MEDNARODNA REVIJA ZA JAVNO UPRAVO

International Public Administration Review

Univerza *v Ljubljani*
Fakulteta *za upravo*

Letnik 13, številka 2, junij 2015
Volume 13, Number 2, June 2015

ISSN 2335-3414 (printed ed.)
ISSN 2385-9717 (on-line ed.)

Mednarodna revija za javno upravo je znanstvena revija, ki združuje različne discipline, povezane z javno upravo. Obravnava teoretična in praktična vprašanja ter rešitve s področja javne uprave, upoštevajoč upravne, pravne, ekonomske, organizacijske in informacijske vidike delovanja in razvoja javne uprave.

The International Public Administration Review's mission is to inform the expert public about theoretical and practical issues and solutions in the field of public administration, the present key trends in public administration development both globally and in Slovenia, and to inform readers of major events, consultations, meetings and publications related to public administration.

izdajatelj / publisher
Fakulteta za upravo Univerze v Ljubljani / Faculty of Administration, University of Ljubjana

naslov uredništva / address of editorial board
Fakulteta za Upravo Univerze v Ljubljani
Gosarjeva 5, SI-1000 Ljubljana
tel.: +386 (0)1 5805-500 faks: +386 (0)1 5805-521
e-pošta / e-mail: mrju@fu.uni-lj.si
spletna stran / website: http://www.fu.uni-lj.si/zalozba/mednarodna-revija-za-javno-upravo/

odgovorna urednica / editor
Stanka Setnikar Cankar

tehnično uredništvo / tehnical editor
Nataša Svržnjak

oblikovanje / design
Branka Smodiš

fotografije / photography
Mitja Kandare

prelom / text design
Anamarija Leben

lektoriranje / editing
Katarina Puc

tisk / print
Demat, d. o. o.

ISSN
2335-3414 (printed ed.)
2385-9717 (on-line ed.)

naklada / edition
70 izvodov / copies

Mednarodna revija za javno upravo je indeksirana v mednarodnih bazah / The International Public Administration Review is indexed and abstracted in
- CSA-Worldwide Political Science Abstracts
- CSA PAIS International (Public Affairs Information Service)
- ECONLIT
- EBSCO Publishing
- EGPA – PA@BABEL
- ERIH PLUS
- IBSS – International Bibliography of the Social Sciences
- PROQUEST
- IPSA – International Political Science Abstracts
- SSRN – Social Science Research Network

Revija je članica CrossRef / The journal is a CrossReff member
http://www.crossref.org/ 

Vsi članki v Mednarodni reviji za javno upravo so recenzirani. / All articles are peer-reviewed.

Revija izhaja trikrat letno, ena številka je tematska, dvojna. / The journal is published three times a year, one issue is thematic as a special double issue.

E-izdaja revije je prosto dostopna na / E-edition is available at
http://www.fu.uni-lj.si/zalozba/mednarodna-revija-za-javno-upravo/arhiv-stevilk/

Več informacij o naročnini na tiskano izdajo na / More information about subscription to printed edition at
http://www.fu.uni-lj.si/zalozba/mednarodna-revija-za-javno-upravo/narocilnica/

Uredniška politika je dostopna na / Editorial Policy is available at
http://www.fu.uni-lj.si/zalozba/mednarodna-revija-za-javno-upravo/

vsebina / contents

Uvodnik

Spoštovani

Poletna številka revije v letu 2015 prinaša zelo raznolike teme: o čezmejnem upravnem sodelovanju in dostopnosti zdravstvenih storitev v EU, o problemih koalicijskih vlad v Grčiji, o povezavi plače in zadovoljstva delavcev.

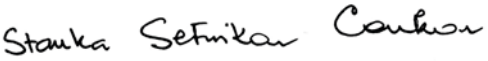
Čezmejno sodelovanje v Evropski uniji na področju upravnih zadev ima po mnenju avtorja velike možnosti za razvoj. Države se soočajo s potrebami svojih državljanov, ki jih v skupnosti brez meja znotraj EU lahko opravijo v sosednjih državah. Zato bo širitev teh možnosti odvisna predvsem od lokalnih in državnih organov in njihovega razumevanja evropskih predpisov, ki so osnova za zmanjševanje ovir za čezmejno upravno sodelovanje.

Nerešena pravna vprašanja zavirajo tudi večji obseg »zdravstvenega« turizma, ki ga omenja članek o dostopnosti zdravstvenih storitev v Španiji. Dolgotrajni in zapleteni postopki ter nenaklonjenost zdravstvenih zavarovalnic k napotitvi pacientov na posege v tujino vplivajo na počasno uveljavljanje evropskih direktiv. Podatki pa kažejo, da so bolj izobraženi posamezniki možnosti v večji meri prepoznali in jih tudi izkoristili.

Očitno je izobraženost ljudi tesno povezana z njihovimi priložnostmi v življenju, z dohodki in dobrim počutjem. Zato je pomembno upoštevati dejavnike, ki proces pridobivanja znanja spodbujajo ali zavirajo. Dejavniki, s katerimi je mogoče pojasniti individualne razlike v učni uspešnosti, so naslednji: psihološke značilnosti otrok oziroma mladostnikov, dejavniki družinskega okolja (npr. socialnoekonomski status družine, odnos staršev do učnih dosežkov svojih otrok) in širšega družbenega okolja (npr. šolska klima, izobraževalna politika, razvitost regij). Številne študije kažejo, da prav socialnoekonomski status v veliki meri vpliva na učne dosežke mladih. Običajno je določen s stopnjo izobrazbe staršev, statusom njihove zaposlitve in z ravnijo prihodkov. Pri umeščanju posameznika ali družine v družbo je odločujoča kombinacija teh dejavnikov. Avtorji, ki se ukvarjajo s področjem izobraževanja, pa nabor spremenljivk, ki določajo socialnoekonomski položaj, razširjajo tudi na družinske in starševske izobrazbene dosežke, celotne družinske prihodke, življenje v revščini, življenje v enostarševski družini, motiviranost za učenje, uporabo alkohola in drog, kriminal, komunalno okolje itd. Velik je tudi vpliv demografske ogroženosti lokalnih skupnosti na dosežke učencev, dijakov in študentov. Prvi razlog za to je nerazvitost okolja, v pomanjkanju delovnih mest in v nezadovoljivem ekonomskem položaju prebivalcev, kar privede do zmanjšanja rojstev in do migracij predvsem mlajših prebivalcev. Drugi razlog pa je družbena klima v skupnosti, ki nima zagotovljene prihodnosti in lahko zelo negativno vpliva na pričakovanja prebivalcev ter s tem tudi na njihovo uspešnost.

Podobne ugotovitve prikažeta tudi avtorici članka o plači kot motivatorju za zadovoljstvo in zavzetost zaposlenih. Članek predstavlja študijo, v kateri sta raziskovali vlogo plače pri zavzetosti, zadovoljstvu z delom in motivaciji zaposlenih na izbranem ministrstvu v času krize. Ugotovili sta, da so pri delu bolj zavzeti zaposleni z višjo stopnjo notranje motivacije, medtem ko višja stopnja zunanje motivacije pomeni nižje zadovoljstvo s plačo.

Odgovorna urednica MRJU
Prof. dr. Stanka Setnikar Cankar



DOI: 10.17573/ipar.2015.2.01 *1.01 Original scientific article*

Cross-Border Cooperation and the European Administrative Space – Prospects from the Principle of Mutual Recognition

Joachim Beck
University of Applied Sciences Kehl, Germany
joachim.beck@hs-kehl.de

ABSTRACT

With the introduction of the territorial cohesion objective and under the redesign of the new cohesion policy, cross-border cooperation has become an increasingly important level of "horizontal" European integration. Representing at the same time a specific transnational pattern of the European Administrative Space (EAS), however, its practical functioning is still hindered by various factors amongst which the diverging national legal and administrative framework conditions of the participating actors represent the major obstacle with regards to the development of effective cross-border governance regimes. Based on the analysis of central challenges of practical cross-border governance, the article examines the question whether the application the principle of mutual recognition, initially developed for the free movement of goods in the non-harmonized area, could provide a basis for substantial improvement in European cross-border cooperation. Four fields of application are designed, allowing for a new quality of transnational administrative cooperation and a new understanding of the laboratory role that cross-border territories might play both for the EAS and further European integration.

Keywords: *European administrative space, cross-border cooperation, principle of mutual recognition, territorial cohesion*

JEL: H73, H77, H83

1 Introduction

The concept of the European Administrative Space (EAS) has gained increasing interest both from academia and practitioners during the last 30 years of European Integration. Originally directly linked to the notion of an ever intense integration of European gover*nment* and thus assuming/predicting a process of increasing convergence and harmonization of the different national administrative systems towards a more unified reference model

in Europe (Siedentopf & Speer, 2003; Olsen, 2003), it has constantly evolved over time and is now discussed under the light of the broader perspective of European gover*nance*.

Although the term is often applied, the very definition of EAS in the literature is yet quite diverse: some see the EAS as a "harmonized synthesis of values realized by the EU institutions and Member States' administrative authorities through creating and allying EU law" (Torma, 2001, p. 1), others are focusing on the fact, that it would be an "area in which increasingly integrated administrations jointly exercise powers delegated to the EU in a system of shared sovereignty" (Hofmann ,2008, p. 671) and are underlying in this regard the "coordinated implementation of EU law and the Europeanization of national administrative law" (Hofmann, 2008, p. 662), while a more neutral perception stresses the raise of a "multilevel Union administration" (Egeberg, 2006). Other authors focus on the emergence of a vertically and horizontally more and more differentiated European multi-level Governance (Kohler-Koch & Larat, 2009) or suggest "a systematic distinction between direct administrative policy and indirect influences of EU policies on domestic administrations and the distinction between the respective constellations between supranational and state actors" (Heidbreder, 2011, p. 711), hereby suggesting a conceptual distinction with regards to the relationship between the *governing* and the *governed*, while demanding for a combination of the dimensions of policy instrumentation in the EAS with the actor constellations and Europeanization mechanisms (Heidbreder, 2011, pp. 711–714).

With regards to the historical development of the EAS, Hofmann (2008, p. 663) underlines the process of deterritorialization following the increasing supranationality: "formally closed systems of public law of the territorial states opened up through the emergence and establishment of a supranational legal order" (p.664) which took place during three main yet overlapping phases: firstly the establishment of the Community legal order, secondly the "horizontal" opening of Member States legal systems and thirdly the development of integrating administrations and the conditions of the modern European administrative space which can be closely linked to the evolution of the principle of "subsidiarity".

With regard to administrative law, Sommermann differs between a process of *direct* Europeanization – both at the level of substantive administrative law (starting with technical norming, the implementation of basic liberties and the structuring of the internal market), at the level of administrative procedural law (starting in the 1980ies with the introduction for instance of the European environmental impact assessment) and the level of administrative organization law (increasingly since the 1990ies at the level of secondary law) – and a process of *indirect* Europeanization – functional adaption of administrative norms and procedures in relation to the cooperation principle, spill-over effects from EU-law to other national law domains, adaption due to competition phenomena of an increasing transnationalization of

administrative relations, leading to an increasing transculturalization of the existing national legal and administrative systems in Europe – (Sommermann, 2015, pp. 256–260). Although, with regards to administrative culture, however, a recent study suggests (Beck & Larat, 2015) that transnationalization seems to lead to a *hybridization* rather than a European *transculturation* in the proper sense of the term, transnational administrative relations can be perceived as a specific horizontal pattern of the EAS – be it at the level of bilateral interstate relations (Larat, 2015) or – where this paper will focus on – in the form of cross-border cooperation between administrative units coming from border zones of two or more *directly* neighbouring states.

2 Cross-Border Cooperation – A Transnational Pattern of the European Administrative Space

2.1 The Relevance of Cross-Border Regions in Europe

Border regions play an important role within the context of European integration: 40% of the EU territory is covered by border regions and approximately 30% of the EU population lives there. Out of the 362 regions registered by the Council of Europe and its 47 member states more than 140 are cross-border regions (Ricq, 2006). The effects of the progress of European integration can be studied here: horizontal mobility of goods, capital and people are very obvious in border regions, but also the remaining obstacles to this horizontal mobility. This is why the border regions have often been described as the laboratories of European integration (Lambertz, 2010).

Beyond this EU-wide dimension, border regions are characterized by a very specific structural situation: natural and/or socio-economic phenomenon like transport, labour market, service-delivery, individual consumption, migration, criminality, pollution, commuters, leisure-time behaviour etc. have typically a border-crossing dimension, directly both affecting and linking two or more neighbouring states in a given transborder territory. These negative or positive spill-over effects of either structural or everyday policy problems require a close cross-border co-operation between those actors, which are competent and responsible for problem solution within the institutional context of the respective neighbouring state. In its recent survey, the European Association of Border Region has listed more than 200 cross-border territories in Europe. The wide range of possible inter-institutional and problem-specific constellations in Europe's border regions, however, does not allow a uniform classification of what the characteristics of this type of regions look like: not all border-regions, for instance, are isolated rural territories facing important structural problems which are ignored by the respective national government. During the last years many border regions have become rather important junctions of the socio-economic exchanges between the neighbouring states and their historical role as "crossing points" has even been positively reinforced (MOT, 2007, 2013).

Cross-border co-operation has a long tradition in the old member states of Europe and it has been gaining fast significance for the new border regions – especially in the eastern European regions. This history, constant changing institutional challenges and the specific preconditions have in each case led to the development of specific solutions of the respective cross-border governance (Beck, 2014). In contrast to the national context, where regional co-operation is taking place within a uniform legal, institutional and financial context, cross-border governance is characterized by the challenge to manage working together politico-administrative systems which have a distinctive legal basis and share a different degree of vertical differentiation both in terms of structure, resources equipment and autonomy of action (Eisenberg, 2007).

In addition, cross-border co-operation is still confronted and finds itself sometimes even in conflict with the principle of territorial sovereignty of the respective national state (Beck, 1999). Thus, even legal instruments aiming at a better structuring of the cross-border co-operation by creating co-operation groupings with a proper legal personality (Janssen, 2007), like for instance the newly created European Grouping of Territorial Co-operation (EGTC) or the euro-regional co-operation grouping" (ECG), created by the Council of Europe under the 3rd protocol to the European Outline convention, do not allow an independent transnational scope of action: regarding budgetary rules, social law, taxation, legal supervision etc. the details of the practical functioning of an EGTC depend fully on the domestic law of the state, in which the transnational grouping has finally chosen to take its legal seat.

Even in those regions where the degree of co-operation is well developed, cross-border co-operation is therefore rather a transnational politico-administrative subsystem, created by and composed of the respective "domestic" national partners involved (Beck, 2008a). Both, institutions, procedures, programmes and projects of cross-border co-operation depend – in practice – on decisions, which are still often taken outside the closer context of direct bi- or multilateral horizontal co-operation. In most transnational constellations – also where federalist states are participating – cross-border policy-making cannot be based on a transparent delegation of proper competences from the domestic partners towards the transnational actors, but the domestic partners must still rather recruit, persuade and justify their actions and their legal and financial support for each and every individual case. The "external" influence on such a sub-system of co-operation has, thus, to be considered as being relatively important. Cross-border co-operation can therefore be interpreted as a typical principal-agent constellation (see Czada, 1994; Chrisholm. 1989; Jansen & Schubert, 1995; Marin & Mayntz, 1990): with the principals being the national institutional partners of this co-operation (regions, state organizations, local authorities etc.), representing the legal, administrative, financial and decisional competences and interests of their partial region, and the agents being the actors (cross-border project partners,

members of transnational bodies or specific institutions, programme officers and co-ordination officers etc.) responsible for the preparation, the design and the implementation of the integrated cross-border policy (Beck, 1997). Cross-border co-operation thus has always both an inter-institutional and an interpersonal dimension, requiring the co-operation of both, corporate and individual actors with their specific functional logic, motivated by special interests in each case (see Coleman, 1973; Elster, 1985; Marin, 1990).

The reference level of this sub-system is founded through a perception of cross-border regions as being "functional and contractual spaces capable of responding to shared problems in similar and converging ways, so they are not political regions in the strict sense of the term" (Ricq, 2006, p. 45). On the other hand, the fact that cross-border co-operation is not replacing but depending on the competence and the role of the respective national partners (see also Blatter, 2000; Rausch, 1999) does not automatically mean, that this co-operation is a priori less effective than regional co-operations taking place within the domestic context. Research on multi-level policy-making in Europe has shown, that a productive entwinement and networking of different actors coming from distinct administrative levels and backgrounds can be as effective as classical institutionalized problem-solving (see Benz, 1998; Benz, Scharpf & Zintl, 1992; Grande, 2000). Yet, the institutional and functional preconditions of cross-border governance are far more complex and depend on very distinct conditions, as I will show in the next chapter.

2.2 The Challenges of Horizontal Cross-Border Governance

In light of the impressive career of the governance concept in Social Sciences (see Blatter, 2006), governance is today one of the central concepts being discussed and implemented in the practical and theoretical field of cross-border cooperation too. It is striking, however, that in most literature on European governance, especially in the case where the notion of multi-level governance is highlighted, the perception of the vertical dimension is predominant. Mostly, both in literature and practice, multi-level governance is perceived and discussed not only in a normative way but also – especially in the case of cross-border cooperation being part of the European integration process – with a special focus on the "vertical" dimension: different territorial levels should better cooperate in order to better taking into account the fact, that in most states (thematic) power is shared between different territorial levels and that this internal differentiation is more and more extended to – and thus becomes impacted by – the European level of policy-making. What is overseen in many recent reports and political statements on the future of cross-border cooperation in Europe, however, is the horizontal dimension of multi-level governance. Especially in the case of cross-border territories this dimension is crucial.

Compared to domestic policy-making, cross-border governance is characterized by a number of quite distinct patterns (Beck & Pradier, 2011).

The first distinctive feature is that cross-border governance initially always has a territorial dimension (Casteigts, 2010). The observed cooperation and coordination processes are constituted within a spatial parameter including areas of different bordering countries. Each given cross-border spatial context (e.g. presence of natural boundaries, population density, degree of socioeconomic integration, poly-centricity) determines the resulting challenges to be matched with regards to the production of joint spatial solutions (development given potentials, creating infrastructure conditions, complementarity of sub-regional spatial functions, etc.) and thus constitutes the functional framework of this type of cooperation. Characteristically, however, the territorial dimension of cross-border cooperation has a strong inter-relation to the given politico-administrative boundaries which makes is more difficult to handle socio-economic spill-over effects that typically exceed these limits. This creates the challenge of adapting the spatial parameters of the cooperation to the scope and content of different levels of functional integration. In a way, a cross-border territory does not exist *per se* – it is constructed by the voluntary acts of the actors coming from either side of the border. However, this creates the practical difficulty that a "regional collective" (i.e. the mobilization/integration of all relevant intermediary actors of a territory which is a precondition for a sustainable territorial development approach see Fürst, 2011) is hardly emerging on a cross-border basis, which is a distinct pattern compared to "classical" regional governance taking place within a single domestic context (Kleinfeld, Plamper & Huber, 2006).

The second feature of cross-border governance is that this type of regional governance takes place within a context that involves relations between different countries. The transnational dimension of cross-border governance is a specific characteristic, which greatly contributes to the explanation of the specific patterns and functionalities of this cooperative approach. Unlike "classic" regional governance, transnational governance is characterized by the fact that decision areas of different political and administrative systems are connected to each other. The resulting cross-border bargaining systems are marked by a clearly stronger principal-agent problem, compared to the national regional governance. The challenge here, however, is not only to coordinate different delivery-mechanisms of different politico-administrative systems but also to manage the complex "embeddedness" of the cross-border territorial sub-system with the respective national politico-administrative systems (Frey, 2003; Beck, 2013a). In addition, the intercultural mediation and communication function, which is also closely linked to the transnational dimension of cross-border governance, is a real source of complexity. This refers not only to the interpersonal but also to the inter-institutional components of the cross-border negotiation system and includes the open question about the possibilities and limits in matching divergent administrative cultures in Europe (Beck & Larat, 2014). Finally, features such as the strong consensus principle, the delegation principle, the non-availability of hierarchical conflict resolution options, the principle of rotation

of chairs in committees, the tendency to postpone decisions rather than implementing them can also be explained by this transnational dimension. Cross-border governance obviously shares largely general features which were highlighted in the research on international regimes and with regards to the functionality of transnational bargaining systems. At the same time this allows to explain, why it is sometimes so difficult for cross-border actors to agree on even the very basic components of the governance approach: terms such as "actors", "networks", "decision rules", "civil society", "project", "cluster" etc. in fact represent deeply culturally bound concepts upon which inter-cultural differences and conflicts very quickly can arise.

