

WORKING DOCUMENTS

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ADMINISTRATIVE CAPACITY DEVELOPMENT

A RACE AGAINST TIME?

A.J.G. Verheijen

The Hague, June 2000

PREFACE

This study addresses the development of the general administrative capacity in Central and Eastern European countries. Such capacity is vital for their proper functioning as members of the EU. The study identifies deficiencies both in the candidate countries and in the administrative system of the Union itself, and subsequently it explores ways to cope with these shortcomings.

This working document has been written for the project 'Enlargement of the EU to Central and Eastern Europe', which the Netherlands Scientific Council for Government Policy (WRR) is currently undertaking. As such, it contributes to answering the central questions of this project: to what extent will enlargement cause problems for the proper functioning of the Union, and, hence, to what extent will reform of the existing institutions be needed to maintain their effectiveness, legitimacy and cohesion?

In preparing for its forthcoming report to the Dutch government on these matters, the WRR has commissioned a number of studies and assessments. Background studies on 'closer co-operation within the EU' and on 'higher education in Central and Eastern Europe' have recently been published. Other studies will be published in the months to come.

At the time this study was commissioned, the author, dr. A.J. G. Verheijen, was director of the International Programme at the Department of Public Administration at the Leiden University. At present, he is working at the United Nations Development Programme in Bratislava, as Chief Technical Advisor on Governance.

Prof. Michiel Scheltema
Chairman WRR.

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1 INTRODUCTION

This background study, prepared for the Scientific Council for Government Policy (WRR), assesses the implications of enlargement with the candidate states from Central and Eastern Europe for the EU as a political and administrative system.

The objective of the study is threefold:

- 1 to provide insight into the nature of administrative capacity requirements for effective participation in the EU system. The paper will mainly focus on the development of general or horizontal administrative capacity requirements, as these are an important but often underestimated element of the EU membership requirements;
- 2 to analyse and assess the development of general administrative capacities in the ten candidate states from Central and Eastern Europe, as well as to identify the main factors that influence the development of modern and effective systems of public administration in these states;
- 3 to identify possible ways in which the implications of the 'Eastern Enlargement' for the functioning of the EU as a political and administrative system can be addressed.

The presence of adequate sectoral administrative capacities to guarantee the application of the *acquis communautaire* has always been part of the assessment of candidate states, even though in previous enlargement rounds this never was a key issue in the preparation and negotiations for membership. The administrative capacity of candidate states was either deemed sufficient (Austria, Finland and Sweden) or not considered a stumbling block for accession (earlier Mediterranean enlargement and the 1973 enlargement). The assessment of general or horizontal administrative capacities, however, is a rather new issue in the EU enlargement process.

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The increasing importance attached to meeting administrative capacity requirements can be seen both as an expression of general scepticism about the quality of the administrative systems of the candidate states, and as an illustration of the ever higher threshold which new member states will have to cross, mainly as a result of the completion of the Internal Market.

The increasing pre-occupation of the European Commission with sectoral administrative capacity requirements, ever more obvious in recent years, can be understood mainly as an expression of concern with enforcing Internal Market standards in an EU of 27+ member states. However, even though the presence of adequate sectoral capacities is indeed a crucial capacity requirement, it is also important to devote adequate attention to bringing the general or horizontal administrative capacities (i.e. civil service system, policy processes) of candidate states up to the required level. The two key reasons why the development of adequate horizontal capacities is important are:

- 1 Sectoral capacities cannot develop in isolation; even if capacities in key sectoral areas are brought up to the required levels, the effect of this will be at most temporary if the overall administrative system is not functioning effectively.
- 2 It is important to guarantee that the European policy process will be able to function effectively with 27+ member states. A relative similarity in levels of quality of the institutional systems of the member states is a necessary requirement for this. Too much differentiation in administrative capacities between member states could pose a serious threat to the 'modus operandi' of the EU as a politico-administrative system, which is based on mutual confidence between member states in each others institutions. This point has become all the more relevant in view of the already existing problems in the EU system. Mutual confidence has been eroded as a result of the problems some member states faced in coping with the workload generated by the completion of the Internal Market, and due to recent conflicts between member states, for instance in relation to the handling of the BSE crisis.

General administrative capacity criteria were developed late in the process of defining and operationalising the EU membership criteria, which were first defined in a general way in the Copenhagen European Council Summit conclusions in June 1993. Explicit reference to horizontal administrative capacity requirements was made for the first time in the Madrid European Council Summit conclusions in December 1995. Whereas capacity requirements are relatively clear cut in matters of democracy or the Internal Market, in the area of administrative capacities a broadly shared understanding of membership requirements has been defined only very recently.

The assessment of administrative capacities has been complicated by the lack of competencies of the European Union with regard to public administration. The European Commission, which plays a central role in the enlargement process, lacks the necessary expertise, in part as a result of its lack of involvement in this area. It can therefore hardly come as a surprise that the debate on administrative criteria for EU membership has for a long time been limited mainly to a debate on sectoral technical administrative capacities required to implement the *acquis communautaire*. Horizontal administrative capacities (professional civil service, well-developed accountability system, clear administrative structure, adequate horizontal management functions) were assessed in a rather general way in the Commission Opinions (July 1997) and the Regular Reports on Progress (November 1998) only recently defined these in more detail. The 1999 Regular Reports on Progress are more comprehensive than the previous assessments in their analysis of horizontal administrative capacities.

The 1999 Reports used a new assessment system for the analysis of horizontal administrative capacities. The assessment system was developed by the SIGMA¹

programme, which is funded mainly by the EU PHARE programme, at the request of the European Commission. The development and application of this assessment system is the latest step in the still ongoing process of defining an 'administrative acquis', which could eventually lead to the definition of some form of minimum standard for administrations of EU member states.

The process of defining administrative capacity requirements could well have significance beyond the current enlargement process. For this reason alone it is an important issue in the ongoing debate on what kind of European Union will be able to deal with the accession of ten to twelve highly diverse new member states. At the same time, however, it is important to stress the special nature of the process of administrative development in Central and Eastern European states. The transformation of administrative systems, which were a key instrument of suppression in the hands of politicians under the former regime (Verheijen 1995), into professional and reliable administrations ready to function in the complex politico-administrative system of the EU is a daunting task. In this respect the possible points of comparison with earlier enlargement processes are rather limited. The administrations of Spain, Portugal and Greece, states which had also gone through a transition to democracy just before joining the EU, were of a very different nature. Even though the administrations of Spain, Portugal and Greece, like the administrations of the current candidate states, required modernisation at the time of membership, they did not carry a similar burden of having been a key instrument of suppression under the previous regime (Verheijen 1995). Still, the problems these states faced after joining the European Union, in terms of administrative capacities, were considerable and their response to these problems was diverse. Whereas EU membership was a catalyst for administrative reform in Spain and, even more so, in Portugal immediately after accession, the Greek response to EU membership, in terms of administrative modernisation, was for a long time inadequate. Only during the last few years has a concerted effort been made to bring the Greek administration in line with EU requirements. It is important to ensure that the response to EU membership in the current candidate states will bear similarity to the Spanish and Portuguese cases, rather than to the Greek case. In this respect it is imperative for the EU and the member states to learn from this earlier experience and apply the right set of incentives to ensure that membership will be a catalyst for administrative modernisation in the states of Central and Eastern Europe. Unfortunately little research is available that could explain the difference in response to EU membership in terms of administrative modernisation between Portugal and Spain on the one hand and Greece on the other. A further reflection on this issue would be a useful step in defining an appropriate policy to stimulate administrative development in the current candidate states.

However, it is important to stress the specific background of the current candidate states in terms of administrative history, which certainly puts them in a more difficult position than Spain, Portugal and Greece at the time of their accession.

In view of this, even if the current candidate states make the same effort in administrative modernisation as Portugal and Spain, this might still not be sufficient to bring their capacities to the required level. One should therefore consider the possibility that they will not have fully operational capacities to function in the EU after accession. Therefore, it is essential to consider possible options to enable the EU as a political system to deal with the impact of the 'Eastern Enlargement'.

First, the incorporation of a large group of new member states with inadequate capacities to function effectively in the EU would put at risk a key principle underlying the EU policy-making system: the mutual confidence between member states in the capacities of each others institutions. This mutual confidence was stretched to the limit by the Southern enlargement in the 1980s, and whereas the three Southern European states have, by now, generally been able to gain the confidence of all other member states,² one should remember that this process took some time and that these states joined a very different EU. It is not clear whether a system built on mutual confidence will be able to incorporate ten Central and Eastern European states, if these are perceived as having inadequate administrative capacities.

Second, it would be important to take this line of reasoning one step further and address the question whether in any event the EU as a politico-administrative system can continue to function when some twelve or more new member states will join, irrespective of the new member states' administrative capacities. The question of the division of labour in the EU politico-administrative system between the Commission and the member states should be reflected upon as soon as possible, in order to avoid a paralysis in the EU system after enlargement.

In conclusion, three key issues have been raised in this introduction:

- the problem of defining administrative capacity requirements for EU membership and the risk of neglecting them as a result of the current EU focus on sectoral requirements;
- the potential problems faced by Central and Eastern European states in meeting these requirements;
- the need to reflect on ways to address the consequences of enlargement for the EU as a political and administrative system.

Taking into account these three issues, this study is divided in three core sections. The first section focuses on the definition of administrative capacities for states to function effectively in the EU. The discussion in this study will concentrate on the ongoing process of defining horizontal administrative capacities and the extent to which this will lead to the creation of an 'administrative acquis'.

The second section assesses the extent to which horizontal administrative capacity requirements are currently met by the administrations of the candidate states. The

discussion in this section will focus on the development of civil service systems, the creation of training capacities and the process of restructuring state administration, including the development of modern accountability systems. The section will include an analysis of factors that influence the process of creating professional and reliable administrations.

The final section will review possible measures that could be taken to allow the EU as a political system to cope with the consequences of taking in new member states which might not, at the time of entry, fully meet administrative capacity requirements.

This study is based on material drawn from academic research on administrative capacity development in Central and Eastern Europe, publications from the European Commission, the World Bank, SIGMA and the inventory of higher education and training programmes, carried out by the European Public Administration Association (EPAN) and the Network of Institutes and Schools of Public Administration in Central and Eastern Europe (NISPACEE).³

NOTES

- ¹ Support for the Improvement of Governance and Management in Central and Eastern Europe, funded mainly by EU PHARE and implemented by the OECD.
- ² With the possible exception of Greece, but confidence in Greek capacities to function in the EU has increased significantly in the last few years.
- ³ Funded by the EU SOCRATES programme and the Local and Government and Public Service Initiative under the Open Society Institute, Budapest, see bibliography for reference (Verheijen and Nemec).

2 ADMINISTRATIVE REQUIREMENTS FOR EU MEMBERSHIP; THE ONGOING DEBATE

2.1 EU COMPETENCIES IN RELATION TO THE ADMINISTRATIVE SYSTEM OF (CANDIDATE) MEMBER STATES

The direct influence of the EU on the administrative systems of its members is limited. In fact, the EU has almost no direct competencies in this area. The administrative organisation of the member states is a matter of these states alone.¹ However, there are several sources of indirect influence of EU membership on member state administrations.

First, member states are obliged, under article 5 of the Treaty of Rome, to take all the necessary measures to fulfil the obligations arising out of EU membership. This provision has serious implications for the administrative capacities of member states. Their administrations must have the capacity to ensure the ability of the state to participate in the EU decision-making process, to ensure the timely implementation of EU regulations, directives and decisions. In addition, they need to manage effectively the budgetary means provided by the EU under, for instance, the Common Agricultural Policy, the European Regional Development Fund, the European Social Fund and other EU policies and programs. Member states can be brought before the European Court of Justice if they do not meet their Treaty obligations² and fines can be imposed on them. This indirect provision is the most important Treaty-derived legal basis for the EU to judge the administrative suitability of candidate states.

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The EU could also use a broad interpretation of Article 6 of the Treaty on European Union (Former Article F), which stipulates that the Union respects the fundamental rights, as warranted by the European Convention on the Safeguard of Human Rights. This obviously applies only if member states agree to use this provision between themselves. This provision has more serious potential implications for candidate states. At least in theory, a state cannot join the European Union that is unable to guarantee that in its interactions with citizens its administration acts consistently on the basis of the principles set out in this Convention.

As a last point, regardless of the limited direct influence of the EU on the development of the public administration of its member states, it has often been argued that the long term co-operation of states inside the political system of the EU has led to a certain approximation in the way their administrative systems operate. This long term intensive co-operation inside a political system has created what Fournier calls a 'European Administrative Space' (Fournier 1998). New member states must be able to function effectively inside this European Administrative Space.

2.2 BRIEF REVIEW OF THE EXPERIENCE OF EARLIER ENLARGEMENTS

The next question of relevance is to what extent the European Union in the past used administrative capacities as a criterion in decisions on whether or not to accept candidate states. The answer to this question is rather straightforward; in earlier enlargements the EU did not devote significant attention to administrative capacities as a membership criterion. Certainly doubts could have been cast upon the adequacy of the administrative capacities of Greece, Spain and Portugal. These doubts are even valid if one takes into account that the Community these states joined was a very different, less complex and developed organisation when compared to the present European Union.³ In Cold War Europe, however, the stabilisation of the new democratic systems of government in these states was considered more important than their real ability to function in the European Communities.

