mercy of their political principals, who are more forcefully using administrative tools to intervene in the administration.

5.3 Attitudes of Civil Servants²⁹

The most powerful impact on the formation of values and attitudes of the Civil Service has been the intensive path of officials in and out the Civil Service. The process started in the early 1990s when the image of the civil servant as an obstacle to the reform process was developed. In the spring of 1994, more than 70 percent of Estonian top officials had been in their position for less than 3 years.

28 Data from Saar–poll (Estonia). In comparison: The World values survey gave the percentage of citizens who have not at all or not very much confidence in institution as 62% in Denmark, 54% in Britain and 53% in Sweden expressed such an opinion towards the Parliament. Towards the court: 21% in Denmark, 44% in Sweden and 46% in Britain. Towards the Army: 19% in Britain, 51% in Sweden, and 54% in Denmark. Towards the Police: 11% in Denmark, 23% in Britain and 26% in Sweden. (M. Dogan, 1996:284–286)

29 Data on the attitudes of civil servants was received in the poll, carried out in 1997 by Saar poll. The Centre of Public administration, Tallinn University of Education Sciences worked out the conception of the questionnaire. The State Chancellery of Estonia financed the Project. Data on the composition of the civil servants originated for the State Chancellery.

Altogether, 37 percent of the Civil Service was replaced in the period from the fall 1992 until the spring of 1994, when the survey was made. One should note that during this period, the number of civil servants was simultaneously reduced very rapidly (Sootla and Roots, 1999). At the same time, the Civil Service became much younger. In 1996, 48 percent of the staff in the Ministry of Foreign Affairs was younger than 30 years. The number of the same group was 31 percent in the Ministry of Finance and 28 percent in the Ministry of Justice and Defence. The proportion of young staff could be even higher now, because of the more intensive entrance of university graduates started after 1995. As much as 67,2 percent of the civil servants have worked in a ministry for three years or less and 44,6 percent have been in the Civil Service less than three years. High levels of turnover, together with the rejuvenation of the Civil Service have substantially eroded the unity of the Civil Service value system and simultaneously weakened the traditional Civil Service values.

The Estonian Civil Service consists of four clearly distinguished groups, having different value orientations. One large group is clearly oriented towards individual achievement and self-realisation. The other group finds highly valuable the power and attributes (important connections, valuable information etc.) that the position of a civil servant brings with it. The third group is forced to stay in the Civil Service because of the absence appropriate qualification and the low competitiveness with the employees in the private sector, but also because the unwillingness to accept the "dictatorship of results" in the private sector. The fourth group appreciates the good and relaxed working atmosphere in government organisations.

According to the same poll, around 2/5 of officials would like to leave their agencies, either to enter the private sector (19,2 percent) or to join another agency (17,4 percent). From persons who entered into the Civil Service in 1998, 24,9 percent come from the private sector and 36,9 percent come from other public organisations.

Least supported were traditional values of the Civil Service. Prestige of Civil Service was very important for 4 percent of respondents and career opportunities for 6,1 percent of civil servants. The formation of a Civil Service identity and a coherent value system was reduced further by the frequent reorganisations. 2/3 of respondents complained that the continuous reshuffling of administrative structures was the most serious obstacle to the efficient work of the Civil Service, whereas around only 10 percent expressed worries about too rigid regulations.

Table 3
Length of Civil Service employment in 1999 in Estonian Ministries³⁰

Group of civil service	Length of Service				
	Less than a year	1-3	4-10	11-15	16 and more years
Higher civil service					
Years in the civil service	6,6	25,2	43,4	7,8	17,0
Years in the present ministry	10,5	35,7	42,0	1,5	8,6
All civil service: years in the civil service	14,2	30,4	35,0	6,7	13,7
Years in the present ministry	27,2	40,0	34,8	2,6	5,5

Estonian civil servants have rather de-politicised attitudes. 51,1% of them think that interests of the state could be better served by civil servants and only 23,7% think that this could be done by political elites. 65,9% of civil servants supported the thesis that Civil Service should be neutral and adhere strictly to laws and regulations.

6. Implications For the Policy Process

Box 4 Methods of further analysis

This section demonstrates the reality of the politico-administrative dichotomy in the decision-making process at two cabinets that differed from each other most substantially.³¹ Different configurations of relations between politicians and officials are determined by different policy-making styles, where civil servants might play substantially different roles (Jones 1984; Smith 1990). Styles differ not only because mechanisms of decisions differ, but also because “what and why” (the content and general context) is decided. Thus I would develop the institutionalist’ dimension of the G. Peters typology. In the latter case wide perspectives for further analysis would open, because that approach is based on the Parsonsian AGIL model (Parsons, Smelser 1957). This approach has already developed in the analysis of policy generations (De Vries 1999).

30 Data from survey carried out by State Chancellery in 1999. Data published but systematised according in another way see: Avaliku teenistuse aastaraamat 1999. Tallinn 2000

31 The empirical data was collected during numerous interviews of officials, involved into the politico administrative pattern, and during the analysis of records of Government sessions and records of support-structures to the government. The work was carried out in the framework of a research project, financed by the Estonian Research Council.

6.1 Politico–Administrative dichotomy Under Consensual Policy–making Style.

Coming into office after regular elections in 1995 (see table 1), the Coalition party allied with the rural parties started to form complex coalitions with partners from centre–left and right. Both these coalitions failed, because they included political forces with large ideological distance. As a result, the minority cabinet was formed, lead by M. Siiman in 1997. T. Vähi formed the first cabinet with the promise to ensure the coherence and social ends of the policy. M. Siimann came into office with the promise to make the Policy Process open and consultative also for the opposition.

The consultative policy–shaping style made the decision–making process open to different constituencies, primarily to the Civil Service and various interest groups who were not involved previously. They started as advisors to politicians or as active observers of official Government sessions, as well as unofficial cabinet meetings (Sootla, Kasemets, Velthut 2000).³² The latter developed during the minority cabinet into the forum of long and vaguely targeted discussions that sometimes looked like university workshops. As the number of participants in these meetings increased, the duration of decision making became much longer and the probability of working out acceptable decisions decreased. The role of substantive and technical issues (vis–à vis purely political issues) in the policy–making increased. Decisions became more incremental. Non–political Ministers as specialists were appointed as members of cabinet.³³ The elaboration of policy proposals became much more decentralised to the level of commissions and ministerial working groups.

As a result, policy proposals “from below” were more often contested at the level of the Cabinet. The controversies were discussed and proposals were often substantially revised by the Cabinet or overly rejected. A large proportion of proposals was sent back for further elaboration. If the proposal had not been rejected during the Cabinet discussions, the Riigikogu appeared to be the other arena of contest. The bills presented by the Government were often rejected by the Riigikogu with the participation of members of the minority coalition.

32 There are numerous formal and informal decision–making structures of the Cabinet in Estonia. The legally established *Government sessions* focus on the ratification of decisions. The most important is the informal *Cabinet meeting*, where politically sensitive issues are put on the agenda and controversies are settled. There are both the official and unofficial *Commissions of ministers*. The latter is created ad hoc for settling controversies between individual ministers or for scrutinising an issue under consideration. The *Coalition Council* is meant to achieve political agreement between the Parliament factions and the Cabinet, and to ensure the support of the former for decisions made by the latter. The decisions, presented to the Government session, must pass the harmonisation chain in ministries concerned with the act under consideration. Before the cabinet session the draft bill should pass the legal expertise at the State Chancellery.

33 Actually seven out of 15 Minister could be considered as non–political, but formally only four of them were not members of coalition parties.

Civil servants found their remedy: besides their involvement as key figures in the committee work, they started to actively lobby at the parliamentary committees prior to the discussion of an issue in the Riigikogu. In government commissions the Civil Service soon started to play the first role even in the Committees of Ministers. The more technical the issue, the less the Minister was competent to discuss it at the commission and delegated this task to the civil servants. Because the targets and working procedures of commissions were so vaguely defined, most of them died before some progress was achieved. Thus, support structures to the cabinet were captured by civil servants.

Difficulties of political co-ordination at the cabinet level resulted in larger autonomy of the Minister and in a higher importance and autonomy of the ministerial policy agenda. More and more policy proposals came from the ministerial civil servants, who at their own discretion started to elaborate draft policy programs. The Minister often accepted these proposals and programs without any remarks because of the shortage of time in which to analyse issues and because of the absence of staff who might assist or advise in the formulation of the policy directive prior to the elaboration of the program.³⁴ The autonomy of the Minister in the cabinet increased as well as the probability that their proposals might not be approved at the Cabinet level. For that reason, Ministers started to form horizontal sub-coalitions, assisted by the ministerial chancellors. The opposition and the President started to accuse the coalition of developing an administrative state.

One might conclude that the consensual and open decision-making style will inevitably result in the politicisation of the Civil Service. However, another interpretation of the politicisation of civil servants could be introduced. It has been argued that top civil servants cannot be involved in the agenda setting and policy-making because they are not accountable for the results of the policy: the level of political responsibility in Estonia is quite low. Instead of resignation after policy failures or even corruption scandals, politicians very often refer to court decision as the criteria for the appropriateness of their behaviour. So, in what sense and how is the Minister more accountable to the public, not to the court, as compared with top officials who might be fired after failures and scandals?

The involvement of the Civil Service in policy-making may also be treated as their more close commitment to the common good or public interest in comparison with politicians. F. Heady classified this as the (guidance) mission driven Civil Service (Heady 1996). This has also been explicitly declared by the top civil servants them-

³⁴ In case of Forestry policy (Sootla, Kasemets: 1999) the Minister was overloaded with the piecemeal work in addition to forestry being conceived of as a politically neutral and technical policy area. Basic conception of the Forestry Policy, presented to the Riigikogu, was worked out by experts with the active participation of interest groups, and then presented to the political level (Advisory commission).

selves.³⁵ The open decision–making process may provide the more pluralist political input and supplementary source of external control over decision–making than could provide the electorate at the elections.

Constituencies provide feedback to the Cabinet through the process of policy implementation via civil servants and interest groups. Furthermore, the greater involvement of non–partisan constituencies has resulted in the increase of importance of the implementation and the policy co–ordination issues in the decision–making process. This would make the policy–process more consistent and effective. Therefore in my opinion *the involvement did not mean direct politicisation of the Civil Service, but the de–politicisation of the policy agenda in the sense, that the role of party–political interests (that have been often too inclined) reduced in the Policy Process.* The above is the result of politically sensitive issues and biased solutions not having a chance to get through; and because the feedback that was developed in the policy–elaboration process forced politicians to focus more on the substantive issues and social outcomes of even technical issues.

The functional Village model that has developed from the consensual – consultative policy making style is different from the conventional Village model which could develop because the more elitist decision–making style. Alongside the extreme inefficiency of *political co–ordination*, this configuration of relations between politicians and civil servants has also important advantages from the perspectives of *policy–co–ordination*. Different policies could fit much better with each other because of the long and often technical fine–tuning. Policies could better meet the specific needs of the different constituents because their voice has been heard during the policy–making process. Policy programs become legitimised by those who were responsible for its implementation, i.e. by the street level Civil Service. Hence, the policy co–ordination also became more balanced in the vertical dimensions. The open and consensual decision–making can promote *the rational consideration and the result orientation* of policy (March, Simon 1993, Smith 1990). Along with the opportunity to avoid discrepancies with other policies, this configuration of politico–administrative relations could also increase the *reliance on the public interests and public good*. These advantages are especially important in CEE countries, where the norms of good governance are still remote aims.³⁶

35 “If the politician cannot decide upon issues that must be decided urgently, top officials should decide these issues by themselves” (PHARE 1998)

36 The case–analysis of the Forestry policy elaboration (Sootla G. Puustjärvi E. Varblane A. (1998 I) and tax policy elaboration (Sootla, G, Kasemets, K. et al. (1998 II) were a very impressive illustration of different configurations of politico–administrative dichotomies in the policy–making process. The scope of this article did not permit their inclusion in current analysis. Therefore I am referring to the Sootla, Kasemets: 1999, where these cases were presented.

6.2 Politico–Administrative dichotomy Under the Activist Policy–making Style.

On first sight, the second cabinet formed by M. Laar in 1999 developed a similar ideology of politico– administrative relations as during the first period in office (1992–94). In 1994 he was forced to resign because of too obvious and direct dependence on selected interest–groups. Some new important trends were revealed in the life of the second cabinet that could have prevented some of the controversies salient during his first time in office. The most important difference in comparison with that period was the absence of overwhelming ideological myths and boosted expectations that legitimised the policy of the government in the eyes of citizens who had just acquired freedom.

The development of devices of efficient *political co–ordination* of the very politically heterogeneous coalition government was the highest priority of the government headed by M. Laar, i.e., the unity of the Cabinet and decisiveness and speed of decision– making were the first priority. The importance of the politico–administrative dichotomy at the level of cabinet became salient and important. For this reason, doors of various Government decision–making structures were closed behind the top civil servants and other constituencies. County governors received, after angry debate, the permission to send their representatives to *Government sessions*. But this decision–making structure has become more formal and ritualised than previously. The real decision–making structures, first of all, *cabinet meetings*, became closed to top Civil Service and were managed with a clear agenda. Only the Prime Minister’s support structures were permitted to participate in those meetings. As minutes were not distributed, the decisions made by the members of cabinet were often interpreted differently by individual ministers. This caused confusion in the co–ordination of the elaboration and/or implementation of decisions at the ministerial level.

The agenda of these informal meetings was truly political. The sectoral policy programs that were elaborated by ministerial staff according to their internal agenda, on the one hand, and politically sensitive issues that were put on the agenda by the politicians, or issues that caused conflicts between Ministers and/or parties, on the other hand, were clearly separated. Sometimes politically very sensitive decisions were directly sent to the Cabinet session, to avoid controversies between the cabinet members which may arise in the course of their formulation at the (inter)–ministerial level. The dead ends in the chain of the inter–ministerial harmonisation have also been solved through their delegation to the final step at the cabinet level. Simultaneously, Government started to regulate the work of its commissions more precisely. The government set more concrete and targeted purposes and more detailed work procedures as well as expected outcomes. Most of these innovations derived from the consistent critique of the former cabinet (PHARE 1998).

The decision–making process at the cabinet became much efficient. However, this is true only from a short–term perspective.³⁷ There has been evidence of why this

kind of effectiveness could be less preferable in a long-term perspective (R. Weaver & B. Rockman, 1993: 29). This thesis was also confirmed in our case.

The consensual style of decision-making was replaced at the cabinet level with Bargaining and logrolling, which is inevitable for politicised decision-making (March and Simon, 1993). The Cabinet would try to avoid policy issues that could splinter the coalition. There could have been several ways to avoid this. Firstly, decisions could have been postponed in case the tensions between partners became too intense. The cabinet focused on *what could be* decided instead of *what should be* decided. The other possibility would have been to focus on *the regulatory policy* and to avoid the policy of comprehensive programs, that presume enormous efforts in the implementation stage and the achievement of the good substantive match between policies (Bo Rothstein 1998: ch.4).

The overemphasis on the devices of efficient political co-ordination at the level of cabinet decision-making aimed at saving the coalition at any price would decrease the considerations of the public interests in shaping the policy. Vice versa, professional administration and arguments could much better reflect the public interest than the position of politicians heavily influenced by the dominant interests groups. The discussion on the definition of the status of Health Insurance Fund (HIF) was an especially edifying case in Spring 2000.

It was decided to reorganise the government agency HIF into an independent public corporation. This reorganisation was initiated with the aim of cutting the triangle between the professional doctors, ministerial Civil Service and HIF administration. All of them have similar educational and career background. One of the arguments for the reorganisation was that HIF money has been spent according to specific interests of doctor's corporations. The former will lose the tools of administrative control over the administration of HIF. Instead the independent Management board will be established, composed by the politicians as well as external interest groups, include business associations. (The idea of re-organisation came first from the Association of Business) The money that the board is deciding upon is approximately 1/5 of the state budget! Obviously this was the competition for the health services market and not in any way for the patient interests, who soon were renamed as clients in the public press. The most interesting development was that against this reorganisation were the Ministers of Finance and Justice headed by the representatives of the libertarian Reform party. This proposal was supported, however, by the Moderates with a social-democratic orientation. Here the ministerial position was more "public" than the position of politicians, who kept in mind at least the possibility of becoming a member of that board.

37 In a recent article, de Vries has put special emphasis on the sort-term nature of decisions of that kind of "policy generations" (De Vries, 1999).

At the level of the ministry, the conception of the reorganisation of politico-administrative relations presume not so much to increase the political decision-making capacity of the Minister as to diminish the autonomy and hence also the neutrality of the chancellor and vice-chancellors. The other way the government is going to increase its capacity is through the creation of the political staff-structures at the Ministry. The latter does not have any accountability or even substantial working contacts with the chancellor. These structures should not only assist the Minister to work out policy directives, but also to organise the supplementary expert evaluation of proposals and programs, worked out by the ministerial Civil Service. Hence, some kind of duplicating control and steering structures were created, acting on the behalf of the Minister. The question is whether these arrangements could increase the effectiveness of decision-making at the level of the ministry? In the short-term perspective the efficiency of decision-making has obviously increased. However, in the long-term perspective these changes could not increase the policy-making capacity of the Minister for at least two reasons.

The first is the very classical conflict that would emerge between line departments and political staff structures. The new staff structures consist of the temporary and politically appointed persons who have much less professional experience than the civil servants in the line departments they have to supervise and check.

Another reason is more substantial. As the head of administration, the chancellor cannot ensure consistency of the work of the ministerial machine with purely administrative tools. Most ministries in Estonia are conglomerates of different areas of government. Inside each ministry, specific areas, represented by department units, compete for resources, and very often also for influence on the ministerial policy agenda. The chancellor must balance these coalitions to form a coherent ministerial policy-agenda and to ensure its implementation through the legitimate leadership. The knowledge and experience of the chancellor and the stability of his/her position have been the most important source of skills in organisational politics, especially in the context of intensive reforms in various areas of the government (D.Buchanan & R. Badham 1999). Ministers cannot have these qualities. In case the chancellor is becoming dependent on the minister's will, nobody could take this role. The 'balkanisation' of interests inside the ministerial organisation and during the formation of the policy agenda would become inevitable.³⁸

38 The balkanisation of administrative structures along "interest" lines presumed the development of ministerial cabinets in continental European countries. But, firstly, the decision-making capacity of the Minister is strengthened through the development a collegial administrative, not the staff units at the ministerial level (as was done in some ministries in Estonia). Secondly, the cabinet-type structure for administrative leadership seems too inefficient and a very expensive version for Estonia primarily, because of the lack of skilled and mobile staff and because the Estonian Civil Service is incomparably weaker and could be integrated by the single top official.

An independent chancellor supported by the organisation is also able to balance interest group pressures. Politicians in our case seemed to be interested in the personally dependent chancellor, because this enables the establishment of full control over the interest group input. The latter will provide the financial as well as political support to the Minister's party but probably also to the Minister during elections (R. Palmaru, 2000). This could be a more valid explanation for the change in the role of the chancellor's rather than the official rhetoric around the decision-making capacity of the Minister.

Any serious reform or change should depart from the presumption that the balances form the basic device of the democratic governance. Such an imbalance may be efficient in a short-term perspective but might cause serious deficiencies for democratic development from the long-term perspective. The aim should not be to increase the sovereignty of the Minister to decide issues at will; there is no clear limit where the political will would transform into the individual or group wilfulness or even into arbitrariness. The aim should be the formation of a decision-making process, where the political co-ordination is balanced with policy co-ordination and vice versa.

Controversy between different levels of co-ordination has to some extent softened with the re-definition of the Prime minister's roles. Structural changes at the ministerial level will prevent the possibility of the Minister relying on the Civil Service as an efficient support structure of policy advice. At the same time, the PM began to rely on the cabinet support structures and thus increased his Bargaining power in the cabinet in comparison with the individual minister.

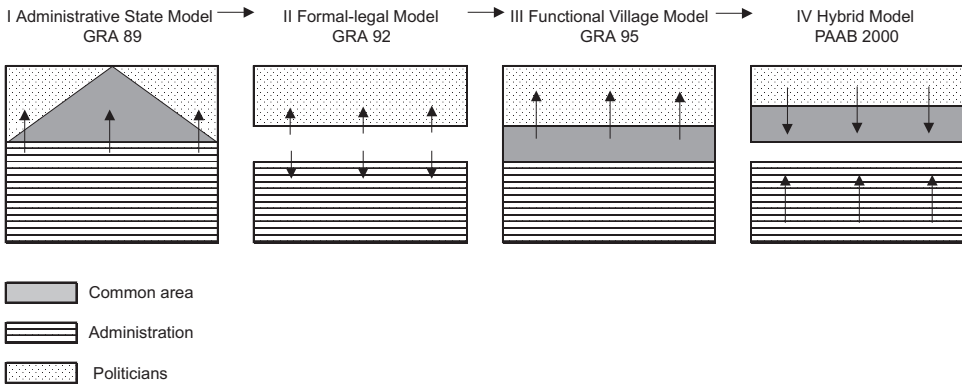
At the beginning of 1990s, Prime Ministers tried to increase their role in the cabinet through intervention into the sectoral policy areas. The structure of support staff to the PM mirrored the structure of ministries. During the first cabinet of M. Laar, he started to develop the "inner-room" cabinet to strengthen his capacity. This resulted in his resignation. As the PM of the current cabinet he started to focused on the issues of institutional policy, first of all on European affairs (that previously was steered by the Minister of Foreign Affairs), and Public administration reform. The Bureau of European integration and the Bureau of Public administration reform (as units at the State chancellery) became the support structure for the Management of these functions.

As mentioned, the politically most controversial cases were sent from the cabinet meetings directly to the Government session for ratification. In a similar way, the issues that were disputed during the harmonisation procedure between ministries were sent to the cabinet meeting for settlement. Through these mechanisms the position of the individual ministers started to weaken and the possibility of the PM influencing sectoral policy started to improve. These new trends have also substantially increased the role of the State Chancellery, which has developed into a powerful administrative support structure for the PM. This has led to an increase of policy co-ordination carried out at the cabinet level.

Hence, the PM has developed the second important tier of administrative support structures, where the other configuration of politico-administrative relations could be observed. This pattern became complex and sophisticated. The former cabinet emphasised policy co-ordination at the expense of the stability of the cabinet and efficiency of decision-making. The latter cabinet shaped its decision-making style and institutions, departing from the priority of political co-ordination and considered the unity of the cabinet as an end in itself at the expense of the controversies of the policy.

7. Classification of Politico-Administrative relations in The 1990s

The transition in Estonian in the 1990s more or less confirmed the validity of Guy Peters’ typology of politico-administrative relations. What did not appear in the formal-legal framework, appeared very clearly after the real context of these relation was analysed (Figure 2).



GRA - Government of Republic Act

PAAB - Public Administration Arrangement Bill

The period between 1989 and 1992 can be classified as ‘the administrative state revisited.’ The way politico-administrative relations were defined in the Government of the Republic act might enable us to conclude that the policy-making and administrative roles were clearly separated. This is not true, however. A Minister was still not a party-political appointee, but a professional who was involved in politics in the course of independence. The political authority of these officials emanated from the extensive clientele networks, where civil servants played an important role. Political parties did not play any important role in determining the actual policy of the government. A Minister was primarily a specialist who was assigned a political role. The Government crisis in January 1992 revealed this quite clearly. The head of the government, who started after independence (August 1991) to establish his political dominance, was faced with the counteractions of state officials and manag-

ers of enterprises. These actions caused deep crises in supply of food and oil. After the crisis, the so called “Government of specialists” was formed by Ministers, who distanced themselves from the former head of Government.

In the definition of ministerial responsibilities, strategy was not considered strictly as policy, because of the low level of institutionalisation of politics at that time. The strategy was considered an expression of the neutral but technically correct public interest or public good. This interpretation of roles was very similar to the configuration of the administrative state. However, there was no intentional domination of specific bureaucratic interests in the Policy Process in comparison with the political interests, because the latter were not yet explicitly expressed in party politics.³⁹

The Formal legal model was in place from 1992 to the mid-1990s. The second Government act, adopted in 1992 intended to introduce the Formal-legal configuration of politico-administrative relations. On the level of political rhetoric, this configuration was introduced with the aim of following the ideology of legal consistency with the pre-war Republic, where this model was applied. The other reason for the adoption of this model was the intention of new and young political elite to distance themselves more clearly from the experienced bureaucracy. There is no clarity on whether the new and coherent government elite saw the potential danger in the experienced Civil Service, who could “domesticate” new, inexperienced political leaders, or whether this was a defensive action against the Civil Service i.e. whether the new elite had the intention to delimit the policy-making process clearly from its implementation, and politicians from the Civil Service to avoid the resistance of the civil servants to the new policy line. As there was no deliberate intention of de-politicisation of the Civil Service, we prefer the former explanation. When the coalition was faced with implementation failures and was not able to exercise direct political control over the administration, the new political elite started to appoint persons to stop Civil Service positions, who did not have any previous experience.

Politicians did not permit the active participation of civil servants in the decision-making process. As a result, the professional quality of the legislation decreased and implementation issues were left out of consideration. The responsibility for the implementation failures was usually placed on civil servants. The latter were even accused of sabotage. Top officials tried to focus on the practical issues or politically less sensitive policy areas and issues that have to be urgently solved. A neutral stance held by the majority of top officials resulted in the growth of their power recourses in their agencies and in the stabilisation of the Civil Service. At the same time, agencies where political appointments were made continued to falter and were not able to implement policy, directed from above. Meantime, after the crisis of coalition in

39 This illusion resulted in the Government crisis in the beginning of 1992 (M. Marran&E. Vungo, 1999).

summer 1994, so called Christmas time Cabinet came into office and developed the model of politico-administrative relations similar to the administrative state model.

The Functional Village model characterised politico-administrative relations from the mid to end 1990s. This model emerged for several reasons. The controversial elements of the new Government of the Republic Act (1995), analysed in the previous chapter, were to a large extent put in place by civil servants from the Ministry of Justice, with the aim to legalise the power resources of top civil servants. Ambiguous legal delimitation of the functions of the Minister and chancellor made the capture of leading positions by the latter in the policy-making process much easier. In 1995, a new cabinet was formed after the regular elections. The core of this new coalition was formed of politicians who initiated the coalition crisis in fall 1991/1992 and who formed the Government of experts in 1992. They insisted on more professional and systemic policy-making, paralleled by the intensive participation of external constituencies. The thesis regarding the existence of policy generations (De Vries, 1999) and their impact on the formation of specific configurations of the politico-administrative relations (Sootla; Kasemets, 1999) was confirmed in Estonia. This configuration contained a very sophisticated balance between politicians and civil servants under the Siimann cabinet, as described in the previous section.

Since 1999, a hybrid model of politico-administrative relations has started to develop, after the functional Village model demonstrated substantial deficiencies, especially from the viewpoint of efficiency of policy making. The model that developed as the result of the negation of previous one is so specific that we cannot fit it into the any of configurations proposed by Guy Peters. Guy Peters proposed only one configuration of politico-administrative relations where politicians are obviously in a dominant position: the formal legal model. The other models contained the balance of power recourses either through the integration of roles or through the competition for temporary supremacy. Developments of politico-administrative relations in Estonia could be better characterised by the concept of the hybrid model (as opposite to the New Public Management model), recently introduced by Ch. Hood (Hood: 1999).

The hybrid model is a substitute for the Village model in a situation where top officials become highly dependent on the politicians, because the costs of the policy failure for politicians become low and the level of trust between counterparts of the relations is also low. This is the model that Public administration Arrangement Act aims to develop. According to this draft bill, the formal functions of chancellors would change marginally. However, a chancellor could be forced to resign because of inefficient co-operation with the minister.⁴⁰ A Vice chancellor, Director general to the independent agencies and County Governors, could be fired for the same reason. Besides this, a chancellor will lose his/her formal superiority over the vice-

⁴⁰ This is from the version dated 09.05.2000. In the version dated 04.04.2000, the reason of firing was even, the "absence of willingness in co-ordination".

chancellor, who will be appointed without his/her proposal. According to the Act, the Minister could appoint (and fire) up to four vice–chancellors. Afterwards the role of a chancellor in the policy elaboration (advice) could diminish to the formal approval of policy proposals already elaborated under the control of politically dependent vice–chancellors. A Chancellor is becoming the manager of chancellery of the Ministry (PHARE seminar 98).

Paradoxically, with *the politicisation* of the top Civil Service, the role of the Ministry is changing towards the “administrative” continuum (B) in the figure 1. The process was launched much earlier by the authors of Government of the Republic Act of 1995. But they had absolutely opposite intentions. The other clear testimony, is that the Act, adopted in 1995, relied on controversial presumptions.

In conclusion

Politico–Administrative relations are obviously a highly important dimension of the specifics of how a system of governance would be conceived. In Estonia these relations formed various configurations, outlined in the typology by Guy Peters. The general trend in Estonia in 1990s has been the diminishing role of the Civil Service in the policy–process and the increase of the dominance of politicians in these relations. This could soon result in their overwhelming dominance vis–à–vis the complete dependence of top civil servants, after the Public administration Arrangement Act will be adopted by The Estonian Riigikogu.

The trend towards the dominance of the Civil Service by politicians and their support structures has been notable also in Western countries. The nature of this shift was defined by J. Pierre as the “desire among elected officials to increase their influence over bureaucracy while at the same time avoiding responsibility for the bureaucracy’s actions”. (Pierre 1995, p.3; cit from Pollit & Brouckaert, 2000)

Is this a casual coincidence, or evidence that Estonia and other CEE countries are faced with similar dilemmas as the developed democracies? I think both statements are valid.

As the reaction to the crisis of the welfare state, different nations started to search the best formula to the more open and responsive government. The already notorious New Public management was among them. “Let manager manage and politicians govern” was considered at the first sight as the “formula of victory”. It appeared to be, however, an internally controversial solution to the general problem: to the issue of political responsibility and accountability. The classical politico–administrative dichotomy, where politicians were responsible to citizens through the elections and civil servants were responsible (loyal) to their political masters is not a reliable formula of the accountability for the open and citizen–oriented democratic administration. The new formula, where the Civil Service will be responsible to both the politicians and to the citizens they serve is emerging. The new formula can only be institutionalised through the values of mutual trust and reliability.

These values were eroded during the Soviet period and continued to erode in the course of radical transition as in Estonia. As has been demonstrated (in Sootla, forthcoming), the de-institutionalisation of Civil Service was the inevitable outcome of the radical transition. The emergence of civil servants highly dependent on their political masters was the other consequence. At the start of the evolution in the 1990s the reverse configuration was developed, when the government was formed by professionals inexperienced in politics, who underestimated political considerations. The oscillation between extreme configurations of politico-administrative relations is a testimony that this dichotomy has not yet been institutionalised and, instead has evolved towards unstable and unbalanced prototypes. The stability and balance of different types of politico-administrative relations rely on the values of mutual trust and reliability, which have proven to be difficult to emerge among elites as well as citizens. The formation of a stable value pattern among Estonian elite as well as between politico-administrative elite and citizens is a key to the development of stable configurations in other dimensions of the system of governance, from party politics to the Civil Service.

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Chapter 8: Civil Service Development and Politico–Administrative Relations in Hungary

László Vass

1. Introduction¹

The Hungarian government has been stable since 1990. The first coalition government between 1990–1994 was formed by the Hungarian Democratic Forum, the Independent Small–Holder’s Party and the Christian Democratic People’s Party. The second coalition government in the period of 1994–1998 was composed of the Hungarian Socialist Part and the Alliance of Free Democrats. Both of these governments served their entire 4–year mandates.

Hungary held its third free parliamentary elections in May 1998. The composition of the Parliament stemming from this election is shown below:

Parliamentary parties	Number of seats
Alliance of Young Democrats–Hungarian Civic Party	148
Hungarian Socialist Party	134
Independent Small–Holders’ Party	48
Alliance of Free Democrats	24
Hungarian Democratic Forum	17
Party of Hungarian Justice and Life	14
Independent	1
Total	386

The next regular parliamentary elections will be held in spring, 2002.

After the parliamentary elections in 1998, the President of the Republic gave the mandate to Viktor Orbán, leader of the FIDESZ–*Magyar Polgári Párt* (Alliance of Young Democrats–Hungarian Civic Party) to form a coalition government. The new government is composed of three right–wing conservative parties: FIDESZ (Prime Minister and 10 ministers), the Independent Small Holders’ Party (4 ministers), and the Hungarian Democratic Forum (1 minister). The coalition government has an absolute majority in the Parliament with 55% of the seats.

The dominant party in the coalition government, FIDESZ, brought a new generation of politicians into government positions. The young leaders immediately penetrated the framework of the consensual democracy and have adopted a dynamic, activist governance style. The Centre of Government became a decisive and powerful

1 This introductory paragraph is based on the OECD PUMA country profile of Hungary. See more details on the web–site: <http://www.oecd.org/puma/sigmaweb/index.htm>

co-ordinating actor in the political system and the authority of the executive branch has been significantly increased.

The development of the administrative system in Hungary since 1989 has been continuous and incremental. After the systemic change, the process of modernising Hungary's public administration faced a "double jump": the first essential task was to found a professional and politically neutral public administration, and the second was to make the administrative system transparent, accountable and more efficient. Hungary's professional public administration is regulated by Law No. XXIII, 1992, The Legal Position of Civil Servants. This legal regulation has permanently stabilised the role of civil servants in the administrative institutions and within the political system.

After the inevitable austerity measures in 1995, the Hungarian economy has successfully consolidated. The current government inherited a fast growing economy and a good chance to decrease the rates of both inflation and unemployment.

The government launched an ambitious economic strategy in 2000, called the Széchenyi² Plan. It is designed to rapidly develop the country's infrastructure, supporting the small and medium size businesses and research and innovation within the country.³ The national budget surplus makes it possible that the employment conditions in the public administration will be improved and the underpaid position of civil servants may change in the next years, thus making Civil Service positions more competitive on the labour market.

2. Overview of Hungary's Public administration

The most important and politically significant characteristics of the Hungarian administrative system are the following:

According to the new constitutional framework of the government, a Prime Ministerial government emerged with a strong administrative apparatus at the Prime Minister's Office (PMO). The PMO became the power-centre of the government. It co-ordinates the preparation of laws, controls the policy-making process and centralises many different functional units out of the ministries.

In order to replace the previous unified administrative system, the most important step was to establish a clear division between the political leadership and the professional executive level. The Hungarian Constitution separates temporary political

2 István Széchenyi was an enlightened reformist in the 19th Century, honored with the title of "The Greatest Hungarian". He offered the revenues of his estates for the building of the Chain Bridge and the Academy of Science in Budapest. He also supported shipping on the Danube and the modernization of the Hungarian economy.

3 The main components of the Széchenyi Plan: 1. Program for Strengthening Enterprises 2. Program for Research, Development and Innovation 3. Program for Development of an Information Society and the Economy 4. Program for the Development of Tourism 5. Program for Regional Development 6. Program for Highway Building 7. Program for Housing

leadership from the permanent administrative leadership. The principle is based upon the appointment of a political state secretary as political deputy to the minister for the term of the current government, and the appointment of an administrative state secretary as a professional deputy to the minister and the head of the ministry's staff.

Another important innovation was the establishment of a separate staff working directly for the various ministers. Previously there was not a general standard for these kind of organisational units at the ministries, but the logic of the French cabinet–system appeared behind the various practical solutions. It was an improvement to introduce clearer internal divisions of labour at the ministries and to put the cabinet into a stronger policy–making position, thereby reducing such roles at the line departments.

The types and the number of Civil Service institutions in 1999 are shown in the table below⁴:

Table 1
Number of Civil Service institutions

<i>Type of organisation</i>	<i>Number</i>
Governmental organisations	622
Central organisations (<i>ministries, national authorities</i>)	63
Territorial organisations	316
Local organisations	243
Administrative organs for public boards (social security, self-governments)	45
National organs	7
Territorial organs	38
Administrative organs for local self-governments (<i>offices of elected bodies, associations of local administrative authorities, area notary's offices</i>)	2,349
Other administrative organs (<i>Criminal's Identification Service of the National Police Headquarters, Border Guard's National Headquarters, Office for Historical Justice</i>)	3
Independent State Offices (<i>Office of the Constitutional Court, State Audit Office, Secretariat of the Public Procurement Committee, Office of the President of the Republic, Office of Parliament, Bureau of National Radio and Television Board, Office of the Ombudsmen, Office of Economic Competition</i>)	8
In sum:	3,027

The institutional system of the central government consists of 13 line ministries and 49 other central offices. There are also 4 ministers without portfolio, including the minister of the PMO.

The Prime Minister's Office plays a crucial role as the centre of government. The number of staff at the PMO reflects the increasing importance of this organisation⁵.

⁴ Source: Hungarian Ministry of Interior's web–site: <http://www.b–m.hu/>

⁵ Source: Yearbooks of the Prime Minister's Office. The size of the PMO is equal to an average ministry.

Table 2
Staff numbers at the Prime Minister's Office

Year	1989	1990	1991	1994	1995	1996	1997	1999
Personnel	308	260	360	266	270	270	316	434

The organisational structure of the PMO is based on four pillars: personal cabinets of the political leaders (Prime Minister, PMO minister), government communication staff (spokesman, media analysts, communication experts), strategic planning and policy analysis unit, and the mirror “referatura” (its responsibilities are reflecting the ministerial portfolios). Political state secretaries oversee the key policy areas. The public administration reform–policy unit also works within the PMO, and is led by a political state secretary. In spite of initial scepticism about their role, the work of the mirror referatura has proven to be smooth and effective, avoiding the bureaucratic and professional tensions with the ministries. Nevertheless, the officials in charge at the PMO remain more comfortable working with the ministries controlled by the Prime Minister’s party rather than the other ministries controlled by the coalition partners.

In addition to the ministries, a number of other central bodies (called central offices or institutions, all with a national scope of authority) play an important role in central government. In most cases, central offices are directly responsible to the government. Their activities are controlled by a member of the government, and they receive instructions from the government, not from individual ministers. In addition, there are also several other central offices whose main functions are to assist ministries in executing their tasks. In most cases, they are empowered to deal with a specific issue in a determined field of public administration.

Hungary’s system of public administration is a dual system, in which the central government and the local self–governments are very independent from each other. In contrast to the highly centralised state–socialist system, the new administrative system was declared by the new Law No. LXV of 1990 on Local Self–Governments, and the relevant chapter of the Constitution. The principle was “one settlement–one local government”. This model did not induce significant disintegration, only within the local governments. It also contributed to the significant proliferation of the de–concentrated government organisations. The local self–governments, 3,149 settlements⁶, were given a wide sphere of autonomy, and at the same time medium level authority (19 counties’) was eliminated. The administrative system became polarised between the strong and centralised national government and the independent, fragmented local government sphere. In spite of the liberal approach of the legal regulations, the local government sector has not become a dominant element in regional administra-

6 See: István Temesi: Local Government in Hungary. In: *Decentralization: Experiments and Reforms*. Ed. Tamás M. Horváth. LGI Books Volume 1. Local Government and Public service Reform Initiative. Budapest, 2000. p.347.

tion.⁷ The relationship between the central government and the local governments is contradictory. On the one hand, the government highly respects the autonomy of the local self–governments. It would have been more rational to give more definite guidance through regulations and incentives to the local governments in order to bridle the disintegrative process which weakens efficiency and professionalism. On the other hand, apart from excessive control of the economic conditions, the government regularly tries to narrow the movement of local authorities primarily through the de–concentrated state administration. It creates tensions between the local and the central governments, especially with respect to those mayors belonging to opposition parties.

In financing regional development, government centralisation is extreme. Local communities do not even have minimal resources for feasible development programs, consequently they are dependent upon central support. The weaknesses in the co–ordination of government levels and the lack of regional co–operation resulted in the re–emergence of counties in regional development. In 1994 the amendment of the Law on Local Self–Governments established elected county self–governments. These bodies did not get the task of the regional development, but instead this task was given to the newly established of country development councils. As the leading expert of the field notes: “The legitimacy of these councils will be weaker than that of the county general assemblies and they appear to be means of direct government influence rather than frameworks of co–ordination and co–operation of agents of local and regional development.”⁸

The level of fragmentation in Hungary’s de–concentrated government organisations has been reduced during the last five years. Currently, twenty Public administration Offices of the government are functioning in the counties and in Budapest instead of some forty. These offices are composed of the de–concentrated, specialised units of ministries and other national authorities. There are some other specialised agencies working individually on county–level, such as agricultural, transportation, telecommunication, tax and financial auditing authorities, the Administrative Information Service, the Public Health Service, employment centres, military and police organisations.

Law No. XXI. of 1996 on Regional Development and Physical Planning set a regional structure in Hungary in accordance with the principles of the European Union. The seven established regions are not administrative units yet, just so–called “statistical–planning” units. Regional Development Councils have been formed in the regions with delegated members from the government and from the concerned

7 See more details at György Enyedi and Ilona Pál Kovács: *The Government and the Local Authorities*. In *Balance: The Hungarian Government 1990–1994*. Korridor Books, Centre for Political Research. Budapest 1994.

8 György Enyedi: *A Country Split in Twain?* In: *Question Marks: The Hungarian Government 1994–1995*. Korridor Books, Centre for Political Research. Budapest 1995. p.142.

counties. These bodies became the venues for clashing local, central, administrative, professional and political interests.

The administrative policy of the government is made by the PMO with support from the Hungarian Institute of Public administration. The Ministry of Interior is responsible for administering the Civil Service personnel and for overseeing local government related matters.

3. Some Historical Characteristics of Hungary's Civil Service

In the historic development of Hungary's Civil Service, three significant periods can be identified: 1867–1945, 1949–1989, and the post1990 period.

The history of Hungary's modern Civil Service goes back to 1867, when the Austro–Hungarian dualistic state was formed. Following the Austrian and partly the German model of state administration, a well–protected and professional Civil Service emerged on the basis of a developed “world of jurists”. This nickname was given to the Hungarian public sector at the end of the last century, because usually the lawyers occupied the jobs in the state organisations and vice versa, the legal profession was generally a claimed job–requirement. Being a jurist and a state servant meant a strong professional commitment and loyalty to the “Hungarian Holy Crown”, which has always been a symbol of the traditional Hungarian state and Public law. There was a consensus on the necessity of the separation and the protection of state employees, but there was no unified and coherent legislation about the Civil Service. In fact, there were numerous laws and decrees regulating the position of the state employees at different administrative organisations. Detailed and sophisticated regulations described the career–system and the benefits as well as the disciplinary procedures and responsibilities.

Following the Raadschelders categorisation, the modern tradition of Hungary's Civil Service is a protected service. The civil servants, as state servants, had to take an oath to the monarch. It is worth noting, that the monarch of Hungary – even the Habsburgs – had to take an oath on the Hungarian Holy Crown, the symbol of the traditional Hungarian law. A key element of that traditional law was that the Hungarian ruling elite kept and defended the old, county–based public institutions against the centralising modernisation, as the guarantee of their privileges.

An important element of the Civil Service is recruitment. In spite of dynamic modernisation, the Hungarian state did not throw off its semi–feudalistic character. Obviously, this had a strong impact on the recruitment of state servants. The over–politicised institutions and a certain level of patronage survived the historical changes. The political leaders of the administrative organisations had collegial and close relations with the senior administrator and it was relatively frequent that senior civil servants were offered political positions. Ministers personally selected their close administrative deputies and the administrative heads of key departments. The personal friendship and similar political affiliations were mixed in the selection process. This kind of

“Village life” characterised the first period, in which the administrative and political elite came from the same or close social groups. The political authority determined the relations, and the senior civil servants were very loyal to their political masters.

In Hungary the Civil Service has never existed as an independent corps. The monarch, and later the governor, as the head of the state appointed the administrative leaders. The state servants took an oath to the Hungarian Holy Crown, or to governor Horthy in the inter-war period, but the relation between the Civil Service and the head of the state was rather more symbolical than direct and practical. The state servants were handled as real servants by the head of state and their relationship was truly formal and hierarchical. At the same time, the Hungarian Parliament never had a committee concerning the Civil Service.

This situation did not change until the end of WWII. In 1945 Hungary became a republic and a parliamentary democracy, but there was not enough time to stabilise a professional, politically neutral Civil Service. Moreover, the politicisation of the Civil Service increased, because in the framework of a general “lustration” all public employees, including the civil servants, were investigated for their possible fascist affiliations. The lustrated people were qualified as democratic person in category “A”, or an enemy of democracy, in category “B”. Public employees placed on list “B”, had to leave the public service. Joining a democratic party was an easy escape, as members of the investigating committees were the delegates of the anti-fascist, democratic parties. They usually defended their new clients. The most compromised senior state servants were removed, but the servile “small sinners” were allowed to remain in their positions. Generations of public employees learned and remembered this controversial lesson.

After the communist take-over in 1949, a new period started. The borderline between public and private employment came to an end with the general nationalisation. The communist government created equal legal conditions for every kind of employment. Everybody became the employee of the state. Law No. 7 of 1951, the new Labour Code, uniformly regulated employment conditions. This regulation was based on the fiction that there was no difference between the position of an industrial worker and the position of intellectual “workers”. Wages and salaries were also equalised. In reality, the government really needed a professional apparatus, and the unified labour regulations were not applicable. Finally, the government decree No. 38/1975. (XII.27.) was released on “some special characteristics of the employment at the public administration and the judiciary”. This was an effort to regulate the special professional requirements of state servants, but the decree was far from comprehensive and coherent. The state-socialist government followed the general practice of the seventies and eighties: they did not openly question the Soviet model of a unified and politicised state, although they tried to enhance professionalism behind the scenes. The communist party’s congressional decrees usually included a chapter about improvements in the professional work of the state apparatus, but a comprehensive reform of public administration or Civil Service was never an issue.

The relationship between the politically appointed ministers and the senior civil servants may be classified as a “functional Village life”. Sociologically, it would be difficult to define whether the logic of the ruling party’s life determined how the state apparatus was functioning, or the logic of the state bureaucracy determined how the ruling party was working. In fact, a party politician appointed to minister became quickly acclimatised to the department and an advocate of the sectoral policy towards the party leadership. This “functional Village life” structured the political life, and the functional cleavages sometimes transformed into political cleavages. The duplication of the functional structure of the government in the party central apparatus also increased the “functional Village life”. Another typical example is the usual career record: a mid-career engineer in a machine factory joined the Communist Party, later he was appointed to the secretary of the party organisation at the factory. Soon he was appointed the director of the factory, than he moved to a higher position within the metal worker’s union. From here he was transferred to the central party apparatus as the deputy head of the department of industry, he then might land in the ministerial seat at the Ministry of Industry. This career seems to zigzag, but it was very coherent: from first to last it stayed within the functional branch, and this course of life gave the most effective Management training for that person. Within the communist elite there were different groups identified as agrarians (nationalists), industrials (hard-liners), scientists (technocrats), and intellectuals (liberals).

The formal relationship between the senior administrators and the party politicians was also regulated by the nomenclature-system. This represented a non-constitutional political control over the recruitment and promotion process. The Communist Party specified the competencies for the different levels of party organs in their control of the government personnel policy. This meant that there were no appointments and promotions within the public administration without the agreement of the competent party organs.

Nevertheless, political loyalty was the first requirement, while state servants made definite efforts to maintain their professional integrity. Institutionally, the public administration and the Civil Service were never merged into the party apparatus. Political control over appointments was strong, but officially a so-called “triple requirement” was established for the state servants: political loyalty, professional merits and moral integrity. After launching the economic reforms in 1968, a more liberal regime was built and the equal importance of those three requirements was emphasised.

Throughout the history of Hungary’s modern public administration, the dominant “service knowledge” was the legal professional knowledge. Because of the high quality of the legal education in the country and the high number of well-trained applicants, there was not a great demand for special graduate training in public administration. The Weberian type bureaucracy needed generalist lawyers and just a few other professionals as engineers, accountants, etc. There was a short period of some new developments in the public administration education during the 1930’s⁹, when

Zoltán Magyary challenged the traditional administrative law approach with the latest American and West–European public management innovations. After WWII, and also during the communist regime, the professional preparation of civil servants was a general legal education, including courses in administrative law. The Communist Party required the leaders of the state apparatus to participate in the political training offered by the party schools. Specialised higher education in public administration began in 1978, with the foundation of the College of Public administration. The focus of Hungary’s public administration education has always been in administrative law and administrative procedure. The latest public management and public policy related knowledge has only spread and developed very slowly. The newest and most developed university programs currently offer courses in public policy, Management, public finance and planning, program evaluation, sociology and political science.

4. Legal Regulation for Civil Service and Relations Between Politicians and Administrators

The third period of Hungary’s public administration history began in 1990. In order to replace the previous unified system, the most important step was to establish clear divisions between the political leadership and the professional public administration. The Hungarian Constitution specifically differentiates between the short–term political leadership and the permanent administrative leadership. The practical consequence of this mandate has been the appointment of a political state secretary as the political deputy to the minister for the term of the government, and the appointment of an administrative state secretary as a professional deputy to the minister and the head of the ministry’s apparatus. The procedure for the appointment of the secretaries is the same as in the case of the ministers. The Prime Minister makes the proposal to the President of the Republic. The criteria are basically different in the case of the political and the administrative appointments. Political state secretaries are appointed in accordance with the coalition agreement. The position of administrative state secretaries is the issue of expertise and trust. Obviously, the meaning of “trust” is very complicated. How much political loyalty is included in this term? What is the difference between the political and personal elements of the loyalty? The basis of the trust is usually the expectation that the apparatus does not transfer the personal documentation of a minister to his or her successor. (Gaits: 1993) Some Hungarian ministers have been irresistibly curious to know about the documents of their predecessors. There have also been bureaucrats who played political games or made political careers based upon such ministerial interests.

Another important innovation was the establishment of a separate personal staff that works directly for the respective ministers. General standards for these kinds of

9 See in details: György Hajnal: Public administration Education: Hungary. In: Building *Higher Education Programmes in Public administration in CEE Countries*. Eds. Tony Verheijen and Juraj Nemec. NISPAcee, Bratislava, 2000.

organisational units at the ministries were not formalised, but the logic of the French cabinet–system was considered when formalising this practical solution.

The two types of state secretary positions have also raised some practical questions. While this division may appear functional and follows similar Western models, the implementation is controversial. First, ministers may appoint administrative secretaries who do not have to be career civil servants. There is little doubt that administrative secretaries are political appointees, with party–political considerations playing an important role in the selection process. As civil servants, administrative secretaries cannot normally be removed from the service under the law, however the minister can at any time remove them from their positions without having to give reasons for such a decision. Employment is permanent, but the position of administrative secretary is not. The political nature of their employment and the fact that they rely on the minister’s goodwill obviously greatly limits the capacity of administrative state secretaries to represent neutral professional positions in the face of political challenges. This effectively limits the role of the Law as a barrier to political interference with the departmental Civil Service. It also means that continuity is not guaranteed. The lack of standard regulations governing the division of labour between political and administrative secretaries also may result in the administrative position becoming politicised.¹⁰

The ad hoc adjustment of the personal staff that works directly with the minister leads to greater uncertainty regarding the barriers between the political and administrative appointments. There is a great deal of variation between the size and role of these staffs within the individual ministries. The typical problem involves the duplication or mixing of the functions of the cabinet–type units and the personal secretariats of the ministers. The internal division of labour at the ministries has also been affected as the cabinet has been put into a stronger policy–making position, thereby reducing such a role for the line departments. This situation results in the politicisation of administrative positions and an unhealthy competition between senior officials and organisational units on the top level of the ministries.

Law No. XXIII, 1992 on The Legal Position of Civil Servants concerns the administrative staff of the central and sub–central administrative organs, but excludes some categories of public servants for which special regulations have been adopted. These public servants are the Prime Minister, Ministers and political state secretaries, members of the armed forces, frontier–guards, the police, the secret services, the Republican Guard, the fire service, customs and finance guards, penal authorities, and civil defence and armed security guards. This law distinguishes between different groups of civil servants according to their tasks: public servants who have manage-

10 See more detailed analysis in Hesse, J.J. and Goetz, K.H.: Public sector reform in Central and Eastern Europe III: The Case of Hungary. in: *Jahrbuch zur Staats- und Verwaltungswissenschaft*. Nomos Verlagsgesellschaft. Baden–Baden 1993

rial and decision–making positions; officials who have implementing functions; and physical employees who have technical or supplying functions. This law defines the educational entry requirements, duties, rights and privileges for each public servant category.

The Law contains the following chapters:

1. general definitions;
2. the subjects of the public administrative legal position, appointment procedures, the establishment and termination of the employment relationship, severance pay, the question of incompatibility;
3. the career of civil servants, their training and development, evaluation and assessment, work–time and holidays, salary structure;
4. disciplinary rules and procedures;
5. disputes between employer and civil servants;
6. the maintenance of employment records;
7. the Public administration and Public Services Council;
8. the legal administrative relationship of officials and physical employees;
9. miscellaneous matters, including the list of provisions from the Labour Code which also relate to public servants.

By law, civil servants are obliged to carry out duties that benefit society, to act in accordance with the rules and decisions of the authority in which they work, and to be professional, impartial and just. A civil servant must carry out the instructions of his direct superior, except if they violate the law. A civil servant has the right to offer in writing different opinions, if he disagrees with the decision or instructions of their superior. A civil servant may turn directly to the labour court to enforce claims connected with Civil Service legislation. Civil servants may join trade unions and have the right to strike. They are registered with a central Civil Service registration system that is directed by the Ministry of the Interior.

Civil servants are expected to join the service at the entry level of their respective career group. Prospective civil servants must pass a special administrative examination. Civil servants who possess the necessary work experience defined by law may be promoted if, after a probationary period, their qualifications meet the requirements for the higher position. In a few cases, civil servants may be promoted before the end of the probationary period, but only after they meet the requirements of the higher position. The salary of civil servants is determined through a general classification, although local governments are authorised to depart from these rules. Also, with approval of the government, ministers and the heads of central offices may offer different salaries.

The new provisions establish a career system, which fixes grades based on individual qualifications and seniority of service. The required length of service for each rank is the following: junior clerk II – 1 year, junior clerk I – 5 years, secretary II – 9 years, secretary I – 13 years, counsellor II – 17 years, counsellor I – 21 years, and the chief

counsellor – 25 years. On the basis of excellent capabilities, civil servants can reach one category higher than they would be otherwise be entitled by length of service.

There are two major defects in the current category system. First, it implies an automatic promotion process. This is not in accordance with performance-oriented assessment procedures. Second, and more worrying, is the fact that emphasis on the length of service makes it difficult to reward outstanding performances through more rapid promotions. The idea of regular performance assessment, as adopted by the Law, is incompatible with a promotion system that is based on the criterion of length of service. An additional important problem stems from a lack of effective guarantees for the main aims of the regulations, namely the Management of public matters ‘by impartial public servants, neutral from any parties’¹¹. While the Law protects public servants against arbitrary dismissal and also creates solid obstacles against the promotion of staff on the basis of political criteria, there are not strong barriers against the direct interference of ministers in the public service. The fact that ministers can, at will, remove administrative state secretaries remains very controversial. Ministers can also remove heads of departments from their positions without explanation. In these regards the Law cannot eradicate Hungary’s servile bureaucratic culture and does not facilitate the introduction of a modern system of performance assessment with respect to personnel policy.

Despite the efforts of the Law to stabilise the Hungarian public service, it could not stop the quality of personnel from deteriorating. In fact, a large number of qualified experts have left Hungary’s public administration due to a lack of adequate financial compensation and personal satisfaction. Senior public administrators and executives do not have job stability, while political appointees have indefinite contracts.

The government is principally responsible for the development of a personnel policy. Personnel Management is decentralised. Ministries and non-ministerial central institutions independently select their own personnel and decide on appointments and dismissals. In the ministries, the administrative state secretary exercises employer’s rights; in the central administrative offices the head of the authority carries out this function. The system of promotion is defined in the Law on the legal status of civil servants. In cases defined by law, appointments are made on the basis of open competition.

5. Political Culture and Attitudes

Public administration is not distinguished from the government in public opinion. The “State” usually is a unified entity in the eyes of the public. People often believe that civil servants in the local governments are “state employees” and local governments are part of the national government machinery. It is generally not known how autonomous local government is based on the Constitution, but it is supposed that

11 *Administrative transformation in Central and Eastern Europe: Towards Public sector reform in Post-communist Societies*. J.J.Hesse ed. Oxford: Blackwell Publishers, 1993.

they are strongly dependent on the central government for financial subsidies. Because of this dependency, the public often blames the central government rather than the local governments for “problems”

Traditionally, the government, as a political entity, has had a relatively low level of prestige in public opinion (compared with the professional ministries and the local governments, which are closest to the people). In time, the differences at the central level have declined, but the local governments still have significantly higher levels of prestige than the central government. (See table 3)

Table 3
Prestige of Institutions 1992–1998¹² Scale 1(low)–100(high)

	11.1992	03.1994	01.1996	02.1998	05.1998	Average
Employers	47	41	37	37	32	38,8
Trade Unions	39	45	39	39	32	38,8
Parliament	36	39	40	44	37	39,2
Government Parties	37	38	41	43	38	39,4
Government	32	40	40	46	43	40,2
Opposition Parties	37	48	45	42	36	41,6
Ministries	46	44	43	46	42	44,2
<i>Average of Institutions</i>	<i>47</i>	<i>52</i>	<i>49</i>	<i>50</i>	<i>48</i>	<i>49,2</i>
Churches	46	52	51	49	49	49,4
Police	51	58	48	46	46	49,8
Local Governments	54	53	50	52	50	51,8
Army		59	50	52	51	53
Media	54	53	52	54	54	53,4
Constitutional Court	56	57	62	60	59	58,8
President of Republic	61	70	65	66	62	64,8

Unfortunately, there are no polls regarding the attitudes of the public towards the public administration and civil servants. What is apparent, though, is that more political organisations are below the average, and the more neutral organisations definitely have higher levels of acceptance. Local governments have elected bodies composed of party representatives, but more than 70% of Hungary’s mayors are independent. Mayors clearly understand that their chances for winning elections are much higher if they run as non–partisan candidates. The high qualifications of the judiciary and the military are reflected in the next two tables as well as the relatively good scores for the local governments, again as compared to the central government.

12 *Magyarország évtizedkönyve 1989–1999*. (Decade–Book of Hungary) S. Kurtán – P. Sátor – L. Vass eds. Hungarian Center for Democracy Studies, Budapest 1999, p.823

Table 4
Public Presumption of Corruption at Institutions and Professional Groups in 2000¹³

Business	66
Police	63
State Privatisation Agency	59
Lawyers	58
Members of Parliament	55
Banks	53
Government	52
medical doctors	48
local governments	42
Courts	37
Military	33

Table 5
Satisfaction with Ministries¹⁴ Scale 1(low)–100(high)

Ministry	1998	1999
Youth and Sport	n.a.	33
Social and Family	44	35
Interior	47	36
Health	45	36
Agriculture and Rural Development	43	39
Environmental Protection	50	40
Economy	46	42
Cultural Heritage	48	44
Finance	47	44
Education	55	46
AVERAGE	49.6	43.3
Transport, Communication	49	49
Defence	54	50
Justice	54	52
Foreign Affairs	63	60

The general attitudes of politicians towards bureaucrats can be described as including a mixture of distrust and contempt. There are two components behind this distrust: (1) politicians suppose that most of the civil servants served during the communist era and were loyal to the old regime, (2) politicians are also assuming that bureaucrats cheat them, because the bureaucrats are better informed on policies. Civil servants are held in disdain at the same time because they are counter selected, underpaid, servile and defenceless. At the same time, civil servants experience mixed feelings of fear and disdain towards politicians. The reason for the fear is because of their

13 Magyarország Politikai Évkönyve 2000. (Political Yearbook of Hungary) S. Kurtán – P. Sátor – L. Vass eds. Hungarian Center for Democracy Studies, Budapest 2000. p.727

14 Magyarország Politikai Évkönyve 2000. (Political Yearbook of Hungary) S. Kurtán – P. Sátor – L. Vass eds. Hungarian Center for Democracy Studies, Budapest 2000. p.749

defencelessness. They disdain the politicians because of a lack of their professional competence and exaggerated self–confidence. This reciprocally negative attitude does not prevent them from occasionally forming coalitions in order to block reforms for a more transparent and accountable public administration. Most civil servants try to maintain and defend their professional integrity. They fight against political influence, but because they are disciplined and loyal, they never alarm the public when they are experiencing initiatives of politicians that threaten the democratic rules of the game. Traditionally, civil servants as “servants of the state” have treated citizens in a very authoritarian manner. The experiences of the citizens show that bureaucrats do not serve, but control the people. This culture is changing very slowly. Younger generations of civil servants already have different attitudes. They are more professional and more service oriented. But they are also more demanding in terms of remuneration and treatment. The old masters in public administration have serious conflicts with these younger workers because of their lack of professional Management knowledge and capabilities. The high standard of language knowledge and computer skills of younger civil servants is an important factor driving the modernisation of the public administration from inside.

6. The Policy Process¹⁵

Concrete government policies emerge from the government program, the demands channelled through the parliament and government parties and also from the social tensions sensed by the governmental system. Wherever we can find the source of the task, however, the ministry that has an authority over the given area, will be the starting point of the decision–making process. The administrative state secretary of a given ministry is personally responsible for the preparation of a related document, or proposal.

Ministers, as the number one political and professional leaders of the ministries, refer the political demands and expectations that emerge from their party and first of all from the government to the ministerial apparatus.

The ministries are obliged to adjust their proposals for the government based on the professional perspectives of other ministries. It is a high priority for the government that in addition to professional adjustment that proposals should respond to the demands of the coalition partners – and in case of a parliamentary proposal to a necessary degree of even other parliamentary party groups – from a political per-

15 This paragraph is based on a research including 17 interviews with former government politicians and senior civil servants on the topic of “coalition governance in Hungary”. The research was completed by Assistant Professor Péter Sándor and Associate Professor László Vass at the Budapest University of Economic Sciences and Public Administration, Department of Political Science. Initial findings have been published in: P.Sándor and L.Vass: *Coalition Government – Prime Ministerial Governance*. In: Magyarország Politikai Évkönyve 1999. (Political Yearbook of Hungary) S. Kurtán – P. Sándor – L. Vass eds. Hungarian Center for Democracy Studies, Budapest 1999.

spective as well. Thus, it is in the interest of the ministries to have good professional contacts with the parliamentary party groups. Although a set pattern does not prevail, the ministries generally consult the coalition party groups and occasionally even the opposition parliamentary parties on topical issues and they inform the parliamentary committees as well. This usually occurs through personal contacts with parliamentary representatives or occasionally through formal participation at the meetings of the parliamentary parties or committees. In certain cases (such as concerning laws that require a two-thirds majority vote or the budget law) preliminary adjustment is a particularly sensitive issue. In these cases, the ministers often go themselves to the coalition party groups' meetings, and the ministries pursue a more extended consultation process with the experts of the parliamentary parties, including the opposition representatives. The ministries tend to involve the coalition parliamentary parties and their diverse working groups into the legislative process, and in this way they seek to attract able and reliable Members of Parliament for the representation of professional issues. In this process, some MPs will acquire a higher profile, and they will become the experts of a particular ministry.

Between 1990–1998 virtually all of the ministries used the opportunity to amend a bill in the parliamentary stage of the legislative process with the help of coalition MPs. Coalition MPs who were also loyal to the interests and preferences of a certain ministry often proposed amendments to correct a bill after it had already passed the government session. Indeed, within the government, ministries are the strongest lobbying group.

The meetings of administrative state secretaries were the most important professional forums in the process of governmental policy-making process between 1991–1999. These forums represent the final stage of professional adjustment while they also performed a filtering function. The public administration can inhibit the occasional overflow of political demands on strict professional grounds, or it can simply warn that a certain political intention cannot be translated yet to the 'language' of public administration. The meetings occur every week, and the preparation of the next government session (in principle the one that should follow the next week) is also on the agenda. Very often, however, the proposals are placed in front of the government the same week. This shortened timeframe naturally makes the preparation of the other ministers and the experts of the coalition parties more difficult.

The head of the Prime Minister's Office (the administrative state secretary) chairs the meetings of administrative state secretaries. Being aware of professional alternatives, as well as the standpoint of the Prime Minister, he is able to determine whether a given proposal that is considered by the forum can be finalised and placed in front of the government or needs further adjustment. The minister's interest is to reach consensus on their proposal before the government meeting and thus to avoid debate.

The government cabinet discusses policy matters, determines the formulation and Management of related policy proposals and co-ordinates the preparation of urgent

measures requiring immediate government decisions. The government cabinet is headed by the prime minister; its other members include the ministers of agriculture and regional development, finance, foreign affairs, the interior, and the ministers without portfolio with responsibility for the prime minister's office and with responsibility for the secret services.

The so-called economic cabinet, presided over by the Minister of Finance, plays a significant role in the adjustment process before the government meeting. The economic cabinet analyses the proposals from financial and macro-economic perspectives. In principle, all proposals go through this filter. The economic cabinet is consulted on strategic economic issues and prepares government decisions dealing with economic policy. Important economic issues must be presented and debated by this body before they are considered in a government meeting. The head of the economic cabinet is the minister of economics who has a central role in the development and implementation of the government's economic objectives. Other members include the ministers of agriculture and regional development, finance, and transport, communication and water Management. Since all proposals have certain financial consequences, the economic cabinet meetings represent a kind of government session concerning economic and financial policies. The more the economic cabinet deploys broad and general perspectives in the discussion and evaluation of proposals, the more the government accepts its opinion and suggestions in the given affairs.

Other cabinets have similar professional functions but – due to their smaller weight – they play a less important role in the decisions regarding their respective areas. One such body is the national security cabinet. This body co-ordinates national security policy and prepares government decisions. The minister of interior leads this cabinet, while members of the cabinet include the ministers of defence, foreign affairs, and justice, and the ministers without portfolio with responsibility for the prime Minister's office and with responsibility for the secret services.

The standard adjustment process within the public administration branch also brings information to the surface. Information is accumulated in the hands of the administrative state secretary of the Prime Minister's Office, who controls the final and most important stage of the adjustment process. If a proposal gets stuck or the procedure is paralysed, he has to mobilise the process. Due to his position he is able to notice if the quality of a proposal does not meet standards or if political problems emerge. Thus he can take the necessary steps for improvements or draw the Prime Minister's attention to the problem. Then the Prime Minister, as a kind of governor–manager, uses his authority to solve the issue.

The minister of the Prime Minister's Office has an important role in determining the schedule of the government and in determining its policy agenda.

As a last stage in the preparation for the government meeting the coalition partner's ministers make final check on the agenda while the Prime Minister has consultations with the minister and political state secretaries of the Prime Minister's

Office. Before the government meeting the other ministers also review the most important issues and prepare themselves for the government meeting. The ministers' colleagues – having important positions – participate in these preparations: state secretaries, deputy state secretaries and one or two persons from the ministerial staff. After this, but still before the government meeting, the last forum of adjustment occurs: the cabinet of the government meets. This meeting consists of the Prime Minister, the Minister of the Interior, the Foreign Minister, the Minister of Finance, while the minister and political state secretaries of the Prime Minister's Office are regularly invited.

Eventually these sessions finalise that among the proposals that make it in front of the government on that day which may need further discussion before their acceptance and which embody final viewpoints. Occasionally, in the absence of a political agreement, these sessions decide on the postponement of certain proposals or they refer them to a further adjustment process. The working style of the cabinet of the government is very informal. Minutes or records are not prepared at all. Memorandums are occasionally done but they are not made public.

The ministers and the Prime Minister make their positions explicit at the meetings of the cabinet of the government and the government itself. These positions are not simply the personal or political viewpoints or opinions of the given politician but represent his/her power as well. By introducing his/her position the members of the government may indicate the preferences that he/she does not give up even in case of a different government decision. In the background of a strongly held position, one can often find a mandate from the party, which may occasionally, but not inevitably lead to a coalition reconciliation process.

At the meetings of the cabinet of the government different positions are carefully considered. Thus the prospects of the proposals can be envisaged and the solutions of emerging conflicts can be planned for at the government meeting. The style of discussion is personal and political. If after the government meeting the Prime Minister announces that: 'we discussed the issue at the cabinet of the government session and a particular solution was outlined', the message is clear to all the ministers: The political solution is then summarised and put into the professional format of a government decision by the administrative state secretary).

Government sessions regularly last only about three or four hours. Nevertheless, occasionally several dozen (sometimes as many as 40 or 50), and on average 24 points appear and are completed on the agenda. The decisions of the government are made either without debate or after a debate, in the latter case either with or without a vote on the given issue. Points on the agenda that are planned to go unchallenged may trigger discussion if a member of the government initiates it and his ideas are built on solid ground. Some topics are put forward to debate to increase the responsibility and personal commitment of the decision-makers – particularly concerning issues with high political or economic profiles. Occasionally – indeed, very rarely – the

government makes a different decision that is contrary to the one originally planned at the forum of the public administration state secretary or the session of the cabinet of the government. No issue is determined as final before the government session. Debates are always practice oriented and not ‘philosophical’: the debating partners briefly (within 2 or 3 minutes) present their proposals and positions.

The Prime Minister, who has the final word on every issue, always chairs the government session. The participants agree that ‘at the end of a debate everybody would know and sense what the decision can be.’ The Prime Minister makes his decision on the basis of the proposals and even more so on the basis of the positions. He refers all those cases to further adjustment that he does not find acceptable or that have not been fully and properly elaborated from the public administration–professional perspective.