The third constitutive feature of cross-border governance can be seen in its European dimension (Lambertz, 2010). Stronger than national patterns of regional governance, which may also refer to European elements especially when incorporating issues like external territorial positioning strategies and/ or the use of appropriate European support programs, the characteristics and finalities of cross-border governance are much more interlinked with the project of European integration. Cross-border territories are contributing a specific horizontal function to the European integrations process (Beck 2011). European notions, objectives and policy approaches such as "Europe is growing together at the borders of Member States ", "Europe for Citizens", "Territorial cohesion" or "European Neighborhood Policy" are concepts that relate directly to the European dimension of cross-border cooperation. Cross-border cooperation today is a specific level of action within the multi-level context of the European Administrative Space. In addition, the Interreg program with its characteristic, "externally defined" functional principles, is determining the cross-border governance to a large extend. This European action model characterizes the cooperation in general much stronger than it is the case within the national context, where also other than European funding opportunities (i.e. national programs with much less administrative burden) do exist. Yet, this leads to a certain convergence with regards to the practical functioning of cross-border cooperation in Europe. This convergence is mainly caused by the procedural logic of the financial promotion programmes of the European Commission with regards to the ETC objective ("Interreg") leading to more or less unified practices regarding the implementation of elements like the partnership-principle, the principle of additionality, multi-annual programming based on SWOT-analysis, project-based policy-making, project-calls, financial control etc. As a consequence we can observe during the last two decades or so a general pattern of CBC policy-making that is characterized by a shift from informal exchanges to more concrete projects, from general planning to attempts for a more concrete policy-implementation, from rather symbolic to real world action, from closed informal networks to more transparent and official institutions.

The fourth feature of transnational governance can finally be seen in its thematic dimension. Cross-border cooperation does not represent

a distinctive policy field but consists of more or less integrated approaches of cooperation between different given national policy areas. The character of these regulatory, distributive, redistributive or innovation-oriented policies not only enhances the respective constellation and the corresponding degree of politicization of the factual issues in question; it also determines crucially different institutionalization requirements of the governance structures (Beck, 1997). These vary considerably by policy field, and make it very difficult, to develop an integrated, cross-sectorial governance approach at the cross-border level (Casteigts, 2010) The complexity of such a governance is increased by the fact that the (variable) policy type may determine the interests and strategies of the actors involved directly, thus also affecting the interaction style, the applied decision rules, and ultimately the efficiency of cross-border problem-solving significantly. The difference to the functionality of collaboration patterns taking place within a single institutional system context must be seen in the fact, that the systemic determinants and thus the intersection of actors, decision skills, resources for action and the synchronizing of strategic interests in the cross-border context can vary widely by policy-field and the partners involved. Constellations of action and actors, which are evident within the national context and which allow for the development of "social capital" and a constructive and productive problem-solving within a specific territorial/or sectorial governance approach are often completely different in the perspective of a cross-border governance. This leads to very specific patterns of cross-border (non-) policy-making, which is characterized by much higher complexity and informal dynamics of the processes on the one hand and a decoupling of thematic and interest-related interaction on the other, which can be described as a distinct cultural cooperation pattern (Beck & Larat, 2014).

The challenge of practical cross-border governance is to keep the interdependencies between these four constitutive dimensions in equilibrium. However, a holistic approach of cross-border governance is much more complex and difficult to achieve compared to the case of governance approaches taking place within the territorial context of a single jurisdiction. This is due to a situation, where the role and the perception of the very concept of the border has changed considerably during last years: the separating function is less important today but more and more replaced by an integrated 360° perception of the cross-border territory and its unused potentials.

An important element in this perspective is the fact that most legal areas which are relevant for cross-border cooperation remain within the focus of the Member State competence. Areas such as health-care, urban and special planning, public transport, social security, taxation, labour market-policies, scientific research and development, environmental protection, professional education and training, housing etc. are either not at all harmonized at the supranational level or are based on conceptual EU-policy approaches but implemented via national law and thus de facto reproducing – and implicitly

even reinforcing – existing national systems and standards (Beck, 2014). From the perspective of cross-border cooperation, this leads to numerous important practical obstacles. In a recent study, issued by the Council of Europe, more than 160 of such obstacles have been identified (COE/CDLR, 2013) and which can be studied on the newly created website EDEN. Beside economic and other obstacles, legal and administrative obstacles are playing a central role. It is generally agreed amongst cross-border actors that the legal toolbox for cross-border cooperation both at the European and national level and with regards to public and private law is well developed (see for instance the contributions in Tschudi et al., 2014, pp. 3–259) – yet the main challenge here still remains with the finding of joint implementing provisions. Rather it is the inflexible domestic legal frame (leading to diverging national thematic definitions) and the different politico-administrative systems at the national level which are considered as the main challenge for cross-border cooperation. In addition, it is often considered as difficult / impossible to really delegate proper implementing functions to existing cross-border bodies in the area of public law, due to different domestic control systems.

In the past, cross-border governance was not really able to overcome these legal and administrative obstacles. Especially in the field of administrative law, there was only limited or no scope to compensate the lack of European harmonization via bilateral innovations, developed on a cross-border basis. Still, often problems and obstacles identified under cross-border regimes led to the notion of CBC territories being laboratories (Lambertz, 2010), identifying areas where a future European harmonization and standardization would be needed. In practical terms, however, in most of these policy-fields it was not the Commission, Council, Parliament or the national legislator who finally took the action on its own initiative, but the European Court of Justice (ECJ). A number of cases – mostly handled during the 90ies and with a clear thematic link to process of the implementation of the internal market, and which in the following lead to a change of the respective thematic perception situation – came actually from cross-border territories, mostly because individual actors (persons or enterprises), wanting to practice cross-border mobility, witnessed practical obstacles caused by national regulations, and thus went befor the Court.

The case-law of the ECJ thus played an important role as motor of integration, defining and/or applying new sectorial cross-border principles in areas such as health-care, social security, taxation, recognition of diploma and academic degrees etc. One principle, however, that has been developed by the ECJ and which has a much more fundamental meaning for the functioning of the European construction, is the principle of mutual recognition. This principle has not been applied yet for the case of public cross-border cooperation so far, but can have – as I will show in the following chapter – a high potential to overcome many practical systemic obstacles, still characterizing the transnational dimension of the European Administrative Space.

3 Cross-Border Territories and the Principle of Mutual Recognition – Towards a New Quality of Transnational Administrative Cooperation

3.1 The Principle of Mutual Recognition within the Context of European Construction

The elimination of technical obstacles to the free movement of goods is one of the main objectives of the internal market-policy of the European Union (European Commission, 2010): Article 34 TFEU prohibits obstacles to free trade and Article 36 TFEU provides a closed list of justifications for such obstacles. One of the means of ensuring the free movement of goods within the internal market – besides the principle of non-discrimination (prohibition to maintain distinctive State measures hindering trade between Member States) and the principle of free access to national market (beyond discrimination, impossible to maintain state measures which substantially restrict the possibility to sell a product or a service on another market) – is the *principle of mutual recognition*. The principle derives from the case-law of the Court of Justice of the European Communities and applies to products which are not subject to Community harmonization legislation, or to aspects of products falling outside the scope of such legislation (so called non-harmonized products). According to that principle, "a Member State may not prohibit the sale on its territory of products which are lawfully marketed in another Member State, even where those products were manufactured in accordance with technical rules different from those to which domestic products are subject."[1] Only on the basis of overriding reasons of public interest and which are proportionate to the aim pursued, a Member State can refuse the free movement or justify a domestic regulation or technical specification going against this principle.

The principle usually applies, when actors such as companies or professionals offer non harmonized goods or services abroad. The area of free movement of non-harmonized goods is of great economic importance to the functioning of the internal market: approximately 21% of industrial production or 7% of GDP inside the EU is covered by mutual recognition and about 28% of intra-EU manufacturing trade. It is estimated that the failure to properly apply the principle of mutual recognition reduces trade in goods within the Internal Market by up to 10% or €150 billion[2]. Accordingly, the Commission has set up a proper policy for analysing and enforcing the application of this principle. On the grounds of evidence that the principle is not working smoothly

1 See Alinea 3, REGULATION (EC) No 764/2008 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 9 July 2008; the principle originated in the famous *Cassis de Dijon* judgment of the Court of Justice of 20 February 1979 (Case 120/78 Rewe-Zentral [1979] ECR 649) and was the basis for a new development in the internal market for goods. While at the beginning not expressly mentioned in the case-law of the Court of Justice, it is now fully recognised (see, for example, Case C-110/05 *Commission vs. Italy* [2009] ECR I-519, paragraph 34).

2 See Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL laying down procedures relating to the application of certain national technical rules to products lawfully marketed in another Member State and repealing Decision 3052/95/EC, Impact assessment COM(2007) 36 FINAL, p. 42.

(a supporting study of an Impact Assessment identified in 2007 around 11.000 technical exceptions at Member State level and a high number of technical, procedural and information related obstacles)[3] the European Union issued in 2008 a regulation laying down procedures and actions to enforce the functioning of the principle. The philosophy of the Regulation followed the twofold approach of "combining transparency and efficiency: transparency of information to be exchanged between enterprises and national authorities, efficiency by avoiding any duplication of checks and testing" (European Commission, 2012, p. 6).

The importance of the principle of mutual recognition increased constantly during the last decades – leading even to popular concern when it was again enforced after the enlargement of the Union via the so called "Bolkestein" directive[4] – and at least in a normative perspective some academic observers even estimate, that the EU has de facto in the meanwhile become a "mutual recognition space" (Nicolaidis, 2007, p. 687). Beyond the single issue-orientation of allowing the free movement of goods and services in the non-harmonized area – what are the implications of mutual recognition from the broader point of European construction and the EAS ?

Firstly, it is evident that mutual recognition constitutes a very pragmatic alternative to harmonization. With the Treaty of Lisbon the functional division of labour between the European and the national level with regards to policy-competences has been re-adjusted and many observers come to the conclusion that the degree of supra-nationalization that has been achieved by the Lisbon-Treaty will be the working basis for the next decades or so. It is not very realistic to expect any significant efforts of further harmonization at the EU-level going beyond approaches that aim at a level-playing field in very specific sectorial areas. A horizontal analysis of the Impact Assessments carried out by the Commission during recent years[5] may demonstrate the efforts of the European law-maker to search for alternatives to classical regulatory approaches and rather implement a "soft-law" policy within the context of the "smart regulation" strategy[6]. In this context, Member States who do not want to delegate further competencies to or share domestic competencies with the European level may indeed consider mutual recognition as a feasible alternative when aiming at a better horizontal cooperation with other Member States in such areas, where functional equivalence can be deemed. Especially in the administrative reality where for the case of transnational administrative cooperation it is not realistic or possible to develop substantive legal "exemptions" (avoidance of new borders and risks befor the constitutional

3 DIE ZEIT, 18. October 2007, p. 32.

4 DIRECTIVE 2006/123/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 12 December 2006 on services in the internal market.

5 See: www.europa/IA; The author has been – on behalf of the SEC GEN – for 10 years trainer and consultant on European Impact Assessments and has accompanied several Impact Assessment projects at EU-level.

6 See Commission communication "Smart Regulation in the European Union" – COM(2010)543 (8 October 2010).

courts of the member states – how can a transnational exemption be justified at all?), mutual recognition can give – as I will show in the next chapter – a new dimension to the horizontal functioning of the EAS, allowing for a smarter inter-organizational cooperation of administrative bodies depending on different but functionally equivalent jurisdictions.

Secondly, mutual recognition creates extraterritoriality (Nicolaidis & Shaffer, 2005, p. 267). Territoriality constitutes a classical *criterium* of the Westphalian State, guaranteed by an external border and limiting the competence of both the state and its administration. Mutual recognition, on the other hand, extends de facto the regulation, defined by one member state onto the territory of another member state that recognizes it. Mutual recognition regimes thus can be seen as a constitutive element for an emerging global administrative law regime: "Mutual recognition represents the operation of a third, 'middle-way' of transnational economic governance… (it constitutes)… an extension of the territorial principle of national treatment and a cooperative 'mutualized' approach to the inherent demand for and challenge of extraterritoriality in a global economic order" (Nicolaidis & Shaffer, 2005, p. 267). Such a notion of extraterritoriality based on mutual recognition can also strengthen the transnational dimension of the EAS, which itself goes already into this direction but gives it a specific new dimension: The functional enlargement of a national administrative competence to the territory of another Member state, however, is new and not yet existing in the area of public law but it can lead to new and interesting forms of managed and negotiated forms of transnational administrative cooperation (Beck & Larat, 2015).

This leads to the third dimension of mutual recognition which can be understood as a new mode of governance (Schmidt, 2007): Transnational cooperation is an example for what has been described in the context of international cooperation as governance without government (Rosenau & Czempiel, 1992), e.g. the need to develop cooperative solutions in a non-hierarchical way. One central category of such a mode of cooperation in transnational governance (Beck & Wassenberg, 2011) is social capital, built on mutual trust. Mutual recognition both depends on and contributes to the emergence of trust. The inherently difficult definition of where functional equivalence starts and where it may end needs to be negotiated amongst the partners concerned: "Instead of agreeing on common regulatory solutions, governments agree on a patchwork of equivalent national rules. It is only by focusing on this alternative to hierarchy that the growing transnational activities of national administrations become a focus of analysis" (Schmidt, 2007, p. 670). In a broader sense, this transnational governance may lead to a new perception within the European Administrative Space which I describe elsewhere as "Horizontal Subsidiarity" (Beck, 2014): When a transnational or cross-border phenomenon needs a specific e.g. adapted and thus diverging solution, the concerned neighbouring jurisdictions give priority to it compared

to the domestic regulatory frame. Mutual recognition can strengthen such a perspective of horizontal subsidiarity within the EAS: The "managed recognition" may lead to pragmatic choices of the best solution on either side of the border.

Finally, as the notion of governance indicates, transnational mutual recognition can also develop and/or strengthen the mode of transnational policy-making in its relation to other economic and societal actors. Based on mutual recognition, the necessary horizontal and vertical differentiation that is inherent to the notion of multi-level-governance within the European context, can finally lead to a rationalization of new transnational relations between administrations and its respective economic and/or social environment: if more and more new transnational needs of enterprises, citizens, associations, consumers, patients etc. are articulated, which cannot effectively be handled by a single administrative approach only, mutual recognition can contribute to the emergence of new negotiated and pragmatic solutions for the transnational EAS. Innovation thus can both occur on the basis of new transnational arrangements and or the diffusion and integration of good practices of the neighbour state.

The key element of mutual recognition, as derived from the *Cassis de Dijon* doctrine, is the notion of functional equivalence which could indeed contribute to the strengthening of the transnational dimension of the EAS. The prospective element here would be to go beyond a case by case perspective, related to the horizontal mobility of persons, services capital and goods and develop an integrated transnational – e.g. cross-border perspective. The principle could bring clarity to many cross-border constellations where the unproductive back and forth between neighbouring administrations *de facto* leads to a high level of red rape and administrative burden, which makes cross-border activities still much less attractive than a domestic orientation – both from the perspective of individual (citizens, commuters, enterprises) and corporate (public and private organizations) actors. Combined with the principle of proportionality (only where it makes sense and where it is relevant, mutual recognition will be applied) mutual recognition has a strong potential to improve transnational and cross-border cooperation, especially, when it is based on mutually agreed *de minimis* levels: if a cross-border and/or transnational administrative case constitutes/represents not a mass-phenomenon (which in reality is exactly the case: the level of cross-border activity phenomenon is in many policy-fields clearly lower than 5% compared to the domestic context[7]) but the typical exception to the administrative rule (because the individual case comes from a different administrative context) then – if it is the case of a neighbour administration – the public servant in charge should have the right to accept the "incoming" administrative standards. The only exception allowed then would refer to administrative standards which differ too much

7 For instance the 91.000 cross-border commuters in the Upper-Rhine region are representing only 3% of the entire active population!

and which would constitute a case of non-equivalence. At first glance, one could expect a high number of such cases of such non-equivalence due to the big differences between the politico-administrative systems in Europe, both in terms of structure and administrative culture. On the other hand, having the case of the new member states who accepted and implemented the democratic European administrative standards relatively quickly in mind, one could argue, that all administrative systems of the European Union today are based on basic principles of the EAS which in turn are derived from the *Acquis Communautaire* (see König, 2008, pp. 120, who refers to the notion of a Continental-European administrative family). Differences between national administrations in Europe certainly do exist and actually we are witnessing both processes of convergence and persistence of historically developed systems (Kuhlmann & Wollmann, 2013), but it must be questioned if, at the beginning of the 21st century, they are really constituting a case of non-equivalence in the functional sense of the term or still rather symbolize the case of non-cooperation, the lack of willingness and/or incentive of mutual exchange and learning.

3.2 Fields of Application within CBC and the EAS

With regards to typical problem constellations – which at the same time represent specific types of transnational cooperation – the following fields of application of the principle of mutual recognition seem to be promising in the context of cross-border cooperation.

Simplifying citizen's mobility. It is amazing to see, that the level of transnational mobility of individuals in Europe still is clearly below 1% but that a large part of this phenomenon is actually taking place within the European border regions (European Commission, 2009). Assuming that citizens in border-regions would like to perceive and use the cross-border territory in the same way as they can do on the domestic ground of a member state – e.g. choose their place of work, residence, childcare, medical treatment and practice their consumer behaviour independently from national borders – the public services responsible for these issues on both sides of the borders should not constitute obstacles in the sense that they are practicing different standards and regulations, but should provide for a coherent administrative framing of this horizontal mobility of persons, services and goods in the cross-border perspective. However, the reality still looks different, mostly due to the fact, that the legal areas which are covered by this mobility are mostly still within the remit of national competence. Mutual recognition could bring a lot of practical facilitating for the everyday life of citizens with a border-crossing live-orientation: If, for instance, a citizen from Member State A moves to Member State B and has a technical control certificate for his car valid for another two years, Member State B still asks to carry out a new technical control as a precondition for the admission of the car on its territory – why could Member State B not simply recognize (and trust) the technical control

certificate of Member State A[8]? Or, if a Professor moves from Member state B to Member State A and continues to teach at his University in Member State B, he will have to obtain and deliver every month (!) a certification from Member State A to the national payment body in order to still receive the child benefit from Member State B – why could Member State B not just treat the Professor like his colleagues and recognize one justification from Member State A? If a public employee with the nationality of and working in Member State A moves to Member State B and wants to benefit from the option of a medical treatment in his residential state B, he has to apply for a membership in the public health-insurance of member State B – why does the public health assurance of Member State B not simply recognize the certificate of the public health insurance of Member State A but still asks to deliver a long list of documents. And why does – in the same constellation – the tax administration of Member State A consider him taxable in Member State A but not his colleague having the nationality of Member State B? Why does a construction worker living in Member State B and working at a firm in Member State A have to pay his annual income tax to Member State A only because he has worked on a construction site in Member State A outside the border zone for more than 41 days? Why does a school class from Member State A who wants to visit the local swimming pool in the neighbouring town of Member State B not get a permission from the school authority of Member State A with the substantiation that the security standards in Member State B would not be the same – instead of simply recognizing the standards of Member State B where – empirically not more accidents with swimming-classes are happening?

This list of everyday obstacles caused by the lack of mutual trust and recognition between national (deconcentrated) state administrations could easily be extended with many other and sometimes even more complex cases – not to mention all the paperwork, red tape and administrative burden this is creating both at the level of the citizens, their employers but also the competent administrations themselves. This leads to a situation that finally hinders cross-border mobility. One thing is certainly to install contact points like INFOBEST or GenzINFO (Hansen, 2014) where citizens can get the relevant information about the administrative conditions in the neighbouring state. However, these are often of rather limited practical use, when citizens are confronted with the diverging administrative conditions and the burden of proof remaining with themselves as individuals.

Simplifying the management of CBC bodies. A second field of optimization which could be achieved via the application of the principle of mutual

8 In principle, national approval procedures for motor vehicles which have already obtained a national approval in another Member State and for motor vehicles that were already registered in another Member State, must comply with Articles 28 and 30 of the EC Treaty. According to the jurisprudence of the Court of Justice, the existence of such national procedures is, as such, not necessarily contrary to these Articles but must fulfill specific procedural conditions, see: COMMUNICATION FROM THE COMMISSION Interpretative communication on procedures for the registration of motor vehicles originating in another Member State, SEC(2007) 169 final.

recognition is the case of cross-border bodies. Here the target groups are mostly local and regional authorities who want to improve cross-border cooperation by approaches of integrated and joint institution building. These approaches are per se representing a joint political will and thus can be perceived as symbols of mutual trust: by creating a joint organizational undertaking with a commonly managed budget and personnel that works exclusively for the jointly defined transnational tasks the partners want to actively overcome a standalone approach and develop joint functional provisions. When these bodies are even equipped with a proper legal form, the case of mutual recognition form a formal point of view is implemented: both the national and European as well as the public or private legal forms that can be applied for such bodies finally depend on the choice of one national jurisdiction, usually determined by the spatial seat of the body in one of the two neighbouring states. By joining such a cross-border body with a legal status, all participating parties are mutually recognizing the law and the jurisdiction of the country of domicile (usually this is even explicitly mentioned in the legal conventions). On the other hand, as empirical evidence from the application of the European EGCT-Directive shows, the practical functioning of such bodies is very often still limited by the difficulty to define joint implementing provisions: The symbol of a joint approach is counteracted by numerous practical difficulties when it comes both to the authorization of such a transnational body, the every-day management of its human and financial resources and the legal supervision of its functioning. At these levels, very often a doubling and complexification of administrative procedures, formal requirements and/or reporting obligations is taking place which can be considered as one of the main reasons of the still very limited acceptance of these legal forms and which could be solved if the principle of mutual recognition was not only implemented by the signing partners, but also the administrative frame of both states involved.