During the latest round of enlargement, which in 1995 brought Austria, Finland and Sweden into the EU, no questions were raised regarding their administrative capacities. The administrative ability to operate in the EU was not a real issue in the membership negotiations with these states, which traditionally have well-developed administrative systems. Furthermore, these states had previously been part of the European Economic Area, and therefore had at least a partial experience of working inside the EU political system. It should be noted, however, that even the states with advanced administrative systems experienced certain problems in adapting their administrative systems to full participation in all aspects of the EU system. In the Swedish case these problems were mainly related to Swedish participation in the 'upstream' part of the European policy process;⁴ to a lesser degree this applied to Austria as well. The Austrian system also faced problems in the implementation of directives, as this required the involvement of the *Länder*. These problems were addressed through the inclusion of a mechanism which allowed the federal government to 'take over' the responsibilities of the states in implementing EU policies if they were not able to meet their obligations.

2.3 THE SITUATION FOR THE CURRENT CANDIDATE STATES

The candidate states face a very different situation when compared to the states which joined the EU in the previous rounds of enlargement. Administrative capacities have become an increasingly important issue for the EU, not only in relation to the enlargement with the states of Central and Eastern Europe, but also for the accession process of other candidate states, such as Cyprus, Malta and Turkey.⁵ A combination of factors caused this change in approach.

A first factor is the rapid progress in the development of the EU after the so-called first (Greece) and second (Spain and Portugal) Mediterranean enlargements. The second Mediterranean enlargement led to a revision of the Treaties of the Euro-

pean Communities, culminating in the Single European Act adopted in 1986. The Single European Act helped to break the decision-making deadlock, which had virtually paralysed the European Communities for almost two decades, and created the conditions for the completion of the Internal Market. The completion of the Internal Market, in turn, made adequate administrative capacities so as to be able to function in the EU into an important requirement; too wide a divergence in administrative capacities between member states to transpose and effectively implement EU legislation could lead to serious distortions in the functioning of the Internal Market.

A second factor which can help to explain the increased interest in adequate administrative capacities as an EU membership requirement is the change in attitude in the European Commission brought about by the change in Commission president and the increasing 'peer pressure' exerted by member states on one another. The appointment of Jacques Santer as Commission president in 1995 led to the European Commission devoting more attention to the 'performance' of the EU as a political system, a trend which is likely to continue under the Prodi Commission. The regular publication of league tables of member states, listing the extent to which they meet their membership obligations, has exposed significant gaps in 'performance' of member state administrations. Statements of Member States which generally perform well accompanied Santer's actions in this area. These states, the UK in particular, have increasingly started to demand publicly that the under-performers clean up their act, driven by entrepreneurs who feel that they are subject to unfair competition from companies in states which generally lag behind in implementing EU decisions.

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Finally, the experience of the EU in working with the candidate states has raised questions about the level of their administrative capacities. The disbursement and absorption problems the main assistance program of the EU, the PHARE program,⁶ has faced, as well as the perceived limited progress in the development of new administrative systems in Central and Eastern European states, have led both EU officials and the member states to raise questions about the administrative preparedness of this group of candidate states.

2.4 FORMAL ADMINISTRATIVE CAPACITY REQUIREMENTS FOR FUNCTIONING EFFECTIVELY IN THE EU

The European Union explicitly defined its membership criteria for the first time at the Copenhagen European Council in June 1993. Initially, these criteria did not include a clear reference to administrative capacity requirements. The main criteria imposed on candidate states in terms of their internal readiness⁷ to join the EU can be summarised as the development of democratic systems of gover-

nance, the creation of a working market economy and a proven capacity to absorb and apply the *acquis communautaire*.

The first more explicit indication that general administrative capacities were considered to be an important issue in the enlargement process was provided by the references made to administrative capacities in the 'White Paper on the Preparation of the Associated Countries of Central and Eastern Europe for Integration into the Internal Market of the Union'. The White Paper makes extensive reference to sectoral administrative requirements, while making more limited statements on the necessary 'horizontal' capacities required to function in the EU.⁸ The conclusions of the Madrid European Council, in December 1995, for the first time mentioned adequate administrative capacities as an explicit criterion for membership, without, however, addressing the issue in more detail.

The first time administrative capacity was used as a criterion in its own right was in the Commission Opinions, issued in July 1997. In these opinions references were not only made to administrative capacities to deal with the absorption of specific elements of the *acquis communautaire*, but also to the need to develop general administrative capacities. Furthermore, the opinions showed the contours of what the European Commission considers to be an adequate administrative system. The criteria were developed further in the Commission Regular Reports on Progress, published in November 1998.

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References to administrative capacities can be found in the Opinions and Progress Reports under the section on the executive in the chapter on political criteria and in the section on 'Administrative Capacity to Apply the Acquis'. Even though actually the latter section largely is a sectoral evaluation of administrative capacities in crucial policy areas, it also makes reference to general administrative capacities.

The Opinions and Progress reports, even though often merely implicit in their references to general administrative development, until recently provided the best insight in what the EU requires of candidate states in terms of the civil service system. The main issues referred to in the Opinions and Progress reports in relation to the general quality of the public administration include:

- the development of an impartial and professional administration (based on a civil service law);
- the development of a training system;
- adequate policy development and policy co-ordination capacities;
- an effective accountability system (with particular emphasis on the system of Internal and External Financial Control);
- the extent to which special structures and procedures have been put in place to manage EU affairs.

Another question that was raised in several of the Opinions is whether states had adopted an administrative reform strategy to deal with deficiencies identified in the Opinions. Other documents prepared by the European Commission, for instance the Accession Partnerships and the conclusions of the Cardiff European Council, as well as statements from Commission officials, generally affirm the above direction.

It is, however, important to consider these criteria in the right perspective. It seems inconceivable that a state could be refused entry into the EU on the basis of the administrative capacity requirements alone. Furthermore, the fact that the Commission decided to dedicate its pre-accession assistance to 'institution building'⁹ almost exclusively to sectoral assistance, indicates that the main priority of the European Commission remains the readiness of the candidate states to implement the *acquis communautaire* in sectoral areas.

In addition to the necessity of meeting the requirements of the EU, candidate states also have a self-interest in trying to develop an effective administration. Experience from previous enlargements has shown that states which do not set up effective structures and procedures for the management of EU policy-making (defining national positions on Commission proposals, taking policy initiatives in Second and Third Pillar areas, managing the presidency etc.) tend to 'lose out' in the policy process and face difficulties in meeting membership obligations.

2.5 SIGMA BASELINES: A NEW STEP IN THE DEVELOPMENT OF ASSESSMENT CRITERIA

The preparation of the Commission Progress Reports in 1999 was, as far as administrative capacity assessment is concerned, based on inputs provided by a new assessment tool: the SIGMA baseline assessment. This system is a response to the lack of specificity in horizontal administrative capacity assessment, combined with the perceived lack of accuracy by candidate states of previous assessments. The SIGMA programme, which operates under the OECD Public Management Service (PUMA) and is funded mainly by the EU PHARE programme, has been one of the main 'tools' of the European Commission in promoting capacity development in public administration in Central and Eastern Europe, as well as a technical assistance service to the candidate states. The unique position of the programme, often serving as an intermediary between the Commission and the candidate states, was used to develop an assessment system which would provide the Commission with better information while at the same time providing candidate states with assurances that assessments would be fair and objective. The 'test' of this assessment tool in the preparation of the 1999 Progress Reports constitutes a major step forward in the definition of minimum standards for horizontal administrative capacities required to function effectively in the EU's politico-administrative system.

Table 1 Baseline issues for horizontal administrative capacity assessment¹⁰

Assessment element	Baseline issues
Policy-Making and Co-ordination	Coherence of the policy-making framework Inter-ministerial consultation mechanisms Agenda Planning Dispute resolution mechanisms Central co-ordination capacity General strategic capacity Co-ordination of EU affairs Involvement of the Council of Ministers in budget decisions Impact assessment
Civil Service	Legal status of civil servants Legality, responsibility and accountability of public servants Impartiality and integrity of public servants Efficiency in management of public servants and in control of staffing Professionalism and stability of public servants Development of civil service capacities in the area of European Integration
Public Expenditure Management Systems	Inclusion of sound budgeting principles in the Constitution, Organic Budget Law and/or related laws Balance between executive and legislative power Exact definition of the scope of the State Budget and efficient arrangements for transfers to extra-budgetary funds Medium term expenditure framework A logical, sequential and transparent Budget process, set out in clearly defined rules Effective arrangements for the Budget management of Public Investments Effective monitoring mechanisms for budget implementation Common classification for accounting and reporting, compatible with concepts related to the disbursement of EU funds Capacities for upgrading the Public Expenditure Management system
Public Procurement	Inclusion of a defined set of principles in public procurement legislation Clear legal basis and adequate capacities for the central procurement organisation Effective mechanisms of procurement implementation and training Presence of control and complaints review procedures Capacity for upgrading the Public Procurement system
Internal Financial Control	A coherent and comprehensive statutory base defining the systems, principles and functioning of financial control Presence of management control systems and procedures Presence of a functionally independent internal audit/inspectorate mechanism Presence of systems to prevent and take actions against irregularities and to enable recovery of damages Capacity to upgrade financial control systems
External Audit	Statutory authority for the SAI to audit all public and statutory funds and resources, including EU funds Meeting requirements set out in INTOSAI auditing standards Necessary operational and functional independence Reporting: regularity, fairness, timeliness, proper counterpart in the parliament Awareness of EU accession process requirements Capacity to upgrade quality of external audit

The baseline assessment covers six core areas:

- 1 Policy-making and co-ordination machinery;
- 2 Civil Service;
- 3 Financial management;
- 4 Public Procurement;
- 5 Internal Financial Control;
- 6 External Audit.

In each of these six areas minimum standards, 'baselines', have been developed in consultation with the EU and, in many areas, also with the involvement of the candidate states. The assessment uses a rating scale ranging from 'standard achieved' to 'standard unlikely to be achieved under present arrangements'.¹¹

Table 1 presents a brief review of the main issues included in the baseline assessment.

A comparison of the administrative capacity chapters in the 1999 Regular Reports on Progress and the SIGMA baseline assessment reports reveals that the baseline assessment has clearly been the basis for the administrative capacity assessment. In several country reports the text of the assessment summaries and the text of the Regular Reports on Progress are virtually the same. It is likely that the baseline assessment tool will be used in future preparations on Regular Reports on Progress, thus finally creating a well-defined tool for administrative capacity assessment for the European Commission.

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2.6 CONCLUSIONS

The preparation of the 1999 Regular Reports on Progress¹² on EU enlargement was based on inputs provided by a new assessment system for horizontal administrative capacities. The development of this assessment mechanism marks the final stage in the process of defining horizontal administrative capacity requirements for EU membership. The elaboration of administrative capacity requirements, in particular horizontal capacities, has been one of the more difficult elements in the process of developing EU membership criteria, mainly due to the lack of precedents in this area.

Even though the membership requirements on horizontal administrative capacities have become increasingly clear over the last years, a number of questions still remain regarding the way these criteria will be used and the manner in which they will affect the process of administrative development in the candidate states.

The first question is how the Commission's focus on sectoral administrative capacities will affect horizontal administrative capacity development in candidate states. This would depend to some degree on the way in which the Commission will deal with the presentation and explanation of the administrative requirements in the yearly Progress Reports. In addition, it will depend on whether there will continue

to be some degree of assistance in the area of horizontal capacity development, in addition to sectoral Institution Building support.¹³ The second question is to what degree the candidate states have really made progress in the development of horizontal administrative capacities, beyond declarations of intent and the adoption of legislation. A third question is what strategies could be employed to stimulate further progress in administrative development in the candidate states. Finally, it is important to reflect on how the EU as a political system could cope with consequences of the possible accession of a group of states which might not have completed the development of modern systems of public administration.