The head of the Prime Minister’s Office has a major role in the professional organisation of the government meetings, and sometimes he personally presents the proposals.

The Prime Minister’s Office¹⁶ assists the prime minister in policy development by providing information, co–ordination and political and professional advice and support and co–ordinates the activities of the government. Since 1998, the head of the PMO is a minister without portfolio, who is responsible for the functioning of the office, for co–ordinating the work of the government and for preparing government meetings. The minister also initiates and regulates co–ordination between the ministries and controls the implementation of government decisions. The PMO includes five political state secretaries who report directly to the prime minister. They oversee special activities within the PMO (for example, administrative and regional policies).

Proposals for agenda items of government meetings may be submitted by:

- any member of the government;
- the administrative state secretary and the political state secretaries in the PMO, on the authorisation of the government or the prime minister;
- the president of the central statistical office, heads of the national agencies and boards (with the prior approval of the member of the government responsible for supervising the organisation), and government commissioners for matters falling within their areas of competence; and
- other organisations and individuals, on the authorisation of the government or the Prime Minister.

¹⁶ This paragraph follows the OECD SIGMA country profile of Hungary published on the Internet: <http://www.oecd.org/puma/sigmaweb>

7. Classification of the Civil Service in Hungary

Despite the unified legal regulation of the positions of civil servants, sociologically there is no “Civil Service” as a well-organised, separate institution. Civil servants are the employees of government organisations, their employers are the ministers. In fact, the Ministry of Interior manages their personnel records. If we want to create a model for better understanding the problems of Hungarian Civil Service, we have to distinguish between three groups: politicians, most senior civil servants, and the rest of the civil servants. This is a social triangle, and each side of the triangle must be interpreted.

(a) Politicians – most senior civil servants

The highest grades, ministers, administrative and political state secretaries and deputy state secretaries form a separate group and their labour conditions are regulated separately. This category of the heads of public administration is called in Hungarian “state leaders”. Political leaders and the very senior civil servants are together in this privileged group. They have special fringe benefits: official cars for personal use, access to luxury tennis clubs and holiday resorts, diplomatic passport, etc. This situation would suggest that this group represents a “Village life”¹⁸ type model of relations between politicians and senior civil servants. They have a close and unified social group, forming a community. This is not so, because of the different types of their appointments. The increasing politicisation at the top level of the Civil Service supports the emergence of a united elite of the state leaders, but the opportunity for democratic change of government makes the senior civil servants cautious and maintaining their distance from the politicians. At the beginning of the transition, the new, less experienced politicians were a more unified group in separation from the senior bureaucrats. In time, politicians have learned more about the policy-making process, and the differences between senior bureaucrats and politicians has decreased. At the same time, relations moved a bit toward a “functional Village life” model. In the policy-making process we experienced that the earlier separation between the politicians and the senior bureaucrats resulted in a more efficient political co-ordination, but in a lower quality of policies. Later, the quality of the policies improved, but co-ordination became much more difficult.

(b) Civil servants – administrative leaders

The politicisation of the top Civil Service positions is still a strong trend. Because of changes in the government (elections), the “state leader” category has changed every four years or even more frequently. As we have seen earlier, the administrative leaders are defenceless against their dismissal, consequently the subordinates do not have stable masters, which would be very important for the stability in a bureaucratic

18 Peters, B.G., *Comparing Public Bureaucracies: Problems of Theory and Methods*. Tuscaloosa: University of Alabama Press 1988.

organisation. It means that the civil servants regularly lose not only their masters, but their advocates as well. The administrative leaders cannot build their organisations with a long–term strategy in mind. They cannot implement a well–founded human resource Management practice, because they cannot give real guarantees to their subordinates of a stable promotion policy. The relationship between the civil servants and the administrative leaders still represents the most critical element of the work of the public administration. This relation is also the most fragile, because there is a role confusion of the administrative leaders. By principle, their role is a professional–administrative one, they have permanent appointment and they concern the preparation of the policy decisions. In the practice, their position is not safe, political loyalty is first of all requirement and the borderlines of responsibilities of the politicians and bureaucrats in the Policy Process is not clear. Some senior civil servants have chosen to join a political “camp” and took the risk of dismissal at government change. Others are defending their professional mission and try to be politically neutral. A typical third way behaviour is balancing between loyalty and passive resistance. The consequences of this confusion are very demoralising on the public administration.

(c) Politicians – civil servants

If we look at the relationship between the politicians and the non–top civil servants, it seems to be a model, in which there is a clear separation and also clear distrust between them. Historically, politicians have always been members of the ruling elite in the state, civil servants were always servants of the state. This hierarchical relation has survived and the bureaucrats of today have very little opportunity to balance the power of their political masters. Civil servants have a negative power: they may sabotage or slow down the Policy Process, but they cannot defeat the politicians in a power struggle. On the other hand, this struggle is not really visible in Hungary. The “spirit of corps” in the public administration has always included the element of a strong loyalty to the government and to the bosses. It is basically not questioned that work within the public administration requires discipline and obedience to the supervisor. This old–fashioned, bureaucratic and autocratic approach is quite widespread even among the young politicians. However, the requirement of the political loyalty has resulted that civil servants split into two groups. The older and less entrepreneurial generation of bureaucrats shows loyalty without hesitation in order to survive. Younger and newcomer civil servants have chosen between two options: leaving the Civil Service or became disciplined soldiers to their commanders, ignoring the possible risks. We are experiencing the enter of a new generation of civil servants who are selected on the basis of political loyalty to the government parties and high professional profile together. Civil servants are rarely member of a political party.

Finally, it is important to note the relationship between the civil servants and the public. How can civil servants receive any help from the public if their professional autonomy is always under threat from the politicians?

The traditional ethos of the Hungarian Civil Service has an important element — it was mentioned earlier, — the commitment towards professionalism. The professional organisations and trade unions of civil servants are strong advocates of this value. But they also help to maintain the myth of a very special characteristic of the administrative job and the state service, which is too complicated for the public to understand. If political interventions are threatening the autonomy of the public administration, professional and labour interest organisations immediately blow the whistle. But they may not reckon with public solidarity, because of the myth about their speciality. People think that the struggle of the civil servants for their professional autonomy is a struggle for keeping their special, privileged position. Until bureaucrats change their attitudes concerning their social function and position and establish clear transparency and accountability in public administration, they cannot gain public support for their struggle to overcome their defencelessness to the politicians. The professional organisations also have the responsibility to insert this issue into the public discourse.

8. Conclusions

The ideal model for public administration in Post-Communist countries, including Hungary, can be seen as the activity of a professional body, the Civil Service, making decisions that are legal, rational, and objective, and therefore an activity relatively independent of political masters. This involves a separation between policy-making (that is, politics) and policy implementation (that is, administration). This model is definitely different from the administrative model of English speaking OECD Countries.

The Hungarian public administration seems to enjoy certain advantages in adapting its new administrative system. After the first decade of transition, the Hungarian way of separating politics and public administration shows some controversial practical experiences. The strong Prime Ministerial authority and also the inherited values in politicians' behaviour may politicise administrative appointments. The civil servants do not enjoy strong legal protection in their employment. In general, political elements play a dominant role in the Hungarian public administration.

Civil servants receive a traditional, law-based education in Hungary. What is badly missing is Management knowledge and culture. Training is essential, but not enough. Politicians and senior civil servants are responsible for using appropriate Management tools in order to improve the cost efficiency, customer satisfaction, performance, and transparency in public administration. Hungary's public administration reforms should attempt to overcome the "trip up" democracy notion whereby politicians may stop the neutrality of the civil servants, bureaucrats may obstruct managerial innovations, and unions may politically compromise performance Management.

Local governments and civil society may be the driving force of administrative reform including managerial innovations. Entrepreneurial attitudes and varied practical solutions for public management may come from them and effect the top positively.

Institutional reforms are faster, easier, and more spectacular than the transformation of the administrative culture. Political and administrative leaders are playing crucial roles in changing the administrative culture. In order to do it, they have to be trained e.g. in New Public management. It is essential to rationalise and democratise Hungary's public administration system.

Public debates, scientific research and surveys, pressure from the professional interest groups and civil society may efficiently help to find the best way for modernising public service and establishing stronger guarantees of its professionalism and neutrality. Specific training of politicians in modern public administration related knowledge would also be very important.

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Annex 1.

Glossary of Terms

Laws of Constitutional force

Legislation on those issues which are included in the Constitution, a two-thirds majority of votes is required.

Administrative state secretary

The administrative state secretary, who is appointed on a permanent basis, is the head of the ministerial apparatus and may act in the place of the minister in the absence of the political state secretary (except during parliamentary plenary sessions). The administrative state secretary has three to five deputies (depending on the ministry) who are appointed by the minister on the proposal of the administrative state secretary. This is the highest position in the Civil Service.

Cabinet

In one use of the term, it is a consultative body consisting of ministers that prepares government matters and presents preliminary views on questions that may require a government decision or affect the government's political and/ or economic goals. Cabinets have no formal authority to take decisions on behalf of the government. The other use of the term is for the French type cabinets in ministries, consisting of politically appointed personal advisors.

Constructive no-confidence motion

Constructive no-confidence motion is an action of non-confidence against the Prime Minister and it should simultaneously include a nomination of a new Prime Minister. By the Hungarian Constitution this is the only form of non-confidence. In this legal regulation, the Hungarian Constitution follows the Spanish and German models.

County

The medium level territorial administrative units of Hungary's public administration. They meet the requirement of NUTS III in the European Union. There are 19 counties in Hungary.

De-concentrated Administrative Authorities

Territorial organs of the central government at the medium and settlement levels of the public administration.

Government

In wider meaning, government is the central public administration. In a narrower sense, this is the council of ministers, and is equal to the British understanding of the term of the cabinet.

Public administration Office

De–concentrated administrative units at the counties, composed of the territorial offices of the ministries.

Political official

Political appointees at the ministries, usually members of the personal staff of ministers. The appointment lasts as long as the government is in office.

Political state secretary

The political state secretary represents the minister in parliament (he/she may be deputized with full rights of the minister in plenary sessions and committee meetings) and holds office as long as the government remains in office. The political state secretary may participate in government meetings, but has no vote.

Prime ministerial governance

Hungarian government is based on a powerful Prime Ministerial position. The constructive no–confidence motion, the right of the Prime Minister to nominate and replace ministers, and the Constitutional responsibilities in managing the government all create a very stable position for the Prime Minister.

Annex 2

Some data of the Hungarian Civil Service¹⁹

Number of civil servants by gender and by the type of employment in 2000:

Male 33,204

Female 78,542

Permanent 108,057

Part time 3,689

Number and proportion by gender of leaders in 2000

Leaders 9,03%

Male 5,650

Female 5,150

Number of civil servants by type of organisations in 2000

Central government 66,653

Local governments 42,988

Public bodies 1,352

Quangos 5,112

Others 1,856

Number of Civil Servants by Ranks in 2000

Leaders 10,800

Rank I. 32,900

Rank II. 48,354

Rank III. 9,494

Rank IV. 10 198

All 111,746

Numbers of Younger Civil Servants by Year of Birth and By Gender

1973 M:380, F:1.395

1974 M:355, F:1.401

1975 M:234, F:1.120

1976 M:136, F: 665

1977 M: 71, F: 418

1978 M: 38, F: 198

1979 M: 8, F: 40

1980 M: 0, F: 2

¹⁹ Source is the web-site of Ministry of Interior: <http://www.b-m.hu/>

Chapter 9: Politico–Administrative relations in Kyrgyzstan and Central Asia

*Askat Dukenbaev*¹, *Valimjan Tanyrykov*²

1. Introduction

The ten years that have past since the fall of Communism in the Central and Eastern Europe and the collapse of the USSR have showed the emergence of hopes for better future for peoples of the region as well as around the world. The process of transformation that has been taking place in all ex–communist societies not only destroys but also shapes new systems and patterns of social and economical life as well as political and administrative relations.

The aim of this paper is to examine politico–administrative relations in Kyrgyzstan – one of the newly independent states of the post–Soviet Central Asia³ that emerged from the fragments of the collapsed USSR. In spite of having unique features, which differentiated them from the rest of the USSR, all Central Asian states inherited the same politico–administrative and socio–economic systems of the Soviet period. Therefore, in many cases, the case of Kyrgyzstan can also be applied to the other countries of Central Asia. Moreover, in terms of political and administrative development, all these countries (except Kazakhstan, perhaps) are still far behind of Kyrgyzstan, often referred to as ‘an island of democracy in Central Asia’.

After becoming an independent state in August 1991, the Kyrgyzstani government began to pay considerable and immediate attention to solving political and social problems. First attempts to reform the administrative system inherited from the Soviet period were taken mainly to secure manoeuvrability of the economy during the transitional period. The Constitution of the Kyrgyz Republic (Kyrgyzstan) adopted in 1993 contains many well–known features of a democratic state, i.e. separation of state power into legislative, executive and judicial branches; creation of a Local–Self Government system, etc. But, in the reality, the politico–administrative system of the Kyrgyz Republic retained many features of the previous Communist (Soviet) regime. As a result, the administrative structure of Kyrgyzstan is still centralised and public administration and service are still highly politicised.

This situation is complicated by the presence of corruption, nepotism, non–professionalism, tribalism and regionalism within the public administration. Despite the

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3 The terms ‘Central Asia’ and ‘Central Asian states (countries)’ in this paper refer to the following five countries of the former USSR: Kazakhstan (capital city – Astana), Kyrgyzstan (Bishkek), Tajikistan (Dushanbe), Turkmenistan (Ashgabad) and Uzbekistan (Toshkent).

proclaimed aims and efforts to start public administration reform since 1996, there are still no visible significant changes in the administrative structure and state service in Kyrgyzstan or in any other Central Asian states since independence.

The difficulties which Kyrgyzstan faces on the way to creating an effective public administration and state service can be exemplified by the Law on State Service⁴ of the Kyrgyz Republic adopted late in 1999. This Law outlines the legal basis of the state service. However, it not only fails to introduce internationally recognised principles of effective Civil Service in Kyrgyzstan, but also fails to clearly state its underlying principles.

Taking into account the fact that the process of public administration reform in Kyrgyzstan will require several years before significant results are visible, this paper will focus mainly on analysing the contemporary politico-administrative system and relations in transforming Kyrgyzstan, sometimes drawing on the experience of other post-soviet Central Asian countries.

2. Overview of the Administrative Structure of Kyrgyzstan

As mentioned above, the administrative structure of the Kyrgyz Republic still contains many features of the previous Soviet system of administration. Although the Constitution and other related laws and regulations declare some new and democratic principles related to the central and local levels of administration, in reality these principles only exist on paper. In this section, the differences between declared principles and real practice in the administrative structure of Kyrgyzstan will be analysed.

The Constitution declares the following general principles of state administration in Kyrgyzstan (Article 7):

4 The name of the Law is often translated into English as the 'Law on Civil Service'. This is not correct. In Russian the name of the Law is 'O gosudarstvennoy sluzhbe' which should be correctly translated as 'Law on State Service'. Meanwhile, the term '*civil*' has its own Russian equivalent – '*grazhdansky*'. This specific confusion is caused by the problem of inadequate meanings and translations in Russian and English languages such words as 'state', 'public', 'government', 'governance' and others. So, the English meaning of the word 'public' do not coincide with that of Russian. In contemporary Russian the word 'public' is closer to the meaning of the English word 'common'. In Kyrgyzstan as well as in other post-soviet Russian speaking countries, the English word 'public' may precisely be encompassed and can be replaced by the Russian word 'gosudarstvennyi' that is similar to the English word 'state'. In turn, the English meaning of the word 'state' in Russian can be expressed by word 'government'. In any case, the correct translation of all above mentioned words from English into Russian and vice versa depends on the context. Thus, the English word 'public' can be translated into Russian (depending on the context) by the words 'state', 'government' or 'public'. The authors of this paper were keeping in their mind the complexity of this problem and were trying to do their best to provide the right meanings of all related words.

Box 1

Main results of the latest nation–wide opinion poll regarding administrative institutions in Kyrgyzstan⁵

The Kyrgyz public views the existing political and public sector institutions with a strong degree of scepticism and distrust. When asked whether decisions made by public offices in the country reflect interests of all citizens or only a few, more than half (55%) of the sample chose the latter. Furthermore, 80% believe that bribery among officials is quite common.

Ranking political structures in terms of the *responsiveness* to citizens' problems, 66% of respondents favoured local governments (*aiyl okmotu*) placing it well before the president (51%), regional administration (42%), government (40%) and parliament (37%).

Finally, as to public confidence in political and administrative institutions, it is remarkable that neither the parliament (*Djogorku Kenesh*) nor the judicial system has the trust of the public. Both institutions are trusted by as few as 38 and 34 percents of respondents, respectively. The government is considered to be trustworthy by 46% of the population. It is worth mentioning that the most favourable institutions are the president and *aiyl-okmotus* which are trusted by 60 and 58 percent, respectively.

- division of state power into the legislative, executive and judicial branches, and of their co–ordinated functions and interaction;
- responsibility of state bodies to the people and the use of their authority in the interests of the people;
- separation of functions between state power and local self–government.

However, the reality of political and administrative structure in Kyrgyzstan as outlined by the Constitution, is very complicated.

The Presidential authority: even though the Constitution calls for a government of three branches, in reality the Presidency remains the most powerful political and administrative institution of the state, with significant influence over the decisions of Parliament, Government and even the Courts. This gives the president and his Office (*Administratsia*) a strategic role and tools to formulate, lead and implement economic, political and social policies. However, the President has an ambivalent position within the political and administrative structure of the state, as demonstrated by the Constitution.

5 Kyrgyzstan 2000: Voters's View. Bishkek, 1999, pp.11–13

Box 2

President/Prime Minister dichotomy in Kyrgyzstan

As mentioned above, the Constitution of Kyrgyzstan (as well as other legal regulations) does not clearly define the place of the President when referring to the three branches (executive, legislative and judicial) of State power, creating ambiguity and confusion regarding the role of President in the political and administrative system of the country. For example, the Constitution defines the post of President as a '*head of state and the highest state official of the Kyrgyz Republic*', and that of the Prime Minister as '*the highest executive body of the state power in the Kyrgyz Republic*' (Article 42).

Thus, the Constitution implies that the President, as the 'highest state official', stands over all three branches of power (without affiliating with any of them) as the Government, being the 'highest executive body', presents executive power in the country. The constitution enables the President:

- to be '*the symbol of the unity of the people and state power*' (according to the local discourse, the term 'state power' encompasses all three – executive, legislative and judicial – powers in the country) and,
- to '*define the fundamental directions of internal and external policy of the state; represent the Kyrgyz Republic within the country and in international relations; take measures to guard the sovereignty and territorial integrity of the Kyrgyz Republic; and, ensure the unity and continuity of state and the co-ordinated functioning and interaction of state bodies and their responsibility to the people*' (Article 42).

This constitutional norm makes possible the domination of the President and, consequently, his office ('*administratsia*') over the Government (as well as parliament and judicial power) and its chief executive – the Prime Minister – who is appointed by the President with the consent of the parliament. The work of the Government – the Prime Minister and his office ('*sekretariat*') – is guided and controlled by the President and his *administratsia* (in practice, since both offices have the same departments, they do the same job, duplicating each other).

As a result, policy formulation in Kyrgyzstan is mainly concentrated in the President's *Administratsia* which makes all main decisions in the state. It is not an exaggeration to say that the President and his *Administratsia* are becoming «the fourth» and the most powerful branch of state power in Kyrgyzstan.

Decisions made by the President and his *Administratsia* are implemented from top to bottom: at the central level – by Government and his ministries and agencies; at the local level – by Heads of the Local State Administrations and their offices which represent the state power in the *oblasts, rayons, cities and ails*.

The President nominates the Prime minister and the other ministers (subject to legislative confirmation).

The President is elected once every five years, for no more than two terms and is chosen from among citizens who are between thirty–five and sixty–five years of age,

who have lived at least fifteen years in Kyrgyzstan, and who are fluent in the state language, which is Kyrgyz. There is no Vice President.

The *Prime Minister* and his *Cabinet* are entrusted by the Constitution with day-to-day state Management. The ‘Government’ in the terminology of Kyrgyz political discourse⁶ also (nominally) implements executive power on the central level (according to Article 70 of the Constitution, ‘the Government of the Kyrgyz Republic is the highest executive body of the state power in the Kyrgyz Republic’).

The Government, beside the Prime Minister, consists of *vice–prime–ministers*, *ministers* and the *chairman of republican state committees and agencies*. Nominally, the government has the right to exercise all issues of the governance, except those allocated to the president and parliament by the Constitution.

Legislative power is executed by bicameral parliament called the «*Djogorku Kenesh*» which consists of a continuous Legislative Assembly consisting of 60 members (*deputats*) that receive salaries and sit in permanent session and Assembly of People’s Representatives consisting of 45 members (deputies) and working on a sessional basis. The *deputats* of Legislative Assembly work on the professional basis, while the *deputats* of Assembly of People’s Representatives work periodically and meet twice per year. Apart from regular legislative functions, the *Djogorku Kenesh* has the right:

- to introduce changes and amendments to the Constitution;
- define the general direction of internal and foreign policy (nominally; in practice, this function exercised by the Presidential *Administratsia*), and,
- approve the budget of the republic and the report on its execution and form committees.

Judicial authority is held by the Constitutional Court, the Supreme Court and Supreme Arbitration (Commercial) Court, regular courts and lawyers of the judicial system. According to the Constitution, judges of all levels are recruited and appointed by the President, subject to formal confirmation of the *Djogorku Kenesh*. The length of judges’ tenure is seven years, but judges are subject to dismissal for violation of law by the decision of the President and Parliament.

The system of the local administration in Kyrgyzstan: In Kyrgyzstan, the system of basic territorial units is the legacy of the Soviet communist period. The subdivisions are *oblasts* (provinces), *rayons* (districts), cities and *ails* (villages). The territory of Kyrgyzstan is divided into eight administrative regions: seven provinces (*oblasts*) and the capital city of Bishkek, which are divided into districts (*rayons*)⁷, that are, in turn, divided into municipalities, (*aiyl okmotu*), cities, towns and settlements⁸. There are two systems of government at the local level in Kyrgyzstan: the system of the *Local State Administrations* and the *Local–Self Government*.

6 (which includes the president and his office

The Local State Administration is the executive authority in provinces, districts and in some cities. The Local State Administration is the *supreme* executive body on the related territory. The Heads (or *Gubernators*) of the Provincial State Administrations are appointed by the President of the country according to proposals of the Prime-minister and with the formal consent of corresponding Provincial *Kenesh* – the local representative (legislative) bodies. Heads (or *Akims*) of the District State Administrations and of some cities, situated in the related district, are also appointed by the President, nominally – with the consent of the Prime-Minister, related *Gubernator* and District *Kenesh*. According to the Constitution, the Local State Administrations are an inherent part of the Executive branch that is the Government. In reality, the *Gubernator* is a powerful spokesman for regional interests, running the district with considerable autonomy.

Local Self-Government is a new type of local administration in Kyrgyzstan. According to the Constitution (Article 91), ‘local self-government shall be carried out by local associations, which manage affairs of a local character within the bounds of the law and under their own responsibility.’ Local self-government is exercised through local *Keneshes* and other bodies which may be formed by the population itself ‘in the procedure established by law.’ There are more than 5600 deputies in the composition of local – provincial, district and city – *Keneshes*. On average, there are 12–13 deputies in a district *Kenesh*, and 19–21 deputies in a city *Kenesh*. The most numerous local *Kenesh*, with 32 deputies, is in the capital (Bishkek). However, the system of Local Self-Administration represented mainly by local *Keneshes* is still very weak and does not have a lot of influence on decisions made in offices of the Heads of the Local State Administrations.

In conclusion, the old (communist, centralised) style of Management still relates to the administrative bodies of Kyrgyzstan (with the same people from the communist era, continuing to occupy the same offices, especially on the middle and bottom levels of the state administrative system).

3. History, Traditional Position of Civil Service, vis-à-vis Politics

Kyrgyzstan as a separate territorial unit appeared in 1924. Before this, the territory of present Kyrgyzstan was subsumed in the Turkistan Autonomous Republic of post-revolution Russia. In 1924, Soviets drew new borders in Turkistan and, on the territory of the present Kyrgyz Republic, *the Kara-Kyrgyz Autonomous Region* was created with a new local political, administrative and Communist Party organisation. In 1926, *the Kara-Kyrgyz Autonomous Region* was transformed into *the Kyrgyz Autonomous Soviet Socialist Republic* (the Kyrgyz ASSR) with its Government and separate

7 39 in total

8 478 in total

Box 3

Soviet legacy in the contemporary public administration system in Kyrgyzstan:

- High degree of centralisation and state involvement in regulations of nearly all societal processes;
- Accumulation and concentration of power in the hands of the President and state bureaucracy;
- Limited parliament and a weak judiciary system;
- Underdeveloped local government;
- Command and top–to–bottom style of Management;
- A high number of former Soviet (communist) administrators in all levels of the public administration;
- Absence of professional Civil Service system based on internationally recognised standards.

Communist organisation. On the basis of the third Soviet Constitution adopted in 1936, the Kyrgyz ASSR became the Kyrgyz Soviet Socialist Republic (Kyrgyz SSR) with a status equal to that of the Russian Soviet Federate Socialist Republic. The Communist Party of the Kyrgyz Soviet Socialist Republic – the local branch of the CPSU – was formed.

In the USSR the system of public administration and state service was highly politicised. Accordingly, the political and administrative system in Soviet Kyrgyzstan was organised in conformity with the structure prescribed for all the republics of the USSR. The Communist Party of the Soviet Union (CPSU) and its local branches in the Soviet republics occupied the central position in the Soviet society and provided both the guidance and the personnel for the public administration system. The ‘vanguard’ role of the CPSU in the life of Soviet society and all parts of Soviet state, was fixed in the Constitution of the USSR. Article 6 of the last Soviet Constitution adopted in 1977 fixed that ‘the leading and directing power of Soviet society, nucleus of its political system, state and public organisations was The Communist Party of the Soviet Union.’ Therefore, every field of Soviet society was included into the ‘sphere of interests’ of the CPSU, and was a subject of Party’s concern.

As discussed above, historically Kyrgyzstan appeared in 1924, when the Kara–Kyrgyz Autonomous Republic was created on the parts of divided Turkistan. Kyrgyz statehood is only 76 years (1924–2000) old. From the very beginning of its statehood until 1991 Kyrgyzstan belonged to the USSR, meaning that Kyrgyzstan has only existed as an independent state for 9 years (1991–2000). The problems of contemporary Kyrgyzstan are deeply rooted in previous historical developments. 9 years of independent development is not sufficient to remove all the original features of the Communist system in Kyrgyzstan. Public administration and state service, as well as other spheres of Kyrgyz society, still contain many characteristics of the communist style and system.

The first attempts to de-politicise public administration in Kyrgyzstan were made during the last years of the USSR (late 1980th), when the Communist Party's monopoly to rule, was removed from both the Soviet Constitution (Article 6) and from the Constitutions of all Soviet Republics. The next step was the introduction of the post of President in nearly all republics of the USSR (1989–1990), demonstrating an attempt to separate the Communist Party from the state. This process formally finished in August 1991 when, due to an unsuccessful *coup d'état* in Moscow, the CPSU was dissolved in the all republics of the USSR.⁹ In Kyrgyzstan, the Communist Party was prohibited and its real estate was confiscated by state.¹⁰

The new Constitution of Kyrgyzstan, adopted in May 1993, declared a new state name, the Kyrgyz Republic. The first Constitution of independent Kyrgyzstan (the Kyrgyz Republic) declared the following commonly recognised democratic principles of political power:

- the separation of powers into legislative, executive and judicial branches;
- a general election of the President as head of the state;
- a division of state power and local self-government.

On becoming an independent state, Kyrgyzstan paid considerable attention to solving political, economic and social problems. During this time the country had been facing serious challenges of creating appropriate state structures and determining new political and economic policies and practices. Some efforts to reform the administrative structure of the state were made, not with the specific aim of creating a new modern Civil Service but to secure manoeuvrability of the economy during the transition period. But with the cumbersome structure, inflated and unprofessional staff, parallelism and overlapping became characteristic of the administrative system of Kyrgyzstan.

Only several years after independence, did it become clear that no a single reform can be successfully developed without thoughtful and competent public administration and service. The state leadership gradually came to understand the role and significance of a professional Civil Service in the effective formulation and implementation of governmental programs and tasks. In 1996 the President of the Kyrgyz Republic, Askar Akaev, repeatedly highlighted the necessity of enhancing the effectiveness of the state service, demanding that employees and staff of state institutions were highly trained, competent professionals.

9 In Turkmenistan and Uzbekistan the communist parties were succeeded by just re-named parties (respectively, into 'Democratic Party' and 'People's Democratic Party'). Consisting of 90% of former communists, these parties have been playing the same role in the state and society as their communist predecessors.

10 In 1992 this prohibition was removed, and now the Union of the Communists of Kyrgyzstan is the best-organized and the strongest party among the other 30 parties in Kyrgyzstan.

The ultimate objectives of the administrative reform in Kyrgyzstan initiated in 1996 were declared as follows:

- to change government structure in accordance with the principles of governance and democracy, rule of law and market economy;
- to increase quality and efficiency in the public administration;
- to foster economic development during the transition period;
- to bring the administrative structure of the state into conformity with the economic transformations taking place in the country.

It was clear that reaching these goals would require radical changes in the mandate and functions of state agencies, as well as their structure and inter–relations.

In November 1996 in his address to the joint session of the *Djogorku Kenesh*, the President stated that ‘the structural improvement of Government and the central organs of executive power should give a powerful impulse to better quality and efficiency of the Government’s performance. Alongside with organisational changes of executive power at the central level, local government needs also to be reorganised.’

Simultaneously, new efforts to reform the state administration and develop governance in the local level were undertaken.

4. Formal Relations, Constitutional and Legal norms, Guiding Relations Between Elected Politicians and Appointed Officials

For the first time in the history of Kyrgyzstan, the principles of de–politicisation of public administration were declared in Article 8 of the Constitution of the Kyrgyz Republic, adopted in May 1993.

Note 4 of the Article 8 states: ‘in the Kyrgyz Republic shall not be allowed the following:

- the merger of state and party institutions, as well as subordination of state activity to party programs and decisions;
- the formation and activity of party organisations in state institutions and organisations. State servants shall have the right to exercise party activity outside of their service activity;
- membership of parties and rendering support to any political party by military men, officials of bodies of the internal affairs, national security, justice and courts;
- the organisation of political parties on religious basis. Religious organisation must not follow political purposes and tasks;
- interference of priests of religious organisations and sects into the activity of state bodies;
- activity of political parties for other states’.

At the same time, the Constitution preserved the right of ordinary citizens to organise ‘on the basis of free good will and common interests’ political parties, trade unions

and other public associations. The state shall ensure that the rights and legal interests of public associations are respected.

Political parties may take part in public affairs only in the following forms:

- nominating their candidates to be elected to the *Djogorku Kenesh*, to be appointed to the public offices and to the bodies of local self-government;¹¹
- forming factions in representative bodies.

The next step in de-politicising the state service was to be the adoption the Law on State Service. In June 1996 a draft of the State Service Law was put on the agenda of the *Djogorku Kenesh* but was rejected because the draft had been prepared by non-qualified experts from the Office of the President.¹²

In an attempt to fill the legal vacuum created by the rejection of the draft law by Parliament, the President issued a Decree 'On State Service of the Kyrgyz Republic'. This decree established the *Provisional Regulations* 'On general principles of the State Service in the Kyrgyz Republic' (henceforth – *Regulations*). The *Regulations* were supposed to be a legal basis for the state service until the adoption of the Law on Civil Service.

The adoption of the *Regulations* was the first real attempt to draw up a clear structure for the Kyrgyz Civil Service system and outline its main legal features. First of all, the *Regulations* defines the public bodies which are considered to be related to the state agencies (without separating these bodies into political and non-political ones). The basic criterion for the of separation the state bodies from other public bodies set up by the state, is that state bodies can take legally binding decisions on behalf of the state. Thus, in accordance with the Constitution, the state bodies are:

- the President of the Kyrgyz Republic and his Administration;
- Chambers of the *Djogorku Kenesh* and their committees;
- Government of the Kyrgyz Republic, ministries, state committees, local state administrations;
- Constitutional Court, Supreme Court, Supreme Arbitrary (Commercial) Court, courts and judges of the judicial system;
- Control Chamber and Central Commission on election and referenda.

According to the Article 2 of the *Regulations*, the apparatus of each of the above agencies is also included in the state bodies.

11 In contemporary Kyrgyzstan, 'the bodies of local self-government' are mainly represented by local *Kenehes* – representative bodies of the self-government with elected *deputies*.

12 It had taken whole six years until the *Djogorku Kenesh* adopted the 'Law on State Service' which was later approved (with some amendments) by the President of the Kyrgyz Republic (in November 1999).

The *Regulations* does not also give clear distinction between *civil* and *military* services¹³, though it separates *state* servants from other *public* servants. The first article of the *Regulations* defines state service as ‘the labour activity of citizens of the Kyrgyz Republic in the state bodies and their offices related to the professional performance by them of the state powers established by the Constitution, laws and other legal normative acts of the Kyrgyz Republic.’ According to the *Regulations*, the following public servants are not considered as state servants:

- managerial personnel and employees of public bodies; agencies, enterprises and organisations that are under the authority of government bodies and exercise scientific–research; those involved with education, health care or other activities involving the provision of service to the population funded by the state budget but not connected with the executive–administrative functions of the state (i.e. they do not exercise power) – examples include state enterprises, schools, hospitals, scientific–research institutes and includes the Management of these institutions and organisations;
- staff performing technical services in state bodies and agencies.

Also, contradictions exist in the *Regulations* over the de–politicisation of the Kyrgyz Civil Service. Article 5 establishes the principle of ‘non–partisanship’ and declares that ‘no organisational structures of political parties, non–governmental, social and religious organisation, except for trade unions and political groups in the Chambers of the *Djogorku Kenesh*, shall be established in government bodies.’ It is worth mentioning that the *Regulations* allowed the creation of the trade–unions by civil servants.

Additional contradictions are to be found in some articles of the *Regulations*. For example, according to Article 7, state servants have the right ‘to participate in the activities of [political] parties but out of the office time.’ However, article 10 simultaneously declares that state servants are not entitled ‘to participate in the activities of the political parties, non–governmental, and religious organisations to the detriment of public service interests, and in cases, stipulated by the Constitution of the Kyrgyz Republic, be members of political parties or support any political party.’

Also in the Decree ‘On State Service of the Kyrgyz Republic’ (June, 1996), the President gave instructions to the Government of the Kyrgyz Republic, within a three–month period to:

13 Related to this problem: the official commentaries of *Regulations* published in the pro–governmental newspaper has the following ambivalent declaration: ‘Regulations shall apply to those individuals whose issues of service in the state service are regulated by the Constitution, laws of the Kyrgyz Republic and other regulative legal bills in the part not regulated by the above said regulative legal bills. Thus, peculiarity of the state service connected with the legal status of the members of the *Djogorku Kenesh* (parliament) and Government, judges, military men, employees of the Ministry of Interior, National Security, tax inspectorate, customs and other services also shall be defined by the corresponding laws of the Kyrgyz Republic’.

- establish a list of state offices that do not belong to governmental posts;
- develop and approve: the regulations on the contracts used to fill government offices; the standard regulations on certification of state servants; the procedures, the conditions of assurance, and the amount of the insured sum to be paid in case of bodily harm to public servants caused in the course of their duties;
- starting in 1997, allocate funds in the national budget to ensure a higher level of social security and material independence of the public servant;
- harmonize all acts dealing with public servants; harmonize all normative acts with the provisions ensuing from this Decree. By the same Decree, the President gave authority to the Presidential Office to develop the 'Law on State Service' based on the practical implementation of the *Regulations*. For first time in the history of Kyrgyzstan, in May 1999, the Law on State Service was adopted by *Djogorku Kenesh* and in November 1999 it was approved by the President of the state. The Law on State Service that establishes the legal framework for state service in the Kyrgyz Republic is totally based on the above-mentioned Presidential *Regulations* of 1996.

Therefore, the Law on State Service contains many contradictions and opposes to the internationally recognised principles of Civil Service. In our opinion, the basic reason for this is the Law on State Service in Kyrgyzstan is based on the concept of 'state service' rather than on the idea of 'civil service'.

This distinction is exemplified by Article 1 of the Law on State Service. It defines state service as 'the activity of the citizens of the Kyrgyz Republic in the state bodies ... connected with the professional implementation of, laws and other normative acts of the Kyrgyz Republic and authorities of the state power.' As established by the Constitution. According to Article 2, 'state bodies' 'are the bodies established by the Constitution of the Kyrgyz Republic, their apparatus and also other structures on the basis of the laws of the Kyrgyz Republic, decrees of the President of the Kyrgyz Republic, authorised to execute the function of the state power.'

According to the Constitution, state bodies consist of:

- the President of the Kyrgyz Republic and his Office;
- Chambers of the *Djogorku Kenesh* and their committees;
- Government of the Kyrgyz Republic, ministries, state committees, local state administrations;
- Constitutional Court, Supreme Court, Supreme Arbitrary Court, courts and judges of the judicial system;
- Counting Chamber and Central Commission on election and referenda.

On the basis of these definitions, the Law defines the 'state service post' as: 'a staff unit in state bodies and their apparatus with the appropriate amount of authorities

and responsibility for it to execute functions of the state body’ (Article 3). According to the Law on State Service, the ‘state posts’ are divided into the following 6 groups:

- The President of the state;
- The deputies of the *Djogorku Kenesh*;
- Prime–minister, vice–prime–ministers, ministers, judges and other offices, ‘established by the Constitution for executing authorities of state bodies’ and ‘appointed or nominated by the President or *Djogorku Kenesh*’;
- Officials holding posts from the above mentioned groups (assistants, advisers, aides–de–camp and others) who are responsible for support in executing tasks;
- Officials appointed by the state organs for executing and providing services to state organs;
- Officials appointed by the state organs whose activities in the state service are regulated by special laws: army personnel, prosecutors, internal affairs personnel, and national security personnel, tax and customs inspection personnel.

Accordingly, the ‘state servant is a citizen of the Kyrgyz Republic, holding a permanent state post for monetary remuneration, executing the professional activity in accordance with authorities’ position and holding responsibilities for their undertaking’ (Article 4).

The following public servants are not considered as ‘state servants’ and do not fall under the jurisdiction the Law on State Service:

- ‘Employees involved in bodies, institutions, enterprises and organisations that are under the jurisdiction of state and government bodies undertaking research, creative activities, teaching, health–care and other activities in connection with rendering service to population, that is not connected with executive–commanding functions of the state, including the heads of those institutions and organisations’;
- ‘People in technical and auxiliary services working in state bodies.’

As the above mentioned makes clear, the present Law on State Service does not create any distinction between:

- political and non–political posts /positions and state bodies;
- elected and appointed state (public) servants;
- civil and other (i.e. military) services.

The Law declares the principles of ‘non–membership in any party’ (Article 8) and prohibits civil servants from participating in activities of political parties and religious organisations (Article 10).¹⁴ However, it does not establish clear principles and policies of real de–politicisation and neutrality in the Kyrgyz state service.

These legal contradictions and confusions related to the principles of state service neutrality, stability and continuity were exacerbated by the concentration of all decision–making powers related to state personnel policy in the hands of the President

¹⁴ At the same time, the Law allows the civil servants to create their trade unions.

and his Office. This concentration of power has led to a situation where appointments on the central level usually lead to changes in the positions of all bureaucrats on the mid- and local levels of the state administration chain. The average term of a civil servant's office is usually about 2–3 years, at which point he leaves the office and state service. The instability that this creates can lead to many abuses in the Civil Service, including corruption.

The politicisation of public administration in Kyrgyzstan was intensified by two unique features of Kyrgyz society – *tribalism* and *regionalism* (a modern variant of *tribalism*).¹⁵ These features are manifest in unofficial policy in many spheres of state and society, particularly in the selection of personnel for key positions in the public administration, in order to establish local allegiances. Accordingly, the contemporary public administration and Civil Service is in need of *de-tribalisation* and *de-regionalisation* as well as de-politicisation.

5. Political Culture and Attitudes in Kyrgyzstan and Central Asia

The following factors have had a significant impact on political culture in the contemporary Central Asian societies: the legacy of the communist system and the traditional social structure and mentality of Central Asian society and people.

5.1 Legacy of Communism

Following the failure of the coup against the Gorbachev government in Moscow in August 1991, all Soviet Central Asian republics declared their independence¹⁶ and inherited the same politico-administrative systems of the communist period. Immediately after the failed coup, the Communist Parties in all newly independent Central Asian states voted to cut their ties with the CPSU.

Three months later, the Communist parties in *Turkmenistan* and *Uzbekistan* changed their names to the Democratic Party of Turkmenistan (DPT) and the People's Democratic Party of Uzbekistan (PDPU). Despite the name change, the party leadership remained in place under President Saparmurad Niyazov in Turkmenistan and President Islam Karimov in Uzbekistan. Within months, the Democratic Party of Turkmenistan had a membership of nearly 52 000, 48 000 of whom were former communists. These 'democratic' parties in Turkmenistan and Uzbekistan have retained a dominant position in the executive and legislative branches of government. The

¹⁵ This specific are discussed in Section 5

¹⁶ Dates of announcing of political independence in 1991 by post-Soviet Central Asian states: Kyrgyzstan – August 31, Uzbekistan – September 1, Tajikistan – September 8, Turkmenistan – October 27, Kazakhstan – December 16.

situation in these two states is reminiscent of the single–party dominated system of the CPSU.¹⁷

Additionally, in 1994, all heads of the provinces (12) in Uzbekistan had been previous *oblast*–(provincial) level Communist Party committee secretaries, and all were members of the PDPU, the party, as it was mentioned earlier, headed by president Islam Karimov (Gleason 1997, p. 105).

In *Tajikistan* there was also a one–party system dominated by Communist Party which, despite being suspended after the failed coup in Moscow in August 1991, was able to retain its property during its suspension. Immediately prior to the imposition of sanctions, the party (as it did in other Central Asian countries) changed the adjective in its name from *communist* to *socialist*. In December 1991, the party reassumed its original name and began a vigorous campaign to recapture its earlier monopoly of power.

After the civil war in 1992–1993, the Communist Party remained the country's largest party, although its membership was far smaller than it had been in the late Soviet era. It is very significant that Communists, who had taken 60 of 181 seats in the Tajik parliament in elections of 1995, gave the President of Tajikistan Rahmonov solid support (the majority of deputies had no declared party affiliation).

In September 1991, in Kazakhstan and Kyrgyzstan, Communist parties were declared illegal but were allowed to re–register in 1993. In contemporary Kazakhstan, the Communist Party made poor showings in the 1994 elections.¹⁸ In Kyrgyzstan, among all 28 parties, the most well organised party is the Communists Party which took 4 of the 15 seats reserved for parties in recent election in February 2000 to parliament.

The President of *Kazakhstan*, Nursultan Nazarbayev, has also tried to create a 'presidential party' that would serve as a training ground for future officials, a tool for political and social mobilisation, and a channel for the implementation of the state policy in Kazakhstan. His first attempts to create such parties, connected with the Socialists and the People's Congress Party, failed. Particularly the latter, under the leadership of former Nazarbayev's ally Olzhas Suleymenov, became a centre of parliamentary opposition. Nazarbayev's third party, the People's Unity Party (PUP),

17 For example, although in Uzbekistan the constitution prescribed a new form of legislature, the PDPU–dominated Supreme Soviet remained in office for nearly two years until the first parliamentary election, which took place in December 1994 and January 1995. The parliamentary election, the first held under the new constitution's guarantee of universal suffrage to all citizens eighteen years of age or older, excluded all existed parties except the PDPU and the pro–government Progress of the Fatherland Party, despite earlier promises that all parties would be free to participate. The new, 250–seat parliament, called the *Oly Majlis* or Supreme Soviet, included only 69 candidates running for the PDPU, but an estimated 120 more deputies were PDPU members technically nominated to represent local councils rather than the PDPU.

18 However, two former communist organisations, the State Labour Union (*Profsoyuz*) and the Peasants' Union, managed to take eleven and four seats in the election in the 1994, respectively.

remained loyal to the president, although it was unable, even with considerable government help, to elect enough deputies to give Nazarbayev control of the 1994–95 parliament. PUP formally incorporated itself as a political party in February 1995.

As to *Kyrgyzstan*, President Askar Akayev has not shown his affiliation to any party (all attempts to create ‘official’, that is, ‘presidential’, political parties in Kyrgyzstan have failed) and the communist style of administration and system still remains in Kyrgyzstan.

5.2 Traditionalism and Politico–Administrative relations in Contemporary Kyrgyzstan and Central Asia.

Beneath the surface of established political and administrative institutions, political culture and life in Kyrgyzstan as well as in the other Central Asian states is influenced by a combination of tribal, regional and other kinship factors. In modern times, tribal and clan ties are often reflected in patterns of appointments and networks of power. Regional and clan ties play a significant role in the political struggle in Central Asian states.

Until the twentieth century the peoples of Central Asia were divided into two classes, *nomad* and *settled*. The nomads were called *Kyrgyz*, and settled people went by the name *Sart*. There were economic groups, not ethnic, much less ‘national’ ones (Gleason 1997, p. 32). By the late nineteenth century, the Tajik and Uzbek peoples, who had lived in close proximity for centuries and often used each other’s languages, did not perceive themselves as two distinct nationalities. Consequently, such labels were imposed artificially when Central Asia was divided into five Soviet republics in the 1920s.

Additionally, in spite of all attempts of Soviet nationality policy to dilute tribal consciousness and impose new ethnic (national) identities, tribal identity always remained a significant factor in social relations. For example, in Soviet Turkmenistan, membership of *collective farms* often was formed according to clan and Tribal affiliation. Until now, virtually all Kazakh, Kyrgyz and Turkmen, except those from urban areas, have a knowledge of their parents’ and consequently their own, Tribal affiliation. Tribal affiliation still is a reliable indicator of his or her birthplace.

In all Central Asian countries, regional and clan affiliation – not national affiliation – is the most important source of a person’s identity.

The situation in ex–Soviet Central Asian states is as follows:

Kyrgyzstan:

The Kyrgyz as well as the Kazakhs and the Turkmens, still pay great attention to family and clan (tribal and region) affiliations. The majority of Kyrgyz continued a nomadic lifestyle until the Soviet campaigns of forcible collectivisation compelled them first into transitional settlements and then into cities and towns or state and collective farms in the 1930s.

Kyrgyz identity in public and private life is said to be determined primarily by membership in one of three clan groupings known as ‘wings’ (right – or *ong*, left – or *sol*, and *ichkilik* which is neither) and secondarily by membership in a particular tribe within a wing.

The left wing now includes seven clans in the north and west of the country. Each of the seven has a dominant characteristic, and all have fought each other for influence.

The right wing contains only one clan, the *Adygine*. Located in the south, the *Adygine* are considered the most genuinely Kyrgyz clan because of their legendary heritage. The southern *Ichkilik* is a group of many clans, some of which are not of Kyrgyz origin, but all of which claim Kyrgyz identity in the present.

Awareness of the hierarchy of each of the clans traditionally has played a great role. The Kyrgyz are still very conscious of clan membership when competing for social and economic advantage. Support for fellow clan members is usual practice in the politico–administrative system in Kyrgyzstan.

As tribal communities in Kyrgyzstan affiliated to specific regions and provinces, regional factors also play a significant role in the politico–administrative relations. The territory of Kyrgyzstan is divided into eight administrative regions: seven provinces (*oblasts*) and the capital city of Bishkek. The so–called northern provinces are Naryn, Ysyk–Kul, Chu, and Talas, and the southern provinces are Osh, Jalal–Abad and Batken. Jalal–Abad was formed out of Osh Province in 1991, and Batken in 1999 largely to disperse the political strength of the south that had become centred in Osh.

Tribal and regional kinship is a significant factor in contemporary Kyrgyz society and politics. Some politicians in Kyrgyzstan attempt to use Tribal affiliation as the determining factor in current politico–administrative relations.

In this sense, the case occurring in 1992, when throughout year the Kyrgyz parliament *Djogorku Kenesh* debated different versions of the new constitution is notable. Debates centred on relations between executive and legislature, language policies, and privatisation. One version of the constitution – preferred by President Akayev – provided for a presidential system with strong executive powers. The other version of the constitution, proposed by Akayev’s opponents, favoured a strong legislature. In relation to this, Akayev’s argumentation was very remarkable. He stated that parliamentary supremacy would spell disaster for the country, because it would lead to a struggle in parliament that would pit the country’s clans and tribes against each other. As a result, the southerners would win because they are in the arithmetic majority. The northerners could not accept that, since the capital is in the north.

Kazakhstan:

Historically, the Kazaks identified themselves as belonging to one of three groups of clans and tribes, called *zhuz*, or hordes, each of which had traditional territories.

Because the *Lesser Horde* controlled western Kazakhstan and the *Middle Horde* migrated across what today is northern and eastern Kazakhstan, those groups came under Russian control first, when colonial policies were relatively benign. The traditional nobles of these hordes managed to retain many of their privileges and to educate their sons in Russian schools. These sons became the first Kazak nationalists, and in turn Stalin, who tried to eradicate the Kazak intelligentsia during his purges of the 1930s, destroyed their sons.

The *Great Horde* was dominant in the south, and hence did not fall under Russian control until colonialism was much harsher. Substantially fewer *Great Horde* Kazaks became involved in politics before the revolution, but those who did became socialists rather than nationalists. For that reason, the *Great Horde* members came to dominate once the Bolsheviks took power, especially after Kazakhstan's capital was moved from the *Lesser Horde* town of Orenburg (now in Russia) to a *Great Horde* wintering spot, Almaty. Kunayev and Nazarbayev are said to have roots in clans of the *Great Horde*.

With the collapse of the Communist Party of Kazakhstan and its patronage networks, and in the absence of any other functional equivalent, clan and *zhuz* membership has come to play an increasingly important role in the economic and political life of the republic at both the national and the province level. The power of clan politics has been visible in the dispute over moving the national capital to Astana (former Akmola), which would bolster the prestige of the *Middle Horde*, on whose lands Astana is located. In general, members of the *Lesser* and *Middle* hordes are more Russified and, hence, more inclined to cooperate with Russian industrial and commercial interests than are the members of the *Great Horde*. Akezhan Kazhegeldin was Prime Minister in 1996, was a *Middle Horder*, as was the opposition leader Olzhas Suleymenov. Although mindful of Russia's strength, the *Great Horders* have less to lose to Russian separatism than do the *Lesser* and *Middle* Horders, whose lands would be lost should the Russian-dominated provinces of northern Kazakhstan become separated from the republic.

Tajikistan:

Tajikistan is a sad example of how inter-regional political conflicts can cause the bloody civil war that occurred in this country in 1992–1993 with consequences that have not yet disappeared.

In a politico-administrative sense, Tajikistan was divided into the following provinces: Khodjent (previously Leninobod) in the north (mostly populated by ethnic Uzbeks), Kurgan-Tiube and Kulob in the south, and the Gorno-Badakhshan Autonomous Province¹⁹ in the southeast. Two *rayons* of Gorno-Badakhshan, namely *Jergetal* and *Murgab* are populated mainly by ethnic Kyrgyz (up to 65–70 percent).

¹⁹ The precise status of this region is unclear because separatists have declared it an autonomous republic and even the government does not always call it a province

During the Soviet period, all of the post–Stalinist Communist Party First Secretaries came from Leninobod (now Khodjent), reflecting a broader phenomenon of Tajikistani politics from 1940s till nowadays – the linkage between regional cliques and political power. Although certain cliques from Leninobod were dominant,²⁰ they allowed allies from other provinces a lesser share of power.

The collapse of the USSR completely broke the established balance of power. In late 1991– early 1992 leaders from the eastern areas of Tadjikistan aligned with leaders from the Kurgan–Tiube region in a coalition that sought to unseat the ruling groups from the Khodjent and Kulab provinces. Finally, in November 1992 Uzbekistan (who supplied a large amount of military assistance to the Khodjent faction) – with Russian military assistance – led the central Asian states in re–establishing the pro–communist Khodjent–Kuliab coalition to power, headed by the contemporary President of Tajikistan – Imamoli Rahmonov. In fact, Uzbekistan President Karimov, who reportedly took control over the appointment of Khodjent’s *hakim* – executive chief of the province –became the protector of northern Tadjikistan (Gleason 1997, p. 105, 131).

Uzbekistan:

In Uzbekistan, regions can be identified – the Tashkent region, the Fergana Valley, Samarkand and Bukhara, the northwest territories of the Autonomous Republic of Karakalpakstan,²¹ and the southern region – that have played the role of a power base for individuals who rose to the position of first secretary of the Communist Party of Uzbekistan. Often clan–based, these regional allegiances remain important in both the politics and the social structure of post–Soviet Uzbekistan. In the struggle for political control or access to economic resources, for example, regional alliances often prevail over all–Uzbek ethnic identity.

Turkmenistan:

In Turkmenistan, there are about thirty major clans. The main clans are *Yomud*, located in the western and northern parts of the country; the *Teke*, located around the state capital – Ashgabad; the *Goklan*, located in the area west of Ashgabad; the *Sariq* and *Salor*, located in the *Tejen* and *Murgab* valleys; and the *Ersari*, located along the upper reaches of the Amu Darya river (Gleason 1997, p.46).

Historically, all Turkmen tribes remained relatively isolated and politically independent from one another in the pre–Russian and pre–Soviet periods. The Turkmen rarely allied to campaign against sedentary neighbours, nor did they form a unified front against the Russian conquest. All tribes possessed specific distinguishing features.

20 From 1943–1991 75% of key top positions in Soviet Tajikistan were dominated by Leninabad (contemporary –Khodjent) province.

21 The Autonomy of this republic is very limited and often just on paper. Although, the republic officially elects its own legislature (chairman of that serves as the republic’s head of state), its government officials are generally powerless against central government in Tashkent.

Their dialects differed greatly, and in terms of material culture each large tribe had a unique culture and brand of identification.

6. The policy process in Practise

According to the Constitution, it is the executive branch that is responsible for policy-making in Kyrgyzstan. Thus, in practice, there are three main centres in the executive branch for policy-making on the central level: the Office of the President, Apparatus of the Prime Minister, and Ministries.

Although independence brought a series of institutional (mainly nominal) changes, the substance of the policy process in practice in Kyrgyzstan did not change. Whatever initial movement toward democratic policy processes existed in the post-Soviet Kyrgyzstan in the early days of independence seems to have been overcome by the inertia of remaining Soviet-style strong centralised policy-making and state administration.

It is the Government that is nominally entrusted with formulation and implementation of the state policies in Kyrgyzstan.

The main feature of the existing system of policy making processes in Kyrgyzstan is the dominance of the President and his Office and duplication of functions of the Ministries with the Office of the President and Secretariat of the Prime Minister. These have almost identical policy departments and thus, in practice, the tasks of the Prime Minister and the President are not divided but repeated.

This situation, fixed in the Constitution, provides the President of Kyrgyzstan with broad functions such as 'defining the fundamental directions and external policy of the state' (Article 42), and exercising 'control over the work of the Government of the Kyrgyz Republic' (Article 72). The President of the country now possesses all powers necessary to manage the state. According to the Constitution, he has the power to name a candidate for Prime Minister to the House of the People's Representatives of the Parliament. If the *deputats* reject the candidate three times, the President has the right to dissolve the House of the People's Representatives and call for early elections.²² The President also personally appoints the members of the Cabinet of Ministers and determines who serves in Government. The President also appoints *oblast* Governors, *rayon akims* and city mayors with the agreement of the local *Keneshes*. The Head of the state also has the power to appoint heads of state bodies under the executive branch with status as institutions 'under the President of the Kyrgyz Republic' that are subordinate either to the Cabinet of Ministers or to Parliament, judges, attorneys, and sets up various commissions.

22 Since the introduction of this power to the Constitution in February 1996, the *deputats* have never rejected the four prime Ministers proposed by the President

As to the functions of the Government, they are prescribed in detail in the Constitution. Additionally, according to Provisions on the President's Administration (hereinafter – *Provisions*) dated July 6, 1994, the Presidential Administration has controlling functions and the right to issue obligatory and compulsory instructions to other governmental bodies. For example, according to Article 5 of the *Provision*, to exercise its objects, the Administration [Office] of the President of the Kyrgyz Republic, among others, provides the following functions:

- Control by the President of the Kyrgyz Republic over the activities of the Government of the Kyrgyz Republic, national and local bodies of the executive power;
- Implementation of the state personnel policy;
- Informative–analytical and expert works on questions of internal and external policies, problems of the socio–economic spheres, preparation of proposals and recommendations, prognosis on the strategy of the development of Kyrgyzstan;
- Securing interrelations between the President and other states bodies, and,
- Technical and logistic services for the President.

As can be noted, the functions of the Presidential Administration include a wide range of activities. These range from 'the control by the President of the Kyrgyz Republic over the activities of the Government of the Kyrgyz Republic, national and local bodies of the executive power' to 'preparation, registering and producing of the documents signed by the president of the Kyrgyz Republic.'

As a result, neither the Prime Minister nor the Ministries simultaneously can influence *oblast* governors or district *akims* as they are not directly subordinate to them. In addition, the Management of a number of Ministries simultaneously falls under the jurisdiction of both the President and the Prime Minister. These include the Ministries of Defence, National Security, Internal and Foreign Affairs.

This situation of overlapping control of Ministries by both Presidential Administration and the Prime–Minister's Secretariat leads to a reality in which the Prime Minister is deprived of an opportunity to form his own Cabinet of Ministers. As Anders Aslund, advisor to the President of the Kyrgyz Republic, UNDP consultant, pointed out: 'the current state of affairs in Kyrgyzstan naturally pits the presidential Administration against the Prime Minister's apparatus and leaves the ministries in a distressing and confusing state of semi–responsibility. It is striking how Kyrgyzstani ministers define themselves as the President's or the Prime Minister's ministers, but rarely as both.' (Aslund 2000, p.17)²³

Accordingly, the Prime Minister's authority to appoint officials is, for all practical purposes, limited to the appointment of his own staff (Secretariat). For example, in 1998, the Prime Minister was changed twice, yet the personnel of the cabinet were

23 Anders Aslund, «From Budget Crisis to Sustained Economic Growth and Welfare: A Vision for Kyrgyzstan», UNDP Publication, [2000], p.17

not renewed. Under such circumstances, it is difficult to speak about true teamwork among Ministries.

7. Classification According to Theoretical Framework

Our theoretical analysis of the political and administrative relations in Kyrgyzstan is based on B.Guy Peters²⁴ models of interaction between the bureaucracy and political appointees. Although, his models were developed mainly for the Western world countries, we found them useful for our analysis of the related problem in Kyrgyzstan.

We deployed the following five B. Guy Peters' models of relationships between the bureaucracy and political appointees:

- 1) The first model is 'the Formal-legal model', in which the clear separation between the politicians and the civil servants exists, but the civil servants (bureaucrats) are ready to unquestioningly follow the orders of the politicians.
- 2) In the second model, termed by Peters as 'Village life model', the civil servants and the politicians are both parts of a unified state elite. Therefore, they should not be considered as being in conflict over power or policy. Moreover, in this model they are two components of a single group, i.e. state elite, serving the state and the public, with relatively common goals and a common set of rewards.
- 3) The third one, called 'functional Village life' model is, to some degree, an extension of 'the Village life model' but with one significant difference. While 'the Village life' model assumes a 'horizontal' integration of political and administrative elite throughout the upper levels of government, 'the functional village' model assumes integration among elite on 'vertical' way, within the same functional area, for example, health, education, or defence.
- 4) The fourth model, called 'adversarial', is, to a great extent, the converse of 'the Village life' model. According to this model, the bureaucrats and the political appointees are in a permanent competition with each other for power and control over resources and policy.
- 5) Finally, in the fifth model, called 'the administrative state' model, the bureaucrats dominate over the decision-making and policy in government.

The long-term observation and practice of the politico-administrative relations in Kyrgyzstan led us to the conclusion about the appropriateness of Peters' 'Village life' and 'functional Village life' models for the analysis of the politico-administrative relations in Kyrgyzstan.

24 Guy Peters B. Comparing Public Bureaucracies: Problems of Theory and Method, 1988; Guy Peters B. Bureaucrats and Political appointees in European Democracies: Who's Who and Does it Make Any Difference? // Modern Systems of Government: Exploring the Role of Bureaucrats and Politicians/Ed. By Ali Farazmand, 1997.

Firstly, there is no clear difference between the politicians (political appointees) and civil servants (bureaucrats) in Kyrgyzstan, due to some historical, cultural and legal reasons. Historically, Kyrgyzstani society has not had any significant experience and traditions regarding state construction and democratic society. As mentioned in Section 3, even if we consider the establishing of the Kara–Kyrgyz Autonomous Region in 1924 (attached to the Russian Federation until 1936) as the beginning of Kyrgyz statehood, the Kyrgyzstani have been living within the administrative, mainly quasi–sovereign, state for only 76 years.²⁵ This has consequently resulted in the absence of a professional (Weberian–type) Civil Service and Western–style politics.²⁶ Therefore, the people of Kyrgyzstan have still been working on defining the roles and places of both civil servants and politicians in the newly independent (established) state.

As to the formal and legal aspects of this question, they are also still problematic. As we mentioned in Section 5, neither the Constitution nor the other related laws of Kyrgyzstan clearly declare and define the legal status of both political appointees and civil servants.

As a result, the absence of the traditionally and legally recognised separation ‘line’ between politicians (political appointees) and civil servants (bureaucrats), automatically led to overlapping the functional responsibilities of the two sides and to their ‘horizontal’ integration into one ruling elite.

Secondly, the situation in Kyrgyzstan is complicated by ‘vertical’ integration of the politico–administrative elite in a specific way. In Western countries, the ‘vertical’ integration between the political appointees and the bureaucrats occurs within the specific functional areas of government, ‘thus, a politician and a civil servant in a ministry of education or health, as an example, would be hypothesised to have more in common than would a political leader from the health sector and one from defence.’²⁷ Certainly, this is also true in the case of Kyrgyzstan.

25 A huge share of these 76 years belongs to the Soviet period (which is characterized by its repressive and highly centralized state administration) while Kyrgyzstan received its independence and started to build a real state, based on the internationally recognized principles, just 9 years ago.

26 One of the reflections of this problem is that in Kyrgyzstan (as well as in other post–Soviet countries) the words ‘*bureaucrat*’ and ‘*bureaucracy*’ are still used in only a pejorative sense, as synonyms of non–professionalism, red–tape, governmental officialism, inflexible routine, etc., while in western countries these words are not usually used in such a negative sense, and they primarily mean, respectively, ‘an official in a bureaucracy’ (or, ‘a body of non–elective government officials’), and ‘the administration of government through departments and subdivisions managed by sets of appointed officials following an inflexible routine’ (or, ‘an administrative policy–making group’). The definitions are taken from *Merriam Webster’s Collegiate Dictionary*, tenth edition, 1993; and *Webster’s New World Dictionary*).

27 Guy Peters B. ‘Bureaucrats and Political appointees in European Democracies: Who’s Who and Does it Make Any Difference?’ *Modern Systems of Government: Exploring the Role of Bureaucrats and Politicians*, Edited By Ali Farazmand, 1997, p.236

The relationships between political leaders and civil servants in Kyrgyzstan are also greatly influenced by the presence of phenomena such as *tribalism* and *regionalism* unknown in European democracies. Thanks to these traditional factors, the formation and strengthening of politico-administrative elite in Kyrgyzstan happens not only 'horizontally' but also 'vertically'. It happens due to establishing of close personal relationships and ties between a 'patron' and his '*protégé*' from the same tribal or regional clan throughout all levels of the political and administrative system. As we have already mentioned, this integration occurs 'vertically', because each political or administrative appointee, after being moved to higher position, tries to fill the lower positions in the same functional area²⁸ by representatives of his tribal or regional clan. The competition between clans makes the ruling elite in Kyrgyzstan (which also consists mainly of representatives from one regional clan) keep the right equilibrium of power ('the status-quo') between different clans by controlling them in the borders of their 'vertical' share in the government. Therefore, in Kyrgyzstan, it does not matter who you are: a politician or a bureaucrat; what really matters is, what clan (tribe or region) you are from.

In connection with the above, we can classify the politico-administrative relations in Kyrgyzstan in compliance with B. Guy Peters' 'functional Village life' model.

8. Conclusions

Most parts of the present political, administrative, ideological, economical, and social structure of Kyrgyzstani, as well as Central Asian society were established during the communist period.

Movement toward real public administration reform has not matched the movement toward political, social and economic reform. This is true for Kyrgyzstan as well as for other post-Soviet Central Asian states. Although names have changed, institutions of state administration remain similar to those that existed before the collapse of the Soviet Union. Therefore, the politico-administrative relations in Kyrgyzstan, as in the other states of post-Soviet Central Asia, retain many of the characteristics of the Communist regime. All Constitutions of the post-Soviet Central Asian states, adopted in the years 1992–1994, characterise the countries as democracies with separation of powers among the executive, legislative, and judicial branches that operate independently, checking and balancing one another. Nevertheless, the Constitutions provide for a strong presidency, with power to appoint government and dissolve legislature. In practise, it has led to a transition of the Soviet authoritarian ruling system in the newly independent states of the region where all power is concentrated in the executive branch, namely, in the hands of presidents and its offices. The governments

²⁸ For example, in a department, administrative unit, ministry or in a wider area of the state administration or politics

of these states, especially those of Turkmenistan and Uzbekistan, receive substantial international criticism as authoritarian regimes with dominant Presidents.

Additionally, in Turkmenistan and Uzbekistan the successors to the Communist Party, the Democratic Party and People's Democratic Party, respectively, dominate the politico–administrative system and society. All other major legal parties are very pro–government and have no opposition role. Opposition parties are weak and fragmented, many excluded by government, their leaders physically discouraged, repressed, exiled or jailed.

With regards to tribal, regional or clan ties, they play a more significant role and even supersede specifically ethnic identifications in the region. Historically, many of the contemporary Central Asian ethnic groups were originally artificially created and delineated by Soviet fiat. Before the Bolshevik Revolution, there was little sense of Kazakh, Kyrgyz, Tajik, Turkmen and Uzbek nationhood. Instead, life in the region was organised around the tribe or clan. Until the mid 19th century, the population of what is today Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan (Kazakhstan till twentieth century) was ruled by the various khans who had conquered the region in the sixteenth century.

The Soviet rule, and the creation of the Kazakh, Kyrgyz, Tajik, Turkmen and Uzbek Soviet Socialist Republics in Central Asia in 1924–1936, ultimately created and solidified a new kind of identity. At the same time, the Soviet policy of cutting across existing tribal, regional, ethnic, cultural and linguistic lines in the region to create the above mentioned new republics also sowed tension and strife among the Central Asian groups that inhabited the region. For example, the territory of the Uzbek Soviet Socialist Republic, or Uzbekistan, was drawn to include the two main Tajik cultural centres, Bukhara and Samarkand, as well as parts of the Fergana Valley to which other ethnic groups could lay claim. This readjustment of ethnic politics caused animosity and territorial claims among Uzbeks, Tajiks, Kyrgyz, and others through much of the Soviet era, but conflicts grew especially sharp after the collapse of central Soviet rule.

In all Central Asian states local governments have little independence. The chief executives' jurisdictions in all these states are essentially those of the former *oblast* (provincial) Communist Party secretaries. The chief executives of each province and of cities are appointed directly by the presidents. Although local legislative (representative) bodies that are elected by popular vote must confirm these appointments, the will and power of the presidents are dominant. (In Uzbekistan all chief executives of the provinces are members of the 'presidential', formerly Communist Party – People's Democratic Party of Uzbekistan. In Tajikistan the chief executive of the province is the chairman of a council of peoples' deputies – the representative body – whose members are elected to five–year terms. The president of the republic appoints the chairman. All chief executives of the provinces in the Central Asian states administer their territories as emissaries of the President.

Certainly, it is very difficult to expect that Kyrgyzstan could reach significant improvement in this field after only nine years of post–communist independent development: a very short time for a Central Asian state. However, it is clear that further movement of Kyrgyz society, as well as the Central Asian states, toward democracy and economical prosperity will significantly depend on success in creating an effective administrative and state service system.