Stimulating the development of cross-border shared services. A third field of application where the principle of mutual recognition could bring a substantial innovation is the relatively new area of cross-border shared services. In the past, cross-border cooperation was mainly concentrated either on a single-project approach (INTERREG has promoted this approach significantly in the past and will certainly continue to do so in the future) or on a cross-border body approach, allowing for the coordination of partners with regards to overall development objectives of a territorial unit. Compared to this, the idea of cross-border shared services focusses on the optimization of both the quality and the delivery of services based on an integrated cooperative approach across national borders. Mostly classical "non-sovereign" local service categories like water and electricity supply, waste disposal, social and health services, maintenance of public buildings or green spaces, transportation, internal administrative services such as salary statements, accountancy of IT-management or even public procurement could be reorganized between neighbouring local communities with the

objective to develop new economies of scale and/or to maintain services, which under a single organizational approach, would no longer be affordable (e.g. in rural and/or peripheral regions suffering from demographic change). In all these areas, when neighbouring local authorities will try to develop cooperative an innovative approaches again the question of how to integrate different administrative standards, practices and traditions will occur. Mutual recognition, if considered openly, could stimulate mutual learning and innovation, leading to new combinations and/or choices of good practices to be adopted by one of the partners via real processes of mutual Bench-Learning. As for the case of CBC bodies, however, the dimensions of the legal choice and the administrative framing of such joint undertakings will be the sticking points with regard to a trustful mutual recognition practice here.

Optimizing thematic cooperation between sectorial administrations. The starting point for this fourth pillar for application of mutual recognition lays in the challenge, that the integrated development of a cross-border territory (360° perspective) covers a large number of different policy fields which require a coordinative approach of sectorial administrative actors. The structural preconditions for such an approach, however, are again not very favourable because in most cases thematic administrative law – which is finally the basis for sectorial action – is either fully characterized by national standards, or a situation, where Member State A may meet EU-standards and Member State B or C may even go beyond this, like it is with the case of air-pollution protection, renewable energy-regimes, financing of transportation infrastructure, environmental protection, spatial planning, science and research promotion, education and training etc. As it is the case for the mobility of citizens, in these areas mostly (deconcentrated) state administration is competent, often however, on a multi-level basis with a rather complex mix of public, private, national, regional and local actors to be involved too. A first approach could be here to insert mutual recognition clauses in areas where cross-border legal provisions are missing in thematic law, as it is for instance the case with spatial planning in the Upper-Rhine region where in Germany and Switzerland territorial development plans at local and regional level have to be coordinated with the neighbour state, while in France there is no such legal obligation. Mutual recognition could lead here to a dissemination of the same standards within a given cross-border territory. The other constellation are areas where a territorial cross-border need for optimization is given and the absence of a joint standard leads to comparative disadvantages of the cross-border territory compared to is national "competitors". This could be the case with the area of professional training, when for instance in Member State A there is a lack of qualified people and in Member State B a high unemployment rate between young people exists: mutual recognition here would not only refer to formal diploma but also cover the very educational content, allowing for an increase of horizontal mobility dramatically and for the same career chances in the neighbouring state – if Member State A would recognize the qualification standards of Member State B fully (in the case of professional

training the chambers of industry and commerce together with the national standardization body for professional training of Member State A would have to make this effort!). A third field of application in this respect is finally the case where economic or scientific actors actively ask for more flexibility of the legal framework with regards to the development of joint projects/ initiatives that create added value from a cross-border point of view. If two Universities, for instance, from Member State A and B would like to deliver a double PhD-degree in order to stimulate the thematic cooperation between professors, the inter-institutional mobility of PhD students and to become more attractive at the European level, both University administrations and the competent Ministries will have to practice a mutual recognition approach of the respective examination regulations consequently. Finally: Mutual recognition could also promote the emergence of multi-thematic sectorial governance regimes in the interest of territorial development in various areas such as health, tourism, transport, infrastructure, environmental protection, economic promotion, renewable energy, in which a joint reflection of national standards by the competent sectorial actors from both sides of the border could lead to innovations in the sense that mutual recognition will result in combination of the best practice elements from either side of the border. Such a managed mutual recognition will finally also contribute to the emergence of a managed functional extra-territorialisation within a cross-border territory which constitutes an innovative element for the prospects of a transnational EAS. The idea of horizontal subsidiarity could be further developed on a sectorial case by case basis in areas where a real added value can clearly be demonstrated by the cross-border territory.

4 Conclusion

The principle of mutual recognition has often been criticized for its danger of softening standards according to the lower level of one of the participating partners (Nicolaidis, 2007). This can indeed be a risk when it comes to the question of the free movement of such goods that have been produced according to lower social and/or environmental standards – an issue that was especially discussed within the context of the political decision process of the Bolekstein service-Directive. However, as shown above, this article has argued that the principle of mutual recognition must not be interpreted in a single-way perspective. As the very term indicates its content must always mutually be discussed and voluntarily decided on a bi- or multilateral level. This is why it contains a specific potential for the case of transnational cooperation within the context of the EAS. Different to the application at the level of Member States a limitation to the specific needs of cross-border territories in Europe could both facilitate its application and avoid its possible negative consequences. On the other hand, the arguments presented above were also underlying the necessity of a close cooperation between neighbouring member states willing to apply it in a given cross-border territory.

This leads us to the question of how such an approach could best be realized in the real world situation of transnational policy-making. Given the institutional competences of most Member States in Europe it is evident, that such an approach will have to be decided and agreed mutually by the governments of the respective neighbouring countries in order to set a solid framing. In addition, it seems also important, to demonstrating the political will to allow for flexible solutions at the level of cross-border territories from the point of view of all relevant jurisdictions. In this respect bilateral joint communications, like for instance in the case of Germany and France, could lead to a programmatic fixation of the will to experiment the principle of mutual recognition in the so called German-Franco Agenda? Secondly, and on this basis, a careful study of sectorial fields where the principle could indeed create a real added value and in which form functional equivalences are feasible would be necessary. This could lead to the fixation of *de minimis* standards (both territorially and thematically) in the form of bilateral (sectorial) agreements, defining and embellishing the concrete levels/thresholds within a mutual recognition practice by the competent administrations in the future. A third step would then require the codification of the principle with regards to administrative standards and procedures at the level of prescription law within the given national thematic law framework in the form of so called opening clauses.

The notion of trust and proximity – both preconditions for building social capital – is usually better given in a cross-border than an a more global interstate context: it is not an anonymous administration here, that asks for a mutual recognition of foreign procedures, but the administration from the "next door neighbour", which actors can easily learn to know better (Beck, 2008a), where exchanges of both practices and personnel can take place at a formal and informal basis (Larat, 2014), and where the necessary administrative capacity can be built up and trained in order to effectively handle cross-border policy-problems in a professional and flexible way. On the other hand it is evident, that administrative law is still strongly linked with the classical concept of territoriality. It must be questioned if Member States are at all willing to overcome this principle and enter into an open reflection on mutual recognition in order to spoon out the potentialities which I have tried to sketch above. The strong protectionist attitude of both Member States and some enterprises in the area of non-harmonized goods and the necessity of the Commission to launch together with the regulation of 2008 a proper mutual recognition policy[9] demonstrates the strong opposition that may be emerging. On the same time, this shows that the principle of mutual recognition is indeed a very meaningful and strong concept. The key word for the application of mutual recognition in the transnational cross-border context, however, must therefore be its evidence base. It will be necessary to carry out ex ante impact assessments in order to identify both areas and magnitudes of a meaningful implementation, especially with regard to

9 See: http://ec.europa.eu/enterprise/policies/single-market-goods/free-movement-non-harmonised-sectors/mutual-recognition/index_en.htm

the definition of the right *de minimis* level allowing for its application on a cross-border basis (Taillon, Beck & Rihm, 2010). If, however, based on the application of the mutual recognition, a cross-border phenomenon over time will exceed a defined de minimis level, e.g. when the exception tends to becomes the rule, it will then be ripe for the other alternative which is harmonization at EU level. This could indeed lead to a new understanding of the laboratory role that cross-border territories might play for the future of both the EAS and European integration.

Dr. Joachim Beck *is Professor for Public Management at the University of Applied Sciences Kehl. He has written and edited several books and articles on public management, cross-border cooperation and administrative culture in Europe. He works as trainer and consultant on Impact Assessment for the Secretariat General of the European Commission and is coordinator of the Research Centre on cross-border cooperation and European affairs at the University of Applied Sciences in Kehl.*

References

Beck, J. (1997). *Netzwerke in der transnationalen Regionalpolitik. Rahmenbedingungen, Funktionsweise, Folgen*. Baden-Baden: Nomos Verlagsgesellschaft.

Beck, J. (1999). Cross-border Cooperation in Europe: The Example of the Upper-Rhine. In K. König & S. Fosler (Eds.), *Regionalization below State-Level in Germany and the United States* (pp. 137–165). Speyerer Forschungsberichte Nr. 197. Speyer.

Beck, J. (2008a). Patterns of Administrative Culture in Cross-Border Cooperation. In J. Beck & F. Thedieck (Eds.), *The European Dimension of Administrative Culture* (pp. 179–213). Baden-Baden: Nomos. DOI: 10.5771/9783845211152

Beck, J. (2008b). Lessons from an Institute for Cross-Border Cooperation on the Franco-German Border. *The Journal of Cross-Border Studies in Ireland*, No. 3, 38–49.

Beck, J. (2011). Grenzüberschreitende Zusammenarbeit im Prozess der Europäischen Integration. In B. Wassenberg & J. Beck (Eds.), *Living and researching cross-border cooperation (Vol. 3): The European Dimension of Cross-border Cooperation* (pp. 129–148), Stuttgart: Steiner Verlag.

Beck, J. (2013a). Cross-border governance and the principle of subsidiarity. In J. Beck & M. Bonnafous (Eds.), *Perspektiven lokaler Governance in Europa / Perspectives de la gouvernance locale en Europe / Perspectives of local governance in Europe* (pp. 177–196), Zürich, Baden-Baden: Dike/NOMOS.

Beck, J. (2013b). Prospects of Cross-Border Cooperation in Europe: Capacity-Building and the Operating Principle of "Horizontal Subsidiarity". *International Public Administration Review, XI*(1), 7–24. DOI: 10.17573/ipar.2013.1.a01

Beck, J. (2014): The Future of European Territorial Cohesion: Capacity-Building for a New Quality of Cross-Border-Cooperation. In J. Beck & B. Wassenberg (Eds.), *Vivre et penser la coopération transfrontalière (Vol. 6), Vers une cohésion territoriale transfrontalière?* (pp. 333–351). Stuttgart.

Beck, J., & Pradier, E. (2011). Governance in der transnationalen Regionalpolitik: Bestandsaufnahme und Perspektiven der Kooperationsbeziehungen in grenzüberschreitenden Verflechtungsräumen. In: J. Beck & B. Wassenberg (Eds.), *Grenzüberschreitende Zusammenarbeit erforschen und leben (Band 2): Governance in deutschen Grenzregionen* (pp. 107–135). Stuttgart.

Beck, J., & Wassenberg, B. (Eds.). (2011). *Grenzüberschreitende Zusammenarbeit erforschen und leben (Band 2): Governance in deutschen Grenzregionen*. Stuttgart.

Beck, J., & Larat, F. (Eds.). (2015). *Transnationale Verwaltungskulturen in Europa. Bestandsaufnahme und Perspektiven / Les cultures administrative transnationales en Europe. Etat des lieux et perspectives*. Zürich, Baden-Baden: Dike/NOMOS.

Benz, A. (1998): Politikverflechtung ohne Politikverflechtungsfalle – Koordination und Strukturdynamik im europäischen Mehrebenensystem. *Politische Vierteljahresschrift, 39*(3), 558–589.

Benz, A., Scharpf, F.W., & Zintl, R. (1992). *Horizontale Politikverflechtung. Zur Theorie von Verhandlungssystemen*. Frankfurt.

Benz, A., Lütz, S., Schimank, U., & Simonis, G. (Eds.). (2007). *Handbuch Governance: Theoretische Grundlagen und empirische Anwendungsfelder*. Wiesbaden: Springer. DOI: 10.1007/978-3-531-90407-8

Blatter, J. (2000). *Entgrenzung der Staatenwelt? Politische Institutionenbildung in grenzüber-schreitenden Regionen in Europa und Nordamerika*. Baden-Baden.

Blatter, J. (2006). Governance als transdisziplinäres Brückenkonzept für die Analyse von Formen und Transformationen politischer Steuerung und Integration. In: J. Bogumil, W. Jann & F. Nullmeier (Eds.), *Politik und Verwaltung* (pp. 50–76). Wiesbaden.

Casteigts, M. (2010). La mise en cohérence des politiques publiques en territoire transfrontalier. In B. Wassenberg (Ed.) *Vivre et penser la coopération transfrontalière (Volume I): les régions françaises* (pp. 307–321). Stuttgart.

COE/CDLR. (2013). *Manual on removing obstacles to cross-border cooperation*. Strasbourg.

Cohen, M. D., March, J. G., & Olsen, J. P. (1972). A Garbage Can Model of Organizational Choice. *Administrative Science Quarterly*, 17(1), 1–25. DOI: 10.2307/2392088

Coleman, J. (1973). *The Mathematics of Collective Action*. London.

Chrisholm, D. (1989). *Coordination Without Hierarchy: Informal Structures in Multiorganizational Systems*. Berkeley: University of California Press.

Czada, R. (1994). Vertretung und Verhandlung. Einige Überlegungen zur Mehrebenenanalyse – besonders zu der Frage der Trennung oder Verflechtung von Entscheidungskompetenzen korporativer Akteure. Paper zum *Workshop der DVPW-Sektion Staatslehre und Politische Verwaltung*, Juli 1994 in Konstanz.

Demorgon, J. (2005). *Critique de l'interculturel. L'horizon de la sociologie*. Paris: Economica.

Egeberg, M. (Ed.) (2006). *Multilevel Union Administration: The Transformation of Executive Politics in Europe*. Basingstoke: Palgrave Studies in European Union Politics. DOI: 10.1057/9780230502222

Eisenberg, E. (2007): Learning from cultural experiences and interactions: Cross-border administrative cultures. In F. Thedieck (Ed.), *Foundations of Administrative Culture in Europe* (pp. 183–193), Baden-Baden.

Elster, J. (Ed.) (1985). *The Multiple Self*. Cambridge Mass.

Euro-Institut. (Ed.) (2007). *Interkultureller Leitfaden zur Moderation grenzüberschreitender Sitzungen*. Baden-Baden. / *Guide interculturel pour l´animation de réunions transfrontalières*. Luxembourg.

European Commission. (Ed.). (2009). *Scientific Report on the Mobility of Cross-Border Workers within the EU-27/EEA/EFTA Countries*, Final report, presented by MKW Wirtschaftsforschung GmbH, Munich/Empirica Kft., Sopron.

European Commission. (Ed.). (2010). *Free movement of goods – Guide to the application of Treaty provisions governing the free movement of goods* [Directorate C, Regulatory Policy, of the Enterprise and Industry DG]. Luxembourg.

European Commission. (2012). *First Report on the application of Regulation (EC) No 764/2008 of the European Parliament and of the Council of 9 July 2008 laying down procedures relating to the application of certain national technical rules to products lawfully marketed in another Member State and repealing Decision No 3052/95/EC* [COM(2012) 292 final]. Luxembourg.

Fürst, D. (2011). Regional Governance – Was ist neu an dem Ansatz und was bietet er? In J. Beck & B. Wassenberg (Eds.), *Grenzüberschreitende Zusammenarbeit erforschen und leben (Band 2): Governance in deutschen Grenzregionen* (pp. 89–105). Stuttgart: Steiner.

Frey, R. L. (2003). «Regional Governance» zur Selbststeuerung territorialer Subsysteme. *Informationen zur Raumentwicklung*, Heft 8/9.2003 (pp. 451–462).

Grande, E. (2000). Multi-Level Governance: Institutionelle Besonderheiten und Funktionsbedingungen des europäischen Mehrebenensystems. In E. Grande & M. Jachtenfuchs (Eds.), *Wie problemlösungsfähig ist die EU? Regieren im europäischen Mehrebenensystem* (pp. 11–30). Baden-Baden: Nomos.

Hansen, A. (2014). Der Grenzinfopunkt Aachen-Eurode in der EuRegio Maas-Rhein. In BMI & Euro-Institut (Eds.), *Grenzüberschreitende Zusammenarbeit mit deutscher Beteiligung. Ein Erfahrungsaustusch* (pp. 53–55). Dokumentation der Veranstaltungen 2012 und 2013 in der Vertretung des Landes Baden-Württemberg in Berlin. Berlin/Kehl.

Heidbreder, E. G. (2011). Structuring the European administrative space: policy instruments of multi-level administration. *Journal of European Public Policy, 18*(5), 709–727. DOI: 10.1080/13501763.2011.586800

Hofmann, H. C. H. (2008). Mapping the European Administrative Space. West *European Politics, 31*(4), 662–676. DOI: 10.1080/01402380801905918

Janssen, G. (2007). Grenzüberschreitende Regionalkooperation. Europäische Verbünde für territoriale Zusammenarbeit. *Osteuropa, 57*(2–3), 133–144.

Jansen, D., & Schubert, K. (Eds.). (1995). *Netzwerke und Politikproduktion. Konzepte, Methoden, Perspektiven*. Marburg.

Kleinfeld, R., Plamper, H., & Huber, A. (Eds.) (2006). *Regional Governance. Band 2. Steuerung, Koordination und Kommunikation in regionalen Netzwerken als neue Form des Regierens*. Göttingen.

Kohler-Koch, B., & Larat, F. (Eds.). (2009). *European Multi-level Governance. Contrasting Images in National Research*. Cheltenham.

König, K. (2008). *Moderne öffentliche Verwaltung. Studium der Verwaltungswissenschaft*. Berlin.

Kuhlmann, S., & Wollmann, H. (2013). *Verwaltung und Verwaltungsreformen in Europa. Einführung in die vergleichende Verwaltungswissenschaft*. Wiesbaden: Springer. DOI: 10.1007/978-3-658-00173-5

Lambertz, K.-H. (Eds.) (2010). *Die Grenzregionen als Labor und Motor kontinentaler Entwicklungen in Europa. Berichte und Dokumente des Europarates sowie Reden zur grenzüberschreitenden Zusammenarbeit in Europa*. Zürich, Baden-Baden.

Larat, F. (2015). Les multiples facettes de la coopération administrative entre la France et l'Allemagne. In J. Beck & F. Larat (Eds.), *Transnationale Verwaltungskulturen in Europa. Bestandsaufnahme und Perspektiven / Les cultures administrative transnationales en Europe. Etat des lieux et perspectives* (pp. 161–182). Zürich, Baden-Baden: Dike/NOMOS.

Marin, B.(Ed.). (1990). *Generalized Political Exchange. Antagonist Cooperation and Integrated Policy Circuit*. Frankfurt a. M.

Marin, B. , & Mayntz, R. (Eds.). (1990). *Policy Networks. Empirical Evidence and Theoretical Considerations*. Frankfurt a. M.

Mayntz, B. (2009). Governance-Theorie: Erkenntnisinteresse und offene Fragen. In E. Grande & S. May (Eds.), *Perspektiven der Governance-Forschung* (pp. 9–19). Baden-Baden.

Mission Operationelle Transfrontalière – MOT. (Ed.) (2007). *Atlas de la coopération transfrontalière. Dynamiques transfrontalières et projets* (deuxième édition). Paris.

Mission Operationelle Transfrontalière – MOT. (Ed.) (2013). *Guide méthodologique. Articuler la politique de cohesion, les dispositifs de gouvernance et les logiques territoriales transfrontalières*. Paris.

Nicolaidis, K., & Shaffer, G. (2005). Transnational mutual recognition regimes: Governance without global government. *Law and Contemporary Problems, 68* (Summer/Autumn 2005), 262–318. DOI: 10.1080/13501760701427847

Nicolaidis, K. (2007). Trusting the Poles? Constructing Europe through mutual recognition. *Journal of European Public Policy, 14*(5), 682–698.