NOTES

- ¹ As an illustration of the importance member states attach to regarding administrative organisation as an internal issue, one of the basic principles on which European Integration is based, freedom of movement of workers and non-discrimination of workers from other member states, does not fully apply to the public administration. Initially, employment in the public administration was fully exempted from the provisions guaranteeing the freedom of movement of workers and non-discrimination, but following a European Court of Justice ruling of 17 December 1980 certain limitations have been imposed on this exemption (see Ziller 1998, for an in-depth review of this issue).
- ² Under article 169 of the Treaty.
- ³ The Opinion of the European Commission on the membership application of Greece actually advised against opening membership negotiations, based on doubts as to whether Greece would be able to take on the obligations of membership. However, the Council still decided to open membership negotiations which led to Greece joining the EU on 1 January 1981.
- ⁴ The Swedish policy-making tradition was ill-adapted to the requirements of the EU policy process, which mostly involve fast reaction to Commission proposals and the ability to detect the most appropriate point for influence in the process.
- ⁵ Accession negotiations with Cyprus and Malta are proceeding in parallel to the negotiation process involving the Central and Eastern European candidate states. Doubts about administrative capacities were raised in the Commission Opinions on both Malta and Cyprus but are deemed to have been addressed sufficiently by Cyprus. It is highly likely that administrative capacity requirements will also be an important issue in future negotiations with Turkey.
- ⁶ It should be noted that these are considered due as much to management deficiencies in the Commission as to a lack of absorption capacities in the candidate states. Problems with the implementation of Phare programmes in the areas of Public Administration and European Integration/Law Approximation are well documented in the evaluation reports commissioned by the Joint Relex Service of the European Commission. Both evaluation reports were published in 1999 (<http://www.europa.int/>)
- ⁷ A criterion which does not depend on the readiness of the candidates themselves is the EU's internal capacity to keep up the momentum of European Integration in an enlarged European Union, which is often called the 'catch 22' provision.
- ⁸ The White Paper refers to the need for the associated countries to adapt their administrative machinery and their societies to the conditions necessary to make harmonised legislation work
- ⁹ The meaning of 'institution building' in Commission-speak will be discussed in more detail later on. The use of this term in this context relates to the development of institutions, institutional arrangements, legislation and procedures to implement the *acquis communautaire* in the EU candidate states from central and Eastern Europe.

- ¹⁰ Based on the SIGMA Baseline assessments, as received from the governments of four candidate states
- ¹¹ The full rating scale is:
- Standard achieved
 - Standard substantially achieved
 - Standard only partially achieved
 - Standard not yet achieved but progress being made
 - Standard not yet achieved
 - Standard unlikely to be achieved in the medium term
 - Standard unlikely to be achieved under present arrangements
- ¹² Hereafter: Progress Reports
- ¹³ In the first year the new PHARE approach to the candidate states was operational, funds were allocated almost exclusively to sectoral capacity building projects, while under the 1999 PHARE allocation some (limited) allocations for horizontal institutional development (in particular the development of training institutions) were made. On first evidence this trend appears to continue in the PHARE 2000 programming, with significant horizontal institution building projects being considered in particular in Slovakia and Latvia.

3 FULFILLING THE REQUIREMENTS FOR FUNCTIONING IN THE EU

This section provides a comparative review of the development of new systems in public administration in the candidate states. First a brief review will be given of the state of development of administrative systems as reflected in academic literature and the Opinions and Progress Reports of the European Commission. There is a strong contrast between frequent reform *announcements* and *statements of intent* by Central and Eastern European governments and the *perceived lack of progress* in this area reflected in Commission Opinions and Progress Reports as well as in academic literature.

The section will introduce a comparative analysis of trends in the development of three key areas of administrative reform. This analysis serves to examine to what degree the perception of lack of progress is correct, how the problems Central and Eastern European states have experienced can be explained, and what alternative strategies might be available to speed up the administrative development process.

The three main areas of administrative development to be reviewed are the creation of new civil service systems (in particular the development and implementation of civil service legislation), the development of training capacities, and the reform of administrative structures and processes, including the creation of dedicated structures for the management of EU affairs.¹ These three areas in the development of professional and reliable administrations are essential requirements for states to function effectively in the EU. Civil Service legislation and policy are crucial elements in the stabilisation, de-politicisation and professionalisation of the civil service; training is an important potential catalyst for change while the rationalisation of administrative structures and procedures is instrumental in creating a more effective and accountable administration.

The development of new systems of local self-government will not be discussed in detail. The development of new systems of Local Self Government has been the main focus of attention in academic studies on public administration in Central and Eastern Europe (see for instance Coulson 1995 and Bennet 1994). However, whereas the importance of local self-governing structures for the development of democratic systems of governance is undeniable, it is of less direct relevance to the question of EU membership. Local governments have some important tasks in EU policy implementation, but these generally relate to sectoral policy areas, which are not the subject of this study. The involvement of local governments in decision-making is still very limited,² though these have gained some influence through the creation of the Committee of the Regions and through the principle of partnership as developed within EU regional policy.

3.1 A WORLD OF CONTRAST: INCREASING REFORM ANNOUNCEMENTS – CONTINUING NEGATIVE ASSESSMENTS

After the initial neglect of central government administration in the reform programmes of Central and Eastern European states, the last few years have seen a flurry of statements of intent by governments, often 'translated' into reform strategy documents and, to a lesser degree, in (draft) legislation. In Bulgaria, for instance, two administrative reform and development strategies have been adopted in the last five years by different governments. All EU candidate states have adopted administrative reform strategies, often more than just one.

Apart from the adoption of reform strategies, most Central and Eastern European states have worked actively on the development of legislation that should provide the basis for the development of new administrative systems at central government level. However, if and when draft legislation is adopted, it is often not fully implemented; a new government often invalidates initiatives taken by its predecessor.

If one considers developments in administrative reform and development in Central and Eastern Europe at face value, one can notice an increasing number of statements of intent by governments, the adoption of reform strategies, and a high level of legislative activity. Statements of intent have been made ever more frequently since the EU explicitly defined an effective and efficient central administration as one condition for membership.

At the same time there are strong indicators that progress in horizontal administrative capacity development has been limited at best. The still sparse academic publications on public administration in Central and Eastern Europe continue to focus on the need to address some of the classical issues in public administration, such as structuring politico-administrative relations, creating a system of employment conditions which allows the civil service to attract and retain highly qualified staff, defining a new accountability system and developing management and policy-making capacities. A comparison of academic work on central government reform written early on in the transformation process (for instance, Hesse 1993) with more recent publications (Verheijen and Coombes 1998, Hesse 1998, Verheijen 1999) would lead one to conclude that little progress has been made in addressing these issues. A review of the last five issues of the proceedings of the Annual Conferences of the Network of Institutes and Schools of Public Administration in Central and Eastern Europe (NISPACEE) (Jabes and Vintar 1996; Jabes 1997, 1998, 1999 and Jabes and Caddy 2000) leads to a similar conclusion.³

Another indicator of the limited progress in administrative reform in Central and Eastern Europe are the Commission Opinions and Progress Reports. The 1997 Commission Opinions highlighted serious deficiencies in the administrative

systems of the candidate states (European Commission 1997 and Fournier 1998). Whereas the Opinions are, with some exceptions,⁴ (moderately) positive on the development of the overall institutional system, the central public administration is singled out as a weak link in this system. What is reflected in the Opinions, with few exceptions,⁵ are fragmented, politicised administrations, rife with allegations of corruption, underpaid staff, and a resulting high degree of staff turnover. Policy-making capacities are evaluated as weak and the lack of personnel development strategies is frequently pointed out.

The 1998 Commission Progress Reports again evaluated public administration capacities as weak in most of the candidate states, even in those states which belong to the first group of countries to negotiate their accession to the EU. Whereas progress in administrative development was reported for Latvia, Lithuania and Bulgaria, the pace of administrative development in Slovenia, Estonia and Romania was criticised strongly, while in the Czech Republic and Slovakia the reform of the central administration in many ways still had to be started. The only state that obtained a good evaluation across the board was Hungary. The 1999 Progress Reports continued to signal insufficient progress in administrative capacity development, with performance in the majority of candidate states assessed as mixed at best. As in the 1998 Progress Reports the assessment of Hungary was the most positive while the assessment of Romania clearly was the most negative, SIGMA baseline criteria not being met in the overwhelming majority of the assessment areas.

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Overall the 1998 and 1999 Progress reports were significantly more harsh than the Opinions in the judgement on administrative capacity development. This leads to the conclusion that the trend in administrative development is a negative rather than a positive one. The picture emerging from a review of academic literature on public administration reform in Central and Eastern Europe and the Commission Opinions and Progress Reports is thus in stark contrast to the flurry of reform announcements over the last years.

Some further indicators point to a lack of progress in administrative development. The limited information available on public opinion towards central government administration shows continuing high levels of citizens' distrust in central administrations.⁶ Levels of confidence in local self-governing authorities are much higher without exception. Furthermore, the low quality of administrations is considered an important explanatory factor for the economic downturns and crises that several Central and Eastern European states experienced in recent years. This holds in particular for Bulgaria, where failure and corruption in the administration were considered a major factor in the severe economic crisis of 1996-1997 (Dimitrova and Verheijen 1998), for Romania (International IDEA 1997) and also for the Czech Republic, where the economic downturn of 1997-1998 gave rise to a debate on the need for administrative reform, an issue which had been neglected until that time (see Vidlakova in Jabes 1999).

The picture that emerges of a consistent failure of the candidate states to develop effective, efficient and accountable central administrative structures raises two related questions:

- 1 have reforms really failed to produce significant results and,
- 2 if so, what are the causes for this failure?

The conclusions of this analysis will be used to determine alternative ways in which administrative development could be stimulated.

3.2 A COMPARATIVE INVENTORY OF ADMINISTRATIVE DEVELOPMENT

The following comparative inventory of the development of the legislative framework for the operation of the civil service, the development of training structures and the re-structuring of central administrations (including the development of dedicated structures for the management of EU affairs), will examine the degree of real divergence between statements of intent and progress made in reality.

3.2.1 CREATING A PROFESSIONAL AND RELIABLE CIVIL SERVICE

In the early stage of the development of new systems of central administration in Central and Eastern Europe, the adoption of civil service legislation was generally considered the basic condition. Civil service laws were considered the main reform tool for addressing problems such as politicisation, fragmentation and instability. Civil service laws have now been adopted in six out of ten EU candidate states. In states where no civil service law is yet in place, they generally are in the final phase of adoption. Interestingly, the Czech Republic and Slovakia are the two states which still lag behind furthest in the process of adopting civil service laws. In both states the process of drafting a civil service law was re-launched in 1998 after general elections had taken place.

Among the three elements of reform discussed in this section, the drafting and adoption of civil service legislation is the element in which most progress has been made. However, in many cases the adoption of the civil service law seems to have become an objective in itself, while this should have been a mere first step in the creation of a civil service (development) policy. Civil service laws have often been only partially implemented, if at all. In Poland, Latvia and Lithuania a process of fundamental revision was started within two years after the adoption of the civil service laws, in all three states leading to the creation of a completely new law.⁷ Thus, it should not come as a surprise that the impact of the adoption of civil service laws on the actual functioning of the administration has so far been limited.

Hungary, which has 'outperformed' the other candidate states in progress on administrative capacity development, adopted a Civil Service Law as early as 1992.

However, the development of a well-balanced recruitment and promotion system still has not been completed (György in Verheijen 1999). The process of creating a permanent Civil Service was hampered by the attitude of the incoming government in Spring 1998, which showed a reluctance to work with the civil servants in office.⁸ Furthermore politicians 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. Hungary, however, constitutes the most positive example of administrative stabilisation. Staff turnover has been reduced significantly since the adoption of the civil service law (György in Verheijen 1999). The question that remains, and on which there is an ongoing debate in Hungary, is how the impact of the civil service law can be taken beyond stabilisation, as seven years after having adopted the law there still is no recognisable civil service policy.

In Poland the incoming government halted in autumn 1997 the implementation of the civil service law that had been adopted in 1996. After a period of reflection, the new government decided to start working on the adoption of a new law, rather than working with the law adopted by the previous government. Again the reluctance of the incoming government to work with civil servants in office, and in this case also to work with management structures created and staffed by the previous government, seems to have been the main reason behind the decision to stop the implementation of the law. It is interesting to note that Poland was the only state in the region to have a civil service law under the previous regime. Thus, it now has a legal regime for the civil service, which consists of the old 1982 law and implemented elements of the new civil service law, mostly applying to higher level civil servants. A new civil service law has been adopted to replace the law that had been adopted in 1996.

Civil service laws were adopted in Estonia, Latvia and Lithuania within a relatively short time span in 1994-1995. Even though in all three cases the laws were based on a 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 never were fully implemented. They have been subject to an ongoing revision process, as the adopted laws were considered inadequate for various reasons.

In Latvia the implementation of the civil service law, adopted in 1994, was initially combined with a comprehensive training and re-training programme,⁹ which was expected to provide the basis for a coherent, professional administration. However, the implementation of the law was stopped in 1997, after a change of government, and the training programme was abandoned, mainly for budgetary reasons. Since then the process of civil service development in Latvia has stagnated. The process of revising the civil service law, which started late 1997, still has not been completed, though a new civil service law is expected to be adopted in 2000. The prolonged 'transition' between the old legal framework governing civil service employment conditions and the new law, in process of adoption, has created a highly opaque system of employment conditions for civil servants, in

particular in relation to remuneration. Senior officials can obtain significant bonuses on the basis of unpublished 'management contracts', a development which has led to increased suspicion of the state administration among citizens. Many institutions have opted to leave the civil service, in order to improve employment conditions for their staff, thus creating unclear accountability relations in the administration. The current impasse in the development of a legal framework for civil service development certainly does not contribute to the establishment of a stable and professional civil service, which successive governments have claimed they want to create.