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Annex 1:

Glossary of the special *Kyrgyz* terms

1. **Administratsia** – the official name of the Office of the President of the Kyrgyz Republic
2. **Aiyl** – the smallest administrative and territorial unit of the Kyrgyz Republic; Village, rural area
3. **Aiyl Okmotu** – verbally ‘rural government’. Officially: an executive and administrative body under *aiyl* (Village) or *Aiyl Kenesh*, whose responsibilities include Management of local social activities and social services for a given community. In practice: nominal local self-government (municipal) body formed by local (rural) representative body – *Aiyl Kenesh* with the consent of the head (*Akim*) of the District State Administration.
4. **Ail Keneshi** – local (rural) representative body of the self-government (nominally)
5. **Akim** – the head of an executive body called ‘District State Administration’; in practice, real centre of political and administrative power in *rayon*
6. **Apparat** – office of the state bodies of the Kyrgyz Republic
7. **Deputat** – member of the national parliament (*Djogorku Kenesh*) and local representative bodies (*Keneshes*); deputy.
8. **Djogorku Kenesh** – the National bicameral Parliament
9. **Gubernator** – the head of an executive body (called ‘Provincial State Administration’), governor; real centre of political and administrative power in province (*oblast*).
10. **Kenesh** – local representative body; consisting of 10–30 elected members (*deputats*) each territorial unit, i.e. the *oblast*, *rayon*, *shaar* and *ail*, has its own *Kenesh*.
11. **Mayor** – the head of the municipal administration.
12. **Oblast** – the largest administrative and territorial unit in the Kyrgyz Republic (adequate to the province or region).
13. **Rayon** – basic administrative and territorial unit under *oblast* adequate to the district
14. **Shaar – city**

Chapter 10: Politico – Administrative Relations: The Case of Latvia

*Dace Jansone and Iveta Reinholde*¹

1. Introduction

Latvia is a democratic parliamentary republic. In 1990 the Supreme Council of the Latvian SSR accepted the declaration of independence from the USSR and the 1922 constitution was restored. The constitution was amended in 1994, 1997 (regarding national elections) and 1998 (a Human rights section was added). Since independence, three parliamentary elections have been held in Latvia. Traditionally there is high competition for the 100 seats in the Saeima. For example, in June 1993 8 parties out of 23 were elected to the 5th Saeima, in October 1995, 9 parties from 19 were elected to the 6th Saeima, and during the 7th Saeima elections in October 1998, 6 parties from 21 were elected. The next parliamentary elections in Latvia will be held in 2002. Governments are formed on a coalition basis. The only party that has been represented in all post–Soviet governments, is Latvian Way (a centrist and liberal party). The average duration of coalition governments is approximately one year, creating uncertainty about the political will to continue public administration reform as well as about the sequence of reform efforts, because of a lack of clearly defined priorities. In general the basic political support for public administration reform was demonstrated during the 5th Saeima, when the issue was also a priority for the government. During the 6th Saeima there was almost no positive interest in public administration development, but in the 7th Saeima there is an obvious tendency to devote more attention to administrative reforms. Generally we can say that public administration reforms were initiated because of the need to change the extremely centralised and control oriented soviet type administrative system into a more democratic and service oriented one. The driving force of reforms in the period between 1992 and 1995 was a national interest in creating effective administration. However, following the abolition of the Ministry of the State Reforms (1995), external pressure has played a crucial role in accelerating reform, particularly after 1997. In this respect, public administration in Latvia faces important challenges.

In order to join the European Union as a member state, Latvia has to improve administrative capacity in order to implement the *acquis*, perform tasks of democratic, economic and social development, as well as to ensure effective and beneficial interaction with the EU administrative structures. At the moment, the main processes that characterise the development of Latvian public administration are related to the modernisation of the system of Management, the introduction of human resource

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Management systems and internal control, and the introduction of appropriate private sector Management models and methods in public service delivery. The development and use of information technology allows for faster communication among public institutions. The improvement of policy coherence can not be seen in isolation from the main trends in public administration development processes. The capacity of public administration will have a critical impact on the government's ability to develop coherent policies and to implement these in partnership with the non-governmental organisations and private sector. Public administration should develop capacities that provide the government with future oriented advice on the development and the changes in domestic and international policy. This will ensure that Latvia will become an active member of the EU, participating in the new policy development process.

To understand Public administration reform, it is necessary to pay attention not only to political but also to the economic context of these processes. Since regaining independence Latvia has consistently followed the path of transition from a command to a market economy. Within a relatively short period of time, the foundations for a market economy have been laid and good macroeconomic preconditions for economic growth created (Report on the Development of Economy of Latvia, 1999).² The economic development of Latvia in the last decade can be characterised as the following: 1990 to 1994 - regression, 1995 – year of stabilisation, 1996–1999 – gradual and consistent growth. During 1999, the development of Latvia was greatly affected by the Russian economic crisis of 1998. Due to the Russian crisis, Latvian exports have gone down, bank operation indicators have deteriorated, budget revenues have lagged behind planned figures, the current account deficit has increased, and unemployment has gone up. At the beginning of December 1999, the parliament approved the general government budget for 2000 with a deficit of 2% of GDP.³ During the years of independence, Latvia was able to restructure its economy and at present its trade with the countries of the European Union accounts for nearly 60% of total foreign trade. On February 10th, 1999, Latvia was the first of the Baltic States to be accepted as a full member of the World Trade Organisation. This provides the opportunity to extend external economic activity according to Most Favoured Nation stipulations with some 140-member states of the WTO (Report on the Development of Economy of Latvia, 1999).

2. Overview of the administrative structure of the state

Latvia is a unitary state with a concentrated power structure. There are 586 local governments at both the regional and local levels. The state administration is organ-

2 Low inflation, minimal government debt, stable national currency, positive balance of payments, etc..

3 The GDP in 1996 was 3.3 %, in 1997 – 8.6%, in 1998 – 3.6%, but in 1999 – 0.5%. In 2000, GDP is expected to increase up to 4%.

ised according to the principles of a functionalist state. The administrative system consists of 12 line ministries and two ministers for special tasks.⁴ Both Ministers for Special Assignments are supported by Secretariats, which are quite small. The post of a minister for special assignments was created in order to turn attention to specific issues (e.g. public administration reform or foreign investments).

The ministry system operates according to the principle of the division of institutions into subordinated institutions, supervised institutions, and institutions under tutelage.

Box 1

Principles underlying the structure of the Latvian administrative system

The division of the institutions into three different categories was made according to several principles: functions performed, political influence, and budget.

A subordinated institution implements functions of the ministry in the framework of the allocated competence and is responsible for the effective implementation of those functions. As far as the subordinated institution implements ministerial functions, the political influence has been significant not only on a strategic level, but also on the level of everyday operations. The budget for subordinated institutions is included in the budget of the ministry. The subordinated institution is established or eliminated by the decision of the Cabinet of Ministers. The Cabinet of Ministers approves the head of the subordinated institution. The institution operates on the basis of regulations.

A supervised institution implements regulatory and control functions. The influence of the minister is quite limited, as this type of institution only exercises functions and competencies mentioned in the particular law in question. The Minister can only abolish illegal decisions made by the head of a supervised institution. As supervised institutions have their own laws; they have also their own line in the budget. The Cabinet of Ministers approves the head of the supervised institution on the recommendation of the Minister.

A variety of public institutions can be located under the tutelage. Those institutions usually are performing public service delivery functions and can therefore be fully or partly financed from the state budget. The political influence also varies in the different sectors. Some of this type of institution will be privatised, but others will be transformed into executive agencies.

There is a tendency to change the institutional status of Civil Service institutions to non–profit and limited liability companies. Recently a proliferation of these type institutions has been evident. State owned joint stock companies were originally

⁴ Ministry of Agriculture; Ministry of Culture; Ministry of Defence; Ministry of Economy; Ministry of Education and Science; Ministry of Finance; Ministry of Foreign Affairs; Ministry of Interior; Ministry of Regional Development and Environmental protection; Ministry of Transport; Ministry of Justice; Ministry of Welfare; Minister for special assignments on public administration reform; Minister for special assignments on co–operation with international financial organisations.

established for the effective use of resources, working according the principles of the market. In reality, state owned companies or semi-autonomous agencies create additional problems instead of increasing effectiveness. The lack of transparency and control became the most important argument in the discussion of the legal status of agencies. The draft law "On executive agencies" tries to provide the adequate legal status for state owned companies, and attempts to provide the financial Management system and accountability system for agencies.

Efforts to de-concentrate the state administrative structure and to de-centralise state functions have been made. Central government has developed a number of de-concentrated administrative units that are responsible for state functions at the regional level. The predominant approach to de-concentration is to empower individual ministries to decide on the principles of how to de-concentrate units. Some ministries have regional structures which were established in Soviet times to manage a specific sector (e.g. Ministry of Agriculture, the Ministry of Environmental Protection and Regional Development), others created regional structures during the 1990s (e.g. Ministry of Finance (the State Revenue Service) and Ministry of Justice (the Naturalisation Board).

As the primary focus in public administration reforms was the establishment of a Civil Service system, the structural and functional aspects of PA organisation were left uncoordinated and unresolved for a long time. Ministries created their own regional administrations. As a consequence, different ministries have completely different regional structures organised by various territorial and structural divisions. Some ministries chose the principle of administrative regions (26 units); others are organised according to the principle of the historical division of the country into 6 regions. This diversity can be explained by the difference in needs and aims of various de-concentrated government institutions. The lack of a unified principle creates a complex service delivery system, which is extremely time consuming and irrational from the point of view of citizens. In order to solve problems resulting from uneven access to administrative services, it is essential that administrative territorial reform is implemented at both the local government and regional level, but there has been no clear progress on this issue.

The existing reform concept provides some prospects for future development: a rationalisation of the institutional system will be achieved with a law on the rational distribution of functions and tasks among the tiers of government. Competencies will be divided according to the subsidiarity principle, which ensures decentralisation and democratisation. In practice, the re-distribution of competencies has turned out to be difficult, because central governments are afraid of losing control over the functions and the accompanying financial resources. To avoid duplication of competencies and to achieve better efficiency, some functions will be exclusively assigned to only one level of government. Relationships between tiers of government will be based upon co-operation and co-ordination. Administrative territorial reform is related to

changes in the boundaries of administrative territories. The basic characteristic of an administrative territory is that it includes a municipality. State and self–governments can organise their functioning in other territories without directly coinciding with the municipal territory. A change in administrative territories and the organisation of administration in the territory is not a goal in its own right, but is linked to many other issues of public administration. Essentially, there are three processes of change currently taking place: the unification of territories for the performance of de–concentrated public functions; territorial reform of regional self–government; and territorial reform of local self–governments. The purpose of the unification of territories for de–concentrated public functions is to improve accessibility and the quality of public service performed by the state in administrative territories. The development of public administration aims to create a rational division of competencies between state government and self–government authorities; a clear definition of responsibility and public accountability mechanisms; effective vertical and horizontal co–ordination; a professional and ethical Civil Service; an efficient public finance Management system; and reliable public institutions. The objectives of the development of an institutional system are to ensure the rational distribution of public functions with respect to the subsidiarity principle and to implement clearly defined systems of responsibility and accountability.

The interrelationship between Local self–governing authorities and de–concentrated state administration can be characterised as dual, according to Leemans’ classification. Local self–governments operate according to the Law and are independent from any state interference. They are governed by elected councils and have partly independent budgetary means. The main problems in everyday activities arise because of a lack of a clearly defined division of functions between administrative levels and the provision of adequate financial resources. In order to stabilise the budgets of local governments and to provide municipalities with the minimal necessary financial resources for provision of services to citizens, the system of budget alignment was created. The basic idea included in the budget alignment system is the following: a minimum amount of money per person for local government public services has been approved. If a municipality has more money than this minimum, it contributes to the alignment fund. If the municipality has less money than the minimum, it receives money from the fund. Any conflicts between the state and municipalities can be solved in court. Since 1992 there has been an ongoing discussion about the necessity of administrative–territorial reform in order to create efficient and competitive local and regional administrative structures. The arguments of economies of scale and democracy are discussed to create a balanced system of governance at all three administrative levels.

3. History, Traditional position of Civil Service, vis–à–vis Politics

Latvia has been governed by external powers for long periods of time. Since the 12th century Latvia was dominated by a German administration based on the Prussian model. After 1721 this was replaced by the Russian tsarist Civil Service system.

According to Raadschelders typology, the development of the Civil Service in these periods can be described as development from a personal service to a state service.

From 1918 to 1940, when Latvia first gained independence, the Latvian Civil Service had high prestige in Latvian society. The concept of Civil Service in this period had a broad definition and was identical to public service. According to Raadschelders it can be classified as protected service.

From 1940–41 and 1945–1991 the Communist Party and Soviet nomenclature governed Latvia as a part of the USSR. The Civil Service of the Soviet period can also be characterised as a protected service. In the intermittent period, from 1941–1945, when Latvia was under German occupation, the administration was formed according to the principles of the German military structure with some exceptional elements taken from the Latvian independent administration.

In the 1950s, there was an attempt to make the governance system in Latvia more national, but these efforts did not succeed. Indeed, they led to repression of local staff and the appointment of officials from Russia to top administrative positions.

After the collapse of the communist regime in 1991 the necessity for reform in the field of public administration was obvious and this issue was one of the priorities of governments during the 5th Saeima. The most significant achievements were during the period of the existence of the Ministry of State Reforms (1993–1995). These included the adoption of the Law on the Civil Service (1994), which introduced the career Civil Service system in Latvia, and the establishment of basic institutions for Civil Service Management, the State Civil Service Administration and the Latvian School of Public administration. After this period the attitude towards reform in public administration became characterised by populism and a lack of political will. The shift in the subordination of the leading institutions in the public administration reform process and the frequent changes of political leadership serve as illustrations. The Ministry of Environment and Regional Development (responsible for local government reform, 1995–1999), Ministry of Welfare (1997, January July), The State Chancellery (1995–1997), and the Deputy Prime Minister (1997–1998) were the institutions responsible for public administration reform for certain periods of time. In July 1997, the Bureau of Public administration reform was created under the political leadership of the deputy Prime Minister. In 1999, the post of Minister for special tasks in public administration and local government reforms was created, and since then its incumbent has been the political guide for the reforms. At the beginning of 2000, the Bureau of Public administration reform was integrated into the Secretariat of the Minister with special assignment for public administration and local self-government reform.

Box 2

Foreign models and public administration reform in Latvia

From the 1995, the strong influence of the New Zealand reform model can be observed in Latvia. Latvia turned its attention to weak demand for its resources and products, the quality of government services, the productivity of the Civil Service and national competitiveness. Reading through the concept of public administration reform in Latvia (1995), one can find that the public administration system should serve the citizens and nation, should be result and performance–oriented. One can find similarities between New Zealand and Latvia on such issues as the establishment of governmental or executive agencies, the first attempts to introduce the quality Management system in public institutions and introduction of Management contracts (regarding civil servants) and performance agreements (regarding institutions).

The development of the Civil Service in the 1990s has been evident. To classify the development of the Latvian Civil Service system in this period one should note the move from a protected (Law on Civil Service, 1994) to a professional service (Civil Service Law 2000.).

The Civil Service system is currently based on the principles declared in the Concept on public administration reform (1995), which states that the Civil Service, as an aggregate body of state civil servants, is a professionally trained apolitical state instrument which executes delegated state functions and implements political decisions. The political Management changes but the apolitical Civil Service is permanent, accumulating experience and practice within it, guaranteeing state continuity. According to the Law, the only position in the Civil Service open to political appointment is the position of State Secretary, and this is recommended only in the event of serious political disagreements between the minister and official. The State Secretary is the top–level civil servant who acts on behalf of the Minister. The relationship between state secretaries and ministers in most cases is based on professionalism; there are state secretaries who have kept their positions for 7 — 8 years. The focus on professionalisation has created a relative stability in the Civil Service system, especially in higher positions. Some shifts after the new ministers take office can be found, but the main reason for the change of the State Secretary is differences in work styles. Sectoral fragmentation and political arguments are secondary. The State Secretary who loses his / her position remains in the Civil Service system and must be offered a new position. Reasons for the dismissal for other civil servants are formulated in the Law on Civil Service and do not include dismissal for political reasons. In general, according to the law, all civil servants are protected from direct political pressure, but this is not always the case in reality, due to behaviour inherited from the Soviet period when politicians had a mandate to freely intervene in administrative issues. All civil servants have the right to act independently in accordance with the law and their particular job description and have the obligation to file a report in the case of political pressure.

Due to frequent governmental changes and a lack of political coherence and continuity, the secondary legislation necessary to implement the Civil Service law (remuneration system, the classification of positions, social guarantees etc.) was never elaborated. The lack of appropriate secondary legislation has contributed to uncertainty and resulted in a high degree of rotation of civil servants within the system and the departure of civil servants to the private sector. This practice is also promoted for civil servants being re-employed under the Labour Code, which offers the opportunity to receive additional remuneration, which civil servants cannot receive. It should be stressed that changes in personnel arise basically for economic reasons.

Box 3

Attitudes of civil servants in Latvia

Evidence of some relative stabilisation in the public sector can be found in sociological research. The report "The attitude of public administration towards their motivation, needs, job conditions and remuneration" (1999) shows that only 0.7% have already made the decision to leave the public sector, and about 13% responded that there is a high probability that they will leave the public sector some time in the future.

Results shows that a job in public administration is chosen because of the stable salary (44.9%), social guaranties (41.7%), payment of social insurance tax (36.3%), necessity to get experience (35.3%), stable job (28.9%), carrier (17.8%), prestige (13.6%).

The job in the public administration was chosen following advice of friends (38.8%), by invitation of state officials (35.6%), by advertisement (20.0%), or after internship (14.3%).

Source: SKDS, October 1999.

The Law on the Civil Service passed in 1994 has not been implemented in its entirety. Parts of it declare norms that cannot be implemented under current economic conditions, which has negatively impacted on civil servants' loyalty and trust in the state. The implementation of the law has been neither consistent nor successful. The basic secondary legislation on Civil Service ranks, tenure, etc. has not been drafted and passed. The scope of the Civil Service has been reduced: Civil Service institutions have left the Civil Service and the definition of 'civil servant' is being interpreted according to the institutions' wishes and practical needs. The principle that the core functions of the state should be performed by civil servants is being violated. The state has lost its grip over the employees whose duty is to perform on behalf and in the name of the state. The high turnover of staff within the Civil Service has led to the loss of resources invested in training and the professional development of civil servants. Personnel Management practices that facilitate professional growth, career development and rotation of Civil Service candidates have not yet been developed and implemented.

The salary system does not reflect real performance and contribution by civil servants and does not motivate retention and high performance. To correct the situation of low remuneration, Management contracts have been introduced without

mechanisms of control and assessment of the activities included in the contract. According to governmental regulations, a Management contract is signed with the top and middle level managers when they are performing their task with higher efficiency. The Management contract was intended to also be an instrument of performance appraisal for managers, not only a motivational instrument. Since the performance appraisal system was not introduced together with the contract, the contract lost its main purpose – to be a tool for appraisal. Management contracts helped to avert high turnover at the top administrative level and the loss of qualified managers to the private sector. However, due to the confidentiality clause, they created suspicion and tension among lower ranking civil servants, because of the unclear criteria provided in the Management contracts. Civil Service institutions seek their own solutions to persisting problems, which has led to the fragmentation of public administration (Development of Latvian Civil Service. Concept paper, 1998).

Over the last three years important structural changes have taken place. Some statistical information to illustrate the processes is relevant.

Year	Number of civil servants and candidates for civil servants
1994	5 871
1995	11 818
1996	9 154
1997	9 121
1998	8 160
1999	7 752
2000	6 866

Source: Civil Service in figures, 2000

The dynamics in the number of civil servants can be observed during the 1990s. The drop in numbers can be explained by a number of factors – the reorganisation of the ministerial system, the exit of institutions from the Civil Service and the proliferation of agency type institutions, which are created on the basis of former Civil Service institutions. It is expected that the total number of civil servants will decrease after the introduction of regions. Another important piece of statistical information is the share of the Civil Service in the public sector. According to Civil Service Office statistics there were 109 public administration institutions in Latvia in the beginning of the year 2000, and 87 of them had status of Civil Service institution. There are close to 44,000 public sector employees in Latvia including, 6866 Civil Service officials comprising 16% of total public sector employment. In Civil Service institutions, 43.8 % of positions are Civil Service positions and the rest are employed according to the Labour Code.

The Law on Civil Service (1994) was amended 7 times, and 3 amendments were made regarding the status of civil servants (Civil Service candidate). All changes were

accepted during the 6th Saeima (October 1995–October 1998) reducing the scope of the Civil Service in Latvia. As a response to the problems mentioned above, the new Civil Service Law was adopted in September 2000, and will enter into force on 1 January 2001. The new Civil Service Law has been elaborated to improve the situation in the Civil Service system. The new Law broadens the scope of the Civil Service and it is expected that the number of civil servants will increase to 70% of total public sector employment. Although, more detailed analysis of differences between both laws will follow in the next subchapter, it is important to mention that the new Law is based on considerations summarised in the Concept Paper, 'Development of Latvian Civil Service' (1998). Improving Civil Service as an effective instrument for implementation of government goals and tasks, it is crucial to preserve the following universal principles:

- High professionalism of civil servants;
- Political neutrality of Civil Service;
- Ethics, integrity, and avoidance of corruption in serving the public;
- Loyalty towards elected officials;
- Stability of Civil Service as a guarantee of the stability of the state; and
- Recruitment and promotion based on merit and high performance.

Under the present economic conditions in Latvia it is not possible (at least in the near future) to have a large Civil Service that can fully meet the principles listed above. It is not possible to introduce high remuneration to all presently working civil servant candidates, while with low salary levels it is not possible to achieve high standard of professionalism, performance, Ethics, and stability in the Civil Service.

Here it is necessary to comment on one of the basic institutions supporting the development of the Civil Service in Latvia – the Latvian School of Public administration. Education for the Civil Service is a very important aspect of the development of public administration. The Latvian School of Public administration develops state Civil Service training programs, provides training courses for civil servants, and organises seminars on issues of public administration. The Latvian School of Public administration co-operates with 24 training centres, 10 outside Riga. Right now the courses are divided into ten blocks: legislation, basics in European Union, political theory, public relations, psychology, theories of decision-making and planning, Management, documentation, languages and computers. Courses are well attended and positively evaluated by civil servants.

4. Formal Relations, Constitutional Norms, Guiding Relations between Elected Politicians and Appointed Officials

The Latvian Constitution includes 2 articles which are relevant for further analysis of politico-administrative relations in Latvia. Article 57 states that the number of ministries and the scope of their responsibilities will regulate, in conjunction with the relevant laws, the relations between state institutions. Article 58 states that the

administrative institutions of the state shall be under the authority of the Cabinet. This means that there is no formal relationship defined in the Constitution or Law between the President and Civil Service. The highest political official with a direct relationship and influence with the Civil Service is the Prime Minister.

The activities of the reform process are quite closely related to the Prime Minister's personality and political priorities; public administration reform was a priority for Valdis Birkavs (1993). Maris Gailis (1994) as a former minister of State reforms, supported developments in the sector. Andris Skele (1995) came into politics with populist slogans and created much confusion about the future of reforms. Guntars Krasts (1997) basically reacted to external pressure (Agenda 2000) and paid attention to most fundamental problems in public administration. Vilis Kristopans (1998) declared formal support, but Andris Skele (1999) changed his approach when he returned to government and showed serious interest in administrative reforms. The change in his attitude towards the public administration reform process from neglect to constructive criticism can be explained by his involvement in political life. In the period 1995–97, Andris Skele was invited to lead government as an expert because political parties could not reach political consensus on any political party representative. The situation was different in 1999 when Andris Skele became Prime Minister as the leader of the Peoples Party, which gained the highest number of seats in Parliament. As a result, his decisions were more focused on long term solutions and strategies than during his earlier tenure. The present Prime minister Andris Berzins (2000) has yet to clearly define his position on public administration issues.

The impact of legislative power on politico–administrative relations in Latvia is very moderate. Parliament does not follow issues of public administration and is not showing interest in the problems of the Civil Service. Parliament reacts only in “crisis” situations. A number of important Draft Laws have been in the process of adaptation in the Saeima for several years e.g. Law on Administrative Procedure, the new Law on Civil Service, because those issues are not a priority on the parliamentary agenda.

In the year 2000, one can observe a number of legislative activities regarding public administration reform, which can be explained by the pre–election period as well as by an acceleration of the accession negotiations.

Adaptation of new Civil Service Law (2000) should be stressed as a very important step for reform process. Changes can be better understood in comparison with the old Law on Civil Service (1994) (Juhneva, 2000). The new law includes a different definition of ‘civil servant’. According to the new Civil Service law, Article 3, a civil servant in the state Civil Service is

a person who is engaged in and responsible for the development of sectoral policies or development strategies; the co–ordination of sectoral activities; the distribution or control of financial resources; the development of the regulatory framework or control of its enforcement; issuance of legislative acts and development or adop-

tion of resolutions affecting entitlements of the individuals within the ministry, public institutions and establishments under jurisdiction and subordination of the ministry, minister of special assignments or deputy prime minister, at the State Chancellery, State Audit, the court of law or Prosecutor's Office

A minister, state minister, parliamentary secretary, judge, prosecutor, state auditor, members of the State Audit Council and the collegiate of the State Audit Inspection Departments are not classified ranked as officials.

Box 4

Statements from governments' declarations on public administration and Civil Service reforms

The declaration of Valdis Birkavs government (03.08.94) highlights the necessity to start public administration reform programme to attract competitive personnel to public sector institutions, there is mentioned also a necessity to adopt relevant Civil Service Law in order to motivate people to join the public sector.

The following two declarations of the Maris Gailis government (15.09.94.) and the 1st Andris Skele government (21.12.95) do not contain any comments on Civil Service issues, only general statements to continue existing reforms.

The declaration of the 2nd Andris Skele 2nd (13.02.97) states the necessity of amendments to the Law on Civil Service. These should include increased accountability of public officials, and within the Civil Service: increased efficiency and effectiveness, welcome higher motivation and increased transparency, the elimination of functional duplication, the review of state functions and the delegation of irrelevant ones to the private sector.

The declaration of Guntars Krasts' government (07.08.97) generally repeats formulations of the previous government regarding public administration issues.

The declaration of Vilis Kristopans government (26.11.98) includes a promise to finish public administration reform, to reduce the number of civil servants and to provide competitiveness with private sector. A new draft law on Civil Service was to be delivered before December 1999 according to the Concept paper on Development of Civil Service in Latvia (1998).

The declaration of the 3rd Andris Skele (15.07.99) promises to prepare draft laws which would clarify the role of the Civil Service in Public administration system by 1 July 2000. .

Andris Berzins' government's declaration (05.05.2000) intends to develop a public administration reform programme until January 2001. This programme will define reform priorities at the state, regional and local level. There is also a promise to develop a unified remuneration system for public sector employees until January 2001.

The number of Civil Service positions in the institutions will no longer be defined in the law, leaving the discretionary issues in the hands of the institutions.

There are essential differences between functions and job obligations in public sector institutions, as the Civil Service is divided into separate corps: general Civil Service and special Civil Service. The general Civil Service includes the core administrative positions (state secretaries, heads of institutions and their deputies, and senior specialists) in ministries and subordinated institutions. The special Civil Service includes officials who perform control functions over implementation of legislature in particular spheres and acts under separate legislation from the general Civil Service. These are institutions like state police, customs, state revenue service, diplomatic service, etc..

The new law separates more precisely the Management and monitoring of the Civil Service. The State Civil Service Administration will be responsible for the elaboration of unified personnel Management standards and will monitor (control) the implementation of relevant legislation in the Civil Service system. Heads of institutions will be responsible for introducing appropriate standards in respective institutions.

If the old law demanded at least secondary education, the new law requires the qualification of higher education to become a civil servant. (On 1 September 2000, 68% of civil servants and Civil Service candidates already had higher education).

The new law abolishes the status of Civil Service candidate and the compulsory examination to become a civil servant. Now the procedure has been simplified, state institutions advertise vacancies, and select the best candidate for a trial period, which cannot exceed 6 months. The respective institution will evaluate the applicants. Regarding the recruitment of heads of institutions, the Cabinet of Ministers will create a special Commission. The Commission will appoint officials for a 5 years term, but the Cabinet of Ministers should accept the decision of the Commission. The introduction of such a procedure can be evaluated as a step toward the creation of a politicised Civil Service.

The new law also requires an annual evaluation of civil servants performance, which will form the basis for future career possibilities. The office position and performance results will determine the wage of the civil servant. More attention will be devoted to the principle of rotation in the Civil Service system. The new law no longer provides possibilities for rapid promotion of civil servants and does not intend to introduce a Civil Service system in local governments.

There are some other laws relevant to the analysis of formal relations between political officials and civil servants. The Law on the Structure of the Cabinet of Ministers and the Law on the Structure of Ministries clarify the division of responsibilities among structural units and state that decision making on the political level is carried out by the Cabinet of Ministers; that the ministry is the main policy maker in its field; and that the main tasks of the subordinate and supervised institutions are the administration of policy and audit functions. The Law on the structure of

ministries also states that the minister politically directs the actions of the ministry and is accountable for this to the Saeima. Civil servants are accountable to the minister indirectly through the state secretary who directs the ministry's administrative work. Furthermore, in practice the political influence in the everyday operations of administration is limited due to the division of responsibilities between the Ministers and State secretaries at line ministries.

In every day activities, the Civil Service often does not follow legislative acts, but reacts to changes in the political situation, political remarks, and opinion polls. The Civil Service as a political actor could be evaluated as reactive, with low self-estimation, oriented towards achieving clearly visible results, which very often have nothing in common with quality and efficiency. For example, every time tension in the government increases, or when government changes occur, the state administration slows down its activities. According to the research of SKDS (September 1999), civil servants found that in periods of governmental change, it is better to do nothing, because doing something can be waste of time.

The relationship between government and bureaucracy can be characterised as full of stress and distrust. Politicians like to criticise the bureaucracy; promises to reform and decrease bureaucracy are at the top of their populist agenda in the quest for votes and popularity. Evidence for this can be found in the pre-election programs of a number of parties. Prime Minister Andris Skele in 1995 started his campaign by promising to reduce bureaucracy, and Prime Minister Guntars Krasts, using similar slogans, tried to prolong his government's life in 1998. A very illustrative example is also the budgetary process, when politicians are deciding on how to allocate scarce resources, they usually comment on how expensive the bureaucracy is. Very often funding for public institutions has been reduced, which results in a decrease in staff, at a time when the public sector workload is increasing very rapidly in the context of EU integration. Also, as noted in SKDS research (September 1999), every minister perceives it as an honour to make the structural changes in the ministry. Everyone thinks that it is good to reduce the number of civil servants, which eventually results in staff overload.

5. Political Culture and Attitudes

Generally, work in public administration is not perceived as prestigious. Somehow, there is a myth that "you are to be afraid of civil servants, because they are awful". Edvins Vanags and H. Balanoff (1999) summarised the dominant opinion on the Civil Service in Latvia: civil servants are perceived as lazy, wasteful, ineffective, non-responsive, unfair, not accountable, unhelpful, corrupt, overpaid, cautious, not representative. It is obvious that the general attitude in society to bureaucracy could be defined as rather negative, therefore it would be interesting to compare this common view with some statistical data.

According to sociological research "The attitude of Latvia's population towards public administration" (1999), public opinion regarding the Civil Service is more negative than positive or neutral. This is due to several reasons. First, society does

not make the distinction between public service and Civil Service. For society, civil servants are employees of the state. Second, an analysis of the research results leads to the conclusion that the negative attitude is to some extent a cultural inheritance from the Soviet period.

Box 5:
Attitudes of Citizens Towards Public administration

According to the research, “The attitude of Latvia’s population towards public administration,” almost half of Latvia’s population (44.5%) evaluates the work of state institutions as negative. One third (33.4%) of the population evaluates state institutions as positive.

Responses to the question :

How you in general evaluate performance of the state institutions?

- Positive 3.5%
- Rather positive 33.4%
- Rather negative 36.3%
- Negative 8.2%
- Hard to say / no answer 18.6%

A more negative attitude prevails among persons with higher education, non–citizens, public sector employees, and low–income persons. A more positive attitude towards state institutions can be found among respondents who have a relatively high–income level, respondents from urban areas (except Riga) and those in the age group of 25–34 years. There are no substantial differences regarding sex or nationality of respondents.

Regarding, positive attitude, it has to be mentioned, that this attitude is based upon responses on such indicators as

- a) complete and clear information was received during visit;
- b) kind and helpful treatment.

The negative attitude was the result of interaction with institutions and not receiving service in an appropriate quality or time period. The negative attitude was summarised from the responses on several indicators, including

- a) red tape (58.1%);
- b) incomplete information received (49.0%);
- c) unkind treatment (43.9%);
- d) corruption (12.0%).

Source: SKDS, September 1999

The appeal system should be mentioned as a special issue. According to the results of the same research, only 13% of the population used its right to appeal and complain and most of them complained to the heads of institutions or local government where they received bad treatment. Few respondents complained to the State President, Civil Service administration, court or Saeima. This situation indicates that the population is uninformed about their rights and does not believe in the system of appeal and complaint existing in Latvia. Indirectly, it also shows the low level of trust in state institutions. With regard to proposals on how to improve the quality

of public administration performance, the population proposes to raise the level of service standards at state institutions and to reduce the number of state employees as well as providing more training for public servants.

Often politicians use the generally negative attitude towards the Civil Service. For example the abolition of the Ministry of State Reforms received high support among the population. The Prime Minister who made the decision, Maris Gailis, got political bonuses not only as a Prime Minister, but also as a politician; his rating in opinion polls improved immediately after that decision. Politicians make use of the dominant attitude and declare populist slogans about the reduction of bureaucracy, corruption etc., to raise popularity. Economic or administrative arguments are rarely used, rather values and emotions.

To summarise the reasons for the negative attitude towards civil servants, a number of aspects should be pointed out. First of all, for years, the mass media created and maintained a negative image of civil servants. There have been very few neutral and informative texts or constructive critics on reform issues. The cultural and ideological inheritance from the Soviet period when bureaucracy was a repressive apparatus also plays an important role. The negative attitude towards civil servants creates an unclear understanding of concepts of Civil Service and civil servants. There is a belief that bureaucracy is resource consuming. The socio-economic context should also be mentioned: people blame politicians and civil servants for poverty and low quality of life in general. Finally, the negative attitude towards the Civil Service is based on a generalisation of experience received from contact with police, bank clerks, and local government officials who are not civil servants. And of course, according to the data from sociological research, the negative attitude is also based on personal experience in contact with civil servants. This means that a lot of efforts are needed for spreading information, explaining the role of the government in particular of the Civil Service in society.

Since 1994 a non-governmental institution, the Ethics Office, has been functioning in Latvia, monitoring public administration issues. Unfortunately the activities of this institution are not very regular, only a few seminars have been held and some publications have been made in the central mass media, and the Ethics office has neither clear mission statement nor a developed strategy. The code of Ethics has not been introduced into the Civil Service and still has no legal status. Its introduction could be a sensitive issue and could raise the question of the overall Ethics of civil servants and politicians. Nevertheless some state institutions have developed their own code of Ethics, for example the State Revenue Service, the Judiciary and the Police. It is expected that the Cabinet of Ministers will accept a code of principles of good behaviour for Civil Service by the end of year 2000 and that these principles will have some regulatory power.

6. The Policy Process in Practice.

The Cabinet of ministers submits the majority of draft laws to the Parliament. During the 6th Saeima in 1998, 208 draft laws were submitted, 153 of which were adopted

(74%). Of these draft laws 15% were submitted by the Cabinet of ministers, 19% by the Saeima commissions and 66% by deputies (Document division, Saeima chancellery, 1999).

The constitution sets out the general framework and main activities of the Cabinet of ministers, which is the highest executive authority in Latvia. The Prime Minister is responsible for implementation of the government declaration; he also co–ordinates overall government policy. A minister is politically responsible to the Saeima for the activities of his ministry and its subordinate institutions, for its budget and its plans. The Cabinet of ministers may issue regulations if the law particularly authorises the Cabinet of ministers to do so, or if law does not regulate the issue. Such regulations need to indicate the legal basis upon which they have been issued. The Cabinet of ministers may issue normative acts also in accordance to Article 81 of the Constitution, which prescribes the right to issue regulations, which shall have the force of law in cases of urgent necessity between parliament sessions. The Cabinet of Ministers' reviews draft laws which after approval are submitted to the Saeima. The state minister who administers the branch has the right to vote in the Cabinet of ministers but only on those issues connected with his branch. Meetings of Cabinet ministers are held on a weekly basis. Inter–ministerial working groups are formed by a decree of the Prime Minister to elaborate conceptual issues, government action plans and drafts of the legal acts. There is no legal requirement for inter–ministerial co–ordination before a legislative draft is finalised but informal co–ordination at the working level does take place.

At a weekly co–ordination meeting of state secretaries, the ongoing day–to–day business of government is discussed. The state secretary of the ministry reports on draft legislative acts prepared by the ministry. The meeting also reviews whether it is necessary to publish the draft legislative act in the press and whether, according the provisions of the Law on Local Governments, it is necessary to seek the opinion of local governments, where the draft legislative act has to be forwarded for the purpose of information, and additional opinions. Opinions are mandatory from the Ministry of Finance and the Ministry of Justice and the European integration Bureau (if the specified legislative act is related to the integration of Latvia into the EU).

The Ministry of Finance and the Ministry of Justice as well as other relevant ministries, state and municipal institutions render a written opinion on the draft legislative act received. The opinion outlines the position of the ministry for or against the further progress of the draft legislative act and proposals concerning its contents. The responsible official assesses the objections and proposals submitted by other institutions and includes the mentioned objections and proposals into the text of the draft legislative act and forwards the draft, together with the opinions, to the state chancellery. In case of disagreements between the proponent and an institution – for example, if the draft legislative act is rejected or essential objections are received – a meeting should be arranged to which civil servants of relevant institutions are invited.

The government has the right to set up temporary or permanent advisory bodies: councils, consultative boards and commissions. The Cabinet of ministers approves the statutes of these bodies, setting out their composition and their main functions and tasks. These institutions discuss issues and make recommendations but cannot take political decisions, which must be made by the Cabinet of ministers. Advisory bodies are financed from the state budget. They consist of officials from ministries and other public administration institutions, scientists, local government representatives, and representatives from appropriate NGOs. Some examples of such institutions are the Consultative Board of Agriculture Branches, the Consultative Board of Bookkeeping Standards, the Copyright Consultative Board, and the Naturalisation Consultative Board.

The Cabinet of ministers has the right to request that a special and urgent item be put on the agenda on the current week's parliament's meeting. This request has to be submitted to the presidium of Saeima who puts the question to the vote. Ministers have the right to be present at the sittings of the parliament and to introduce additions to draft laws, even if they are not members of the Saeima.

For the execution of specific assignment, the Prime Minister may set up consultative boards to provide recommendations to the Prime Minister or the Cabinet of ministers. These consultative boards have a defined structure, scope of authority, as well as a delimited period of time to function.

The State chancellery is responsible for creating the necessary preconditions for the co-ordinated work of the Cabinet of ministers and Prime Minister. The director of the state chancellery determines a uniform control procedure for the execution of the legislative acts issued or tasks assigned by the Cabinet of ministers or the Prime Minister. He regularly provides the Prime Minister with information on the observation of the deadlines indicated in the issued legislative acts and assignments. The director of the state chancellery also chairs the weekly meetings of the state secretaries at which items relating to execution of the ministries assignments are discussed. The state chancellery consists of approximately 100 employees working within several departments and divisions.

The Prime Minister's Office consists mostly of political appointees, and the head of the Prime Minister's bureau is appointed by the order of the Prime Minister for the period not exceeding that of the Prime Minister being in the office.

The bureaucracy has significant discretion in the implementation of governmental decisions. Civil servants are also involved in policy formulation and the decision making process. The legal framework in Latvia supports and encourages civil servants to take part in the decision making process by impartial and professional policy advice. Senior civil servants often participate in Saeimas committee meetings and offer professional opinions on issues discussed. In practice the bureaucracy is so involved in the political process that it is possible for politicians to blame the bureaucracy for unpopular political decisions. The legality of public administration is ensured

by mechanisms prescribed in Regulations on Process of Administrative Acts. This regulation describes in detail the internal decision–making process, which must be observed by public authorities.

From the point of view of society and NGOs, the Civil Service is perceived as an enormous and closed bureaucratic machine with a tendency for self–maximisation and limited possibilities for co–operation. For a long time, strong distrust and even hatred characterised relations between the civil servants and NGOs. Only recently has interest in co–operation appeared on both sides. It should also be mentioned that legislation has provided opportunities for the participation of NGOs and experts in decision–making procedures, which gradually is becoming the reality. The best practice from the Ministry of Welfare (co–operation with social NGOs) and the Ministry of Regional development and environmental protection (co–operation with Green NGOs) shows that it is possible to establish sustainable long–term relations for co–operation between different NGOs and ministerial departments to promote social dialogue. However, reasons for improvement in these relations are very different. One reason is that NGOs, which in the early 1990s were very ambitious and demonstrated some supremacy over state institutions, have now become more pragmatic and constructive. Governments declaring support for the development of civil society have also played some role in this. Quite often the support is expressed very formally in government declarations or concept papers, but occasionally support results in very substantial legislative acts. These include the Law on Access to Information, the Regulation on Delegation of State Functions, or the establishment of control and reporting systems which have ensured transparency and the access of all citizens to annual reports of public institutions. One more factor promoting involvement of NGOs in policy–making are the EU recommendations that take into account the opinion of NGOs. At the local government level, the gradual development of a culture of co–operation between NGOs and officials can be observed. There is also some experience of organisation of public hearings and discussions, for example on social integration policy in Latvia, which includes a wide range of participants – from politicians, civil servants, local government representatives and NGOs to individuals interested in this issue.

There are also some constraints to democratic policy–making practice in Latvia. The main obstacles include the frequent changes of governments (since mid 1993 to 2000 there have been 8 governments in power) and the accompanying reorientation of policy priorities. Combined with generally slow administrative procedures, this high turnover encourages NGOs to seek informal access to top decision–makers in an attempt to lobby for their policy proposals. The advisers of ministers are usually chosen as the key persons to talk to in order to accelerate the promotion of proposals, projects or programmes.

7. Classification According to Theoretical Framework

From the five models described by Peters', the Functional Village life model seems the most appropriate to describe politico–administrative relations in Latvia. As illustrated

in this article, there is evidence of some integration between politicians and civil servants in Latvia. Even though Latvia is a very small state and there are relatively few people in higher political and administrative positions, it seems more precise to use the Functional Village life model rather than the Village life model to describe the pattern of interactions between politicians and civil servants. This is due to the well-developed sectoral networks in Latvia between the divisions of government ministries, interest organisations and politicians interested in specific policy issues.

One example is the issue of family policy in which the ministry of welfare is actively co-operating with several NGOs, while another example is the co-operation between the Ministry of Science and Education, the student council and some MPs on the issue of student credits. The minister showed very great interest in the problem and therefore the issue was resolved in quite short time. The presence of political advisers to ministers opens an informal channel to decision-makers, allowing them to circumvent formal channels. Therefore, sectoral interest groups can promote profitable policy formulation for them. Such policy formulations can be presented at the Cabinet of Ministers without formal administrative procedure.

A very good illustration of strong sectoral interests is the budgetary process, especially when it comes to parliamentary readings – the sectoral groups fight amongst themselves for benefits. In such a manner agricultural receives almost 3% of the national budget, but the Ministry of Defence receives almost 2% of GDP per year. There are also other laws, which contain a similar elaboration. The laws including budgetary provisions provide lobbying of the sector interests across the interests of political parties.

Another illustration of strong sectoral networks constitute the weekly meetings of the committee of the Cabinet of Ministers where new legal texts and concepts are discussed. Representatives of the respective ministry are always present as well as some professionals and experts on the issue discussed.

At this stage of decision-making there is a real possibility to get compromises between political and administrative interests. Before this stage, the legislative act is discussed only at the administrative level. If a document is accepted at the level of the Committee, the next stage is the Cabinet of Ministers where the formal political decision is made.

In the cases of the sensitive political issues (basically budgetary issues) the Cabinet of Ministers tends to be an arena for political battles. In such cases a final decision is achieved with much difficulty.

There have never been open contradictions and open conflicts between politicians and bureaucrats in Latvia – all problems are discussed in different working groups and in most cases basic compromises are reached before the Draft law goes to parliament. If conflicts arise, they are resolved through the process of bargaining. Accordingly, no overt dissatisfaction or large-scale protests from civil servants are generally observed. There has always been a silent acceptance of laws sensitive for bureaucracy, because

they have been discussed and negotiated earlier – in government in general as well as inside sectors.

As a further argument to support the dominance of the Functional Village life model in Latvia, at the present moment it should be mentioned that there are only a few political appointees in the Civil Service system, with a relatively low turnover; a high degree of stability characterises these positions.

8. Conclusions.

Despite the fact that the Civil Service is not regulated at the constitutional level, the Civil Service is the core of public administration. The main tendency of public administration reforms in Latvia has been towards the decrease of the role of state and the increase of transparency, openness and accountability, as well as responsibility. Some successes and some failures can be observed, but it is very important that there are still efforts to improve the situation in the public administration of Latvia.

The division in relationships between politicians and bureaucracy has gradually become more visible. The expected changes in the Civil Service will strengthen professionalism and the capacity of the Civil Service. Still, some warning remains if one observes recent developments in the public administration process where evidence of politicisation is present. To avoid further politicisation more attention should be devoted to community involvement in public sector reform. Initiatives already underway (personnel Management, introduction of internal control and quality Management, etc.) that should provide for the professionalism of Civil Service can lose direction if politicians will take the role of managers.

In order to make a stable Civil Service it is advisable to establish its regulation in the constitution. If the public administrative system will be constitutionally protected, the Cabinet of Ministers will have limited possibilities to influence public administration design and content. It is also very important to generate a sustainable political will in public administration reform.

Insofar as the Civil Service is plagued by the problems discussed in this chapter, some recommended solutions should be mentioned. A competitive remuneration system should be introduced and a positive image of the Civil Service should be created to increase trust in government and public administration.

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Annex 1: Glossary of terms

Civil Service – Civil Service is defined by a restrictive concept of Civil Service and differs from public service. According to Latvian legislation, Civil Service is a specific sphere of employment. As interpreted by the Law on the Civil Service, public civil institutions are the following: the State Chancellery, all national and local government administrative institutions, courts, prosecutor's and State control institutions, as well as other public civil institutions established in accordance with the *Satversme* (constitution), legislation, Cabinet regulations or local government (city council, regional council, rural district or town council) decisions, which perform the functions of national or local government, unless provided differently by the law on respective national or local government institutions.

Civil servant – a person who has passed the Civil Service qualification examination and has been appointed, for a definite or indefinite period, to a Civil Service position that is listed in the Civil Service position list. (Law on Civil Service)

Civil Service candidate – a person, who has successfully passed the qualification examination for Civil Service candidates and, prior to passing the civil servant qualification, has been appointed to a Civil Service position listed by law. (Law on Civil Service)

Note: In the chapter the term civil servant is used to characterise central government bureaucracy whether they have the formal status of civil servant or the status of Civil Service candidate. This is because civil servants achieved this status only at the end of 1999, and the main difference between the civil servants and Civil Service candidates are in the amount of wages and social guarantees received, not in respect of accountability, job obligations or mandate.

Civil Service positions:

- The head of a public institution,
- The deputy head of a public institution,
- The head of a structural unit of a Civil Service institution if there are any civil servants or Civil Service candidates subordinated to him/her,
- Positions which, in accordance with the law, Cabinet regulations or local government decisions, oblige or authorise the respective person to prepare or adopt decisions which are binding or mandatory for a defined group of people. (Law on Civil Service)

Political officials – advisers to ministers, parliamentary secretaries,

Saeima – The parliament of Latvia.

Satversme – the Constitution of Latvia

Chapter 11: Politico–Administrative relations in Lithuania

Ieva Lazareviciute¹, Jovita Tirviene², Jonas Poniskaitis³

1. Introduction

Lithuania, as many other post–communist countries, inherited a highly centralised and politicised administrative system, where Communist Party leaders always and everywhere directed bureaucratic actions and party apparatus played the role of the executive government. Administrators on the other hand had to maintain and prove their political partisanship, acting as mute instruments of policy implementation.

A decade of reforms targeted to adjust the inherited system to the new requirements of a democratic state has created significant changes. A new legal framework for public administration has been introduced, along with the supporting institutional and educational system. Additional social guarantees, qualification standards, non–partisanship requirements and measures designed to protect career officials from undue political pressures are also present. The adoption of the Law on Public Officials and, more recently, the creation of a career Civil Service system and continuous professional development mechanisms are transforming the state administration into a more developed and rational structure, better equipped to serve the needs of the public.

The emphasis of the reforms, however, has been on decreasing the influence of the politicians over administrators and increasing the efficiency of bureaucracies, with little attention paid to the de–centralisation of policy formulation. Neither has there been sufficient attention paid to the creation of ‘feedback’ mechanisms or the establishment of democratic parliamentary control over administration mechanisms.

Before beginning an in–depth analysis it is important to note that in July 1999 a new Law on Public service has been passed. At the moment the government is engaged in drafting secondary legislation and building up supporting institutional structure for a career Civil Service system in order to replace the previously existing position–based one. Only a fraction of the necessary documents have been drafted so far and many grey areas remain. So far, it is impossible to precisely forecast further developments in the relations among the political and administrative staff.

Moreover, the political arena in the year 2000 is especially active due to the elections to local councils in March 2000 and elections to the parliament in October

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2000. Clearly this is affecting both sides of the equation by bringing in additional uncertainties and complications.

The following two sections of the paper provide the review of the current administrative system, the short history of the development of Lithuanian state administration from the 13th century as well as statistical data on the current Civil Service corps.

2. Administrative system

Lithuania is a unitary state and a parliamentary republic. The Constitution adopted in 1992 sets the framework of Lithuanian political and administrative system, the main feature of which is the division of power between the legislative, executive and judicial branches of government. Besides this, the Lithuanian administration is divided in to two levels: central administration and Local self–government. This section presents and overview of legal rules and statistical data on the administrative structure of the Lithuanian state.

Central administration

The Parliament of Lithuania (*Seimas*) represents the legislative branch of power. It is a one–chamber parliament and is comprised of 141 deputies elected for a period of four years. *Seimas* approves or rejects the candidacy of the Prime Minister proposed by the President of the Republic, approves the programme of the government submitted by the Prime Minister, and upon the recommendation of the government, establishes or abolishes ministries.

The Lithuanian Democratic Labour Party (former Communist Party) won the majority during the first elections to *Seimas* in 1992. The second parliamentary elections took place in 1996 and the right–wing party – the Lithuanian Conservatives (Homeland Union) (LK(TS)) received the majority of votes. The latest elections in October 2000 have created a small majority for a centrist coalition (Lithuanian Liberals and New Alliance (Social Liberals)), supported by several minor parties. According to the Coalition agreement the leader of the New Alliance Mr. A. Paulauskas was nominated and elected the chairman of *Seimas*, while the leader of Lithuanian Liberal party Mr. R. Paksas (former Prime Minister of the Conservative government) is to be nominated by the president to serve as the Prime Minister for the new government.

The Government of Lithuania and the President of the Republic of Lithuania represent the executive branch of power. The President is the head of state and represents the state of Lithuania. The Constitution and the Presidential Law of Lithuania define the main duties of the President and stipulate that the President decides basic foreign policy questions, implements foreign policy together with the government and represents the country in the international community. He/she signs international treaties and submits them to parliament for ratification. The President is elected in direct elections for a term of five years. The first democratically elected President of Lithuania was A. M. Brazauskas (elected on February 14, 1993). The

current President of Lithuania, V. Adamkus, was elected on January 4, 1998, and took office on February 26, 1998.

The *Government* is the highest authority of executive power. It is comprised of the Prime Minister and 14 ministers. The Prime Minister is appointed or dismissed by the President of the Republic, with the approval of the *Seimas*. Ministers are appointed by the President of the Republic on the nomination of the Prime Minister. The government:

- administers the affairs of the country,
- protects the inviolability of the territory of the Republic of Lithuania,
- ensures state security and public order,
- implements laws and resolutions of the *Seimas*, as well as the decrees of the president,
- co-ordinates the activities of the ministries and other governmental institutions,
- prepares the draft budget of the state and submits it to the *Seimas*,
- executes the state budget and reports on the implementation of the budget to the *Seimas*,
- drafts and executes legal acts and submits them to the *Seimas* for consideration,
- establishes and maintains diplomatic relations with foreign countries and international organisations, etc.

The Prime Minister is supported by the Prime Minister's Office, which is headed by the Government Chancellor (a political appointee), other staff including eight state councillors on various policy areas and three political advisers. The Government Office (called Government Chancellery) is headed by the Government Secretary (a career civil servant under the Law on Public service) and includes 13 political advisers on the various policy areas as well as administrative staff. In total the Prime Minister's office and State Chancellery employs over a hundred individuals.

The minister heads the ministry. In the Kubilius government (in power until October 2000) each minister had one to five vice-ministers to assist him/her in managing the work of the Ministry. Each of the vice-ministers was appointed based on the coalition agreement and responsible for a specific area of the Ministry's activities. In addition to that, each minister had a number of political advisers and several secretaries (referents) as well as an advisory board⁴ to help him/her co-ordinate the work of the Ministry. All administrative issues are the responsibility of the secretaries of the Ministry, the highest career Civil Service position in Lithuanian administration.

⁴ Advisory college members are: the minister (who is the chairman of the college), vice-ministers, under-secretary of the ministry, civil servants, other experts in the policy area the ministry is working in, political advisors. The minister approves the composition of the college as well as its working agenda. The main task of the advisory college (*kolegija*) is to provide consultations to the minister on various external and internal policy issues related to the functioning of the ministry and its subordinate institutions and agencies.

The *judicial* branch of power is represented by the Constitutional Court of the Republic of Lithuania, the Supreme Court of the Republic of Lithuania and the county and district courts. In order to facilitate hearings of economic cases, the Court of Arbitration was established in 1998, abolishing the economic courts. In addition, administrative courts were established by the Law on Administrative Courts, which came into force in May 1999.

The Constitutional Court is an independent court established by the Constitution and regulated by a separate Law on the Constitutional Court. The primary duty of the Constitutional Court is to ensure the supremacy of the Constitution in the legal system as well as constitutional legality by deciding whether the laws and other legal acts adopted by the *Seimas* are in conformity with the Constitution, and to determine whether the acts adopted by the President or the government correspond with the Constitution and laws.

The laws defining the framework in which the Lithuanian Civil Service functions are the Constitution, the Law on Public service (passed July 1999), the Law on Public administration, the Law on Government, the Law on Local self–government and the Law on Alignment of Public and Private Interests in the Public Service.⁵ As secondary legislation necessary for the implementation of the Law on Public Service is not ready at this time, the Labour Code is still applicable to civil servants in those areas where the two legal documents overlap. However it is important to emphasise that with the adoption of the Law on Public Service the creation of an integrated Civil Service system was launched which will clearly have an effect on politico–administrative interface in the country.

Counties

Lithuania is divided into 10 counties: de–concentrated central government units managed by county administration. The county governor is appointed by the Government and is directly accountable to the Prime Minister. The county governor may not hold any other elective or appointive office, be employed in public, non–government, or private business, commercial or other institutions or enterprises, nor can he receive any other salary except for his/her official salary or payment for academic/creative activities. The main tasks of the county administration include:

- 1) The implementation of the state social policies (social security, education, culture and health care), territorial planning, monument protection, land use and protection, as well as agriculture, environmental protection, etc., and the implementation of the state and inter–regional programmes;
- 2) The co–ordination of the activities of the ministries and other structural subdivisions of government institutions within the territory of the county (de–concentrated central government offices), as well as the co–ordination of the activities of executive institutions of local authorities in implementing regional programmes;

⁵ All laws, secondary legislation as well as other legal acts are available on the database of the Parliament of Lithuania (*Seimas*) at: <http://www.lrs.lt/n/eng/Dpaieska.html>

- 3) The establishment of the priorities in county development and designing the programmes to facilitate it.

The county council is formed under the county governor and includes *ex officio* the county governor who serves as a chairperson of the council, deputy county governor, and mayors of the municipalities located within the county. The council approves the development priorities of the county, as well as programmes of social and economic development and environmental protection, documents of the general planning of the territories, conditions for special planning of the territories and a draft budget of the county.

A position of government representative was established in counties. The duties of such a representative include supervision of the activities and decisions of local governments within the territory of the county in order to guarantee their compliance with policies and decisions of the central administration. The representative has a right to overrule the decisions of the local council and in case the municipality continues to violate the law, the representative may sue that authority.

The most recent example of such conflict is the decision of Kaunas City Council to postpone the implementation of educational reform based on the reasoning that upcoming parliamentary elections would result in the reform's cancellation. This decision clearly violated not only the Decree of the Government on the reform, but also the Law on Education. As a consequence, the decision of the council was overruled and the mayor was threatened with court proceedings on the basis that he refused to recognise the superiority of the governmental decisions and continued to violate the law.

The presence of government representatives has been broadly criticised by Lithuanian local government officials who insist that the creation of such a position limited the independence of local self-governments. However there are no plans to abolish this institution. Furthermore, the current situation in Kaunas County clearly illustrates how the institution of government representatives can guarantee national policy implementation continuity.

The Law on County Administration as well as other secondary legislative acts, rules and regulations approved by the Prime Minister, regulate the status and activities of counties.

Local self-government

Local self-government is organised on the basis of the administrative-territorial division of Lithuania. The municipal councils are elected by the local population for a period of three years on the basis of universal, equal and direct suffrage by secret ballot. Currently a territorial-administrative reform is in progress as a result of which the number of the local authorities will increase. 4 new municipal units were created in 1999 thus increasing the number of local governments to 60. Members of the 4 new councils were elected during the last local elections, which took place in March 2000.

The smallest administrative units of the municipality are neighbourhoods (*seniūnija*). Neither the existence nor the status of neighbourhoods is mentioned in the Constitution. Therefore neighbourhoods are regulated by special laws and other legislative acts. An administrator (*seniūnas*) who is appointed by the mayor and paid from the budget of his/her municipality governs the neighbourhood. Recently adopted amendments to the Law on Public service changed the status of the administrator of the *seniūnija* from a political appointee into a civil servant and created a legal basis for a small administrative support mechanism to be established under each *seniūnas*.

In conclusion, the Lithuanian administrative system is a mixed system. Although Local self–governing authorities and central government act relatively independently from each other, the central government, as mentioned above, is represented in Local self–governing authorities by means of an appointed representative.

Civil Service reform process – overview

The first laws regulating Lithuanian Government structure were passed in 1990, replacing Soviet era documents. Up to 1995, reforms in the Civil Service sector were quite scarce and poorly co–ordinated. Economic reforms and privatisation were the top priorities on the political agenda. Therefore all administrative reforms were viewed as part of one or another sectoral reform of the Lithuanian economy.

For example in 1993 the Slezevicius' Government programme development of Lithuanian state administration was addressed from a perspective of economic reforms. The Programme states: 'while reorganising Lithuanian economy, government institutions were reorganised several times as well. Such changes destabilised their activities, especially since continuous reduction of staff levels and lack of social guarantees for civil servants discouraged them from working efficiently and effectively. Besides that there were many problems in decision–making and control over their implementation.'"(*Seimas* decision on Government Programme, March 31, 1993)

In order to cope with these problems, the Slezevicius' Government decided to start a comprehensive government reform at all levels (government, ministries, departments and agencies)⁶, to attempt to improve the performance of the Government apparatus, especially by formulating and developing a legal framework for public service. As a result of the work of the Slezevicius' Government a new Law on Government, replacing the one adopted in 1990, was passed by the parliament in May 1994, and later on amended in April 1995. Besides that, the Law on Officials was prepared and passed by the parliament in April 1995 followed by other secondary legislation regulating Civil Service issues. A separate Ministry of Public Administration Reform and Local Authorities (MoPARLA) charged with the mission to co–ordinate public administration development and territorial reform in the country was established as well. The Stankevicius' Government of 1996 did not bring any significant changes to

6 Emphasising however the specific fields of price control, property Management, competition guarantees, and education.

the reform process. The government simply adopted the programme prepared by the previous Slezevicius' government making only some minor changes to it. Government reforms described in it were still viewed as part of economic reforms, giving priority to economic, social, and investment policies and leaving institutional development outside the focus of the government.

The programme of the Vagnorius Government in 1996 brought a significant shift in approach to administrative reforms. The programme devotes much more attention to the definition of functions within the administration, regulation of the lines of accountability among *Seimas*, Government and the President. Other objectives listed in the programme were the creation of motivational system for public servants with more balanced system of rewards and disciplinary actions as well as introduction of the notion of the responsibility of individual public servants for decisions taken and services provided. Additionally, the Vagnorius Government, for the first time expressed its concern with the quality of the Civil Service corps and committed itself to put in place anti-corruption and quality control mechanisms.

The Vagnorius Government further emphasised its commitment to comprehensive Civil Service reform outlining the development and rationalisation of central government functions and operating rules, fostering a service orientation, the development of transparency and democracy mechanisms, rationalisation of administrative and functional division as well as professionalisation and increased responsiveness and accountability of civil servants. The Ministry of Public administration reform and Local Authorities, prepared a comprehensive policy document "Public administration reform Strategy" where it outlined the following policy measures:

- Public administration functions' alignment with the requirements of the new political, economic and social conditions;
- Reorganisation of state administration institutions;
- Local government strengthening;
- Consolidation of Civil Service professional development and information systems;
- Improvement of legislation drafting processes;
- Rational use of fiscal public administration resources.⁷

MoPARLA in its report on Civil Service reform presented to *Seimas* in November 1998 stated that despite the development of a separate policy document on state administration, the government was slow in introducing it. This was also noted in the European Commission⁸ Opinion of 1997 and the Regular Reports on Progress

7 Once the assessment of the implementation of the strategy was carried out, these policy objectives were refined and formulated as follows: Legal framework development; Organisational changes; Development of public personnel Management; Improvement of relations among civil servants and citizens; Civil servants' professional development.

8 The European Commission started playing an increasingly important role in public administration development by promoting the importance of institution building and establishing administrative capacity criteria for the countries striving for the membership in the EU.

in 1998 and 1999. One of the reasons for this failure was the fact that most political decisions were made without analysing their impact on the budget and the capacity of the government. Such an ad–hoc approach is especially apparent in poorly co–ordinated central administration reorganisation efforts during the 1995/1996 period. Another serious hindrance to the reform was the lack of political support. Although the government declared public administration development as one of its policy priorities, when it came to actual implementation, goodwill and budgetary resources tended to diminish.

Prime Ministers Vagnorius and Kubilius emphasised the importance of public administration reforms starting from the establishment of administrative courts and ending with an adoption of a comprehensive Law on Public service and Law on Public administration. As a part of the reform process these laws were passed in July 1999, while the system of administrative courts started functioning as of May 1999. The Lithuanian Institute of Public administration was established by the Vagnorius Government with the purpose of co–ordinating professional development of civil servants. The introduction of strategic planning principles in state institutions was a policy priority of the Kubilius Government.

Furthermore, Prime Minister Kubilius initiated the creation of two governmental commissions to audit and rationalise government administration and to reduce its intervention in the market activities via increased de–regulation of the private sector. Following the American example, one of them was titled the Sunset Commission and charged with the task to reduce the bureaucratic apparatus and to find ways to save budgetary resources spent on administrative support of the government. The other one, the Sunrise Commission was created to develop various measures for the creation of the more favourable conditions for private business development. The assessment of the work of the two commissions by the members of parliament shows that approximately 60–70% of their suggestions were implemented.

3. History, Traditional Positions of Civil Service, *vis-à-vis* Politics

The purpose of this section is to review the development, growth and structure of national Civil Service and to discuss Lithuanian politico–administrative relations in a historical context. Statistical data and educational profile of the modern Lithuanian Civil Service corps will be presented as well.

Overview of the historical development of national Civil Service

The beginnings of the Lithuanian national Civil Service could be detected in the self–government institutions of the Lithuanian State, which emerged in the 13th century. In the 14th century the first Lithuanian towns gained Magdeburg rights and consequently the development of the towns' government (*magistratas*) as a self–governing unit of the state began. Mayors, appointed by the sovereign, managed all administrative matters.

Box 1

Prime Ministers of the Republic of Lithuania 1990 – 2000

Prime Minister Ms. Kazimiera Danutė PRUNSKIENĖ Appointed by the Supreme Council on March 17, 1990. Relieved of her duties by the Supreme Council on January 10, 1991.

Prime Minister Mr. Albertas ŠIMĖNAS
Appointed by the Supreme Council on January 10, 1991.
Relieved of his duties by the Supreme Council on January 13, 1991.

Prime Minister Mr. Gediminas VAGNORIUS (Lithuanian Conservatives)
Appointed by the Supreme Council on January 13, 1991.
Relieved of his duties by the Supreme Council on July 21, 1992.

Prime Minister Mr. Aleksandras Algirdas ABIŠALA
Appointed by the Supreme Council on July 21, 1992.
Relieved of his duties by the Seimas on November 26, 1992.

Prime Minister Mr. Bronislovas LUBYS (Lithuanian Democratic Labour Party)
Appointed by Seimas Decree on December 12, 1992.
Relieved of his duties by the Seimas Decree on March 10, 1993.

Prime Minister Mr. Adolfas ŠLEŽEVIČIUS (Lithuanian Democratic Labour Party)
Appointed by Seimas Decree on March 10, 1993.
Relieved of his duties by the Seimas Decree on February 8, 1996.

Prime Minister Mr. Laurynas Mindaugas STANKEVIČIUS (Lithuanian Democratic Labour Party)
Appointed by Seimas Decree on February 23, 1996.
Relieved of his duties by the Seimas Decree on November 19, 1996.

Prime Minister Mr. Gediminas VAGNORIUS (Lithuanian Conservatives)
Appointed by Seimas Decree on December 4, 1996.
Relieved of his duties by the Seimas Decree on May 3, 1999.

Prime Minister Mr. Rolandas PAKSAS (Lithuanian Conservatives, currently with Lithuanian Liberals)
Appointed by Seimas Decree on June 1, 1999.
Relieved of his duties by the Seimas Decree on October 27, 1999.

Prime Minister **Mr. Andrius Kubilius** appointed by Seimas on November 3, 1999.

The country at the time was governed by a monarch titled the Grand Duke of Lithuania. The first 'bureaucrats' in the administration of the Grand Dukes, the clerks (*raštininkai*), appeared in the 13th –14th century and were responsible for the writing and archiving of the state documents as well as of the international correspondence. The institution of the clerk as a servant developed together with the state. It is interesting that two different types of 'bureaucrats' formed. One was the **state** clerk, a clerk working in the state administrative body – the Chancellery of the State (Chancellery

as an administrative institution was first mentioned at the end of the 14th century). The second type included **personal** clerks of the Grand Duke, the institution that existed until the 18th century. Despite the differences in the accountability of the two groups, both state clerks and personal clerks were perceived as personal servants of the ruler (Raadschelders in Bekke, Toonen and Perry, 1996).

Political, economic, and social development of the state influenced the formation of the more sophisticated governmental decision making institutions. In the beginning of the 15th century the institution of Marshal⁹ (*maršalka*), a personal servant to the ruler was created under the rule of Vytautas the Great. The Marshal was the first “minister” in the state and closest person to the Duke. A number of lower level positions of marshals were established in order to cover the multitude of the more narrow fields of state responsibility (Lithuanian Encyclopaedia *Lietuvių enciklopedija*, 1961).

At the same time the institution of the Chancellor¹⁰ (*kancleris*) was established. Although at the time of its creation this institution was perceived as yet another component of the Grand Duke’s personal service, throughout time it transformed into a semi–independent state service. Initially, the Chancellor was the head of the state chancellery and the keeper of the Grand Seal. The most important obligations of the chancellor were to supervise the enforcement of the decisions of the Grand Duke (Lithuanian Encyclopaedia *Lietuvių enciklopedija*, 1961).

With time, the Chancellor gained more control over the decisions of the Grand Duke and acquired a right to act relatively independently in the country’s foreign policy as well as in the judicial area. The institution of the Chancellor remained the most important state office until the creation of the Commonwealth of Lithuania and Poland (*Rzeczpospolita Polska–Litewska*) in 1529, when a joint parliamentary monarchy was established. After the establishment of the Commonwealth, the Chancellor was stripped of his independence and his importance in the state decision–making process was reduced. However, the preservation of the office allowed the maintenance of a certain degree of independence for the territory of the Lithuanian Grand Duchy, as the jurisdiction of the Chancellor covered almost all spheres of the state government, maintained a Grand Seal, and created an opportunity for the Lithuanian territory to maintain a separate budget and army (Lithuanian Encyclopaedia *Lietuvių enciklopedija*, 1961).

After the third division of the Commonwealth of Lithuania and Poland in 1795, the Russian Empire occupied the better part of the present Lithuania’s territory and centralisation around Moscow began. Russia introduced positions of the governor (*gubernatorius*) to rule the territory of Lithuania. A certain degree of self–government remained, but it was highly influenced by Russian administrative tradition. In 1892

9 The institution of Marshal could be compared to that of the modern Prime Minister.

10 If compared to the modern government system in Lithuania, the institution of the Chancellor corresponds to that of the present–days Minister of Interior.

Russian Tsar Aleksander III ratified the new regulations of the towns that limited the rights of the towns' government. These regulations influenced the institution of the Civil Service as well, as the head of the town, his assistants and members of the board fell into the category of civil servants (Lithuanian Encyclopaedia *Lietuviu enciklopedija*, 1961). Despite the negative effects of this occupation, under the rule of the Russian tsars, Lithuanian administrators' perception of their role transformed from that of the mere servants of the individual ruler to the servants of the state as a whole in Raadschelder's description (Raadschelder in Bekke, Toonen and Perry, 1996).