Olsen, J. (2003). Towards a European administrative space? *Journal of European Public Policy, 10*(4), 506–531. DOI:10.1080/1350176032000101244

Rausch, U. (1999). *Grenzüberschreitende Kooperationen. Der kanadisch – US-amerikanische Nordosten und die Oberrheinregion im Vergleich*. Opladen.

Ricq, Ch. (2006). *Handbook of transfrontier cooperation*. Strasbourg: Council of Europe.

Rosenau, J., & Czempiel, E.-O. (1992). *Governance without government: order and change in world politics*. Cambridge. DOI: 10.1017/cbo9780511521775

Schmidt, S.K. (2007): Mutual recognition as a new mode of governance. *Journal of European Public Policy, 14*(5), 667–681. DOI:10.1080/13501760701427797

Siedentopf, H. / Speer, B. (2003): The European administrative space from a German administrative science perspective. *International Review of Administrative Science, 89*(1), 9–28. DOI: 10.1177/0020852303691002

Sommermann, K.P. (2015): Von der Europäisierung des Verwaltungsrechts zur Europäisierung der Verwaltungskultur? In J. Beck & B. Wassenberg (Eds.), *Grenzüberschreitende Zusammenarbeit erforschen und leben (Band 2): Governance in deutschen Grenzregionen* (pp. 253–266). Stuttgart: Steiner.

Taillon, R., Beck, J., & Rihm, S. (2011). *Impact Assessment Toolkit for Cross-Border Cooperation*. Armagh/Kehl.

Tschudi, H. M., Schindler, B., Ruch, A., Jakob, E., & Friesecke, M. (Eds.). (2014). *Die grenzüberschreitende Zusammenarbeit der Schweiz. Juristisches Handbuch zur grenzüberschreitenden Zusammenarbeit von Bund und Kantonen*. Zürich/ St.Gallen/Baden-Baden.

Torma, A. (2011). The European Administrative Space (EAS). *European Integration Studies, 9*(1), pp. 149–161.

Wassenberg, B. (2007). *Vers und eurorégion? La coopération transfrontalière franco-germano-suisse dans l'espace du Rhin Supérieur de 1975 à 2000*. Bruxelles

Wassenberg, B. (Ed.). (2010). *Vivre et penser la coopération transfrontalière (Vol.1): Les regions frontalières françaises*. Stuttgart.

Wassenberg, B., & Beck, J. (Eds.) (2011a). *Living and researching cross-border cooperation (Vol. 3): The European Dimension of Cross-border Cooperation*. Stuttgart.

Wassenberg, B., & Beck, J. (Eds.). (2011b.). *Vivre et penser la coopération transfrontalière (Vol.4): Les régions sensibles*. Stuttgart.

Wille, Ch. (2012). *Grenzgänger und Räume der Grenze. Raumkonstruktionen in der Großregion SaarLorLux*. Frankfurt am Main.

POVZETEK

1.01 Originalni znanstveni članek

Čezmejno sodelovanje in evropski upravni prostor – perspektivnost načela vzajemnega priznavanja

Koncept evropskega upravnega prostora (EAS – *European Administrative Space*) je v zadnjih 30 letih evropske integracije pritegnil večje zanimanje tako akademskih krogov kot praktikov. Prvotno je bil neposredno povezan s pojmom neprestano intenzivnega povezovanja evropske vlade in je tako predpostavljal/napovedoval proces vedno večjega zbliževanja in usklajevanja različnih nacionalnih upravnih sistemov v smeri bolj enotnega referenčnega modela v Evropi, nenehno se je razvijal skozi čas, zdaj pa se ga obravnava v luči širše perspektive evropskega upravljanja. Transnacionalne upravne odnose je mogoče razumeti kot poseben horizontalni vzorec EAS – pa naj bo to na ravni dvostranskih meddržavnih odnosov, ali – na kar se osredotoča ta članek – v obliki čezmejnega sodelovanja med upravnimi enotami, ki prihajajo iz obmejnih območij dveh ali več sosednjih držav.

Obmejna območja imajo pomembno vlogo znotraj okvirja evropske integracije: 40 % ozemlja EU pokrivajo obmejna območja in približno 30 % prebivalstva EU živi tam. Od 362 regij, registriranih pri Svetu Evrope, in njenih 47 držav članic je več kot 140 čezmejnih območij. Učinke napredovanja evropske integracije lahko proučujemo tukaj: horizontalna mobilnost blaga, kapitala in ljudi je zelo očitna v obmejnih regijah, očitne pa so tudi preostale ovire za to horizontalno mobilnost. To je razlog, zakaj obmejna območja pogosto opisujejo kot laboratorije evropske integracije.

V resnici pa se čezmejno sodelovanje še vedno sooča in se včasih znajde celo v nasprotju z načelom teritorialne suverenosti posamezne nacionalne države. Zato celo pravni instrumenti, namenjeni boljšemu strukturiranju čezmejnega sodelovanja z ustvarjanjem sodelovalnih združenj z ustrezno pravno osebnostjo, kot je na primer novoustanovljeno Evropsko združenje za teritorialno sodelovanje (EZTS) ali evro-regionalno sodelovalno združenje (ECG), ki ga je ustanovil Svet Evrope na podlagi 3. protokola k Evropski okvirni konvenciji, ne omogočajo neodvisnega transnacionalnega področja delovanja: kar se tiče proračunskih pravil, socialnega prava, obdavčenja, pravnega nadzora itd. Podrobnosti praktičnega delovanja EZTS so povsem odvisne od domačega prava države, za katero se je transnacionalno združenje končno odločilo, da bo tam njegov pravni sedež.

Pomemben element v tej perspektivi je dejstvo, da večina pravnih področij, ki so pomembna za čezmejno sodelovanje, ostaja v obsegu kompetenc države članice: zdravstveno varstvo, mestno in posebno načrtovanje, javni prevoz, socialna varnost, davki, trg dela – politike, znanstvene raziskave in razvoj, varstvo okolja, izobraževanje in usposabljanje, stanovanja itd. bodisi sploh niso usklajeni na nadnacionalni ravni bodisi temeljijo na konceptualnih

pristopih EU-politik, vendar se izvajajo preko nacionalnega prava in s tem *de facto* reproducirajo – in implicitno tudi krepijo – obstoječe nacionalne sisteme in standarde. Z vidika čezmejnega sodelovanja to vodi v številne pomembne praktične ovire. V nedavni študiji, ki jo je izdal Svet Evrope, je bilo prepoznanih več kot 160 takih ovir (COE/CDLR 2013), ki jih je mogoče preučevati na novoustanovljeni spletni strani EDEN. Poleg ekonomskih in drugih ovir imajo osrednjo vlogo pravne in upravne ovire. Čezmejni akterji se na splošno strinjajo, da je pravna zbirka orodij za čezmejno sodelovanje tako na evropski kot na nacionalni ravni ter v zvezi z javnim in zasebnim pravom dobro razvita – vendar je pri tem še vedno glavni izziv najti skupne izvedbene določbe. Neprilagodljiv domači pravni okvir in različni politično-upravni sistemi na nacionalni ravni so tisti, ki veljajo za glavni izziv čezmejnega sodelovanja. Poleg tega pogosto velja, da je težko/nemogoče dejansko prenesti pravilno izvajanje funkcij na obstoječe čezmejne organe na področju javnega prava zaradi različnih domačih nadzornih sistemov.

V preteklosti čezmejna uprava ni bila sposobna v resnici premagati teh pravnih in upravnih ovir. Zlasti na področju upravnega prava je bilo le malo ali nič možnosti za nadomestitev pomanjkanja evropske uskladitve prek dvostranskih inovacij, razvitih na čezmejni ravni. Sodna praksa Sodišča evropskih skupnosti (SES) je tako imela pomembno vlogo kot motor integracije pri opredelitvi in/ali uporabi novih sektorskih čezmejnih načel na področjih, kot so zdravstveno varstvo, socialna varnost, obdavčitev, priznavanje diplome in akademskih stopenj itd. Eno načelo, ki ga je razvilo Sodišče evropskih skupnosti in ki je veliko bolj temeljnega pomena za delovanje evropske zgradbe, je načelo vzajemnega priznanja. To načelo do sedaj še ni bilo uporabljeno na primeru javnega čezmejnega sodelovanja, vendar ima lahko – kot kaže članek – velik potencial za premagovanje mnogih praktičnih sistemskih ovir, ki so še vedno značilne za nadnacionalno razsežnost evropskega upravnega prostora.

Odprava tehničnih ovir za prost pretok blaga je eden od glavnih ciljev notranje tržne politike Evropske unije: Člen 34 TFEU prepoveduje ovire za prosto trgovino, Člen 36 TFEU pa podaja zaprt seznam opravičil za take ovire. Eden od načinov za zagotavljanje prostega pretoka blaga na notranjem trgu – poleg načela nediskriminacije (prepoved ohranjati določene državne ukrepe, ki otežujejo trgovino med državami članicami) in načela prostega dostopa do nacionalnega trga (onkraj diskriminacije, nemogoče ohraniti državne ukrepe, ki znatno omejujejo možnost prodaje izdelka ali storitve na drugi trg) – je načelo vzajemnega priznavanja. Načelo izhaja iz sodne prakse Sodišča evropskih skupnosti in se uporablja za izdelke, ki niso predmet usklajevalne zakonodaje Skupnosti, ali za vidike izdelkov, ki ne sodijo v področje uporabe te zakonodaje (tako imenovane neusklajene proizvode). V skladu s tem načelom »država članica na svojem ozemlju ne sme prepovedati prodaje proizvodov, ki se zakonito tržijo v drugi državi članici, tudi če so bili ti proizvodi proizvedeni v skladu s tehničnimi pravili, ki se razlikujejo od tistih, ki veljajo za domače proizvode.« Samo na podlagi zelo pomembnih razlogov javnega interesa, ki so sorazmerni z zastavljenim ciljem, lahko država članica zavrne prost

pretok ali upraviči notranjo ureditev ali tehnično specifikacijo, ki nasprotuje temu načelu.

Ključni element vzajemnega priznavanja, kot izhaja iz doktrine *Cassis de Dijon*, je pojem funkcionalne enakovrednosti, ki lahko dejansko prispeva tudi h krepitvi nadnacionalne razsežnosti EAS. Predviden element tukaj bi bilo iti dlje od perspektive primera do primera v povezavi s horizontalno mobilnostjo oseb, storitev kapitala in blaga ter razviti integrirano transnacionalno – npr. čezmejno perspektivo. Načelo lahko prinese jasnost v številnih čezmejnih situacijah, v katerih neproduktivno podajanje naprej in nazaj med sosednjimi upravami *de facto* vodi k visoki ravni rdečega posilstva in upravnega bremena, kar povzroča, da so čezmejne dejavnosti še vedno precej manj privlačne od domače usmerjenosti – tako z vidika posameznih (državljani, migranti, podjetja) kot korporativnih (javne in zasebne organizacije) akterjev. V kombinaciji z načelom sorazmernosti (samo, kjer je to smiselno in primerno, se bo uporabljalo vzajemno priznavanje) ima vzajemno priznavanje velik potencial za izboljšanje nadnacionalnega in čezmejnega sodelovanja, še posebej, ko temelji na medsebojno dogovorjenih stopnjah *de minimis*.

Kar zadeva tipične problematične konstelacije – ki hkrati predstavljajo posebne vrste transnacionalnega sodelovanja – se zdijo naslednja področja uporabe načela vzajemnega priznavanja obetavna v okviru čezmejnega sodelovanja: Poenostavitev mobilnosti državljanov, poenostavitev upravljanja organov CBC, spodbujanje razvoja čezmejnih skupnih služb, optimizacija tematskega sodelovanja med sektorskimi upravami.

Načelo vzajemnega priznavanja je bilo pogosto kritizirano zaradi svoje nevarnosti za mehčanje standardov glede na nižjo raven enega od sodelujočih partnerjev. To dejansko lahko predstavlja tveganje, ko gre za vprašanje prostega pretoka takih proizvodov, ki so bili proizvedeni v skladu z nižjimi socialnimi in/ali okoljskimi standardi – vprašanje, o katerem se je še posebno razpravljalo v okviru procesa političnega odločanja v Direktivi o storitvah Bolkestein. Vendar članek trdi, da načela vzajemnega priznavanja ne smemo interpretirati z enosmernega vidika. Kot ponazarja že sam izraz, je o njegovi vsebini vedno treba razpravljati vzajemno in se prostovoljno odločati na bi- ali multilateralni ravni. To je razlog, zakaj ima poseben potencial v primeru transnacionalnega sodelovanja znotraj okvirja EAS. Za razliko od uporabe na ravni držav članic bi omejitev za posebne potrebe čezmejnih ozemelj v Evropi lahko tako olajšala njegovo uporabo kot preprečila njegove morebitne negativne posledice. Po drugi strani pa to poudarja potrebo po tesnejšem sodelovanju med takimi sosednjimi državami članicami, ki so ga pripravljene uporabiti na določenem čezmejnem območju.

Pojem zaupanja in bližine – oboje je pogoj za izgradnjo socialnega kapitala – je običajno bolje podan v čezmejnem kot v bolj globalnem meddržavnem kontekstu: pri tem ne gre za anonimno upravo, ki prosi za vzajemno priznanje tujih postopkov, ampak za upravo »najbližjega soseda«, katere akterji se lahko zlahka naučijo, kje lahko pride do izmenjave tako praks kot osebja na formalni in neformalni ravni in kje je mogoče vzpostaviti in usposobiti upravne

zmogljivosti za učinkovito reševanje težav čezmejnih politik na strokoven in prilagodljiv način. Po drugi strani pa je očitno, da je upravna zakonodaja še vedno tesno povezana s klasičnim konceptom teritorialnosti. Vprašati se je potrebno, ali so države članice pripravljene iti preko tega načela in začeti odprt premislek o vzajemnem priznavanju, da bi razvile njegove potenciale v okviru čezmejnega sodelovanja. Močan protekcionistični odnos tako držav članic kot nekaterih podjetij na področju neusklajenega blaga in potreba, da bi Komisija skupaj z uredbo iz leta 2008 sprožila ustrezno politiko vzajemnega priznavanja, kaže na močno nasprotovanje, do katerega lahko pride. Istočasno pa to kaže, da je načelo vzajemnega priznavanja v resnici zelo pomenljiv in močan koncept. Prav zato pa mora biti ključna beseda za uporabo vzajemnega priznavanja v nadnacionalnem čezmejnem kontekstu njegova podlaga dokazov. Izvesti bo potrebno predhodne ocene učinka za določitev področja in obsega smiselnega izvajanja, zlasti v zvezi z opredelitvijo prave stopnje *de minimis*, ki dopušča njegovo uporabo na čezmejni ravni. Če pa bo čezmejni pojav na temelju uporabe vzajemnega priznavanja sčasoma presegel določeno stopnjo *de minimis*, npr. ko izjema postane pravilo, bo postal zrel za drugo alternativo, ki je usklajevanje na ravni EU. Ta perspektiva lahko privede do novega razumevanja laboratorijske vloge, ki bi jo čezmejna ozemlja lahko imela za prihodnost tako EAS kot evropske integracije.

DOI: 10.17573/ipar.2015.2.02 *1.01 Original scientific article*

Des aspects de collégialité dans le fonctionnement du gouvernement grec: Le cas des gouvernements de coalition à l'époque du Mémorandum

Marie-Iléane Pravita
Université d'Athènes, Grèce
mpravita@pspa.uoa.gr

RÉSUMÉ

Le gouvernement est l'institution compétente pour la prise de décisions et la surveillance de la mise en application du programme gouvernemental. L'œuvre de coordination du Premier ministre devient difficile quand il s'agit d'un gouvernement de coalition constitué de nombreux membres, séparés d'un fossé idéologique. Le Conseil des ministres a cessé de jouer son rôle constitutionnel, de formuler la politique générale du pays, et ce sont des réunions informelles qui ont substitué aux organes compétents. La qualité au sein de la gouvernance est un processus complexe avec des dimensions politiques, nécessitant quand même des conditions administratives et organisationnelles pour son succès.

Mots-clés: *Grèce, gouvernance à l'époque du Mémorandum, gouvernement de coalition, collégialité au gouvernement, coordination de l'action gouvernementale, centre de gouvernance*

JEL: Z 8

"Collective responsibility is a myth and one which is not believed"
(Edmund Dell, ministre du gouvernement Callaghan, 1980)[1]

I

La démocratie représentative et les gouvernements de coalition

L'adoption du régime démocratique constitue une condition *sine qua non* pour qu'un système socio-politique puisse survivre à long terme (elle constitue "l'universalité évolutive" selon Parsons, 1967). En effet, la démocratie indirecte constitue le type d'organisation le plus dominant puisque la vie politique est organisée, de nos jours, au sein des États dont, par ailleurs, la zone du territoire est beaucoup plus grande par rapport à celle des anciennes

1 Il se réfère à Hennessy, 1985, p. 15.

villes grecques qui avaient de l'autre côté adopté le modèle athénien de la démocratie directe. Dans le cadre d'un système de démocratie indirecte et représentative, la disjonction entre le gouvernement et l'opposition est considérée comme une notion très claire.

L'alternance périodique des partis politiques et des personnes qui exercent des fonctions gouvernementales – comme résultat de l'expression de la volonté politique de la communauté, exprimée par l'intermédiaire du processus électoral – constitue une mesure essentielle pour le caractère démocratique d'un système politique. Chaque dirigeant a ainsi, conformément à la disposition constitutionnelle relative, la responsabilité de conduire la politique générale du pays et de déterminer les différents programmes de la politique publique. Il exerce, cependant, la gouvernance tenant en compte qu'il se peut que l'un des partis politiques de l'opposition et plus particulièrement celui de l'opposition principale gagne la prochaine fois la préférence de la majorité de l'électorat et occupe le poste du gouvernement sortant (Makrydemetres, 2013, p. 39 et suiv.).

Le gouvernement exerce, donc, la politique publique dans divers domaines, tandis que le rôle de l'opposition porte *inter alia* notamment sur la formulation des propositions et des programmes de politique alternatifs. Il est donc prévu – ou bien même préférable en ce qui concerne l'organisation – d'avoir plus souvent des gouvernements à parti unique que des gouvernements multipartites. Dans ce contexte, l'approche historique des systèmes de gouvernance politique dans un pays a son importance[2]. Selon l'analyse théorique relative à la "dépendance au sentier" (*path dependency*), la pratique précédente et ses institutions associées tendent à acquérir, au fil du temps, plus de puissance et à se maintenir au cours de leur évolution: "*the natural path of institutions is to act in the future as they have acted in the past*" (Krasner, 1984, p. 235).

En ce qui concerne, par exemple, la Grèce, tous les gouvernements formés, 177 en nombre en environ 185 ans, depuis 1828 avec le gouvernement d'Ioannis Kapodistrias jusqu'en 2015 avec le gouvernement d'Alexis Tsipras, seulement dix (10) d'entre eux ont été des gouvernements de coalition. Plus particulièrement, on constate que pendant les dernières 20 années, la tradition des gouvernements à parti unique s'est maintenue, à l'exception des trois récents gouvernements celui de Papadémos (2011–2012), celui de Samaras (2012–2015) et celui de Tsipras (2015–), l'apparition desquels peut être interprétée en raison de la crise économique qui a éclaté dans le pays surtout à partir du début de 2009.

2 Pour cette raison, il ne ressort pas automatiquement qu'il convient d'appliquer à notre pays une pratique appliquée parfois à d'autres – pourtant pas à la majorité – pays européens.

Gouvernement Papadémos

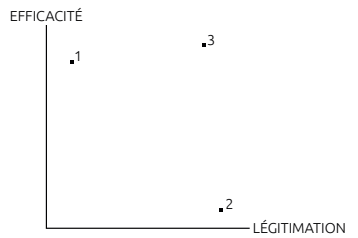
Il s'agit d'un gouvernement qui s'est formé sans l'opinion du peuple. Indépendamment de la dimension constitutionnelle ou inconstitutionnelle d'un tel choix, se soulève ici la question de la légitimation démocratique de ce gouvernement qui a reçu seulement le vote de confiance par le Parlement, sans processus électoral précédent. Selon le postulat relatif de la démocratie et de la "bonne gouvernance" (*good governance*), celle-ci vise à l'efficacité, présupposant quand même de la légitimation. Bien que l'importance de la gouvernance efficace[3] ait été soulignée à plusieurs reprises, celle-ci ne doit pas être atteinte au détriment de la légitimation. En revanche, ces deux principes doivent coexister et se promouvoir de façon équilibrée (Dahrendorf, 1984)[4].

Vu les conditions difficiles auxquelles le pays a dû faire face en raison de la crise susmentionnée et les obligations assumées par l'État en vertu du Mémorandum d'entente (*Memorandum of Understanding*), signé avec le Fonds Monétaire International, la Banque Centrale Européenne et la Commission européenne, un nouveau gouvernement s'est formé en novembre 2011. Ce gouvernement avait comme leader, pas le chef du parti qui a obtenu le plus grand nombre des sièges au Parlement, mais une personne appréciée du public, bénéficiant de prestige – mais sans avoir été élu – ayant aussi le soutien du Mouvement socialiste panhellénique (*Panellinio Socialistiko Kinima – PASOK*), de la Nouvelle démocratie (*Nea Dimokratia – ND*) et de l'Alerte populaire orthodoxe (*Laikos Orthodoxos Synagermos – LAOS*).