In Lithuania the civil service law, the Law on Officials, was adopted in 1995. The law has been subject to revision and re-consideration. Here the emphasis was on the re-definition of certain elements of the civil service law, in particular of the dividing line between political and career civil servants. This dividing line had not been well-defined in the 1995 law, leading to mass dismissals after the change in the parliamentary majority in 1996, carried out within the framework of the law on officials.¹⁰ Furthermore, there was a perceived lack of balance between the rights and obligations of officials, making civil service positions unattractive and uncompetitive. The general concept underlying the Lithuanian administration continues to be based on the German and Spanish civil service model.¹¹ The new Lithuanian Civil Service Law was adopted in July 1999 and its implementation, which is scheduled to take until 2003, has only just started. The new law clarifies the relations between career civil servants and political appointees and sets out transparent criteria for recruitment and career advancement. In addition, it has adopted a very wide definition of 'civil service', in contrast to the predominant policy direction in, for instance, Latvia. The Lithuanian Civil Service Law includes, for instance, local government officials under the civil service law.

In Estonia the civil service law, adopted in 1995, entered into force in January 1996. Unlike the other two Baltic States, the Estonian civil service law has been implemented. However, since the implementation of the civil service law was not enshrined in a clear public administration reform concept (the development of which was completed only in 1998), the overall impact of the law in terms of the development of a professional administration has remained limited here too.

The Bulgarian Civil Service law was adopted in June 1999. As Bulgaria suffered from one of the highest rates of turnover in the administration (Verheijen 1999), this is a potentially significant step forward. However, much will depend on the degree to which the law will be fully implemented. The civil service law will enter into force in January 2000 and its implementation is likely to be completed before the next general elections, which are scheduled for early 2001. If a change of government takes place, this would obviously constitute a serious test for the durability of the new law.

In the other EU candidate states (Czech Republic, Romania, Slovenia and Slovakia) civil service laws have not been adopted yet. All these states still lack a basic legal framework for the development of Human Resource Management in the central administration, which is a basic requirement for the development of a professional, stable and impartial administration.

The positive picture one could have when considering the development of civil service legislation in an increasing number of Central and Eastern European states on face value becomes much more mixed when this issue is examined more in-depth. Civil service laws have seldom been the expected catalysts for the stabilisation, de-politicisation and professionalisation of the central administration. Rather than being a starting point for the development of civil service policies, the adoption of laws has become an objective in itself. Apart from Hungary, none of the candidate states has come close to the development of a civil service policy, in addition to the necessary legal framework.

3.2.2 DEVELOPING TRAINING SYSTEMS

Training can play an important role in bringing about administrative change. A combination of the introduction of newly trained recruits in an 'old' administration, together with the re-training of staff already employed, if rightly applied, can be a powerful administrative reform tool.

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Training can also make a contribution to the development of a coherent administration. Joint pre- or post-entry training of new recruits can help creating a sense of community among new civil servants. This sense of community could play a role in reducing the still universally high degree of fragmentation in Central and Eastern European administrations. Joint training of top level officials can have a similar effect.

However, the development of training systems has for a long time been ignored or neglected by the candidate states. In fact, the development of new training structures can be considered one of the main elements of failure in the development of new administrations. A large number of training schools and institutes have been established, but most of these are involved in local government training or in university type public administration education (see, for instance, Verheijen and Nemec 2000).

At the same time there is a striking lack of training institutions and programmes that could provide training as a part of government human resource policy. The involvement of training institutions in in-service training has been ad hoc and on request, while few states have schools which are recognised by the government as providers of candidate civil servants. The recent creation of new state training institutions in Lithuania and Bulgaria might signal a long overdue change in trend.

In the early years of the transition, attempts were made to develop new government training institutions in a number of Central and Eastern European states. The National School of Public Administration in Poland, established in 1991, is one of the few remaining examples of this 'first generation' of initiatives. The concept of the Polish school was based on the assumption that by inserting highly qualified graduates in top positions in the administration, it would be possible to create a 'multiplier effect' and bring about rapid change. The high level training of young promising staff would have to be accompanied by in-service training for those already in the administration to achieve the desired effect. However, even though the Polish school was created as an integrated element of the administration (based on the model of the French *École Nationale d'Administration* (ENA)), it has not fulfilled its potential, mainly due to the late start of the in-service training activities. At the same time, the Polish School of Public Administration is the only remaining institution which at least to some degree fulfils the function it was created for. Even though the school has functioned better under some governments than under others, its graduates are guaranteed a position in the administration and have the obligation to work for the administration for a defined number of years.

A similar initiative was taken in Slovakia in 1992, when a high level pre-service training programme was started at a government funded institution, *Academia Istropolitana*. The School of Public Administration had a government-approved programme and government funded grants for those who gained entry. The National School of Political Science and Public Administration in Romania, which was created in 1991, was based on the same model. The Romanian school was progressively marginalised after the change of government in 1996 and the Slovak school was closed down (for political reasons) by the government in 1997. The development of training structures was thus a highly politicised process.

The idea of creating a professional school of public administration, able to serve any government, has obviously not yet taken hold among Central and Eastern European politicians. At the same time new university programmes in Public Administration, which have been created in all candidate states, have not yet been able to develop sufficient links with government institutions. In the long term, however, their output of graduates could make a difference to the quality of candidates for civil service positions.

The fate of government-run or funded in-service training institutions has been slightly more positive. The Latvian School of Public Administration in particular was given a core role in the training of civil service candidates.¹² However, when the implementation of the civil service law was halted by the government in 1997, the role of training in the civil service development process was reduced significantly. Still, the Latvian school is one of the best examples of an integrated in-service training institution in Central and Eastern Europe, even though one could argue the school actually functioned as a kind of pre-entry training institution. In

some other states training institutions have also been established. In Estonia government and semi-government in-service training institutions are among the most important providers of in-service training. In Bulgaria, Lithuania and Slovenia recently established state training institutions are expected to play a significant role in the preparation of national administrations for EU membership.

A general problem with all the above mentioned training institutions is that very often they are little more than managers of training programmes. They do not actually have a core body of permanent trainers in their staff. Furthermore, they lack the capacities to carry out reliable analyses of training needs, often merely react to government and are dependent on foreign assistance for the provision of training programmes in key areas.

The question arises why training has been neglected as a reform tool. There are three related possible reasons for this.

The first reason is financial constraints. The creation of government training schools requires a considerable investment, if a high quality institution is to be created. In times when basic needs in key areas such as health and education can hardly be met, it is understandable that governments have been reluctant to invest in the development of public administration training institutions, regardless of the potential long-term benefits that can be gained from such institutions. The cases of Bulgaria and Lithuania show, for instance, that once external funding is available for institutional development (in both cases under PHARE 1999 allocations), governments are much more likely to create training institutions.

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A second reason is that governments have generally been reluctant to use training as an element of reform programmes. The approach to public administration reform has been mostly legislative in nature, which is not surprising considering the prevailing legalistic tradition in many Central and Eastern European states. The adoption of legislation has been emphasised rather than the application of more complex reform tools like training. Whereas in many of the candidate states new training institutions in public administration have been created, these are rarely used as an integral part of the civil service development process, mainly due to a lack of state training policies.

The generally negative experience with 'imported' training is a third reason for the reluctance to using training as a reform tool. 'Imported' training might have been useful in the early stages of the reform process, as an information and awareness raising tool, but in the current stage of development it is of much less value, unless it is tailor-made and aimed at the transfer of specific, job related skills (see also Hesse 1998). Since this has not happened so far, the availability of funded external training has in recent years been of little help to public administration reform. The inclination of foreign institutions to transfer national training models and programmes to Central and Eastern European states, without taking into account

differences in administrative tradition, has been a further factor in limiting the value of 'imported' training.

For the three reasons discussed above the use of training as a reform tool has been limited. Only a sustained effort to support the development of local capacities might provide a solution to this problem.

3.2.3 STRUCTURAL REFORM AND RE-DESIGNING THE POLICY PROCESS

Even a high quality civil service can only function adequately if it is embedded in well-designed administrative structures and processes, including functioning horizontal and vertical co-ordination systems and a clear accountability system, to provide civil servants with the necessary freedom of action. This section includes an assessment of progress in the rationalisation of policy processes, the development of new accountability systems and, finally, the creation of structures and processes for the management of EU affairs.

Improving policy processes

The re-definition of the role and position of ministries, their subordinated organisations and the core executive unit¹³ in the administration is a crucial aspect of any administrative development process. This element is of particular importance in Central and Eastern European states, since the core executive units of the administration used to 'shadow' line ministries under the previous regime and play a dominant role in the process of policy co-ordination. Policy processes were therefore 'top heavy' and based on co-ordination at the top. Core executive units also tended to (and in many cases still do) manage large numbers of subordinated institutions. Accountability lines were directed towards the leading political party.

The reform of policy-making and implementation structures and systems is one of the most difficult elements of the administrative development process, even more so in the specific historical context in Central and Eastern Europe. Considering the information available on this issue (e.g. SIGMA Centre of Government profiles on twelve states)¹⁴, the policy-making and implementation processes still show many features of the previous systems: top heavy co-ordination, leaving little or no space for conflict resolution before issues reach the government, duplication of functions (especially in the legislative process) and a lack of clearly defined accountability structures. Even in new states, such as the Baltic States, the division of labour between ministries and the core executive unit in the policy process still shows some of the features of the former system.

In few states attempts have been made to re-define the role of the different components of the central administration in the policy process. Poland, for instance, carried out a substantial reform of the Council of Ministers' administration, with the objective to create a small core Prime Minister's Office, among others by

'pushing down' co-ordination tasks into the administration. In Hungary attempts have also been made to reduce the scope and tasks of the Prime Minister's office and to strengthen policy development capacities simultaneously, giving the Prime Minister's Office a more strategic focus. In general, however, the development of effective policy processes is an area in which the assessment of the candidate states in the SIGMA baseline assessments is possibly the most negative.

For policy-making systems to start working more effectively a comprehensive re-definition of the role of the different units in the administration and the relations between these units will be needed. Yet, only during the last two years initiatives have been taken in several states to adopt laws to regulate the role and function of the different institutions in the administration and to rationalise the way in which the administration works. For instance, in Bulgaria the Law on Public Administration was adopted in 1998, which defines the type of institutions that can exist in the state administration, how these relate to one another and what the role and function of different types of institutions can be. In Lithuania a similar law was passed in June 1999 and in Latvia a new legal framework for the organisation of the state administration is under development. The adoption of such laws might signal a move in the direction of a rationalisation of the policy process in these states.

The adoption of laws in this area, however, cannot be more than a mere first step. Implementation and enforcement is certain to hit on resistance of the generally all-powerful line ministries and there is as yet no case of a successfully completed structural reform of an administrative system in the region. Furthermore, there is little evidence at the current time of a decentralisation of responsibility inside the administration or of co-ordination being 'pushed down' to lower levels in the administration. Policy-making procedures remain 'top heavy', with co-ordination concentrated at the core executive unit of government. Even if formally more co-ordination structures are set up at the lower levels of the administration, this has often not led to real changes in policy-making practises.¹⁵

A further point of importance is the development of impact assessment capacities at core executive units of government. At the current time legislation and policies are generally checked only on their compliance with the constitution and international legal requirements. The financial implications of adopted legislation are often assessed only in a general manner. The development of an integrated impact assessment system, even in a rudimentary form, is a key element of any decision-making system regarding the sequencing of accession-related legislation and policies. In the absence of an impact assessment system, serious contradictions could arise between policies directed at meeting EU membership requirements on the one hand and sound policies to complete the economic transition.

The development of a new legislative framework for the administration and the improvement of the quality of the policy processes, through improved co-ordina-

tion and the development of impact assessment mechanisms, are elements of the administrative development process on which much work remains to be done. This is possibly the most difficult area of administrative reform, but one which has a high potential impact on the ability of the candidate states to function effectively in the EU.

Accountability systems

In its assessments of administrative capacities in the candidate states, the EU has placed much emphasis on the development of capacities for internal and external financial control, as one element of the creation of new accountability systems. Accountability systems are obviously a crucial element of capacity development in relation to EU membership, in particular since the overwhelming majority of EU policy implementation (and thus disbursement of funds) is controlled nationally.

The development of internal financial control and external audit capacities has been strongly advocated and supported by the EU in recent years. Even though the creation of internal financial control systems has proven to be difficult in states with a high degree of ministerial autonomy, it is likely that with the conditionality imposed by the EU and the funds made available, these systems will eventually be put in place.

In the context of this study, however, accountability systems are viewed in a broader perspective. The question posed here is whether there is a move towards the creation of modern, well-balanced accountability systems, including administrative, political, judicial and, if applicable, quasi-market accountability mechanisms. The development of balanced accountability mechanisms is a key element of the creation of professional administrative systems. Furthermore the development of accountability mechanisms that allow citizens to hold the administration directly accountable (in particular, administrative court systems, Ombudsman institutions and Citizens' Charters) are highly important to the development of democratic systems of governance. There is still an obvious distrust of citizens in public administration institutions, mainly as a result of the role the administration played as an instrument of suppression under the previous regime.