Public administration in 1918 – 1940

The second period of the Civil Service development in the country began when Lithuania proclaimed sovereignty in 1918. The first laws of the independent Lithuanian Republic were devoted to re-organisation of the existing system of Civil Service and reflected the lack of understanding of the nature of such an institution. Nevertheless, they introduced the notion of an "official" (*valdininkas*). All public employees, as well as technical staff such as the couriers and guards, were considered to be officials and were divided into 20 categories based on the nature of their responsibilities. The law on the salaries of the officials of the central and local government stipulated that the Prime Minister and other Minister and judges were to be treated as the officials. The decree of the government in 1920 showed that the servants of the local government institutions were included in the same category. As of 1922 the concept of the "state servant" (*valstybes tarnautojas*) appeared in the legal acts (Lithuanian Encyclopaedia *Lietuviu enciklopedija*, 1961).

The creation of the sovereign state and the efforts to develop a national Civil Service system enabled the development of politico-administrative relations. The Constitution of Lithuania introduced the notion of the division of powers (legislative, executive, and judicial) in the state. The first Temporary Constitution adopted in November 1918 stipulated that two institutions – the Presidium of the State Council and the Cabinet of Ministers (*Valstybės Tarybos Prezidiumas ir Ministrų Kabinetas*) – constitute the executive branch of the government. The second Temporary Constitution (passed in April 1919) established the institution of the President, who took over the functions of the executive government. Control of the government became one of the main functions of the President of the State. (Lithuanian Encyclopaedia *Lietuviu enciklopedija*, 1961).

In Summer 1918, the Lithuanian Council was transformed into the State Council which acted as the executive branch of the government in 1917–1918. The Presidium of the State Council was a collegial institution consisting of three persons and acted as the Head of the State (Sapoka, 1936).

At the end of 1926, the Lithuanian Nationalist Party (Tautininkø partija) organised an overthrow of the government. As a result, in 1927 Seimas was disbanded. When in 1928 the Lithuanian Nationalist party took power, a new Constitution was passed increasing the powers of the executive government. The Constitution extended

the rights and influence of the President who was awarded the right to appoint the Prime Minister and other ministers suggested by him/her. The President could also dismiss ministers as well as the whole cabinet of their duties, pass laws and approve the national budget when the *Seimas* was not in session. The *Seimas* also lost its right to impeach the President. The term of the President's Office was extended to seven years and the order of elections was changed. Based on these new rules the President was elected by a limited number of voters, who were elected to be the representatives themselves under a separate elections law.

Due to these changes, very few laws on Civil Service were passed after 1930. Those that were passed attributed several tasks of a purely political nature for the civil servants such as the selection of special representatives from the nation for the presidential elections as well as suggestions of the candidates for the parliamentary (*Seimas*) elections. The rule of the nationalist party was overthrown by the Soviet annexation and lasted until 1940 (Lithuanian Encyclopaedia *Lietuviu enciklopedija*, 1961).

Soviet rule

Further development of national politico–administrative relations and national Civil Service was highly influenced by the annexation of Lithuania by the Soviet Union. A Semi–independent government functioned in the country in the beginning of World War II under the occupation of the Nazi Germany. However, not much self–governance was allowed by the Nazis and after several months this government was disbanded, therefore this period did not make any impact of significance on the development of the national Civil Service.

After World War II the central supreme power was securely concentrated in the hands of the Central Committee of the Soviet Union Communist Party and the General Secretary was the actual head of the state. The Supreme Council – formed of the representatives of all 15 Soviet Republics – played the role of the parliament and had legislative power. The Cabinet of Ministers and the Prime Minister represented executive power.

Lithuania, as a Soviet republic, had the same structure of government as central USSR administration. The system was highly centralised and politicised. The main figure in the Soviet Republic of Lithuania was the Secretary General of the Lithuanian Communist Party as were the heads of the executive, the legislative and the judicial branches. Party system and administration were intertwined and party politics was the official politics of the state, while party functionaries carried out administrative functions. The problems of political culture and administrative tradition will be discussed in greater detail in section 6 of this chapter.

Restoration of Independent state: 1990 – 2000

Lithuania restored its independence in 1990. The end of Soviet rule in 1991 opened the way for the establishment of the fundamental institutions of democratic govern-

ment. This entailed a major reform of the whole state government apparatus as well as the transition to a liberal democracy and a free market economy. The Constitution, the fundamental laws on central, territorial and municipal government passed by Lithuanian Parliament formed the legal framework where Lithuanian public administration system could function. The dynamics of politico-administrative relations in the national Civil Service began to transform.

The first legislative acts setting the division between politics and administration in Lithuanian governance institutions were passed only in 1995. The first one was the Law on Officials, recently replaced by a more comprehensive Law on Public service. The adoption and enforcement of this legislation as well as the general public administration reform strategy indicate the transition from the concept of civil servants as state servants to the more advanced understanding of civil servants as public servants with current effort to make Civil Service into a professional service. The legal framework for the development of the politico-administrative interface will be discussed in detail in the following sections. Here we would like to focus on the profile of Lithuanian Civil Service corps.

Box 2

Summary of the history of Lithuanian Civil Service development
13th – 20th centuries.

Grand Lithuanian Duchy (Feudal state)	1253* - 1529	Civil servant as a personal servant
The Commonwealth of Lithuania and Poland (<i>Rzeczpospolita Polska-Litewska</i>)	1529 - 1795	Civil servant as a personal servant
Lithuania under Russian Empire	1795 – 1918	Civil servant as a state servant
Lithuanian Republic	1918 – 1940	Civil servant as state servant with some tendencies towards the development of civil service as public service.
Soviet rule	1940 – 1989	Civil servant as a state servant
Lithuanian Republic	1990 – to present	Civil servant as a public servant with professionalisation tendencies
* Although Lithuanian lands were unified under one ruler by 1230, the first King of Lithuania Mindaugas was crowned in 1253 (the date varies) thus for the purposes of this review of civil service development, the latter date is considered as a starting point.		(Raadschelder in Bekke, Toonen and Perry, 1996).

Current Data on Civil Service

No precise statistics on officials were kept in Lithuania up to 1997. Lithuanian Statistical Yearbook (published in 1993) provides numerical data on servants working in state organisations and enterprises presented in the Figure 1.¹¹

Figure 1.
Statistical data on civil servants as provided
by the Department of Statistics.

Year	1990	1991	1992	1993
Number of state employees	1 440 200	1 332 900	1 088 600	814,8

The Civil Service Register was established in 1995 for the centralised collection of Civil Service data and has been managed since 1996 by the Civil Service Department of the Ministry of Public administration Reforms and Local Authorities. The register contains data on the number of public servants, vacancies and filled positions, qualification improvement of civil servants, salaries, etc.

Figure 2.
Statistical data on civil servants as provided by the Civil Service Register. Updated
in April 2000

	July 1997	July 1998	January 1999	July 1999	August 1999
Central administration	10 259	10 059	10 087	10 145	
Regional (county) administration	4 070	2 860	2 617	3 003	
Local government	4 891	4 937	5 450	5 423	
Total	19 220	17 856	18 154	18 571	258 000*

* this number includes teachers, policemen, etc.

Education and training in Civil Service system

Though there were several disciplines of Public administration in schools of high education during the period between the two World Wars in Lithuania, not much attention was given to education and training of civil servants. For this discussion the development of the current training system for Lithuanian Civil Service, which began in 1992 – 1994 is more relevant.

Two levels of education in public administration can be outlined. The first is the academic level covering the various university programmes. Several universities in

¹¹ Data presented here includes all those employed in state organisations and state owned enterprises, which is the main reason behind such high numbers of state employees. Reorganisation of the economy and privatisation can be accounted for the reduction in these numbers. Unfortunately the breakdown of these numbers, which would provide a more useful basis for the comparison were unavailable at a time of this study.

Lithuania offer Public administration and Management courses included in the general curricula: Vilnius University, Vytautas Magnus University, Lithuanian Law Academy, Kaunas University of Technology, Kaunas Medical Academy, Klaipėda University. Such courses however are rather new and are oriented towards high school graduates and not those currently employed in the government. Courses at Kaunas University of Technology on the other hand do include quite a few public servants, but they are employed at a local level, thus outside the focus of this study (Jasaitis in Jucevicius, 1998, Lazareviciute and Chlivickas in Jabes, 1999, Domarkas in Verheijen, 2000).

Figure 3.
Educational profile of the civil servants

Category	Total numbers		
	Total	Political appointees	Career Civil Servants
Total number of civil servants	19 492 (100%)	820 (4,2 %)	18 672 (95,8%)
Average age	42,9	45,7	42,7
Average work experience in years	19,9	22,4	19,7
Number of pensioners employed in the civil service	442 (2,3%)	27 (3,3%)	415 (2,2%)
Number of civil servants with working knowledge of English	9 331	339	8 992
Number of civil servants with working knowledge of German	5 992	236	5 756
Number of civil servants with working knowledge of French	1 987	75	1 912
Number of civil servants with university diploma	13 713 (70,4%)	571 (69,6%)	13 142 (70,4%)
Number of civil servants with specialised professional / technical education diploma	4 384 (22,5%)	175 (21,3%)	4 209 (22,5%)
Number of civil servants with secondary education	763 (3,9%)	24 (2,9%)	739 (4%)
Number of civil servants who did not identify their level of education	628 (3,2%)	50 (6,1%)	578 (3,1%)
Number of civil servants with post-graduate degree (doctoral and higher)	244 (1,3%)	32 (3,9%)	212 (1,1%)

Figure 3 demonstrates that 70% of public officials hold university diplomas and the breakdown between the political appointees and civil servants does not indicate any significant differences in their level of education. The analysis of the educational profile of the civil servants and political appointees in Lithuanian central adminis-

12 This is based on the unpublished study of the Public service Register data, carried out by Viktoras Gasiunas, a student in political science, Vilnius University, Institute of International Relation and Political Science.

tration¹² shows that the differences in the type of education received both by the political appointees, top civil servants and lower level bureaucrats are insignificant. In some ministries the degree of specialisation is clearly much higher both among the political and administrative staff¹³, while in others (the ministry of Education, the Ministry of Foreign Affairs, the Ministry of Social Affairs) the diversity in education of the staff is much greater. However, this should be attributed more to the specifics and broader (or narrower) scope of policies to be administered, rather than to the differences between the two groups of public officials. Public service Register data as of 1998 demonstrated that the majority of both political and administrative staff had education in predominantly technical fields.

It is important to note here that with the adoption of the Law on Public service and subsequent inclusion of those working in education, health care, law enforcement and other areas under the umbrella of public service, the educational profile of the public service has changed.

Training centres represent the second level of education and training for civil servants. There are four main training centres in Lithuania which provide public administration/Management training to central and local government officials. There are also specialised centres whose work of which is concentrated on one or another field of training. They include the Public Servants Language Training Centre, ministerial training centres, as well as other private and non–governmental institutions providing educational and consulting services to individual public servants as well as to governance institutions, etc. (Jasaitis in Jucevicius, 1998, Lazareviciute and Chlivickas in Jabes, 1999, Domarkas in Verheijen, 2000)

Up to the last year there were no unified and well–developed policy and programmes in public servants’ training, especially since the Law on Officials which was passed in 1995 did not go beyond the statement that public officials must participate in professional development activities. However, with the adoption of the Law on Public service, professional development for public officials gained more attention and subsequently more funding. The Lithuanian Public administration Institute¹⁴, charged with the task to co–ordinate public administration training in the country was founded in spring 1999, and has developed a strategy and unified requirements for the basic and in–service training system.

The programmes for the initial or basic training for public servants are uniform across the board and are a pre–condition for successful completion of the internship and entering Civil Service corps. However this rule is only applicable to the newly recruited civil servants and those currently holding positions within the administration

13 Such as the Ministry of Transportation, the Ministry of Justice, or the Ministry of Agriculture.

14 LIPA is accountable to the Minister of Public administration reform and Local Authorities and was established on the basis of the Public administration Training Centre under MoPARLA.

have automatically acquired civil servants status and will be subjected to continuous training only.

4. Formal Relations, Constitutional and Legal norms, Guiding Relations between Elected Politicians and Appointed Officials

Legal framework for the relations among politicians and practitioners

Lithuania, like all the other CEE countries, has inherited the Soviet-type attitude to the Civil Service. The civil servants were perceived as ideologically and politically engaged and they were expected to be unconditional servants of the regime.

Therefore, the starting point of the development of the politico – administrative interface can be described as absolutely dominated by the politicians or, to be more precise, official ideology. Due to this reason, it took some years before real attention was given to the issues of Civil Service.

As in most constitutions, the division between the powers and responsibilities of politicians and administration is not clearly defined nor mentioned in the Lithuanian Constitution. According to the Constitution, public officials are only subject to duties and their rights are not enshrined in this basic law. Article 13 foresees the right for *Seimas* controllers¹⁵ to examine complaints of citizens concerning the abuse of powers by, and bureaucracy of, state and local government officers. However, the public officials have a right to claim their rights just as all the people in the sense that “no one may limit or restrict the sovereignty of the People” (article 3).

The first law dealing exceptionally with the public service was introduced in 1995 (the Law of Public Officials of the Republic of Lithuania). It defined the public service, its entry procedures, the rights, obligations, and responsibilities of the public officials, and provided definitions of political appointees and holders of administrative offices. It has been abolished by now because of the major deficiencies it contained. These included an insufficiently elaborated distinction between the political appointees and civil servants, lack of motivation, rules and social guarantees for both groups that would encourage them to respect the politico-administrative division. Though the Law of Public Officials was a huge step forward, it had to be replaced as it could no longer deal with the daily reality. With the shift in laws one can also observe a clear shift in terms used in these judicial texts: the term “public official” has been changed to “public servant”, which implies less officialdom, less bureaucracy, and more service to the people.

Law on Public service

This law was introduced in July 1999 and it is an essential legal act regulating rights and responsibilities of the public service. It provides a distinction between two kinds

¹⁵ An equivalent and more understandable term for this office is an ombudsman.

of public servants – civil servants and public employees – which are then further subdivided into other categories (see fig. 3). Nevertheless, there is some confusion in these terms and the essential definitions taken from this article can be found in the appendix.

Figure 4
Grouping of public servants

<p>Public servants (In April 2000 the register showed a total of 258,000 public servants)</p>			
<p>Civil servants (including statutory civil servants)</p>		<p>Public employees</p>	
<p>career civil servants</p> <p>civil servants of political (personal) confidence</p>	<p>public managers</p> <p>acting civil servants</p>	<p>public managers</p> <p>public employees providing public services (including statutory public employees)</p>	<p>Public employees performing economic and technical functions</p>

The law establishes five *main principles of public service*, those being:

- supremacy of law (nobody can force a public servant to take action or decisions exceeding his mandate nor alter the status of public servant by any other means than by law);
- equality of rights (equal rights for all the citizens to join the public service);
- political neutrality (duty of impartial service for the people, ban from the participation in political activities during the service);
- transparency (any service action taken by the public official is public and open to acquaintance and evaluation);
- career (admission criteria to the public service is based on competition, professionalism, skills and merits of the candidates). It is important to note that admission to the public servants of political (personal) trust is without competition, but by the choice of state politicians (article 15).

The ban to strike, which used to be universal in the Law on Public Officials has been altered and has an effect only on heads of the departments or higher officials as well as on those public servants who are banned from taking such actions by law (article 21, §8). One should also note an increasing emphasis on professionalism and education.

As in the Law on Public Officials, the public servants in political positions lose the status of public servant when the term of office of the politician by whom the political appointee was recruited ends. However, those who used to be career public

servants prior to taking a political position have a right to return to their former duties, or, in case this is not possible, to another office of the same level and category.

A public servant has the right to decline to execute the orders received from his or her supervisors. In this case, the public servant has to inform the head of his service of the reasons for his/her refusal and to execute the instructions only in case this is demanded in writing. In this case, it is the superior who is responsible for the action taken. However, this situation is used not only in case of politico-administrative conflict, but also for the arguments inside the administration. Actually, the second case is the one for which the law is originally intended.

Management of the Public service. The politicians have quite a significant influence on general composition of public service. The general Management of the Law is conducted by the government, the minister responsible for the public service¹⁶ and the head of institution executing the functions of Management of public service. The government, among other things, plans the finance for the salaries of public service in the draft budget, establishes ranks and categories of public servants and order of public service training. The minister responsible for the public service prepares and presents draft legal acts regarding the public services to the Government, organises and manages the control of the legislative environment of public services, etc.

Box 3

Institutions responsible for public personnel Management

At a central government level:

- Government;
- Minister, responsible for the public service;
- The head of the institution responsible for the Management of public service;
- The Government Chancellor;
- The Government Secretary and secretaries of ministries¹⁷.

At the municipal level:

- Council;
- Mayor/Executive Board (if it exists);
- City manager, municipal controller.

16 At the moment, this means the Minister of Public administration Reforms and Local Government Affairs. The Ministry is to be reorganised as a part of Ministry of Interior.

17 In the institutions that are not responsible to the Government, it is their leaders who organise the personnel Management through the Personnel Service. However, in Constitutional and Supreme Courts it is managed by the chancellors and in President's Office and Chancellery of the Seimas it is governed by the heads of chancelleries.

Officially, a city council can hardly influence the work of municipal public servants. The law gives them the right to assign the money for paying salaries in the budget and to establish training priorities. The mayor or executive board annually fixes a number of public servants in the municipality, approves the list of posts and establishes rules of assigning bounties for excellent results of the service. The original version of the law, which has been modified in August 2000, foresaw the right of the municipal executive to approve additional questions for the entrance exams to the public (municipal) service and to approve the composition and regulations of the commission of the service evaluation.

These rather limited capacities of the political layer and rather modest influence over the public service (except on its general composition), especially at the municipal level, show an attempt to make a clear division between politics and administration in Lithuania. It is possible to admit that at the municipal level, the politicians oppose to losing control over administration less actively because, in a small community, they can easily influence its decisions in many alternative ways. Therefore, actually there is no big difference in the nature of politico–administrative relations at the central and local government levels. The main reason making a difference is the difference in responsibilities and strength between central and local bureaucracy.

Another point necessary to mention is that the practice differs from theory, in this case from the legal background. As Guy Peters observes, power may be exercised so quietly and indeed so efficiently, “that it will be difficult to discern, who actually wields the power” (Peters, 1988). Another side of the same observation is that the current legal framework of the functioning of the Civil Service is an outcome of experience of foreign countries and process of European integration rather than a system built on domestic demand and experience. In contrast to the stable political systems of long duration, where the Civil Service reflects the society and changes very slowly, in Central and Eastern Europe, change has come very quickly. This often results in a significant gap between legal framework and administrative practices.

Law on Public administration

The Law on Public administration introduced in June 1999 is of a rather technical–administrative nature and has no specific impact on politico–administrative relations. However, it has an important impact on quality of public administration. Its main goal is to establish legal conditions to implement the principle of the Con-

Box 4

System of civil servants' classification and entry requirements.

Classification and Recruitment of Civil Servants

Article 7. Categories and Grades of the Positions in the Civil Service

1. The positions in the Civil Service shall be grouped into 4 categories:
 - 1) Category "A" shall comprise positions where a master's (university) degree or an equivalent degree is obligatory;
 - 2) Category "B" shall comprise positions where education not lower than college (higher non-university) is obligatory;
 - 3) Category "C" shall comprise positions where education not lower than secondary and an appropriate professional qualification is obligatory;
 - 4) Category "D" shall comprise positions where secondary education is not obligatory.
2. The positions of civil servants shall be divided into 30 grades. They shall include all categories where grade 1 is the lowest within category "D", and grade 30 is the highest within category "A". The grades shall be established on the basis of Methodology of Job Description and Evaluation.
3. Assignment of positions to a certain category and grade shall be made by:
 - 1) the law – for the positions of civil servants of political (personal) confidence at the institutions and agencies not accountable to the Government. These positions shall be assigned to category "A";
 - 2) the Government – for all other positions.
4. In those cases where, owing to some specific characteristics of a position, it is impossible to make an accurate assessment of all the factors specified in the Methodology of Job Description and Evaluation during assignment of positions to grades, a lower or a higher grade may be established which, however, may differ by not more than two grades.

When instituting new positions, their grades shall be established according to the Methodology of Job Description and Evaluation. The grade of the position of the public manager of an institution or an agency shall be established taking into account the grade of an analogous position and shall be defined in the foundation act of an institution or an agency, or in some other legal act.

Article 9. Requirements for the Recruitment to the Civil Service

1. Persons entering the Civil Service shall be subject to the following requirements:
 - 1) Lithuanian citizenship and a command of the Lithuanian language. These requirements shall be waived in the cases referred to in paragraphs 4 and 5 of this Article;
 - 2) the age limit: the minimum shall be 18 years, and the maximum shall be the retirement age as set forth in the Law on State Social Insurance Pensions. The requirement with regard to the retirement age shall be waived for civil servants of political (personal) confidence and for acting civil servants, as well as for public employees, performing economic or technical functions;
 - 3) education necessary for discharging the duties of a public servant of an appropriate category;
 - 4) completion of the primary military service pursuant to the Law on the Military Service. This requirement shall be waived for persons subject to conscription who have been excused from it in the cases and manner stipulated by the law, as well as for persons for whom it has been postponed or replaced by an alternative service.

2. Completion of the initial training programme for civil servants shall be a precondition for applicants seeking appointment by public competition to the positions of civil servants of the grade which is higher than the lowest grade of a particular category.
3. Completion of an appropriate training programme of the Lithuanian Institute of Public administration or an equivalent programme shall be a precondition for applicants seeking appointment to the positions of the highest grades of civil servants. Positions subject to this requirement shall be determined by the Government.
4. The Republic of Lithuania citizenship requirement shall be waived for public employees, who are residents of the Republic of Lithuania, as well as to nationals of the following states:
 - 1) Member States of the European Union or states who are parties to the Europe (Association) Agreements with the European Communities and their Member States, provided they do not apply the nationality requirement to citizens of the Republic of Lithuania in analogous cases;
 - 2) Member States of the North Atlantic Treaty Organisation (NATO), provided they do not apply the nationality requirement to citizens of the Republic of Lithuania in analogous cases.
5. The Lithuanian language proficiency requirement shall be waived for public employees performing economic or technical functions.
6. The following persons shall not be eligible for the Civil Service:
 - 1) those convicted of major crimes or crimes against the Civil Service;
 - 2) those who, pursuant to this Law, have been dismissed from the Civil Service for misconduct in office unless 10 years have elapsed since the dismissal;
 - 3) the former staff officers of the USSR State Security Committee (NKVD, NKGB, MGB, KGB), pursuant to the stipulations of the Law on the Assessment of the USSR State Security Committee (NKVD, NKGB, MGB, KGB) and the Current Activities of the Staff Officers of this Organisation.
7. Restrictions referred to in paragraph 6(1) and 6(2) of this Article shall be waived when recruiting public employees.

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stitution that public institutions serve the people as well as to raise effectiveness and capabilities of these institutions. It describes public administration, its basic terms, administrative procedures and obligations as well as conditions for inter-assistance between public institutions.

The Law establishes six main principles of democratic state administration:

- the supremacy of the law (the competence of subjects of public administration has to be set by this law and all administrative acts dealing with implementation of rights and obligations of persons have to be based on laws);
- impartiality;
- proportionality (the scale and stringency of an administrative decision has to be proportional to the goal of administration);
- prohibition of breach of power (prohibition to be engaged in activities without having authorisation for it and to take decision in the area of own competence while pursuing other objectives than defined by law);
- service co-operation (multilateral assistance between the subjects of public administration);
- subsidiarity

The Law also establishes the requirement for monitoring of public administration in all the public administration institutions. The monitoring is organised by the Government or an authorised institution.

However, it would be naive and erratic to expect a complete division of political and administrative layers in the state administration. As Hojnacki points out, civil servants function in a politically charged atmosphere. Despite the legal protection, “it is virtually impossible to be a successful high-level civil servant in any society without being political in some way” (Hojnacki in Bekke, Perry and Toonen, 1998).

In sum, it is essential to say that the public service in Lithuania is seen as a regime responsive agent with an army of professional career officials. In other words, in theory it fits into the definition of Weber’s bureaucracy.

5. Political Culture and Attitudes

Historical review of the development of a Lithuanian Civil Service shows that long periods of occupation prevented the development of a deeper administrative tradition. The period of independence before the WWII was too short to conduct a significant reform of the public administration and to create a truly effective and professional Civil Service. During both periods of independence (1918–1940, and the current one starting in 1990) the governments as well as the society in general focused on such issues as the restitution of the borders, maintenance of independence and resistance to the external attempts to occupy Lithuanian territory once again, as well as economic development, etc.. Within the realm of public administration the main task was to establish democratic principles in state government, while the more practical issues

of public service functioning and development as well as the change in attitudes of the public towards its servants were not considered to be as urgent.

Discussing the political culture in post–communist countries one must first identify what the term itself encompasses and how it may be applied to the Soviet regime. In a nutshell, the political culture defines specific political orientations – the views on the political system as a whole as well as its separate elements, and the perception of ones role in the particular system. In Lithuanian society under Soviet rule, varying political orientations could hardly exist, since the nature of the system itself prevented the appearance of independent opinion (Degutis, 1995).

Analysing the developments in political culture during the first five years of the restored independence, Degutis writes,

The characteristic feature of the political system of that period is the merger of the political objects. [...] The society at the time did not have autonomous (independent) administrative and political objects. Any position towards a political object (such as the newspaper, political party or trade union in a democratic society), was understood as a position towards the administrative object and *vice versa*. All means of influence on the state government simultaneously were the tools used by that government as well. Therefore it is impossible to discuss the attitudes towards individual objects within the political system since the objects themselves were non–existent (Degutis, 1995).

In the monolithic political system of a Soviet–ruled Lithuania, political activity was dangerous. However, ignoring the system was just as dangerous. This led to the emergence of a dual social mentality and dual political culture where a position declared in public was entirely different from the actual position that was kept private. Apparent reality that public action had no impact on the system further reinforced such dualism and loss of responsibility.

As a consequence the basis for the reforms of the last decade was an unpleasant heritage of dual mentality, passiveness, suspiciousness, distorted forms of activity, a crisis of social normative values and low levels of political education (Degutis, 1995). Taking into account the often–interrupted course of social development as well as a lack of public administration tradition, it is not surprising that the main factor which formed the relations among politicians and public servants was the experience of Soviet rule, which left the country with a deep rift between citizens, public servants, and politicians.

If many of the politicians elected to the Supreme Council and later to the parliament were considered to be the representatives of the nation, and the fact that the elections were open and democratic increased the trust of the citizens in political institutions (at least in the beginning of the transition processes), the officials continued to be

18 Public service Registry shows an estimated average age of the public servants in April 2000 was over 42.7yrs with the average duration of employment in public service of approximately 20yrs. See attachment II, Figure 2.

perceived as a 'leftover' tool of the former authoritarian government and therefore untrustworthy. Moreover, public administration positions lacked prestige and financial resources necessary to attract the more skilled, active and younger people.¹⁸ In the highly centralised and politicised soviet system a membership in the party was considered to be a pre-condition to receive a position in the administration. Therefore the fact that the majority of the administrative staff maintained their positions even after the Communist Party was ousted, further diminished public trust.

Although the first steps in the reform path were taken immediately after the declaration of independence¹⁹, the overview of the public administration reform shows that a positive impact on the development of the Civil Service became apparent only in 1995, with the adoption of the Law on Officials, the establishment of the Ministry of Public Administration Reform and Local Authorities, and the Register of Public Officials.

Degutis groups the reforms with significant impact on the development of the political culture in the country into three categories (a) institutional social reforms (creation of the new institutions and reorganisation of the existing ones), (b) economic reforms and their effects, such as the re-distribution of resources, decrease in the level of life, etc., and finally, (c) changes in cultural orientations and values (Degutis, 1995).

Clearly, economic development was the top priority for the governments. However the adoption of new legislation on privatisation, land use and restitution of the property nationalised by the Soviet government, market control, etc., required institutional support, thus a number of new public agencies, both central and local were created. Lacking the understanding of the importance of rational administration and a strategic approach to institutional building, many of the actions in this area were quite haphazard and badly planned. Such developments had a double effect on the position of the public towards the government.

To Lithuanian politicians and the general public, mainly educated in legalistic tradition, the managerial part of the reforms was of practically no interest. The creation of new implementing institutions was often interpreted as an unnecessary increase in the layers of bureaucracy in order to provide the top officials with a comfortable and safe buffer zone. The growing number of public officials along with difficulties of economic transition and crisis in the banking sector further deteriorated

19 One of the first changes in public administration was setting of the framework for a more open and transparent government. Lithuanian Constitution adopted in 1992, Chapter 2, Article 33 sets out: "Citizens shall have the right to participate in the government of their State both directly and through their freely elected representatives, and shall have the equal opportunity to serve in a State office of the Republic of Lithuania. Each citizen shall be guaranteed the right to criticise the work of State institutions and their officers, and to appeal against their decisions. It shall be prohibited to persecute people for criticism. Citizens shall be guaranteed the right to petition; the procedure for implementing this right shall be established by law."

the reputation of public administration. However, at the same time the government appeared to be unable to cope with the socio–economic problems as well as unable to control its own actors (members of the political system). Growth of the apparatus was also a problem in a society which, due to its inherited reliance on the system and a ‘strong centre’, still expected the government to solve all the problems and to guarantee security for the citizens. A survey, conducted in 1994–1995 shows that only 11% of the respondents believed that the government was serving the general public, while over 75% of the respondents believed that the state was being governed so as to protect the interests of several influential groups.²⁰ As a consequence political participation and interest of the citizens decreased as well (Degutis, 1995).

The general elections in 1996 and the presidential elections of 1997 brought a certain increase in the public participation along with the hopes that the new government with its new programme will serve the public better. Unfortunately, the slow pace of economic development, lack of continuity in the reform efforts due to changes of governments²¹, as well as the fact that many of the reform oriented decisions were unpopular with the general public or with the specific stakeholder communities, undermined the positive effects of this increase. Public opinion in relation to the administrative quality as well as the role of administrators themselves did not change significantly. The public still expects security and guarantees from the government, the government is still unable to provide these and is in addition unable to guarantee the adequate implementation of its programmes and policies. At the same time, politicians and administrators still continue to point fingers at each other, while the public continues to distrust the state and its institutions (Jasaitis in Verheijen, 1999).

The officials tend to blame ‘imperfect laws’ and lack of budgetary resources for the inefficiency and inability to implement public policies while comfortably waiting until these documents will be ‘perfected’ and funding provided. On the other hand, despite the fact whether the adopted policies are rational and applicable, the failure to implement them is often considered to be the fault of the public officials, who are blamed for indecision, procrastination and incompetence, even though they are not the ones allocating budgetary resources and other funding for the implementation (*Lietuvos Rytas*, July 2000).

20 The survey was carried out in December 1994 by the Vilnius University Institute of International Relations and Political Science together with the Social Information Centre.

21 The most notable years being 1991 and 1999 when three Prime Ministers and as a consequence many of the cabinet members were replaced.

At the same time the officials express the feeling that the politicians do not keep their promises in relation to their status and social benefits, the feeling which is further increasing the rift between the policy makers and its implementers. The current controversy over the amendments to the Law on Public service adopted by *Seimas* is a good example of such a tendency (*Lietuvos Rytas*, July 2000). Although the President has vetoed the amendments, the government has expressed its confidence that the parliament will overrule the veto.²²

In the meantime, the citizens conclude that 'despite the infatuation of some of the leaders with the security threats from abroad, the main threat to the security of the country arises from the inability of the government to guarantee daily personal security and at least minimal standards of living to all its citizens. The threat, which is signalled by the growing nationalistic sentiment and emergence and strengthening of radical organisations and parties in the country' ('Opinions', *Lietuvos Rytas*, August 17, 2000). Describing Lithuanian Civil Service system Jasaitis writes, "media surveys regarding the public's perception of the civil servants revealed that at least 60 per cent do not trust the government. People perceive the civil servants as being mainly oriented towards furthering their own or their party's situation, unable or uninterested to solve citizen's problems, unwilling to help and incompetent" (Jasaitis in Verheijen, 1999).

It can be expected, however, that the quality of administration and consequently the attitude towards public officials, as well the antagonism and finger pointing among the administrators and politicians will change gradually. Some of the tools used to achieve this are professional development programmes for the administrators; increased use of opinion polls and questionnaires for the improvement of the services provided to the public; adoption and enforcement of the legal acts regulating the procedure of serving the citizen in any public institution, the introduction of a

22 The President vetoed the law as in his opinion it may destroy the law enforcement system. According to the recent amendments the work experience of the law enforcement officers will be calculated as of March 11, 1999, i.e. Lithuanian independence restoration. Such a change will mean significant reductions in pensions and other social benefits for rather large numbers of senior police officers. If such amendments come into force, at least 600 commissioners are threatening to resign. 200 police officers already did so once such amendments were passed for the voting in *Seimas*. This was done without regard to official declaration by the current chairman of the parliament Vytautas Landsbergis to preserve social benefits for the law enforcement officers without regard to whether they served in Soviet Lithuania or in the independent one.

23 "One window" principle means that upon his/her visit to the public agency, a citizen has to approach the staff of one specific office to submit the applications, requests or other documents related to the issue he or she is trying to resolve, and after a certain limited period of time the answer along with the necessary documentation, such as permits, etc. can be picked up at the same office. Such a principle relieves the citizen from an unnecessary burden of navigating through the bureaucratic procedure and saves the time, thus increasing satisfaction with services provided.

‘one–stop–shop’ principle²³; a smoother reform process, continuous rationalisation of functional division in the government, creation of administrative courts, etc..

On the other hand the effort to increase the trust of the citizens in public administrators is constantly undermined by the cases of corruption, maladministration, misuse of public funds and abuse of the position by the public servants from the lowest hierarchical positions to the very top of a Lithuanian Civil Service. Indeed, corruption and unethical behaviour were the main factors behind the fall of the two governments in 1999. Publications on the issue constantly appearing in Lithuanian mass media do not help in raising the prestige of the national Civil Service. Therefore the change in the attitudes and relations between the politicians, administrators and the public will not be a rapid one.

6. The Policy Process in Practice

The policy–making process in Lithuania is still rather centralised. The formal framework for policy development is set by the Law on the Government which defines that the right of legislative initiative belongs to the Government. In practice this means that the Government is in charge of drafting legislative and regulatory texts or amendments to existing laws and presenting them for the consideration of *Seimas*.

Items for the discussion at Government meetings can come from the ministries, Government Institutions, county administrations, local governments as well as Government advisors and divisions of the Prime Minister’s Office. Evidence shows that 80% of draft law initiatives come from ministries. Once the initiative has been suggested, the Government or the Prime Minister instructs one or several line ministries to take charge, which then create working groups consisting of civil servants, political appointees, possibly several experts on the matter and other individuals for the preparation of the draft document. In many cases foreign advisors, e.g. PHARE, US treasury, IMF experts provide advice and counselling to such working groups in order to assist them in preparation of draft laws and policy documents.

Once a document has been prepared it is distributed among the ministries, other governmental institutions, municipalities and other affected organisations. Special agreements may require such drafts to be co–ordinated with trade unions, umbrella NGOs, and other types of representative organisations (e.g. Association of Local Authorities of Lithuania). The Ministry of Finance, the Ministry of Justice Lithuanian Legal Bureau and the Legal Department of the Government Office review all drafts in order to calculate the fiscal effects of the proposed legislation and to guarantee the compliance with the already existing legislation. Simultaneously the draft is submitted to the European Law Department in order to check its compliance with the *acquis communautaire*.

Once the agreement has been reached and the three legal bureaux have approved the compliance of the new document with the existing Lithuanian legal base and European Union legislative norms, the draft document is submitted to the Govern-

ment where it is discussed at a Government meeting. Materials submitted for the Government meetings have to contain relevant calculations and cost estimates prepared by the Ministry of Finance. Based on the materials and opinions submitted to the Government as well as the discussions during the meeting, the Government cabinet either approves and sends the document onto *Seimas*, or returns it to the ministry or ministries responsible for the draft for further work.

All members of the Government must be present at a weekly meeting, which normally takes place on Wednesdays. Permission from the Prime Minister must be received in case of an absence. Although other persons may be present²⁴, only the members of the Government may express their opinions on their own initiative. All other participants, with an exception of the presidential staff, may speak only when allowed by the Prime Minister.

The Statute of *Seimas* further regulates the legislative process. The documents approved in the Government meeting are sent for the parliamentary review which involves the discussion of the draft by at least two standing committees: the committee under the area of responsibility of which the document falls, and the standing Committee of Budget and Finance in all cases. Once the documents have been discussed and approved by both committees, they are passed onto the members of *Seimas* for the discussions. Both the committees and *Seimas* in general may ask the Prime Minister and other government members, the minister responsible for the particular legal draft or the members of the working group to present additional explanations or to answer questions on the legal draft under discussion.

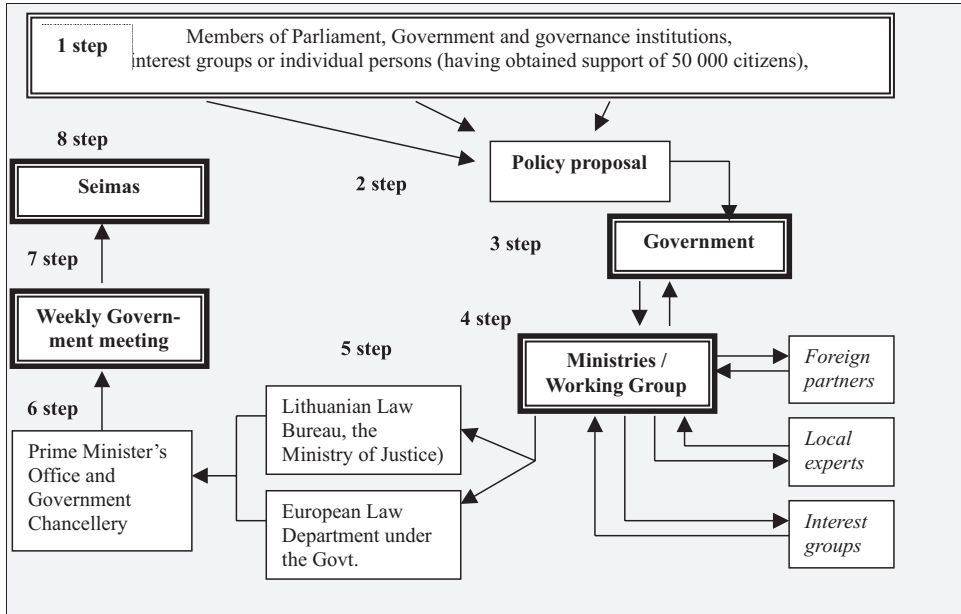
Once the parliament passes the law, it is sent to the President for the promulgation. The President has the right to refuse signature (on grounds of non-compliance with the constitution) and return the draft with his reasons for non-signature to Parliament for additional consideration and amendment. By a majority vote of at least two thirds of its members, Parliament may reject the presidential reasons for non-signature and return the draft law unamended for signature. If the President still refuses to sign, the Parliament may vote (two-thirds majority required) that the law be signed by the Chairman (Speaker) of the Parliament.

In sum, the policy making process in Lithuanian central government is still highly centralised around the government office which in part is the result of the Soviet era inheritance. Even though quite a few actors have the right to propose legislative initiatives and items for the agenda of government meetings approximately 80% of

24 Government Secretary and Deputy Secretaries, the Chancellor of the Government, State Counsellor, the Prime Minister's Spokesman for the Press, the Government Spokesman for the Press, government advisors and heads of divisions of the Prime Minister's Office, the Chairman of the Board of Management of the Bank of Lithuania, State Controllers, the Prosecutor General, representatives of the *Seimas* and the President's Office, ministry secretaries and regional senior officials. Heads of governmental institutions, town and region mayors, additional advisors to the ministers and other officials may attend government meetings when the specific issues discussed concern their responsibilities and if they participated in the drafting.

the initiatives come from the ministries, demonstrating a tendency for the executive branch to take over policy–making. Often Lithuanian legislature is jokingly called a ‘government legislature’ as opposed to ‘*Seimas* legislature’.

Box 5
The Policy Process in Lithuania



On the other hand, a tendency to keep this initiative in the hands of the politicians within the administration is quite apparent as well. After the initial upsurge of the public participation, the interest of the citizenry in the legislative process has decreased. NGOs, although growing in number, do not have much leverage in initiating and drafting the laws. Local governments and the Association of Local Authorities only recently gained a more prominent role in the central policy–making processes. The legal framework, forbidding any political activity for the civil servants as well as relatively large numbers of political appointees and political advisors in the ministries and State Chancellery further confirm this statement. Although it is customary for civil servants to draft various documents for their political bosses, they do so not on their own initiative but solely upon the request of their supervisor. Pro–activeness in public policy making on the part of the professional administrators (with an exception of the very top civil servants at the level of department heads and secretaries of the ministry) is not encouraged.

The processes and implementation of policy–making as well as co–ordination of activities is also affected by the nature of the coalition government formed after the

elections, in particular by whether the coalition partners can command a safe majority in parliament. The process of policy making is further complicated by the fact that Lithuania is a semi-presidential republic and that the current president is especially active in legislative process and has exercised his right to veto quite frequently.²⁵ Finally, the voting patterns during the last decade have obviously followed the principle of the pendulum and during each round of elections a former opposition becomes the position. Such a pattern results in disruption and even cancellation of certain policy directions, and at the time of publication, several months before elections, some local administrations have already stalled the implementation of government decisions in anticipation of their cancellation.

7. Classification According to Theoretical Framework

The reforms in public administration have been quite significant and their impact will be further enhanced by the need to develop adequate administrative capacities in preparation to the EU accession. As discussed in detail in previous sections, various accountability and co-ordination mechanisms, personnel requirements, and professional development programmes have made an impact on the interface between the politicians and administrators. Clearly, changes are still taking place and the final mode of the interface has yet to evolve. At this time, however, we can discuss the tendencies in this development.

Formal-legal developments in Lithuanian public administration clearly point towards de-politicisation and the creation of a professional Civil Service ready to serve any government and to implement its policies without partisan positions in relation to the content of those policies. This tendency becomes clear if one analyses the differences between the earlier Law on Public Officials and the new Law on Public service: the latter one sets out a clearer definition of the status of career civil servants, qualification and non-partisanship requirements and establishes more safeguards for the officials against undue political pressure. Moreover, the law explicitly forbids public servants to participate in any political activities or criticise the government and its policies in public. This attitude of the legislators towards civil servants clearly demonstrates the wish of the politicians to see administrators as unbiased implementers of their policies. However the question here is whether both groups follow the letter of law. Analysis of the administrative reform, the development of the political culture and policy making processes in the country clearly indicate that politico-administrative interaction in Lithuanian administration is far from the Formal-legal model as described by Peters.

²⁵ Out of 325 laws adopted by the parliament in the Spring session, the President vetoed 19. For comparison, during the first 3.5 years in the office President Adamkus returned for additional deliberations only 15 legal acts.

One of the reasons for such discrepancy between the legal framework and the actual situation is the fact that neither one of the laws defining the interaction between politics and administration have been fully implemented. Although the recently passed Civil Service law is more promising in this area, it requires much more secondary legislation to be adopted in order to make an effect on the patterns of interaction. At the moment, with all its good intentions this law does not provide much security for the public officials. For one, although it pre–empts civil servants from Labour Contract Law regulations, until the necessary legislation is in place public officials still operate under the same old Labour Code rules. The same is true in relation to many other issues concerning recruitment and hiring, social benefits, mobility, professional development. Second, it is not clear in what shape or form the final version of the Law on Public service will be implemented. Not even one year after its passage several significant amendments have been already adopted, some rather controversial.

An important factor influencing the mode of interaction is the nature of political executives in the government. Peters sets out several dimensions along which the profile of the political executives may be analysed:

1. The number of political executives;
2. Existence of independent advisory bodies; and
3. The type of training.

As discussed in the second section of this paper the top positions of all ministries as well as the State Chancellery are filled by political appointees, such as the State Chancellor, ministers and vice–ministers. As pointed out each minister may have up to five vice–ministers covering all policy areas the ministry is responsible for. In addition to that the Government employs a number of state councillors and political advisors at a centre of government, and a number of political advisers and personal secretaries (referents) directly in every ministry. Each minister also has a right to have a collegial advisory body which he/she is a chair of. Although the number of political appointees in the administration are relatively small in comparison to the numbers of civil servants (see Annex II, Figure 3), the political appointees along with their advisers and personal secretaries, effectively keep policy–making in their hands.

When discussing the educational profile of political appointees it is important to note four facts. First, a comparison of the level of education of the political appointees with that of the civil servants shows no significant variations, however, as a rule, political appointees have higher degrees (Annex II, Figure 3). Second, the analysis of the Civil Service Register data shows that political executives have technical specialist, rather than generalist or Oxbridge type of training. Third, the analysis shows that very few of the political appointees have been employed based on their education or professional training but rather on their political affiliation, with the exceptions of highly specialised areas as transportation or agriculture. Finally, with the Law on Public service not fully implemented, the political elite of the government makes

every effort to take advantage of the situation by appointing its trusted persons to Civil Service, breaking the recruitment and hiring principles. The most recent instance was the appointment of a member of the ruling party, former mayor and at the time state councillor on public administration and local authorities as a temporary head of Tax Administration, to a career Civil Service post.

Another factor influencing the mode of interactions among the political executives and their professional subordinates is the nature of civil servants themselves. As discussed in the third section of this paper, the educational profile of the civil servants is not very different from that of the political executives. The majority of public administrators have a specialised university technical education, such as engineering, with varying degree of specialisation from ministry to ministry. In terms of the level of education public administrators are not very far behind political appointees.

On the other hand, the legalistic tradition common to the rest of the region is not unfamiliar to the Lithuanian public administration. A good example of the legalistic approach is the current basic training programme designed by the Lithuanian Institute of Public administration, which includes courses and seminars predominantly on legal issues, practically excluding political and managerial aspects of the profession and science. Even if university education had no significant impact on the attitudes among politicians and administrators, basic and continuous professional training (if implemented) will.

Finally, it is important to remember that besides these main factors the patterns of politico administrative interaction are clearly influenced by the inherited political and administrative culture, where the administration was effectively duplicated by and subordinated to the political party apparatus. The Supreme Council was a puppet of the party committee and duplicity, obedience and suspicion towards other parts of the administration and individuals was not only wide-spread but also encouraged.

In sum, the educational profiles of political executives and professional administrators seem to indicate the development towards one of the Village life models, where a lack of specialisation along the policy lines would render both politicians and civil servants more alike each other. Furthermore, the fact that civil servants, once employed by the state organisation, especially in a managerial positions, tend to keep their career in the same policy area²⁶ reinforces the development of the Functional Village life model (Gasiunas, 1998). As a result politicians and civil servants in the functional area are often considered to team-up to undermine the legislature, which results in the perception of 'government legislature' discussed earlier. The choice of a semi-presidential regime and relatively strong positions of the president in policy-making further encourage ministers and their staff to build coalitions in order to push through their policy initiatives.

²⁶ A fact which may be changed by the creation of the general Civil Service and introduction of the Principle of Mobility by the implementation of the Law on Public Service.

On the other hand, Soviet heritage and continuous suspiciousness at times evolving into antagonism brings in the elements of an adversarial mode of interaction. Clearly, the type of the issues at the heart of the conflict set the tone of the interaction, which may range from combative (e.g. controversy over the amendments to the Law on Public service) to smooth and amicable. However as the methods of conflict resolution and its outcome in most cases depend upon the specific conditions at the time, the patterns of the adversarial mode seem to be the other dominant cluster of the specific features of interaction. The existence of quite a large body of various political advisors, councillors, and secretaries supports the existence of this pattern as well.

Box 6

Reasons behind the development of the current mode of interaction

The main reason behind the existence of the elements of the **Adversarial** model:

- Soviet heritage;
- High degree of policy–making centralisation;
- Presence of relatively large numbers of political advisors and advisory bodies.

The main reasons behind the existence of the elements of the **Village life** models:

- Specialised–technical educational profile of politicians and administrators;
- Career patterns with limited mobility within the administration;
- Semi–presidential regime.

The current development of the general Civil Service system with increased qualification requirements and opportunities for professional development, as well as the prospect of greater stabilisation of the administration and its increased role in policy making (as identified earlier, 80% of legislative initiatives come from the ministries) would point to the development of an administrative state model in the long term.

8. Conclusions

It is not surprising that a system in transition should exhibit distinctive features of not one but several modes of interaction between the political and the administrative elements of the government. The main reason behind such a situation is that the starting point to the current developments was of a rather specific nature: several quite long periods of interrupted development, one of them being a Soviet authoritarian regime. This factor alone is enough to pre–determine a very different course of development from that in the Western Democracies. Some of the other factors is the time frame for the transition, the general attitude of the society providing an internal pressure on the state (i.e. the crisis of social values, pressure for economic growth and subsequently, increasing disappointment), as well as external pressure (specifically – the EU).

Despite the fact that the development of the Lithuanian statehood began in the thirteen century, the last period of **Soviet rule** is the one that influenced and still influences the dynamics of the relations among politicians and administrators the most. Some of the consequences left by the Soviet regime for Lithuania are the pessimism and negative attitudes of the citizens towards the government and tendencies among politicians and administrators to blame each other for the various failures of government policies and their implementation. Five decades of an authoritarian regime created a society reluctant to trust the state and its servants and yet accustomed to the relative safety of a centralised rule, low cost of living, and guaranteed social benefits such as education, pensions, health care. Clearly the combination of these two feelings puts public servants in a situation where expectations of their services are high while public trust in them is low. Their failure is in a way pre-programmed by the lack of social co-operation. At the same time a certain degree of animosity in the relations between administrators and their political masters – a feeling predominant under Soviet rule – continues to influence the dynamics of their relations. At a time of budgetary pressures and general public dissatisfaction with the services provided by the government, both sides tend to blame each other for the failures.

Another important factor in shaping politico-administrative relations in the country is the prevalent continental **legalistic tradition**, apparent in both the way Civil Service is understood and defined in the laws, as well as in education and training programmes for public officials. A short review of the educational profile of the public servants and current professional development strategy presented in section 3 of this chapter highlights current tendencies to overestimate the importance of legal education and the legislation itself at the expense of the managerial and political aspects of public administration. On the one hand such a tradition may encourage further division between politics and administration and the creation of the strictly defined master-servant (or policy-maker and policy-implementer) relationship. On the other hand the educational profile of the public officials allows one to expect functional 'coalitions' between politicians and their administrative staff rather than open confrontation or mute obedience.

Yet another reason why the mode of politico-administrative relations in Lithuania is still in transitional mode and exhibits the main features of both Village life and adversarial models, is the **lack of continuity** in the reform process. Each elections brought a change in the governing coalition. Administrative reforms were often postponed as the new governments were busy implementing their own social and economic policies and were not too interested in the unpopular administrative reform. The review of the administrative reform process and the creation of the Civil Service shows that it was only recently understood that administrative reform is a necessity and is worth investing in.

Finally, the **influence of foreign actors**, such as USAID, UNDP, World Bank, EU/PHARE programme, as well as other national and international initiatives aiming

to assist post–communist countries during the transitional period affects the developments in public administration. In the Lithuanian case the most important role in the development of the framework for the national Civil Service was played by EU assistance programmes (specifically PHARE), as well as current twinning projects. It was within the framework of PHARE that the analysis of the Law on Officials was carried out in 1997. The recommendations presented in this policy document gave sufficient basis for the Vagnorius Government to initiate the creation of the new working group for the development of the draft Law on Public, which set the framework for an integrated, centrally managed, professional Civil Service and further advanced the efforts to set a clear line between the political and administrative realms within the state administration. Once the framework was established the EU continued its influence on the Civil Service development process through assistance to the Lithuanian Institute of Public administration in the development of the public service training strategy. With its aspirations to become a member of the EU Lithuania will remain under its influence in the future and it may provide additional motivation to resolve the ‘stalemate’ between the politicians and administrators.

Box 7

The main factors that continue to influence the development of politico–administrative relations in Lithuania

- Soviet legacy;
- Continental legalistic tradition in administration and education;
- Further implementation of the existing Civil Service legislation (although the lack of continuity in the reform process may reduce the impact)
- Influence of foreign partners (e.g. European Commission, USAID, UNDP, WB);
- Economic conditions and budgetary restrictions.

In sum, the analysis shows that at the moment it is impossible to precisely identify which of the ideal models developed by Peters is the most suitable for the Lithuanian situation. The interaction between the politicians and administrators seems to exhibit the main characteristics of both the (functional) Village life and adversarial model. However current developments in the field, the development of legalistic continental

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training programmes and exposure to French, Spanish and German experience in public administration education allow one to expect a development of a more stable and amicable tone of interaction. This, however, will only become apparent once the creation of the integrated Civil Service system is finalised and the reforms in the area attain a more gradual and slow pace.

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APPENDIX I

Glossary

Basic definitions of public servants taken from the Law on Public service (Article 2)

Public service means a sum total of legal relations in the service regulated by state legal acts specifying the acquisition, change, and loss of the status of a public servant.

Public servant means a natural person who has acquired the status of a public servant pursuant to this Law and other legislation, and who in state (central and municipal) institutions or agencies performs the functions of public administration, economic or technical functions, or provides public services to the public.

Status of a public servant means a sum total of rights and duties in the service as defined by this Law and other legislation, stipulated by legal acts regulating the recruitment and dismissal of a public servant from the Public service, his rights, duties, responsibility, remuneration, social and other guarantees.

Loss of the status of a public servant means the loss of the right laid down by this Law and other legislation to perform the functions of public administration in state or municipal institutions or agencies, of other rights, duties, responsibility, remuneration, social and other guarantees, as well as dismissal of those persons from the Public service with the right of or without it re–instatement in the Public service in the manner prescribed by this Law.

Public administration means the executive activities regulated by legislation and other legal acts, carried out by state or municipal institutions and other entities authorised by legislation, intended for the implementation of the acts of state or municipal institutions and administration of the intended public services.

Civil servant means a public servant working in a state or local municipal institution or agency, performing the functions of public administration established by legislation or legal acts adopted on its basis.

Career civil servant means a civil servant admitted to the service on the basis of competition for an indefinite term, under an oath to the state, and with an opportunity to seek a higher or a different position in the service in the prescribed manner.

Statutory public servant means a civil servant or a public employee (a customs officer, a police officer, a controller, a diplomat, an employee in the civilian national defence service, an employee or a personnel member of the Bank of Lithuania, or an institution of higher education) whose status is defined by a separate law or a statute.

Civil servant of political (personal) confidence means a civil servant admitted to the service for a position included in the list of positions of civil servants of political (personal) confidence approved by the Seimas.

Public manager means a manager appointed on the basis of competition or political (personal) confidence to a position of the head of a state or municipal institution for a fixed term.

Acting civil servant means a civil servant discharging the functions of a temporarily absent career civil servant or a civil servant of political (personal) confidence.

Public services means activities of agencies established by state or local authorities in providing to the public social, educational, scientific, cultural, sport and other services established by law.

Public employee means a public servant employed at a state institution, agency or municipality, performing economic or technical functions or providing public services to society.

Official means a civil servant (a personnel member of the state security, the police, the customs, the tax inspectorate or other employee) with administrative powers with respect to persons who are or are not subordinate to him, according to their position

Merits means obligatory or additional administrative competence, professional skills and qualities that can be essential for comparison with the competence, professional skills and personal qualities of another applicant to a position in the Public service.

Disloyalty means actions and conduct of a public servant exceeding the limits of lawfulness and hostile to the state of Lithuania and its constitutional order.

Impartiality means an honest performance of one's official duties irrespective of the public servant's or the customer's sex, race, nationality, language, origin, social position, religion, beliefs, political views or membership in political parties or political organisations.

Persons related with public servants by blood or by marriage means parents, adoptive parents, brothers, sisters and their children, grandparents, spouses, children, adopted children, their spouses and children, also parents, brothers, sisters of the spouses and their children.

State and municipal institutions means institutions of the elective authorities (the Seimas and the municipal council), the Head of the State – the President of the Republic, institutions of the executive (the Government, a ministry, the county governor, the mayor (the board), of the judiciary (the Constitutional Court, the Supreme Court of Lithuania, the High Administrative Court, the Court of Appeals, county and district courts, and the prosecutor's office), of the control (the state controller, the Seimas Ombudsman, the Representative of the Government, the Senior Professional Conduct Commission, the Equal Opportunities Ombudsman, and the municipality controller), as well as other institutions specified in the Law on Public administration.

State and municipal agencies means the Office of the Seimas, the President's Office, the Office of the Government, Government offices and offices under ministries (committees, departments, services, agencies, inspectorates etc.), and offices subordinate to them, offices of Representatives of the Government, administrations of county governors and county offices, administrations, offices, agencies or wards formed by local authorities, as well as other government, judicial or control offices

with powers granted by law and discharging the functions of public administration assigned to them.

State politicians means persons directly or indirectly elected to their positions by the citizens of the Republic of Lithuania or appointed by elective authorities to carry out a political programme – the President of the Republic, the Chairman of the Seimas, Members of the Seimas, the Prime Minister, ministers, mayors, and members of the municipal councils.

Political activity means participation of a natural person in the activities of political parties and political organisations, rallies, meetings or other events held by them, which contribute to the development and expression of common interests and political will of the citizens, as well as other actions in support of a political party or a political organisation.

Chapter 12: Politico–Administrative relations: The Case of Slovakia

By Ludmila Malíková¹ and Katarína Staroňová²

1. Introduction

As in most of the other countries of Central and Eastern Europe, administrative reform has formed an integral part of the transition process in Slovakia. With the gain of independent sovereign statehood in January 1993, the need for quick public administration reform became more pressing. In order to overcome the legacy of the communist regime, the government identified two facets of reform: decentralisation and Civil Service reform. The former is a part of an attempt to bring the processes of government and public administration closer to the end–user; the latter is driven by the desire to raise performance levels and re–professionalise public administration. The goal of these processes is to redesign government and the State in order to establish a true democratic system of public administration and the rule of law. The aim of this paper is to provide a useful overview of the politico–administrative relations in Slovakia and to introduce factors that might play a significant role in the development of the interface between politics and administration.

The Slovak social and political scene is characterised by a low degree of stability associated mainly with two phenomena. The first phenomenon is related to a deep Political polarisation between the main political groupings on the government–opposition level that even led to premature parliamentary elections in 1994. Similarly, a long–standing conflict between President Michal Kovac and Prime Minister Vladimir Meciar polarised the society for more than three years until 1998. As Prime Minister Meciar had the necessary majority of votes in the parliament, the president could not be re–elected after his five–year–term in his office. Although the latest elections in 1998 partially resolved the conflict by bringing the opposition to power, during that same year, a vacancy existed for over six months. The new government changed presidential electoral process into a direct one and thus a new president, Mr. Rudolf Schuster, became the new President. However, the antagonism between opposition and coalition prevails. As a result of these confrontations, consensus among these political groupings is unobtainable and all decisions concerning legislation and public administration have been politicised. This was especially visible towards the end of ruling HZDS–SNS–ZRS coalition when certain legislative and administrative measures were adopted that were designed to eliminate room for the competitive interplay of political forces. The recent initiative of Meciar’s movement (a petition campaign for a

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referendum on calling premature parliamentary elections) demonstrates the negative political climate in Slovakia.

The second phenomenon relates to the extent of fractions and fragmentation of the political parties and constant disputes within coalitions. The electoral laws adopted by Mečiar together with the desire to beat the HZDS/SNS/ZRS coalition in the 1998 elections reduced the atomisation as three small entities were united into one medium sized bloc and one large hybrid. However, further diversification can be still observed. A quasi–coalition, quasi–partisan entity, called the SDK – Slovak Democratic Coalition (Democratic Party, Democratic Union, Christian Democratic Movement, Social Democratic Party, Slovak Green Party) together with SMK (Party of the Hungarian Coalition), SDL (Party of the Democratic Left) and SOP (Party of the Civic Understanding) form the government. The opposition consists of Mr. Mečiar’s HZDS and SNS (Slovak National Party). Each election witnesses the birth of a new party (for example, in 1994 ZRS, Association of Workers and in 1998 SOP–Party of Civic Understanding) and the extinction of one coalition or party (in 1998 “Common Choice”). Recently, two new parties, SDKÚ (January 2000) and Smer (December 1999) were founded. Mr. Mikulas Dzurinda has created the former by leaving the winning SDK coalition and the latter was founded by ex–SDL vice head, Robert Fico. A low degree of political stability during the past decade has resulted in frequent changes of government. The current government of Mr. Mikulas Dzurinda is already the seventh cabinet in ten years (see table 1). The next elections are scheduled for September 2002.

Table 1
The winning parties in elections after 1989 and governing
Prime Ministers

Elections	Government coalition in the election term	Prime Minister (including changes)	Years of governing
	Government of National Understanding (appointed before elections)	Milan Čič	1989-1990
1990	VPN in SR	Vladimír Mečiar Ján Čarnogurský	1990-1991 1991-1992
1992	HZDS (37%) in SR	Vladimír Mečiar (SR) Jozef Moravčík	1992-1994 1994
1994*	HZDS (34.9%) + SNS (5.4%) + ZRS (7.3%)	Vladimír Mečiar	1994-1998
1998	SDK (26.3%) + SDL (14.7%) + SMK (9.1%) + SOP (8.0%)	Mikuláš Dzurinda	1998- until now

*Note: * premature elections*

The party acronyms stand for the following: VPN – Public against Violence; HZDS – Movement for a Democratic Slovakia; SNS – Slovak National Party; ZRS – Association of Workers in Slovakia; SDK – Slovak Democratic Coalition (Democratic Party, Democratic Union, Christian Democratic Movement, Social Democratic Party, Slovak Green Party); SDL – Party of Democratic Left; SMK – Party of the Hungarian Coalition; SOP – Party of Civic Understanding

The most important factor causing such a deep polarisation are different views on the speed and depth of political, economic, and societal transformation. Basically, the division reflects the pro- and contra-transformation forces. Civil Service development has become a victim of Political polarisation that has made the establishment of a professional, impartial and effective Civil Service system difficult. This situation was reflected in the whole transformation process and, in each election the fight for power resulted in the politicisation of the administrative relations throughout the state apparatus. As a result, an atmosphere of distrust between politicians and civil servants can be observed.

Public faith in the state administration remained extremely low, due among other things to the abuses of power and corruption that were regarded as common. In 1999, Transparency International ranked Slovakia number 53 out of 99 on its list of countries afflicted by corruption. The other Visegrad countries (Poland, Hungary, Czech Republic) all rated better. On the other hand, problems could also be observed in the area of human resources of the civil servants. The problem of personnel turnover became particularly bad as the Civil Service system became increasingly politicised. The situation was especially critical among top civil servants (see table 3 for more detail).

2. Overview of the Administrative System of the State

2.1 Nature of the State

The Slovak Republic is a unitary state and a parliamentary republic. The Constitution of the Slovak Republic was enacted by the Parliament (National Council of the Slovak Republic) on 1 September 1992 and it is the basic document governing the country. The Government is the highest authority of executive power. The composition of government reflects the political representation in Parliament. Legislative powers are vested in the 150 members of the Parliament. Members of the Parliament are elected for four-year terms by secret ballot in free elections. The government is collectively responsible, and the ministers are individually responsible, to Parliament. Courts with general and special jurisdiction exercise judicial power.

The President is the head of state of the Slovak Republic. He is elected for a term of five years. The people of the Slovak Republic in direct elections now directly elect the president. The system of direct elections has been in place since January 1999. The previous system was based on indirect elections by a three fifth majority vote in Parliament. The President appoints and may remove the Prime Minister and appoints other ministers (the Prime Minister nominates candidates) and other members of the government. Article 115 and 116 of the Slovak Constitution define cases when the President may remove the Prime Minister and other Ministers or dismiss the Government effectively, referring to cases where *the National Council has passed a vote of non-confidence or overruled a motion for a vote of confidence*. The president has the right to preside or attend all government meetings.

Since 1993, the relations between the government and the parliament have in practice, changed forms depending on the government in power. Moravcik’s Cabinet can be defined as “party government”: the coalition parties met before the government discussion and the heads of the coalition parties agreed upon procedural matters. Meciar’s government strengthened the role of executive, especially the position of the Prime Minister who was backed by the MPs in the parliament. The parliament discussions were based on polarisation of the processes and opposition was practically expelled from the political decision making. The coalition agreement was based on the authority of the Prime Minister rather than on partnership. Current government has returned to “party government” and it has restored the Coalition Committee whose decisions are determinant for the Cabinet.

2.2 Administrative framework

In the Slovak Republic, public administration is provided by *state administration* (central government) and *territorial self-government* (sub-national government). These two components of public administration are independent but they co-operate. The agents of the state service are as follows:

- a) the highest and central bodies of the state service (the Government of the Slovak Republic, Ministries, and other central bodies of the state service)
- b) local bodies of the state service (regional and district authorities and specialised bodies of the state service)

The agents of the territorial self-government are as follows:

- a) local Self government;
- b) envisaged higher-level (regional) Self government.

Central Government (the organisation)

The central administration of the Slovak Republic has a pyramid structure. It consists of a central Government Office and fifteen ministries, ten additional central state administration bodies and other central bodies.

The Government of the SR is the central policy-making and executive body, comprised of the Prime Minister, government advisory councils, four deputy Prime Ministers and their offices, head of the office, sections for various types of policies and ministers. The government is responsible for implementing legislation and directing and co-ordinating the business of ministries and other central authorities. The government sets up various committees and commissions to deal with specific issues. The four most important commissioners are the Government commissioner for decentralisation and public administration reform, Government commissioner for the Roma minority, the Government commissioner for the protection of personal data in information systems, and Government commissioner for negotiations on OECD membership. An example of a committee is the Committee for the fight against corruption that has been set up under the auspices of the deputy Prime Minister for

the economy, consisting of representatives from various ministries, NGO sector, and other institutions dealing with corruption. The committee has developed a document (National Program on the Fight with Corruption) and co-ordinates the action plans of individual ministries and other central bodies.

It is necessary to point out that government advisory councils and government commissioners have an inadequate foundation in law. Law no. 347/90, Coll. (competence law) describes in Paragraph 2b commissioners, advisory and co-ordination government councils but does not specify their position in detail. Commissioners are appointed for “specific activities”, advisory, and co-ordination councils for “some aspects of government activities.” According to the above-mentioned law the government specifies the extent of commissioners’ authority upon their appointment. In the case of advisory and co-ordination councils the law makes reference to statutes approved by the government, which define the main tasks, structure and work methods of these authorities.

The Prime Minister is the head of the government who is appointed and recalled by the President. There is no special office of the Prime Minister. The Prime Minister is served by a Secretariat, charged with duties similar to the Office of the Prime Minister in some other countries.

The Office of the Government organises the activities of the government and the Prime Minister and thus acts as secretariat to the Prime Minister. It is a central policy making and policy co-ordination body as well as a strategic planning unit to the government as a whole. All major policy initiatives have to be screened by this office before they can be put on the government’s agenda, however as a general rule the line ministries take the initiatives.

The Government Office is the central body for policy making. It is divided into seven divisions and seven departments. Divisions include division for government legislation, economic policy, minorities and rights, defence and security, control, the institute for approximation of law, European integration. Divisions are further subdivided into departments. Seven departments have the same status as divisions: personal and social department, department of IT and rationalisation of public administration, department of government agenda, department of foreign affairs, economic department, PR department and communication department. The division of economic policy takes the lead in policy making process as all initiatives coming from the individual ministries have to be screened by this division that comments on the bills.

The government appoints and recalls someone to direct the Office of the Government. Thus, although the head of the Office of the Government is not a member of the legislature, he is not a civil servant in the real sense of the word because he is a political appointee and holds his position only for the same term of time as a public officeholder.

The Ministries are central administrative authorities headed by a minister who is responsible to both the Government and Parliament for the business of the ministries. The line ministries deal with both policy–making and implementation in their policy area. Policy implementation is either carried out directly by a line ministry or by general and specialised field offices.

The President, on the proposal of the Prime Minister, appoints the minister. Individual ministers are given charge of their ministries. But as politicians, they have little time or expertise to supervise the daily affairs of their departments. Thus, the Office of the Ministry ensures the organisational, technical and professional Management of the Ministries. The office is run by the *head of the office* who is appointed and recalled by the Prime Minister on the advice of the relevant minister.

The inner structure of the ministries is subdivided into *divisions* that are headed by the *directors of the divisions*. These again are appointed and recalled by the Minister. Each section is further subdivided into the departments and sections. From this structure we can see that the two top levels in the Office of the Ministry are Civil Service positions in their nature, however they are not headed by a permanent secretary, a civil servant, who would keep his job after any government leaves the office, but quite the opposite. He is dependent on the political function of the minister. This situation has caused a big problem in the Civil Service – a high turnover rate among top public service officials.

Other central executive bodies are also agencies of central Management and have equal status to ministries. Again, the heads of the central executive bodies are appointed and recalled by the government. The following offices belong to the central executive bodies: a) Slovak Statistical Office; b) Slovak Office of Geodesy and Land Registry; c) Cartography and Spatial Arrangement; d) Slovak Anti–Monopoly Office; e) Slovak Supervision Office for Nuclear Energy; f) Office of Industrial Property; g) Board of State Substantial Reserves.