Dès le premier trimestre du mandat du gouvernement Papadémos, des problèmes de coordination et de collégialité concernant son fonctionnement ont fait leur apparition. D'ailleurs, l'harmonisation des actions des personnalités

3 Il y a lieu de mentionner que l'ex Premier ministre de la Grande Bretagne, Tony Blair, avait souligné dans un article concernant la situation au Moyen Orient, apparu dans The Observer (juillet 2013), que "democratic government doesn't on its own mean effective government. Today, efficacy is the challenge".
En ce qui concerne la Grèce, pendant la période difficile de la transition après la chute de la dictature des colonels, Konstantinos Karamanlis a tenté de composer et combiner les conditions pour la légitimation du pouvoir gouvernemental (comme par exemple la transition pacifique et rapide du régime autoritaire à la démocratie, la légitimation du Parti communiste de Grèce (Kommunistiko Komma Elladas – KKE), le déroulement des élections nationales, le déroulement d'un référendum sur la nature politique du régime, la rédaction d'une nouvelle Constitution) et son efficacité (par exemple, l' intégration de la Grèce à la Communauté Économique Européenne) (Makrydemetres, 2007, p. 100–102).

4 Cette relation pourrait être schématisée comme suivant:



1 Manque de légitimation
2 Manque d'efficacité
3 Bonne guovernance

différentes – avec des vues ou des ambitions politiques divergentes – qui assument des portefeuilles ministériels n'est pas du tout une tâche facile, surtout lorsqu'il s'agit d'un gouvernement constitué de nombreux membres, séparés d'un fossé idéologique et politique remarquable. La situation s'est, en outre, aggravée à cause de la pratique suivie à cette époque-là, à savoir le déroulement des réunions des leaders des partis avec leurs membres participant au gouvernement, peu avant le déroulement des réunions du Conseil des ministres. Il était donc, bien évidemment, très facile de compromettre l'attachement au fonctionnement collectif du gouvernement et la réalisation des objectifs communs, sur l'autel des intérêts du parti (Mershon, 1994, p. 71; Martin & Vanberg, 2005, p. 94). De plus, le fait qu'un Premier ministre extraparlementaire avait assumé le poste du leader du gouvernement a contribué davantage à la difficulté de maintenir l'unité du gouvernement.

D'ailleurs, il arrive souvent qu'il n'y ait pas de cohérence des actions sur un domaine spécifique de la politique publique, en raison des malentendus qui émergent entre le ministre compétent et le ministre délégué[5]. La coopération, donc, entre les membres n'était pas toujours obtenue puisque certains ministres appartenaient à des partis différents de ceux de certains ministres délégués[6], provoquant par conséquent des désaccords publics sur un certain nombre de questions[7]. Par ailleurs, en mars 2012, LAOS a retiré son soutien au gouvernement, action qui a conduit le pays aux élections, trois mois plus tard.

II

Gouvernement Samaras: Conseil des ministres vs conférence tripartite des partenaires gouvernementaux

Les élections du 6 mai 2012 n'ont pas apporté de gouvernement, ni le processus des mandats exploratoires qui ont suivi. Par conséquent, de nouvelles élections se sont tenues le 17 juin 2012, pendant lesquelles le parti de la Nouvelle démocratie a obtenu la majorité des sièges au Parlement. Mais elle n'a pas pourtant obtenu l'autonomie parlementaire visée, puisqu'elle a

5 Pour plus de détails sur la relation entre les ministres et les ministres délégués, au sein de l'appareil gouvernemental du pays, voyez, par exemple, Pravita, 2010.

6 "*Coalition partners can make use of 'junior ministers' to shadow ministers belonging to other parties*" (Martin & Vanberg, 2005, p. 97).

7 Contrairement à l'exemple grec, le Code Ministériel britannique (2010) prévoit que dans le cadre du principe de la responsabilité collective du gouvernement, il est permis aux ministres d'exprimer honnêtement leurs opinions et même se trouver en désaccord ouvertement durant les réunions du Conseil des ministres, "*while maintaining a united front when decisions have been reached*" (par. 2.1). Certes, il a été soutenu que désormais la responsabilité collective des membres du gouvernement ne signifie pas seulement leur obligation de ne pas exprimer publiquement leur désaccord, une fois qu'une décision sera prise par le Conseil des ministres. Ils ont aussi l'obligation d'obéir aux décisions du Premier ministre, même s'il n'y a pas eu lieu auparavant une consultation sérieuse (Foster, 2004, p. 755). D'ailleurs, l'action collective ne doit pas seulement être exigée mais elle doit émaner d'un esprit collectif car "*once leaders find themselves in the position of constantly issuing warnings, it is a clear sign that the team ethos has collapsed*" (Brady, 1999, p. 226, 228).

seulement obtenu un pourcentage de 29,66%. Après une nouvelle série de consultations, le leader de la Nouvelle démocratie a finalement formé un gouvernement qui a reçu le vote de confiance nécessaire par le Parlement, puisque cette fois il était à la fois soutenu par le PASOK et la Gauche Démocratique (*Dimokratiki Aristera – DIMAR*). L'intention initiale de faire participer au gouvernement la Coalition de la gauche radicale (*Synaspismos Rizospastikis Aristeras – SYRIZA*) qui représentait 26,89% de l'électorat n'a pas porté de fruits. Tenant en compte ce qui a été mentionné ci-dessus (ante, unité I), à savoir la distinction entre le gouvernement et l'opposition comme une condition essentielle du système de gouvernance représentatif, la décision de SYRIZA de rester auprès du gouvernement, lui proposant un programme alternatif afin de faire face aux problèmes publics, serait peut-être raisonnable. Par ailleurs, le parti a gagné 71 sièges au Parlement. Les autres partis de l'opposition sont les Grecs indépendants (*Anexartitoi Ellines*) (20 sièges), l'Aube dorée (*Xrysi Avgi*) (18 sièges) et le Parti communiste de Grèce (12 sièges).

La question de coordination d'un gouvernement est extrêmement complexe, surtout quand il s'agit d'un schéma de gouvernement avec de nombreux membres, et plus particulièrement d'un schéma de composition multipartite. Cependant, ce qui est expressément défini par la charte constitutionnelle du pays (article 82, paragraphe 1), c'est que l'organe supérieur, chargé de la responsabilité de la gouvernance, c'est le Conseil des ministres qui se compose du Premier ministre en tant que président, les vice-présidents du gouvernement, s'il y en a, les ministres qui ont assumé des portefeuilles ministériels, les ministres d'État et les ministres adjoints. Les ministres délégués ne peuvent pas participer aux réunions de cet organe collectif, sans être invités par le Premier ministre et même dans le cas où ils participent ils n'ont pas de droit de vote. Le caractère collectif du Conseil des ministres réside au fait que tous les membres participent à la formation des choix pour le travail du gouvernement. Comme il est indiqué, cet organe a la responsabilité de "promouvoir l'unité de but, de direction et des efforts à la gouvernance de l'État" (Kourtis, 1980, p. 48 et suiv.).

Ainsi, même si au fil de l'évolution de l'histoire des institutions gouvernementales en Grèce – et plus particulièrement après la révision de la Constitution en 1986 où le Président de la République a cessé de constituer le "contrepoids constitutionnel" nécessaire – le Premier ministre a gagné une position de suprématie par rapport aux autres membres du gouvernement, la gouvernance du pays demeurait la responsabilité non seulement du chef[8], mais aussi de tous les membres du gouvernement. Les parties composantes de l'appareil gouvernemental ont leur importance dans le sens où elles "*may, by their mutual relations, be the means of keeping each other in their*

8 En qui concerne l'ampleur de l'influence du Premier ministre dans la promotion d'une politique publique, voyez l'étude d'O'Malley (2007) sur 22 pays.

proper places"[9]. C'est dans ce contexte qu'est comprise la responsabilité collective du gouvernement, en ce qui concerne son travail et les décisions politiques y relatives envers le Parlement et le peuple[10]. Le Premier ministre s'est transformé, au fil du temps, de *primus inter pares* en *primus supra pares* (Colapietro, 2008, p. 896–898) ou *primus solus* (*inter alia*, Makrydemetres & Pravita, 2012, p. 215)[11], mais pas *solus purus*: il a des pouvoirs accrus (*extensive authority*), mais pas le monopole du pouvoir (*monopoly of power*) (Heffernan, 2003, p. 368).

En même temps, le nombre des membres du gouvernement qui assument des postes ministériels est très large. Déjà le nombre des membres du Conseil des ministres est caractérisé comme extrêmement élevé, comportant 20–25 personnes, pour qu'il puisse remplir efficacement son rôle de forum où des discussions auront lieu et des décisions seront prises (Lord Lawson & Lord Armstrong of Ilminster, 1994, p. 441, 447–448): "*It's amazingly difficult to discuss anything serious in a group of 22, 23, men and women*", l'ex ministre délégué permanent, Sir Frank Cooper, avait souligné (il se réfère à Hennessy, 1985, p. 15). D'autant plus, si le nombre des membres touche les quatre dizaines, alors "*discussions have to take place elsewhere*" (Weller, 1991, p. 136; 2003, p. 711).

En raison de l'ampleur de la disjonction des domaines de la politique publique et des devoirs attribués aux différentes structures ministérielles, ainsi qu'en raison de la nature technique des multiples problèmes publics qui ne sont pas traités d'une analyse approfondie durant les réunions du Conseil des ministres, David Howell, ministre pendant le mandat de Margaret Thatcher (1985), a souligné que: "*The Cabinet is not a place where decisions can be formulated*" (il se réfère à Hennessy, 1985, p. 15). La courte durée des réunions du Conseil des ministres est également un signe de son dysfonctionnement (Hennessy, 1998, p. 11; Heffernan, 2003, p. 358). L'inefficacité de fonctionnement cohérent dudit organe gouvernemental collectif (Weller, 2003, p. 717–718, Dunleavy & Rhodes, 1990; Holliday & Shinoda, 2002; Elgie, 2011) a conduit, à plusieurs reprises, dans le passé, à sa convocation à des intervalles espacés et parallèlement à l'adoption d'autres méthodes de coordination, comme celle de la création d'un organe composé par moins de personnes, à savoir la Commission Gouvernementale, afin de prendre des décisions plus rapides sur la mise en œuvre du programme gouvernemental.

En ce qui concerne le gouvernement de coalition tripartite sous Antonis Samaras, dès le 21 juin 2012, date pendant laquelle le gouvernement a été

9 Mentionné par Alexander Hamilton ou James Madison au 51ème des Textes Fédéraux des États-Unis d'Amérique intitulé "*The Structure of the Government Must Furnish the Proper Checks and Balances Between the Different Departments*".

10 Pour la distinction entre le mode d'organisation individuel, monocratique ou collectif du gouvernement, voyez Manessis (1956, p. 405).

11 Il paraît que la réorganisation des services sous le Premier ministre (infra, unité III) et la nomination de ministre sans portefeuille ministériel (ministre d'État) qui surveillera le travail des autres ministres (Neto & Lobo, 2009, p. 244) renforcent le pouvoir du Premier ministre.

assermenté, jusqu'au 24 juin 2013, date du premier remaniement, le Premier ministre a convoqué le Conseil des ministres seulement quatre (4) fois, tandis que la Commission Gouvernementale n'a jamais été convoquée. On se demande donc, qui est la personne qui prenait pendant un an des décisions cruciales sur la gouvernance du pays et en particulier celles qui concernaient les mesures extrêmement lourdes, imposées au peuple afin que le pays soit conséquent dans ses obligations, dictées par le Mémorandum.

La pratique suivie par l'ex Premier ministre était le déroulement des réunions continues avec les dirigeants politiques des partis qui soutenaient le gouvernement afin de faire face aux multiples problèmes que le gouvernement devait affronter quotidiennement. En un an, il s'est rencontré plus de vingt fois avec Evangélos Vénizélos et Fotis Kouvelis. En fait, si la réunion des trois dirigeants politiques, avait un caractère informel, elle constituait toutefois une réunion essentielle de la politique gouvernementale ("*overlords cabinet*").

Il convient, donc, d'en déduire que le Conseil des ministres a cessé depuis longtemps de jouer son rôle constitutionnel, à savoir de formuler la politique générale du pays. Bien évidemment, la nature d'un gouvernement de coalition interprète les intentions de ces réunions informelles, mais on se déconcerte aussi quand celles-ci substituent aux organes matériellement compétents. La conformité avec les dispositions constitutionnelles relatives à la démocratie ne constitue pas du formalisme et du légalisme, mais du respect au principe de la légalité et la légitimité démocratique des choix. En matière de pratique gouvernementale, on pourrait peut-être pardonner certaines déviations concernant des règlements de procédure particuliers (comme par exemple la prévision législative qui dicte la convocation du Conseil des ministres deux fois par mois[12]), on ne pourrait pas quand même pardonner la violation apparente de la charte constitutionnelle du pays: à savoir laisser seul le Premier ministre ou le Premier ministre avec le ministre matériellement compétent[13] ou les autres organes comme la Commission Gouvernementale ou bien d'autres personnes, des "*overlords*" (Hennessy & Welsh, 1998) comme les deux partenaires gouvernementaux – qui n'avaient pas par ailleurs assumé de poste ministériel – prendre les décisions sérieuses au lieu du Conseil des ministres, à savoir le gouvernement au sens strict du terme[14].

12 Il est à mentionner que la convocation du Conseil des ministres par Margaret Thatcher, pas deux mais une fois par semaine a soulevé la question de la dégradation de l'importance de l'organe collectif (Seldon, 1990, p. 111). Comme déjà noté, "*What we still need, however, as a mature political society is for the cabinet to assert its powers of collective discussion – not just occasionally, but routinely, Thursday-in and Thursday-out*" (Hennessy, 1998, p. 20). En ce qui concerne la fréquence des réunions du Conseil des ministres en Grande Bretagne, voyez, aussi, Heffernan (2003, p. 358–359).

13 Il se peut que certains ministres soient contents d'un tel aboutissement car afin de mettre en œuvre les mesures d'une politique publique qu'ils proposent, il suffit de convaincre le Premier ministre, sans devoir faire face aux désaccords de leurs collègues (Heffernan, 2005, p. 613; Lord Lawson & Lord Armstrong of Ilminster, 1994, p. 442–443; Brady & Catterall, 1997, p. 514).

14 D'ailleurs, la confidentialité des discussions et des comptes rendus du Conseil des ministres a du sens, au cas où l'organe gouvernemental collectif remplit son rôle constitutionnel (d'Ombrain, 2004, p. 353), et alors les membres ont la responsabilité collective pour les décisions prises.

Au-delà de la question constitutionnelle qui est donc soulevée lors de l'adoption de telles pratiques, émergent en parallèle des problèmes de nature organisationnelle qui perturbent la cohésion du gouvernement. Dans le passé, dans certains cas où des Premiers ministres convoquaient plus fréquemment la Commission Gouvernementale, il y avait souvent des protestations de la part des ministres qui n'y étaient pas membres. Ces dernières années, plus particulièrement, la non-convocation des organes gouvernementaux collectifs a provoqué de l'instabilité au sein du gouvernement, à cause du mécontentement des cadres gouvernementaux qui provenaient même du parti politique de la Nouvelle démocratie[15].

En juin 2013, la Gauche démocratique a retiré du gouvernement multipartite les personnes qu'elle avait suggérées: comme soutenu en théorie, le nombre et la distance idéologique des partenaires gouvernementaux peuvent conduire à l'instabilité gouvernementale (Warwick, 1992; Tsebelis, 1995, p. 321). Par conséquent, un remaniement a eu lieu, qui a conduit à la formation d'un nouveau schéma gouvernemental de coopération bipartisane. À ce gouvernement a participé le leader du PASOK comme vice-président du gouvernement et ministre des Affaires Étrangères[16], ainsi que d'autres députés du parti. Dans ce schéma aussi, le gouvernement a suivi le modèle du gouvernement Papadémos, en nominant comme chef des structures ministérielles, une personne qui appartenait à un parti et ministre adjoint ou ministre délégué – dans le même ministère – une personne qui appartenait à un parti différent[17]. Une condition *sine qua non* pour le bon fonctionnement d'un gouvernement de coalition c'est la répartition efficace des responsabilités entre ses membres, afin d'éviter les désaccords qui pourraient survenir en raison de différences idéologiques (Martin & Vanberg, 2005, p. 94).

Le lendemain du remaniement ministériel (25 juin 2013), le Conseil des ministres a été convoqué. Jusqu'au 30 novembre 2014, après qu'un deuxième remaniement avait eu lieu, le Premier ministre a convoqué le Conseil des ministres quatre (4) fois, alors que pendant la période qui s'ensuivit et jusqu'au 25 janvier 2015, date des élections nationales anticipées, une autre réunion

15 Comme il a été emphatiquement signalé en ce qui concerne le manque de collectivité au sein du gouvernement Blair et la prise de décisions seulement au sein d'un noyau étroit, "*The difficulty will come when they face hard choices and a Cabinet minister simply won't put up with it not being discussed in a Cabinet committee or full Cabinet*" (Hennessy, 1998, p. 12).

16 Il est mentionné de manière indicative que c'était aussi le cas du leader du Parti Démocratique Libre (*Frei Demokratische Partei*) de l'Allemagne qui avait assumé dans le gouvernement de coalition le poste du vice-chancelier et du ministre des Finances et de la Technologie, jusqu'aux élections de septembre 2013. De l'autre côté, il paraît que dans le gouvernement de coalition de la Grande Bretagne, formé après les élections de 2010, la préférence du parti des Démocrates libéraux a été différente: son chef a été nommé vice-président du gouvernement sans ayant au même temps assumé l'administration de quelconque ministère (Paun, 2011, p. 255–256).

17 Dans la liste des ministères, il y en a eu cependant certains où PASOK n'est pas été représenté. Il a été soutenu que ces cas contenaient le risque de la non-participation des deux partis au processus de la prise de décisions. En Grande Bretagne où on a suivi une pratique similaire, il s'agissait des structures ministérielles de politique controverse limitée alors qu'en même temps on a eu la formation des mécanismes ad hoc afin d'assurer le consentement du deuxième parti du gouvernement de la coalition pour la planification et la mise en application de la politique publique (Paun, 2011, p. 257).

du Conseil des ministres a eu lieu (29 décembre 2014). En effet, les mêmes pratiques ont été adoptées, bien que participassent au gouvernement non seulement le président du PASOK mais aussi plusieurs dirigeants politiques.

Le gouvernement nouvellement formé de Tsipras

En janvier 2015, en raison de l'incapacité constatée du Parlement hellénique d'élire le Président de la République avec la majorité requise et en vertu de la prévision relative de la Constitution du pays, des élections parlementaires ont eu lieu. SYRIZA a été élu le premier parti, obtenant, cependant, 149 sièges dans le Parlement, ce qui ne lui a pas permis de former un gouvernement autonome – puisqu'il faut obtenir au moins 151 sièges. Toutefois, un gouvernement composé de SYRIZA et des Grecs indépendants a été aussitôt formé. La nouvelle composition gouvernementale est constituée de 41 membres, du Premier ministre y inclus, dont uniquement 5 proviennent du parti des Grecs indépendants.

Au cours de deux premiers mois, le Premier ministre actuel a convoqué deux fois le Conseil des ministres. Il a également constitué un nouvel organe collectif, le Conseil Gouvernemental, chargé de statuer sur toute question d'importance générale et de prendre les mesures adéquates pour la mise en œuvre de la politique gouvernementale. Ce Conseil est présidé par le Premier ministre et y participent le vice-président du gouvernement et 10 ministres dirigeant les structures correspondantes. Le Conseil Gouvernemental se réunit déjà régulièrement, compte tenu, d'ailleurs, de la tâche difficile que le gouvernement doit accomplir, afin de mettre en œuvre son programme préélectoral sans manquer à ses engagements vis-à-vis de ses partenaires européens, des engagements, notamment, en matière d'indicateurs économiques.

Il reste à voir si les pratiques qui vont être adoptées par le gouvernement vont respecter cette fois l'ordre constitutionnel et une meilleure coopération va être obtenue.