The development of modern accountability systems has been a difficult process in all Central and Eastern European states. The move from an accountability system based on accountability to one leading political party, towards a balanced accountability system which makes the administration accountable to the citizens, – either directly, or through elected politicians or through the judiciary –, cannot be considered completed in the large majority of candidate states. The legalistic culture of Central and Eastern European states provides little opportunity for the introduction of innovative accountability mechanisms (such as Citizens' Charters etc.), though in some of the candidate states (Hungary, Latvia) the possibility of developing a system of direct accountability to citizens has been raised.

Parliaments continue to focus mainly on law-making, with little progress in the development of parliamentary control capacities. This has severely weakened the position of Supreme Audit institutions, which have been established in all candidate states, but they can have little influence unless parliaments follow up on the reports produced by these institutions.

The same holds, to a lesser degree, for the new Ombudsman institutions which have been created in several candidate states (Poland, Hungary, Lithuania, Slovenia, Romania). Ombudsman institutions also depend in part on the willingness and ability of parliaments to follow up on reports provided to them. However, the rather high degree of independence that has been granted to the Ombudsman institutions created in Central and Eastern European states has provided these institutions with the possibility to play a pro-active role in fighting maladministration and arbitrariness in administrative conduct. Ombudsman institutions have been important to the development of greater trust between citizens and administration, as their reports and actions have provided citizens with a greater sense of confidence in trying to seek remedies against administrative malpractice. The capacity of Ombudsman institutions to deal with the cases brought to them has been stretched in all states, proving the need for the creation and development of independent institutions that citizens can approach to address complaints, without having to rely on the generally overburdened court system.

Administrative court systems have been developed in few countries only, though most of the candidate states have constitutional provisions in place that call for the creation of an administrative court system. The establishment of specialised administrative court systems has in most states been postponed for financial reasons. Cases related to actions of the administration are dealt with by specialised chambers in the ordinary courts. The court system remains overburdened in the candidate states, limiting the degree to which the judiciary can be used as an effective accountability instrument.

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Finally, there has been little progress in the development of enabling management systems inside administrations. The move from administrative accountability towards managerial accountability systems has not been made in most candidate states, which leaves administrations with too little flexibility to become responsive to citizens. The current wave of corruption allegations, which is common to practically all candidate states, will not help the process of creating more flexible management systems in Central and Eastern European administrations, as there is a general move towards limiting managerial discretion and tightening top-down controls. Whereas this is a logical response to the ever-increasing allegations of corruption in the administration, it will do little to stimulate the development of modern accountability systems.

EI management systems

One area of structural development in which considerable progress has been made in candidate countries is the creation of dedicated institutions and structures for the management of the European Integration process (hereafter EI). A SIGMA inventory carried out in 1997 showed that the legal basis for the institutional framework has been created in all countries and, with few exceptions, all the institutions provided for in legislation had been created (SIGMA Papers No 23, 1998). These structures and institutions have been further developed and, with few exceptions, improved since then. Table 2 provides an overview of the type of structures in place, based on the SIGMA review and later analyses of EI management systems.

Table 2 Dedicated Structures for EI-related decision-making (1999)

Level 1: Top level decisions	Created or planned	Not planned or created
Special Council of Ministers Meetings	Bulgaria	
Council of Ministers plus Advisory Council	Slovakia	
Council of Ministers, but filtered by Ministerial committees: Permanent and non-permanent Members ¹⁶	Czech Republic, Estonia, Latvia, Lithuania, Poland, Hungary, Slovenia	
Council of Ministers, prepared by ministerial committees with Variable membership ¹⁷	Romania	
Level 2 and level 3: Preparatory work		
Permanent Committee of Deputy ministers or committee of senior civil servants	Czech Republic, Lithuania, Hungary, Estonia, Poland, Latvia, Slovenia	Romania (ad hoc meetings), Slovakia (ad hoc meetings)
Committee of deputy ministers ¹⁸ and committee of senior civil servants	Bulgaria	
Co-ordinating secretariat		
European secretariat	all countries (de facto)	

It is important to note that even though special decision-making structures at ministerial and senior official level have been put in place in most candidate states, these rarely function as real 'filters' in the policy process. Furthermore, most of the policy-making systems in the candidate states lack a true arbitration institution. The strong position of line ministries and the high degree of collegiality in decision-making make it extremely difficult for arbitration systems to develop, leading to an overload of government agendas, much like in the 'ordinary' policy arena. However, as has been pointed out before, well-functioning policy-making systems that allow governments to set priorities swiftly are even more important in the EU policy process than in the national context, as the EU often requires rapid

decision-making processes. This is therefore an issue to be addressed in the overall reform of policy processes.

The location of European secretariats has been a problematic issue in many candidate states, creating 'turf wars' over the control of the EI secretariat between the Ministry of Foreign Affairs and institutions concerned with management of 'internal aspects' of EU affairs. Traditionally, EI secretariats in most member states are located within the Ministry of Foreign Affairs. However, with the growing weight of the national dimension of EU policy-making, other ministries, in particular Ministries of Economic Affairs, have obtained an increasingly important role. It was therefore interesting to see whether the candidate states have opted to establish the secretariat at the Ministry of Foreign Affairs, or whether they have taken into account the changing nature of the EU policy process. The following table reflects the current (end of 1999) institutional location of secretariats in candidate states.

Table 3 Institutional location of EI Secretariats

Place of the main secretarial units	Ministry of Foreign Affairs	Integrated part of the Centre of Government	Other ministry or independent administrative unit reporting to the Centre of Government
Countries	Bulgaria, Hungary, Czech Republic	Estonia, Romania, Slovenia, Slovakia	Latvia, Lithuania, Poland

It should be noted that out of the four states in which the main secretariat is placed at the Centre of Government, two also have a small secretariat for foreign policy issues at the Ministry of Foreign Affairs.

The development of capacities within line ministries to manage EU affairs has been an uneven process in candidate states. Generally ministries have created special units for EU affairs, but there is significant variation as to the tasks and formal position of such units. In many cases and instances EI units also manage the international relations of the ministry, indicating that often EU affairs are still perceived as foreign affairs. As a consequence, EI units often are not sufficiently integrated in policy development in the line ministries, and have only limited abilities to ensure that EU-related obligations are met. The high degree of ministerial autonomy which still characterises administrative systems of the Central and Eastern European states, has in some cases led to a high degree of diversity between EI management models in individual countries. In general, however, European Integration issues are not well integrated in the daily routine of line ministries. This in turn is one of the contributing factors to the difficulties that most countries face in terms of inter-ministerial co-ordination systems. Often systems of inter-ministerial working groups are little more than a dead letter. Whereas the central decision-making structures for EU affairs are relatively

permanent, frequent changes have been made in the structure and position of working groups.

Structures for the management of the approximation of laws are generally well-established. Procedures to ensure compliance of new legislation with EU standards have been put in place, though they function with varying degrees of effectiveness. The procedures put in place, however, mostly deal with the process inside the administration. Relations between the administration and parliament in the approximation process are often not sufficiently developed. This can pose problems in particular under coalition governments and under governments which lack a clear majority in parliament. Furthermore, whereas compliance control systems are well-developed, most states have weak capacities for planning the approximation process, making the planning process highly 'Commission-driven', taking too little account of the impact of an early adoption of EU standards on economic sectors.

The SIGMA reviews and other analyses of the emerging EI management systems point out continuing weaknesses in the policy-making systems. Insufficient co-ordination capacities are a general problem for most Central and Eastern European administrations. A second key problem is the slow progress in creating new institutional networks for policy implementation. This affects policy implementation in EU affairs just as much as policy implementation in any other area. The concerns over implementation capacities expressed by the European Commission in the 'avis' and regular reports on progress are in line with this analysis. Apart from the development of policy co-ordination capacities and the construction of policy implementation networks, the lack of qualified personnel is the other main weakness of the policy-making systems for EU affairs.

Systems for the management of EU affairs have been put in place in all candidate states, and even though the quality of these systems differs, the existing systems can probably cope with the preparation for accession. Whether these structures will be sufficient to manage EU affairs once countries join the Union is a different matter. Substantial improvements will have to be made of policy co-ordination systems, implementation capacities and the development of modern accountability mechanisms, in addition to the improvement of policy development capacities, if the candidate states are to become effective participants in the EU policy process.

3.2.4 CONCLUSION ON THE COMPARATIVE REVIEW

In three key aspects of administrative reform in the Central and Eastern European region achievements have been limited still. Often civil service legislation, where adopted, has not been (fully) implemented, or has not been used as an instrument to further the development of a stable and professional civil service. Due to the lack of investment in the development of indigenous training institutions and the by now generally obsolete character of training provided by foreign institutions,

training is little more than a *potential* catalyst for administrative development. Much work remains to be done on the rationalisation of administrative structures and policy processes and the development of modern accountability systems. The development of dedicated systems for the management of EU affairs – which will be based on the current EI management systems – is the one area of structural reform where adequate progress appears to have been made.

3.3 EXPLAINING LIMITED PROGRESS IN ADMINISTRATIVE CAPACITY DEVELOPMENT

Analyses of administrative reform process have generated a wealth of possible explanations why administrative reform programmes often fail to deliver desired results. The comparative analysis of the ‘administrative reform experience’ of nine states¹⁹ in ‘Public Management Innovations’ (Verheijen and Coombes 1998) leads to the following list of key factors that can determine success or failure of public administration reform processes.

Factors that contribute to failure of reform processes are:

- administrative reform strategies are often designed ‘on the drawing board’ without sufficiently ‘testing’ their feasibility or involving the main stakeholders in the process of the design;²⁰
- the value of legislation as a reform tool has been generally overestimated. Adopting (a) law(s) does not necessarily lead to changes in the operation of the administration.²¹ Law as a reform instrument only works if other conditions are fulfilled simultaneously;
- administrative development does not win votes, politicians therefore tend to lose interest, even if they subscribe in principle to the need of creating efficient, professional and reliable administrations;
- administrative reform programmes need to be pursued over a long period of time if they are to have significant results. Therefore administrative reform processes will generally fail under conditions of high turnover between governments, unless they are based on a broad consensus between political forces;
- the need to ‘win over’ civil servants, either by involving them from the start or by ‘changing administrative culture’ is a highly underestimated element of reform programmes;
- the transferability of administrative reform strategies is limited; approaches to reform that have been applied in other states are unlikely to lead to success, unless these are well-adapted to local conditions.

Several key factors that can contribute to the success of reform efforts are:

- the economic situation and the real need for reform (depending on the conditions present in the state);²²

- external pressure (but only under certain conditions);²³
- strong and persistent leadership by politicians with strong convictions about the need to reform the state;
- the use of the right 'package of instruments', combining legislative instruments with other types of measures and providing the right balance between 'stick and carrots'. There are no universal prescriptions for this aspect, since 'the right package' is different for each state, but the need to use a balanced set of instruments, without relying too much on one tool, can make an important contribution to a successful reform process.

3.3.1 THE ABSENCE OF 'SUCCESS FACTORS'

Two out of the four factors identified above as potentially important in creating the right conditions for a successful administrative reform policy, are generally in place in Central and Eastern Europe. However, on closer inspection, the specific conditions in the candidate states have limited the impact of these factors.

Economic pressure could at first glance be a catalyst for the initiation of administrative reform processes, as there still are serious budgetary pressures in all candidate states. Efficient and effective administrations are also needed to attract foreign investment, to ensure state income from taxation and to perform a number of other tasks crucial to the often still fragile economic recovery processes. Also, the weakness of administrations has been considered an important factor in the economic crises, which have plagued several candidate states in recent years. Therefore there appear to be several strong economic arguments for the prioritisation of administrative development. However, even though economic conditions at first glance constitute a potential incentive to politicians to move administrative development forward, the specific nature of the administrative reform processes in Central and Eastern Europe has so far created the reverse effect. This nature of administrative 'reform' is often misunderstood. The use of the word 'reform' in itself would mean that the objective of the process would be to change an existing administration. However, Central and Eastern European states did not have a 'public administration' as it is generally understood in European administrative tradition.²⁴

Administrations under the previous systems only carried out some of the functions they were expected to perform in democratic systems of government; they merely dealt with policy implementation, under strict control of the Communist Party. Policy development was a function of the Party administration. Party administration and public administration were often 'merged', creating a heavily politicised administration. Employment conditions of civil servants were regulated under the Labour Code, which basically erased the difference between the state administration and other sectors of the economy, which had been clearly established in Central and Eastern European states before the Second World War. Administra-

tions as 'bridges between government and society' did not exist under the previous regime. This has important implications for the nature of the processes under way, which are processes of *developing* new administrative systems, not of *reforming* established systems. The above factor might to some degree also explain why Hungary has performed better than the other candidate states in assessments of administrative capacities. The gradual (limited) economic liberalisation in Hungary already brought about some changes in the role of the state in that country, as a small private sector started emerging in the 1980s. To some degree this has given Hungary an advantage in the development of a new administrative system after the start of the transition in 1989.

It is important to note that building a professional, stable and impartial administration is costly and requires a considerable investment, even if one opts for the creation of a limited 'career' civil service.²⁵ The costs of recruitment, training and the employment conditions associated with a career civil service are considerable, both in the immediate term and for the future.²⁶ The notion of administrative reform as used in Western Europe and other OECD states, the main objective of which is usually saving money, therefore does not apply to Central and Eastern European states. The economic conditions in these states thus make the implementation of reform strategies more difficult, rather than easier.