Sub–national Level (see Annex 2)

At the sub–national level there are two administrative tiers: districts and regions. This territorial and administrative division has been in existence since 1960. In 1990, the communist legal system of local administration (the system of national committees that executed state power in self–government character) was replaced by a new legal framework with both a system of *self–government* and a system of *state administration* on district and regional levels. *Regional self–government* authorities and agencies have not been established yet. New legislation on territorial and administrative division of the Slovak Republic has been prepared and should be introduced in 2001. The new model will follow a symmetric pattern – the number of regional self–governments will correspond to the number of regional state offices. *Local self–government* exists in parallel to Local State Administration.

State Representation at the Regional/District Levels

In 1996, the new Law No. 222/1996 on the organisation of Local State Administration divided the country into 79 administrative districts and 8 regions. This new division replaced the Act 472/1990 where the state administration was executed by 38 District offices and 121 subdivisions. The new law defines the new structures and responsibilities of the state administration offices. It established a two-tier hierarchical structure of regional and District offices related to the central government as well as the Local State Administration. The Law also provides for other bodies of Local State Administration, established according to special legislative acts. However, regional and District offices are responsible for general Management of their territory. Regional and District offices have to co-operate with other state administration bodies, with Local self-government and with other legal bodies to fulfil a wide range of tasks.

The district and regional offices perform the role of state administration in individual areas of the Civil Service. *The regional office* carries out the higher-level of state administration in matters in which District offices act as the first level in administrative proceedings. The performance of the state administration by District offices is directed and controlled by the regional offices. The regional development planning strategy for the capital of the Slovak Republic, Bratislava, and the regional development planning strategy for the City of Košice are co-ordinated by regional offices in the region. *The district office* is the lowest level of state public administration. It represents the state in approving strategies of social and economic development and developments of specific areas of public service in the life of municipalities. They provide the municipalities with expert assistance on the application of legal regulations under which the municipality carries out state administration tasks. The 1996 reform transferred many institutions of specialised Local State Administration into district and regional offices (e.g. education offices, environmental protection offices, fire departments, and health care administration). This process tried to remedy the negative features of atomisation and fragmentation of agendas of Local State Administration into many separate, relatively independent administrative structures introduced in 1990. However, certain specialised offices are preserved.

The central government representation at regional and district levels is a combination of two organisational forms: all-purpose bodies (District offices) and specialised de-concentrated bodies. District offices are organised on generalist lines and are controlled by the Government, while specialised de-concentrated state administration authorities are organised on a functional basis and exercise their functions either in districts or in regions. Some, however, create a two-tier administrative system, for example: district and regional tax revenue offices; district and regional environmental offices; educational boards and school principals. Although, the de-concentrated state administration bodies are in principle controlled directly by the respective ministry or relevant central state administration authority, they carry out tasks on behalf of the state administration as a whole.

The government appoints and removes principals of both district and regional offices on the advice of the Ministry of Interior. Although the head of these offices is not a politician, he is politically accountable for the office under his control to the Government. They are the statutory body in matters of state property, administered by the office, in personal and wage matters of employees, and in matters of the offices' organisation. A district office is comprised of different divisions and departments.

Territorial Self–Government

Local self–governing authorities operate on the communal level. The result of the first stage of reform was the fragmentation of *local self–governments* and the local political elite. 2871 self–governmental units on the local level were created, but only 123 of them have a population above 5000. Most of the municipalities (1195) have a population of less than 500.

The Municipal Council is a representative body of municipal self–government. Citizens on the basis of a general, equal vote directly elect members of municipal councils (councillors). High percentages (especially in larger cities) are representatives of political parties. The committees of the municipal council are either permanent or temporary and can be advisory, initiative and controlling bodies of the municipal council. According to its needs, the municipal council independently decides on their establishment and cancellation. A municipal council determines the composition and the tasks of committees.

The self–government branch of local government has its own administrative body, *the magistrate or municipal office* (executive bodies of self–government). This office carries out the tasks connected with the functioning of self–government and with the preparation of administrative matters that are decided by the municipal councils. Its task is to carry out the self–government tasks delegated by law. The office is led by the head of the administrative office who is nominated by the representative body (municipal council) and then accepted by the mayor. Magistrates or municipal offices have a dual accountability: a) to the municipal council of self–government (original competencies) b) to the district office (indirect competencies).

The Mayor in Slovakia is a very important member of local self–government. This is due to the fact that they are directly elected by citizens and hold top executive power. This system of powerful mayors was established in 1990, when the first free local elections to the local authorities took place. Mayors in Slovakia are elected on the principle of the majority electoral system: the candidate with the highest number of votes in a given municipal area wins. There is a choice of individual candidates, and voting is not necessarily based on candidates' party affiliation.

Table 2
Political-administrative authorities

	STATE ADMINISTRATION	SELF-GOVERNMENT
I.	National Parliament of Slovakia Central Government (15 Ministries)	
II.	Regional Offices (8)	Envisaged regional self-government
III.	District Offices (79)	Municipal self-government: 1. City or Municipal Councils (2871) 2. Mayors (2871) 3. Magistrate or Municipal Offices (2871)

3. Historical Development of the Civil Service, vis-à-vis Politics

The purpose of this section is to discuss the politico-administrative relations in Slovakia in the historical context. Each subsection will provide a brief historical survey of the development of the national Civil Service and the impact of developing cultural influences. Three main periods can be distinguished in the history of Civil Service that are closely connected with general changes and transformation in the Slovak society as a whole. The first period runs to 1918 when Slovakia was part of the Austro-Hungarian Monarchy. Between 1918 and December 1992, the Slovak lands were part of the Czechoslovak Republic. Thus, the second period starts in 1918 with the creation of the first Czechoslovak Republic with a democratic parliamentary regime and a Constitution. This period encompasses the pre-World War II Civil Service system. Finally, the third period relates to the system under the communist regime up to the events of 1989.

3.1 Pre-World War I

The administrative apparatus of Slovakia in this era falls under the Austro-Hungarian tradition, as Slovakia was part of the Hungarian Monarchy for more than a thousand years. We can trace back to the 13th century the existence of the following agents of the royal administration that remained until the end of Austro-Hungarian Monarchy: on the central level, the monarch and the court council (*consilium or senatus*) had the highest power; and on the local level, the administration was organised into provinces (*comitat*) that had the executive power.

The constitution granted the Monarch absolute power. He was accountable to nobody. In the field of legislative power, he had the “initiative right” i.e. the government could only pass bills to the parliament which had been approved by the Monarch. Only the monarch summons, prorogues, and dissolves parliament. In the field of executive power, the monarch named the government, all state servants, university professors, and church representatives. In the field of justice, the monarch named the judges, state and public attorneys. Basically, the state’s rule was the prerogative of one person and it remained so until the death of Franz Joseph in 1916.

On the basis of Act No. 3/1848, the monarch executed his power via Ministries (government) that were accountable to the National Council. The Ministry Council consisted of the Prime Minister and Ministers who had been named by the Monarch. The National Council consisted of the Upper House (based on the Act No. 1/1608) and Parliament. The Upper House was made up of hereditary members of the royal family, state, and church officials. Members of Parliament were elected however, only 6% of the population had the vote.

Hungarian public administration was characterised by the relatively strong status of municipalities taking care of the citizens' needs. The Municipal Law No. 42/1870 reformed the provincial (*comitat*) and municipal self–governments and created municipalities (*municipia*) that merged both central state and self–administration officials. Act No. 6/1876 created an “administrative assembly” at each “municipia” that was responsible for the co–operation between self–government (autonomous) and state administration. For this purpose, the administrative assembly consisted of nominated municipal officials (chief comis, his deputy vicecomes, chief attorney), local state officials and elected representatives. This unique dual system of Austro–Hungarian Monarchy unified the two aspects of public administration: state administration and self–government.

3.2 The Inter–war Period 1918–39

Due to the establishment of Czechoslovakia with her diverse features of public service organisations, the most important task was the unification of administration throughout Czechoslovakia. The first decade concentrated more on central bodies than on local government. Thus, most of the basic features of the Austro–Hungarian system of Civil Service became the basis of the public administration system in the period of the first Czechoslovakian Republic. The 1918 Act preserved the Austro–Hungarian institutions and public administration system in order to achieve continuity and avoid chaos.

The bodies of central government needed to be reconstructed. For that purpose, the National Committee became the central body for the legislative and executive powers. The state administration was carried out by regional and municipal “national committees” which were also political bodies. This situation can be explained by the fact that the national councils had another task besides state administration – to unify a newly created state. The new constitution created three separate bodies of power: the National Council (which replaced the original National Committee), President, and Government. The Act 2/1918 established 12 ministries (*administrative offices*). Thus, the first Czechoslovak Republic became a parliamentary democracy based on the principles of a unitary state. That meant that all nationals of Slavic origin were considered to be one Czechoslovak nation centrally managed by the government in Prague. Slovakia did not have its own government but one Ministry for the administration of Slovakia. The competencies of this particular Ministry were territorially limited and the Minister became a substitute for all state Ministries. Only the reform of public administration in 1927 changed this situation.

In 1927, nine years after the creation of the new state, public administration was reformed under strong centralising tendencies (Act No.125 on the Organization of Political Administration). This Act introduced in Slovakia new administrative units that were used in Czech Republic – *lands (krajiny)* – that merged the old Austro-Hungarian *provincial system (župy)* and most importantly took into account the nations (however, only Slavic) living in the state. Thus, four lands were created: Czech, Moravian–Silesian, Slovak, and Transcarpathian (today part of Ukraine). The new lands had to eliminate the growing demands of ethnic Germans and Hungarians and satisfy the ambitions of a part of the Slovak political elite for autonomy. The head of the land was a *land president* who was nominated by the president and accountable to the Ministry of Interior. He was also the head of the *land authorities* that were created in each administrative district. The land authorities were mixed political and administrative offices as two thirds of the members were elected and one third was nominated by the government in order “to secure expertise”. *Districts (hejtmanstvo)* became lower administrative units of the state apparatus and had pure administrative function. Self-government had two levels: districts and municipalities.

This period is characteristic by typical bureaucratic behaviour, though democratic in nature. Undoubtedly, part of the bureaucratic behaviour could be attributed to the political culture of the old Austro–Hungarian Monarchy. Several features of such behaviour can be identified. First, respect for the established hierarchical authority influenced all subsequent public administration systems, including Masaryk bureaucracy during the first Czechoslovak republic, communist bureaucracy and current administration. Second, observance of purely bureaucratic procedures is still dear to the hearts of the current civil servants. Third, bureaucracy as a profession enjoyed an honourable past as the tradition went back for several generations. These bureaucratic values managed to survive with relatively little damage. As a consequence, any proponents of the reforms met with resistance from the civil servants themselves.

3.3 The Totalitarian Period

After the coup d'état in 1948, the Communist Party became the ruling party of Czechoslovakia. Czechoslovakia managed to elevate the official ideology to a position of absolute supremacy. That meant that the Communist Party was the decision-making body in Czechoslovakia while the government apparatus operated as an adjunct of the party, carrying out its decisions. The result was a parallel hierarchy of party and government. Consequently, the degree of bureaucratisation and centralisation reached a very high level. At all levels there were party and government bureaucrats. To a large degree the two hierarchies overlapped: the top party leader in any given area was also the top government official for that area. At the same time, government officials got advice and directions from party officials. This reduced the possibility for independent advice and consequently the emergence of a professional body of civil servants was not possible. Family background and social origin became the criteria of political and thus professional reliability. Therefore, the government structure of

that period may be viewed as the administrative instrument for carrying out party decisions and this resulted in total subordination of public employees to the party hierarchy. In this system civil servants may be counted as party servants, serving neither the state nor the public, but realising Communist Party decisions.

The system of so–called National Committees was created on the regional, district and local levels as the core of public administration in Czechoslovakia. National Committees were joint state administration and self–government institutions as one of the specific features of “socialist democracy” and became one of the main tools of state power, directed by one political party from above. Thus, on the local level, the centralism allowed little or no responsibility for locally elected self–government authorities. In 1949, the first territorial reorganisation introduced six regions (*krajov*) with 92–98 districts. Ten years later a new regional set up introduced 3 regions and 33 districts.

Decentralisation of the unitary state and democratisation of relations between the Czechs and Slovaks started in 1968 when the federal principle of public administration replaced the unitary state. Two subsystems (Czech and Slovak) of republican bodies of public administration complemented the central – federal government and parliament. Thus, the Czech and Slovak republics created their own governments, parliaments, ministries and all other agents of public administration while preserving the central federal one in the following way:

- legislative power: the Federal Assembly, divided into two chambers (the People’s Chamber and the Chamber of Nations), the Czech National Council and the Slovak National Council;
- executive power: the Federal President, the Federal Cabinet, the Czech Cabinet and the Slovak Cabinet.

To sum up, Civil Service during this area had some typical features identified also by Juraj Nemeč and Peter Berčik (Nemeč, Berčik, 1998) in their study on Civil Service Reform. According to the Constitution, the Civil Service was the servant and representative of working people– the Communist Party and thus civil servants were responsible to Communist Party structures and representatives rather than to citizens. Consequently, civil servants had to be loyal to the political regime and Civil Service executed Communist Party resolutions. Moreover, some of the top civil servants used their responsibilities to pursue private interests.

4. Formal Relations, Constitutional and Legal norms, Guiding Relations between Elected Politicians and Appointed Officials

In the Constitution of the Slovak Republic from 1992, executive power is defined in Part six (“Executive power”) where the provisions for the National Council (parliament), President of the Republic, and the Government (“supreme executive body”) are drawn. The provisions deal with obligations of the Prime Minister, the Government, the Parliament and the President, and relations among these entities.

The only provision concerning the agents of the government power is in Article 122 that stipulates “the central and local government bodies shall be established by law.” Territorial self-government is anchored in part four (“Legal Self-governing bodies”) where only local self-government is dealt with in detail. The provision envisages higher territorial units by stipulating “self-governing subdivisions at higher levels shall be defined by law.” The new Constitution of the Slovak Republic, that should be passed this year, will enshrine provisions also for the regional self-government in Part four.

The public administration reform process was initiated in 1990 and envisaged two associated and interconnected reforms:

- *decentralisation*: handing over responsibilities from the state administration to territorial self-government; decentralisation incorporates also *institutional reform* (creation of new institutions of self-government as well as changes within the existing institutions of Local State Administration and central bodies of state administration) and *territorial reform* (changes to territorial boundaries and seats of territorial and administrative units);
- *Civil Service reform*: defining the new status of civil servants, including human resources development, career structure and the adoption of a Civil Service code.

The establishment of the Slovak Republic as an independent state postponed the processes of the reform of public administration because of the need to create other basic structures to guarantee the functioning of the new state. Therefore, we can identify three stages in the reform of public administration in Slovakia: a) from 1990 to 1996 b) from 1996 to 1998 and c) since 1998.

The first stage of reform was limited only to the formation of single-tier self-government in municipalities and cities. This stage was characterised by the redefinition of the local self-government structure and by the process of first competencies division between the state and self-government. In this period public administration was based on the centralised principle combined with a newly established structure of specialised state administration. Consequently, two parallel structures of local administration were established: 1) local self-government with its own administration on the level of municipalities (*Act 369/1990 on Municipalities*); 2) Local State Administration on the level of areas and districts (*Act No. 472/1990 on Local State Administration*, replaced in 1996 by Act 222/1996). The structure of the central executive level, ministries and other central state administration bodies are defined by the Act No. 347/1990 CoL.

In 1996, a radical change of territorial and administrative arrangement as well as de-concentration of selected competencies from central government to Local State Administration took place and this marked a new period in the history of public administration. Changes occurred in territorial division, administrative reform, and the process of de-concentration, but not in decentralisation.

Three major changes can be identified in the period of 1996–98 which brought fundamental structural changes in the public administration: a new *administrative–territorial organisation* (*Act on Territorial and Administrative Division of the SR – 221/1996*) that created 8 regions and 79 districts in August 1996; a so-called *horizontal integration* of state administrative bodies (*Act on the Organization of the Local State Administration – 222/1996*) that reduced the number of local offices by integrating the general and specialised Local State Administration (the European Commission criticised this law on the grounds that it strengthened the powers vested in the local branches of the state administration at the expense of self–governments); and an *amendment to the Municipalities Act* in July 1998 that lacks clarity in defining the role of municipalities in regards to state administration.

The third stage is marked by the new government that prepared a new concept of decentralisation and further transfer of competencies to the self–government. This concept was passed in March 2000 by the parliament and envisages a whole new set of laws to be passed in the near future. The package of laws includes an Act on Regional self–government, an Act on Civil Service, and an Act on Public service, amendments to the Labour Code and even to the Constitution.

Civil Service

There are very few special provisions determining the rules pertaining to job definition or classification, deployment, job security, or reward structure for civil servants in Slovakia, when comparing them with other public sector employees.

A Civil Service Act is still missing in Slovakia and only two general laws regulate most of the basic procedures in this area:

- Labour Code (law Nr. 65/1965 as later amended);
- Act on Wages in Budgetary Organisations (law Nr. 143/1992 as later amended)

The legal framework for all employees of ministries and other administrative offices is anchored in the *Labour Code* that defines and regulates the fundamental rights and duties such as general recruitment conditions and the dismissal of civil servants; work safety and general appraisal. The regulations under the jurisdiction of the Labour Code are applicable to all employees. However, the current provisions of the Labour Code are inadequate and allow civil servants at different levels of public administration to be appointed on the basis of their political affiliations rather than their professional abilities. Although the draft has been prepared at the Ministry of Labour and Social Affairs, it reflects its origins in the general Labour Code from the totalitarian period which still regulated employment in large segments of the public sector, such as the police force, fire protection units, etc.. In this sense, law separated certain definable groups. Thus in 1997, Parliament passed an Act on Military Personnel, followed, in 1998, by two further Acts on the Police, Penitentiary Service and Judicial Guard (73/1998 CoL.) and Customs officers (200/1998). Similar provisions regulating

special status of certain public servants in central state administration apply also to state attorneys (341/1996) and judges (335/1991 and 80/1992).

Only recently, have amendments been passed regulating certain responsibilities of civil servants (Act 93/1998 and 190/1998). These include: the illegality of accepting any gifts; refraining from conduct which could result in a conflict of public interest with personal interests; safeguarding state secrets; and professional confidentiality. Moreover, the civil servants must not be members of supervisory or controlling bodies of legal entities unless their employer has assigned them to such bodies.

The recruitment of employees on the central government level is within the competence of ministers and the procedures are only vaguely defined by internal regulations. In practice, as there is no regulation asking for public announcement of a vacancy, the job positions are filled via interpersonal contacts and the minister or the head of the division makes the final decision. A similar situation is found on all levels of the state service where political affiliation plays a key role. This is due to the fact that the Labour Code does not define many stabilising and motivating factors that would increase professionalism and effectiveness among civil servants. The missing regulations can be summarised as follows:

- missing categorisation of state and civil servants based on performance and knowledge/skills;
- missing legal provision for the different status of administrative and political positions;
- missing regulation of career development within the sector;
- missing provision for the obligatory announcements of vacancies and subsequent selection process.

Personnel Management in the Civil Service is highly decentralised. Ministries and other institutions recruit their own personnel and are in principle responsible for the training of their employees. In service training is conducted mostly by branch training institutions, but also by non-governmental institutions. As a part of the reform activities, a document on the training and education of public servants is being prepared. The new concept defines a new system of compulsory on the job training of civil servants with three levels:

- adaptation studies (general training for Civil Service jobs);
- functional studies (specific training for a given grade);
- specialised studies (specialised training for a given civil servant's specialisation).

There are no written rules with regards to career opportunities. Some of the highest posts in Civil Service are taken as political and not administrative places (posts of ministers, state secretaries, general directors within ministries, heads of divisions and departments within ministries, posts of a head of regional and district office of state administration). To be placed in such high-level jobs within the state administration not only are excellent skills needed but loyalty to the governing political party is also

expected. This means that the appointee is dependent on the political function of the minister, despite the typically administrative nature of the position which requires a permanent secretary, a civil servant, who would keep his job after any government leaves the office. This situation has become highly problematic in Civil Service, creating a high turnover rate among top public service officials. An example is the post of the head of the Office of Government who is neither a member of the legislature, nor a true civil servant since he is a political appointee who holds his position only for the same term of time as a political officeholder (see table 3).

Table 3
Relations between the political and administrative posts
in the Office of Government

Government coalition in the election term	Years of governing	Head of the Office of the Government	Current Position
SDK + SDL + SMK + SOP	30/10/1998- until now	5/12/1998 - until now (Tibor Tóth)	n/a
HZDS + SNS + ZRS	13/12/1994-30/10/1998	4/3/1998 - 27/10/1998 (Milan Topoli)	MP for HZDS
		29/1/1997 - 3/3/1998 (Milica Suchánková)	n/a
		15/12/1994 - 28/1/1997 (Zdenka Kramplová)	Vicechairman for HZDS
Moravčík government	15/3/1994 - 13/12/1994	22/3/1994 - 14/12/1994 (Ján Filko)	n/a
HZDS	24/6/1992-15/3/1994	30/6/1992 - 18/3/1994 (Ivan Lexa)	MP for HZDS

Note: n/a – not available

Source: http://www.government.gov.sk/UVSR/sk_historia_veducich_uradu.shtml

The absence of institutionalisation of the Civil Service, compounded by the fact that civil and political posts are not distinguished and that employment conditions are regulated by the Labour Code has significant consequences. First, although official selection of high–ranking posts follows the course of recruitment in the public sector, political loyalty and affiliation have the biggest influence on the final choice. Limited guarantees of the stability for the higher civil servants and the unpredictability of their length in term creates a low commitment to the public and “good governance”. The decisions are made on a political rather than professional basis and many times have little in common with real needs. Second, an absence of clear values or ethical standards results in a low quality of public services, deterioration in the behaviour of public servants and ultimately in cheating and corruption. Third, the lack of ethical and political responsibility for mistakes or ineffective implementation creates a discontinuity between the public service and the public. The responsibility for the violation of values and norms of good governance should lead to public exposure and/or resignation. This type of responsibility is different from legal responsibility

sanctioned by the court. Thus, the inability to define the boundaries between public sector and political posts, uncertainty of civil servants jobs, absent evaluation of action of civil servants result in low institutionalisation of public sector and its role.

In sum, in Slovakia political decision making prevails in public administration due to several reasons. First of all, the legislation and norms do not clearly define or differentiate between administrative and political functions. Since the selection criteria are not defined, professionalism is not the main criterion in the selection process. Second, the legislation does not specify the horizontal or vertical movement of the public servants in their career development. Slimáková (Slimáková, 1999) identified another factor responsible for this situation: civil servants are not contracted by the government, but by its individual entities. Third, the performance evaluation system is inadequate, especially from the motivational point of view.

Currently, legislators are improving the legislative framework for employees in the public sector and an Act on Civil Service will be passed in the near future. The proposal that should regulate civil servants in the Slovak Republic distinguishes between state service and public service. The Ministry of Labour, Social Affairs and the Family in co-operation with the Ministry of Interior prepared a draft of the Bill on Civil Service that was planned to come into effect on 1 January, 1998. However, the fact that parliamentary approval is taking such a long time, suggests a lack of political will. The truth is that a new Labour Code, to be discussed in parliament this year, is being prepared in the framework of which the new Bill should be fit. The Labour Code will be discussed in parliament this year. The Bill on Civil Service regulates only government employees on all levels and does not deal with local self-government employees. Therefore, another Bill on public service is being prepared to regulate self-government employees. According to the Government Commissioner on Public administration reform, both Acts are expected to be passed in the near future so that they will come to the effect on 1 January, 2001 but a more realistic estimate is 1 January, 2002.

The absence of a Civil Service Act, together with poorly defined legislation concerning civil servants has led to a high level turn-over in the top level of the Civil Service. Each new government replaced the top managers in the administration. This situation leads to instability and discontinuity of administrative action, and has an impact on the effectiveness and quality of performance. Moreover, this phenomenon leads increasingly to the politicisation of the Civil Service. The proposed Bill declares the independence of Civil Service and political power, and defines the number and type of political posts in Civil Service. In this way it will be a step towards a more professional Civil Service in Slovakia.

5. Political culture and attitudes

The discussion about the new territorial administrative division of the country became a part of the political conflicts between coalition and opposition in Slovakia from

independence. As a result of political disputes and the polarisation of society, the reform of public administration and municipal governments in Slovakia was to a high degree determined by the ruling political party and its willingness to pursue reforms. Increased tension did not create suitable conditions for an efficient consideration of the whole concept of reform and its implementation. Consequently, postponements in crucial legislation enactment such as the Civil Service Act contributed to the ineffective functioning of public administration institutions as well as their lack of public orientation. Moreover, public service posts have been mostly taken as political and not professional administrative jobs.

Only a few opinion polls and surveys have been produced on the subject of public servants. However, some conclusions can be drawn as to the attitudes of the general public towards state administration and self–government and in relation to Civil Service and politicians. Different attitudes can be observed among state administration and self–government, especially in relation to the influence of individual parties on decision–makers and the subsequent influence of top officials on administrative staff turnover. For example, table 3 shows that the posts of the head of the Office of government which should be a typical non–partisan “permanent” civil servant position, change as the individual governments come to the power.

The territorial and administrative reform of 1996 was highly motivated by politics and the fight for power in the upcoming elections (1998). This consequently influenced, to a high degree, central level and subsequent sub–national levels of state administration. Not only was the choice of regional and district seats of state administration highly politically motivated but the newly established offices were staffed (the head of the office is appointed by the government) on the basis of loyalty towards HZDS rather than merit. This resulted in a more politicised system that was not as responsive to the needs of the local citizens as it could have been. Surveys done by the Ministry of Interior showed that at the regional and district levels, the national government had been forced to set up additional remote offices (43 in all), because the politically–motivated administrative reorganisation made it difficult to provide proper services to the public. Moreover, Vladimir Mečiar (the leader of HZDS party) asked at the republican meeting of the HZDS board in January 1998 for mobilisation of all political structures in both the party and in the state administration. He proclaimed that Local State Administration should respect the decisions of the political bodies and the program of the HZDS would be prepared by the experts from the Office of the Government, Office for the Strategic Development of the Society, Science and Technology.³ As a consequence of politically motivated nominations in state administration and the required loyalty, a high fluctuation rate occurred not only among top managers but also in the staff.

3 Nižňanský Viktor, Jaroslav Kling and Milan Petráš (1999), “Verejná Správa (Public administration),” in Mesežnikov Grigorij and Michal Ivantýšin, eds., *Slovensko 1998–99. Súhrnná správa o stave spoločnosti*, Bratislava: Inštitút pre Verejné Otázky, pp. 191–213.

Apart from a high turnover rate among public officials, another negative aspect can be observed. The results of public opinion polls conducted by Transparency International show that corrupt behaviour among public servants (meaning state officials) is very high. 78% of respondents answered “yes” to the question “Have you ever come across corrupt practices while dealing with public service officials?” Only 4% of entrepreneurs were satisfied with the amount of information they were given by public servants, while an overwhelming majority of respondents expressed discontent with the services provided by bureaucrats. The reason for these results is the environment in which public servants are operating, because corruption flourishes best in environments where information is scarce and the rules of the game are not transparent. Studies done to date have shown that the Slovak public sector provides precisely this kind of environment due to the absence of laws on state or public service. The absence of such laws has an effect on the behaviour of state employees. Thus, the performance of the Civil Service depends entirely on the willingness of talented and diligent bureaucrats to fulfil their public functions, something that is difficult to guarantee given the lack of job certainty and the disregard for ethical principles.

6. The Policy Process in Practice

The formal procedure of the policy making process at the central level involves five phases: legislative initiative, discussions on draft legislation in the parliamentary committees, three readings in Parliament (National Council of the Slovak Republic) where additional clarifications and amendments occur, voting in the Parliament, and Presidential approval.

The Committees of the Parliament, members of the Parliament and the Government of the Slovak Republic may introduce bills. In practice, most bills are initiated by individual ministries (on the basis of government program) also where the actual drafting work is carried out. The practise is to create ad hoc working groups comprised of expert civil servants who are involved in the drafting of a particular piece of legislation. All major policy initiatives have to be screened by the Government office before they can be put on the government’s agenda.

The Government program expects some issues to be dealt with via an advisory council. There are approximately 30 advisory bodies without any relevant authority. It is normal that institutions try to solve “their” interdepartmental problems with the help of an advisory council with the goal to add importance to the relevant matter. The advisory councils differ by importance (for example government legislative council, government economic council) and functions – some existing advisory councils do not function, for example the government information systems council. The advisory councils have different structures on different levels, they mainly consist of government ministers or deputy ministers.

An effort to give prominence to some problems, ironically results in duplication and fragmentation. Instead of setting up flexible, inter-ministerial teams, autonomous institutions are set up. The drug problem, which is within the focus of three

ministries and several budgetary and subsidised organisations, serves as a good example of the above statement. The co–ordination among them is not structured and concrete responsibility for the results is left unspecified. Ministries and subordinated organisations operate in a similar manner in addressing nationality issues, the issues of Slovaks living abroad, and others.

All legislative and conceptual documents need to be reviewed in the inter–ministerial process. During the state audit, the top managers of central state administration authorities repeatedly pointed out the senselessness of the current form of the inter–ministerial process of reviewing legislative and conceptual proposals. According to this procedure, ministers are required, *de facto*, to comment on matters sent for the inter–ministerial review process by other ministries, which are often unrelated to their activity and on which they are not qualified to comment. This causes an administrative overload of planning and strategic work and slows down the policy making process.

After the law has been passed, the Government has the power to pass regulations for the implementation of laws. Ministries and other governmental bodies pass generally binding regulations that are then promulgated. In practice, the policies are difficult to implement because professionals have not participated enough in the elaboration of these policies. However, in the case of implementation failure, politicians are accusing civil servants.

On the sub–national level, professional policy advice on the implementation strategy may come from the ministerial level, but the municipal self–governmental offices (as mentioned above) can be controlled and advised only when the law states that the ministry has such competencies. Where a municipal self–government has *original competencies* over a particular policy area, the accountability of municipal offices is in the hands of the municipal auditor or the judicial system.

The policy role of civil servants cannot be developed without a stabilisation of the politico–administrative interface. Lack of definitions of administrative and special positions on the one hand and political positions on the other hand increase the possibilities of hidden corrupt behaviour – illegal use of information, misuse of position and power, and clientelism. There are also other reasons for the corrupt behaviour by civil servants, such as the non–transparent system of hiring and remuneration of the state employees, lack of motivation, and a lack of ethical norms, standards, and control mechanisms in state administration. It is expected that the prepared Civil Service Act will provide provisions for political impartiality and professional independence of public servants.

7. Classification According to Theoretical Framework

In Slovakia, a mixed pattern can be observed, as elements of several models can be identified. On one hand, the top Civil Service is dependent on politicians since the roles of the politicians and officials are not clearly identified and separated.

The legacy of the Austro–Hungarian Monarchy strengthened by communist rule fostered amongst civil servants respect for the established hierarchy. This pattern of behaviour corresponds to the second model “Village life”. This model also assumes a high degree of integration of values and goals of both politicians and bureaucrats, which in case of Slovakia is the development of independent Slovak state. Most of the democratic values are subordinated to this realm and loyalty is translated more or less to this concept.

On the other hand, functional alignment of executive elites leading to a vertical integration within the same policy area is a very characteristic element in the individual Ministries in the Slovak republic. This pattern of behaviour corresponds to the third model “functional Village life”. However, the next feature of this model, openness of the ministries to organised groups in society, is not present in the Slovak context.

Several factors can be identified as a cause of this “ministerialism”. First, all governments to date have consisted of several parties that make up a coalition. Consequently, different party members run individual ministries and thus a minister/politician has more in common with civil servants from his or her ministry than another minister from the same political cabinet who is heading a different governmental portfolio. Second, among the most critical problems identified by the functional review of the central state administration is an excessive number of separate institutions that operate and are directly managed by individual ministries.

The state audit defined “ministerialism” as a tendency of a central state administration authority to own, control, and institutionalise such activities under its immediate control that are cross–cutting, support– and service–oriented by their nature.⁴ This tendency to use “own” institutions, tangible and intangible assets, and human resources to provide for the “ministerial” needs in training, research, IT services, statistical and other information, analyses, accommodation, recreational facilities, methodological oversight of technical training, and several other functions, is a key to not only a high number of existing institutions at the central level, but also problems with duplication, fragmentation, and low efficiency of the central state administration. The Management of a high number of subordinated organisations encumbers the central authorities of state administration, leading to a managerial overload in this area. The outcome is either another level of control at the central authority level, or a lack of oversight with all the accompanying problems.

To sum up, the Government Office does not fulfil the function of a strategic co–ordinator, apart from the legislative co–ordination. Therefore, the changes in the structure of the Government Office should strengthen stability of the execution of administrative and co–ordination tasks by setting up a section, which should be responsible for the co–ordination of the ministries. It should be responsible to either the Prime Minister or the Head of the Government Office.

4 M. Beblavý ed. (2000), *Závěrečná správa o výsledkoch a odporúčaniach auditu súladu činnosti a financovania ústredných orgánov štátnej správy*, p. 7.

Finally, it is important to note that no empirical research, surveys or other relevant analyses have been conducted and that relevant data on relations between the politicians and civil servants is missing. Therefore, it is extremely difficult to classify these relations according to any theoretical framework.

8. Conclusion

The Slovak Civil Service is very young and still in the middle of a process of transformation into a market oriented democratic society. Slovakia is striving to achieve the standards of public administration laid down by the European Union. Slovakia needs to improve the democratic and professional administrative capacities in preparation for enlargement and the development of the public services required to implement Union rules with the same guarantee of effectiveness as in the Member States. Thus, although the process of institutionalising a framework of democratic governance has been more or less concluded in the political sphere, the need for a future public administration model is becoming increasingly evident.

The political instability of society over the last years has had a crucial influence on the development of the long–term strategy for administrative reform and its content. The process of reform has been highly politicised and ineffective. Besides the lack of Management capacities, the current system of public administration has a structural disadvantage: fragmentation of the municipal self–governmental bodies. This local power structure is highly dependent on the state subventions. Therefore, Slovakia needs to learn from previous unsuccessful reform approaches and to shift discussion to the problems caused less by formal structure and more by the environment within the system itself. Moreover, the unstable political environment and politicisation of the whole society have had an impact on politico–administrative relations in the Civil Service. This, together with the non–existence of a Civil Service law that would clearly set definitions and rules, is an important cause of the high politicisation of the Civil Service and consequently of a high level of turnover among top civil servants. This situation leads to instability and non–continuity in the Civil Service, influencing its effectiveness and quality of performance. The introduction of the Law on Civil and State Service will fundamentally stabilise the position of the administrative staff of the government by giving regulations on the career perspectives, purpose and direction of further training and the job requirements of the Civil Service.

On a formal level, a new definition of public servant is being introduced. Even though one of the most important issues is the establishment of a legal system of relations between elected politicians and professional administrators, Civil Service laws have not yet been adopted. Politico–Administrative relations are not based on legally defined differences between permanent public servants (officials) and public servants performing political functions, or between administrators and politicians. This belies a resistance of traditional bureaucratic procedures at the local level which is more deeply rooted than the political enthusiasm to develop a more effective administrative system.

Similarly, the decentralisation of power from central state bodies to territorial (regional) self-government is an important issue. At the heart of the current discussion is the question of the competencies that should be accorded to the local and regional levels. In order to deal with this question, it is necessary to tackle the problem of what constitutes adequate financial resources, raising the thorny issue of tax transfers between central, regional, and local powers. The decentralisation of power from state to regional level and the strengthening of the competencies of municipal self-governments would strengthen the interests of political parties to enhance their regional policies, which could ultimately result in a revitalisation of regional socio-economical development. This development may also encourage the political parties to put more time and effort into the selection and preparation of their candidates for regional and local posts. After the adoption of two proposed laws – the Civil Service Act and the Act on Regional self-government, the structural part of the reform of the Slovak Civil Service will be in its main parts finished.

Besides the institutionalisation of formal relations, the process of transformation from an old totalitarian type public administration to a new democratic model inevitably brings a whole new set of values and attitudes connected with Civil Service. Many negative features of the 'politicisation tradition' of the former totalitarian regime prevail, especially on an informal level. Many of the country's internal features are still influenced by the history of 40 years of communist rule, where the Civil Service was the servant of one leading political party. In spite of a clear separation of legislative and executive powers since 1992 and some steps of separation of the activities of political parties from those of the public administration, political interests still play a significant role in Civil Service practice. Undoubtedly, the consequences of the ideology driven Civil Service of the past – when civil servants had to be loyal to the political regime – continue to be felt. It is not simple to change informal values, attitudes and behaviour of civil servants who had, for forty years, a very limited scope of freedom to decide on a professional basis. This kind of operation of Civil Service is deeply embedded in the minds of both current civil servants and politicians. Thus, the change towards a modern professional Civil Service cannot be a quick process, since the change of orientations and behaviour is much more complicated than the change of structures.

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Annex 1: Glossary of terms

Public administration reform in Slovak Republic, as in other Central and Eastern European Countries, redefines the concept of state and state power. Basically, it incorporates the transition from one–party rule to a multi–party democratic government.

Public administration in Slovak Republic is provided by both *state administration* and territorial *self–government*.

State Administration represents the executive power as stipulated by the Constitution and provides its services via the following agents: a) the highest and central bodies of the state service (the Government of the Slovak Republic, Ministries and other central bodies of the state service) b) local bodies of the state service (regional and municipal authorities and specialized bodies of the state service)

Self–government only exists on a municipal level. The envisaged higher–level (regional) Self government is under preparation and should be enacted in 2001 with the first elections in 2002. Both tiers include elected councils and local/regional offices.

Local administration – administrative staff working with both local executive bodies: a system of Local State Administration and a system of local self–government

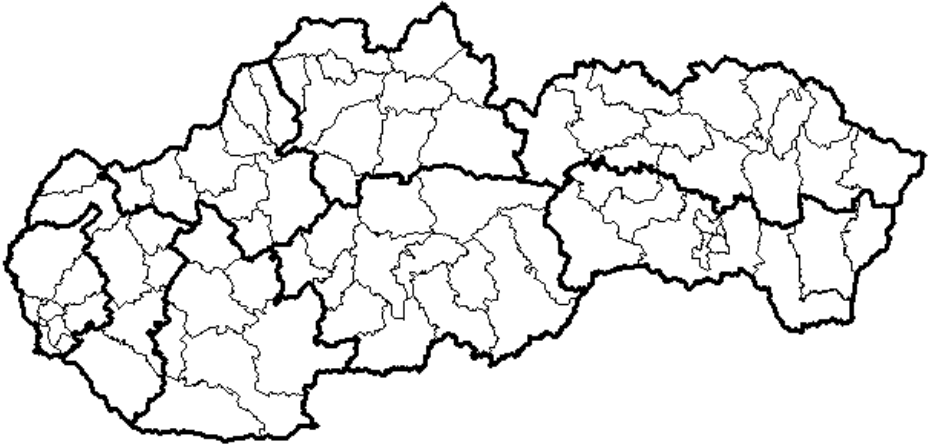
Decentralisation – handing over responsibilities from the state administration to local (and later regional) self–government

De–concentration – transfer of competencies from central level to subnational levels of state administration

Civil Service – the administrative staff working within the hierarchy of the state administration implementing policy and applying the laws and regulations made by legislation. In Slovak, also terms “state employees”, “state officials” and “bureaucrats” are used interchangeably.

Public service – the administrative staff working within self–government and employees of budgetary organisations (from state budget).

Annex 2: Map of Slovakia



Chapter 13: Politico–Administrative relations in Yugoslavia

Željko Šević¹

1. Introduction

Yugoslavia has a territory of 102,173 km² and 10.4 million citizens. In Serbia following the success of a so-called ‘bloodless revolution’ an interim government was created and early elections were called for 24th December 2000. The former ruling Socialist Party with the Serbian Renewal Movement (formerly the strongest opposition party) and the coalition of fifteen small, and literally until yesterday, marginal political parties called the Democratic Opposition of Serbia (DOS) established, by a contract, the interim government to rule the country until a new democratically elected government takes power. In Montenegro the government is formed by the coalition of a wide range of political parties which co-operated with the Democratic Party of Socialists, creating a block “*To live better*”. Since the coalition “*To live better*” boycotted the federal elections called by the former federal president Slobodan Milošević in September 2000, the single, largest party, the Socialist People’s Party won almost all seats in the Federal Parliament and with the DOS created a new federal Government.

The Socialist People’s Party was a former faction of the Democratic Party of Socialists. This is one of the reasons why the Montenegrin government does not recognise the federal government and there has been a continuous dispute between the two. With the election of a democratic president Vojislav Koštunica at the federal general elections in September 2000, it is expected that the federal state will consolidate in the near future. However, it is very difficult, if not impossible, to foresee the behaviour of the Montenegrin political elite which is losing ground as Slobodan Milošević is ousted as the federal president. Montenegro’s political elite was enjoying full support of the West as a counter-balance force to Slobodan Milošević and with his fall it is most likely that excessively autocratic behaviour in Montenegro will not be tolerated by the International Community.²

The current economic situation in Yugoslavia is very difficult. The country is late in implementing the necessary structural and institutional reform, and the delayed results of the international economic sanctions which were in force from 1992 to 1995 are seen everywhere. Political tensions in the country are still high, the situation in the Kosovo and Metohija (*Kosmet*) province is still unsatisfactory, with the Inter-

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2 Montenegro is a European country with the largest number of police officers per 1,000 citizens. The number is estimated to be over 30 000

national Community failing to deliver as promised, and therefore there is very little, if any, interest from foreign investors to invest in the Yugoslav economy. However, it may change with the inauguration of the new Yugoslav Federal government and new Federal President. The unemployment rate is about 25 per cent, and GDP per capita is USD 1,600, three times less than in the late 1980s. With the fall in industrial production it is very difficult to have efficient public finance. The participation of the public sector in GDP is almost 60 per cent, but the public funds are almost empty. The vast proportion of citizens are involved in some kind of black or grey economy, trying to bring in an additional income to their impoverished families. Salaries of public service workers are paid with a delay of two to three months. This is similar for pensioners and other recipients of public funds. It is impossible to envisage when the situation will come close to normal. The State pension system has almost collapsed, and since the September uprising is in total chaos. The Pension Fund did not process any claims, and many requests lodged by citizens are either lost or 'misplaced'.

And a poor state cannot have a well paid Civil Service. Civil servants are poorly paid, and their salaries are late as well. The old saying "a Civil Service salary is low though regular" does not work any more. Now, Civil Service salaries are low and irregular as well. This may be one of the reasons for the delay in Civil Service reform, but certainly not the main one. The inertia in behaviour of ruling parties is certainly the main reason for delay in reform attempts.

In this chapter we look at the nature of the politico-administrative relations within the Yugoslav Civil Service, and at what the possible consequences of the models adopted in Yugoslavia are. This certainly will help in understanding the nature of the intra-Service relations and public policy Process in Yugoslavia and its constituent republics.

2. Overview of the Administrative Structure of the State

The Federal Republic of Yugoslavia (*Savezna Republika Jugoslavija*), *de jure* incorporated in May 1992 into the foundations of the Socialist Federate Republic of Yugoslavia inherited the administrative structure from the previous federation. After the introduction of a new Constitution of the Republic of Serbia in 1990, a series of laws were enacted modernising and reforming Public administration, including the local government system. As Yugoslavia kept the Serbian Civil Service tradition many changes were required, beside reintroducing the hierarchy principle into Civil Service relations and abandoning the remnants of the socialist social self-Management period. The idea of the co-operation of administrative bodies at different levels of government made the entire system of local government fairly inefficient and slow. The reintroduction of hierarchy certainly contributed to the overall system's efficiency (Šević and Rabrenovic, 1998a). Reinforcement of the hierarchical principle is present at the republican level, together with efforts to weaken the federal state. When Slobodan Milošević was controlling Yugoslavia, the Montenegrin government did not

recognise the federal authorities and built the necessary infrastructure to support an impending independence, with the assistance from the USA and the EU. With the democratic changes at the federal level the situation may change, in a way that the International Community may cease supporting the Montenegrin aspirations for full independence. Nevertheless, Montenegrins are very interested in a redefinition of the relationship in the Federation, and the establishment of Montenegro as an independent state, which may be in some kind of loose confederation with Serbia. Some foreign diplomats are inclined towards seeing a three member federation (Serbia, Montenegro, Kosovo) replace the current Yugoslav federation. However, this is still fairly far away from realisation.

Like all other Balkan countries Serbia and Montenegro pursued the process of high centralisation in the early 1990s, where many powers were resumed by the state. *De facto*, a municipality remained a main form of local government, but with very little, if any, formal powers. In contrast to other former socialist countries which were highly centralised and therefore needed the introduction of a decentralisation programme as a component of the overall social transition, Serbia and Montenegro, as the former Yugoslav republics, were fairly decentralised. Therefore, the implementation of a centralisation process does not come as a surprise. This process of centralisation in the former Yugoslav republics was seen as a nation–state building. Consequently, the national euphoria supported the move towards centralisation.

In order to provide law enforcement and exercise executive powers, the government organised a number of districts in Serbia (29 in total). Montenegro does not have any mid–tier government level, as the Republic is fairly small. The districts (*Okruzi*) are not equally staffed. Some of them are better staffed and more prestigious, whilst others are served by a very small group of civil servants. In fact the districts as such do not have employees on their own, but a number of civil servants assigned to a district from the different ministries. The civil servants at district level will act in the first instance, while an eventual appeal will be considered by the minister based in Belgrade. Supervisory and controlling functions within the Civil Service structure are performed by the ministerial headquarters in Belgrade. However, supervision over the ‘public services’ (education, health services, social care, etc.) is exercised at district level.

The district alone cannot entrust any duty to a municipality. The right of delegation is solely in the hands of the Government. It is often difficult for an individual ministry to delegate some duties to the municipality. The delegation is not, as a rule, general, but performed on a case by case basis. So, some activities can be performed directly by a republican body in one municipality, whilst in another municipality the municipal bodies can apply the republican laws on behalf of the Republic. It is not legally possible to delegate federal authority to a municipal level. As we have said previously, there are no direct contacts between the Federation and municipalities.

There is a strict division between the authorities, rights and duties of local self–government (municipal administration) and district administration (detached local

offices of the republican Civil Service). However, as there are some shared responsibilities such as primary and secondary education, social care, etc. there is a fairly high level of co-operative behaviour demonstrated by both sides. For instance, the Republic (the Ministry of Education) funds directly the salaries of teachers, whilst the municipalities cover the 'material costs' of schools.³ Whilst the salaries are defined by a national scale (agreed with the Unions) the money paid in 'material costs' differ largely, as more developed municipalities invest more in education (both for preservation of the achieved level, and future development).

Another important factor that influences the co-operation between regional bodies and municipalities is that the district civil servants are usually locally recruited, rarely transferred from their home towns and up to 1990 most of them worked in the local municipal or district administration. Regions (*Regioni*) in existence before 1991 were in fact co-operative communities of a number of neighbouring municipalities with some common characteristics. Although they were regarded as a 'socio-political community' (*društveno-politika zajednica*), which was a socialist generic term that described all the levels of government and self-government, in fact they were co-ordination and co-operative bodies. The regions were *de jure* called 'inter-municipal regional community' (*medjuopštinska regionalna zajednica*). Even the police force was co-ordinated at regional level.

The employees in the district bodies are formally employed by a respective Ministry in Belgrade. The head of a district is appointed by the Government, and has the status of a lower-tier Senior Civil Servant. He is to co-ordinate the work of detached government bodies, but the orders are issued directly through the respective ministries. If the head of the district is not satisfied with the performance of an organisational unit under his/her supervision he/she can *only* lodge a complaint with the respective ministry. The issue will be dealt with by the assistant minister who heads the appropriate department within a ministry that appointed the civil servant. To a great extent the heads of district are rather protocol positions, but not in all cases. Sometimes when the district heads are at the same time leaders of the local organisations of the ruling party, they exercise more power than really stipulated by law, due to their political prestige. However, this latter practice is *stricto lege* forbidden.

The general rule is that the clash between municipal on one side and the republican government and its detached bodies on another cannot arise. The law assumes that all the rights and authorities belong *originally* to the Republic, and that the Republic can delegate them if deemed appropriate on a case by case basis. A municipality as a basic form of self-government, should not assume that it has rights unless explicitly given by law. A municipality acts with authority when deciding about civil rights and duties, certifying documents, allowing small business development and allocating the land and building sites. In the final instance the enforcement of these decisions

3 However, the situation is fairly awkward, as the Republican Government owns all school buildings, but their regular maintenance is paid for from a municipal budget.

is guaranteed by the State, as the municipality bailiffs have to be accompanied by the *uniformed* police officers.

The Constitution of the Republic of Serbia of 1990 stipulated that law can define one municipality as a city, on whose territory will be later formed two or more ‘city municipalities’ (*gradske opštine*). The Statute of a city should make a clear delineation between the rights and duties of the city and ‘city municipalities’. The capital, the City of Belgrade, is defined as a constitutional category. The City of Belgrade performs the duties of a municipality as stipulated by the Constitution, and other duties that were transferred to it by the Republic.

The City of Belgrade is authorised to enact its Statute which will delineate duties of the City and its ‘city municipalities’. The City of Belgrade took over some of the duties which were previously performed by the ‘regular’ municipalities, whilst some of the authorities remained with the municipalities (which became the ‘city municipalities’). The Statute of the City of Belgrade is enacted by the City Assembly, which is composed of representatives who were elected directly by the citizens on the majority principle. The local elections in Belgrade are carried out on two levels. People (voters) elect representatives to both the municipal assembly and the City Assembly. In practice the Republic transferred to Belgrade, to a large extent, the rights which were in other areas of the Republic ‘*decentralised*’ to regional level. However, in contrast to districts where law is enforced by republican civil servants, law in the capital city is applied by the City administration, on behalf of the Republic. It is expected that the future Serbian government (if DOS wins the republican general elections, and it is perceived as almost imminent) will grant Belgrade much larger autonomy and independence in handling matters on its territory.

The basic unit of self–government is a municipality. It is established by law, and its territory is defined by law. Republican laws on local self–government define the territories exactly, listing all the settlements which belong to a certain municipality. Although both Yugoslav republics are highly centralised they also have a very long tradition of local government and it has been followed ever since. Municipalities have the rights and duties stipulated by law, and can perform only those duties listed in law. In all affairs which are entrusted to the municipality, the municipal authorities are independent from the Republican government, although republican government has the general right to supervise the activity of the administration at all levels. The rights of supervision can be exercised only in grievance procedures, and only if an interested party files a complaint. It is perfectly clear that Yugoslavia follows the dual system of local government (Leemans, 1970). Only in the case of serious misconduct performed by the particular local authority, can the Republican government dismiss the local municipality assembly and appoint a temporary *ad hoc* Municipal Executive Council. However, this body should depict the results obtained at the last local elections. But, in practice the Government inclines to appoint its supporters on the Council. Briefly said, the Republican or Federal government does not have any power,

except general administrative supervision, over the local self-government bodies. As can be seen, while Serbia has developed the structure of districts, Montenegro does not have any detached republican government bodies. But, this is understandable, considering the size of two republics. While Serbia has 29 districts, Montenegro has 21 municipalities in total.

3. History, Traditional Position of Civil Service, *vis-à-vis* Politics⁴

The Yugoslav Civil Service has had four main phases in its development. They are as follows:

1. the period from its incorporation to the end of W.W.I, i.e. the development of the Serbian Civil Service;
2. the period between two World Wars, i.e. the period of the *first* Yugoslavia;
3. the period from 1945 to 1992, i.e. the period of the *second* Yugoslavia, and finally,
4. the period after 1992, i.e. the period of the *third* Yugoslavia (Šević and Rabrenović, 1999).

Serbia was made *de facto* dependent from Turkey from the late 13th century, but formally occupied from 1459. For the next four hundred years the Turks were ruling Serbian territories, but were mainly interested in collecting taxes, and providing some kind of public order. At the beginning of the 19th century, the Serbs for the first time stood against the Turks in an organised manner. However, the First Serbian Uprising was defeated, but it demonstrated the interest of the nascent Serbian bourgeoisie in the development of educational institutions and an efficient and modern Civil Service. In contrast to the First Uprising, which was predominantly a military undertaking, the Second Serbian Uprising had the characteristics of a rather premeditated political action aimed at securing autonomy in the first instance, and later the full sovereignty.

In the mid-1830s Serbia got a limited form of autonomy and in the late 1850s full autonomy with no Turkish officials (including the military outposts) at all on its territories. Finally, in 1878 Serbia gained full sovereignty. According to the Constitution of 1835 ministries were an integral part of the State Council, and ministers were dependent upon the Council. The Council was the paramount executive, judiciary and legislative organ. The ministers were charged with preparing legislative proposals, and after they were voted for in the Council, ministers assumed responsibility for their implementation.

By the early 1860s the status of the State Council was changed significantly. Those changes strengthened the powers and position of the Prince with regard to the Civil Service and Executive branch. Under the new regulations the ministers became the *Prince's officers*, who could be appointed and dismissed at his discretion. Ministers were to exercise power in the King's name and on his behalf. Following these constitutional changes the new Law on Central Government was introduced in 1862. The scope of the authority of the ministers was redefined, the Prince's Chancellery abolished and

⁴ This section draws heavily on Šević and Rabrenović, 1999

the Ministerial Council was legally established. There were seven ministries (Justice, Education and Religious Affairs, Foreign Affairs, Internal Affairs, Finance, Army and Civil Engineering), while in 1862 the eighth ministry was created (Ministry of National Economy). The number, size, powers and authorities of the ministries were changed many times, but the principles underlying the 1861 changes remained almost untouched until 1921. The later constitutions endorsed in 1869, 1888, 1901, and 1903 introduced mainly cosmetic changes in the relationship between the ruler (Prince and later King), Parliament (People's Assembly) and the Government (Ministerial Council). Serbia was throughout that time *de jure* a parliamentary monarchy, where the governments were formed by the majority party or coalition. However, quite regularly the ruler intervened and imposed his will, despite political protests. On the other hand a vast majority of Serbian rulers ended their life by forceful death. The Serbs as a nation are 'imprisoned' by their own history and traditions, and have a talent for police work, which explains why fairly unstable political situations in Serbia continued to prevail for a long time (Rabrenovic and Šević, 1997).

Serbia devoted particular attention to the development of the Civil Service, and the post of State Servant (*državni činovnik*) was socially prestigious. There were various clerk jobs for those without a university degree, and secretarial and officers jobs for people with a degree. However, there was a fairly small number of University educated people in Serbia at that time. The first institution of higher education was established in 1841 (*Lyceum*). This was the reason why initially many senior civil servant positions were occupied by Serbs who were born in neighbouring Austria.

Civil servants were chosen by the minister, but appointed by the Prince/King, by his decree. There were two ways of selecting the candidates for Civil Service. First, a minister could choose amongst the candidates who met all the legal requirements. Secondly, he could select amongst those who were recommended to him by a special body. However, in both cases a minister just proposed candidates to the King for appointment to the Civil Service. The King kept the right of appointment throughout the history of the Serbian Civil Service, and his decree was an instrument of vesting administrative powers in civil servants. The minister had complete authority within a given ministry. All the documents which left the ministry were to be signed (or co–signed) by the minister. However, in legal terms his decision was not final, as an interested party had a right of appeal to the State Council, or could initiate an administrative dispute before the district court. Throughout the history of its existence the State Council was losing its powers, but the powers of the administrative court in the final instance were retained until the occupation of Yugoslavia in 1941. All Serbian Constitutions guaranteed the right of appeal. Interestingly, this right was interpreted very widely, so the object of appeal could be both general legal acts as well as individual decisions or decrees enacted by the Civil Service. This right was also closely connected with the right of transparency, so all government decisions were to be made publicly known. The King had some legislative powers, although he was, *stricto sensu*, the formal head of executive power. However, he was precluded

from having *organisational powers*. He could not assume powers to enact ‘instructions’ which was the responsibility of the minister. In fact, a minister was an instrument through which the King could execute his paramount powers. Although, in liberal Serbia of the early 20th century (1903–1914), the government was formed by a majority party, the King had the right not only to give the mandate to a prime minister, but also the right to intervene in the procedure of appointing a particular minister (Šević and Rabrenovic, 1999).

The basic organisation of the Civil Service was set out by the Constitution of 1921, known as ‘*Vidovdanski ustav*’. The constitution was largely inspired by German/Austrian legal traditions. The new, larger state required an increase in the number of civil servants, as well as ministries (Kostic, 1933). The Law on Central Administration enacted in 1862 was in force until 1929, regulating the organisation of the Civil Service. However, in 1918 and 1919 new ministries were created. In 1919 there were 18 ministries along with the Presidency of the Ministerial Council. Keeping old traditions, the Civil Service continued to be a highly prestigious profession, which recruited the best young graduates. The profession was a career-track, and upon completion of a traineeship, a probationary period of up to three years, the appointment to the post was for life. Usually, a civil servant would stay with one ministry throughout all his/her career, but transfers to other ministries were legally allowed. In some cases civil servants could be transferred, for a limited period of time only, outside the so-called ‘Central Administration’, that is to the local government units. A special status was adopted for the Belgrade City Administration, which had a status fairly comparable to that of Washington, DC within the USA, or Canberra, ACT in the Australian Commonwealth.

The importance of the Civil Service increased after January 6th 1929, when King Aleksandar I proclaimed dictatorship, banned *activities* of the political parties (but did not dismiss the political parties themselves), dismissed the Parliament, and formed technocrat governments usually headed by an army general. In such a situation the King relied upon Civil Service professionalism and loyalty. The Constitution of 1931 stipulated that Administrative power is exercised by the King through Ministers, based on the Constitution. Throughout the whole history of the First Yugoslavia, the Civil Service as a profession kept its social prestige, second only to the Army. At that time, following German tradition, even University professors and judges were *de jure* on the Civil Service list.

After World War II and the victory of a so-called ‘socialist revolution’ the principle of ‘*unique people’s power*’ was promoted. There were four levels of government: federal, republican, provincial and ‘administrative-territorial units’ (towns, municipalities, town districts, districts, regions, etc.). Districts and towns were local self-managing units, which were inherited from the former system, and dated back to the early 19th century. Local administrative organs were subject to double subordination, to the local legislative called ‘*Narodno-oslobodilački odbori*’ – NOO (‘*People’s Lib-*

eration Committees’) and to higher administrative organs (district, provincial and republican). Until 1953 the Government and Civil Service were very centralised and highly hierarchical. At that time the state–owned enterprises had also the status of administrative organs. Executive and *Administrative* powers were exclusively in the hands of the Federal Government. Republican governments had similar, if not the same prerogatives within their respective territories, but only in the execution of republican laws.

In 1950 self–Management was launched in the economic sector followed by constitutional changes in 1953. According to the Constitutional Law of 1953, Yugoslavia still had a fairly centralised administration, but the executive branch was made more dependent on the Parliament. A new post of the President of the Republic was introduced, and the Government was renamed the ‘*Federal Executive Council*’. It held this name until the dusk of the second Yugoslavia. In order to execute the law and perform the duties of the federation, State Secretariats (i.e. ministries), autonomous departments as well as ‘institutes and other administrative organs’ were created. Following the constitutional changes, the new law on State Administration was enacted in 1956. This simply developed the basic ideas set out in the Constitutional Law. The State Administration (Civil Service) was to perform executive, organisational, professional, and *regulatory* activities. The Law on Public Servants of 1957, which replaced the Law on Public Servants of 1946, also promoted a so–called divided employee relationship. According to these Laws, Civil Servants were a special group of employed workers to which a special legal regime was applied.

A clear distinction between Labour Law and Civil Servants employment conditions was made in the Yugoslav administrative legal theory from the late 1940s to the early 1960s. The reason for this distinction was the specificity of public duties performed by civil servants. This difference disappeared with the introduction of a new Constitution in 1963. Regarding the organisation of the Yugoslav Public administration (Civil Service) the Constitution of 1963 did not introduce many changes. The principle of unity of power of ‘workers’ class, working people and citizens’ was stressed even further, making *de jure* the Assembly (Parliament) the most important institution within the system. The Executive Council was re–defined as a ‘collective executive organ’ which co–ordinated the day–to–day work of the State Administration. The State Administration was still a constituent part of the executive function, even though formally the ‘executive councils’ incorporated ‘Administrative organs to execute laws and undertake administrative Acts’ (Ševic and Rabrenovic, 1999).

The last Yugoslav socialist constitution enacted in 1974 stipulated that Public administration oversaw the situation in their respective fields, acted within an administrative procedure, performed administrative control and prepared acts and regulations for the Assemblies and Executive Councils to decide upon. *Four years* later the Law on the Basics of the System of Public administration, Federal Executive Council and Federal Administrative Organs was introduced, operationalising

the constitutional provisions. According to this law, a civil servant was regarded as a normal employee in an ordinary company. This fulfilled the ideological premise that all those employed should be fully equal regardless of the organisation in which they worked. A public servant in the Laws on Public Servants of 1946 and 1957 was now renamed a 'worker in the Public administration Organ'. However, in fact the new law changed little. The Civil Service tradition was very strong, and the public perception of 'Public Servants' remained unchanged. A Civil Service career continued to be regarded as a good career choice and civil servants, especially those in the Federal Administration, were regarded as a privileged group. The situation started to change after 1989 when the disintegration of the Federation became imminent. In 1990 the republican governments began to undermine the federal authority on their territories and to take-over the duties of the Federal Government on their territories as their original functions. The Federal Government was politically weak, and it soon appeared that the Yugoslav Constitution of 1974 *de facto* defined a confederation rather than federation.

Throughout all the periods of its development the Yugoslav Civil Service has had a fairly clear position *vis-à-vis* political appointees, i.e. the government. The Civil Service was there to *technically* execute the law and give advice to the current ministers, members of the Cabinet. However, in the communist time, 1945–1990, the civil servants were more politicised than was necessary, as the party committees were formally organised within the Civil Service. But, it was never a requirement for employment in the Civil Service that the candidate was a member of the Party. The Yugoslav, and before that the Serbian Civil Service was not, in fact, an elitist organisation. Position and class were not important factors as long as a candidate had a good educational background, and 'good character'. In most of the first half of the 20th century, the Civil Service was a profession, which was incompatible with political activism. When someone became a party activist he or she was usually expected to resign and leave the Service. However, often it was possible for a former civil servant to return to the Service, having most of his rights recognised, including public pension rights. Therefore, there has always been a very fine line between Civil Service posts and politics, but that very line was changing with the changes in the political environment.

4. Formal Relations, Constitutional and Legal norms, Guiding Relations between Elected Politicians and Appointed Officials

The Constitution does not regulate the relationship between political appointees and the Civil Service in an explicit manner. It just stipulates the purpose of the Civil Service to enforce the law. Other legal acts stipulate that the Civil Service should be non-partisan and professional in fulfilling its duties. The Law forbids Civil Servants to participate directly in the activities of political parties, but does not prevent them being party supporters. However, when fulfilling their duties they must not be guided by their political beliefs and other perceptions.

The Serbian, and also the Yugoslav Civil Service, *de jure*, should be completely apolitical. The Law stipulates that a civil servant in performing his/her duties may not be guided by his/her political beliefs, nor can he/she express them openly. Employed and appointed personnel also cannot serve as members of the bodies of political parties. However, in practice it has been interpreted that they cannot be members of the organs at the same organisational level. It means that, for instance, a Republican civil servant could be a member of a political party body for Belgrade, or another town in Serbia, but not a republican committee (Šević and Vukašinovic, 1997). It has been reported that in the Serbian Civil Service this rule was generally followed, at least concerning members of the Socialist Party. With JUL participation in power from 1998 to 2000, the number of exposed civil servants openly participating in the political election campaign in 1997 increased. Some of them publicly exercised political activities as party members, although they were civil servants in very sensitive positions which should be impartial (Šević and Rabrenovic, 1998b). For instance, the Chief of Staff (the Minister's Cabinet) in the Serbian Ministry of Internal Affairs was, at the same time, a senior spokesperson for JUL. And, in the case of JUL it was not an exception, but rather the rule.

As Serbia, i.e. Yugoslavia, belongs to the countries which can be classified as having a 'functional Village life' model (Peters, 1987; 1988), there is a close co-operation between senior civil servants and minister. Similar to other continental European countries, a civil servant can leave the Civil Service for politics and later re-enter. At different stages in their professional career a number of civil servants enter politics, but not as often as in France or Germany, for example. Another problem is that it is very difficult to define the position of 'appointed personnel', with regard to politicisation. 'Appointed personnel', i.e. Deputy Ministers, Secretaries to the Ministry and Assistant Ministers are appointed by the Government and perform their duties as long as the Government that appointed them is in power. The Government is formed by the majority party or political coalition derived from the Parliament, which certainly tends to exercise its power as fully as possible. But some differences arise. While anybody can be elected as a Minister, Secretaries to the Ministry and Assistant Ministers must meet certain requirements set out by the by-laws. A candidate for those posts must have a degree, more than ten years of professional experience and *proven* organisational, Management and leadership abilities. In practice, the government tends to appoint people who are currently upper-class civil servants, or previously held Civil Service positions. Also, Assistant Ministers, who serve at the same time as Heads of Departments, in highly professional ministries are appointed from the broad range of professionals in the field of the Ministry's interest. It seems that the government prefers to appoint its supporters, but only if they meet necessary minimum professional requirements.

Before the Serbian government was formed in March 1998, following the Republican general elections held in December 1997, the overall assessment of the Serbian Civil Service was that it was not more politicised than other Civil Services

in states which can be classified as having a 'functional Village life' model (Šević and Rabrenovic, 1998a). However, the professional standing and unbiasedness of the Civil Service was severely affected from 1998 to 2000, when JUL and SRS were in the Government. These parties believed in a *radical activist* approach in propagating their ideas and activities, and had strategies very similar to those applied by the communists many years ago when they were small, marginalised illegal parties. The communist expansion has shown the dangers of such political activism, especially amongst the marginalised and disenfranchised in society (Šević and Rabrenovic, 1998b). Both parties appointed a large number of their supporters to Civil Service posts, and often it had no connection whatsoever to their professional abilities and prestige. It will not be a big problem to clean the Civil Service from those political appointees as in most cases they did not meet the necessary entry requirements.

The Civil Service is there to loyally serve the Government of the day as its 'technical arm'. This is the reason why the Civil Service itself is not a legal entity, but the Government is a subject of law. Ministers, as political appointees, are there to define the current government policies, embody them in the form of law, and the Civil Service will then enforce them. Theoretically, the Civil Service should not be charged with implementing political decisions, but only laws. However, in practice, often some civil servants who are close to the government of the day do not hesitate to perform some acts which are of a political rather than technical nature. This may be the consequence of there being just a few political appointees in the Ministries; the Minister and, in a large number of cases, the Deputy Minister. Other senior Civil Service posts are usually occupied by professionals, and they keep their posts even if there is a change of government (Šević and Rabrenovic, 1998a).

In Yugoslavia the difference between 'legal system' and 'legal order' remained a problem even after the changes and democratisation of political life. Discretionary rights are widely practised, and also corruption is not negligible. Therefore, there are some strata in the society who simply ignore the law, and get away with it. It seems that sometimes the law was promulgated for its own sake, and that nobody really wanted to apply it in practice. The Civil Service is generally professional, although it tries not to upset the politicians in power. Often it is very difficult to find a fine balance between professionalism and the responsiveness towards the political elite sitting in the government of the day. An additional problem is that close relations with the ruling party can help in climbing the Civil Service ladder. Therefore, some civil servants openly keep close contacts with the ruling political parties, trying to take some advantage.

The basic professionalism of the Civil Service is provided by the fact that there is generally a developed sense of the State in Serbia, Yugoslavia. The Civil Service has been seen as a continuity of the State, and therefore something different from the government, comprised of current politicians. This is the reason why people usually clearly distinguish between the government and the Civil Service. The government

is an executive branch of state power. But, Yugoslav administrative law theory distinguishes two separate functions of the executive branch: *politico–executive* which belongs to the Government (Cabinet), and the *administrative–executive* function which belongs to the Civil Service, under close supervision of the Government. The politico–executive function is seen as issuing decrees and other by–laws in order to facilitate the enforcement of laws passed by the Parliament, and issuing directives on how certain legal acts should be implemented. In contrast, the administrative–executive function should be seen as mere law enforcement.

Recently, Yugoslavia began implementing more transparent public policies, and the civic sector is growing rapidly. There is a large number of NGOs which not only lobby for the introduction of certain laws, but also oppose the laws which are in the parliamentary law–making procedure. While in power (1997–2000) the junior coalition partners in the Serbian government, JUL and SRS did not have a great respect for the third sector organisations, seeing them as a major destabilising factor. They perceived the public policy Process in a classical manner, thinking that only registered political parties should participate in the political process. But, in the ‘bloodless revolution’ in September/October 2000 the NGOs, which declared themselves think–tanks, were there to provide a logistical support for DOS and assist in the peaceful transition in government. However, it also demonstrated that NGOs in Serbia are highly political, and also financially very dependent on regular cash support from the Western organisations, both governmental and non–governmental.

5. Political Culture and Attitudes

When studies on public opinion are conducted in Yugoslavia, the question about the Civil Service is not usually posed. *Traditionally*, people see the Civil Service as an extension of the State whilst the Government is seen as a political body of the day. This may be a consequence of the German legislative influence on the creation of early Serbian Public law structure and institutions. Therefore, the questions will be directed specifically at the people’s satisfaction with the government of the day, Parliament, political parties and their leaders, etc.