III

Le rôle de coordination du Premier ministre au sein d'un gouvernement de coalition

Comme déjà mentionné, le gouvernement, en tant qu'organe collectif, est l'institution compétente pour la planification, la prise de décisions et la surveillance de la mise en application du programme gouvernemental dans les divers domaines de la politique publique, alors que le rôle névralgique du Premier ministre au sein du schéma gouvernemental consiste essentiellement aux deux points suivants:

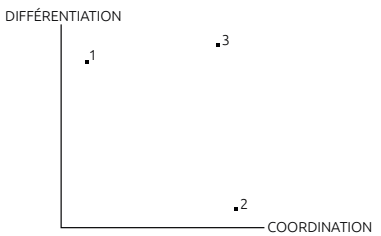
a) d'être le centre dominant d'influence sur le choix du personnel politique qui encadrera le gouvernement,

b) d'être chargé de veiller à l'unité parmi les membres du gouvernement. Quelque chose d'extrêmement difficile vu la grande différentiation au sein de la politique publique et les responsabilités assumées par un grand nombre de ministres[18].

Au cours de la Troisième République Grecque, et plus particulièrement après la révision de la Constitution en 1986, le système de gouvernance en Grèce a commencé à se transformer en démocratie parlementaire "centrée au Premier ministre"[19] (Papademetriou, 1988, p. 137–146). L'institution du Premier ministre s'est même renforcée à tel point que le pouvoir qu'il exerce, a commencé à être considéré similaire à celui du président des systèmes présidentiels[20]. Il vaut pourtant la peine d'examiner si les gouvernements de coalition multipartites freinent le phénomène de "parlementarisme premier ministériel" (Kamtsidou, 1998, p. 216; 2011, p. 66, 145 et suiv.)[21].

Le choix des membres qui encadreront le gouvernement et l'attribution des portefeuilles ministériels est peut-être la compétence la plus primordiale du

18 Tenant en compte 'la loi de coordination déclinante' (selon Downs), l'obtention de la cohérence entre les membres du gouvernement constitue ce qui est recherché. Cette relation pourrait être illustrée selon le diagramme de la note 4:



1 Manque de coordination
2 Manque de différentiation
3 Coordination réussie

19 La tendance de renforcement du pouvoir exécutif au détriment, éventuellement, du pouvoir législatif qui apparaît aux démocraties – de type présidentiel, semi-présidentiel ou parlementaire – modernes est quelque chose de remarquable. En ce qui concerne les systèmes parlementaires européens, on a même parlé de 'présidentialisation' du chef du pouvoir exécutif (Foley, 1993; Peters, Rhodes & Wright, 2000, p. 7 et suiv.; Poguntke & Webb, 2005, p. 352; Roskin et al., 2008; Johansson & Tallberg, 2010), qui consiste à la tendance d'autonomisation de ce type de pouvoir contre le pouvoir législatif. Elle consiste aussi au déclin de la collectivité entre les institutions du pouvoir exécutif et aussi au renforcement de l'importance des leaders durant les élections (Bäck et al., 2009, p. 229).

20 Par exemple, en Grande Bretagne la personnalité de M. Thatcher et de T. Blair, ainsi que leur mode de gouvernance, pour plusieurs théoriciens vérifient ce phénomène (Heffernan, 2005; voyez, aussi, Kolltveit, 2012).

21 Comme déjà indiqué, la formation de gouvernements appuyés sur une majorité absolue, renforce le prestige d'un Premier ministre. Alors, en dehors de la personnalité du chef du pouvoir exécutif – "son tempérament personnel et ses ambitions" (Hennessy, 2000, p. 387) – en ce qui concerne le renforcement de sa position au système socio-gouvernemental, le type de gouvernement dont il est le chef, à savoir s'il s'agit d'un gouvernement à parti unique, d'un gouvernement minoritaire ou d'un gouvernement de coalition, joue aussi son rôle (Blondel & Müller-Rommel, 1993). On met aussi l'accent sur le fait qu'en raison de la globalisation, il est primordial, en ce qui concerne la gouvernance, d'avoir des figures politiques qui peuvent participer à des réunions où on prend des décisions cruciales sur les états-membres des divers institutions, comme par exemple de l'Union Européenne (Moravcsik, 1994). En même temps, il arrive souvent que les médias prêtent plus d'attention aux figures politiques, au lieu des programmes de politique publique, phénomène qui renforce la position du chef du pouvoir exécutif (chief executive) (Johansson & Tallberg, 2010, p. 211–212; Paloheimo, 2003, p. 220).

Premier ministre conférée par la Constitution. Cependant, cette compétence perd une partie de sa valeur quand certains membres sont "indiqués" – expression utilisée par les médias – par des leaders des autres partis qui soutiennent le schéma du gouvernement. Déjà dans le passé, il a été souligné que les choix du Premier ministre – d'un gouvernement à parti unique – sont parfois "l'aboutissement des équilibres et des compromis" (Kosmides, 2010, p. 113; Smith, 1994, p. 342). Mais pour le fonctionnement efficace du gouvernement, les personnes sélectionnées doivent pouvoir coopérer, en ce qui concerne les directions qui leur seront fournies par le Premier ministre. Ce n'est que dans ces conditions que le chef du gouvernement pourra faire confiance à l'opinion de ses ministres et alors c'est dans ce cas que ces derniers se soucieront de contribuer au processus (Brady, 1999, p. 226).

L'unité, d'ailleurs, au sein du gouvernement constitue peut-être la tâche la plus difficile assumée par le Premier ministre qui doit maintenir l'équilibre et concilier les différences de style et d'action entre les ministres et les autres cadres éminents de son gouvernement, afin d'établir une mise en œuvre plus efficace des choix gouvernementaux. L'œuvre de coordination du Premier ministre devient extrêmement difficile quand on a des schémas gouvernementaux avec de nombreux membres – situation très commune à la réalité socio-administrative grecque. Ainsi, il se peut que le but de la cohérence gouvernementale nécessaire ne s'obtienne pas au sein des gouvernements de coalition. Il est à noter que, compte tenu des exemples historiques relatifs, la durée des gouvernements multipartites varie des trois à neuf mois. Pourtant, le gouvernement Samaras a duré presque deux ans et demi. Le gouvernement Tsipras se trouve dans son 5ème mois.

Il convient de souligner que dans le gouvernement Samaras le ministre d'État a été inclus dès le début, ayant la responsabilité, entre autres, d'assister le Premier ministre dans l'élaboration de la politique gouvernementale, de soutenir les actions qui visent à l'assurance de l'unité du gouvernement et la cohérence du travail gouvernemental, et de coopérer avec les autres ministres afin de promouvoir les réformes institutionnelles nécessaires.

Une fois le gouvernement tripartite de Samaras composé, après les élections législatives de juin 2012, Samaras n'a pas été nommé vice-président. Toutefois, ainsi qu'il a été précité, après le départ par le gouvernement de coalition de la Gauche démocratique en juin 2013 et le remaniement qui a suivi, Evangélos Vénizélos, le leader du PASOK, a été nommé vice-président du gouvernement et ministre des Affaires Étrangères. Cependant, aucune décision concernant ses obligations distinctes comme vice-président – de coordination ou d'autres– n'a été émise. Comme dans des cas précédents, il est possible que le caractère symbolique de ce poste soit ainsi démontré.

Le gouvernement formé par Al. Tsipras, comporte aussi bien un vice-président chargé de la coordination, notamment, en matière de politique économique du gouvernement, qu'un ministre d'État, chargé d'assurer la cohésion

de la politique gouvernementale, ainsi qu'un ministre délégué auprès du Premier ministre (indiqué par les Grecs indépendants) responsable de coordonner l'œuvre du gouvernement dans le cadre des instructions du ministre d'État chargé en la matière. Seul l'avenir nous dira si des questions de chevauchement ou de conflits des fonctions surgiront.

Des Secrétariats Généraux relevant du Premier ministre

Pour faciliter le travail du Premier ministre, on a depuis longtemps composé deux structures de service[22]:

a) Le Cabinet du Premier ministre, qui s'est transformé en Secrétariat Général du Premier ministre durant le gouvernement de Georgios A. Papandreou (2011), dont le travail est orienté vers le soutien administratif du Premier ministre au cadre de ses responsabilités et la fourniture de conseils au chef de gouvernement.

   Pour Georgios Papandreou, le but était le renforcement de son Cabinet. Pour cette raison, il a réorganisé les divisions distinctes et a augmenté le nombre de son personnel. Une nouvelle réorganisation a eu lieu durant le mandat du Premier ministre Lucas Papadémos, où on est retourné, en partie, au régime précédent. Dans le cadre de la réduction du nombre des fonctionnaires, prévue par le Mémorandum, des postes vacants du domaine administratif et financier ont été supprimés par ce service. Déjà dans la première période du gouvernement Samaras, de nombreux Secrétariats Généraux (ainsi que leurs chefs) ont été abolis. Toutefois, l'ex Premier ministre (Ant. Samaras) a maintenu la forme du Secrétariat Général pour son Cabinet et a procédé à une petite réorganisation (voyez Annexe I).

b) Le Secrétariat Général du Conseil des ministres, qui a été renommé Secrétariat Général du Gouvernement, durant le mandat de Konstantinos Al. Karamanlis (2004), qui vise au soutien du Premier ministre et des autres organes collectifs gouvernementaux dans le cadre de leurs responsabilités.

   Tous ces deux services publics indépendants soutiennent l'œuvre de coordination du Premier ministre, sans quand même pouvoir contribuer, du moins comme ce fait est connu du public, à la planification d'une politique publique, ou à l'élaboration d'un projet de loi relatif, responsabilités assumées, par exemple, par le Secrétariat du

22 Déjà en 1966 dans son rapport relatif au mécanisme gouvernemental en Grèce, l'expert F. M. G. Willson, en identifiant le rôle primordial du Premier ministre au système politique, a mis l'accent sur la nécessité de la création d'un service public moderne, relevant du chef du gouvernement, qui aura comme mission de préparer et suivre la mise en application du travail gouvernemental (Makrydemetres & Michalopoulos, 2000, p. 281 et suiv.). Cette question a aussi préoccupé les auteurs du "Rapport sur la Réforme et la Modernisation de l'Administration Publique" à peu près deux décennies après (1990). Dans ce rapport a été souligné le besoin de création d'un Bureau d'Analyse et de Planification de la Politique au centre de la gouvernance mais aussi à chaque ministère, afin de mieux assister la politique gouvernementale générale (Makrydemetres & Michalopoulos, 2000, p. 566–568).

Gouvernement japonais en vertu de la loi sur le Conseil des ministres (Shinoda, 2005, p. 813). Il est soutenu que parfois les bornes entre la coordination ou la surveillance de la mise à exécution du travail gouvernemental ne sont pas assez claires (Hamburger, Stevens & Weller, 2012, p. 384).

Suivant le modèle britannique, le noyau de la gouvernance (core executive) a été formé en Grèce selon le système "binaire". C'est-à-dire, un service qui soutient et conseille le Premier ministre et qui a un caractère politique, et un autre qui entreprend essentiellement des tâches administratives pour faciliter le travail du Conseil des ministres. Pourtant, la distinction entre ces pouvoirs n'est pas toujours claire. Par exemple, la mise au jour des membres du Conseil des ministres sur les consultations des projets de lois constitue une compétence administrative exercée par le Secrétariat Général du Conseil des ministres. Cependant, le même service – particulièrement dans le cas d'un gouvernement de coalition – pourrait informer aussi le président du Conseil des ministres d'éventuelles réactions des partenaires gouvernementaux sur les règlements proposés, responsabilité donc de nature politique (Goetz & Margetts, 1999, p. 436–438).

En janvier 2013 s'est formé encore un autre organe des cadres d'état-major, relevant du Premier ministre:

c) le Secrétariat Général de Coordination qui "a comme mission la coordination des actions pour la mise en œuvre du travail gouvernemental"[23]. Comme mentionné dans le Rapport Explicatif de la loi relative, la nécessité d'un tel mécanisme se base aussi sur les recommandations de l'Organisation de Coopération et de Développement Économiques (OECD, 2011, p. 43–46). Il serait utile de rappeler quand même que le transfert des bonnes pratiques d'un pays étranger pourrait être efficace quand celles-ci sont adoptées selon les besoins domestiques et ne sont pas transférées comme une copie stérile d'un modèle ayant fonctionné efficacement au sein d'un autre pays. La doctrine taylorienne en matière du meilleur mode d'action qui s'applique dans tous les cas (*'one best way' that fits all*), n'est pas conforme à l'idée administrative moderne.

L'existence de deux services distincts relevant du Premier ministre avait depuis longtemps conduit à des problèmes de coordination des responsabilités. On se demande donc comment a-t-on fait face à une situation déjà problématique avec la création d'un troisième Secrétariat Général au centre de la gouvernance (*centre of government*). Il est à noter que dans le Royaume Uni, l'exemple duquel on a essayé d'adopter, les responsabilités sont reparties à deux structures de telle sorte que celles-ci fonctionnent de manière complémentaire, mais aussi "*an executive office in all but name*

23 Voyez le chapitre B΄ de la loi 4109/2013.

already exists: it centers on the Prime Minister's and Cabinet offices, and has been significantly developed since the 1960s" (Burch & Holliday, 1999, p. 43)[24].

Si l'on étudie les organigrammes (voyez Annexe II) et les responsabilités distinctes assumées par les trois services relevant du Premier ministre, on constatera que les mêmes responsabilités sont assumées par plusieurs institutions, ce qui favorise ainsi probablement leur fonctionnement compétitif. Durant la discussion au sein du Comité Permanent de l'Administration Publique, de l'Ordre Public et de la Justice sur le projet de loi qui favorisait la création d'un nouveau Secrétariat relevant du Premier ministre[25], on a souligné l'importance de la distinction de son rôle, de celui des deux autres Secrétariats qui avaient primordialement comme rôle le soutien du Premier ministre. Le rapporteur de la Nouvelle démocratie a souligné l'importance de la nouvelle institution en raison de la non-existence, jusque là, d'un pivot conducteur qui guiderait et prendrait pour cible des actions spécifiques fixant des objectifs précis. La nouvelle structure devrait faire face aux contradictions en ce qui concerne les actions distinctes des ministères tant au niveau de préparation mais aussi au niveau de l'application correcte du travail législatif. Il a été clarifié que contrairement au Secrétariat Général du Gouvernement qui coordonne les ministres au niveau politique et législatif, le Secrétariat Général de Coordination coordonnera les ministères au niveau opérationnel et prendra des mesures correctives afin de prévenir toute défaillance.

Mais la question qui se pose c'est pour quelle raison les deux structures précédentes n'ont pas pu entreprendre plusieurs ou même des responsabilités plus spécifiques de nature opérationnelle. En plus, y a-t-il une distinction claire entre le rôle du ministre et du ministère?

En outre, tant le Secrétaire Général du Premier ministre que le Secrétaire Général du Gouvernement[26] sont des fonctionnaires révocables contrairement au Secrétaire Général de Coordination qui est nommé pour cinq ans "pour souligner sa capacité de cadre d'état-major administratif qui reflète le fonctionnement stable de cette structure", ainsi qu'il est mentionné par le Rapport Explicatif relatif. Apparemment, le but de la provision est d'assurer la stabilité administrative malgré des changements politiques éventuels. Au-delà de la question si la coordination du travail gouvernemental est mieux effectuée par un service dont le chef relève directement du Premier ministre

24 Contrairement à la dispersion des bâtiments du centre de gouvernance en Grèce.

25 Parlement grec, Période IE΄, Session A΄, 14, 17 et 20 décembre 2012.

26 Il est à noter que les capacités administratives du Secrétaire Général du Gouvernement et son prestige politique, si bien sûr il en a, le transforment en un facteur important dans le domaine de la gouvernance (Goetz, 1997, p. 759). Le Secrétaire Général du Gouvernement doit jouer un rôle dans la réalisation, mais aussi la préparation des projets de lois et de programmes de politique publique, adoptées par le gouvernement. Pour cette raison, dans de nombreux pays, "*the Secretary General to the Government meets weekly with her/his counterparts in order to prepare Cabinet meetings or to follow up decisions*". Ce qui n'arrive pas dans notre pays malgré le manque de coordination interministérielle et l'absence de coopération, phénomènes déjà remarqués depuis longtemps (OECD, 2011, p. 54).

et qui constitue le choix de son prédécesseur, force est de constater aussi que le règlement législatif concernant le mandat de cette institution n'exclut pas le changement et le remplacement de la personne qui a assumé le poste au cas de changement de gouvernement, chose qui arrive toujours avec les chefs des directions générales, des directions et des départements à l'administration publique[27].

Ainsi, le 26 janvier de l'année en cours (2015), lorsque Alexis Tsipras a été chargé de la gouvernance du pays, les Secrétaires Généraux du Premier ministre et du Gouvernement ont été remplacés, alors qu'un mois plus tard, le nouveau Secrétaire Général de Coordination a été nommé. Il importe de mentionner, en l'espèce, que la surveillance du Secrétariat Général du Premier ministre et du Secrétariat Général du Gouvernement est exercée par le premier, dans l'ordre de préséance, ministre d'État, tandis que la responsabilité du Secrétariat Général de Coordination relève d'un autre ministre d'État, celui chargé d'assurer la cohésion de la politique gouvernementale.

Évaluation critique

L'état-major du Premier ministre est chargé de l'assister dans son rôle de surveillance et de coordination, lui fournissant l'infrastructure administrative et scientifique adéquate. Il a un rôle consultatif afin d'offrir au chef du gouvernement une information profonde, complémentaire ou parallèle à celle fournie par les ministres pour des sujets de leur compétence, de telle manière que le Premier ministre puisse acquérir une vision globale des problèmes publics. Pour cette raison, il est nécessaire de rédiger des notes relatives où l'on analysera de sorte systématique les conséquences des solutions alternatives dans l'esquisse de la politique en général et avant la prise de décisions sur ses domaines divers. Le personnel qui encadre les services sous le Premier ministre doit aussi surveiller la mise à exécution du programme gouvernemental, d'évaluer les résultats des choix politiques appliqués et de soumettre ses propositions sur d'éventuels points problématiques[28].

Pourtant, le but des services relevant du Premier ministre n'est pas toujours réalisé au degré prévu[29], faute d'encadrement adéquat des divisions distinctes. Le nombre du personnel de ces services constitue une indication claire de la capacité du centre de gouvernance de participer au processus de prise de décisions, concernant la politique publique (Marinetto, 2003, p. 599–600;

27 Éventuellement, il serait préférable d'avoir une consultation, avant le règlement du mandat du Secrétaire Général de Coordination, concernant le nombre des Secrétaires Généraux dans le cadre du pouvoir exécutif, qui ne doivent pas par ailleurs constituer des choix politiques mais doivent être sélectionnés sur la base de principe méritocratique d'un organe qui fournira des garanties relatives.

28 En ce qui concerne l'influence des cadres d'état-major du Premier ministre sur l'action des structures ministérielles, voyez Smith, Marsh & Richards (1993, p. 586). Pourtant, la création d'un ministère distinct ne serait pas une idée idéale, puisqu'elle renforcerait extrêmement le poste du Premier ministre (Blick & Jones, 2010, p. 34; Yeend, 1979; Weller, 1991; Mediansky, 1981).

29 Voyez Makrydemetres (2011), pour des évaluations en matière du rôle des services distincts du Premier ministre.

Kavanagh & Richards, 2001, p. 12–13). Toutefois, le fait que l'action de ces services focalise plutôt à des questions juridiques ou au soutien administratif du Premier ministre et des organes gouvernementaux collectifs, et rarement à la documentation des programmes politiques publics ou la mise en valeur des points problématiques de la politique gouvernementale appliquée, est inquiétant. Ce soutien limité de ces services pourrait indiquer la réticence du Premier ministre de laisser ses consultants et collaborateurs participer à l'élaboration des décisions sur les divers domaines de politique publique, afin d'éviter d'éventuels désaccords et conflits avec les ministres matériellement compétents.

En ce qui concerne l'ordre juridique national, il s'avère que le problème ne réside pas dans le manque des services qui renforcent le travail du Premier ministre, il pourrait quand même être le résultat du 'pluralisme des centres consultatifs' (Rhodes, 2006, p. 334)[30]. Ce qui est contesté, c'est si, au bout du compte, l'organisation actuelle du centre de gouvernance remplit son objectif. On a aussi observé dans le modèle britannique, l'absence de directives générales, afin que les politiques publiques distinctes définies puissent constituer des éléments d'une stratégie unique (Blick & Jones, 2010, p. 29).

Déjà, depuis longtemps, des suggestions concernant l'unification des services relevant du Premier ministre se sont énoncées (Makrydemetres, 2006, p. 132–133)[31]. Au lieu de les fusionner en une seule structure, au moyen de Policy Unit, on a prévu la mise en place d'un autre Secrétariat Général (de Coordination). La faiblesse principale du cadre institutionnel c'est que ni la communication entre les trois structures ni les relations entre les chefs des Secrétariats Généraux ne sont claires – il est mentionné seulement qu'en cas d'absence ou d'empêchement du Secrétaire Général de Coordination, le Secrétaire Général, chef du Secrétariat Général du Premier ministre, remplit ses fonctions. Au cadre de la discussion du projet de loi relatif au Comité Permanent compétent du Parlement, il a été estimé qu'en cas de confusion "c'est dans la responsabilité principale du Premier ministre du pays de séparer et prêter les responsabilités, mais surtout de surveiller le fonctionnement et la coopération sérieuse, correcte et bonne des Secrétariats Généraux". Le défi est, cependant, de faciliter le Premier ministre dans l'exécution des tâches de coordination entre les divers services exécutifs de l'État. Pas de provoquer

30 Voyez l'étude de Featherstone et Papadimitriou (2013) sur le cas grec: dans leur article, il est souligné que pour le Cabinet du Premier ministre du pouvoir et des ressources limités sont réservés. L'opinion de Makrydemetres est différente (2011, p. 59–60).