A second potentially contributing factor for the implementation of a successful administrative development process is external pressure. At first glance, external pressure to carry out administrative reform seems to be considerable. The EU is the main organisation to have important political leverage in the region. EU membership conditions include the creation of a stable, professional and accountable administration, which should provide incentives to Central and Eastern European governments. However, the EU has been far from consistent in the signals it has sent to the candidate states. The re-orientation of PHARE assistance towards the development of sectoral administrative capacities through twinning arrangements between candidate states and member states, could be interpreted by governments in the candidate states as an indication that general administrative capacities are of less importance than the creation of technical capacities to implement and enforce the *acquis communautaire*. The Commission has shown awareness of the potential dangers inherent in this approach and has continued to put pressure on candidate states to create a stable and professional civil service. However, if some financial support for general administrative development is not continued, there is a strong likelihood that the concerns about the development of sectoral capacities will move the development of a professional and coherent administration further down the political agenda.

Other institutions, in particular the World Bank and the IMF, have also increasingly put pressure on Central and Eastern European governments to give more priority to administrative development. The interest of the World Bank, and to a lesser degree the IMF, in promoting public administration development is still quite

recent and it is too early yet to predict to what degree these institutions will be able to have a significant impact in this area. However, it should be noted that the work of the World Bank in particular has generally focused on improving management in public administration, rationalising central government structures²⁷ and the development of fair and sustainable reward systems. These are some of the core issues identified earlier on as crucial to the success of public administration development. In this respect the work of the World Bank has the potential to become a catalyst for administrative development in years to come.

The other two factors which could contribute to the successful implementation of administrative development processes, i.e. long-term consistent policies, backed by strong politicians, and the use of a well-balanced set of reform instruments, certainly do not apply in Central and Eastern Europe.

As regards continuity in policies, voters have virtually on every occasion thrown out the government in office, which certainly does not stimulate the development of consistent policies over a long period of time. This affects administrative development policies in particular, since these are not 'vote-winning policies'. As an aggravating factor, political party systems remain highly polarised, which further reduces the potential for continuity in policies. Interestingly, this appears to affect economic policies (where there generally is a certain degree of continuity even when governments change) much less than administrative development.

However, the reversal of administrative development measures, strategies and even laws remains common practise throughout the region, including states which were considered to have overcome the high level of adversity deemed characteristic for states in transition or in the early stages of consolidation. The absence of long-term policies to stimulate administrative development therefore does not need to come as a surprise.

The use of a well-balanced range of reform instruments, a fourth potentially positive factor, also lacks in Central and Eastern European states. In terms of public administration development, politicians seem to have misunderstood the term 'Rule of Law' as 'Rule by Law'. The adoption of laws has so far been the main and sometimes the only administrative development tool. Where administrative development strategies have been adopted, they are often little more than a framework for a package of laws. The problems with this type of approach to administrative development is that (i) the value of laws as a reform instrument depends heavily on the quality of their implementation, and that (ii) laws do not change mentalities. The serious problems that have arisen with the implementation of laws were already discussed earlier on, and these implementation problems have certainly reduced the value of law as a reform instrument. In terms of changing mentality, the development of well-integrated training systems, which could be a core instrument in attempts to change mentalities, is conspicuously absent in almost all Central and Eastern European states.²⁸ The development of innovative incentive systems, a second way of stimulating a change of mentality, has not yet been started, in part due to a lack of resources, but also because this

goes against the still prevailing egalitarian mentality in many Central and Eastern European states. For the time being, administrative development strategies rely on the adoption of laws and the gradual replacement of older staff by new recruits. Under a continuation of this approach, it will take a generation to build new administrations.

The over-reliance on laws as reform instruments would not come as a surprise to those who have studied Central and Eastern European tradition. Most states have a strong legalistic tradition, based either on the German, Austrian or, to a lesser degree, the French model, and stemming from the pre-World War II period. The approach of the previous regime (creating legitimacy through law) has strengthened, rather than weakened the legalistic bias. The EU, which also focuses very much on legal requirements for membership, has, perhaps involuntarily, strengthened this bias towards using legal instruments in administrative development. It is important that advisers to Central and Eastern European governments put more emphasis on the development of a multi-instrument approach to administrative development, stressing the importance of law as one but not the only reform instrument. The formation of multi-disciplinary reform teams would be an important step in this direction.²⁹

3.3.2 THE PRESENCE OF 'INTERFERING VARIABLES'

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If we then turn to the factors which can hinder the implementation of a successful administrative development policy, one can find these strongly present. Reform strategies are often designed by outsiders, in many cases foreign consultants, with little or no input from the administration.³⁰ This was true in particular where the development of such strategies was done under PHARE projects. Furthermore, they are in many cases based on approaches which have been tried and tested in West European states, and have not been sufficiently adapted to local conditions. Finally, they tend to be developed without consulting the administration, which has proven to be a recipe for failure in a number of OECD states in the past. Considering these three points, it might come as less of a surprise that administrative reform strategies remain 'paper tigers', with little impact.

The adoption of laws, the second element of central government reform efforts, has also had a limited effect so far. Politicians have developed ways to limit the impact of civil service laws, to ensure that they keep their 'right of interference' or 'right to the spoils'.³¹ Loopholes in laws have been used extensively, new governments have halted the implementation of laws, or laws have simply been interpreted according to the wishes of a new government, making them virtually useless. The long period of time over which the implementation of civil service laws, for instance, has been spread in Poland and Latvia, led to a significant difference between the original objective of the civil service laws in these states and the (likely) final result of their implementation, if they had been implemented at all.

The fact that reforms are still almost exclusively based on law makes reform failure easier to understand. The application of a mixed strategy to bring about reforms, relying on legislation as well as training and the creative use of incentive systems, would certainly have had more significant effects.

There are obviously politicians and senior officials that have tried to win their colleagues over to the cause of administrative development. However, these potential 'champions of administrative development' have in most cases not been in a sufficiently strong position in the government or the administration to allow them to push through their reform agenda.³² This is both due to the short-lived nature of many governments in Central and Eastern Europe, which stimulates short-termism, and due to the still prevailing deep political polarisation, which makes politicians reluctant to work with civil servants appointed by 'the other side'. The relative lack of support for potentially influential external actors has often left these 'champions of administrative reform' even more isolated.

3.3.3 LIMITED PROSPECTS FOR RAPID IMPROVEMENT?

The main causes for the very limited achievements in administrative reform at central government level are multiple and complex. A lack of political commitment, political polarisation, mixed signals from external institutions which could make a difference, an inheritance of partisanism and politicisation, and the lack of innovation and creativity in using reform instruments stand out as the main causes of 'reform failure'. The next question is obviously how change can be brought about.

Criticising Central and Eastern European governments for their failure in improving central administrations is as easy as finding viable alternatives is difficult. The complex reasons why reforms have failed to produce good results are difficult to address. For instance, it is clear that politicians need to be convinced of, one could even say 'converted' to, the idea of a professional administration. This remains one of the keys to a process of successful development of professional and impartial central administrations. However, even if one could enthuse the politicians currently in government and parliament by means of training and providing information, the considerable turnover among parliamentarians would still make it difficult to find a long-term solution for this problem. Building a 'political culture' which accepts the idea of an impartial public administration has taken decades in most European states. Re-introducing the concept to societies which have had impartial administrations in the past (at least to some degree) might take less time, but still more time than is available until EU membership will be a reality.

A much hoped for reduction in political polarisation in the medium term would speed up the process of making permanent and professional administrations acceptable to politicians not only in theory but also in practise. However, at the

current time there are few indications that polarisation is actually decreasing. Politics in most of the EU candidate states has become more, rather than less, polarised.³³

A change in reform instruments, a second measure to be considered, might seemingly be easier to bring about. Using training as a reform instrument, for instance, does not appear to be a controversial issue. However, for a variety of reasons it is unlikely that there will be a considerable change in the use of reform instruments. First, the EU membership requirements still focus primarily on the adoption of laws and regulations, even though more attention is devoted to training in the Progress Reports of 1998 and 1999 than in the Opinions of July 1997. Second, whereas the adoption of laws is relatively 'cheap', the investment required to develop sustainable training capacities would be considerable. This also explains in part why the adoption of laws as such has not led to serious changes: implementing laws does require budgetary means, which very often are not made available. The EU has in recent times devoted increasing attention to implementation records, which might help bring about a change in focus among politicians in the candidate states. However, the real impact of laws remains doubtful as long as they are being adopted for the sake of meeting external requirements rather than out of internal commitment.

Finally, the possibility in generating pressure by involving citizens should not be neglected. Raising public awareness of citizens' rights vis-à-vis the administration and marketing reforms is an often neglected but important tool in moving ahead in Public Administration Reform. Reform-oriented politicians should be encouraged and assisted in using this instrument, which, however, can only work in combination with the other methods discussed in this section.

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The above arguments might lead one to conclude that the results of central government reform might remain limited in the foreseeable future. There are indeed serious issues to be addressed regarding the development of new central government systems in Central and Eastern Europe, two of which were briefly discussed in this section. However, adopting a different approach to supporting administrative development from the outside might help in 'making a difference'. The complex issues at stake in central administration development cannot be addressed by imposing formal EU requirements or by designing short-term support actions, with a focus on law drafting and one-off training activities. What would be required instead is a policy of coaching and supporting reform-oriented politicians and experts to bring about gradual change, both in attitudes of politicians and in the way administrative development is carried out. It is important to start looking at public administration 'reform' as a process of development and to think of long-term strategies, rather than short-term measures. Even though short-term pressures might make it difficult to win acceptance for such an approach, it remains, in my view, the only way forward if Central and Eastern European states are to develop sustainable high quality central administrations.

NOTES

- ¹ This is a specific term often used to indicate institutions and processes in member states which are used for the preparation of national positions and the implementation of EU decisions. In the context of the candidate states these structures are being developed for future participation in the EU policy process, but are currently used to manage the European Integration or accession process.
- ² With the exception of the constituent states of the semi-federal member states, Austria, Belgium, Germany and Spain, which, however, are not generally considered 'local self-governing authorities', as they have wide legislative powers.
- ³ The NISPACE Annual Conference provides one of the main platforms for academic discussion on developments in public administration in Central and Eastern Europe.
- ⁴ The opinion on Slovakia was negative while the opinions on Bulgaria and Romania speak of development in the right direction. On the other states the opinions were generally positive.
- ⁵ The main exception is Hungary.
- ⁶ Based on material collected for the comparative study of civil service systems in Central and Eastern Europe referred to above. The number of citizens expressing trust in the central administration varies between countries, but in the nine states dealt with in the study (Estonia, Latvia, Lithuania, Poland, Slovakia, Hungary, Bulgaria, Russia and Yugoslavia) confidence ratings never exceeded 40%, with a low of 10% in Russia.
- ⁷ In Latvia the process has not yet been completed.
- ⁸ Interestingly, this was not so much the case after the previous elections.
- ⁹ All employees of the central administration became civil service candidates under the law and were supposed to undergo training courses and pass an examination before they could become civil servants.
- ¹⁰ The provisions of the law made it rather easy to make changes in the division between political and career positions, which was used by the incoming government in Autumn 1996 to bring about significant changes in the administration.
- ¹¹ Even though the law is completely new, it still relies on the German/Spanish model for organising the politico-administrative interface.
- ¹² Under the 1994 civil service law all officials in the Latvian administration were civil service candidates.
- ¹³ For instance, Chancelleries, Prime Minister's Offices, Cabinet Offices or Council of Ministers' Offices.
- ¹⁴ [Hhttp://www.oecd.org/puma/sigmaweb/acts/cogprofs.html](http://www.oecd.org/puma/sigmaweb/acts/cogprofs.html).
- ¹⁵ As an example, in-depth reviews of European Integration policy co-ordination systems in three Central and Eastern European states, carried out by SIGMA in 1998, confirmed that there is still a high degree of reluctance among politicians to 'decentralise' policy co-ordination.