People in Yugoslavia have lost their general confidence in the institutions of the system. The citizens of Serbia have the lowest confidence in the Parliament (29 per cent), institutions of civil society (32 per cent), and institutions of political order (43 per cent). Institutions of public order are the best rated, as 43 per cent of citizens have confidence in the institutions of ‘*public services*’. Citizens of Montenegro also have low confidence in institutions of civil society (31 per cent), parliaments (41 per cent), and institutions of the political system (47 per cent), while they also believe most in public services (53 per cent). Citizens do not have confidence in the federal state (Yugoslav common institutions). Only about 10 per cent of them believe in the Yugoslav federal institutions (IDN, 1996). The storm on the Federal Parliament on 5th October 2000 by the crowd may be perceived as a public demonstration of the lack of confidence in the federal institutions. However, it was a general demonstra-

tion of dissatisfaction with the Milošević regime and its devastating 10-year results, rather than distrust of federal institutions as such. The Milošević regime certainly changed the nature of many institutions, which lost their essence, and only a shell remained. The attack on the Federal Parliament building was perceived as breaking up the shell, and the essence had been drained long ago.

Montenegrins in general are more likely to hold a good opinion of their republican government and president compared to those in all other CEECs (IDN, 1997). Despite the lack of empirical research on the attitude of citizens towards the Civil Service in Yugoslavia, there are some national stereotypes of the Civil Service. Traditionally, the Civil Service has been considered as a wise career choice. Local governments are often regarded as ineffective, over-bureaucratized and disorderly. Also, local civil servants are usually regarded as lazy and inert, inept in helping even if willing to do so (Slavujevic, 1997).

There is also a lack of awareness of Civil Service deficiencies by the leading political parties. Currently they are unprepared (or unwilling) to listen to citizens and assess their experience with the Civil Service. Another problem is the serious age differentials of citizens as voters. While senior citizens, inhabitants of rural areas and citizens educated up to university level support the Socialist Party, (probably because of an irrational fear of changes), the young, educated and urban citizens support the opposition parties. However, the recent deployment of political forces in Serbia marginalised many civic parties, as they boycotted elections in 1997. Disappointed voters who favour radical measures, a quasi-liberal capitalist economy and a strong state voted for the Radical Party, probably not knowing the final repercussions of their actions. Despite the general belief that Serbs are at the peak of their national (nationalist) movement, Serbian nationalism is a *response* (Rabrenovic and Šević, 1996). That is, it appears as an important policy variable whenever there are re-examinations of history or strikes from abroad. This explains the large lack of confidence in NATO and the European Union in Serbia and Montenegro, despite the long-term Serbian devotion to Pan-European ideas (Šević and Rabrenovic, 1999).

Public opinion of the Civil Service is crucially affected by the unstable political situation in the region, *Kosmet*, i.e. the Kosovo problem; a poor economic situation and a general national disappointment with, allegedly, unjustifiable harsh treatment by the international community, which appears to apply double or multi-standards, and often disregards many historical facts (Šević and Rabrenovic, 1999). The current difficult economic situation in a country, low salaries, many organisational problems within the Service, the appointment of an incompetent deputy and assistant ministers from the Serbian Radical Party and JUL, could have had a significantly negative impact on interest in a Civil Service career, but this has not been the case. There are always much larger numbers of applicants than vacancies advertised. Therefore, the ministries began to employ young trainees under one-year contracts, as so-called 'talented youth'. On completion of an initial contract a successful trainee can be appointed to a permanent

post, pending that he or she completed successfully the Civil Service examination. As a rule, the accepted people have a very good university degree and are able. Due to increased competition, better quality people were appointed in the Civil Service. Consequently, it boosts public regard for the Civil Service, but another problem is that these young people try to leave the Service as soon as they get some professional experience and when an opportunity arises. This is the reason why it should be expected that the staff–turnover will be higher in the years to come.

The former Serbian coalition government, in our opinion, seriously endangered the social prestige of the Civil Service. Namely, two junior coalition partners (SRS and JUL) believed that being in power means, at the same time, being able to employ only their supporters in the Civil Service. While the Radicals had a chronic lack of university educated people (they did not succeed in finding university educated ones even to fill the senior government posts), JUL did not have any problem in finding young educated people with a desire to become civil servants. It should not have generally been a bad thing if the new entrants perceived the Civil Service profession as serving the interests of the State, not singular partisan interests (Šević and Rabrenovic, 1999). However, these civil servants are seen by these two parties (JUL and the ‘Radicals’) as ‘our people in the Civil Service (‘Administration’). This was in flagrant violation of the law, which forbids civil servants to be politically active. These two parties used to perceive the power obtained on the general elections as absolute, unlimited ability to do anything politically opportune. This negative attitude affected, to some extent, the social position of the Civil Service (Cf. Šević and Rabrenovic, 1998b). Unfortunately, it seems that a similar attitude towards the Civil Service will be employed by DOS. Currently, DOS is trying to prove that the failure of many public services is due to sabotage on the part of Civil Servants who served the former regime. The Police service and the Armed forces are especially severely attacked, although they did not intervene against the civilians in October 2000. If they had intervened the question is whether DOS would be, at all, in power. In our opinion, DOS behaviour may prove the same as JUL and SRS, as they may wish to infiltrate as many of their members as possible in the Civil Service. Up to date behaviour of fifteen parties that make DOS demonstrate the clear lack of any understanding of the Civil Service systems, and the role of depoliticised Civil Service in a democratic society (Cf. Šević and Vukašinovic, 1997).

6. Public policy Process in Practice

The Public policy Process in Yugoslavia is still fairly *non-transparent*. Even in the former socialist time, a policy of public discussions about drafts of future laws was practised. People had an opportunity to say what they thought, and how they perceived the current situation in the country, how they saw the future law, etc. Usually practical discussions were held on two different levels. The general public had an opportunity to discuss law at public meetings organised by the ‘local community’. The local community was during the socialist time a type of organisation of the

citizens who lived locally. It had no public powers, but rather it was a way by which people could influence their local affairs. Formally organised and financed by the municipality, it was there to provide an illusion of '*socialist democracy*', if the like could have existed at all.

The public policy Process in Yugoslavia being non-transparent means that the whole 'game' is completed within the formal governmental institutions. There is a very small influence by other political factors outside the *registered* political parties. They are the main, if not the only, players in the public policy Process. A referendum and 'people's initiative' are legal possibilities, available to citizens, but usually not widely practised. With the fall of socialism the practice of public discussions of the final draft of future law was abandoned. Now the entire legislative process is completed in the Parliament. It is expected that new Federal and Serbian government may change this practice and introduce more wide consultation process on legal drafts. However, if they pursue the expected 'witch hunt' in order to preserve themselves in power, DOS may decide to close the legislation process even more, with an excuse that they want to prevent Milošević's socialists from returning to power. This temporary 'purge' measure may last much longer than expected, especially if DOS indulge in power, which may certainly happen as they have been striving to gain power for more than ten years.

Legally ministers are there to provide policy guidance and define the policy of their respective portfolio. The Civil Service is charged with providing professional advice, and enforcement of laws enacted by the Parliament. The government can introduce by-laws but, according to classical Continental European tradition, by-laws are there to clarify and facilitate the enforcement of laws enacted by the Parliament. In other words, the government can enact by-laws only when it is allowed to do so legally, or in performing its constitutionally stipulated functions. The Constitution lists all the areas in which state intervention is allowed. All other areas outside that list should not be regulated by law. The Serbian Constitution of 1990 stipulates that '*Everything which is not forbidden by law, is allowed*' (Art. 3). However, often in practice the government has crossed the line, and enacted a by-law which later was declared illegal and cancelled.

All legal acts enacted by the Government, or government proposals of laws sent to the Parliament are prepared by the Civil Service. The Civil Service acting in the capacity of an adviser to the government prepares drafts and proposals. Recently the political parties, especially those which are big, began preparing full drafts of laws, following the necessary legal format. These large political parties also recruit people from the Civil Service, offering very attractive employment packages to those who are ready to come to work for them in Party headquarters. This behaviour became very popular and more and more civil servants opted to move to the administrative apparatus of large political parties. This may resemble *deja vu* practices in the former Soviet era, when it was more prestigious to work for the Party apparatus, than for the government, but the reasons are different. While in the Soviet era this was clearly

more career initiated, in Yugoslavia the reasons are more of a financial nature. The political parties pay much better than the Government. This was especially the case with the Socialist Party and JUL, although the main opposition parties have practised the same. The former ruling parties had under their control a network of enterprises, while the opposition parties paid their employees from cash donations received from abroad. In many cases the donations were received in cash, without formal papers and illegally brought into the country. The Socialist Party established the S–System Holding, as a company group under sole control of the Main Board of SPS, while JUL had the Comet–system, a similar holding. However, JUL relied more on a well developed network of their members and their private companies which earned extra–profit due to their favourable position in the market, and special preferential treatment provided by JUL ministers in both republican and federal governments. These ‘successful companies’ were then required to pay in some of their profits to JUL party funds, and support the party’s political campaigns.

A minister, that is a senior political appointee represents the government in the Ministry and is exclusively in charge of defining the Ministry’s political standpoints. Assistant Ministers, who are at the same time Heads of Departments, are charged with the full responsibility for law enforcement, and the legality of the work of their department. The minister is responsible for the overall situation in his/her respective portfolio, but it is general practice that for the technical issues an Assistant Minister is solely responsible, in the first instance. The process of policy making is usually as follows. A newly appointed minister spends up to two months trying to set up his senior Management team, that is deciding whether to keep or not the current team of senior civil servants. The main factor here is whether the minister feels that he can get on well with the existing assistant ministers and the Ministry’s Secretary. After these personnel issues the Minister, with assistance from his party and eventually some senior civil servants, tries to define a Ministry’s plan and programme of operations for the whole mandate of four years. Senior civil servants will usually just notify the Minister whether some of his ideas are legally allowed and technically feasible taking into consideration all the available resources.

Senior civil servants act in the capacity of consultants and advisers. They usually do not propose new ideas or modify the political ideas put forward by the Minister, and/or his political party. In some cases the Minister may ask his/her associates to propose their programmes, and then to combine it with his personal programme and general programme orientations of his political party. The plan and programme of future work is usually discussed at the *Collegium* meeting. A *Collegium* is an informal body within the Ministry, which comprises the Minister, his deputy, Secretary of the Ministry and Assistant Ministers. In large ministries the Chief of Staff and Minister’s advisers can be invited to attend the meeting. The Chief of Staff or Secretary of the Ministry takes the minutes of the meeting. At that particular meeting the team will discuss all the aspects of the proposed programme, its legality and feasibility. The opinion of the senior team is just consultative, and the minister alone can propose

the plan and programme in whichever form he/she wants. The Minister is obliged to have his/her plans confirmed by the Government, so plans are discussed at the Government (Cabinet) meeting. Usually, the Government will just confirm the plans, as they are discussed at the highest level in the Party, and it is believed that the party is going to support each and every one of the programmes submitted by the ministers.

Box 1

The organisational structure of politics and administration in Yugoslavia

Executive Function:

- politico-executive (performed by the government, i.e. the political appointees)
- administrative-executive (performed by the Civil Service, i.e. the professionals)

Ministry Organisation

Senior Staff ('officials')

- Minister
- Deputy Minister
- Ministry's Secretary
- Assistant Ministers (Department Heads)

Employed (Managerial Posts) – Civil Servants who occupy a particular position, but still hold an appropriate Civil Service Staff rank

- Division Heads
- Section Heads
- Unit Heads
- Task Heads (and their deputies and assistants)

Employed (Staff Ranks)

- Adviser to the Minister
- Autonomous Professional Associate
- Higher Professional Associate
- Professional Associate
- Professional Associate-Trainee

When the Government confirms the plan, it can go public and be presented outside government circles. It is then expected that the team in the Ministry proceed with the realisation of the programme. The programme usually discloses the main points of the future policy of the Ministry, list of new laws or amendments that the Ministry is going to propose to the Parliament via the Government. The Programme may also give a list of policy measures (instruments) which will be introduced in order to fulfil the promises from the programme. It is understood that the Ministerial programmes are the natural extensions of the electoral promises, and that they are a very important element in the political struggle over power.

Civil servants should just help in the implementation of the programme in the part which is not purely political. In other words it is expected that civil servants will not be required to publicly present the programme, except when the law is introduced, and then the Government organises meetings with the public in order to promote the new law. However, in practice this principle is not followed in full. There are civil servants who are supporters of the ruling parties who would be happy to publicly defend the programme and not only explain the consequence of recently introduced legal acts.

Although the Law ('Law on Labour Relations in the State Organs') underlines the importance of competence and professional achievement for promotion within the Service, in practice close relations with the Minister can help career development. Since the Minister is the only person who can promote civil servants, within the limits set by the law, it is important to have good relations with the Minister. But, if this practice is openly accepted, then it will be very difficult, if not entirely impossible to create a fully professional Civil Service.

De jure, Serbian, i.e. Yugoslav Civil Service is apolitical and professional. However, in practice there are many deviations from the rule. Close connections with the ruling parties can directly help advancement within the Service, as well as close relations with the current minister. But, when the party loses elections, or the minister is replaced, it is usually expected that major changes will be introduced within the Service. This creates to some extent insecurity and dissatisfaction in the civil servants, who are not sure that they will be in their posts when the government changes. Because of the current practice, it will be very difficult to create stable professional conditions within the Civil Service. Having the Service on its side is a luxury that no one political party would be happy to lose.

Box 2

Administrative and political responsibility

Administrative Responsibility – a responsibility of the most senior civil servant in the department for the legality of the departmental actions.

Ministerial (political) Responsibility – responsibility of the Minister for the overall functioning of the Ministry and the implementation of the Government policy in the Ministry's area of jurisdiction. Often it is understood that the Minister is responsible for the implementation of the ruling party pre-election manifesto in the area of the Ministry's jurisdiction.

Until now there were no studies conducted on the Senior Civil Service and their political and professional perceptions. These people are usually real mandarins (in the British sense) and try to keep a low profile outside the Service. It is very unlikely that they will make public appearances or comment on issues which could be in any way regarded as politically sensitive. This is, probably, the way to keep the Civil

Service outside of day-to-day politics, and on-going political conflicts between different political factions.

7. Classification According to the Theoretical Framework

There are a couple of theoretical models that explain the relationship between politicians and civil servants. In this paper we will focus on the Peters' methodology (Peters, 1987, 1988), which assumes that every Civil Service system belongs to one of the four main models. A number of authors support this division making some other, usually minor advancements (Rose, 1987). In the first model the clear separation between politicians and administration exists, in which the civil servants are ready to unquestioningly follow the orders of the political appointees. The second model (called "*Village life*") assumes that civil servants and politicians are both part of a unified state elite and they should not be in conflict over power within the government structure itself. The third model (called "*functional Village life*") assumes some degree of integration in Civil Service and political careers. A politician and civil servant from one government department have more in common than a minister with his political cabinet colleagues heading different governmental portfolios. The fourth model (named "*adverse model*") assumes a significant separation between the two groups (politicians and bureaucrats), but also there is no clear resolution in their struggle for power. The fifth model assumes a clear separation between policy-makers and administration, but one in which civil servants are the dominant force (see: Wilson, 1975). All these models are rather theoretical, and practice, by itself, shows different patterns of interaction between politicians and the Civil Service (Šević and Rabrenovic, 1998a). Models, represent, as usual, a stylised illustration of inter-active behaviour (see: Giddens, 1971).

"Functional Village life" and "Village life" are the most common models for Continental European Practice. Moreover, with some policy changes, even in a presidential system there have appeared different ways of networking between politicians, public servants and experts working outside the government structure. However, the nature of such networking is rather temporary, and the main characteristics of the Civil Service system prevail. This shows that every particular Civil Service system is "*nationally coloured*" (Šević, 1997a), and "*ethos-generated*" characteristics cannot be neglected or avoided (Rabrenovic and Šević, 1997). Each country deals with its own national Civil Service system with due attention and tries to utilise other's experiences, whilst not neglecting its own specifics demonstrated through the *legal system* and *legal order* (Šević, 1996), political culture, democratic traditions (*or lack of the same*), ethos-characteristics, etc. The same applies to the particular problem of Civil Service system (de)politicisation (Šević and Rabrenovic, 1998b).

Yugoslavia applies the concept of a unique Civil Service which allows civil servants to be more mobile within the Service. It is fairly easy to be transferred from one government unit to another, or to a post in the administration of the parliament. Court (judiciary) administration, is somewhat separate, due to the fact that judges

are ‘elected’ by the parliament where a special legal regime applies. For most of the professional positions in the judiciary a bar examination is required for appointment. Administrative supporting staff in the courts are however, mobile, like their colleagues in the “pure” Civil Service (Šević and Vukašinovic, 1997). Despite the non–existence of legal limitations for transfer, mobility is to a large extent exercised within the sub–service itself. The Civil Service in general is under the supervision of the Department for Public administration Affairs at the Ministry of Justice. In this paper we will mainly discuss the Civil Service system in Serbia, as that is the blueprint applied in Montenegro or at federal level, discarding certain nuances.

A ministry is headed by a minister elected by Parliament, who has his/her deputy appointed by the government. Technically, both of them are *pure* political appointees. However, in some exceptional cases a deputy minister can be a distinguished administrator and/or professional, not politically affiliated with (or even backed by) the ruling party (or ruling coalition). The Ministry’s Secretariat is headed by the Secretary to the Ministry, who is in charge of providing the necessary technical advice for the day–to–day functioning of the ministry. He is *technically* a senior civil servant. The department head holds the title of an Assistant Minister. However, sometimes the Deputy Minister can be simultaneously a Departmental head. According to the law they (Assistant Ministers) are fully responsible for law enforcement and application of governmental policies in his (her) Department’s area (Šević and Rabrenovic, 1999). However, their responsibility should be considered as technical/professional rather than political. Political responsibility is purely ministerial. Administrative agencies are headed by a Director (or rarely a Secretary, i.e. only in the case of the Secretariat for Legislation), who has a deputy. Departments are headed by assistant directors. In the administrative organisations, the duty of the permanent Secretary does not exist. Formally, Deputy Ministers, Secretaries and Assistant Ministers, along with Directors, Deputy Directors and Assistant Directors (a Deputy Secretary and Assistant Secretaries in the case where an administrative organisation is headed by a Secretary) create a group of Senior Civil Servants (“Mandarins”). Administrative laws in Yugoslavia do not use the term Senior Civil servant, but “appointed personnel”, as opposed to other groups such as “elected personnel”, i.e. ministers, or “employed personnel”, that is professional and technical staff up to and including the rank of “Adviser to the Minister”. In a few rare cases a civil servant can be promoted to the rank of a “Republican Adviser”, which is hierarchically just below an Assistant Minister’s rank. Republican Advisers can be appointed only in the Secretariat of the Government or the Secretariat to the President of the Republic.

As we have seen, the law recognises three classes of members in the Civil Service. “Elected” (*izabrana lica*), i.e. ministers, “appointed” (*postavljena lica*), i.e. members of the Service who have been appointed by the government and “employed” (*zaposleni*⁵) who are “ordinary” civil servants, that is “career civil servants”. Although there is a

5 Law also uses term ‘*zaposlena lica*’, which has exactly the same meaning.

unique legal regime for all these three groups, there are, in fact, differences between them. First, the Law on Employment Relations in the State Organs of 1991 lists all these groups when speaking about rights, but mentions only the employed when it comes to responsibilities (duties), probably because there are other responsibility rules for the other two groups. Finally ministers, as elected officials, are always, ultimately, accountable to Parliament, which elected them to the post. Appointed personnel are appointed by the government for four years, but with any change of government changes amongst deputy and assistant ministers are to be expected. Despite the fact that socialist governments have been in power for the last seven years changes in the Senior Civil Service corps have been noticeable. Usually, when each minister takes up the post, he/she tries to establish his/her own executive team. But, again this pattern cannot be applied to the main ministries (Finance, Internal Affairs, Education...). In these ministries the senior civil servants team have been almost the same for a long time.

The Law stipulates that all elected, appointed and employed personnel should perform their duties in a responsible and unbiased way, in accordance with the Constitution and law (Art. 4/1 Law on the Employment Relations in the State Organs of 1991). Employed and appointed personnel must not, in the execution of their duties, be guided by their political beliefs, and cannot express and advocate them (publicly). The law also stipulates that employed or appointed persons cannot be a member of the bodies of the political parties (Art. 5/3 Law on the Employment Relations in the Public administration of 1991). In this respect the federal laws are lacking. Due to the problem of transfer of republican rights to federal level, some of the laws are still ‘jammed’ in the Federal Parliament.

Despite a strong belief that the Serbian Civil Service is *highly* politicised, this was not really the case (Šević and Rabrenovic, 1998a) when SPS was solely in power. The Socialist Party followed the usual pattern of increased politicisation which is fairly common for all the left-wing political parties. It is expected for this situation to change after the new government is elected following the December elections in Serbia. However, the initial moves of DOS at federal level demonstrate that they may retain the same course, trying to (re)create the Civil Service which will be blindly committed to their political agenda. However, it is still too early to judge to what extent the politicisation process will be continued or even intensified. Unless the EU intensifies accession efforts, the Civil Service will be the first victim of the witch hunt, and the process of ‘*de-communisation*’ (ostensibly eliminating the remnants of the old regime, but in fact removing from office all those who are not *blind* supporters of DOS).

If we consider a Civil Service model which is applicable in the Serbian case, certainly we would most seriously consider a “functional Village life” model as the most appropriate. Staff in the ministries have been there for ages and are still able to adjust quickly to a new minister, probably knowing that he/she would not last for long. Usually, a minister comes from the business sector which is connected to

a particular ministry. This certainly increases the possibility of a special kind of log-rolling or executive rent-seeking, as the minister tries to favour his/her former (or even current) company or its business associates. In our view one of the problems undermining the efficiency of government policies is the fact that a vast majority of Serbian ministers are at the same time a director or CEO of large and influential companies. These companies often use insider information to earn extra-benefits from expected government policies.

The analysis presented cannot depict all the nuances amongst the Civil Services in the republics and on the Federal level, and cannot take into account all the specifics of the Yugoslav Civil Services. They have the characteristics of a fairly well-organised bureaucratic institution, typical of some Western Countries, and those which are common to transitional countries. Hopefully, incumbent politicians will attempt to preserve Civil Service impartiality and support its further professionalisation (Šević and Rabrenovic, 1999).

8. Conclusion

The law in Serbia and Yugoslavia puts in place all the necessary conditions for the creation of a professional and effective Civil Service. Civil Servants in performing their functions should behave in an unbiased manner, and not be affected by any factor not listed in law. The requirements for entry into the Service are fairly tough and not many can meet the criteria. Despite the relatively bad current position of civil servants there is considerable interest in a Civil Service career.

The law makes a clear separation between political appointees (elected personnel) and those who chose to be civil servants for the rest (or most) of their professional life. Ministers and deputy ministers as political appointees are only temporarily associated with the Civil Service. They are to provide political guidance and to see that the policy of the ruling political party or parties is enacted through the law. They oversee the activities of the Civil Service, and are politically responsible for the results of the Ministry. Administrative responsibility remains with the senior civil servants (Assistant Ministers) who are responsible for the implementation of the law, and all other technical aspects of executive functions. The law clearly makes a delineation between politicians and administrators. The trend is that professionalism and accountability will be promoted, and consequently decrease the influence of any temporary political factor.

Yugoslavia, as well as Serbia itself still has some characteristics of an arbitrary state (Pejovich, 1996; Šević, 1997a). Discarding other characteristics for the purpose of this paper, the arbitrary state is characterised by a large discrepancy between legal system and legal order (see: Šević, 1996). That is the legal system is fairly well developed, but laws are applied in a discriminatory way. Citizens know that laws exist, but cannot be entirely sure that they will be properly applied in particular cases. In an arbitrary state, the law is developed, but legal insecurity remains present, due

to incompetent or apathetic law enforcement (Šević, 1997a). It is expected that a new Government will work on the promotion of law and legalism throughout social institutions. However, up to date results in the first month or so, demonstrate complete lack of commitment or even knowledge on how to implement a change and reform the provision of public services. It may be also an intentional policy to bring all social institutions to full failure and then accuse the Civil Service for the overall sabotage (as the supporter of the former regime) and then employ a large scale cleansing process of the Civil Service, with the aim to employ party supporters as civil servants. This certainly will not be an improvement of the current situation, which was not brilliant, but not cataclysmic either.

Depoliticisation in a country with a dominant (although democratically elected) political party (or now a political coalition) is a very difficult task, especially if that party and its predecessor were in power for more than half of the century. Some experienced politicians see employment in the Civil Service, especially the senior posts, as some kind of pay-off for the demonstrated loyalty to the party and its cause. Political reliability in its pure form has never been promoted in Serbia and Yugoslavia. Party membership was not a requirement for a Civil Service job even in the most classical Communist time. Professional ability and professional loyalty were very valued even in Tito's time. In contrast to all other former socialist republics, Yugoslavia communists included in the Civil Service all former Royal civil servants who were not openly anti-Communist and who were not co-operating with the occupying, German forces. This was the main reason why the Serbian (Yugoslav) Civil Service kept its continuity.

Yugoslavia adopted the '*functional Village life*' model of Civil Service, according to Peters' methodology (Peters, 1987, 1988). In this model the minister co-operates with his employees and they are closer to him/her, than a cabinet colleague who heads another government portfolio. The minister and his/her civil servants make one small team, and they try to obtain as good a position within the government as possible. In other words, they will try to attract as many resources as possible in order to obtain a more prestigious position within the government. This, however, leads often into an inefficient allocation of resources, as it becomes important to have a large budget, nice premises and number of employees, as these secure power. Therefore, in this model ministries can be overstaffed, and resources allocated in amounts that cannot be easily spent. This for instance, happened with some social service ministries, where the minister was politically very powerful and attracted vast resources, but was not able to spend them in one fiscal year. The money finally was returned to the Ministry of Finance, but regardless of that fact an increase in the budget for the next fiscal year was secured.

It seems that the main problem of the Yugoslav Civil Service is that the federation effectively does not exist, while the republican Civil Services are neglected by all important political factors which do not have any regard for the problems of the

Civil Service. The Republic of Montenegro has recently initiated preparations for the Civil Service Reform project, but it is still in a very nascent phase, although senior Civil Servants in Montenegro claim that the initial phase of Civil Service reform has been successfully completed, and in 2001 they will embark on the second phase, which will be marked by an implementation of the large scale training programmes for the remaining Civil Servants. But, it seems that the Montenegrin Civil Service is more and more politicised, which is definitely in contrast with the current trends in other Central and Eastern European Countries. In our view, there is a visible lack of interest for the promotion of reform attempts. For some strange reason, all the political factions are very hesitant when it comes to Civil Service Reform. However, this is an issue which will have to be addressed in the very near future. However, the current ruling coalition does not guarantee to make the ‘best choice’.

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Chapter 14: Organising the delivery of policy advice

Ieva Lazareviciute and Tony Verheijen

Introduction: The role of policy advice in public administration

The pressures of the modern economic dynamics and increasing interdependence among various social actors have resulted in significant transformation processes in public administration systems, at both national and supra-national levels. Two underlying trends have dominated the debate on public administration reform over the last decade:

- Reforms required to respond to the change in the philosophy of governments, which is to move towards the development of more integrated and humane systems, and
- Improvement of Management practice in public administration (Dror, 1997)

The above transformations are taking place simultaneously and have increased the need for states to have adequate capacities in policy planning and policy advice. In the particular case of post-communist states, adequate policy planning capacities are especially important, the reform of the administrative and managerial structures of governments takes place in a context of a radical change in societal value systems. The imminent integration into the European Union and membership in international organisations and alliances such as NATO puts additional pressure on countries to speed up the development of policy planning capacities. At the same time analyses of the current state of government capacity development in post-communist states show that the development of policy formulation and implementation mechanisms is one of the most problematic areas in institutional development for these states.¹

Decision-making, policy-making, and policy development are interrelated activities, influenced and defined by many factors ranging from institutional structures, organisational and administrative cultures to personnel policies. Different tools and various courses of action are available to improve policy planning capacities. One of the elements within the policy formulation process, which may make a difference in the way CEE country administrations carry out their business, is the development of new mechanisms for the delivery of policy advice. The significance of sound policy advice in the decision-making processes is beyond doubt. As Parsons argues, '[t]he rise of power based on knowledge, in the form of experts or technocrats, has been a key feature of the analysis of policy-making in the post-war era' (Parsons, 1995, p. 153).

¹ The problem of policy mechanisms is identified as one of the weakest points in the administrative capacity development in most CEECs in SIGMA evaluations and was subsequently reflected in regular European Commission assessment in 1999.

Throughout time various modes of policy advice delivery emerged. Machiavelli and Bacon would be good historical examples of hired ‘inside’ policy advisors. Academicians (philosophers, astronomers², etc.) have been known to provide advice for the rulers since the beginning of the formation of government structures. Think tanks, or social research institutes are a more modern idea and did not appear until the end of the 19th century. During the last decades political parties and interest groups have started to develop their own policy research and programme development units, which are yet another source of policy alternatives for the governmental decision-makers. Finally, public administration professionals continue to play an important role in the production and dissemination of knowledge and in the interpretation and implementation of policy at a ‘street level’. In sum the government has a number of various sources of information and ideas to employ in the decision-making process (Parsons, 1995).

Figure 1.
Sources of information in the policy-making process
(Parsons, 1995, p. 385).

Formal		
Internal	Departmental research or inquiry; Internal think-tank reports; Reports from internal experts	Commissions; Committees of inquiry Judicial review; Reports from the legislature; Commissioned research; Formal consultation
	Informal discussions among decision-makers; Gossip; Rumour; Folklore; Informal use of advisers	Discussions; Consultation; Reports; Informal information and advice
	Informal	
		External

2 Clearly the credibility of some advice is doubtful, however the attempt to obtain second opinion and guidance in relation to the future actions of the state is a clear prototype of the modern governments’ consultations with the academic experts in the various policy areas, involvement of the faculty in the working groups, commissions, etc or the involvement of the university staff in the competitions for policy-related research grants.

The figure presented above organises various sources of advice and information along two axes: internal vs. external and formal vs. informal sources. Clearly besides formal and semi-formal sources, decision-makers receive advice and additional information through the less clearly defined, sometimes not so easily identifiable, sources (gossip, rumour, informal discussions, etc.). However the bulk of information reaches those in top positions through the more structured formal channels, e.g. conclusions and recommendations of various commissions and judiciary, internal and external advisory studies and reports, conferences and discussions, etc. The establishment of a multitude of various types of advisory organisations and think tanks in the mid-20th century only emphasises the growing demand for sound policy analysis and demand for innovative and diverse ideas. The reason for the growth of such proportions is the fact that modern governments draw their legitimacy from and base their decisions on information, knowledge, facts, advisers, and experts (Parsons, 1995).

This chapter reviews current practices and experiences in the area of policy advice delivery and explores the emerging role of advice in decision making mechanisms in Central and Eastern European states. However, we focus on the more formal side of information and policy advice provision initiated by the government, as opposed to the informal discussions and personal consultations with party political advisors or interaction with the pressure and lobby groups.

The first section of the paper describes the various modes of policy advice provision: advantages and disadvantages of contracting out, the role of 'think tanks' and the role of civil servants in the Policy Process. Strategies for the development of policy planning capacities within administrations will also be reviewed. The second section focuses on the analysis of the current situation in CEE as reflected in the country reports on politico-administrative relations, SIGMA Civil Service reviews and Center of Government³ profiles. Finally some possible directions for the development of policy advice delivery in Central and Eastern European countries (CEECs) will be discussed.

Provision of policy advice: some definitions and concerns

While analysing policy formulation mechanisms in a comparative perspective, it is very important to recognise the distinction between **policy advice** and **political advice**, as well as between policy planning and political planning. The distinction is rather clear in English. However, many other languages do not clearly express the difference between the two. This is the case with the languages of Central and Eastern European countries as well. Here we discuss policy advice and policy-planning mechanisms, referring to the sets of decisions, which are tailored to bring about changes in socio-economic systems, as opposed to politics, which is focused on power.

Dror defines policy planning as

3 Centre of Government institutions' or COG is an OECD term which denotes core executive units of government, such as Government Offices, Prime Minister's Offices and President's Offices

exploring alternative goals and preparing them for choice by elected politicians, estimating salient environmental dynamics, inventing and designing novel options, evaluating possible and probable long term consequences of main options with the help of uncertainty – sophisticated approaches and methods, mapping feasibility constraints and seeking ways to make them less rigid so as to make the desirable possible, considering various policy domains within an overall systems perspective, arriving with the help of all these at preferable main policy and grand-policy recommendations, and doing all of these while engaging in constant learning (Dror, 1994).

This paper examines issues related to this particular type of policy advice, rather than party-political advice.

The academic literature on public policy draws a clear distinction between the two types of policy advice – strategic and operational. However practice shows that activities listed above in practice tend to be closely interrelated and interdependent. According to Boston, “good strategic policy advice requires solid research evidence. Likewise, good operational advice is impossible without a detailed knowledge of the relevant operational matters and institutional factors” (Boston, 1994). Therefore, the boundaries between strategic and operational policy advice are extremely fluid. He continues:

Equally important when a government seeks advice on a particular area of public policy, like education or health care, it is not simply interested in purchasing a certain number of individual outputs, be they briefing papers, back-ground reports, or drafting instructions, it also wants a well-integrated and competently coordinated servicing capacity. This will include the day-to-day provision of oral advice, assistance with the business of negotiating policy trade-offs and selling policy proposals to the various interested parties (both inside and outside the government), advice on implementation issues (including subsequent monitoring, review, and policy adaptation), advice on how to deal with anticipated and unanticipated problems, the capacity to transact business with foreign governments and sub-national governments, and so on (ibid.).

In other words occasional reports or consultations these days are not enough to satisfy the needs of the decision-makers. Policy advice rather is delivered constantly via diverse channels (see previous section). The experience shows that the more sources of information and advice the government officials engage, the higher likelihood that most of the available alternatives will be well explored and presented to the government officials without losing part of the information due to the limitations of individual or groups of advisors. Thus the quality of advice and subsequently the quality of decisions taken is likely to be higher as well. However such a situation has its downsides as well since managing a large number of actors is an immeasurably more complicated task than relying on one or two advisors. This discussion

is important to us as it outlines the main implications of the 'diverse and carefully managed servicing capacity' for the provision of advice:

1. Desirability of close working relationship and **mutual trust** among senior policy advisers and their immediate political master (e.g. the president, Prime Minister, cabinet minister, junior minister, etc.).
2. Necessity for adequate vertical and horizontal **co-ordination** of policy formulation mechanisms (Ibid.).

These two factors are especially important when one analyses the role of the 'external' policy advice provision mechanisms, such as 'think tanks' and policy research institutes or private consulting companies.

The next section is devoted to the description of the various, although somewhat overlapping, mechanisms for the delivery of policy advice and a discussion of the ways to improve policy planning capacities within administrations.

Possible Available modes of provision of policy advice

Contracting out policy advice

The main aspect of public administration reform at the current time is the improvement of Management capacities in government, in an attempt to make sluggish government bodies function more effectively and efficiently (Dror, 1997). One of the most popular tools to achieve this is privatisation. In relation to the 'privatisation' of policy formulation, one possible option is contracting out the provision of policy advice. The various options in this case range from the development of the internal competitive 'market' where the various departments of government would offer their services in this area, to contracting through an open competition to any public or private organisation which suggests the best terms (Boston, 1994).

At the first glance such suggestions might seem alluring due to the implied diversity of the opinions provided, possible independence and non-partisanship of advisors, and last but not least important – savings. However, contracting out can have some negative side effects. The decision as to what extent policy advice should be subject to competitive tendering therefore should be based on the assessment of advantages and disadvantages in relying on governmental structures or market forces. A deeper analysis of contracting out policy advice practices raises some important concerns, which relate back to the two factors raised in the previous section – the need for mutual trust and good horizontal and vertical co-ordination.

In assessing the idea of contracting out policy advice, one should assess the various options against several criteria such as the characteristics of the market, the nature of the transactions involved and the degree of uncertainty. One of the most important issues is the fact that the work as well as the product of advisory agencies/consulting companies is quite specific. Two important interrelated assets the companies must

possess in order to work successfully with governments in policy advice provision are expertise and trust.

In the case of expertise, the difficulty arises due to the need to combine a

knowledge of the strategic issues within the relevant policy domain; the day-to-day problems of implementation and administration; the key actors, international as well as domestic; the policy making process; the history and evolution of public policy in the relevant domain; the inter-face between the policy domain in question and related areas; particular techniques of policy analysis; and how to organise and manage the relevant transactions, including dealings with individual policy makers (Boston, 1994, p.15).

It is rather difficult to accumulate in one particular company human resources with wide expertise in specific policy domains (e.g. defence/military, macroeconomics and others, which is likely to require high wages), and balance it out with adequate investment into supporting infrastructure (data bases, libraries, etc.). Together, this means that the requirements for high quality of advice provided in most cases are not very likely to be met.

These problems might be partially resolved by splitting contracts into smaller sections and presenting them for bidding separately in order to attract several advice providers with required specialised expertise. However such an approach would be more time consuming and more costly (each separate contract requires staff time and funding in order to organise bidding process, monitoring of implementation, etc.). Reliance on shorter-term contractual relationships as well as limited scope of the contract may discourage partners to devote adequate attention to long-term issues. Limited perspectives for future contractual relations are a serious disincentive for companies to make longer-term investments as well, as there are no guarantees of return on those investments. This leads us back to the problem of adequate support and expertise. Box 1 presents several other obstacles to contracting out the delivery of policy advice, as defined by Boston.

In other words, even though contracting out policy advice delivery may bring some of the benefits of market competition, it also brings in the usual problems related to the nature of public procurement processes. As Boston puts it “the fact [...] that the use of competitive tendering for the purchase of policy advice by governments has generally been kept within relatively limited bounds is not without good reason.” (Boston 1994, p. 28)

The role of think-tanks

If contracting out for policy advice is not a panacea, and governments do and will continue to receive the bulk of policy advice from internal sources in the foreseeable future, then the development of internal policy advice mechanisms as well as personnel must be a priority task for any modern administration. Dror provides an

innovative new model of high-quality policy development, the main elements of which are presented in box 2 below.

Box 1

The main obstacles to contracting out policy advice

1. Lack of diversity in policy advice provided, as governments prefer advice from a larger range of theoretical and ideological perspectives;
2. Those who presented the best bid may not be acceptable to the political leaders, which again is a pre-condition to successful co-operation;
3. Possible conflicts of interest – independent experts are not always as independent as they might seem, besides high quality policy advice requires certain degree of confidentiality, while very often public procurement mechanisms do not allow for confidentiality;
4. It would exacerbate the problems of co-ordination of policy inputs, both horizontal (between ministries) and vertical (within ministries)

Boston, "Purchasing Policy advice: the limits of contracting out", 1994

Dror's suggestions focus on the two directions (a) upgrading institutions (restructuring decision-making processes and establishing new units or institutions) and (b) upgrading personnel (developing skills in policy analysis and planning).

Some of the suggestions are not as novel as they may seem. This is valid in particular for the suggestion to create research and development organisations. A large number of public policy research institutes⁴ or 'think tanks' have been established across the world in order to meet the increasing need for research and analysis, and remain traditional providers of the background information as well as comprehensive and strategic policy proposals.

⁴ "Public policy research institutions are non-profit, non-governmental organisations, that generate policy-oriented research, ideas, analysis, and formulations on domestic and international issues. For the most part, these organisations are not affiliated with academic institutions and do not grant degrees. A substantial portion of the financial and human resources of these institutions is devoted to commissioning and publishing research and policy analysis in the social sciences, economics, political science, public administration and international affairs. The major outputs of these organisations are books, monographs, reports, policy briefings, and informal discussions with policy makers and government officials. In addition, these institutions often act as a bridge between the academic and policy communities, translating applied and basic research into a language and form that meets the needs of busy policymakers." (McGann in *Mosterd bij de maaltijd*, 1997).

Box 2

Building Capacities for high-quality policy development

Optimal measures for developing high level policy capacities are:

1. Establishment of post-graduate schools for policy professionals, including policy planning, and
2. Regional co-operation in setting up postgraduate professional public policy schools, to be shared by a number of countries that are similar in certain basic respects.

'Second best' possibilities to upgrade policy-planning professionalism are:

1. If not a permanent possibly regionally based educational institution then at least sets of intensive workshops and courses in policy planning should be organised. Such activities should be initiated urgently, with regional and international co-operation and support.
2. Policy planning professionalism should be introduced into personal staffs of top politicians, both through accelerated training of present advisors and the injection of qualified professionals, who are politically and personally acceptable.
3. A unified professional central policy planning unit, working for the head of State or government and the cabinet as a whole, should be set up
4. National Policy R&D organisations have to be created.
5. Decision-making processes should be restructured so as to provide policy planning professionals with opportunities to work on critical choices and to input their products into actual choice processes.
6. Careful surveys of decision-making realities should serve as the basis for custom designs, fitting actual conditions of policy planning, professionalisation and institutionalisation.
7. All senior civil servants should become familiar with the fundamentals of policy planning and be encouraged to co-operate closely with policy planning professionals and units.

Based on Dror, "Strengthening Government Capacity for Policy Development", 1997, p.62-67

An interesting comparative analysis of various institutions of the above type was carried out by van Kempen (van Kempen in Mosterd bij de maaltijd, 1995). His main conclusions are the following:

1. The need for think tanks dates primarily from the 1970s and this need arose simultaneously in a relatively large number of Western countries. Only a few think tanks predate 1940 and none were created before 1900.
2. It is unknown how many institutions formed and have disappeared until now, however the survey shows a continuing growth in the number of think tanks, and their growth has accelerated in the last few years.
3. Although think tanks occur all over the world, their institutional position varies from region to region, depending on the political culture of the government.

4. Think tanks differ from country to country in terms of institutional background as well: some were founded by government, others are separate from the government however are entitled to tax breaks or receive budgetary subsidies, others were established based on private funding (ibid.).

A review of the experience of currently existing institutions shows that think tanks continue to be useful in exploring the future and helping governments in policy formulation. At the same time the need to achieve the right balance in relations with the government is crucial if policy research institutions are to be sustainable.

Box 3
Pre-conditions for the effective functioning
of the advisory R&D institution

The main elements of a balanced relation between policy research institutions and government are:

- The ability to balance independence with close working relationship with policy-makers,
- The availability of human resources with broad (horizontal) understanding of general trends and deep expertise in specific (or several) policy domain, and
- Achieving a balance between applied policy-oriented and scientific research.

Civil servant: an instrument vs. active participant

The main alternative to policy advice delivery by outside sources or specially trained policy analysts is making use of professional knowledge of civil servants. This alternative could be regarded as quite controversial, especially if one is a strong believer in the classical understanding of public administration neutrality. Indeed, the development of public administration as a field of study started from the efforts to define what public administration is and what processes and actors are the focus of analysis in this field. These initial developments led to the creation of the classical approach to public administrators as professional implementers. An orthodox strict politico-administrative dichotomy served its purpose and was very useful in the beginning of the development of the new field of study. It allowed identification and separation of a specific object of study for the sake of scientific inquiry. This classical approach is still potentially useful today for the purpose of defining the activities and lines of accountability in Civil Service and subsequent search for more efficient, effective, innovative methods of work, new human resource strategies and managerial patterns.

However the context of public administration is a bit different from the ideal classical dichotomy. Svara's politico-administrative complementarity model provides a broader perspective for the analysis of the interface among politicians and political appointees and career civil (public) servants.

He writes

the complementarity of politics and administration holds that the relationship between elected officials and administrators is characterised by interdependency, extensive interaction, distinct but overlapping roles, and political supremacy and administrative subordination coexisting with reciprocity of influence in both policy making and administration. Complementarity means that politics and administration come together to form a whole in democratic governance (Svara, 1999).

Professionals have various forms of power over policy making process: in the policy-making process itself, where they have an input into policy-making, the power to define needs and problems, the influence on the allocation of resources, power over 'clients' and the power to control their own work. Professionals, argues Wielding 'gain power and influence as experts who are technically and politically useful to governments' (Wielding, 1982).

Hojnacki believes that it is impossible to have a successful public career within Civil Service without participating in activities with at least some political profile. Even though most governments create various mechanisms for prevention of Civil Service politicisation (e.g. regulations for communication with lobbies, restriction on participation in the activities of political parties or serving on boards of NGOs), still in "virtually all countries some involvement of high-level civil servants in the creation of policy initiatives is considered, under most circumstances, to be appropriate due to their professional expertise in their field of work" (Hojnacki in *Bekke, Perry and Toonen*, 1996).

At the same time, countries vary in the extent to which civil servants are able to exert influence on the substance of public policy, by influencing the selection of policy makers or directly influencing Policy Process by lobbying for one or another proposal, and the degree of the discretion public officials have in implementing adopted policies (power-brokering, negotiations, compromises, etc.). In most countries the line defining what is an appropriate degree of Civil Service involvement in policy formulation is not very clear. Most often civil servants may draft policy proposals if they are asked to do so by the political appointees, as opposed to initiating this themselves. In addition, countries differ in the depth of political control exercised by the executive branch. For instance, in the UK and Japan policy initiatives usually are negotiated only between the top civil servants and political appointees, while in the US this negotiation process may include civil servants up to four levels down in order to secure their loyalty and support for the policy proposal. In conclusion, Hojnacki sets out two categories of politico-administrative interface. The first is the *classical type*, which includes all features of ideal bureaucracy as defined by Weber (Civil Service as an apparatus for the implementation of the decisions made by political elites). The second category is the *independent* Civil Service; a professional

institution possessing the necessary power and tools to establish and implement a political agenda (Hojnacki in *Bekke, Perry and Toonen*, 1996).

Most developed countries have established special units (planning units, advisory councils, general technical offices, etc.) within their administrative systems for the development of policy proposals. These structures are either located directly in the centre of government, or have specialised in various policy areas and are located in the line ministries. Summarising policy advice provision mechanisms in various countries Boston argues “most policy makers in democratic countries currently secure much of their advice from public bureaucracies.” Boston labels these bureaucratic units as “relatively specialised governance structures,” which are frequently characterised by “distinctive employment contracts and industrial relations provisions, a diverse and complex pattern of internal relations (generally of a non-market kind) well-developed codes of conduct, a distinctive ethos and Organisational culture, and a unique relationship with policy makers” (Boston, 1994). He also describes policy advisers in most bureaucracies as “career public servants employed on a more-or-less tenured basis, although recently there has been an increasing reliance in some countries on short-term performance-based employment contracts. On the whole the provision of policy advice is disaggregated with various departments and agencies having responsibility for a defined set of policy issues” (Hojnacki in *Bekke, Perry and Toonen*, 1996).

Policy advice mechanisms in Central and Eastern European states

Central and Eastern European states (CEE) have created various mechanisms for strategic policy formulation and policy advice. These mechanisms can be internal (planning units within ministries, advisory boards, political advisers, inter-ministerial committees, expert committees, etc.), as well as external (contracting out to private companies, engaging think tanks or academic research institutions, and notably, experts of international bilateral or multilateral programs in some cases). Regardless of this, however, analysis shows that “policy development is still predominantly carried out outside the administration in many Central and Eastern European states [...]” (Verheijen and Rabrenovic, 1999).

Institutional aspects

The development of improved policy-making mechanisms in Central and Eastern European countries should be an important part of an overall administrative capacity development strategy. However, it has proved to be one of the most difficult elements of the administrative development process due to the inherited highly centralised system of political control and administrative oversight. Goetz and Margetts present an interesting comparative analysis of both the OECD country experience based on the OECD/PUMA Profiles of Centres of Government prepared in 1996, and the evolving arrangements in post-communist countries, as described in Profiles of Centres of Government in CEE compiled by SIGMA in 1998. The authors argue

that several key tasks can be identified as shared by the majority of COGs. Among others they include:

1. administrative and political support and advice for the head of government;
2. administrative and political support and advice for the Council of Ministers (also referred to as Cabinet or Government);
3. policy planning and development;
4. monitoring of policy implementation (Goetz and Margetts, 1998).

They argue that Centres of Governments (COGs) are usually the bodies that serve as **strategic** policy formulating units and gatekeepers for the head of the government and the cabinet in those cases when policy proposals reach the cabinet from lower levels of government. However, the structure and exact tasks of COGs vary from country to country. Generally COGs provide not only technical-administrative support but also policy-political advice to the head of the government and the whole cabinet, especially since many of the ministers in analysed countries are leading party politicians and often MPs. Thus often “support and advice to the Prime Minister are not restricted exclusively to his executive role, but will generally extend to the party-political and parliamentary spheres” (Goetz and Margetts, 1998).

On the basis of their analysis of the CEECs, Goetz and Margetts conclude that generally COGs in countries of transition play a role in policy planning in some significant areas such as “economic liberalisation, marketisation and privatisation; foreign and security policy; European integration, in particular relations with the European Union; and institutional reform, notably of public administration” (Ibid.).

In areas not covered by COGs (in some cases in overlapping areas as well) line ministries or other central agencies are responsible for formulating policies in their specific areas of responsibility (SIGMA COG profiles, 1998). Policy development work remains mainly the task of the minister (or head of an agency) and top political appointees with the assistance of political advisers. Bodies with varying titles, such as inter-ministerial commissions, advisory councils, boards, committees, and working groups, etc. were formed in order to prepare some of the more important policies.

However, despite efforts to form new policy formulation and co-ordination systems, policy-making in CEE remains top heavy. Strategic policy formulation, decision making and implementation co-ordination continues to be reserved to the top political figures, and policy advice is mainly secured from party-political advisers or by civil servants in the very top of the ministerial hierarchy (Verheijen and Rabrenovic, 1999, Verheijen, 1999). Often the above mentioned special bodies for policy planning and co-ordination exist only on paper or are inefficient due to slow policy co-ordination and negotiation processes and inter-ministerial rivalries. In some countries, e.g. Poland and Hungary, (Verheijen, 2000) the attempts to reform the Policy Process have been more substantial, while some others only recently started laying the foundation for rationalisation of policy processes.⁵ However, the reluctance

of the politicians to carry through de facto reform of policy making systems may create additional obstacles to institutionalisation of adopted legal norms (Verheijen, 2000).

The role of civil servants

Besides institutional arrangements for policy making the role of professionals should be analysed as a reflection the degree of decentralisation in administration as well. The SIGMA reports on Civil Service and State Administration systems in CEE (<http://www.oecd.org/puma/sigmaweb>) show that practically in all reviewed countries it is common practice that such advice is provided by professional civil servants in the form of draft statements and other documents drafted at the request of political appointees.

Moreover, reviews of legal Civil Service framework show that often laws stipulate that administrators' suggestions on how to make administrative process more efficient and effective are welcome. However, innovative proposals coming from civil servants outside of the circle of political appointees and advisers, or provision of strategic policy advice are neither generally encouraged nor sought after. Despite this general trend there are some exceptions to this rule, although those exceptions are limited to specific institutions, rather than governments. For example, in the Estonia case an agency established an annual prize for the most innovative idea (while at the same time there are known cases when civil servants were fired for suggesting new ideas to the Management), while the Romanian analyst stated that innovative ideas can be presented in professional publications or seminars. Unfortunately it remains unknown how many of such ideas and suggestions are considered as worthwhile in policy planning process as most experts in SIGMA review indicated that there is no direct data on civil servants participation in policy advice provision (SIGMA CSSA reviews, 1999).

Two countries, not included in SIGMA reviews but analysed in the studies of politico-administrative interface are Yugoslavia (Serbia and Montenegro) and the Russian Federation. An analysis of the relations of civil servants with their political leaders in these two countries leads to similar conclusions.

The Russian Civil Service seems at first glance to be an independent system able to set political agenda and implement it. However, professionalism and protection from undue political influences are absent, thus making the majority of Russian public administrators unable to suggest innovations, express opinions or influence policy development process otherwise. The Russian situation is quite distinctive from other countries where politico-administrative interface was analysed, and remnants of

5 The adoption of the Law on Public administration in Bulgaria in 1998, defining the type of institutions that can exist in the state administration, their inter-relations and functions, adoption of a similar law in Lithuania in July, 1999 and current efforts to re-define the administrative organisation of the state in Latvia are the examples of such effort.

autocratic tradition are more obvious there than in other post-Soviet states covered by this study. Despite of the declared reform direction towards neutral and professional Civil Service the situation in Russia remains much the same as in Soviet times especially since many of former Communist Party members entered Civil Service or simply remained there. Therefore it is likely that in the future reform attempts will focus on separation of politics and administration, 'restoring' mutual trust. The development of policy planning capacities within the administration will remain in second place at best (Kotchegura *in* Verheijen, 1999).

Sevic and Rabrenovic argue that in Serbia, at least up to 1998 elections, despite apparent convenience for civil servants to migrate between politics and administration and to use this to promote their political agenda, in real life administrators did not have much influence on strategic policy planning. They write that ministers create their own 'Management team' of political appointees, while civil servants hardly have a chance to work closely with ministers. Generally policy negotiation is limited to the top layers of Civil Service and policy advice provision is reserved for the political appointees and party-policy advisers. Sevic and Rabrenovic argue that some of the political parties not only disregard Civil Service problems but are even hostile towards the Civil Service (Sevic and Rabrenovic *in* Verheijen, 1999).

Four factors appear to have a significant influence on the degree of participation of civil servants in policy planning process and therefore are important for the development of the quality of policy planning systems. These factors are set out in box 4 below.

Box 4

Conditions for the effective participation of civil servants in policy planning processes

- | |
|--|
| <ol style="list-style-type: none"> 1. Protection from undue political influence (including protection from possible consequences if suggested ideas/innovations/policies are not in line with personal preferences of political leaders). 2. Existence of proper incentives to suggest innovations and participate in policy formulation/ advice provision. 3. Existence and type of mechanisms through which civil servants can suggest ideas/innovations/ policies. 4. Existence of special professional development and educational programmes in policy analysis and planning. |
|--|

The first condition set out in Box 4 has been fulfilled to some degree, through the adoption of Civil Service legislation. The second and third pre-condition are fulfilled only on a declarative level or dependent on the personality of the political heads of institutions. The fourth pre-condition is largely unfulfilled beyond some capacities at universities or other academic institutions. Thus it is not surprising that often it is easier to look for policy advice outside the administration due to lack of

policy analysis and planning competencies of public administrators, as well as their unwillingness to take initiative in suggesting innovations and modernisation of the administrative and policy processes.

Services of various consulting companies, research institutes and notably advice coming from international consortiums within bilateral or multilateral programmes (e.g. PHARE, UNDP, World Bank, British Know-How Fund, etc.) are readily available to CEE governments and are used by them, albeit to varying degrees. Examples of such use are participation of PHARE projects in Lithuanian Civil Service Law drafting, the role of STRATEGMA and Center for the Study of Democracy in key policy areas in Bulgaria and the activities of the Polish Academy of Sciences Committee "*Polska w XXI Wieku*". However, the use of external resources in CEE can be and is rather complicated.⁶ The two pre-conditions for contracting-out policy advice delivery, set out by Boston and discussed in the beginning of this paper, are often not met and public procurement process in this area are still not well organised.

Horizontal and vertical co-ordination

The first condition set out by Boston is well-developed horizontal and vertical co-ordination mechanisms. In reality the development of horizontal and vertical co-ordination is a key problem in CEE states. Even though COGs are nominally responsible for policy co-ordination, in reality this remains little more than a formality. High turnover in governments as well as personnel, a high degree of factionalisation and rivalry among the members of coalition governments, competition and *turf wars* among strong and weak ministries, as well as absence of general *esprit de corps* are some of the main obstacles in guaranteeing levels of co-ordination necessary for successful policy advice 'privatisation' (Verheijen in Verheijen, 1998).

Mutual trust

As regards the second condition formulated by Boston, it is rather difficult to speak of mutual trust in CEECs where relationships between government and academia or government and consultants are concerned. Research shows that often public officials are unwilling to provide complete and unbiased data to outsiders, but that policy proposals suggested by outsiders frequently are considered as inept or too idealistic and impossible to implement. Evaluation of PHARE programmes in the areas of public administration reform and European integration showed that quite a few policy proposals and documents, although drafted by the request of the national governments, are still gathering dust on the shelves in government offices (Evaluation of PHARE programmes, 1999).

⁶ Analysts have argued that the extent to which governments are willing to use external inputs in policy formulation is an indicator of the degree to which they are willing to implement the measures adopted, i.e. the more external input is allowed, the less chance of real implementation

In addition to these problems – public procurement systems in CEE countries are not functioning as well as they should in order to guarantee successful contracting out procedures, while problematic situations and transitional pains do not allow for long periods of time necessary for proper research and policy advice development. To make things even more problematic – a lack of internal capacity within administration to manage such contracts poses serious threats to timeliness and quality of policy advice provided by the outsiders.

Clearly long-lasting mutual distrust, a lack of balance in policy advice provision, and excessive centralisation of policy planning efforts only aggravate already existing problems:

1. Insufficient preparation and co-ordination of governmental decisions, especially in those cases where inter-ministerial committees and other bodies responsible for policy drafting and co-ordination among interested parties exist only on paper. Poor co-ordination among the ministries and other concerned agencies further delays policy implementation to a point when the suggestions made by the advisers become obsolete.
2. Cabinet and COG overload, partly as a result of the inadequate preparation of decisions, and in some countries partly due to the fact that COGs are ‘rowing’ not steering.’ At the end of the day governments end up reacting to crises, instead of focusing on forecasting and prevention.
3. Weak inter-sectoral integration and lack of co-ordination, including rivalry between departments and committees depending on the political affiliation of their heads, which is especially acute under coalition governments, i.e. majority of CEECs.
4. Insufficient qualifications of personnel partly due to the high degree of turnover, partly due to absence of specialised programmes and insufficient of attention to the development of policy analysis and policy planning skills (Verheijen, 1998, Lithuanian Government functional review, 1999, Goetz and Margetts, 1998).

In the end, this results in a strongly felt lack of strategic as well as operational policy advice, and as a consequence in the lack of long-term approach in policy planning, continuity in policy implementation and general weakness of policy formulation systems in many of the CEECs. This is confirmed by the SIGMA baseline assessments and the European Commission Regular Reports on Progress in 1999, which highlight policy formulation and co-ordination systems as among the most problematic areas in the horizontal administrative capacity development in CEE. Internal and external pressures as well as current budgetary conditions may force governments to devote more attention not only to adoption of new laws and professionalisation of Civil Service, but also to the creation of well-balanced systems of politico-administrative relations, including well-designed mechanisms for provision and use of policy advice.

Conclusions

For a long time scholars considered professionalism and clear limitation of the role of civil servants to implementation of policies to be the main pre-conditions to efficient,

effective and transparent bureaucracy. Analyses of politico-administrative relations in Central and Eastern European states lead to the conclusion that post-communist governments are infatuated with the idea of classical politics-administration dichotomy. However such an infatuation seems to be based mainly on the inherent distrust among politicians and civil servants. Some of the reasons for this mistrust are the alleged lack of skills on the side of the professionals and the inclination to put undue political pressure on the side of the others.

This lack of confidence in relations between politicians and administrators resulted in a situation, where politicians are more inclined to rely on their own advisers or contracted policy analysts and consultants to provide policy advice, instead of using expert knowledge accumulated by civil servants in their institutions (Verheijen and Rabrenovic, 1999). In addition, the attempts to draw a clear line between political and administrative activities often are limited to the restriction of civil servants involvement in policy formulation. In most countries public administration reform efforts focus on the protection of civil servants from undue political influences, without considering the nature of the equilibrium between the administrative and political components of government.

In their quest for better policy advice and more efficient policy formulation CEE governments should consider strategies such as the one set out by Dror. Obviously such changes would mean a significant shift in policy planning mechanisms and that strong political and top Civil Service support is absolutely necessary, especially since long-term policy implementation requires higher initial investment than the current practise of 'putting out fires'. Political and budgetary costs of such a shift are high, which makes obtaining support for building capacities difficult to obtain.

In the mean time, governments should make the best use of the capacities which already exist in their countries or region. More attention should be given to policy proposals and policy advice drafted by the existing research institutes, especially as regards long-term development tendencies, global social and economic trends, in order to improve government capacities to forecast crises and attempt to prevent them instead of constantly 'putting out fires'.

Contrary to what political appointees might believe, professional expertise and experience in policy implementation often are the best basis for providing advice as to what course of action should be taken. On the other hand it is absolutely necessary to devote more time and resources for the development of policy planning capacities within the government, since whether policy advice is received from the external or internal sources, highly qualified personnel will still be necessary to assess viability and relevance of advice provided.

Finally, it is important to note that even if high-quality policy planning systems are put in place, their impact will remain limited in Central and Eastern European Countries if policy co-ordination mechanisms are not improved significantly.

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CHAPTER 15: Building Institutions For Public sector professionalism In Post– communist States*

Alexander Kovryga¹ and Sherman Wyman²

This chapter is based on the assumption that the scope and quality of public sector professionalism is critical to the development of a well–functioning system of politico–administrative relations in any developing or developed democratic state. Initially we will explore the nature of professionalism and profession and then turn to a selective review of the development of public sector professionalism in both developed and developing countries throughout the world. From this review we will attempt to identify key institutions, functions and roles appropriate to professionalisation in the Post–communist states of Central and Eastern Europe and the CIS.

Approach

This chapter is guided by the principle of methodological determinism. This principle means if we are about to be practical and realistic in social and economic reform in states in transition, we must possess methods and instruments that complement and compatible with the object of our activity. The ability of change agents to intervene in the transition processes is directly connected with whether or not they are armed by appropriate means. Thus, the deliberate building of open democratic societies and market–driven economies is possible if we are armed both conceptually and instrumentally with an appropriate vision of what must to be done, and equipped with effective methods and processes. Among the variety of different topics and lines of enquiry established during the course of the transition are two quite complicated and less developed issues:

- 1) the processes of public sector professionalisation;
- 2) building the institutional infrastructure for public sector professionalism.

We assume that the transition is a reality of institutional transformation and institution building.

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As has been emphasised by leading economists and social scientists, “If we only had a better theory of organisation and institutions, the agonies ... of economic reform in Eastern Europe and the former Soviet Union would be much relieved” (Williamson 1996, p. 375). What is new in the new institutionalism in sociology is the aim to study the emergence, diffusion and transformation of institutional arrangements. In Weber’s causal story, agents act according to mental models shaped by cultural beliefs that encompass conceptions of self-interest that are culturally bound by ideology and religion. This is seen in Weber’s classic account of the diffusion of rational capitalist practices and institutional arrangements,” noted D. Strange, and J.W. Meyer (1993).

In this context we have to concentrate on concepts which reflect the entire construction of the process of societal reproduction and are therefore capable of capturing the elusive reality of transition in form adequate for operationalisation and practical interventions. Our study built on the hypothesis that the profession is such a conception and a proper set of polymorphous institutions. We also assume that the complexity of institutional infrastructure demands extensive multi-disciplinary research, complex public policy changes and well-grounded reforms.

Institutional myopia and *insensitivity to institutions* were chief characteristics of social and economic engineering generated by the western experts and advisors, who uncritically leaned on taken for granted domain conceptions, as well by the local policy-makers of Post-communist states. Thus the increased attention of scholars, policy-makers and international advisors to the institutional aspects of transition poses a great methodological meaning – the necessity to fully recognise the particularities of the *formative contexts* and the institutional environment of reforms. There is also a renewed attention for the cultural dimension of transition (Nee and Strang (1998, p. 706), Welsh and Wong (1998), Riggs (1976), Fred W. Riggs (1998)).

Naturally we need to check and verify very basic questions such as the following: What are the contemporary institutions adequate to the history and culture of the modern situation? Which institutions can serve as real vehicles in the transmission of our cultural heritage, cope with nowadays technological and managerial revolutions, and fit into extremely demanding frameworks of contemporary political and moral requirements?

The Formative Context I: The Overall Picture

We assume it is important to take into account the differences between the prevalent meanings of notions of ‘*public affairs*’, ‘*public administration*’, ‘*public policy*’, and ‘*public management*’ in the Anglo-American tradition and its notions in the context of continental Europe and particularly in the transitional environment of Post-communist states. We suppose it will be more correct here to use ‘*governance and public administration*’ as a more general term, which emphasises its references to ‘state-governmental’ and historical context and corresponds to the *whole sphere* of public administration and Management. Philip Selznick distinguishes Management

Box 1

Main elements of the formative context

The context for the institutionalisation of professional public administration in transitional countries is the *globalisation* of institutional markets and *processes* for accelerated change in public management. We have to deal with *the trans–national macro–process of re–institutionalisation* and search for new forms of relations between state, regional and local institutions, socio–cultural, economic, and political traditions (Kanter 1995; Minogue, Polidano & Hulme 1998; Gurkov 1997; Saint–Martin 1998).

and governance as modes of activity. He assumes that Management reflects more rational, goal–driven, and efficiency–tended organisation–managerial and that administrative activity and governance are more holistically oriented, value–loaded, focused on objectives and guided by principles. “To govern is to accept responsibility for the whole life of the institution. Governance takes account of all the interests that affect the viability, competence, and moral character of the enterprise” (Selznick 1992, p. 290). However, Management and governance are complementary modes of organisation–managerial and administrative activity: they coexist and interact within communities, institutional and organisational settings.

These phenomena are captured by a number of social scientists and theoreticians. Peter Drucker, for example, noted that the

division of power, the division of tasks, the division of responsibilities and accountability between the various levels of this post–capitalist polity are still to be defined: What is to remain the domain of the nation–state? What is to be carried out within the state by autonomous institutions? What is to be “super–national”? What is to be “trans–national”? What is to be “separate and local”? Resolving these institutional design–and–building questions will be central issues on the agenda for the development of public administration for decades to come’ (Drucker 1992).

Charles Goodsell expressed a quite similar position in his Donald Stone lecture at the ASPA 60th national conference (Goodsell 1999). They require a revolutionary change in public administration involving a paradigm shift from the historically dominant Weberian model of bureaucracy to the *New Public management* (NPM). NPM is a set of Management ideas, which has been heavily influenced by values and governance techniques derived from economics.³

NPM has played a major role in the administrative reforms of many OECD Countries (Boston 1991; Aucoin 1990). Although these reforms and NPM originated in developed countries, first in the United Kingdom and the United States, they have been applied in transitional and developing countries as well (Gray & Jenkins 1995;

3 See for example analysis of the nature of public sector governance developed from the “Transaction Costs Economics” perspective developed by the school of Oliver Williamson (Williamson 1999)

Moe 1994; World Bank 1996; Collins 1993). The primary efforts here focused on: reducing the size of government through programs of privatisation, restructuring of government departments, productivity programs, and retrenchment and retraining of public servants. These programs, often driven by the World Bank or IMF structural adjustment loans, are also reflected in the EU PHARE and TACIS programs, and programmes such as TRANSFORM. Thus, the dramatic political and economic changes in the transition states have been combined with externally driven mandates for institutional reorganisation and new institutional capacities. The deficiency of competence, low effectiveness and functional inadequacy of existent systems in Post-communist states, major parts of which were inherited from the Soviet times, are a leading cause for the *movement for professionalisation*.

The speed and success in the transition process is considered as largely depended on the professionalisation of systems of governance and public administration.⁴ We therefore argue that public sector professionalism is *a*, if not *the*, key instrument in reform and cultural policy of Post-communist states.

Institutions and Institutionalism

Walton Hamilton coined the term *institutionalism* in 1916. He provides one of the deepest wordings of the idea of an institution which

connotes a way of thought or action of some prevalence and permanence, which is embedded in the habits of a group or the custom of a people... Institutions fix the confines of and impose form upon the activities of human beings. The world of use and wont, to which imperfectly we accommodate our lives, is tangled and unbroken web of institutions” (Hamilton 1932; 1919, pp. 309–318).

The main points of the institutional approach can already be found, for example, in the works of Jean-Jacques Rousseau. He criticises Hobbes, Locke and others for their assumption on the nature of the behaviour of possessive individuals in a particular historical and social context. He argues that “man’s natural preferences and traits of all human beings” are products of particular social and institutional environments. “Rousseau viewed preferences, such as the desire to accumulate property, not as universal postulates upon which one could found a scientific theory of politics, but as products of society, its norms and its institutions” (Immergut 1996).

Institutionalism as an approach to study in social sciences is rooted into works of Wilhelm Roscher, Gustav Schmoller and others of German historical school or *Historismus*.⁵ The *Methodenstreit* – as a methodological discussion on meaning of his-

4 As an example here can be the reports of extensive studies of World Bank (1997) and other professional enquiries (Kickert & Stillman 1996; SIGMA papers 1997; Newland 1996)

5 A good introduction to the German historical may be found in Schumaker (1968, pp. 371–377), and Herbst (1965 ch. 6)

tory and epistemological approaches in social sciences between Austrian and German schools gave the birth and the core “spirit” of this approach. As noted by Ludwig von Mises, one of the main figures in the *Methodenstreit*, “The real issue was the epistemological foundation of the science of human action and its logical legitimacy” (von Mises 1966, p. 4). Although some aspects of institutional approach could be found in works of such early figures as Adam Smith, John Stuart Mill and Henry Sidwick, the beginning of “proper” institutionalism in economics is attributed to the first works of Thorstein Veblen (Veblen 1898, 1899).