31 Voyez la contribution de Sotiropoulos dans le volume collectif, concernant l'administration du centre de gouvernance dans les pays développés (Peters, Rhodes & Wright, 2000, p. 176 et suiv.). En se référant au cas grec, il repère la coexistence d'un plus grand nombre de services publics directement surveillés par le Premier ministre que nécessaire. Comme il a été emphatiquement souligné: "*an overlap of competences among all those departments and agencies is not easily avoided*", ce qui pourrait empêcher les figures politiques d'assumer leurs responsabilités. Afin de faire face à ce phénomène, on propose de limiter l'étendue de la supervision et du contrôle (*span of control*) du Premier ministre et parallèlement séparer d'une façon claire les responsabilités des services relevant du chef du pouvoir exécutif (*ibid*, 2000, p. 191).

des confusions de responsabilités et des conflits entre les structures mêmes de coordination que le Premier ministre sera appelé de résoudre – ajoutant ainsi plus des responsabilités dans son programme déjà très chargé.

IV

"Decisions on important matters
should not be made by one person alone.
They should be discussed with many"
Prince Shôtoku, 604 av. J.-C.
(il se réfère à Am. Sen, "Elements of a Theory of Human Rights", 2004, p. 352)

Selon le Rapport de l'OCDE sur l'administration centrale grecque, le 'centre de gouvernance' consiste à un "petit ensemble composé d'organes statutaires au noyau du pouvoir exécutif, qui ont entre eux l'autorité, la responsabilité et la capacité de guider l'élaboration d'une vision stratégique, l'orientation des politiques publiques et la mise en œuvre efficace de cette vision" (2011, p. 43).

Tenant en compte l'analyse qui précède, il est incontestable que le centre de gouvernance de notre pays est vaste: celui-ci comporte, parmi d'autres, le Conseil des ministres, les autres organes gouvernementaux collectifs, de nombreux comités interministériels, le Premier ministre, le Secrétariat Général du Premier ministre, le Secrétariat Général du Gouvernement, le Secrétariat Général de Coordination. La participation essentielle de toutes ces institutions susmentionnées n'est pas vraiment claire, en ce qui concerne la prise de décisions sur les divers problèmes publics qui émergent.

Le rôle du Premier ministre dans le système socio-politique national a d'un côté une valeur dominante, mais perd une partie de son importance à la lumière de la gouvernance moderne à multiniveaux des États. En fait, le rôle du chef du gouvernement est important surtout dans le contexte de l'ordre juridique national. En effet, en raison de la participation des états-nations à des incorporations transnationales et internationales avec les obligations entraînées par une telle décision, son rôle tend à se dégrader[32]: "*the prime minister is increasingly dominant in a shrinking world*" (voyez Marsh, Richards & Smith, 2003, p. 324)[33].

Toutefois, seule la personnalité de leader du Premier ministre ne suffit pas pour le succès d'un gouvernement. N'oublions pas que même des Premiers ministres très puissants comme Thatcher, ont été conduits à la démission, une fois qu'ils ont cessé de reconnaître la nécessité de l'appui du Conseil des ministres (Theakston, 2002, p. 316). Comme déjà mentionné (ante, unité I), il arrive souvent que le Premier ministre ne puisse pas mettre en évidence sa principale tâche, celle de l'harmonisation de la politique gouvernementale.

32 Note 21.

33 Pour la notion de l' 'érosion' (*hollowing out*) d'État, voyez, *inter alia*, Rhodes, 1994; Holliday, 2000; Skelcher, 2000.

Par conséquent, on a l'apparition des désaccords entre les membres du gouvernement qui conduisent à leur tour à des troubles internes et même à l'effondrement (Weber, 1947, p. 393).

Comme 'la coordination exige de la consultation' (Yeend, 1979, p. 142), celle-ci peut être obtenue efficacement au sein d'un gouvernement qui fonctionne collégialement et pas au sein d'un gouvernement dans lequel la relation hiérarchique entre le Premier ministre, figure dominante, et les ministres est surestimée (Blick & Jones, 2010, p. 31).

On attend que le Conseil des ministres soit un "organe important, constitué par les cadres dirigeants [du parti], qui pourraient discuter des questions confidentielles, pour le maintien du pouvoir à l'intérieur et la réalisation d'une politique étrangère ambitieuse" (Weber, 1988, p. 113). Il n'a pas de rôle symbolique, ni ses réunions devraient se limiter aux fins de communication. Les discussions y tenant lieu, pour qu'elles soient efficaces, doivent permettre l'analyse systématique précédente des questions, la mise à jour substantielle des ministres et l'établissement des comptes rendus des réunions, conformément à la procédure requise (Hennessy, 2007, p. 350). La mise à l'écart des dispositions institutionnelles ne facilite ni l'efficacité administrative ni l'harmonie politique.

Pour le fonctionnement efficace du centre de gouvernance, les ministres doivent, pour leur part, respecter les échéances concernant la mise à jour du Secrétariat Général du Gouvernement sur leurs propositions (OECD, 2004, p. 16 et suiv.)[34], plutôt que les importer directement au Conseil des ministres, de sorte que leurs collègues, ou bien le Premier ministre, ne peuvent pas les étudier précédemment (Goetz & Margetts, 1999, p. 441–442; Foster, 2004, p. 770).

Parmi les facteurs clés pour la création d'un processus efficace de prise de décisions c'est la capacité des ministres 'participant' à la gouvernance de pouvoir contribuer substantiellement au processus (Cutting & Kouzmin, 1999, p. 493–494): à savoir, il est nécessaire d'avoir une sorte de discussion interactive au sein du Conseil des ministres, les réunions duquel doivent avoir lieu sur une base régulière. La collégialité au processus de la prise des décisions et la responsabilité conjointe exigent des structures et des procédures formelles (Weller, 1991, p. 135). Il ne suffit pas que les ministres s'informent généralement et valident seulement des décisions formées au cadre des réunions et des consultations informelles (comme des réunions ad hoc ou des réunions bilatérales entre le Premier ministre et le ministre compétent en la matière).

La qualité au sein de la gouvernance est un processus très complexe avec des dimensions, qualités et aptitudes purement politiques, nécessitant quand

34 L'initiative de rédiger des manuels sur le bon fonctionnement du Conseil des ministres (Cabinet handbooks ou manuals) a son importance. Voyez, également, les règles déontologiques des membres du gouvernement.

même des conditions administratives et organisationnelles pour son succès. Quelque chose vraiment très essentielle, si non cruciale, pour la démocratie même, qui afin d'être efficace, doit aussi être légitime et acceptée par la société qui a le droit, par ailleurs, de savoir qui et comment la gouverne.

***Marie-Iléane Pravita, PhD.**, Maître de Conférences en Science Administrative à l'Université d'Athènes, Département de Science Politique et d'Administration Publique. Membre de nombre d'organes et d'associations professionnels, tels que l'Institut Hellénique des Sciences Administratives, l'Association Hellénique de Science Politique, l'Association des Constitutionnalistes Grecs, l'Association Hellénique de Droit Public et de Politique Publique (secrétaire générale), l'Association Internationale de Science Politique et l'Association Internationale de Droit Constitutionnel. Ses publications incluent des ouvrages et des essais en matière d'administration publique et de gouvernance.*

Références

Andeweg, R. B. (1991). The Dutch Prime Minister: Not Just Chairman, Not Yet Chief? *West European Politics, 14*(2), 116–132. DOI: 10.1080/01402389108424848

Bäck H., Dumont, P., Meier, H. E., Persson, T. & Vernby, K. (2009). Does European Integration Lead to a 'Presidentialization' of Executive Politics? Ministerial Selection in Swedish Postwar Cabinets. *European Union Politics, 10*(2), 226–252. DOI: 10.1177/1465116509103369

Blair T. (2013). Democracy Doesn't on its Own Mean Effective Government. *The Observer*, 6th July 2013, The Guardian.

Blick, A., & Jones, G. (2010). The Centre of Central Government. *Public Policy Research, 17*(1), 29–35. DOI: 10.1111/j.1744-540X.2010.00598.x

Blondel, J., & Müller-Rommel, F. (Eds.). (1993). *Governing Together: The Extent and Limits of Joint Decision-Making in Western European Cabinets*. New York: St. Martin's Press.

Brady, C. (1999). Collective Responsibility of the Cabinet: An Ethical, Constitutional or Managerial Tool? *Parliamentary Affairs, 52*(2), 214–229. DOI: 10.1093/pa/52.2.214

Brady, C., & Catterall, P. (1997). Managing the Core Executive. *Public Administration, 75*(3), 509–529. DOI: 10.1111/1467-9299.00072

Burch, M., & Holliday, I. (2004). The Blair Government and the Core Executive. *Government and Opposition, 39*(1), 1–21. DOI: 10.1111/j.0017-257x.2004.00029.x

Colapietro, C. (2008). Governo. In S. Mangiameli (Ed.), *Diritto Constituzionale* (pp. 896–898). Dizionari Sistematici, Milano: Il Sole 24 ORE.

Cutting, B., & Kouzmin, A. (1999). From Chaos to Patterns of Understanding: Reflections on the Dynamics of Effective Government Decision Making. *Public Administration, 77*(3), 475–508. DOI: 10.1111/1467-9299.00164

Dahrendorf, R. (1984). Effectiveness and Legitimacy: On the "Governability" of Democracies. *The Political Quarterly, 51*(4), 393–410. DOI: 10.1111/j.1467-923X.1980.tb02520.x

Dunleavy, P., & Rhodes, R. A. W. (1990). Core Executive Studies in Britain. *Public Administration, 68*(1), 3–28. DOI: 10.1111/j.1467-9299.1990.tb00744.x

Elgie, R. (2011). Core Executive Studies Two Decades On. *Public Administration, 89*(1), 64–77. DOI: 10.1111/j.1467-9299.2011.01899.x

Featherstone, K., & Papadimitriou, D. (2013). The Emperor Has No Clothes! Power and Resources within the Greek Core Executive. *Governance, 26*(3), 523–545. DOI: 10.1111/j.1468-0491.2012.01610.x

Foley, M. (1993). *The Rise of the British Presidency*. Manchester: Manchester University Press.

Foster, C. (2004). Cabinet Government in the Twentieth Century. *The Modern Law Review, 67*(5), 753–771. DOI: 10.1111/j.1468-2230.2004.00511.x

Goetz, K. H. (1997). Acquiring Political Craft: Training Grounds for Top Officials in the German Core Executive. *Public Administration, 75*(4), 753–775. DOI: 10.1111/1467-9299.00085

Goetz, K. H., & Margetts, H. Z. (1999). The Solitary Center: The Core Executive in Central and Eastern Europe. *Governance, 12*(4), 425–453. DOI: 10.1111/0952-1895.00112

Goetz, K. H., & Meyer-Sahling, J.-H. (2008). The Europeanisation of National Political Systems: Parliaments and Executives. *Living Reviews in European Governance, 3*(2). DOI: 10.12942/lreg-2008-2

Hamburger, P., Stevens, B., & Weller, P. (2012). A Capacity for Central Coordination: The Case of the Department of the Prime Minister and Cabinet. *The Australian Journal of Public Administration, 70*(4), 377–390. DOI: 10.1111/j.1467-8500.2011.00739.x

Heffernan, R. (2003). Prime Ministerial Predominance? Core Executive Politics in the UK. *The British Journal of Politics and International Relations, 5*(3), 347–372. DOI: 10.1111/1467-856X.00110

Heffernan, R. (2005). Exploring (and Explaining) the British Prime Minister. T*he British Journal of Politics and International Relations, 7*(4), 605–620. DOI: 10.1111/j.1467-856X.2005.00203.x

Hennessy, P. (1985). The Quality of Cabinet Government in Britain. *Policy Studies, 6*(2), 15–45. DOI: 10.1080/01442878508423443

Hennessy, P. (1998). The Blair Style of Government: An Historical Perspective and an Interim Audit. *Government and Opposition, 33*(1), 3–20. DOI: 10.1111/j.1477-7053.1998.tb00780.x

Hennessy, P. (2000). The Blair Style and the Requirements of Twenty-first Century Premiership. *The Political Quarterly, 71*(4), 386–395. DOI: 10.1111/1467-923X.00326

Hennessy, P. (2007). From Blair to Brown: The Condition of British Government. *The Political Quarterly, 78*(3), 344–352. DOI: 10.1111/j.1467-923X.2007.00863.x

Hennessy, P., & Welsh, D. (1998). Lords of All They Surveyed? Churchill's Ministerial 'Overlords' 1951–1953. *Parliamentary Affairs, 51*(1), 62–70. DOI: 10.1093/oxfordjournals.pa.a028776

Holliday, I. (2000). Is the British State Hollowing Out? *The Political Quarterly, 71*(2), 167–176. DOI: 10.1111/1467-923X.00291

Holliday I., & Shinoda, T. (2002). Governing from the Centre: Core Executive Capacity in Britain and Japan. *Japanese Journal of Political Science, 3*(1), 91–111. DOI: 10.1017/S1468109902000154

Johansson K. M., & Tallberg, J. (2010). Explaining Chief Executive Empowerment: EU Summitry and Domestic Institutional Change. *West European Politics, 33*(2), 208–236. DOI: 10.1080/01402380903538815

Kamtsidou I. K. (1998). Le Premier ministre, Valeur Centrale du Système Parlementaire Grec. In *Les Vingt Années de la Constitution de 1975* (p. 201–218). Athènes-Komotiní : Éditions Ant. N. Sakkoulas, [en grec].

Kamtsidou I. (2011). *Le Système Parlementaire, le Principe Démocratique et la Responsabilité Gouvernementale.* Athènes : Éditions Savalas [en grec].

Kavanagh, D. and Richards, D. (2001). Departmentalism and Joined-up Government: Back to the Future? *Parliamentary Affairs, 54*(1), 1–18. DOI: 10.1093/pa/54.1.1

Kolltveit, K. (2012). Presidentialisation in the Executive Sphere? Evidence from Norwegian Cabinets. *Scandinavian Political Studies, 35*(4), 372–392. DOI: 10.1111/j.1467-9477.2012.00293.x

Kosmides, S. (2010). *Modernisation et Réformes. Avec des Propositions sur la Gouvernance, la Mise en Place du Droit, le Fonctionnement du Parlement, le Rôle des Partis et du Député etc.* Athènes: Éditions Kastaniotis [en grec].

Kourtis, K. E. (1980). *Problèmes d'Organisation et de Fonctionnement de l'Administration Publique en Grèce*. Athènes [en grec].

Krasner, S. D. (1984). Approaches to the State Alternative Conceptions and Historical Dynamics. *Comparative Politics, 16*(2), 223–246. DOI: 10.2307/421608

Lord Lawson, & Lord Armstrong of Ilminster (1994). Cabinet Government in the Thatcher Years. *Contemporary Record, 8*(3), 440–452. DOI: 10.1080/13619469408581307

Makrydemetres, A. (2006). *L'État des Citoyens. Problèmes de Réforme et de Modernisation*. Athènes : Éditions A. A. Livanis [en grec].

Makrydemetres, A. (2007). *Konstantinos Karamanlis. Un Exemple de Leadership Politique*. Athènes: Éditions Potamos (Fleuve) [en grec].

Makrydemetres, A. (2011). Control and Coordination at the Centre of Government. Some Thoughts on Kevin Featherstone's Lecture. *Epitheorisi Dioikitikis Epistimis (Revue de Science Administrative), 16*, 53–61.

Makrydemetres, A. (2013). *En Tissant la Toile de Pénélope. Administration et Démocratie en Grèce Après le Retour de la Démocratie*. Athènes-Salonique: Éditions Sakkoulas [en grec].

Makrydemetres, A., & Pravita, M.-I. (2012). *Science Administrative I: Administration Publique. Données sur l'Organisation Administrative* (5ème édition). Athènes-Salonique: Éditions Sakkoulas [en grec].

Manessis, A. I. (1956). *Les Garanties pour Le Respect de la Constitution, I, Introduction* (2ème édition 1991). Athènes-Komotiní: Éditions Ant. N. Sakkoulas [en grec].

Marinetto, M. (2003). Governing Beyond the Centre: A Critique of the Anglo-Governance School. *Political Studies, 51*(3), 592–608. DOI: 10.1111/1467-9248.00443

Marsh D., Richards, D., & Smith, M. (2003). Unequal Plurality: Towards an Asymmetric Power Model of British Politics. *Government and Opposition, 38*(3), 306–332. DOI: 10.1111/1477-7053.t01-1-00017

Martin, L. W., & Vanberg, G. (2005). Coalition Policymaking and Legislative Review. *American Political Science Review, 90*(1), 93–106. DOI: 10.1017/S0003055405051518

Mediansky, F. (1981). Malcolm Fraser's Bureaucracy. *The Australian Quarterly, 53*(4), 394–418. DOI: 10.2307/20635139

Mershon, C. A. (1994). Expectations and Informal Rules in Coalition Formation. *Comparative Political Studies, 27*(1), 40–79. DOI: 10.1177/0010414094027001002

Ministère de Présidence du Gouvernement. (2000). Rapport sur la Réforme et la Modernisation de l'Administration Publique. In A. Makrydemetres & N. Michalopoulos (éd.), *Des Rapports des Experts pour l'Administration Publique, 1950–1998* (p. 557–626). Athènes: Éditions Papazisis, [en grec].

Moravcsik, A. (1994). Why the European Union Strengthens the State: Domestic Politics and International Cooperation. *Center for European Studies – Working Paper Series*, 52.

Neto, A. O., & Lobo, M. C. (2009). Portugal's Semi-Presidentialism (Re)considered: An Assessment of the President's Role in the Policy Process, 1976–2006. *European Journal of Political Research, 48*(2), 234–255. DOI: 10.1111/j.1475-6765.2008.00833.x

OECD. (2004). Co-ordination at the Centre of Government: The Functions and Organisation of the Government Office; Comparative Analysis of OECD Countries, CEECs and Western Balkan Countries. *Sigma Papers*, 35. Paris: OECD Publishing. DOI: 10.1787/5kml60v4x2f6-en

OECD. (2011). *Greece: Review of the Central Administration*. OECD Public Governance Reviews. Paris: OECD Publishing.

O'Malley, E. (2007). The Power of Prime Ministers: Results of an Expert Survey. *International Political Science Review, 28*(1), 7–27. DOI: 10.1177/0192512107070398

d'Ombrain, N. (2004). Cabinet Secrecy. *Canadian Public Administration, 47*(3), 332–359. DOI: 10.1111/j.1754-7121.2004.tb01869.x

Paloheimo, H. (2003). The Rising Power of the Prime Minister in Finland. *Scandinavian Political Studies, 26*(3), 219–243. DOI: 10.1111/1467-9477.00086

Papademetriou, G. (1988). La 'Redéfinition Opaque' de la Forme du Régime dans la Révision Constitutionnelle de 1986. *Dikaio kai Politiki (Droit et Politique)*, 13–14, 137–146 [en grec].

Paun, A. (2011). United We Stand? Governance Challenges for the United Kingdom Coalition. *The Political Quarterly, 82*(2), 251–260. DOI: 10.1111/j.1467-923X.2011.02186.x

Peters, B. G., Rhodes, R. A. W., & Wright, V. (Eds.). (2000). A*dministering the Summit: Administration of the Core Executive in Developed Countries*. Basingstoke: Macmillan Press.

Poguntke, T., & Webb, P. (Eds.). (2005). *The Presidentialization of Politics: A Comparative Study of Modern Democracies*. Oxford: Oxford University Press. DOI: 10.1093/0199252017.001.0001

Pravita, M.-I. (2010). Le Rôle et les Compétences des Ministres Délégués à l'Organisation et le Fonctionnement de l'Appareil Gouvernemental en Grèce. *Efimerida Dioikitikou Dikaiou (Journal de Droit Administratif), 2*, 239–254 [en grec].

Rhodes, R. A. W. (1994). The Hollowing Out of the State. *The Political Quarterly, 63*(1), 138–151. DOI: 10.1111/j.1467-923X.1994.tb00441.x

Rhodes, R. A. W. (2006). Executives in Parliamentary Government. In R. A. W. Rhodes, S. Binder & B. Rockman (Eds.), *The Oxford Handbook of Political Institutions* (p. 323–343). Oxford: Oxford University Press.