- ¹⁶ In most cases these ministerial committees can take decisions on operational issues, but not on any issues with legal implications.
- ¹⁷ Ibid.
- ¹⁸ This committee acts as an advisory body to the Minister of Foreign Affairs.
- ¹⁹ Bulgaria, Slovakia, Hungary, the UK, France, Ireland, the Netherlands, Australia and New Zealand (1984-1990 only).
- ²⁰ For instance, the Fulton Reforms in the UK, the Devlin Reforms in Ireland, reform attempts in the Netherlands in the early 1970s, but also several reform projects in France (see Keraudren in Verheijen and Coombes 1998).
- ²¹ A point clearly taken to heart by Margaret Thatcher, who in the initial phase of the UK reforms refrained from using laws as an instrument. The New Zealand experience of 1984-1990 shows, however, that the use of laws, as part of a well-designed reform package, can produce the desired results.
- ²² The cases of Australia and New Zealand provide a good illustration (see Schwartz 1996).
- ²³ Under the condition that the external actor has some leverage (for instance conditionality of financial assistance or membership of the organisation) and this leverage is used consistently and over a long period of time.
- ²⁴ On the nature of administrations under the previous regime, see for instance Josza (1988).
- ²⁵ Under consideration, for instance, in Latvia, where the number 'civil service' posts is unlikely to be higher than some 200.
- ²⁶ Considering, for instance, the cost of pensions.
- ²⁷ In particular in Latvia.
- ²⁸ Exceptions are Poland and Latvia. The Polish School of Public Administration is an integrated part of the Polish administration. However, this school is still too small and not sufficiently integrated to have a fundamental impact. In Latvia, basic training for all civil servants was an element of the administrative reform strategy. However, the Latvian programme was cut significantly after the change of government in 1997.
- ²⁹ I owe this point to Michal Ben-Gera, former Head of Policy-Making, Co-ordination and Regulation at SIGMA.
- ³⁰ The Bulgarian administrative development strategy provides an interesting counter-example in this respect. It was developed by a group of Bulgarian consultants (STRATEGMA), with limited foreign input.
- ³¹ See the section on civil service laws for examples.
- ³² This has been the case in Latvia, to a lesser degree in Hungary, but also, for instance, in Romania.
- ³³ The attempts of incoming governments in Bulgaria (admittedly a special case), Poland and Hungary in 1997 and 1998 to 'convert' administrations by means of dismissals, using loopholes in laws etc. shows the still deeply seeded sense of suspicion between political forces.

4 WAYS OF DEALING WITH DEFICIENCIES: A REVIEW OF ALTERNATIVES

Central and Eastern European candidate states will face difficulties in completing their administrative preparation for EU membership in time. With the notable exception of Hungary, candidate states have made too little progress in public administration development, which has proven to be a highly complex and difficult process. The legacy of the previous regime, which wiped out any notion of an impartial and professional administration, combined with the continuing high degree of political polarisation, the lack of creativity in using reform instruments and a lack of financial resources are the main hindrances to the development of the high quality systems of public administration needed for effective participation in the EU political system.

The EU itself has started using general administrative capacity requirements late on in the accession process, and the current emphasis on sectoral capacity requirements will make it less likely that all candidate states will be able to develop their overall administrative infrastructure in time for accession. Furthermore, it is perceived unlikely by candidate states that any state will be denied accession to the EU for deficiencies in the overall system of public administration. As long as key economic and political criteria are met and the most crucial sectoral administrative enforcement structures are put in place and the EU manages to reform its own structures, it is likely that states will gain accession even if general administrative capacities are insufficient.

4.1 THE INDIRECT EFFECT OF ADMITTING MEMBER STATES WITH DEFICIENT ADMINISTRATIVE SYSTEMS

It might not be obvious at first glance why the lack of professional administrations would pose problems for the EU as a political system. The general perception is that it will mostly be the candidate states themselves that will suffer directly from a lack of adequate administrative capacities. This view is reflected in a way in the prevailing attitude at the European Commission, which is that the general improvement to administrative systems is a matter for the candidate states themselves, to which the EU is not prepared to make a significant financial contribution. As a result the EU is concentrating heavily on addressing those problems which might have a direct impact on the EU system, such as internal and external financial control and audit. Thus the fact is ignored that the impact of the accession of states with insufficient general administrative capacities on the EU system can nevertheless pose serious problems to the effective functioning of the EU, even if the impact is of an indirect nature. Two issues are of importance in this respect:

- 1 to what degree could the possible impact of the accession of states with insufficient administrative capacities affect the principle of mutual trust between member states?
- 2 to what degree could a lack of administrative capacities lead to the accession process having a longer term negative impact on the level of economic development of (some of) the candidate states?

4.1.1 ADMINISTRATIVE CAPACITIES AND THE PRINCIPLE OF MUTUAL TRUST

One of the key principles underlying the mode of operation of the EU system is mutual trust between member states in each other's institutions. The mutual trust between member states has come under significant pressure in recent years, due to capacity problems in some member states as well as to the tensions created by the BSE crisis and its aftermath. However, it remains an important principle of EU co-operation. Mutual trust in the EU context has several aspects, two of which deserve special attention in the framework of this study:

- the assumed ability to play the EU decision-making 'game';
- the assumed national capacities to deal with the workload generated by policy implementation requirements.

In both areas the entry of a large group of states with inadequate general administrative capacities could pose a threat to the functioning of the EU.

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In relation to the first aspect, it is important to highlight the specificity of this 'game'. Participation in EU decision-making poses highly specific requirements: it necessitates much faster action of civil servants and politicians than policy-making at national level and presumes the presence of good networking and coalition building capabilities. Even new member states with highly developed administrations, such as Sweden and Austria, faced problems operating inside the system in the first months after accession. In this case it affected not so much the EU system, as both states adapted rapidly to the requirements, but rather the new member states, which were unable to influence EU decision-making adequately. However, the entry of a larger group of states which would be unable to 'play the game' and that would face problems for a longer period of time, would jeopardise the EU decision-making system.

There are two main risks in relation to this point. First, if a large group of states would be consistently outvoted or sidelined, due to their inability to adequately prepare national positions, this could lead to these states being less than enthusiastic about fulfilling their implementation tasks. It is true that there are states like the UK and Denmark which have been repeatedly outvoted in the past, but this has been due rather to political differences over the direction in which the EU should move than to a lack of administrative prowess. It is also a more or less accepted aspect of participation in the EU system for these states given their political and administrative culture in which decisions agreed to at EU level would

be implemented as a matter of principle. This type of political and administrative culture is not present in the current candidate states. A go-slow attitude on policy implementation tasks would widen the divergence in implementation rates between member states, putting serious pressure on the functioning of the Internal Market in particular.

A second, and more serious, risk is a collapse of the 'filtering system' of Working Groups and COREPER. States are generally expected to express a consistent position throughout the decision-making process, i.e. positions taken in Working Groups and COREPER I and II are considered a commitment and are expected to be respected in meetings of the Council of Ministers. The participation of a large group of states in the system that would not respect this 'rule of consistency'¹ could easily bring the decision-making system to a standstill. In this respect it is important to note that one of the weakest elements of administrative systems in Central and Eastern European states is exactly the lack of delegation inside the system, which leads to too many matters of detail appearing on the agenda of national Council of Minister's meetings. This last point is the crucial point of difference between the candidate states and some of the member states, such as the Netherlands, that might also suffer from fragmentation in the central administration, but that nevertheless have adequate 'filtering' mechanisms in place that prevent an overload of the cabinet agenda. Furthermore, the 'rule of consistency' is generally adhered to by these member states, regardless of weaknesses in internal co-ordination.

Obviously, the expected long duration of the negotiation process might already lead to a gradual adaptation of national capacities and processes in the candidate states, as this will be an important learning process for their administrations and politicians. Problems of this nature can certainly be avoided, as long as they are acknowledged and addressed in a timely manner. Currently, however, there seems to be too little awareness in the EU of the need to try to take up this type of potential problem before accession. It is therefore important that the issue of the operation of the filtering system in Working Groups and COREPER is put on the agenda of the upcoming IGC, and that procedures and working methods are reviewed and streamlined to allow for more effective decision-making. Simultaneously, a process of coaching and persuasion should be started with the candidate states to ensure that effective policy co-ordination and filtering mechanisms are put in place in their administrations.

The second aspect of mutual trust is the ability of member states to deal effectively with the policy implementation generated by EU membership. It is true that this mostly relates to sectoral capacity development in relation to enforcement structures. In this area adequate progress would have to be made before accession, as this could be a potential reason for the postponement of accession. However, a second aspect of EU policy implementation is the degree to which member state administrations have the capacity to absorb the workload generated by EU mem-

bership.² Deficiencies in this area would almost certainly not be a sufficient reason to postpone accession. It is important to note that a number of member states are already facing problems in coping with this workload. The entry of new member states with inadequate administrative capacities would thus come on top of the already ongoing erosion of the principle of mutual trust inside the EU system.

The policy implementation related problems in the EU political system have two main causes. First, the increasing pressure of EU obligations on member state administrations, due mainly to the tasks arising out of the operation of the Internal Market, has created difficulties for a number of the member states. The gap between best performing and worst performing member states, if measured in terms of transposition records and the number of infringement cases, has not narrowed significantly.³ This has created occasional tensions between member states. Second, the inability of the Commission to properly fulfil its role as the 'guardian of the treaties' has been exposed ever more clearly in recent years. The problems in the Commission, which are well-documented,⁴ are due to internal organisational problems, a lack of human resources (or, as some would argue, the availability of the wrong type of human resources⁵) and a far from optimal relation with member state administrations.

4.1.2 ENSURING COMPATIBILITY BETWEEN EU ACCESSION AND ECONOMIC TRANSITION

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A second key administrative capacity related issue for the candidate states from Central and Eastern Europe is the administrative ability to ensure that the EU accession process and the economic transition process are mutually reinforcing processes. This question relates mostly to the sequencing of *acquis* implementation. The *acquis* implementation agenda set by the European Commission is largely driven by internal EU concerns. It certainly does not take into account the specificity of the economic transition process, which is still ongoing in many of the candidate states. Sequencing the adoption and implementation of the *acquis* in a way which does not take full account of this reality is potentially damaging for the economic development process in the candidate states.

Sequencing the adoption and implementation of the *acquis* in a way that takes account of the specific economic transition context requires the development of capacities at government offices or European Integration units to analyse and assess the impact of following the implementation agenda as proposed by the European Commission. Such capacities are currently not developed in the candidate states. The absence of this specific element of administrative capacity might at first glance appear to be mainly the concern of the candidate states. However, the economic consequences of a 'mismatch' between preparation for EU accession and economic transition policies would most likely become visible only once states have actually joined the EU. This would have a potentially destabilising effect, not only on the new member states concerned, but also on the EU as a whole.

In view of the above, it is vital to look for ways in which these potential problems can be averted, as they are likely to come on top of much more direct and visible pressures which enlargement with ten Central and Eastern European states are certain to create.

4.2 POSSIBLE WAYS OF AVERTING THREATS TO THE EU SYSTEM

We can assume that at least some of the candidate states will enter the EU without having fully completed the administrative capacity building process, at least as far as the development of the overall system is concerned. This will add to the already existing pressures on the EU as a political system, as some of the current member states still face problems in meeting administrative capacity requirements posed by EU membership. It is therefore not only important to reflect on how to deal with the possible consequences of enlargement for the way the EU functions, but to think of ways in which the EU as an overall administrative system can be made to function more successfully as well. Therefore this section has been divided into two parts. The first section will assess ways of dealing with the possible problems posed by Eastern Enlargement, while the second section will reflect on how to address the problems of the EU administrative system as a whole.

4.2.1 WAYS OF ADDRESSING REMAINING ADMINISTRATIVE DEFICIENCIES

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The potential problems posed by the Eastern enlargements were set out above: they relate both to participation in the EU decision-making process and to the ability to cope with the administrative workload generated by EU membership.

In relation to the first problem, the main improvements required relate to internal policy flows and co-ordination capacities, which in turn depend on improved mutual confidence between civil servants and politicians. These are among the most difficult issues to tackle in any administrative reform processes, since they require changes in administrative culture. A full implementation of civil service laws, if carried out, might gradually lead to increased levels of mutual confidence, even in those states where politicisation has been most profound. Although this will be a long-term process, improved mutual confidence is a *conditio sine qua non* for the implementation of reforms to the policy formulation system.

There is ostensibly not much the EU or member states can do to force more rapid improvements in this area, apart from continuing to stress the need for an effectively functioning administration as a requirement for membership. However, as has been said before, this is unlikely to make much of a difference. For, general administrative capacity requirements are not expected to be a stumbling block in the accession process. It is also unlikely that the EU decision-making system itself will

undergo fundamental changes in those areas which are likely to be most affected (the process of preparation of Council of Minister's meetings through Working Groups and COREPER).

The best and maybe the only possible way of stimulating progress in this area is therefore the application of coaching and persuasion methods. It should be stressed that interventions and assistance in this area should come from member states primarily or exclusively. Only member states can possibly persuade candidate states of the need to have their internal policy processes in order before membership and provide the necessary assistance to achieve this. Commission pressure in this area would simply lack the necessary credibility. Member states could offer assistance to candidate states in the form of exchanges, both to (junior) politicians and top officials, by placing them in EU units and core policy departments in ministries. Member states should realise above all that in the end it is in their own national interest if they intervene in this particular area. This is really a necessary investment.

In the area of capacities to cope with the workload generated by participating in the EU system more instruments can be applied. For example, the European Commission could be provided with more extensive control capacities during a transition period, to be defined in the membership negotiations. The most radical method one could foresee is the Austrian approach to dealing with capacity problems in the Austrian states. If Austrian states are unable to transpose directives or adopt administrative measures in time to meet EU deadlines, the federal government can 'take over' these responsibilities. However, it is hard to imagine that such a method could be applied in the relation between the Commission and a sovereign member state, even for a limited period of time, since this would most likely be considered an unacceptable infringement on sovereignty. Ways of making the Commission more effective in supervising member states are best discussed in the overall context of EU institutional reforms and not in terms of the development of special transition arrangements for new member states.