In recent studies Sven–Erik Sjöstrand considers institutions “as a kind of *infrastructure* that facilitates – or hinders – human co–ordination and allocation of resources. Institutions thus function as a kind of rationality context, which simultaneously emerges from and governs human interactions. Consequently institutions are public goods, relevant to and shared by many, and they are in principle characterised by non–excludability. Institutions simplify action choices; they are not separate from, but part of, the individual (inter)actions. Thus, institutions not only define and delimit the set of actions available to individuals; they are simultaneously shaped by individuals and make individual interaction possible. Institutions ... continuously (re)produced by individuals in their daily activities and (inter)actions on the micro level” (Sjöstrand 1995, p. 19). Different types of institutions have been described by scholars as *embedded* and *stored* in a time and space by a diverse number of *means*. They could be embedded in concrete empirically given organisations, establishments and forms of human activity and in the sign’s forms and ideas and concepts.

Sjöstrand pointed further that “Institutions are related to human expectations... Normative expectations, or norms, stabilise human (inter)action and make individual behaviour more predictable... Norms can be found in formal and articulated forms, as well as in forms that are more informal or tacit. Scientists to cover the whole range of possible ‘groupings’ of norms have used many concepts. Designations such as laws, regulations, rules, routines, conventions, traditions, customs, myths, and habits have been used. These (groupings) of norms often simultaneously express instrumental (i.e., define efficiency) and values (i.e. provide meaning)” (Sjöstrand 1995, p. 24).

Eventually Sjöstrand defined institution as a “social construct for a coherent system of shared and enforced norms” (Sjöstrand 1995, p. 28). Examples of institutions could include the family, the church, the corporation, the property rights, the university tenure, etc. However, there are many problems that arise in interpreting the idea of institution. The institution is not something that is just out there. “Rather, it is a way of subdividing the social and cultural organisation of society into components meaningful to the participants in that society, and hence to observers and to analysts of the society. In a broad way institutions implies an observable arrangements of people’s affairs that contrasts with characterisations of people’ activities deriving from assumptions, intuitions, or introspection. The term also implies specificity of time and place and contrasts with universals (or general characterisations)” (Neale 1988, p. 231).

The economic sociologist Andrew Schotter believes that the creation and existence of “social institutions” is directed by and connected with a rise of economic problems. “Economic and social systems evolve the way species do. To their survival and growth, they must solve a whole set of problems that arise and the system evolves. Each problem creates the need for some adaptive features, that is, a social institution; ... Every evolutionary economic problem requires a social institution to solve it” (Schotter 1981, pp. 1–2). Richard Scott, one of the leading contributors to institutional theory and student of institutions and organisations from the sociological perspective, states that “Institutions consist cognitive, normative, and regulative structures and activities that provide stability and meaning to social behaviour. Institutions are transported by various carriers – cultures, and routines – and they operate at multiple levels of jurisdiction” (Scott 1995, p. 33).

In the conclusion, Scott briefly mentions the role of institutions as facilitators of “the application of reliable knowledge to the performance of the continuing activities which a community has come to regard as significant... The application of knowledge is often primary reason for the existence of an institution and for any changes that occur in it” (Scott 1995, p. 42).

We consider the environment of creation (production) and transfer of knowledge as a *basic* and *framework reality* which made possible the origins, emergence and existence of any kind of socio-cultural institutions. The deliberate intervention into complex processes of institutional evolution by the means of “institutional design”; “institutional building”; and attempts of cross-national and cross-cultural “institutional transfer”, became the most sophisticated fields of human activity during the XX century. As Walter Neale asserts, “An institution does not stand alone. It fits into the system of institutions, so that changing the rules of one institution means that the rules of other institutions must adapt and so change” (Neale 1988, p. 245).

Each institution exists in a web of different and interweaving relations with other institutions. Such a feature and “past-binding” nature of institutions led to many difficulties in any kind of institutional changes, institutional design and institutional building. This is a vast area to study, and the transition provides both tremendous opportunities to build up what is a desired and unprecedented challenge. As noted by the contemporary institutionalist Malcolm Rutherford,

Individuals may design or modify institutions (frequently through some type of collective choice) with the intention of performing, or performing better, some function. At the same time, institutions may arise and persist in an underdesigned fashion, as the unintended results of intended actions. That institutions may be deliberately designed and enforced or may evolve in unplanned “spontaneous” processes is recognised in both the old and new institutionalism” (Rutherford 1994, p. 82).

In conclusion, it is our strong belief that the success of transitional transformation and future development democratic and prosperity of CEE countries depends upon

the improvement of *knowledge on the nature of institutions* and *techniques for their deliberate construction and modification*.

Why Change Through Professionalisation?

Even though Plato in *The Statesman* many centuries ago presented the idea of ‘government professionals’ weaving the future with the help of knowledge, a comprehensive vision of what this means and how we can professionalise the public sector has yet to be developed.⁶ As a general framework we can probably consider this “trend” toward professionalisation as one of the crucial axis of cultural–historical development of human social activity. The professions and processes of professionalisation of activity serve as a kind of *bridging mechanism and a method for developing, matching and co-ordinating* core processes of the human universe: the production–and–reproduction of activity, and transfer of culture and experience; the processes of functioning and changes and development; and the processes of organisation and governance.

Not everything could and should be professionalised, but certain features of human thinking have since the earliest civilisations been anticipated as “professional” and processes and passed on to those who follow.

A Brief Sketch of the State of the Study of Professions

During the last quarter of 20th century the profession become a subject of rather scrupulous analysis in practically all social sciences. The rapid advancement of the knowledge–based economy and society brought deep and practical interest in “structural and cultural understanding of the institutionalisation of expertise” (Jarusch 1990, p. 10). However, the development of schemes and mechanisms to capture the rise of the professions were often “the domain of nostalgic amateur recollections or laudatory chronicles of progress in individual disciplines” (ibid).

Among the main causes of neglect of research in Europe was the dominance of basic conceptual ideas of Karl Marx and Max Weber who directed the mainstreams of scholars’ attention to concepts of social classes, power and authority, economy and bureaucratisation. Marx considered professional classes primarily in terms of “unproductive labour” and their negative contribution to surplus value (Marx 1969). At the same time the study of the history and socio–economic meaning of professions were among the core topics of British and American scholars. The earlier recognition of significance of the professions in twenties and thirties gave birth to the whole tradition and development of theoretical concepts of profession and professionalisation. “Intellectual interest in the professions has a long tradition in the English–speaking world. Substantial commentary extends back into the nineteenth century. Until the 1940s, the most important voices were British. This is well described by Eliot Friedson (Friedson 1986, p.27). Professionalism as an organising principle has

⁶ See for example recent discussion on this matter of B. Cigler (Cigler 1990).

been thoroughly elaborated by Harold Perkin (Perkin 1989, 1996). He connected professional development with the industrial revolution and considered processes of the building of professions as crucial in British social history. In earlier studies in Britain and the USA, the existence of profession as an institution was “taken for granted” and considered not as a human creature but rather very natural to the social organisation. In fact, as we found it throughout the literature of this research domain, all the conceptions of professions, their role in the societal universe and their problem settings for the further development, etc. reflect authors’ *very basic vision on freedom, relations to the state and their primary value systems*. Ideologically, the Professional communities with the greater meaning of professional autonomy and self-governance were seen as among the basic constituencies of British and American societies and their socio-cultural reality (Bledstein 1976).

Talcott Parsons asserted that the “professional complex ... has become the most important single component in the structure of the modern societies” (Burrage 1993). This vision was further supported by other prominent social scientists reflecting the advancements of recent capitalism and social constructions for its future (Bell 1976, p. 374).

Profession and Professionalisation in the Context of Social and Economic Re-engineering

The idea of profession and professionalisation has become a powerful instrument in social engineering and politics. A good example is the Thatcher Government is use of “... the ideas and actuality of professionalisation as an instrument to define and improve both market morality and efficiency” in order to reorganise and privatise in a number of governmental service areas (Halliday & Carruthers 1996, p. 371). The British Government elaborated a special concept and principle of enterprise directors’ disqualification. The White Paper on this matter includes, for example, the following measures: “all directors of any company that become insolvent – through involuntary liquidation – would automatically be disqualified from acting as a director for three years” (Insolvency White Paper 1984, Ch. 2). In this case the concept of profession has been used by the state “... as agents of economic surveillance and enforcers of commercial morality” (Halliday & Carruthers 1996, p. 371).

The British insolvency reform of 1986 was a means to create publicly accepted reasons for the liquidation, reorganisation and privatisation of unprofitable public enterprises. It also was intended to infuse basic elements of business practice to create competence and competitiveness.

By appropriating and modifying innovations advanced by the Cork Committee, the government also set in place a complex system of sanctions. Sir Kenneth Cork, Britain’s most prominent insolvency practitioner and later Lord Mayor of London, chaired the Insolvency Review Committee. The Insolvency Act can thus be seen as institutionalisation of “market morality.” Moral reconstruction entailed a dual approach. The more visible efforts at professionalisation, as form or modern occupational

Box 2

Views on Professionalisation and Professions

Wilensky has offered the following scheme of seven–steps of the professionalisation process:

- (1) Full–time activity at the task,
- (2) Establishment of university training,
- (3) National professional association,
- (4) Redefinition of the core task, so as to give the “dirty work” over-to subordinates,
- (5) Conflict between the old timers and the new men who seek to upgrade the job,
- (6) Competition between the new occupation and neighbouring ones,
- (7) Political agitation in order to gain legal protection,
- (8) Code of Ethics (Wilensky 1964, pp. 142–146).

According to Wilensky, seven major characteristics, all related to knowledge, affect the acceptance of an occupation as a profession:

- (1) Ideally, the knowledge and skills should be abstract and organised into codified body of principles
- (2) The knowledge should be applicable, or thought to be applicable, to the concrete problems of living. (note that metaphysical knowledge, however well organised, may have no such applicability).
- (3) The society or its relevant members should believe that the knowledge can actually solve these problems
- (4) Members of the society should also accept as proper that these problems be given over to some occupational group for solution because the occupational group possesses that knowledge and others do not (thus, for example, many do not as yet accept the proprietary of handling over problems of neurosis to a psychiatrist).
- (5) The profession itself should help to create, organise, and transmit the knowledge.
- (6) The profession should be accepted as the final arbiter in any disputes over the validity of any technical solution lying within its area of supposed competence.
- (7) The amount of knowledge and skills and the difficulty of acquiring them should be great enough that the members of the society view the profession as possessing a kind of *mystery* that it is not given to the ordinary man to acquire, by his own efforts or even with help” (ibid, pp. 277–278).

According to Ernest Greenwood (1962), the ideal type of professions consists of five components:

- (1) A basis of systematic theory,
- (2) Authority recognised by the clientele of the professional group,
- (3) Broader community sanction and approval of this authority,
- (4) A code of Ethics regulating relationship of professional with clients and colleagues,
- (5) A professional culture sustained by formal Professional associations.

ordering, were directed at liquidators and insolvency practitioners. Coincidentally, however, the ethos of professionalisation permeated discussions of business morality. In its efforts to develop and enforce ethical and practice codes, the Government consciously mimicked those features of conventional professionalisation – Codes of Ethics, self-regulation, modes of socialisation – that would be acceptable to the new enterprises. However, without exclusive control over a body of knowledge, or some capacity to restrict entry, this initiation of professions had severe limits. As emphasised by Andrew Abbot, “only a knowledge system governed by abstractions can redefine its problems and tasks, defend them from interlopers, and seize new problems ... Abstraction enables survival in the competitive system of professions” (Abbot 1988, p. 8).⁷

The Profession as an Agency of Moral Regulation

Professionalism – suitably modified to suit Thatcherite philosophy – provided a promising solution to a powerful instrumental conundrum. For the Government, a substantially professionalised enterprise offered much: (1) guarantee of minimal competence; (2) a self-regulatory apparatus to ensure proper levels of technical and moral performance; and (3) a measure of disinterestedness. Moreover, to classify an occupation as a “profession” conferred upon it the dignity and respect well institutionalised in English social life, thereby helping solve the moral deficit often associated with the market. Most important, private professions would not require government resources or administration (Halliday & Carruthers 1996, p. 402).

The creation of the British “insolvency practitioner’s profession” serves both as a good example of occupational upward mobility and as an example of how different forces can be joined in the process of professionalisation. It generated a new set of polymorphous professional structures. The institutionalisation of a new profession by the Insolvency Act resulted from several major factors. One of the most important was the elite of insolvency practitioners themselves. The ‘Insolvency Practitioners’ Association was created in 1974. Its top strata aspired to increase its social prestige and reputation. “Professions may erect monopolies of practice, but for clients they also solve certain problems in common with governments – guarantees of competence, some hope of self-regulation, some modicum of disinterestedness. If the issue for practitioners was reputation, the principal concern of clients was competence” (ibid, p. 403). The Civil Service also welcomed a well-regulated profession in the private sector. The professionalisation of insolvency practitioners created a profession to which was transferred the work of the Department of Trade. This process increased public confidence in insolvency practitioners by reinforcing their commitment to high technical and moral standards.

⁷ See also important considerations by Berlant J. (1975), Larson M.S. (1977) and Friedson E. (1994).

Among the other important features of this profession–creating activity in Britain was its unconventional organisation.

Rather than the conventional fit between a single professional association and its constituent members, whose only powers are derived from the association, the new Insolvency Act created a new insolvency practitioners' profession and endowed regulatory responsibilities on six major Professional associations. Three were pre–existent accounting bodies, two were pre–existent lawyers' bodies (the law Society and the Bar) and one was a new professional body, the Insolvency Practitioners' Association. The seventh, and most startling addition to this regulatory pantheon, was the Government's own Department of Trade and Industry.

The important lessons from this case are:

- how a State can effectively employ professions to serve as agents of the State and its policy; and
- how State and profession can become partners in such matters as 'trust–building', which is crucially important for societies in transition (Halliday & Carruthers 1996, p. 404).

The case of the Insolvency Act 1986 shows as well how professionalisation can serve as an effective instrument for legitimisation of governmental innovations.

Ethical Regulations and Trust

The professionalisation of public services also can serve as a generator and primary guardian of values (Montgomery 1998). In the transitional context, where the *shift of values* appears as one of the dominant dimensions in changes in the relationships and culture of public services, the further development of processes of professionalisation will facilitate and even drive changes of the value system. The profession is an important "trust building" institution – an extremely crucial issue in the context of transition.

Ethics is traditionally one of the key dimensions and crucial sources for *governance of professional activity* and *assigning norms of professional conduct*. Émile Durkheim, in his *Professional Ethics and Civic Morals* (1957), was an early contributor to this theme and believed that communities based on membership in professional associations will prevent the decline of civic morality in the context of fragmenting division of labour.⁸ A comprehensive compendium of *Codes of Professional Ethics* was recently published by Corlin (1999). The compendium reveals how 52 Professional associations across 25 professions are addressing questions about confidentiality, conflicts of interest, accountability, competition, lobbying, fees, research, plagiarism, competence, advertising, self–regulation, telecommunications, referrals, peer review, misconduct,

8 This issue has long been recognised in several seminal works of Barnard C.I. (1938), Simon H.A. (1947) and Waldo D. (1948).

independence, discrimination, and sensitive issues specific to particular professions, among many other topics [<http://www.bna.com/bnabooks>].

As institutional and governance structures both in public and private sector become more complex and vulnerable to different kind of “market” forces and influence, it has become quite fashionable to decry the deficit of Ethics in the performance of different public *and* private agencies. This, in turn, has generated a number of different studies on strategies to restore the ethical climate and behaviour (Williams 1999; Theobald 1997; Lewis & Catron 1996; Bruce 1996; Brumback 1991). Professional and general social Ethics serve as a framework, an infrastructure to keep professional activity acceptable and admissible by the professional culture and the society it serves.⁹

According to Lefevre, one of the leading students of human reflection, the real professional is a subject, a person, “which possesses both the image of himself and the ideal of a professional” (Lefevre 1991). As noted by Donald Schone, “[u]nreflective practitioners are equally limited and destructive whether they label themselves as professionals or counter-professionals” (Schon 1982, p. 290). In order to keep the members of a professional community in associative, ordered and manageable relationships, the profession should invent *special reflective institutions* which will provide them with professional values and ideals, train them to reflect through a particular prism that guides them on professionally determined subjects toward further professional development, and create particular *supportive institutions* which will permanently facilitate reflective exercises and both individual and collective capacity to reflect. In Post-communist states, emerging efforts to create reflection-supporting institutions in the sphere of Governance and Public administration include for example, attempts in Poland to introduce new institutions¹⁰ shaping the ethical infrastructure (Kudrycka 1999), as well as the development of independent, non-governmental foundations, public administration training centres and policy research agencies, and the development of Professional associations such as the Association of Municipal Financial Officers in Slovakia (Regulski 1999).

Trust-building and Credentialing

Among the basic institutional settings critical to modern societies, with their diverse economic, political and socio-cultural actors and heterogeneous systems of values, should be the mechanisms for the creation of trust. The credibility problem is particularly important for the transitional societies where in the course of the 20th century,

9 For more information on Ethics and ethical codes see an earlier paper prepared for the PAR Working Group of NISPAcee “*Western Experience and Eastern Reality. A Literature Review of Professionalisation and Professionalism in the Public Sector Service*”, (Chia & Wyman, 1999). On modern approaches to teaching public-sector Ethics and values see in Bowman & Menzel (1998).

10 This includes: regulations governing the conduct of members of Parliament, as contained in the Code of Deputies’ Ethics and the establishment of a system of government offices responsible for developing ethical administrative conduct”

public institutions have been severely discredited. Even if the shift toward public service professionalism in the 20th century can become a short–term impediment to democratisation and involvement of citizens in public policy–making, the deliberate and thorough development of complex professional institutions can, in the long term, enhance accountability and openness, and facilitate the development of high trust professionalism in public agencies (Brint 1994). In fact, the phenomenon of so–called corruption is an institutional (or infrastructure) effect, and manifests the type and contents of processes (in term of professionalisation). As countermeasures we are trying to look at institutional re–arrangements.¹¹ Through building adequate professional institutions, we will support the recreation of the entire system of Credentialing in Post–communist societies.

Credentialing is a critical condition to the area of trust among modern professionals. As a form of market signs and signals credentialism serves as an information system structuring labour marketplace; “this form embraces informal letters of reference and similar personal testimonials based on patronage and sponsorship as well as formal diplomas, certificates, degrees, and licenses” (Friedson 1986, p. 63). A diverse and well–engrained system of Credentialing of professionalised activity has developed in the USA. There are two major types of Credentialing: “occupational Credentialing” and “institutional Credentialing”. The occupational approach concerns individual professional and is realised through degrees, diplomas and certificates confirming the completion of training and education courses. Institutional Credentialing involves the issue of credentials to institutions and organisations which are willing to perform professional activity at acceptable levels and to provide special services. These include chartering, operating licenses, and accreditation. In the USA private sources of Credentialing are often perceived to be more valuable and important than public ones, due to established separations and deeply rooted patterns of relationships between the public and private sectors. Instead of rich and diverse social sign systems, which were historically developed in Russia before the revolution and in the CEE countries before the Second World War, a system of totally “state–controlled Credentialing” was established and dominated in the region during the Soviet times. During several generations the tradition of “credentials given” just partly survived within the academic communities (to some extent including issues of diplomas of higher education, and scientific degrees, etc.). However, in general the main types of “personal references” and “personal credentials” were granted by the Party system, through the committees of trade unions of served organisations or by the komsomol. Although this order was obligatory – it was impossible to cross the enterprise or any institutions and get any white–collar job without such a “personal characteristic” - *it degenerated into a very formal and meaningless procedure*. Due to nearly total absence of independent judgements this kind of credentialing substantially contributed to the *institutional*

11 Consider, for example, the structure of findings and recommendations in Verheijen, T. and A. Dimitrova, (1997).

erosion of Soviet organisation and the formation of a gap between the “*formal signs*” and “*real contents*” of these letters of recommendations, diplomas, etc..

This practice created a general disregard of the public to “papers” and formal signs and fixed the social, professional or cultural status of their bearers. At the same time, this type of relationships serves as a rich source of distrust to all kinds of official institutions and facilitates the development of such transitional phenomena which we call “institutional chaos” and “Institutional myopia” (Kovryga, 1999, 2001).

Professionalisation as a Policy Issue: Western Models vs. Eastern Reality

A number of leading Western academic institutions and international professional organisations have exerted considerable effort in supporting development of professional systems of public administration in states in transition.¹² However, while the degree of influence measured by aid money is high, the success in professionalising the public service remains limited. Part of the explanation for this may be found in the limited transposability of models of public administration from western countries to countries in transition (Jabes 1997, pp. 7–9). A major part of the transferability problem may be due to emphasis on individuals who engage in professional activity within the institutional and socio-cultural infrastructures while human behaviour in the context of various countries is left in the shadows. Practically all the actions toward professionalisation of PA in Post-communist states are built on the assumption that well-trained or re-trained public servants (e.g., by the programs such as Masters of Public administration) will resolve the problem of public sector transition. This approach often does not fit the local and national conceptions in Post-communist states.

The history of professionalisation in the U.S. has created myths, ideologies and patterns of professional activity that are bounded within a *local formative context*, which is based on a complex interaction between *the ‘market’*, the *‘state’*, the *‘profession’* (with the *‘university’* as a natural and integral part of it), and *‘civil society’*. Their interaction, and ideological and structural commonalties and differences have shaped each of them and given birth to American patterns of professionalisation and professional organisation. The *‘jungle’* of American professionalisation gave birth to very narrow specialisation of academia, to a clear demarcation of personal field of enquiry, particular areas of professional competence (to confer professional status, privileges an responsibilities, etc., well developed examples are law and medicine), to a precise definition of their *knowledge base*, and to articulated “*jurisdiction*”.¹³

¹² among them USAID, TACIS and PHARE projects of EC, SIGMA/OECD, Local Government Management Board of UK, National Association of School of Public affairs and Administration, several private foundations, Open Society Institute network, etc.

A student of the 'Culture of Professionalism', Burton Bledstein, exerted that "[t]he culture of professionalism emancipated the activities within comprehensive spaces and incarnated the radical idea of the independent democrat, a liberated person seeking to free the power of nature within every worldly sphere, a Self governing individual exercising his trained judgement in an open society."

This topic deserves special research from a comparative point of view. Here we just briefly outlined some basic features, which may help in understanding what stands behind the [Anglo-] American theory of profession and the approach to professionalisation of an activity in Central and Eastern Europe. The profession now is an inalienable part of the American value system. The American pattern of professional activity clearly reflects and perhaps overemphasises the meaning of ideas and spirit of 'free enterprise'. It is particularly stressed by the European (continental) scholars that "the Anglo-American tradition supports professions that are more self-regulating and autonomous, whereas on the continent the categories of "professional" and "official" tend to merge" (Lindenfeld 1990, p. 215). The Anglo-American model "exaggerates the degree of autonomy characteristic of professions as well as the elements of public service and self-control that are the professionals' stake in the so-called bargain with society by which their autonomy is legitimated. At the same time, this model under-rates the potential role of the state in the formation, sponsorship, and protection of professional work. However appropriate the model of autonomy, self-control, and distant state may be to Britain and the United States, it simply does not take account of the historical circumstances of professionalisation in continental Europe" (Caplan 1990, p.163). The European "professionalisation projects" (German and French) differ somewhat from the Anglo-American schemes, notably by being attached to a broader notion of university education (*akademische Bildung*) than to specialised training and self-organisation.

Honour and status belonged more clearly to the *Akademiker* or the *Akademische Berufe* than to the professional per se. Moreover, as suggested, the development of the state was such that in many parts of Germany, notably in Prussia, it exerted a powerful influence as both the organiser of the educational system and the consumer of its products, especially those trained in law. It is not surprising that one scholar has concluded "...if in Anglo-American context the medical profession was the model for the other professions, in Germany it was rather the professional lawyer (Jurist) in the Civil Service" (Cocks & Jaraus 1990, p.165).

13 A link between the training of experts and their performance of their work sufficiently demonstrable to withstand competition from other professions or from non-professionals, enabling these new experts to control their domain.

The Formative Context II: What Is Inherited and What Is Embedded

The Marginal Status of Profession and Professionalism in Post-communist States

Before the transition there were few social science studies of professions and professional organisation. Nearly all of institutions of civil society were eliminated and transferred into organisations totally controlled by Communist Party. All sources of power and governance were centralised in state hands. There were no clear distinctions between civil society and the state, public and private (BCE, *The Democratic Gap*, 1996). The professional service was reduced to a single and monopolistic administrative market where all professions were part of and controlled by the bureaucratic rules of party–state’s nomenklature. A closed “administrative market” of largely quasi–professional services was created within a cobweb of the party–state’s nomenklature. This practice was characterised by the absence of *professional meritocracy*, *professional freedom*, *self–organisation* and *transparency*.

In general the motives and spirit of professional development were lost during the Soviet period. Professional careers were defined not by professional achievements but by the demonstration of strong adherence to official party slogans and behaviour from one side, and by following the hidden rules of informal life and “codes of behaviour” of the Nomenklatura.

The power of the professions as a source of high knowledge and expertise were a major threat to the total–command–and–control methods of communist governance and the goal of a New Socialist Society. It was absolutely necessary to destroy and eliminate any kind of professional institutions that could produce professional culture, power and influence. The working–intelligentsia and non–qualified–labour were at the top of soviet socio–cultural priorities (e.g. discussions in Hudson 1994 and Jones 1991). The result of such practice was the destruction of mechanisms for the accumulation and reproduction of professional experience and culture, with the exception of the military.

The Theory: Ontological Assumptions on Profession and Professionalisation

The notions of profession, professionalisation and professionalism seems quite well developed (at least by the ever growing numbers of publications, professional clubs and associations, etc.) in the English–speaking world and other western European countries. Often, in the US, the overall socio–cultural situation is characterised as the ‘era of professionalism’. However, to use them instrumentally in different institutional building contexts, we need *to clarify the ideological and ontological basis* for this set of ideas and *comprehend their socio–cultural background and meaning*.

We will present the process of reproduction of systems of Governance and Public administration in the form of cycles, which provide the creation of new structures of Governance and Public administration on the basis of the previous ones.

The simplest case is the one in which the ‘instruments’, ‘means’, and ‘subjects’ and ‘products of labour’ of the state of systems of Governance and Public administration are transferred to others through both individual professionals and whole professional organisations. Such a “material transfer” does not demand recreation. However, it is a necessary component of processes of reproduction and provides transmission of the elements of systems of Governance and Public administration. The more complex mechanism of reproduction appears in those cases when the elements of systems of Governance and Public administration from the first state do not pass into the second state directly and do not transform into elements of the second state. They can serve only as the *samples* or *etalons* (*blueprints*) for the recreation of the same units and elements of systems of Governance and Public administration. These samples and etalons have a special function in a professional universe: they capture those things that exist in the first state of systems of Governance and Public administration in a way that allows those elements to be included in the second state.

The General Theory of Activity posits that these etalons do not exist in the particular states of systems of Governance and Public administration, rather they move in ‘parallel’ to those states, and permanently provide recreation of all Governance structures (Shchedrovitsky 1995). Examples include written statements of standards, specifications for procedures, written rules which guide behaviour in a particular professional position, codes of professional Ethics, organisational and administrative charts of professional agencies, etc. An interesting collection of such “exemplars” is presented as a result of Exemplars Project developed by Terry L. Cooper and his colleagues under ASPA (Cooper & Wright 1992).

Critical to this discourse is the distinction between the two spheres of systems of Governance and Public administration, *production* and *culture*. Culture here is aggregate of all means that recreate social, socio–cultural, and production structures of systems of Governance and Public administration. An indispensable condition for this kind of reproduction is activity itself. The samples and etalons will perform their functions only if there is a person who will be able to create, by those etalons, new artefacts, which are included in new (reproduced) structures. Such a process of translation is possible only in case systems of Governance and Public administration will be continuously transfers in parallel. How is this possible?

The most simplified form of translation of systems of Governance and Public administration is the transfer of professionals from one structure to another. But this is not reproduction of systems of Governance and Public administration as such. A more complex situation arises in a case where the *real task is to reproduce* certain elements of Governance systems. The activities of exemplary professionals and recognised professional institutions inevitably become the sample, the cultural artefact for this process. They secure and transfer particular features and construction of new systems of Governance. Examples here include such institutions as *professional schools*, with their core curricula and professional textbooks, research methods and

theories, cases and canonised patterns of professional views of the world, structures of internal organisation and culture, and professional roles as research, teaching, administration, etc.. There are continuous processes of standardisation and accreditation of such institutions by professional bodies, such as the National Association of Schools of Public Affairs and Administration (NASPAA) in the U.S., and newly created Association for Public Administration in Poland – Stowarzyszenie Edukacji Administracji Publicznej (APAE).

In any case, the recreation of systems of Governance and Public administration is only possible when certain people – *fellow members of a professional community – are able and willing* to perform this activity. They can duplicate the systems of Governance and Public administration of previous generations or recreate them by inherited products and signs. Historically, training and education provide the transmission of such abilities.

These models and conceptions, developed within the theory of profession, allow a thorough analysis and definition of crucial reproducing elements and components of the socio-cultural and economic organisation of Governance and Public administration systems, and as well as a general framework to better understand the *nature and structure of the institutional setting of these systems*.

A dynamic view of the profession can be seen dynamically as having three integrated dimensions:

- the dimension of *pure thinking* – a set of patterns, schemes of thinking, and core objects and theories developed and employed by the profession and characterised by its specific subjects. This dimension is driven by the laws and logic of theories and ideal objects.
- the *communication* dimension – a set of socially and culturally organised communication patterns used by the profession within and outside of professional community
- the *behavioural* dimension – patterns of professional actions and behaviour: socially, culturally, and technologically determined professional performance

All of these dimensions differ by internal nature and logic of development. They are relatively autonomous as integral functions of particular professional activity. However, they are coherent and complementary to each other as systems of profession and professional organisation of activity.

The communication dimension is at the core of the construction of the profession. It performs a critical function in establishing and maintaining all types of relationships with the outside professional, social and business world. Communication provides systems integrity and co-ordinated professional life both within the profession, with other Professional communities, state and international institutions and the rest of the societal universe.

Each of these dimensions can evolve by its own speed, logic and laws. This can cause internal discrepancies, resulting in restructuring, disconnecting and destroying of performance of separate institutions *within* the profession, as well as *between* activities of particular professions and the rest of universe. Among the most telling examples is the compartmentalisation of ASPA, which now comprises 112 chapters. Each of these chapters tends to become a single “true professional unit” and create its own ASPA–like association. The complicated relations between certified public accounting Professional associations (American Institute of Certified Public Accountants, American Accounting Association), big professional partnerships, and state regulation agencies (Security and Exchange Commission, Federal Accounting Standards Board) over accounting and auditing standards and procedures, code of Ethics and professional responsibility are further examples, as well as the conflict between lawyers and accountants during the 1940s and 1950s “... on the question of who was to be legally constitutes to engage in certain areas of tax work and related consulting” (Montagna 1974, p. 175). In order to prevent such destructive consequences there are special functions, which can help to keep the system integrity of the processes of professionalisation and professional development. We do not deal in detail in this chapter with the processes of professionalisation and professional development, which is a big and extensive topic of research. However, we can assert that each profession or professionalised activity has its own special *epistemological* and *developmental strategy* and *policy* for implementation of them; this strategy reflects *professional ideology* which serves as selective tool and filter in separation of worthy and acceptable paths and directions for development. Professional ideology drives problem–setting procedures and highlights new phenomena and opportunities. In fact, all of these functions tend institutionalise themselves and obtain own and “independent” life and existence.

In the course of professionalisation, the diversification and enrichment of the body of professional institutions can provide the *strength and prosperity* as well as *heavy loads*, which will impede further development of profession. If we will look through the prism of presented schemes and notions at the history of Professional communities and professions and recent developments in the “professional market–place”, it will demonstrate a diverse variety in the contents, shapes and strategies of institutionalisation. Among the well–elaborated epistemological strategies applicable for professional development are “action research” and “organisational learning”.¹⁴

These reflective functions allow professionals to reflect and benchmark current professional developments, design and implement necessary changes, and restructure their professional institutions and organisations. Within systems of Governance and Public administration we can consider organisations such as the National Academy

¹⁴ See for a detailed consideration of action learning and research approach with application to public administration sphere, Bruce, R.R. & Wyman, S. M. (1998).

of Public administration (NAPA), the American Society for Public administration (ASPA), the National Association of Schools of Public affairs and Administration (NASPAA), and a number of other types of national and international as examples of institutionalised implementation of this framework functions and activities. We also believe that the consistent development of the NISPAcee will result in the full-scale mastering and performance of crucial meta-reflective functions for the professionalisation of systems of Governance and Public administration in Post-communist States.

The aim here is *to stabilise* the professional heritage and achievements, status and integrity within the social system and network of other professions, non-professional institutions, and organisations. By this holistic reflection of professional performance, the profession can stabilise or change its own structure and network of professional institutions, can redesign principle directions of professional activity, can support or provoke changes of basic values and core knowledge, and can enhance skills and patterns of activity. Moreover, all of these reflective functions are responsible for accumulation of professional knowledge and culture, and reproduction of professional activity. This occurs through the experience and lessons of current practice and history (own and others), by creation of appropriate standards and norms, and education and development of the professions human capital. A critical message of this construct is that *we should not expect any appropriate development and prospering of systems of Governance and Public administration without building an integrated professional infrastructure*. It must be adequate both to its history and current socio-cultural situation, and capable of supporting and performing all the functions that are discussed above.

The institution of profession appeared as a complex *method of knowing* (knowing-by-doing, knowing-by-reflection, etc.); testing and verification of basic ontological assumptions of profession, ideas, and knowledge; as in local situations of acting as in a broader cultural-historical context. The Profession generates social-cultural foundations for creation of real subjected knowledge and building of practice. Any separate achievements outside of the profession and without comparisons to (and overcoming through) those basic patterns and paradigms, do not contribute to development of knowledge. They are not included in the development of professional business and do not belong to professional history, they are left just to the destiny of the private domain.

In conclusion therefore, a robust, well-established profession will possess a set of institutions and agencies which will support or perform the movements through these lines of professional activity and professional development. Such a dynamic process of professionalisation means that the profession will gradually master and develop its own specific institutional infrastructure capable of pursuing all of these processes.

To introduce some kind of innovations into current professional practice it may be necessary to take certain professional agents “out” of routine practice and involve them in the *professional reflection, learning and communications*. This might include job rotation, new assignments within organisational and functional structures, peer

reviews, performance assessments and professional competitions. Externally, it would include professional meetings, special tasks and focus groups comprised of different professional positions and invited representatives of other professions and so on. It is impossible to expect the accommodation of new ideas and schemes of performance, developed by scholars, without the reflection of real practice gained through communication with and learning from all of the stakeholders of a profession. Thus, in order to be able to introduce any innovations, professions must develop associations and institutions, which facilitate complex poly–processes of reflection, communication and learning. As Rusaw states, “Professional associations provide (1) formal and informal matrices for developing knowledge, attitudes, values, and effective techniques for practice, (2) new frames of thinking, feeling, reflecting, and experiencing, and (3) roles as an authority, facilitator, and arbitrator of knowledge for change” (Rusaw 1995, pp. 219).

Professional communities can enhance their expertise and skill development through formally organised meetings, conferences, workshops, and seminars. The identification of common problems, themes, issues and priorities can serve as an approach for uniting efforts of academics, practising managers, and others positions for the development of professional practice and the identification of their profession as a socio–cultural formation.¹⁵ Professional associations also create unique frames of reference and an opportunistic environment that predisposes professionals to reflect, define and react to phenomenon they have experienced. Such a reflection creates new meanings, which then transforms into new knowledge, ideas, etc.

Practitioners do reflect *on* their knowing–in–practice. Sometimes, in the relative tranquillity of a post–mortem, they think back on a project they have undertaken, a situation they have lived through, and they explore the understandings they have brought to their handling of the case. They may do this in a mood of idle speculation, or in a deliberate effort to prepare themselves for future cases, but they may also reflect on practice while they are in the midst of it. Here they reflect–in–action, but the meaning of this term needs to be considered in terms of the complexity of knowing–in–practice. When a practitioner reflects in and on his practice, the possible objects of his reflection are as varied as the kinds of phenomena before him and the systems of knowing–in–practice which he brings to them. He may reflect on the tacit norms and appreciation, which underlie a judgement, or on the strategies and theories implicit in a pattern behaviour. He may reflect on the feeling for a situation, which has led him to adopt a particular course of action, on the way in which he has framed the problem, he is trying to solve, or on the role he has constructed for himself within a larger institutional context. Reflection–in–action, in ... several modes, is central to

15 For a review of processes of formation of different types of professional organizations in the United Kingdom see the work of Geoffrey Millerton (Millerton 1964).

the art through which practitioners sometimes cope with the troublesome “divergent” situations of practice (Schon 1982, p. 62, Ch. 5).

This “dynamic reflection” is absolutely necessary for “sense-making” in professional activity. Continuous in-professional and inter-professional reflective conversations and discussions support the “sense-making process”. Through these discussions professionals create meta-frameworks of meaning. This activity enables the members of profession to re-examine their dominant beliefs, values, and practices against critical situations and adapt to an ever-changing environment. The process of articulation and translation of these experience-frameworks to newcomers is critical to reproduction and development of profession. It is a core process for creation and definition of professional culture.

Box 3

Determinants of the innovative capacity of a profession

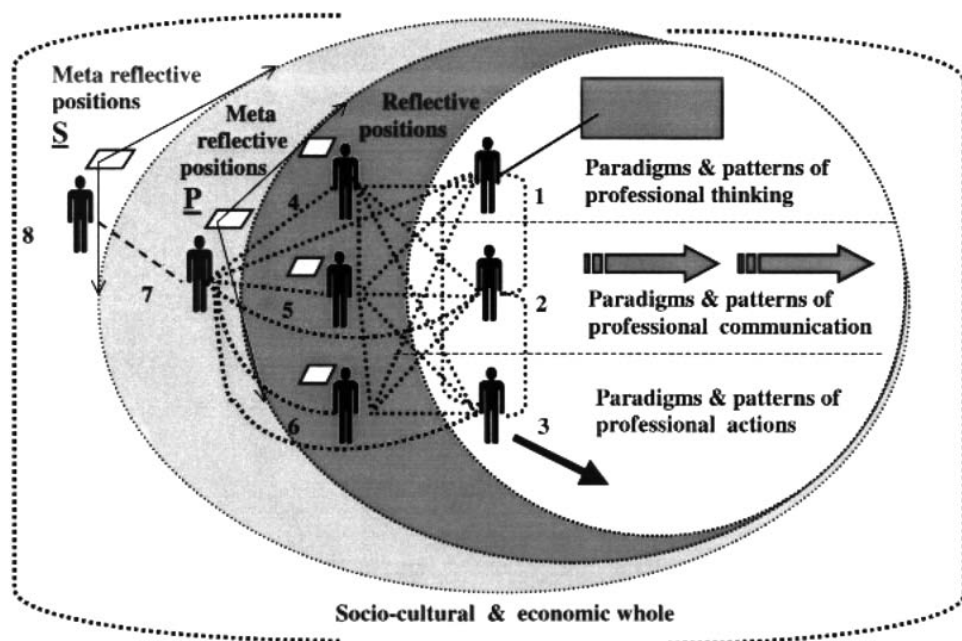
In short, the innovative capacity and proper performance of a *profession depends on development of a network of professional institutions and associations which can serve as an infrastructure for articulating, channelling, directing, and supporting flows of knowledge, expertise, and reflection.*

Professional associations also provide such important functions as *continuous learning* and *socialisation*. Socialisation refers to the formal and informal learning processes by which professionals come to know, accept, and share with others expectations of individual and group performance, opportunities for personal and professional growth and advancement, and interpersonal relationships inside and outside a particular organisational context (Rusaw 1995, p. 218).

As case examples in systems of Governance and Public administration of the institutionalisation of learning and socialisation, one can consider organisations such as the National Academy of Public administration (NAPA), the American Society for Public administration (ASPA), the National Association of Schools of Public affairs and Administration (NASPAA) and their component associations, journals, institutionalised networks of research, competitions, and awards for recognition programs.¹⁶ Examples of Professional associations in the public sector in the United Kingdom are SOLACE – Society of Local Authority Chief Executives (district council chief executives), CEA – Chief Executive Association, SOCPO – Society of Chief Personal Officers, CIPFA – Chartered Institute of Public Finance and Accountancy, ACSeS – Association of Council Secretaries and Solicitors, and IPR, the Institute of Public Relations (Wynn 1996, pp. 12–13).

¹⁶ ASPA was established 60 years ago with the overall mission “to professionalise the public service, to keep members on the cutting edge of good government, and to help answer the enduring question of how to make government work better. Over the years the Society has played a major role in achieving these ends”

Figure 1.
The Schematic Whole of the Profession of Public administration



The Dangers of Professionalisation

Professionalism, Administrative Bureaucracy, and Building of Institutions of Modern Governments

There are several competing theoretical approaches to the Dangers of Professionalisation and role of professional bureaucracy in public administration and governance. The tension between a meaningful democratic politics and a highly professionalised, specialised and scientised public administration has attracted the attention of students since the beginning of the 20th century. It was one of central topics of Dwight Waldo's seminal work, *The Administrative State: The Study of Political Theory of Public administration* (Waldo 1948). It is also reflected in the work of Barry, Karl, and others (Karl 1976, 1987; Pugh 1989; Stewart 1985) and in the framework of the topic addressed in this chapter by Chester Newland (Newland 1980) and in reports of the European Group of Public administration (Hondeghem 1998). The views of professionalisation of public administration as ground for "bureaucratisation" and the danger of a powerful bureaucratic machinery to democracy were expressed by Max Weber as well as by major revolutionary leaders of the 20th century (Weber 1946, p. 228; Lenin 1971). The position of the Bolshevik leader caused the neglect of professional Management training and education.

The danger of creating a “professional state” and a “bureaucratic state” was also studied by a number of public administration theorists.¹⁷ Recently, leading American scholars (Farazmand 1997) developed studies on the key pros and cons of professionalism and professional bureaucracy in modern public administration and governance. Fred Riggs asserts that *professionalisation increases power of public administration bureaucrats*, so they tend to act against constitutional systems and pose serious threats to democracy. As he believes that

Once established, bureaucracies easily become self-activated organisations capable of furthering their own expedient goals and egoistic norms. To the degree that they are cohesive, creating their own intra-bureaucratic “informal organisations” and political leadership, they can mobilise the bureaucracy as political actors promoting their own expedient interests (Riggs 1997, p. 25).

When bureaucratic interests are ignored by the constitutional systems, however, bureaucrats become *hyper-activated*: Under military leadership, they organise secretly to displace the constitutive system and impose their own domination. The opposite phenomenon can emerge under a single-party dictatorship in which the party directorate (a “politburo”), using the slogan, “democratic centralism,” seeks not only to dominate the constitutive system as a whole but also to impose harsh control over all bureaucrats. Its “political commissars” – that is, party activists associated with or even sharing appointments with public officials – are able to control the bureaucracy. Carried to extremes, such control is suffocating – the bureaucracy becomes inanimated. It cannot administer effectively and it easily falls victim to bureaucratic fatigue. It can never dominate its polity, but it can undermine its viability simply by failing to administer well enough to meet the minimal needs of the population. Although mass protests may result, the more immediate cause of such a regime’s failure is neither a revolutionary movement nor coup. Rather, it is political crash caused by the failure of party leaders to sustain their own enthusiasm for the system. Their internal schisms can ultimately precipitate its collapse (ibid, p. 26).

The problems of functional and ethical interrelations and interactions of *politicians and professional public administrators*, traditionally considered in the framework of the old dichotomy of democratically elected politicians vs. professional administrators, are among the most viable in American public administration literature. It was one of the main concerns of Woodrow Wilson, one of the founders of Public administration as an academic discipline (Wilson 1887).

17 See, for example, such earlier works as of Herman Finer (Finer 1941), Anthony Downs (Downs 1965) and critical and influential work of Frederick Mosher (Mosher 1968), also an important and crucial work of Vincent Ostrom (Ostrom 1973)

Bert A. Rockman calls attention to a clash between “accountability”, “responsiveness”, and “responsibility” of public service professionals (Rockman 1997, p. 281). In fact, public service professional bounded by at least three different types and often–conflicting rationalities:

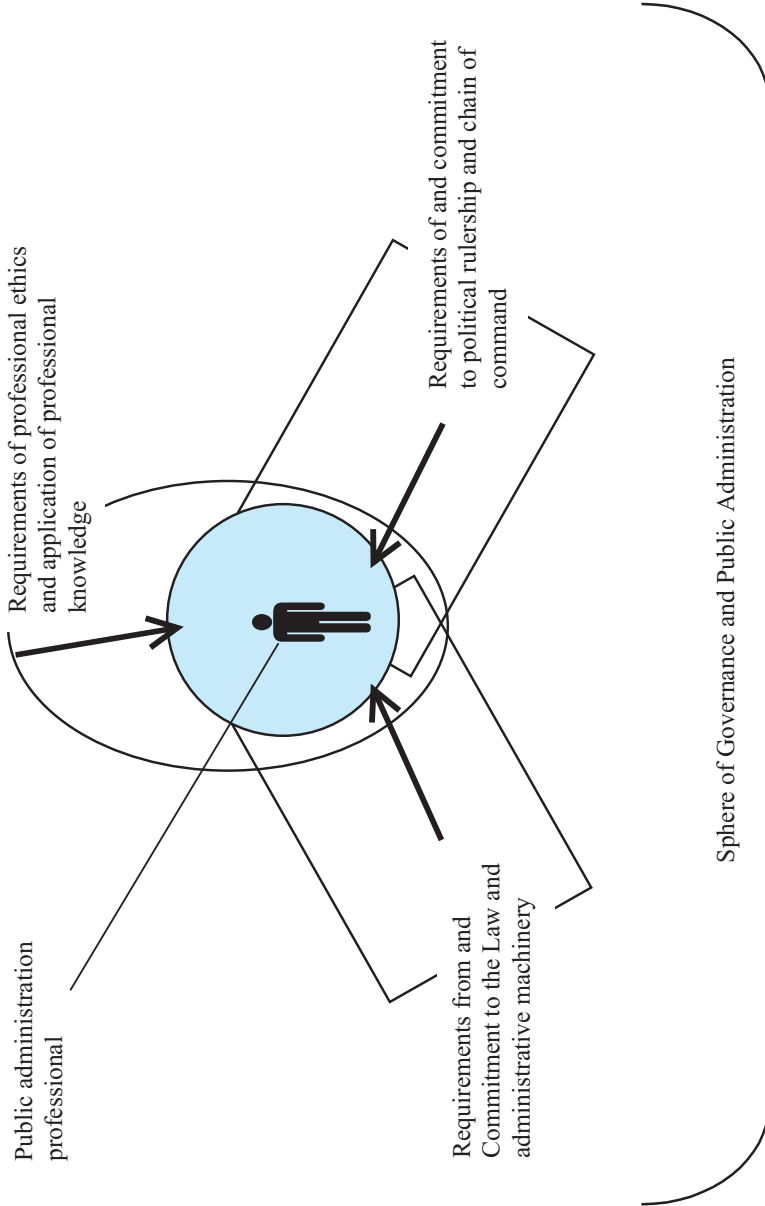
- The principle of *accountability*, which reflects commitment to the law
- The principle of *responsibility*, reflected in the adherence to professional Ethics and knowledge base
- The principle of *responsiveness*, which represents commitment to requirements of political leadership and chain of command in administrative machinery.

The participation of professionals in public affairs and government work is often considered as a source of professional obsolescence and involvement into unavoidable corruption. In order to prevent such threats, professions develop institutions which can both maintain proper forms and limits such a professional participation and combine support for intellectual prestige and occupational security with the possibility of valuable impact on social development.¹⁸ The *art of being professional* is based on skilful fulfilment of requirements of all of them. But it is unrealistic to expect such skilful performance without development of proper professional institutions. An interesting interpretation of systems’ institutional influence on performance given by Alexander Filatov in his article “*Unethical Business Behaviour in Post–communist Russia: Origins and Trends*” (1994, pp. 11–15). The successful solution to problems depends on institutional settings in all dimensions presented in *Figure 2*.

We believe that the most practical and efficient approach to overcome these tensions and discrepancies is to think of the *political constituent* dimension of the sphere of Governance and Public administration *as an open and problem oriented* dimension and to devote attention to building institutions that can support further professionalisation. In fact, from the substantive point of view these politician–professional administrator tensions fall in our models into very complex relations between the processes of *reproduction* and *development*. All the “things” and mechanisms and respected institutions involved *in* and ascribed *for* reproduction persist to the changes connected with development. In this contexts “politicians” and “professionals” in the sphere of public administration and governance are the *only social performers* of those functions, institutions and structures. They play the roles prescribed by the grounded mechanisms and institutions. That means if we like to analyse the dynamic of these relations and their particular situations in a constructive manner, we have to reflect on this founding institutional base. However, all kind of politicians in such analysis will fall into the sphere of Governance and Public administration and *basic ontological schemes* for this analytical (or design) work need to be the schemes of stages of development of profession presented here.

18 See for example, an article of Fulner M.O. (Fulner 1975).

Figure 2.



The evolution of laws, the administrative machinery and political leadership *move* in their own time, and their efficacy and the cultural–historical contextual appropriateness depends on professional systems of Governance and Public administration. This is shown by a number of studies.¹⁹ An important direction of institutional development should be the professional standardisation of public executive activities. Institutions of professional education are a crucial channel to intervene into these developments. Education can serve as the best channel to instil in professional public administrators “a philosophy of public service which is both consistent with and supportive of democracy” (Mosher 1968, p. 214).

Frederick C. Mosher was among the first scholars who deeply analysed professionalism issues in government and public administration. As he argues, public services professionals can narrowly define and establish their own frameworks for their professional expertise for each field of knowledge. This can cause parochialism and inability to recognise anything beyond certain assumptions. In his award–winning book, *Democracy and the Public service*, Frederick C. Mosher raised core questions regarding professionalisation of the public service and its relations to democratic governance (Mosher 1968, pp. 3, 101–106). A quite impressive and influential report on symposiums on professionalism in public administration is presented in “*The Professions in Government*” (1977, pp. 632–685, and 1978, pp. 105–150).

As pointed out by Barrett, “It would be silly for anyone to announce that he is “against” technology, whatever that might mean. We should have to be against ourselves in our present historical existence. We have now become dependent upon the increasingly complex and interlocking network of production of our barest necessities” (Barrett 1979, p. 229). The technical rationality approach focuses on the development of modern highly specialised expertise and the compartmentalisation of knowledge. It is the lifeblood of any modern professional, and a source for the proliferation of Professional associations in the Western world since the mid 19th century. Technical rationality grounds specialised expert knowledge and legitimises social status, autonomy and control of practice of the professions (Larson 1977). The reverse side of *specialisation* and *compartmentalisation* of professional knowledge is a *contextless* and *timeless* approach to practice. It is caused by “... lack of historical consciousness across the professions and disciplines” (Adams & Balfour 1998). The lack of understanding of broad socio–cultural, historical and political context characterises professional practice nurtured by strict technical rationality. By this approach, “Human action is to be explained through the development of general laws and models independent of time and space. There is, in this view, no need to include history and culture in accounts of human behaviour” (Adams & Balfour 1998, p. 40).

¹⁹ See for example works of Leonard White (White 1926), and others (Eisenstad 1963, Farazmand 1997, pp. 49–73)

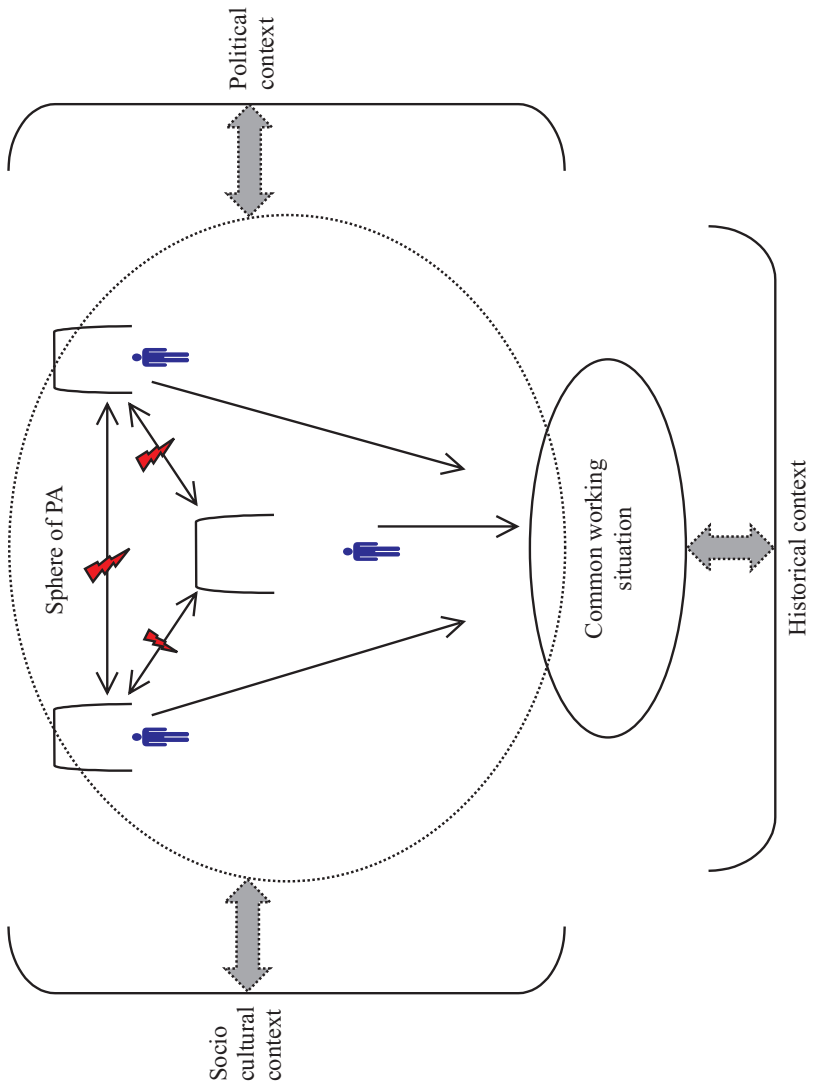
The compartmentalisation of knowledge and specialisation of expertise complicates communication, co-operation and organisation of activity of public administration. It leads to complex uneasy working relationships between individual organisational units, projects, individual professionals and single actions of public agencies (see *Figure 3*).

As we proposed previously, in order to overcome these consequences of subjected specialisation, the profession has to develop institutions which will support reflection over different modes and dimensions of professional practice. Reflection itself cannot provide integration and unite dispersed specialised modes of professional activity. The reflective exercises have to be channelled into *redesign* and *institutional rearrangement* of profession and its individual units. Among the crucial conditions for reflective-ability of professional institutions is “moral competence” discussed in the *theory of reflective responsibility* develop by Philip Selznick. He believes, “[t]he great task of institutional design is to build moral competence into the structure of the enterprise. This is the key to corporate responsibility – private as well as public” (Selznick 1992, p. 345). Among other dangers is the so-called phenomenon of *professional rent-seeking* behaviour and attempts to gain *monopolistic privilege* to provide particular services and perform special practice. The economists were among the sharpest critics of professionalism and emphasised monopolistic practice of Professional associations (Lees 1966; Kuznets & Friedman 1945).

Bob Coats includes into the negative features of professionalism such characteristics as “rigidity, conformity, resistance to innovations (other than those of an proved species), the maintenance of tight disciplinary boundaries, the exclusion and/or denigration of dissenters, and excessively centralised control over access to resources, training and development opportunities. It is pertinent to note that professional standards, like methodological rules, have prescriptive and regulative as well as cognitive functions, and the quest for scientific truth or community service can easily be sacrificed to the interests of maintaining and advancing special privileges, securing higher remuneration, and protecting the field from encroachments by charlatans and those operating in closely related or overlapping disciplines or occupations” (Coats 1993, p. 407). Professions also often become *too hierarchical and elitist*, dominated by some sort of orthodox leading figures centred in a few institutions, such as Chicago school and their associates in economics.

A *professional establishment* could control the selection of professionals on academic posts, officers of the national associations, the editors and board members of the field’s publications and major professional magazines, the winners of the professional awards, and allocation of research grants, recruitment of professionals for important governmental positions, etc.. By controlling the contents and changes in curriculum, the means of certification of programs of graduate schools and approaches to assessment of professional performance these élite circles can determine the processes of renovation of the profession and the entry and career development of new recruits. However, although the “professional inertia” precludes changes and innovations, it serves as means to secure professional culture, integrity and identity, and as an

Figure 3.



overall mechanism of societal stability and even contribution to “international order” (Carr–Saunders 1928, p. 457).

Professional institutions and international associations as a significant stabilising factor in maintaining world order were considered by Lynn (Lynn 1963) in his introduction to *The Profession* (Daedalus, 1963, p. 653). The most crucial here are institutions and networks of professional communication – the heterogeneity, clear framing and well–institutionalised professional media and robust intra–professional democracy will define this balance between processes of *reproduction* and *development* of profession.

Putting It All Together

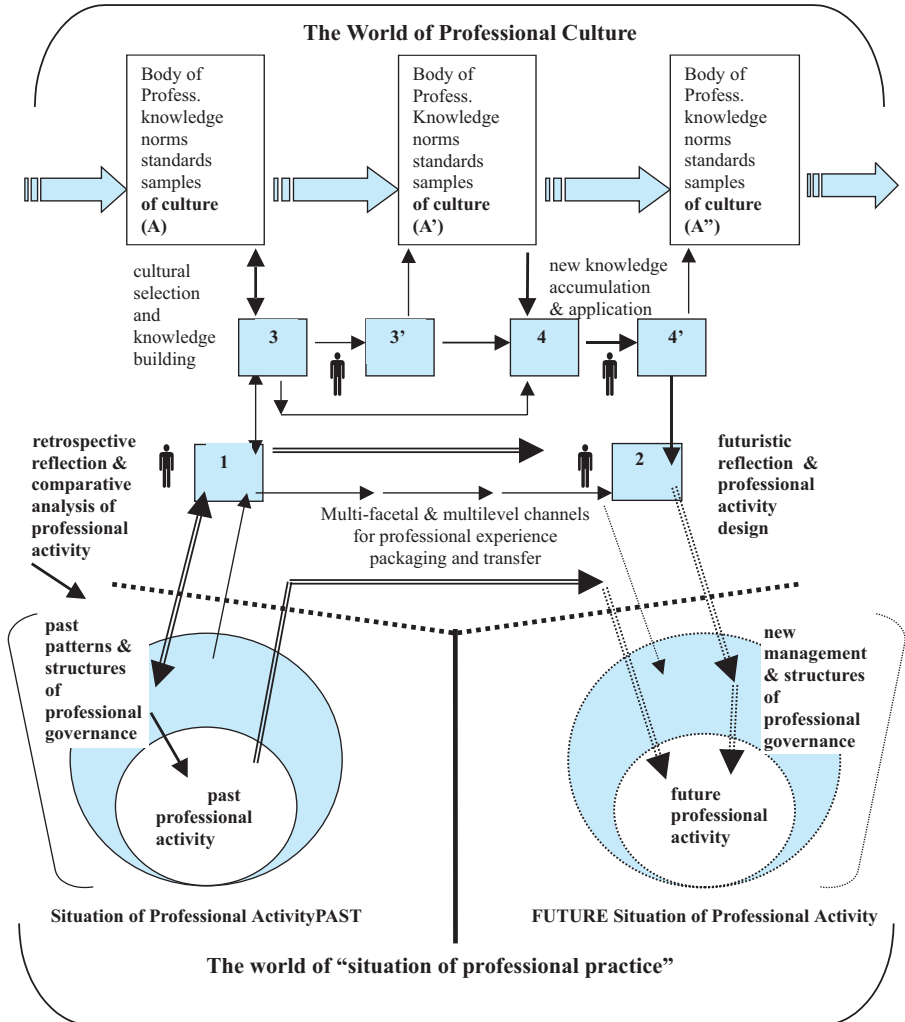
Figure 4 attempts to capture the central stages of professional development in a single graphic. Positions 1 and 2 represent the processes of transfer from retrospective reflection on past situations and professional actions as well as design of future professional work and its organisation. This process is supported by different types of multi–faceted and multilevel channels for the packaging and transfer of professional experience. Positions 1–3 represent the results of retrospective reflection within an actual body of professional culture, including knowledge, norms, standards, blueprints, etc. Positions 3–3’ contribute to procedures of cultural selection and knowledge building. The results of these procedure positions 4–4’ symbolise new knowledge accumulation and application and futuristic reflection – position 2. This scheme can serve as a map for designing projects and other initiatives for the revitalisation and recreation of key functions and institutions of the professional organisation of public administration in Post–communist states. We can study history, learn which institutions actually exist, identify gaps, and develop strategies to revitalise new and old units and activities.

Clearly, one of the core reasons for institutional chaos and failure in institution building in the Post–communist states is the absence of professions and mechanisms for professionalisation and the accumulation of experience and culture of public administration. The Professionalisation of public administration in states in transition must be considered in a complex, multi–institutional context as set out in box 4.

Equally critical is a professional institutional infrastructure, which includes:

1. *Accoutrements of professional life and activity* for the articulation and dissemination of professional ideology, mission, values and behaviour, symbols, rituals, and Codes of Ethics;
2. *Communication networks*: sharing of a common professional vocabulary such as journals, WWW, newsletters, bulletins, etc.;
3. *Professional knowledge generation and development*: institutions which provide basic paradigms through both applied and theoretical research and thereby increasing the field’s intellectual capital and its dissemination through publication and consulting activities.

Figure 4.
 Stages of Professional development and Accumulation & Transfer
 of Professional Experience in
 SYSTEMS OF GOVERNANCE AND PUBLIC ADMINISTRATION



Box 4

Key actors and participants for professionalisation in CEE countries

1. Citizens;²⁰
2. National and local governments of OECD Countries;
3. National and local governments of CEE countries;
4. State institutions and professions;
5. International non-governmental civil organisations;
6. National and local non-governmental civil organisations;
7. National and local entrepreneurial organisations;
8. Individual trans-national institutional entrepreneurs;
9. Trans-national business corporations;
10. Local businesses;
11. Public administration scholars and practitioners with trans-national and global professional interests;
12. Business Management development scholars and practitioners with trans-national and global professional interests;
13. Public administration (and Management) schools and departments in Western universities;
14. Mass media and professionally oriented media organisations;
15. International and national Professional associations for public administration;
16. Public administration consultants.²¹

4. *Benchmarking and professional performance evaluation*: opportunities for competition and recognition, peer review, countrywide and transregional sharing of standards for performance and development.
5. *Entry level and life-long professional education and training*: formal on-site and distance programs at universities, academies and institutes and less formal programs from professional societies and associations, media, and publications.
6. *Professional integrity and identity enhancement*: annual conferences, special meetings, honorary societies, awards, histories, etc.
7. *Promotional efforts*: lectures and educational materials for students and teachers in K-12; inclusion of high school and undergraduate students in professional conferences.

20 The importance of “professionalisation of citizens” in development and improvement of modern systems of Governance and Public administration activities has become a popular topic in the U.S. and one of the “hot areas” for professional elaboration. This topic recently elaborated by Richard C. Box (Box 1998) and Thomas J. Clayton (Clayton 1993). There are also important historical enquiries on the topic developed by Robert D. Putnam (Putnam 1993).

21 An interesting example here is the configuration of these types of actors united around a particular task to create and introduce the System of Local Government Analysis in Poland (Grochowski 1999b).

8. *Public policy advocacy*: visible, public position–taking on issues and events affecting public servants and the public service.

Conclusion: The Tasks Ahead

“True professionals” then are those members of the systems of Governance and Public administration community who are *capable of and committed to delivering valuable contributions* into at least three dimensions of the profession:

1. Into the processes of *changing existing professional values* and ideology and employment of professional knowledge and culture;
2. Into the processes of intergenerational *transfer* of professional culture and reproduction of professional activity; and finally,
3. Into the processes of *accumulation* of professional experience, enrichment and renovation of professional knowledge and improvement of professional standards.

Naturally all these processes possess particular social and economic dimensions. The “true public professional” performs such activity by “*marketing*” their commitment to public service and fitting their professional institutions into its societal universe, *co–operating* with other institutions and *reinforcing* social status and cultural meaning of professional activity within the entire society. As Eliot Freidson states, “Quite apart from the *development* of a profession, however, the *maintenance* and *improvement* of the profession’s position in the marketplace, and in the division of labour surrounding it, requires continuous political activity. No matter how disinterested its concerns of knowledge, humanity, art, or whatever, the profession must become an interest group to at once advance its aims and to protect itself from those with competing aims. On the formal associational level, professions are inextricably and deeply involved in politics” (Freidson 1973). “Professional reality” provokes reflection and lead to changes of attitudes, skill development and reshape an overall frames of mind and activity. Through exposure to diverse views from many local and international professional contexts, members of Professional communities can create a different set of concepts and norms from those developed by particular local public administration agencies.

The advancement of communication technology at the end of 20th century creates absolutely new reality and tremendous opportunities for trans–national exchanges and communication in the field of public administration. These possibilities to share and promote common needs, interests, and values can stimulate professionals collectively to develop new cultural and learning frameworks. Professional associations in transitional countries by this involvement into international professional communication and development may enable members collectively to reconstruct local organisations “... whose values conflict with professionally held ones through advocacy, public relations, and lobbying” (Rusaw 1995, p. 221).

They can develop “policy statements through special committees, focus groups and task forces, and can call for adoption of work process reforms and ethical codes”

of public administration, or promote “enforcement of rules, regulations and laws” (ibid, p. 221).

As discussed, the recreation and development of institutions for reflection and communication are key elements of professionalisation and development of public management. International collaboration, thanks to its comparison–reflection–thought provoking nature, plays an extremely important role in professionalisation and professional development of public management in post–Soviet countries. The international experiences and facilitation of a transparent and articulated institutional environment can enhance the spirit and motives of professional development of top public managers. It can help to develop such crucial devices as professional competitions and international recognition of professional achievements. Comparative analysis could also help to find path through which current professional experience and expertise can be modified and adapted to other professional activities.

The transitional situation of Post–communist states offers *a unique opportunity for deliberate intervention* into the processes of formation and development of professions and their institutional infrastructure. But, this situation has exposed both the advantages as well as deficiencies of concepts developed during the last century. On the other hand, it provides an opportunity to reflect broader historical and socio–cultural processes and phenomenon and to build a more holistic and complex structure of the reality of institutional building and professionalisation . As has been said, if one wishes to understand complex social phenomena – try changing them! The necessity for fundamental change and the opportunity to deliberately build basic elements of social organisation provides a meaningful challenge for theoretical reflection and deepening of our understanding.

Further Steps

The professionalisation of the extremely complex sphere of Governance and Public administration is far from complete. There are underdeveloped institutions for knowledge–building, research and consulting activities; institutions for such crucial services as an executive education, dissemination of information and publications; the lack of links and partnership with emerging NGOs, new relationships with the private sector, etc. In Post–communist States the institutional settings appropriate for these new realities have not yet been formed (Bennet 1997; Grochowski 1999a; Kovriga 1999; Rannasoo 1998).

There is much further work to be done, in particular to provide:

- A comprehensive conception of profession and processes of professionalisation of systems of Governance and Public administration in the modern world;
- A history of complex, interconnected web of socio–cultural and economic institutions supporting professional development and professionalism;

- Maps and a structured and operationalised vision of modern institutional infrastructure of professional systems of Governance;
- Mechanisms and conditions of formations and development of professional institutions of Governance systems;
- Enhanced opportunities and mechanisms for international collaboration for the professionalisation of systems of Governance and Public administration in Post-communist states.

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CHAPTER 16: Ethics And Politico–Administrative relations

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1. The communist inheritance in politico–administrative relations

Processes of institutional transformation are frequently accompanied by crises in public morality. In the Post–communist states of Europe and the CIS, the remnants of socialism are particularly visible in the Management of public goods and public services. The traditional notion in the region is that political power is connected to personal privileges and that power inevitably resulted in access to wealth. The perception that political participation is a means of achieving material wellbeing is still with us. After the fall of communism, when politicians left their untouchable positions on brass monuments, it became quickly apparent that they could not avoid the temptation of abusing public office for private gain. The well established Communist regime principle of the material affluence of the governing class has been strengthened by the consumerism of the free market and its consequent rapid accumulation of wealth.

In a democracy, society gives its political elites an initial trust through the electoral process. That trust is easily lost and, once lost, it is even more difficult to regain. In the process of system transformation, the role of the politician is also undergoing a significant change. At the outset, politicians play the role of system builders but afterwards they must show increasing sensitivity to the needs of the electorate. Influenced by electoral pressure, they have to recognise that the effectiveness of their reformist activities is based upon their ability to secure broad public respect, support, credibility, and trust. In the long run, authority is always build on honest behaviour as that is the only way to gain the respect and votes of ones fellow citizens.