The method of active 'coaching' by individual member states in the period leading up to membership, as discussed above, could obviously be applied to this area, too. In general, member states should play a much more active role in assisting candidate states in their preparation for membership than has been the case in previous enlargements. The multilateral assistance provided by the Commission will not attend to these general problems related to administrative capacity requirements effectively. It is in the interest of member states themselves to work with candidate states on their entry into the EU system, both through active coaching, advice and persuasion. This requires a change in approach and attitude in member state administrations and governments, which have to be convinced that the present enlargement process cannot be managed by tried and tested methods from the past.

Finally, it is important to start a process of mutual confidence building between member states, candidate states and EU institutions. It is true that candidate states will still have to 'travel' a long way to get their administrations in good shape for EU membership. Much will depend on the internal ability of the candidate states to implement difficult reform measures. Nonetheless, this process could be stimulated if the current general attitude of suspicion in member states, among politicians and citizens, is transformed into a more positive, supportive attitude.

The growing atmosphere of suspicion in many member states is not conducive to the development of successful reform process in the candidate states. Regardless of the – in many cases – slow pace of reform in public administration in candidate states there has been a gradual progress in the administrative capacity development. The best way to stimulate this progress is encouragement and support, not by adopting a sceptical and formalistic attitude. Politicians and officials in this respect have a duty to counteract the growing scepticism among citizens, rather than to fuel this rather worrying trend.

4.2.2 ADDRESSING ADMINISTRATIVE CAPACITY PROBLEMS AS PART OF AN OVERALL ADAPTATION OF THE EU ADMINISTRATIVE SYSTEM

The application of tailor-made solutions to the specific administrative capacity-related problems that could be generated by the Eastern Enlargement could possibly address the most problematic aspects of this process. If member states actively engage in coaching and persuasion work and the Commission's supervision capacities can be strengthened, a sufficient level of mutual trust could most likely be maintained. However, the administrative capacity problem is not merely an accession-related issue. The EU system has been under a period of consistent pressure, and in part this has certainly been due to the divergence in administrative performance of member states, as well as to the chronic under-performance of the Commission in its management and supervision tasks. Therefore, it will not suffice to deal with the specific problems generated by the Eastern Enlargement alone. The current enlargement process both provides the opportunity for and creates the necessity of re-thinking the administrative capacity requirements to EU membership and how these could be better defined and monitored. Two possible options could be considered here:

- 1 the creation of an 'administrative acquis';
- 2 the redefinition of the relation between the Commission and the member states.

These would best be applied in combination

Defining an 'administrative acquis'

In the introduction to this paper the process of defining administrative capacity requirements for EU membership was discussed. The general administrative capacity criterion has been applied in the current round of enlargement for the

first time. A first real attempt of defining general administrative capacity criteria was completed with the definition of the 'baselines for administrative capacities' for the preparation of the 1999 Regular Reports on Progress. With the increasing importance of the EU, the need for achieving a certain degree of convergence in administrative capacities has become ever more obvious. Differences in administrative capacities can now directly affect competitiveness in the Internal Market, especially inside the 'Eurozone'. In addition, the perceived administrative underperformance of some member states has created increasing tensions in the EU system. The definition of minimum general administrative capacity requirements therefore seems to be an issue of general significance for the future development of the EU.

In view of the above, it would be desirable to test the feasibility of defining an 'administrative acquis', possibly based on the assessment criteria defined for the enlargement process. Obviously, it is not possible to adopt regulations or directives on administrative capacity requirements, as this would certainly be unacceptable to member states and would in any case violate the principle of subsidiarity. However, the creation of a charter of administrative capacity requirements, developed through a bottom-up process and agreed between the member states, could provide the necessary supplement to the mutual trust that governs the operation of the EU as a political system.⁶ Mutual trust is unlikely to continue to prevail automatically in a system involving 28+ very diverse member states, which might call into question the viability of the EU system. The creation of a charter of administrative capacities, as an instrument of 'soft law', is a workable antidote to this likely erosion of mutual trust. Indeed, 'soft law' or 'benchmarking' is probably the only acceptable form of interference in what will continue to be viewed as an exclusively national area. An administrative capacity charter would contain those values shared between European states⁷ and would be implemented through a mechanism of peer review, with related reporting requirements. It would constitute a logical follow-up to the definition of minimum requirements carried out in the enlargement process.

Re-defining the relations between the Commission and member state administrations

The second, and more obvious, element of the necessary process of 'refurbishing' the EU as an administrative system is the re-definition of the relations between the Commission and the member states. The relation between the Commission and member state administrations mainly remains a 'core-periphery' relation, as defined by Metcalfe (1993), based on a legal assessment by the Commission of member state measures to implement EU decisions.

The limits of the legalistic bias in the relation between the Commission and the member states have been clearly exposed in recent years. Legal controls have done little to prevent fraud with EU funds in member states and there is little sign of significant improvement in member state implementation records. Maintaining

the same system in an EU of 28+ is likely to bring about the collapse of the EU political-administrative system. A review of the role of the Commission and the member state administrations in EU policy implementation and a re-definition of the patterns of interaction between them is therefore a necessity.

One option is to increase the role of the Commission in policy implementation, providing the Commission with agencies to carry out implementation in certain areas. Unfortunately the limited experience with direct Commission implementation of policies, mainly through the agencies established in 1993, has been far from positive. This is mainly due to the aforementioned bias towards policy development and the limited management and supervision capacities at the Commission. A successful application of the agency model to the European Commission would require a fundamental change of orientation at the Commission. As the experience in several member states with the implementation of a policy implementation system based on policy delivery through agencies has shown, this is by no means impossible to achieve. Furthermore, if there were an agreement on more direct policy implementation by the Commission, this could be taken into account in the current process of internal reform in the Commission. Changes in the recruitment and promotion systems would certainly be required. Needless to say, rapid decisions in this direction would have to be taken in the framework of the upcoming IGC. Additionally, the question arises in what areas direct implementation powers could be granted to the Commission. Some of the regulatory management tasks, now carried out by member states and supervised by the Commission, might be considered, as well as programme implementation tasks. This could alleviate some of the pressure on member state administrations, but at the same time would require an increase of staff at EU level, which can only be funded out of increased budgetary means that are unlikely to become available to the EU. These are just some of the obvious problems that would have to be addressed if there were to be a move towards more direct implementation⁸. It is an option, however, that merits further study.

A second alternative approach, as outlined by Metcalfe (1992, 1993, 1995) is to bring about a change in the *nature* of relations between Commission and member states, in other words, to change the nature of the system from a centre-periphery to a pluralist system. This would require the Commission to become a network organisation, forging co-operative relations between member state administrations as well as between these administrations and the Commission. Implementation of regulations and directives would thus become a co-operative process, in which the Commission would act as a facilitator as well as a supervisory body, instead of dealing with control and supervision mainly. The Commission would have to enhance its capacities to properly inform, brief and, in particular in new member states, coach national administrations in the implementation of policies, above all in the area of transposing directives. In any event, exercising effective 'punitive' control over 28 member states in the same way as has been the practise

so far is certainly going to be an impossible task for an organisation which failed impressively in its monitoring and supervision tasks in recent years.

The change in the operation of the EU administrative system, from hierarchy to co-operation and networking, will require a change in attitude and mentality in both Commission and member state administrations. The potential administrative capacity problems related to the enlargement process provide an opportunity to address structural problems in the relations between the EU and member state institutions. These are much less a problem of the division of competencies between member states and the EU than of the nature of the overall policy-making system. An in-depth reflection on options to alter the policy implementation system is in this respect even more important than the debate on the decision-making process. A reflection on the reform of the policy implementation system should consider both the 'agencification' option as well as ways in which the role of member states and the Commission in the implementation process can be altered.

4.3 FINDING AN OPTIMAL MIX OF MEASURES

The potential problems of Eastern Enlargement are best addressed within the framework of an overall process of re-orientation of the EU as a political and administrative system. An active and intensive process of coaching, persuasion, advice and assistance by member states might be sufficient to address the potential dangers arising from the entry of a group of new member states, a majority of which might not have completed the necessary administrative preparation process. There are indirect but potentially serious risks to the decision-making process as well as to effective policy implementation, which could further erode the mutual trust which has generally characterised the EU. This is true all the more if one takes into account the increasing pressure on levels of mutual trust inside the EU system in recent years.

There is a need to enshrine and supplement this mutual trust as well as to review and adapt the way the EU functions to the requirements of a deepened and enlarged Union. In addition to the need to coach, persuade and assist candidate states, there is therefore a need to adopt a set of minimum standards that administrations of member states should meet. Such a set of standards should be based on shared administrative values. It could be adopted on the basis of common agreement by member states and implemented through a peer review system.

More importantly, it is necessary to change the way the EU system operates from a hierarchical, legalistic mode of operation to a co-operative networking system. This might sound like a daunting challenge to those who know the EU system. A challenge, however, that should nevertheless be taken up if the EU is to continue to function relatively smoothly with a membership of 28+ highly diverse states.

NOTES

- ¹ Obviously there are member states that do not at all times respect this informal principle, but it is generally viewed as desirable.
- ² This ranges from the transposition of directives, through the reporting requirements on technical regulations, to the monitoring and supervision tasks related to the implementation of agricultural, regional and social policy.
- ³ The gap between best and worst performing member states, as published in the Commission 'league tables' remains 8-9% in terms of directive transposition records and significant differences remain in the number of infringement cases brought against member states.
- ⁴ See for instance, Comité van Onafhankelijke Deskundigen (15-3-1999), *Eerste rapport over beweerde gevallen van fraude, wanbeheer en nepotisme bij de Europese Commissie*.
- ⁵ The recruitment system of the Commission continues to be geared towards the recruitment of candidates with good analytical and policy development qualities, while management and networking capacities are in fact some of the key qualities required if the Commission is to effectively fulfil its role of 'Guardian of the Treaties'.
- ⁶ The Dutch government started a process of discussion on the issue of public administration development and European Integration during the last Dutch Presidency in 1997, in particular through the organisation of a conference involving member states and candidate states, which was expected to be followed up under the British presidency. However, the British presidency did not prioritise this issue and no follow-up was given to the initiative.
- ⁷ For one approach to the definition of common values, see SIGMA paper 27, *European Principles for Public Administration*.
- ⁸ Other problems would be the reform of the Comitology system, and the increase in control capacities and powers of the European Parliament.

5 CONCLUSIONS

The fulfilment of general or horizontal administrative capacity requirements is one among many criteria for EU membership and a relatively minor issue if compared to the democracy, market economy and *acquis* implementation capacity criteria. Nevertheless, it is important to reflect on the implications that the accession of ten Central and Eastern European states will have on the EU system. General administrative capacity requirements are possibly the last area in which EU membership criteria were developed, since this is a completely new area for the EU. The relevance of this criterion was acknowledged only relatively late on in the pre-accession process. A new assessment system, consisting of a set of baselines, was tested for the first time in the preparation of the 1999 Regular Reports on Progress, and is likely to be the basis also for future assessments.

Administrative capacity assessments have generally produced a picture of lack of progress, regardless of statements of intent, reform strategies and even adopted legislation. In the last three assessments of candidate states only Hungary was generally assessed as having made sufficient progress to meet the administrative capacity criteria in the short to medium term.

A comparative review of the development of administrative capacities in candidate states also paints a sombre picture of general lack of progress. The review took into account three key elements of administrative development:

- 1 civil service legislation and civil service policy;
- 2 the development of civil service training systems; and
- 3 structural reform of policy processes, including the construction of modern accountability systems and dedicated structures for the management of EU affairs.

Administrative development in Central and Eastern Europe is a highly complex issue, due to a combination of a negative legacy in terms of public administration left by the previous regime, a general lack of financial resources for investment in administrative development and a continuing high degree of political polarisation.

The entry of a large group of new member states with inadequate administrative capacities can pose threats to the EU as a political and administrative system, in particular to the decision-making system and the policy implementation system. In order to prevent these potential problems from bringing the EU system to a standstill, a set of actions should be considered for implementation.

First of all, member states should engage in a concerted set of actions to persuade and assist candidate states in improving policy processes and administrative quality. This should go beyond the type of assistance provided under Commission assistance programmes, which will not be sufficient to address these more general capacity problems.

Secondly, member states should work on the development of an agreed set of standards for administrative capacities, which should apply to all member states and should be implemented through a process of peer review.

Finally a concerted effort needs to be made to change the EU's policy implementation system, in particular by putting relations between the Commission and member states on a new footing. This is urgently needed, in order to prevent the inevitable collapse of the current system of monitoring and supervision. Two options to be considered and studied in this respect are:

- 1 the extension of direct implementation in some areas in which the EU has exclusive, or even broad, competencies; and
- 2 changing the implementation process, ensuring more constructive interaction between Commission and member state administrations in the transposition of directives and the implementation of other policy measures.

The adoption and implementation of a package of actions of this nature would pave the way for an EU of 28 or more member states that could function effectively as a political and administrative system.

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