During the socialist era, power meant the ability to distribute valuable rewards. Politicians were like the sovereign who distributed property and sources of income. Thus, political power became synonymous with the administration of institutions and social needs. In public life of Post–communist States the point connecting politics with administration is a jungle of unclear and complicated behaviours, frequently with very negative connotations. The initial structural reforms have not always assisted in establishing a process for the development of clear “rules of the game” as regards the social roles of the participants.

What constitutes “proper” behaviour on the part of a political elite is still not a part of the social consciousness. This is partly due to the fact that during the period of political and economic transformation, the accompanying social change has been

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slowed by the need to absorb a new social value system. Many people simply do not distinguish between what is appropriate behaviour for politicians and what is appropriate behaviour for the Civil Service. It is not only that the society lacks clarity on this issue, those at the “pinnacle of power” also frequently lack knowledge on standards of appropriate behaviour. This can be illustrated by the fact that persons occupying the highest governmental posts often do not feel the need to take a leave of absence when running for the presidency. The old practice of behind the scene arrangements, or understandings, between politicians now applies to the relationships between politicians and bureaucrats. This creates conditions for “game playing” within the political elite as to the size and type of privileges available to administrators – often these are games played by different interest groups in a cloak of secrecy and on very unequal terms.

A second inheritance from the “old days” currently found in many Post Communist states is the style of political discourse (Krzeminski 1999, pp. 67–77). Political opponents frequently treat each other as enemies standing on diametrically opposed positions. Moral condemnation of one’s opponents is at least as important than a rational discussion of issues. The identification of political opponents as enemies rather than as colleagues with whom one can negotiate according to democratic procedures leads to clannish behaviour through which the fight over political goals – frequently masking private interests – is conducted without honour and based on misinformation and lies. In such debates, political feelings, religious convictions and limited knowledge are positively exploited. Increasingly, citizens’ voices are listened to mainly or only at the time of elections and referenda. Society, politicians and civil servants must determine the proper role for those in positions of power, both those in administration and those who guide them. It is only if these roles are understood that the proper fulfilment of duties, not only within the law but also congruent with social expectations, can be achieved.

2. Ethics of public administration – basic concepts

Public administration Ethics belongs to the same family of applied Ethics as bio-Ethics, Ethics of international relations, business Ethics, medical Ethics and the Ethics of informatics. Applied Ethics has its foundation in normative Ethics and Meta-Ethics.

Ethics deals with the notion of good and evil in the actions of every person by analysing human behaviour through the prism of ethical systems, contained, for example, in the Decalogue. Meta-Ethics applies metaphysical analysis to the problems of Ethical behaviour. Applied Ethics translates basic ethical values and norms and applies them to the everyday activities of social or professional groups involved in the practice of medicine, genetics, business and an ever-increasing number of professions. Administrative Ethics in some of the literature is referred to as the Ethics of public affairs, governance and politics.

Modern theories of Ethics in public life, as well as academic and applied work in this field, were first developed in the USA and American scholars are still the leaders

in this discipline. In the 1950s, Wayne A.R. Lays was the first to define administrative Ethics as means of arriving at proper (ethical) decisions in the area of public policy. At that time, for a public servant this meant undertaking an analysis and determining the rules underlying the decision–making process, rather than a simple mechanical application of the law. Hurst Anderson made a significant contribution to the discipline by proposing that ethical dilemmas occur in all administrative decisions and are not restricted to major strategic policy decisions. He also argued that ethical considerations determine the life and work of all public officials. According to Anderson’s model, in order to behave ethically, the public servant must not only analyse and consider rules and principles on which public policy is founded, but such rules and principles must themselves be a reflection of important universal social values (Anderson 1954).

In the 1960s, Robert Golebiowski introduced the distinction between the concepts of “behaviour”, “ethics”, and “morality”. He defines “behaviour” as that “action of an individual or group which is subject to control.” Ethics is defined as “those rules existing at the time and place, which determine the appropriate behaviour, expected from an individual.” Morality is the sum of the absolute timeless rules defining good and bad, right and wrong. This means that, with the passage of time, ethical rules can change with the emergence of new situations and increased understanding of the absolute rules (Golembiowski 1965). The 1970s brought a new approach to the normative theories of public administration.

Newer theories suggest that public administration should incorporate the values and motives of public servants into theories of administrative responsibility. According to Nicholas Henry, the public servant should be guided not only by the criteria of effectiveness and bureaucratic rules but also by complex ethical criteria of choice. In that process, public servants are increasingly drawn into considerations of ethical dilemmas. Henry’s theory contains the concept of the public interest which historically has been defined in public administration only in an intuitive way. It is for this reason that Henry considers it a necessity for theory, as well as administrative practice, to conceptualise the public interest in such a way as to facilitate the making of ethical choices on the basis of rational thought (Henry 1980).

Katheryn Denhardt suggests that, until the 1970’s, academics searched for answers to questions regarding the content of the rules that should shape administrative decisions. It was not clear if this search was designed to find the “appropriate” rules which could then be uniformly applied by all public servants, or if there was a possibility of some individual variance in rule application. If the latter possibility was to be accepted, then Ethical behaviour meant something more than rule discovery and subsequent rule application. This approach also signified the acceptance of the “process” meaning of Ethics, which, in turn requires an individual to apply rules of analysis and verification recognised at the time of an administrative activity (Denhardt 1988).

Defining ethical rules is a particularly difficult undertaking if there is no agreement as to their content. For this reason, the process by which ethical values are discovered and recognised became a very important element of decision making, particularly in cases of disagreements as to the content of ethical rules. Due process becomes a means by which decisions can be validated.

In the literature one often finds the view that for public servants, the acceptance of the principle of accountability to oneself and the public is more important than adherence to instructions, bureaucratic rules or orders by superiors. In this view, the process by which accountability takes place is more important than designing rules and administrative methods of prescribing norms to guide administrative behaviour.

In the 1980s, the writings of D. Thomson, J. A. Rohr and T. Cooper had the greatest influence on American literature in the field of administrative Ethics. J.A. Rohr starts from the premise that public servants should have sufficient discretion in administrative decision-making, managerial activities and in the development of public policy. In a free society, democratic Management is exercised in the name and interest of those who are subject to administrative decisions. Such decisions must be based on the values recognised by the citizens. In other words, public servants are accountable to the people who are sovereign and, consequently, they must act in the public interest. As the responsibility of the public servant is not a political one determined by the electoral process, it has to rest on internalised ethical norms. Rohr also considers the problem of the manner and means by which public servants determine the values of the citizens. He describes them as being composed of the beliefs, opinions and principles accepted by the majority of citizens over several generations (Rohr 1978).

Equally important are the views expressed by Terry L. Cooper. He views administrative Ethics as the substantive base of the obligations, consequences and final outputs of administrative actions. Ethical behaviour includes a systematic analysis of the values determining policy choices. To behave ethically requires the individual public servant to utilise concrete values without insisting on the process of their articulation. He stresses the need for increased control of administrative decision-making (Cooper 1990). The process serves as a means of securing Ethical behaviour in accordance with tasks, responsibilities, and Management systems and is the means by which accountability is achieved. Cooper's work was the first to fully recognise the role of the organisation as an essential component of ethical administrative decision making. It is a source of new demands on existing forms of administrative behaviour. The underlying assumption behind these propositions is that in the real world, administrative power is exercised by individuals occupying various positions within organisations, and that the use of power requires the cognitive recognition of its existence within boundaries recognised and sanctioned by the organisation.

According to Dennis F. Thomson, administrative Ethics contains an analysis of the moral principles on which public officials should base their behaviour within organisations. Administrative Ethics is a part of the Ethics of managing public affairs. The Ethics of the Management of public affairs include general moral rules of behaviour applicable not only to public administration but to the public sector in the broadest sense of that term (Thompson 1992).

Not all authors agree that the political component of the public sector has an ethical component. Haus Morgenthau was of the view that politics had a special problem of a basic conflict between the Ten Commandments (as well as Christian Ethics) and the need for political effectiveness. It is impossible to resolve the contradiction between the politician who is successful and a good, ethical person who is a good Christian, Jew or Muslim. Considering the methods and means available to politicians, in the form of standards and laws, to enforce ethical behaviour of governing civil servants, it is evident that enforcing Ethical behaviour of politicians is much more difficult than controlling the behaviour of civil servants. Thus, in the Ethics of managing public services, a code of Ethical behaviour is not always applicable in the same way to politicians and public servants. Impartial and equal treatment of all citizens and the principle of political neutrality can be used as examples of norms that are applicable to public servants, but not always to politicians. Loyalty to one's political party can be cited as an example of a rule applicable to politicians alone.

In the literature on ethical standards for each group there is a significant body of literature dealing with their interaction of the two. The Ethics of public service Management derives its content from broadly understood civil Ethics. Such Ethics are independent of ideology and are necessary in any country professing the ideals of a pluralistic society that is based on the acceptance of varied views of the world and individual beliefs. Such a system necessarily has to accept different views of good and evil. The Ethics of the open society (civil Ethics) can be a foundation, binding citizens together regardless of their individual beliefs. Only such Ethics can be binding on all citizens.

The Ethics of public service Management is a dependent variable of civil Ethics because:

- they are not dependent on any particular view of the world;
- the most important relationships in civil Ethics are those between the people and between politicians and bureaucrats: the latter includes the relations between members of the Government or parliamentarians and public servants; between city council members and public servants; and between public servants and lobbyists;
- the social assessment of public officials is based upon universal values about which there is consensus;
- there is often a lack of openness in political – administrative relations as well as a lack of stability;

- contradictions within the legal system and a lack of trust between politicians and public servants (as well as citizens) does not assist in the development of the ethical Management of public affairs, thus slowing down the development of civil Ethics as well as the Ethics of public management;
- the development of civil Ethics can have a positive impact on politicians and public servants.

Just as different ethical expectations and norms are applicable to politicians and civil servants, this is also valid for the Ethics of citizenship. Some norms are common to all (don't steal); others, such as social loyalty to family and doing favours for friends, are clearly not norms applicable to public servants.

Every public official who makes choices between different decisions develops his/her ethical "picture", which contributes to the overall assessment of the ethical level of the system. In turn, the image of the public sector contributes to the overall vision and assessment of the country, which is to a large extent created by the assessment of the behaviour of its politicians and public servants. This image is not restricted to the application of laws and moral norms. It also is based on the application of organisational and professional norms as well as the universal values of a democratic society.

3. Ethical values, norms and standards.

In order to clarify the differences between universal ethical values – norms having ethical content and ethical standards – we will use the theory of B. Dorbecka–Janga (1988). Starting from Selznick's theoretical work, he views as universal values: freedom, democracy, legal rights and justice; as norms having ethical content – the legal system (constitution and laws of general application), the balance between the executive and legislative powers, judicial review and, rationality – as the base for decision making. He is of the opinion that ethical standards serve the goals of achieving ends contained in universal values. Norms with ethical content frequently are informal, self-regulating and sometimes are to be found in internal regulations.

Table 1
From Universal Values to Norms

Universal values	Norms	Standards
Freedom Equality Democracy Legal Protection (due process) Justice	Legal System Balance of Power and Judicial Control (review) Rational Decision Making	

Norms are utilised to implement universal social values in a democratic society and secure their effective implementation through answering questions as to the practical means of enforcement. Without ethical standards, ethical norms may lack legal sanctions and remain as empty legal norms. This can occur, even if the norms

have sanctions, if they are not enforced. The violation of norms having an ethical component is difficult to verify and even more difficult to enforce.

Without entering into a theoretical debate, one can accept the view that universal ethical values are contained in the Decalogue (and other religious norms), the International Human rights Covenants and, for instance, in the Warsaw Declaration signed by the Ministers of Foreign Affairs in Warsaw on 28 June 2000.

Norms having ethical content are ethical values which have found their way into formalised procedures of enforcement and have state enforced sanctions attached to them. Many universal values are to be found in the constitutional and the legal norms of a given state, and therefore one can distinguish the common ethical values and legal norms with ethical content from the desirable standards of Ethical behaviour of public servants.

Table 2
From Norms to Standards

Norms	Standards
Legal system (constitutional and ordinary)	Norms and their practical manifestations Constitutional norms and their practical meaning. Goals and objectives of public policy Regulations (re internal agency Regulations) Communication, interpretation of the norms.
Balance of Power and Judicial Control	Mechanism of self-regulation Impartial external control Transparency Public record Sanctions Judicial protection
Rational decision making	Dialogue Public participation Balancing of interests Open decision making process

European countries utilising civil law systems have basic social values and ethical norms guaranteed by their constitutions and other statutory instruments such as Civil Service acts, anti–corruption laws, conflict of interest statutes and many other norms. One can ask if the ethical standards applicable to politicians and civil servants should be an extension of the values and norms already incorporated into the law. The first step in doing so would be identification of the universal values and norms already incorporated into the domestic law. Before attempting to do so, we should look at the universal values and ethical norms question, for which we will use the theoretical framework provided by P. Vermeulen (Vermeulen in Hondeghem, 1998).

Table 3
Different value systems

	Social Constitutional State	Free Market State
Laws	Equality in treatment Continuity Variability Reasonable cost	Efficiency Effectiveness Economy (<i>low cost, high output</i>) Quality
Executor	Civil servant Public body	Civil servant – user – citizen Public or private body
Mechanism	Regulation	Auto-regulation
Interest	Collective interest General interest	Individual interest Group interest (only the strongest)
Quality	Political notion Collective notion	Individual notion Quality is what the customer says it is
Leitmotiv	Balance between rights and obligation of the citizens and the authorities	Economic power and "marketability"
Basic principles	Umpiring & evaluation in function of general interest Policy support Policy execution Policy correction	Umpiring & evaluation in function of individual interest In search of a policy according to the laws of supply and demand
Police	Public power	Public power Market mechanisms
Speed	Planning in function of policies	Real time
Basic values	Transparency Suppleness, flexibility Juridical protection Confidence Disinterested service General interest Knowledge of the regulation Contribution to and refinement of the regulations Non-discrimination Service is rendered regardless of the financial possibilities of the user	Standards and criteria Openness Choice Accessibility Retribution in function of the possibilities and the cost price Individual interest Deregulation According to the appearance and the financial capacity of the client Universal service next to service at market conditions

Taking into account the universal values and norms contained in the 1996 UN Declaration and the EU Declaration of 1997, as well as specific laws and policies accepted by the European Union, we can create a list of the universal values and norms which are binding in these countries and organisations. Vermeulen's list contains the following;

Table 4
List of universal values and norms

◆ Protection of the rule of law	◆ Continuity of the laws
◆ Democracy	◆ Social justice
◆ Honesty	◆ Equal treatment
◆ Participation	◆ Quality
◆ Transparency and openness of the activities of the public sector	◆ Elasticity in adapting to change in needs and conditions
◆ Legal and political accountability	◆ Trust
◆ Participation in the economy	◆ Proportionality
◆ Promotion of internal and external safety	◆ Pluralism
◆ Equality before the law	◆ Competition
	◆ General (public) interest

The above list of values and norms is differentiated but there are significant overlaps. This list should be considered in the process of lawmaking and implementation, as well as in all activities of administrative agencies. Continuous improvement in application of these values and norms should be the duty of administrative agencies, as well as the organs of control and the courts.

In countries such as Italy, Germany, Ireland and Japan, recent reforms have attempted to improve the application of these standards. In Italy, a statute dealing with the new principles of administration was enacted on 7 August 1990. Germany enacted in 1998 a new law on prevention of corruption as an extension of a constitutional principle. Ireland passed a law on Management of public services, including references to ethical standards, in 1997 and Japan passed an Act on the right to public services in 1999. However, the finding of a Norwegian Report on the Ethics in Public administration that there is no full catalogue of the norms and values implicit in administration, is as valid today as it was when it was written in 1993.

Even if one accepts the view that it is difficult (if at all possible) to identify a full list of all public values, Central and East European countries should seek to identify their own universal values of public life.² Only in the process of defining and adapting these abstract principles to concrete activities, will we be able to define the standards of behaviour expected from politicians and public servants.

4. Ethical parameters of administrative decision–making

The first set of ethical considerations in the administrative process is found in the law – the legal norms regulating the behaviour of the public servants – with compliance reinforced by the coercive power of the state. The public servant that breaks the law is also acting unethically, since legal norms prescribing the manner of discharging

² In the Polish system, these are to some extent identified in the Constitution and other Acts of the Parliament

official duties are at the centre of determining administrative Ethics. Consequently, all activities of civil servants must show respect for the rule of law and the performance of the duties and obligations prescribed by the legal system. Thus, law determines the jurisdiction, duties and tasks of the public servants. So also do procedures, the public interest and, of course, the interests of all the parties in the administrative decision making process.

The second source of ethical determinants of the behaviour of public servants is found in organisational Ethics (Cooper 1990, p. 23). Every organisation functions in a concrete social and cultural environment containing both formal and informal standards of organisational behaviour. The internal standards, regulations, and instructions all together can be considered to form standards of both organisational Ethics and Ethical behaviour. Organisational culture sets a framework for organisational goals, objectives, and values. Thus, organisational Ethics creates a set of expectations for all the members of an organisation and creates a framework for their behaviour.

The next set of ethical standards comes from professional Ethics. In highly developed democratic systems, the professional Ethics of public servants plays a very important role in setting the ethical parameters of bureaucratic behaviour (Thompson 1985, pp. 555–561). Similarly to other professions, bureaucrats are aware of the professional standards and principles governing their behaviour. Professional Ethics provides guidance as to the manner in which members of any given occupation should act while discharging their duties in order to behave in such a way as to protect the “ethos” of the profession and avoid bringing it in to disrepute. Frequently such standards are contained in a code of professional Ethics prepared by governing professional bodies or associations. These codes can and are used to evaluate members of a profession and can be used in formal proceedings, which, in some instances, can lead even to expulsion from the profession for violation of the standards of professional Ethics. One of the central norms of the professional Ethics of public servants is the duty to avoid situations of real, or even apparent, conflict of interest and to maintain compliance with all legal norms – in particular, those contained in the constitution.

In Poland, as well as in the international arena, there are Professional associations of various groups of civil servants such as the Association of National School of Public administration Alumni, the Polish Association of Public administration Education, the Polish Association of Public administration Accountants, the Association of Polish Architects and Engineers, and the Association of Social Workers. In democratic states most professional groups performing important functions in the process of administering the country form Professional associations. Such associations have developed a significant body of decisions and interpretations concerning the professional Ethics involved in the performing of the various functions and tasks of the profession.

The next important ethical element is found in the norms of individual Ethics, one’s teleological normative structure. Individual morality is concerned with personal notions of “good” or “bad” and, more generally, the basic personal values, which

determine the essence of “self”. Personal values, or morality, are conditioned by our past and determined by, and come from, many sources such as religion, family, social stratification and personal experience. Like everybody else, public servants have their own value systems, which determine the foundations of their behaviour when facing problems, uncertainties or ambiguities. The personal Ethics of civil servants rather than organisational Ethics are a part of what we call civil Ethics (Etzioni 1994, pp. 45–47).

In administration we also refer to social Ethics – meaning the Ethics of the democratic society. Administrative behaviour requires that the universal values of a democratic society: justice, equality and the protection of the public interest and individual rights are taken into consideration. These universal social values constitute the ethical framework of any given state, and can be formalised and included in the system of legal norms or remain as an informal part of individual and social consciousness (Fukuyama 1998, pp. 38–120).

According to L. Petrazycki, this dualism is a reflection of the societal notion of the law and a sense of social justice (Petrazycki 1935, pp. 45–47). Thus, Ethics stands above the law in defence of universal values and as a source of moral obligation for both the individual citizen and the society as a whole. In a democratic society the importance of social Ethics is primarily through its role in determining social policy. Assuming that there are no conflicts or contradictions between ethical norms, that such norms mutually support and supplement each other, there will be fewer contradictions in the tasks, jurisdiction, decisions and obligations of civil servants.

If ethical considerations are developed into a coherent set of norms and principles of universal values based on the rule of law, the probability of unethical behaviour of public servants in a democratic state will gradually decrease. To put this differently, if the universal values of the democratic society (such as public good, justice, equality, protection of individual human rights) are incorporated into the legal system and become integrated with the values of the Organisational culture and the values of professional Ethics, we can assume that there will be a decline in the number of ethical ambiguities.

The legal norms and the principles of individual Ethics, as well as social and organisational norms, have a basic impact on the way we think about ethical problems. Law, through its coercive power, attempts to achieve the desired result; ethical norms provide a different source of power based on the moral justification of both the process and results.

In the context of organisational and social Ethics, the result of any decision making process is not predetermined (assuming that the claim does not transgress ethical boundaries). It is the ethical analysis, which, only on the basis of the evidence, determines the substantive context of such values – as for example, the public interest. As Denhardt notes, public servants can arrive at the same conclusion starting from different ethical perspectives (Denhardt 1988, p.172).

The development of Ethics is a condition for building trust in democratic institutions – both political and administrative. Such developments will reduce corruption at the intersection of politics and administration. It is very easy for corruption to develop when politicians, in the pursuit of their short-term political objectives during their short term of office, use their office for personal gain or to influence party interests and, thus, attempt to “use” public servants for those ends. Legal, organisational and professional norms should assist in the prevention of such pathology. In the Post-communist States, the process of creating an ethical infrastructure is therefore a critical part of the development of democratic systems of government.

5. Ethical standards for politicians and civil servants

We cannot expect that any society will accept that it is cheated or manipulated and that public monies end up in private pockets rather than being used for a public purpose. In every instance, dishonest and/or incompetent activities impact the financial well being of the state. Research shows clearly that each penny passed in a “brown envelope” in support of bid for a public contract is much more than a penny lost to the public.³ Issuing an unjustified permit or the inappropriate administration of buildings imposes multiple costs on the community. It is self-evident that communities have a right to demand certain standards of behaviour from the public authorities.

As passengers of a bus expect the driver to know the rules of the road, and how to drive, citizens expect their politicians to know the rules governing performance of their duties. From public servants, they expect professionalism in the performance of their tasks. Knowledge of, and adherence to, traffic law is a major requirement for safe driving and, for the politician and public servant, so are the standards of good governance a base for their actions. The driver, physician, pilot or computer operator has specific rules appropriate for his/her job. According to the same logic, Politicians and civil servants are also bound by specific rules of conduct. Politicians are bound to act honestly, since we cannot demand from them professionalism. From civil servants we can demand professionalism in application of their trade, requiring them to act in the best interest of the public and the protection of individual rights.

Thus, the Management of public affairs, in order to decrease the element of uncertainty, will benefit from “codification” of the expected standards of behaviour in the context of the societal expectations.

From the previous remarks, it should be self-evident that such standards will be different, both in terms of rights and duties, in their application to politicians and civil servants. It should be underlined that such standards should be much higher

3 PUMA/SIGMA studies of corruption and Ethics in public administration, Transparency International, “Informacja Prasowa” z 26.10.1999: 3–5

than demands placed on the “ordinary” citizens. The justification for such differentiation rests with the theory of public trust as a basis for their actions. Electoral mechanisms and expectations also are part of the notion of authority based on the concept of trust.

Society expects from both their elected representatives and their civil servants behaviour based on much higher standards than simple respect for the law. Politicians also have to meet certain expectations based on the function they perform within the system. With respect to public servants, we can speak of the professional ethos in setting the expectations they ought to meet. Thus, although we find common elements of ethical standards applicable to politicians and civil servants, the content and legal instruments utilised will differ with respect to these two groups due to the different roles they play in the Policy Process.

Public opinion surveys show low (and decreasing) levels of societal trust in politicians and civil servants in Post–communist states.⁴ On the other hand, studies conducted by the World Bank show that in a period of significant reforms and institutional transformation the potential for illegal and corrupt activities increases.⁵ In addition, the mass media frequently uncover and describe instances of conflicts of interest resulting from the usage of public office for private gain on a scale reaching the level of a significant social problem. As a result, both media and citizens are on the alert for activities of politicians and civil servants that leads to private or partisan gain.

Activities and experience of western countries and international organisations such as the UN, OECD and the EU provide examples of new directions in combating corruption through (among other policies) the introduction and popularisation of the codes of ethics.⁶ Maguire observes three tendencies in recent Ethics initiatives in OECD Countries:

- “In a number of countries – for example, Finland, the Netherlands, Norway, the United Kingdom and the United States – the primary focus is on checking for gaps in the existing Ethics infrastructures and reinforcing, where necessary, rather than completely overhauling the system. Interestingly, many of these reviews have resulted in measures to strengthen both the aspiration and the compliance sides of Ethics regimes. For example, Norway has introduced new rules to close loopholes in relation to contract Management – while also reiterating basic values and attending to attitudinal development.

4 P.Mauro, “Corruption and the Composition of Government Expenditure.” In *Journal of Public Economics* 69 (1998): 263–279, S.Johnson, D.Kaufmann, J.McMillan, Ch. Woodruff, “Why Do Firms Hide? Bribes and Unofficial Activity after Communism,” in *Journal of Public Economics* 72 (1999).

5 World Bank Report on Corruption in Central Europe, 2000,

6 In the European Union, there are three codes of conduct – for commissioners, for commissioners and departments and for commission civil servants. Very interesting solutions are presented in British Standards in Public Life prepared by Nolan Committee, Tony Blair’s Code of Conduct for Ministers and the Canadian Conflict of Interest and Post–Employment Code for Public Office Holders. Establishment of Committees for Civil Servants Ethics in Norway and the Netherlands and the German Federal Government Directive Concerning the Prevention of Corruption in the Federal Administration are illustrative examples of this tendency.

- Australia, Canada and New Zealand are among the countries devoting a great deal of attention to refocusing Ethics Management in relation to overall public management reform to emphasise guidance and Management aspects and to redefine the nature of accountability. For example, according to a New Zealand report, the objective of recent Ethics initiatives has been to “promote ethical conduct..... consistent with a devolved Management system, using an integrity based approach rather than a more traditional compliance or rule-based approach.”(Maguire in Hondeghem 1998)
- For a number of countries – Spain, Portugal and Mexico, for example – the issue is to put in place Ethics frameworks as part of the modernisation of public administration” (Ibid., pp. 29–30).

Lately, codes of conduct, or Codes of Ethics, have become more and more popular in OECD Countries. On the 11 May 2000, the Committee of Ministers of the Council of Europe passed a recommendation for member states of a code of conduct for public servants.⁷

In the Post-communist states of Central and Eastern Europe and the CIS, we do not find a systematic enforcement system for the ethical infrastructure even if in current legislation we find some rules dealing with conflicts of interest. This legislation applies to both the members of the political corps as well as the civil servants in such entities. In Poland, for example, Standards of Ethics for the Members of Parliament, as well as those applicable to the members of the national Civil Service can be found in Article 153 of the Constitution and also in the Civil Service Act of 17 December 1998. Also we find attempts in the legal norms dealing with politicians and civil servants, to eliminate unethical behaviour by rather poorly designed penalisation. These solutions contain rather unclear sanctions and lack institutions which would advocate ethical standards of behaviour, assess compatibility with public demands and opinion as well as develop and conduct of legal and institutional analysis and audit.⁸

This system of rights, duties, and other policies describing ethical standards lacks legal sanctions, thus giving an impression of a system of “empty norms” – binding, but without any significant means of enforcement. Under such circumstances, bylaws and other internal regulations can regulate ethical standards and there may be no sanctions for their violations. With respect to the public servants working for politicians, there is the option of introducing such duties through internal regulations in the workplace – including such sanctions as taking disciplinary actions up to and through dismissal. Without appropriate sanctions for wrongdoing, we can not reduce the scope of misconduct and corruption in the politico-administrative sphere.

7 Recommendation of the Committee of Ministers Nr R (2000)10 passed 11 of May 2000

8 A.Kozakova, Infrastructure of Ethics in Slovak Republic, V.Poede, C. Iftimoaie, Corruption Issues in Romanian Public administration, D. Kavran, The Ethics and Training in the Public service in Yugoslavia. Speeches delivered during the International Conference on “Ethics in Public administration – New Challenges for Local Governments” Wigry 2000, not published.

Mechanisms for the detection and investigation of misconduct and corruption are a necessary part of an Ethics infrastructure in individual departments and agencies or in general public administration. It is important for every state to show that there is a respect for the principle that no one is above the law and that sanctions will be taken against anyone putting themselves above the law (ministers, parliamentarians, civil servants).

From the times of Hammurabi, Moses and Hippocrates, the theory that it is easier to act properly if one knows what is the expected behaviour has been widely accepted. In some countries (for example, Australia and New Zealand) there is a trend to supplement service–wide codes with specific codes or guidelines developed by individual departments and agencies. In other states, for example Norway, the trend is to encourage the development of codes and guidelines by individual agencies rather than aiming for a service–wide code.⁹

It is important that interpretative tools – containing in particular the exception to the general provisions – accompany rules of ethical conduct. Commentaries to ethical codes or standards should have rather broad scope. It is not enough just to provide rules of Ethical behaviour and possible sanctions for non–compliance. It is important to formulate commentaries in such a way that they will help to internalise these norms in the behaviour of individual politicians and public servants. These norms should include behaviour with respect for the dignity of citizens, proper representation of the office, loyalty to the institution, restraint in political expression, proper behaviour at meetings, avoiding affronts to the dignity of colleagues and employees, nepotism, and broadly understood conflict of interest (beyond that prescribed by the law) and other forms of behaviour inconsistent with the Rule of law. It is paramount that all concerned know the rules of Ethical behaviour and symbolically agree to compliance by signing a form to that effect. Ethical norms, to a large extent, operate as a matter of agreement. Accepting a position, or standing for office, must signify the acceptance of such standards.

6. Effectiveness of Ethical Standards

The creation of Codes of Ethics or other forms of policies in that area will be counter productive if such instruments remain as no more than a collection of slogans or nice, good–looking principles. In such a case, politicians seeking to verify their intentions or proposals as “good” or “ethical” will make use of them. In reality such instruments can serve as means of “covering” illegal activities and lead to not only legal but also to a cynical form of moral corruption.

Opposition politicians might use such standards as tools in their partisan fights with governing parties without any real concern for the principles involved. On the other hand, governing parties can use them as a form of “cover–up” and as a means of

9 M. Maguire, “Ethics in the Public service – Current Issues and Practice” ...op.cit. 31

defence against valid criticism. Such practices will work for a short time only and will then lead to the loss of public trust, which, once lost, is difficult to regain or rebuild.

Thus, the development of such standards is constructive only if it is a base for rigorous enforcement. It is the consequent enforcement of such standards that will verify that there is a personal and institutional commitment to Ethical behaviour. Under such conditions, ethical codes will become a part of the disciplinary tools, and a form of control as well as having a preventative and developmental function. Otherwise such policies will only contribute to the problem and cause a further decrease in public trust (Kudrycka 1999, pp. 4–6).

Ethical standards are necessary but in themselves they will not decrease the instances of unethical activities. There are other elements of, if not eliminating, at least reducing unethical behaviour. Management policies have to be based on ethical principles. Management should identify those procedural and structural conditions that are having a negative impact on the standards of behaviour and modify or eliminate those structural and functional elements which have been identified as having real, or potential, negative impact on ethical standards of work.

This requires continued institutional analysis and identification of weaknesses as well as the increasing of transparency and openness. It also involves the use of motivational systems of career development and of internal and external control systems for analysing complaints, suggestions and opinions. An important element of the development of Ethics Management is a system of training for both new and old members of an organisation. Only a system which integrates ethical standards in to all aspects of the organisations activities might succeed in translating lofty principles and words into life and reverse the trend towards declining trust in most public institutions.

Ethical standards are a road map, which should help us to find the best way to arrive at a chosen destination. Thus, such standards do not limit public choice, they only prescribe the methods by which such choices are made. Ethical standards by themselves do not impose policy goals, they only prescribe the processes and behaviours which must be utilised in pursuing our goals and objectives. Ethical standards also provide a system of signs which warn us as to the danger and negative consequences of violating them. As long as one follows this road map, there is no danger. If we depart from the norms of Ethical behaviour, we find ourselves in a different world – one of corruption, dishonesty, cynicism, aggression, the need to dominate others and, ultimately, crime. The world of corruption is not limited to primitive behaviour, violence and other forms of highly visible corruption. It is also a world of sophisticated people using methods which are not easily detectable – a world which has its own rules and which, to a large extent, sees Ethical behaviour as naive and counterproductive.

Many philosophers maintain that the moral development of societies remains relatively constant throughout history. In their opinion, neither a code of Ethics nor

criminal sanctions will deter some from unethical and illegal behaviour. In such a view, the development of Ethics Management, including ethical rules of conduct, is primarily designed for those who enter the public service for noble reasons. According to the principle that “all power corrupts,” all are subject to “temptation” and it is important to eliminate (or significantly reduce) factors creating conditions conducive to unethical behaviour.

In Post–communist countries in particular we should build systems which reward not only on the grounds of effectiveness and productivity, but also on the grounds of honesty and commitment to fair play. The problem of development increases in magnitude when corrupt behaviour becomes the “norm” accepted by the environment. Such systems provide rationalisation for corrupt practices and a fiction of working within accepted rules. If the next municipality raises per diem, or provides some form of extra benefits, so should we. It is therefore easy to rationalise a high level of business expenses, cars, banquets and other questionable practices. In the absence of ethical standards, such practice becomes a measure by itself.

Ethical standards are then a means for evaluating and creating good practices, behaviour and models of honourable work. In that way ethical standards provide us with ideal models showing us the desirable direction, which, if followed, will, in the end, benefit us all. In the short term, we might have some delays and a reduction of effectiveness, but the long–term benefits are evident. These benefits consist of an increase of individual and organisational authority and legitimacy.

This increase of social trust helps to remove such divisions as “us” and “them”. It will lead to a reduction of aggression towards the state and its agencies and lessen the perception of a system in which conflict resolution is based on power and wealth. Trust leads to perceptions and behaviours based on the notion of partnership, which ultimately reduces costs and increases effectiveness. Ethical Management requires discussion and consultation when facing ethical uncertainties. If the authorities include citizens in such a debate, the chance of finding optimal and generally accepted solutions increases. In that way, the potential for operating from or on the basis of the same standards as the citizen increases and thus the potential for mutual trust also increases. The context in which public officials have to make decisions is increasingly complex and varied, thus the design of rules covering all situations is rather difficult and problematic. Providing public officials with the principles on which decisions should be made is perhaps the only way by which individuals can provide ethical answers for themselves.

Public law often intervenes between the authority and the citizen when there are social problems or if there is a breach of public trust. In the abstract, law is not necessary if everybody behaves decently. Regardless, it is important to establish the moral foundations of the legal system. Without such a foundation, society can perceive the legal system as *a priori* immoral.

In a state based on the rule of law, citizens should be convinced that the use of Public law for private gain would be punished if and when it comes to the authorities attention. If laws are a source (or facilitator) of unethical behaviour such laws should be changed. This should not be a form of public relations and should be used only when all options have been considered and there is an effective implementation plan. Thus, the first principle of Ethical behaviour within the legal parameters is respect for the law and the avoidance of the usage of Public law for private gain.

Legal norms frequently provide room for a variety of interpretations. Interpretations of Public law contrary to ethical standards, or the public interest, should be changed as soon as possible. In many instances statutory law containing such possibilities (statutes dealing with expenses of public officials) can be improved by the usage of the internal bylaws. Waiting for the Parliament to attend to such matters in and of itself might be considered as an example of unethical behaviour in itself.

The enactment of bylaws or internal regulations should be based on an as broad as possible consensus. The preambles of constitutions contain many principles that could be operationalised by associations of civil servants or groups of politicians. In constitutions we find reference to such concepts as “truth”, “justice” and the concept of “public good” or “public interest”. Such concepts can be the foundation of a political consensus within the parameters of moral pluralism (which is not understood as a form of moral nihilism). It can provide a platform on which different religious or moral values can meet secular morality.

It is frequently said that in a modern state we should not give precedence to moral norms over legal norms, as this can lead to a situations in which the values of one group – religious, political or social – will dominate the system. This can ultimately result in the discrimination of “others”. Consequently, in cases of a potential conflict between moral and legal norms the Constitution should be the first source of resolving the problem. Only on such a basis can discretionary decisions be made correctly and in the public interest. If such steps are taken, it will be easier to justify such decisions to the media and citizens. Claims of unethical behaviour will also be more difficult to make. Only this constitutional way is a guarantee of a legitimate, stable, independent and reliable politico-administrative system.

To summarise, we can say that the new democracies in Central and Eastern Europe and the CIS experience the following particular weaknesses in ethical infrastructure in the sphere of politico-administrative relations:

- a lack of clear roles and relationships between politicians and civil servants;
- unclear rules for suitable activity of civil servants, which are widely scattered in codes of administrative procedure, Civil Service laws, and other acts;
- a lack of clarity on rules for the activity of politicians (ministers and parliamentarians). In addition there are no ethical codes for politicians;

- obscure administrative procedures and, in particular, the lack of a legally formalised framework for the participation of citizen groups in the creation of administrative jurisdiction;
- the absence of a register of lobbyists and formal rule for their contacts and relations with high ranking officials from politics and Civil Service;
- the absence of legally formalised principles for relations between parliamentarians and civil servants;
- the lack of open information channels enabling civil servants to present, with complete trust, complaints concerning unethical behaviour in offices,
- the absence of independent bodies which can receive complaints of unethical behaviour and conduct investigations within the state administrative apparatus;
- the possibility of economic activity on the part of political parties and the lack of formal prohibitions on the financing of election campaigns by private business;
- excessively centralised administration of public services and a minimal application of managerial methods;
- insufficient ethical education for civil servants and politicians.

All of these are issues which can and should be regulated by law and/or codes of conduct for politicians and civil servants.

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Chapter 17: The evolution of Politico–Administrative relations in Post– communist states: Main Directions

Tony Verheijen¹ and Aleksandra Rabrenovic²

1. Introduction

Politico–Administrative relations remain one of the most difficult issues to address in public administration development in Post–communist states. Administrative stability has still not been achieved in a majority of states more than ten years after the start of the transition and the role of civil servants in the Policy Process generally remains ill–defined. More is at stake than simply stabilising public administrations. In pluralist democracies the Civil Service should serve as a ‘bridge’ between politics and society, as a provider of impartial and professional expertise to elected politicians and as a means for channelling societal interests. This is mostly valid for central government administration, but also increasingly for municipal administrations, in particular in big cities.

In this concluding chapter we will attempt to draw conclusions on the different types of relations which have developed in a selection of Post–communist states in Europe and the CIS and how the development of these relations can be explained. For this, we will consider the relative influence of four main factors:

- The historical development of relations between politicians and civil servants
- The legal framework governing relations between politics and administration
- Political culture and tradition
- The evolution of the Policy Process and the role of civil servants

We will also provide a comparative analysis of the systems in place according to the comparative framework of politico–administrative relations developed by B. Guy Peters (Peters, 1988: pp. 144–161), based on the assessment made in the individual country studies in this volume.

In the final section we will draw conclusions on the main determining factors in the development of politico–administrative relations in Post–communist states, and isolate the key conditions that need to be fulfilled to come to a stabilisation of systems of politico–administrative relations in these states.

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2. The impact of the political merry-go-round

Two key characteristics of the relations between politics and administration in Post-communist states, based on the country chapters in this volume, are the entanglement of political and administrative instability and the lack of Civil Service involvement in policy development.

As regards the first feature, administrative systems have, with few exceptions, been caught in the vicious circle of the electoral merry-go-round. In most post-communist states in Europe, citizens have thrown out the government in office at each and every election. A less universal pattern is the tendency of governments not to serve their full term in office, which is a particularly significant feature of systems of governance in CIS states.³ In addition, where coalition governments have been in place, frequent government re-shuffles, including the re-allocation of strategic ministerial posts, have been the rule rather than the exception. The above patterns of political behaviour create a general lack of continuity; as the political leadership of ministries tends to change much more frequently than once every four years. In such conditions the presence of a stable and professional administration is a key requirement to keep state affairs moving. The French experience under the IVth Republic is often quoted as a textbook example of a state where political instability did not lead to a collapse of the state system, due to the presence of a stable and professional Civil Service. A number of cases of 'state failure' setting of economic crises across Central and Eastern Europe (Russian Federation, Czech Republic, Bulgaria, to name three well-known cases) suggests that the situation in Central and Eastern Europe and other Post-communist states is different. The prevailing pattern in these states is still one of the top echelons of the Civil Service changing with each election, or, in worse cases, government re-shuffle.⁴ Interestingly, Civil Service laws have in many cases failed to break this pattern, even though such laws have been adopted in a majority of Post Communist states in both Europe and the CIS. The cases of Poland and Hungary, which both had Civil Service laws in place but where after the 1997 and 1998 elections large groups of civil servants were replaced, mainly for political reasons, are probably the most publicised recent cases (see Vass in this volume). One should note that this is not a universal pattern in these states, in Poland and Hungary previous changes of government did not lead to a large-scale change in the Civil Service, even though there was a radical change in the coalition controlling the government. There have also been cases of relative continuity, such

3 In CIS states the general problem lies more in frequent changes in government initiated by generally highly powerful presidents. Recent research in Kyrgyzstan, for instance, revealed that with each change of minister all civil servants in core ministries are often dismissed, with the majority of them being re-hired afterwards. Ministers generally serve no longer than 6 months to 1 year in office. The new Civil Service law is to bring about a change in this practise

4 This is generally the case also in non-European states in the region, such as for instance Kyrgyzstan where each new minister brings in a new team. Ministers tend to stay in office for short periods of time

as for instance in Latvia, where changes in the Civil Service are usually due mainly to economic reasons. However, these remain an exception to the rule.

A second feature of the crisis in politico-administrative relations in Post-communist states is that civil servants often have little involvement in the policy development process. The role of civil servants as professional advisers on the substance of policy has hardly been developed. Politicians generally rely heavily on political advisers, from outside the administration when it comes to the development of policy and strategy. The case of public administration development policy in Bulgaria between 1997 and 1999 is illustrative. A key policy document, the 'Strategy for the Establishment of a Modern Administrative System in the Republic of Bulgaria' and large parts of the Law on Public administration and the Civil Service Law were developed by a local consultancy firm, STRATEGMA. Even though this might be one of the more extreme examples, it is certainly not an exceptional case. Obviously the involvement of external advisers in policy development is a normal fact of political life, but there is a danger in limiting too greatly the role of the Civil Service in policy development, in particular under conditions of frequent turnover among political forces in government. Based on the country reviews in this volume, Civil Service systems appear to have become extreme versions of the classical Wilsonian paradigm: politicians make policy and civil servants implement policy. In view of the complexity of the problems in contemporary society, however, this is hardly a feasible or desirable model for modern systems of governance.

The above review raises several important questions. First, why do relations between politicians and civil servants continue to be characterised by a lack of confidence? Putting this in terms of paranoid politicians or politically ambitious civil servants, as is often done, would be an over-simplification, as is trying to explain this problem solely in terms of a lack of respect for laws and legal frameworks. The second question is whether the political and administrative merry-go-round is really problematic. From the point of view of public administration theory, the development of a stable interface between politics and administration is one of the key success-or-failure factors in any administrative development process. However, many analysts point to the relative continuity in key economic policies regardless of political changes, in particular in Central and East European states.⁵ The question whether the lack of a stable politico-administrative interface constitutes a real problem would not have had a straightforward answer a few years ago. However, more recently, weak administrative systems, and the lack of policy capacities in the Civil Service in particular, are being increasingly seen as associated with the economic downturns which have characterised most post-communist states in the last years. Improving politico-administrative relations and developing policy capacities in the administration are therefore important issues.

5 Less so in other Post-communist states

In view of the above, the discussion in the remainder of this concluding chapter will focus mainly on the following two issues: what is the explanation for the failure of Post–communist states to develop a stable interface between politics and administration, and could this problem be addressed.

3. History and transition

The following classification of the historical development of Civil Service systems in Central and Eastern Europe and the CIS is based on the preceding chapters as well as on a comparative study of Civil Service systems in the region (see Verheijen 1999).

The pattern of development of Civil Service systems showed a high level of diversity before the Second World War, followed by a relative similarity of development in the period between the late 1940s and the late 1980s. There are two exceptions to this pattern. The first exception are the successor states of the former Soviet Union.⁶ In the Soviet–Union the ‘Communist model’ of Civil Service systems was developed in the years following the October Revolution. The second exception was Yugoslavia, which remained closer to the continental European Civil Service tradition than other Central and East European states. The Yugoslav system also showed certain features of the models existing in other Central and Eastern European states, especially from the late 1960s.

3.1 Pre–World War I

Most Central and East European states did not develop an indigenous Civil Service system until the second half of the 19th century. The main developments of interest are therefore those of the early 20th century.

Civil Service systems developed mainly under the influence of the German and Austrian tradition. After independence Civil Service systems developed under the influence of the Civil Service systems of Germany and Austria. This also generally applies for Bulgaria, Romania and parts of Yugoslavia were under Ottoman rule for some five centuries, even though in the early years of Bulgarian independence there was a strong influence also from Russia (Verheijen, 1995, pp. 108–109) and in Romania from France.

The codification and professionalisation of the administrative systems of Central and East European states was continued after the First World War, with the exception of the Soviet–Union. However, under the authoritarian regimes, which emerged in the early 1930s, widespread politicisation and corruption became a permanent feature of most of the Civil Service systems in Central and Eastern Europe. The presence of Civil Service laws, which were supposed to protect the Civil Service from political interference, did little to prevent the gradual politicisation of Civil Service systems.

6 with the exception for the Baltic States

3.2 Totalitarian and authoritarian rule

After the Second World War, Civil Service systems in Central and Eastern Europe and the Soviet Union were re-modelled on the basis of the following Marxist-Leninist principles:

- Full political subordination of the Civil Service to the political structures of the Communist Party;
- Creation of a parallel bureaucracy of Party and state administration;
- Unification of employment condition of all workers.

The state administration became a mere implementation apparatus, with no role in policy development, which was carried out by the Communist Party apparatus. Civil servants were brought under the Labour Code as 'clerical workers' and employment conditions were harmonised. Even though the Civil Service systems in place shared a number of common characteristics in this period, there were a number of significant differences.

The system created in the Soviet Union separated most clearly the Party and state administration, creating a much more strict system of political subordination of the state administration than in Central and East European states. Yugoslavia maintained for a long time a politicised version of the traditional Civil Service system and continued to be connected with mainstream continental European developments until the late 1960s.

Even though the early 1980s witnessed a return to the professionalisation of the Civil Service, which mainly consisted of the improvement of Management capacities, this did little to change the full politicisation of the Civil Service systems at all government levels.

3.3 The transition period

The development of new Civil Service systems in Central and Eastern Europe and the CIS after the collapse of the authoritarian regimes at the end of the 1980s is still in its early stages. However, some patterns in development can already be identified.

The level of priority given to Civil Service development in Estonia, Latvia and Lithuania has been consistently higher than in most of the other states. Civil Service development has been a high priority issue in the political debate in all three states. This includes an emphasis on stability in the Civil Service system, which has been visible in particular in Latvia, and to a lesser extent also in Estonia. In Lithuania large numbers of civil servants were replaced following the 1996 elections, but this could well have been a one-time exception.⁷ The effect of state building could be an explanatory factor for this, but the situation in Slovakia, also a new state, is in

⁷ The latest change of government after the October elections is too recent to allow for conclusions on this issue

stark contrast with that in the three Baltic States. Only after the elections of 1998 have serious steps towards the restructuring of the administration been made. The recent prioritisation of Civil Service reform in Kazakhstan and, to a lesser degree, in Kyrgyzstan, also new states, is interesting to note in this respect.

The general 'conservatism' in Civil Service development is a second pattern. Classical continental career systems appear to be a main source of inspiration for Central and East European states, as well as for those CIS countries where progress on Civil Service reform has been made. The German model has generally emerged as a dominant influence. Some other models are of more minor significance. For instance, the Swedish model has been a source of influence in the Baltic States and the French system of political cabinets has been emulated in some states. Even though the introduction of managerialist principles is often discussed, there generally appears to be a clear tendency to return to the 'continental roots' of pre-1945.

3.4 History and transition as factors

Politicisation was a feature of the pre-World War II Civil Service systems in most Central and Eastern European and CIS states. In Central and Eastern Europe politicisation occurred regardless of the existence of Civil Service legislation. Civil servants were expected to be loyal to authoritarian rulers. It is important to note here that the democratisation process in states such as Spain and Portugal has shown that this does not mean automatically that such Civil Service systems cannot subsequently serve democratic regimes (Verheijen, 1995, pp. 28–29). One should be cautious when drawing conclusions on the legacy of the pre-war regimes in terms of determining current developments. Where politicians refer to this experience, they usually do this in terms of the legal frameworks in place at that time, and the extent to which these can be used for re-constructing administrative systems today.

The legacy of the Communist regimes has been highly damaging. The role of the state administration was extended to an instrument of suppression in the hands of a totalitarian state (Verheijen, 1995, p. 29). Policy development and implementation functions were separated, leaving only a technical implementation role for the Civil Service.

Contrary to what is often believed, the concept of a politically impartial administration is not alien to Central and East European political tradition. It is true that the period of development of such systems was generally limited to 15–20 years after the First World War, and that current CIS states were excluded from this development. Also, there is no evidence to suggest that the level of politicisation in pre-World War II systems (with the exception of CIS states) was higher than that in, for instance, Spain and Portugal before democratisation. In the latter two cases

8 There is little evidence of this in CIS states, though important progress has been made in the Ukraine and Kazakhstan and, to a much lesser degree, in the Russian Federation

the Civil Service which had functioned under authoritarian rule formed the basis for the Civil Service under the new regime. What is most important is that many Central and Eastern European states⁸ have some form of tradition of a Civil Service system based on continental European principles, which could have been used in re-building administrative systems.

It is also important to note that regardless of their pre-1940 experience with the creation of professional Civil Service systems, the policy role of civil servants has never been well developed in Central and Eastern European states. This is not surprising, since this role of the Civil Service was developed mainly in the second half of the 20th century, and was connected to the rapid expansion of the role of the state. Central and East European and CIS states 'missed out' on that development. One could therefore have expected problems with the definition of the role of the Civil Service in policy development. However, at the same time little attention has been devoted to this question since the start of the transition (Verheijen and Coombes, 1998: pp. 211–212).

Political polarisation, characteristic for transition periods, has certainly made the establishment of professional and impartial Civil Service systems more difficult. Transition-related polarisation has been a more stubborn feature of Central and Eastern European politics⁹ than political analysts had expected. However, one should remember that for instance in Spain elements of transition related polarisation have influenced political life until very recently. We would argue that the problem in this region is not so much the duration of transition-related polarisation, but the way in which Civil Service development has become a victim of this process. This is valid in particular for states with drawn out transitions, like Romania, Bulgaria and Slovakia, and states where the transition to democratic rule has either failed or slowed down. Disentangling Civil Service development from the web of transitional politics will remain a formidable task for some time to come.

4. Laws: how much can they help?

In the initial phase of Civil Service development in Post-communist states, Civil Service legislation was considered a main instrument in breaking the stalemate in politico-administrative relations. The adoption and implementation of laws setting the framework for the development of a high quality administration, and protecting civil servants from political interference, was expected to address both the problem of instability and administrative quality. Experience in a number of states has cast serious doubts upon the extent to which laws alone can address these problems.

9 The impact of this factor has been much less significant in CIS states, which generally have much more stable, if generally less democratic systems

10 Interestingly, Slovenia, the Czech Republic, and Slovakia are among the Central and Eastern European states which still need to adopt a Civil Service law

Civil Service laws have been adopted in many Central and East European¹⁰ and CIS states, including, for instance, the Russian federation, Kazakhstan, and Kyrgyzstan. However, in many states Civil Service laws have been at most partially implemented, and their existence has not prevented a continuation of the cycle of political dismissals. The following are some key examples: Hungary was one of the first Post–communist states to adopt a Civil Service law, in 1992. Even though the law has had a stabilising effect on the administration, the process of creating a permanent Civil Service has been slowed down by the attitude of the incoming government in Spring 1998, which was unwilling to work with the civil servants in office (see Vass in this volume). Furthermore politicians have made extensive use of loopholes in the law, such as the fact that the Civil Service law does not make it mandatory to publicly advertise vacancies (György *in* Verheijen 1999). The impact of the Civil Service law, however, has not gone further than to generate (limited) stabilisation, and has not yet had the expected spin–off in terms of developing the role of civil servants in policy formulation.

In Poland the implementation of the 1996 Civil Service Law was halted by the new incoming government in autumn 1997. The new government decided to adopt a new law, rather than work with the law adopted by the previous government. It is interesting to note that Poland was the only state in Central and Eastern Europe to have a Civil Service law, adopted in 1982, under the previous regime. The forthcoming parliamentary elections will constitute an important test for the durability of the new system.

Civil Service laws were adopted in Estonia, Latvia and Lithuania within a relatively short time span in 1994–1995. Even though the laws of all three states were based on continental European tradition, the impact of Civil Service legislation has been very different from case to case. In Latvia and Lithuania the adopted Civil Service laws were never fully implemented and were replaced with new laws in 2000 and 1999 respectively (see Lazareviciute, Poniskaitis and Tirviene on Lithuania and Jansone and Reinholde on Latvia, both in this volume). In Estonia the Civil Service law, adopted in 1995, entered into force in January 1996 and has been implemented. However, since the implementation of the Civil Service law was not enshrined in a clear public administration reform concept, the overall impact of the law remained limited and recently an increase in politicisation can even be noted (see Sootla in this volume).

In several other states, Civil Service laws were adopted (Russian Federation, Yugoslavia, Albania). However, due to internal political problems their implementation was either abandoned (Albania) or their effect has been limited. In Yugoslavia the administration became increasingly politicised after 1989, especially following the 1997 elections (see Sevic and Rabrenovic *in* Verheijen, 1999). In view of the recent change in political leadership a reversal of this trend may be expected. In the Russian Federation the Civil Service law has had little impact, the Russian administration remains highly politicised and fragmented (see Kotchegura *in* Verheijen, 1999). The

experience of Kazakhstan and Kyrgyzstan is also interesting. Kazakhstan has created a comprehensive Civil Service system based on the Civil Service law adopted in 1999. It remains to be seen how this system will develop, even though current developments are promising. The Civil Service law adopted in Kyrgyzstan in 1999 is less ambitious, and in its current form does not appear to have the potential to draw a clear line between politics and administration (see Dukenbaev in this volume).

It appears that Civil Service laws seldom have had the impact they were expected to have, which is to be a catalyst for the stabilisation, de-politicisation and professionalisation of the central administration. Laws have in many cases been re-considered even before the implementation process was completed.

A second type of legislative instrument that could have helped structuring the relations between politics and administration are laws/regulations on administrative structures, defining the role and position of political cabinets and advisers as well as accountability relations. Laws regulating the structure and mode of operation of the administration have been adopted in some states, for instance in Bulgaria, but it is early yet to determine to what extent the adoption of this law can help stabilising politico-administrative relations.

Laws have proven to be of use in re-defining politico-administrative relations in Central and Eastern Europe. However, they have been far from the panacea they were expected to become in the initial stage of the transition.

5. Political Culture and attitudes

Political culture is often used as a standard explanation of why attempts to create impartial and professional Civil Service systems have so far yielded a limited effect in Central and Eastern Europe and the CIS. This is valid in particular for analyses of developments in South Eastern Europe, which are often explained in terms of the legacy of the Ottoman Empire and religious differences (see for instance Huntington, 1996). The lack of a tradition in democratic governance is also frequently used to explain the difficulties in the development of sustainable political and administrative institutions in CIS states.

The validity of such generic arguments is doubtful at best. Bulgaria, for instance, has a strong tradition of respect for the constitution and (constitutional) law. Once a constitution is adopted, however controversial it may be, it is generally respected (see Verheijen, 1995). The clearest example of respect for the constitution was the way the political crisis of winter 1996–1997 was resolved. Regardless of the high degree of political and social tensions and the impending economic collapse of the state, all political forces abided by the settlement which was reached through constitutionally prescribed procedures. We would argue that the problems of politicisation in Bulgaria are much more an effect of a draw out transition marked by a high degree of Political polarisation than of a lack of constitutional and legal traditions.

Yugoslavia has for a long time held on to a tradition of an impartial administration, even under Communist rule. Only the extremity of political developments during the last decade has managed to undermine this tradition. However, the way the transition to a new president and government in October 2000 was handled again shows the presence of at least the remnants of traditional respect for constitutions. To explain the problems in Civil Service development as an effect of a presumed lack of constitutional or legal culture in South Eastern Europe is therefore an over-simplification.

Political culture and traditions are of limited relevance for explaining the lack of development of impartial and professional Civil Service systems in South Eastern Europe. This is even more obvious when comparisons are drawn with Central European states, where political and legal traditions are considered more developed. Politicisation and instability in the administration are a serious problem in Slovakia and, until recently also in, for instance, Poland. The development of the policy role of civil servants has not really been addressed in any of the Central European states.

For either of the above two groups of states it is difficult to point out the exact influence of cultural beliefs on the development of politico-administrative relations. The stereotypes generally applied to South Eastern and Central European states might have little validity under more careful scrutiny.

The 'Baltic exception', discussed earlier in this chapter, would warrant further study as to the role of political culture and traditions. All three Baltic States prioritised the development and adoption of Civil Service legislation after independence. Even though the new Civil Service laws in Latvia and Lithuania have not yet been fully implemented the relative level of stability of Civil Service systems in all three states is remarkable. Changes of government have generally not led to large-scale changes in the administrations of these states, except for the politically motivated dismissals in the Civil Service of Lithuania after the 1996 elections (carried out within the framework of the Civil Service law). To some degree the lack of alternative candidates for Civil Service posts might be a factor that can explain this (Sootla and Kasemets, 1999). However, it would be interesting to see whether the relative lack of politicisation in the administrations of the Baltic States can be explained by culturally motivated differences in approach.

Political culture and traditions might also be a significant explanatory variable for the difficulties in the development of democratic institutional systems in several CIS states. This might be of particular importance when discussing the Central Asian republics (see Dukenbaev in this volume), but also for other CIS states. The nature of politics in Russia is possibly one of the main reasons why an independent Civil Service has not developed in that state.

Political culture and tradition is a factor often used as an 'easy way out' in explaining problems in politico-administrative relations. The Ottoman legacy and 'dividing line' theorems have often been misused in trying to explain difficulties in South Eastern Europe, which in reality might be mainly due to the character of

the transition and the ensuing level of polarisation. Political culture and tradition might have played an important role in creating the 'Baltic exception' and the lack of progress in the de-politicisation and professionalisation of Civil Service systems in most CIS states. However, more in-depth research would be required to establish the degree to which political culture and tradition have influenced the development of politico-administrative relations.

6. Policy processes: how to organise the 'policy interface'

The nature of policy processes is an important potential factor in explaining the stalemate in politico-administrative relations in Central and Eastern Europe, in particular the way the delivery of policy advice is organised. As stated in the introduction, policy development is still predominantly carried out outside the administration in many Post-communist states. The organisation of the politico-administrative interface is a crucial question to be answered in relation to the integration of policy development in the administration. Professional policy advice is delivered by special structures, part of the public administration but placed outside the ministerial hierarchy, like in France and Italy, or predominantly by civil servants in the top of the ministerial hierarchy, like in Northern European states, the UK and Ireland. Many different varieties exist within these two predominant models.

The French and Italian systems provide an excellent example of the first type of system. These systems both use political cabinets placed outside the ministerial hierarchy for the delivery of policy advice. However, the way they operate in practise is fundamentally different. In France cabinets are mainly made up of career civil servants, seconded to cabinets, while in Italy cabinet staff is general recruited from outside the core administration. Whereas in France policy advice is delivered generally by civil servants, even if they are in special position in cabinets, in Italy the core Civil Service is generally (voluntarily) excluded from this process (Meny, 1993, pp. 318–322). Due to the specific nature of politico-administrative relations, the Italian administration developed as almost a classical Weberian administration, only concerned with policy implementation, according to the law, while the French Civil Service has gained a virtual monopoly on policy development.

The form of organisation of this aspect of the politico-administrative interface has significant repercussions on the development of policy capacities in the Civil Service as well as on the scope for stabilisation of politico-administrative relations. The delivery of professional policy advice through the ministerial hierarchy required a higher degree of trust between politicians and civil servants and thus carries a higher risk of instability than the 'isolation' of policy advice delivery in ministerial cabinets. Mechanisms have been created in some states where policy advice is provided by 'ordinary' civil servants to prevent potential tensions. Examples are the creation of 'Politische Beamten' in Germany and creation of a political layer in the Spanish administration. Such mechanisms institutionalise 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. Informal practise guides similar processes in, for instance, the Netherlands and Sweden.

Central and East European and CIS states that have Civil Service laws have generally opted for the Germanic or Northern European approach, i.e. no special structures for the provision of policy advice have been put in place. Lithuania for instance created a system modeled on the German, or rather Spanish, system, while the Latvian and Estonian system are variants on the Nordic model. Latvia has opted for the creation of small core ministries, which should mainly deal with policy development. Bulgaria has created a system which includes small ministerial cabinets, but the system generally draws more on the German/Northern European tradition than on the French model.

The formal character of the system created, however, might not be the most important. As stated earlier on, most policy advice is provided by 'outsiders' in Bulgaria. This is a pattern also found, for instance, in Romania. In both states this pattern emerged in 1996/1997, and was the consequence mainly of a lack of trust in civil servants by politicians from the former opposition, who carried a deep suspicion against the state apparatus. This does not necessarily need to be problematic, as long as it remains a temporary phenomenon. Central and East European and CIS states should where possible avoid the 'Italian scenario': the permanent exclusion of the Civil Service from policy development. The demise of the Italian system, which underwent fundamental reforms in the mid 1990s, has proven above all that the strict separation of policy development and implementation is no longer a viable option in the complex contemporary reality.

The above analysis raises two main questions. First, in what way and under what conditions the Civil Service can obtain a greater role in policy development processes. The current tendency in a number of states to have policy development carried out by consultants operating outside systems of accountability and control is neither beneficial to the development of democracy nor, in the long term, for the quality of policies developed. Solutions for this problem can be mostly found in increasing the independence of civil servants and administrative stability, combined with confidence building measures to improve levels of trust between politicians and civil servants.

Second, how to increase capacities in the Civil Service to provide high quality professional policy advice. Policy capacities remain a highly underdeveloped quality in and it would be important to prioritise their development. Several ways of approaching capacity development were discussed in the chapter on the delivery of policy advice, earlier on in this volume (Lazareviciute and Verheijen).

7. Configurations

The comparative analysis of the politico-administrative relations in Central and Eastern European states shows that the theoretical model developed by Peters is not easily applicable to transition states. The reason for this is the relatively unstable po-

litico-administrative situation in most of these states. As changes of Governments are frequent in many states and often take place before the end of their mandate, there is an evident lack of stability, which is a prerequisite for the application of different public administration configurations. This is why configurations can not be shaped as static categories, but need to be used in a more dynamic way.

Peters' models depict the dynamics within the Civil Service regarding the level of politicisation, classifying Civil Service systems in four groups, while the fifth group (the full separation between policy-makers and bureaucrats), was proposed by Wilson. However, politicisation has different causes in different parts of the world. Sometimes high levels of politicisation can be explained as part of the creation of the state or public sector capacity building. There are countries where civil servants are fairly close to politicians, but despite this the Civil Service retained a high level of professional responsibility and social transparency. Therefore, it is very difficult to make general rules or models applicable world-wide that can depict the wealth of possible differences that exist in various political systems. Peters' models to a great extent succeeded in depicting the main characteristics of the existing political processes with reference to Civil Service politicisation, and the relationship between the career Civil Service and politicians (the government of the day).

According to the Peters' classification, the most common models in Central and East European countries are 'functional Village life' and 'Village life'. The 'Village life' model assumes that civil servants and politicians are both part of a unified state elite and they should not be in conflict over power within the government structure. The 'Functional Village life' model assumes that civil servants from one Government department have more in common with their minister than the minister has with his political cabinet colleagues heading other sectors of Government.

However, many of the authors of country chapters argue that Peters' classification models cannot be fully applied in a transition environment. There are a few reasons for this. First, in many states in Central and Eastern Europe and the CIS there is still no clear formal separation between politics and administrations. Second, in states where Civil Service laws have been enacted, quite a different legal status has been established for the senior civil servants on one hand and middle and lower ranks on the other hand. Senior civil servants (assistant minister, secretary general to the ministry, head of department) are usually nominated by the Government (Estonia, Yugoslavia) or the minister (Hungary), which means that they often take their position based on a political decision. Most of the senior civil servants often go with the change of the Government. If we consider senior civil servants as political persons, which they are *de facto* in most of the states discussed here, it is hard to identify this with Peters' model of Village life, which presumes a clear separation between political and career positions. However, it seems that over time, most of the states discussed in this volume are moving toward some form of 'Village life' or, more likely, 'functional Village life' model.

Some authors in this volume expressed their doubts, explicitly or implicitly, about the applicability of Peters' models to their own country (Czech Republic, Bulgaria, Estonia). However, despite the limitations of the model, it is a helpful tool in explaining the current relationship within the public policy sphere, and also to depict the likely trends in future developments. Peters' model provides a picture of the nature of the relationship between the career civil servants and politicians, which is difficult to create using other existing configuration models. In brief, Civil Service systems in the cases discussed here are likely to developed either as "functional Village life" or "Village life".

8. Conclusions

The development of a stable interface between politics and administration in Post-communist states remains one of the main problems in public administration development in these states. The lack of a stable interface has prevented a stabilisation of the emerging administrative systems and stifled the development of a policy role for the administration. There are obviously some positive exceptions to this pattern, but these are few and far between. The crisis in administrative development, in which the lack of a working politico-administrative interface is one of the main causes, is considered one of the core reasons for the downturn in economic development that has occurred in a number of Central and Eastern European states during the last two years.

In this concluding chapter we have examined some of the main potential factors which can help explain the problems in development of politico-administrative relations, based on country studies in this volume and other country studies available to us. The comparative analysis leads to the following tentative conclusions.

The influence of history is significant, in particular in terms of the inheritance of the totalitarian/authoritarian regimes. Whereas the pre-war traditions of Central and Eastern European states might be rather close to the continental European tradition (except for the current CIS states), the legacy of the previous regime, consisting of a culture of full politicisation and the exclusion of the administration from policy development, has created a very difficult starting position for administrative development at the start of the transition process. The transition-related polarisation of politics and the lack of (working) legal frameworks for the operation of the administration have further aggravated the situation.

The development and in particular the implementation of new legal frameworks for the operation of the Civil Service has been highly problematic. Where Civil Service laws have been adopted they have proven to be far from stable, allowing too much scope for the continuation of politicisation and create too little opportunity for the development of a high quality administration. This is not to say that Civil Service laws have not been good for anything, where they have been adopted there is generally a higher level of stability in the administration, with Hungary as the main

example. However, the presence of Civil Service laws has not stopped politicians from carrying out 'cleaning operations' if they wished to do so (Lithuania 1996 and Poland in 1997 are some of the main examples), either by changing the interpretation of the law or by stopping its implementation. The lack of a broad political consensus underpinning Civil Service laws and problems of legal quality are the main causes for the disappointing effect of laws in terms of stabilising politico-administrative relations.

Political culture is often used as a 'standard explanation' for the lack of progress in administrative development in certain parts of Central and Eastern Europe, in particular South-Eastern Europe and the CIS. However, even a superficial analysis of patterns of development in the region indicates that explaining politicisation as an element of divergence in political culture is an over-simplification. At the same time it would be interesting to establish to what extent political culture can help explaining the 'Baltic exception' and the problems in progress in many CIS states. However, the case of Kazakhstan, which has managed to frame a modern Civil Service system and is making rapid progress in its implementation, shows that even in the case of Central Asia one has to be very cautious in using political culture as an explanatory tool. It is dangerous to draw general conclusions on the role of political culture in stimulating or preventing the development of impartial and professional Civil Service systems merely on the basis of the geographic location of a state.

The development of a policy role for the Civil Service has become intertwined with the discussion on decreasing politicisation. A policy role for the Civil Service cannot be successfully developed without a stabilisation of the politico-administrative interface. At the same time, politicians are reluctant to stabilise the administration because they feel that policy development should be carried out by political trustees. The 'policy question' seems one of the most serious impediments to the development of a stable system of politico-administrative relations. The 'policy void' which has been created has so far been filled mainly through the use of political advisers and outside consultancy firms to support policy development. Even though the use of political advisers and think tanks is common practice in most modern states, the development of policy exclusively or even predominantly by such entities cannot provide in the long term for high quality policies with sufficient support in society. The development of a flexible, but clearly defined 'political zone' between politics and administration, which might in time be professionalised might provide the only solution at this point in time. The modalities of such an interface should be well designed, ensuring that there are effective communication flows between the political and administrative spheres and that incentives are created for politicians to retain civil servants in these functions, rather than to automatically remove them with each change of minister. Furthermore a cross party agreement on setting immovable limits for such a zone would be a condition *sine-qua-non*.

It is still difficult to fit Central and Eastern European Civil Service systems into configuration models designed to allow for comparative analysis. The transition-spe-

cific nature of Civil Service systems, which is expressed in particular in the form of complex politico–administrative relations, as well as the lack of a policy role for civil servants, make classification difficult. Still a dynamic in development of Civil Service systems, and politico–administrative relations in particular, can be found, generally a movement towards the Village and functional Village life models in Peters’ system can be observed. However, as the other parts of this chapter show, a number of crucial conditions still need to be met before the move of these systems towards a more stable ‘ideal model’ can be completed.

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