Rhodes, R. A. W. (2007). Understanding Governance: Ten Years On. *Organization Studies, 28*(8), 1243–1264. DOI: 10.1177/0170840607076586

Roskin, M. G., Cord, R. L., Medeiros, J. A., & Jones, W. S. (2008). *Introduction à la Science Politique* (10ème édition). Athènes: Éditions Epikentro (Épicentre) [en grec].

Seldon, A. (1990). The Cabinet Office and Coordination 1979–1987. *Public Administration, 68*(1), 103–121. DOI: 10.1111/j.1467-9299.1990.tb00748.x

Shinoda, T. (2005). Japan's Cabinet Secretariat and Its Emergence as Core Executive. *Asian Survey, 45*(5), 800–821. DOI: 10.1525/as.2005.45.5.800

Skelcher, C. (2000). Changing Images of the State: Overloaded, Hollowed-Out, Congested. *Public Policy and Administration, 15*(3), 3–19. DOI: 10.1177/095207670001500302

Smith, M. J. (1994). The Core Executive and the Resignation of Mrs. Thatcher. *Public Administration, 72*(3), 341–363. DOI: 10.1111/j.1467-9299.1994.tb01017.x

Smith, M. J., Marsh, D., & Richards, D. (1993). Central Government Departments and the Policy Process. *Public Administration, 71*(4), 567–594. DOI: 10.1111/j.1467-9299.1993.tb00992.x

Sotiropoulos, D. A. (2000). Administering the Summit: The Greek Case. In B. G. Peters, R. A. W. Rhodes & V. Wright (Eds.), *Administering the Summit: Administration of the Core Executive in Developed Countries* (p. 176–195). Basingstoke: Macmillan Press.

Sturm, R. (2003). Entscheidungs- und Informationsmanagement in der Britischen Regierung. Präsentation, Patronage und Politikkontrolle. In G. Hirscher et al. (Eds.), *Information und Entscheidung* (p. 246–259). Wiesbaden: Westdeutscher Verlag/GWV Fachverlage GmbH.

Theakston, K. (2002). Political Skills and Context in Prime Ministerial Leadership in Britain. *Politics and Policy, 30*(2), 283–323. DOI: 10.1111/j.1747-1346.2002.tb00124.x

Tsebelis, G. (1995). Decision Making in Political Systems: Veto Players in Presidentialism, Parliamentarism, Multicameralism and Multipartyism. *British Journal of Political Science, 25*(3), 289–325. DOI: 10.1017/S0007123400007225

Warwick, P. (1992). Ideological Diversity and Government Survival in Western European Parliamentary Democracies. *Comparative Political Studies, 24*(3), 332–361. DOI: 10.1177/0010414092025003003

Weber, M. (1947). *The Theory of Social and Economic Organization*. Ed. by A. M. Henderson and T. Parsons. New York: Free Press.

Weber, M. (1987). *La Politique comme Métier*. Athènes: Éditions Papazisis [en grec].

Weller, P. (1983). Do Prime Ministers' Departments Really Create Problems? *Public Administration, 61*(1), 59–78.

Weller, P. (1991). Prime Ministers, Political Leadership and Cabinet Government. *Australian Journal of Public Administration, 50*(2), 131–144.

Weller, P. (2003). Cabinet Government: An Elusive Ideal? *Public Administration, 81*(4), 701–722. DOI: 10.1111/j.0033-3298.2003.00368.x

Willson, F. M. G. (2000). L'Appareil Gouvernemental en Grèce. In A. Makrydemetres & N. Michalopoulos (Eds.), *Des Rapports des Experts pour l'Administration Publique, 1950–1998* (p. 281–369). Athènes: Éditions Papazisis, [en grec].

Yeend, G. J. (1979). The Department of the Prime Minister and Cabinet in Perspective. *Australian Journal of Public Administration, 38*(2), 133–150. DOI: 10.1111/j.1467-8500.1979.tb00859.x

Annexe I: Organisation du Cabinet du Premier ministre

GOUVERNEMENT KON. AL. KARAMANLIS (2004–2009)[i]	GOUVERNEMENT G. ANDR. PAPANDREOU (2009–2011)[ii]	GOUVERNEMENT L. D. PAPADÉMOS (2011–2012)[iii]	GOUVERNEMENT ANT. K. SAMARAS (2012–2015)[iv]
a) Bureau de la Planification des Stratégies	a) Division de la Politique	1. Cabinet du Premier ministre	1. Cabinet du Premier ministre
b) Bureau Diplomatique	aa) Département des Finances	2. Bureau des Finances	2. Bureau des Finances
c) Bureau des Finances	bb) Département de la Politique Étrangère et de la Défense	3. Bureau Diplomatique	3. Bureau Diplomatique
d) Bureau pour des Sujets de Qualité de Vie	cc) Département du Développement Vert	4. Bureau Juridique	4. Bureau Juridique
e) Bureau de Dialogue Social et de Communication	dd) Département de l'Emploi, de la Protection Sociale et de la Santé	5. Bureau Planification Stratégique	5. Bureau Planification Stratégique
f) Bureau d'Organisation et d'Administration	ee) Département de l'État et des Institutions	6. Bureau des Politiques Spéciales	6. Bureau des Politiques Spéciales
aa) Département d'Administration	ff) Département de l'Éducation et de la Culture	7. Bureau de Presse	7. Bureau de Presse
bb) Département des Relations avec les Citoyens	b) Division de la Planification Politique et Communicative	8. Bureau de Communication Internationale	8. Bureau de l'Union Européenne et des Relations Internationales
cc) Département du Secrétariat	aa) Département de Planification Politique	9. Bureau d'Administration et d'Organisation	9. Bureau d'Administration et d'Organisation
dd) Département de Presse	bb) Département de Planification Communicative		
ee) Département de Relations Publiques	cc) Département de Programme		
ff) Département de Sécurité	dd) Département des Affaires Parlementaires		
	ee) Département de Gestion des Crises		
	c) Division de la Surveillance du Travail Gouvernemental et de l'Évaluation des Politiques		
	aa) Département de Surveillance du Travail Gouvernemental		
	bb) Département d'Évaluation des Politiques		
	cc) Département de la Valorisation des Propositions des Citoyens		
	d) Division des Politiques Innovatrices		
	aa) Département d'Innovations et de Meilleures Pratiques		
	bb) Département d'E-Gouvernance		
	cc) Département de Valorisation des Ressources Humaines		
	dd) Département d'Éducation Permanente		
	e) Division des Relations avec la Société		
	aa) Département de Gouvernance Ouverte		

	bb) Département de Consultations		
	cc) Département de la Société des Citoyens et du Volontarisme		
	dd) Département de Communication avec les Citoyens		
	f) Division d'Administration et d'Organisation		
	aa) Département d'Assistance Administrative et Financière		
	bb) Département du Protocole Général		
	cc) Département de la Protection Administrative et de la Logistique		
	g) Division de Coordination des Priorités Spéciales		
	h) Bureaux Indépendants:		
	a) Cabinet du Premier ministre		
	b) Bureau Juridique		
	c) Bureau Diplomatique		
	d) Bureau de Presse		
	e) Bureau de Communication Internationale		

i. Voyez l'article 29 du décret présidentiel codificatif pour le gouvernement et les organes gouvernementaux no 63/2005.
ii. Voyez la décision premierministérielle no Y293/2010 et le décret présidentiel no 2/2011.
iii. Voyez la décision no Y64/2011 du Premier ministre.
iv. Voyez la décision no Y179/2012. Pour ce qui est du gouvernement d'Al. P. Tsipras, qui ne compte que 2 mois, il n'y a pas, jusqu'à présent (mars 2015), de modification dans la structure intérieure du service public relevant du Premier ministre.

Annexe II: Services relevant du Premier ministre

Figure 1: Secretariat General du Premier Ministre

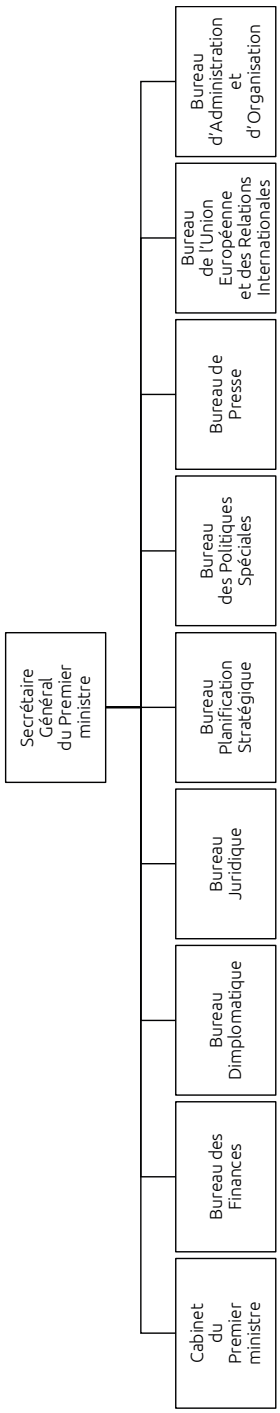


Figure 2: Secretariat General du Gouvernement

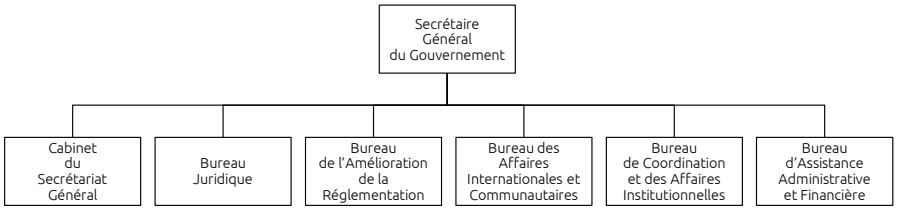
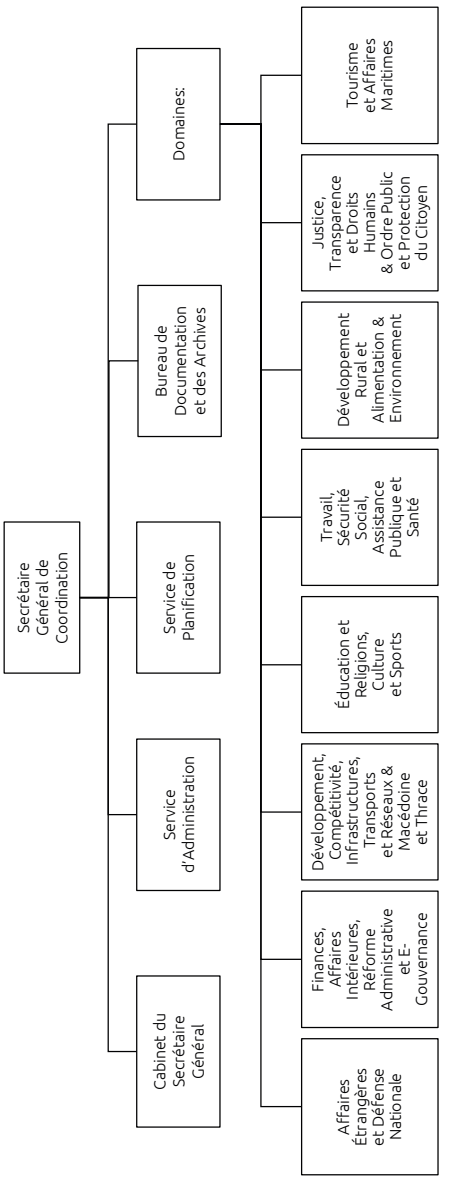


Figure 3: Secretariat General du Coordination



POVZETEK

1.01 Originalni znanstveni članek

Kolegialnost v grški vladi: oblikovanje kabineta koalicijske vlade po »Memorandumu«

Vlada ima odločilno vlogo pri sodobnem vodenju Grčije, saj kot v večini parlamentarnih sistemov oblikuje splošno politiko države, na podlagi le-te sprejema odločitve in nadzoruje njihovo izvajanje na različnih področjih javne politike. Predsednik vlade zavzema osrednji položaj v vladi, zlasti od sprejetja ustavne reforme iz leta 1986, ki je bistveno zmanjšala pristojnosti predsednika republike.

Članek obravnava vprašanje obsega kolegialnosti in usklajevanja pri delovanju in postopkih koalicijske vlade, ki so se oblikovali po sprejetju Memoranduma o dogovoru, o katerem so se sporazumele grška vlada in posojilodajalci (Evropska unija, Evropska centralna banka in Mednarodni denarni sklad).

Usklajevanje članov in političnega procesa v koalicijski vladi je za predsednika vlade in druga kolegijska telesa nenehen izziv in problem. Večje število članov v parlamentu in večja velikost kabineta ta problem še otežujeta. Članek podrobneje obravnava primere koalicijskih vlad, ki so bile oblikovane od leta 2011 dalje pod predsedniki vlad L. Papademosom, A. Samarasom in A. Tsiprasom.

Tako so – mimo sveta ministrov, ki naj bi bil v skladu z ustavo najvišje kolegialno telo vodenja in oblikovanja splošne politike – med člani vlade potekali neformalni in ad hoc usklajevalni procesi in prakse. Zdi se, da je v dosedanji praksi tudi sam predsednik vlade prevzemal vlogo pri usklajevanju javne politike mimo formalnih skupnih organov in na ta način ogrožal kolegialnost in način vodenja celotne vlade.

Predsedniku vlade pri njegovi splošni vodilni vlogi pomagajo in nudijo podporo tri posebne enote, ki so bile ustanovljene v osrednji vladi, in sicer generalni sekretariat predsednika vlade, generalni sekretariat vlade in generalni sekretariat za usklajevanje vlade. Poseben poudarek članka je na analizi slednje institucionalne novosti, analizi obsega prekrivanja njegove pristojnosti in jurisdikcije z drugimi povezanimi službami in enotami, ki naj bi prispevale k učinkovitosti in uspešnosti vlade.

Članek predstavlja, kako se je uveljavljala praksa vladnega usklajevanja pri oblikovanju politike v kabinetih zadnjih koalicijskih vlad in kako se je ta praksa ujemala z določili ustave države, ki opredeljuje način demokratičnega vodenja. Glavni argument je, da je na podlagi grške ustave parlamentarna vlada lahko zgolj kolektivna in kolegialna ne glede na to, kako pomembni sta lahko vloga

in osebnost predsednika vlade; sicer bi željena uspešnost pri delovanju kabineta lahko ogrožala legitimnost njegovega delovanja.

Kakovost demokratičnega vodenja države je zelo kompleksno vprašanje, vrednota politike, ki naj bi daleč presegala posamezne priložnosti, potrebe ali koristi. "Blagor domovine" naj bi bil najpomembnejši cilj in predmet sodobnega vodenja, vendar nikakor ne bi smeli spregledati, da sta vzdrževanje in ohranjanje kolegialnosti in legitimnosti enako pomembna stebra demokracije.

DOI: 10.17573/ipar.2015.2.03 *1.01 Original scientific article*

Critical Analysis of Audit Committee Reporting in National Government Departments: The Case of South Africa

Tankiso Moloi
Financial Governance, College of Accounting Sciences, University of South Africa
emolois1@unisa.ac.za

ABSTRACT

The paper critically assesses audit committee reporting in South Africa's national government departments (NGDs). During the review, it was established that, from the regulatory perspective, there were limited guidelines relating to the extent and nature of information that should be reported on the audit committee reports, whereas the main contribution of the paper are uniform benchmark features of audit committee reporting in the South Africa's national government departments. These benchmark features (categories) were developed using an inductive or bottom up thematic analysis which was applied on the applicable regulations as well as on all NGD's annual reports to determine the comprehensive themes and patterns of audit committee reporting across the departments. It is recommended that those audit committees in NGDs that do not currently report on these themes should expand their reporting to be comprehensive by including these themes.

Using the established benchmark features in the form of themes, audit committees reports were coded and analysed to determine the disclosure of information relating to these themes. It was found that majority of categories reported on audit committee reports and analysed lacked transparency as to the role of audit committees in providing oversight in the NGDs concerned. In addition to the recommended audit committee themes, the paper further recommends that audit committees in NGDs should also consider voluntary disclosing of some additional information on their oversight activities. Disclosure of additional voluntary information would improve the usefulness of audit committee reports as users of this information would gain and understanding of yearly audit committee activities as of the nature of oversight and strategic engagements audit committees would have had with the management as well. The potential benefit for users of audit committee reports in NGDs is envisaged as flexibility, exposure and access to different dimensions of information reported by different NGDs. The potential benefit for audit committee members is grounded on the users' perception of audit committee reports, in this instance, the improvement in perception on their independence.

Keywords: *audit committees, reporting, national government departments, South Africa, thematic analysis*

JEL: M4

1 Introduction

Historically, audit committees were formed voluntary in both private and public sector to play a role in the organisation's control environment, however, this governance structure has evolved overtime to become an integral part of governance (Marx, 2009), and its modern role now includes being a financial watchdog for interested stakeholders in an organisation (Klein, 2002; Agoglia et al., 2011). Beasley et al. (2009) concur with the description of the modern role of audit committees and they note that audit committees are increasingly responsible for an overall oversight of assurance processes in large organisations. It is on this basis that Bhasin (2012) proposes that the modern era audit committee could be a powerful tool that could promote reliability and transparency of financial information of an organisation.

The South African public sector has had a regulation in place that regulates the establishment audit committees for almost 5 past years now. These regulations are Public Finance Management Act of 1999 (RSA, 1999) and the Treasury Regulations (National Treasury, 2001). In a nutshell, these regulations require that each public sector institution establishes an audit committee whose main role and responsibilities are to coordinate and provide oversight on all assurance activities of the institution so as to eliminate or minimise the opportunity for fraudulent activities (or other undesirable activities) resulting from lack of controls. It is noted that the role and responsibilities of audit committees as required by the regulations of South Africa do not appear to contradict the role suggested and highlighted in the introductory defined as the modern role and responsibilities of audit committees.

Even if the regulation and the established structures are meant to minimise undesirable activities through oversight and assurance, the South African public sector has recorded instances of non-adherence to proper financial management. This challenge appears to be increasing as evident from the Consolidated general report on the national and provincial audit outcomes 2012–13 where the Auditor-General of South Africa (2013) noted that there were continuing high levels of unauthorised, irregular as well as fruitless and wasteful expenditure in South Africa's public service.

It has been stated that the South African regulations order that audit committees should be established in public service institutions as "financial watchdogs" to contribute in the improvement of control environment of the institutions in which they are appointed so that cases such as those mentioned in the Auditor-General of South Africa's report are eliminated/reduced. With the increasing challenges raised by the Auditor-General of South Africa, the essential question is how audit committees perform their oversight role in the national government departments to combat undesirable effects. Put it differently, what activities are audit committees engaged in to improve the control environment in the national government departments in which they operate and how this is communicated to the stakeholders.

As such, the main aim of this study is to critically analyse the audit committee reporting in South Africa's national government departments with a view of determining sufficiency of the contents of audit reports and whether the information contained in these audit committee reports is meaningful in a sense that it provides an understanding of what the audit committee activities were during the year as well as the nature of oversight and engagements the audit committee would have had with the management to improve the control environment.

There was no benchmark as to the information features that need to be reported on the NGDs audit committee reports. In this manner, an inductive or bottom up thematic analysis had to be conducted so as to determine the themes and patterns of reporting (See the details on the application of this methodology in Section 4). Therefore, the secondary purpose became the establishment of benchmark features of audit committee report in South Africa's NGDs.

The immediate limitation of this study was that it evaluated audit committee reports of national government departments. Provincial government departments, institutions established in terms of Chapter 9 of the South African Constitution, municipalities and state-owned companies were not evaluated and thus, they present an opportunity for further research in this area. In addition to the limitations noted above, four (4) NGDs annual reports could not be located on their websites and any other potential source and some national government departments had been consolidated following the general elections in May 2014. Therefore, the findings contained in this paper relate to the thirty four (34) NGDs that were analysed.

The remainder of this paper is structured in the following manner: an overview of audit committee requirements in the public sector followed by a review of existing literature on audit committee reporting. Afterwards, a section describing the methodology applied followed by a section presenting the research results, and finally, an analysis and interpretation of the findings are provided. In the final part, the recommendations are drawn from the study and the conclusions are presented.

2 Overview of Audit Committees Requirements in South Africa's Public Sector

In the South African public sector, audit committees are regulated through Section 76 as well as Section 77 of the Public Finance Management Act (RSA, 1999) read in conjunction with the Treasury's Regulation 3.1 (National Treasury, 2001). These regulations mandate the accounting officer of the department (in consultation with the relevant authority) to set up an independent audit committee which should operate in terms of written terms of reference.

In terms of Section 76 as well as Section 77 of the Public Finance Management Act (RSA, 1999) read in conjunction with the Treasury's Regulation 3.1 (National Treasury, 2001), the following should be adhered to with regards to the audit committees:

- The chairperson of an audit committee must be independent, knowledgeable of the status of the position, have the requisite business, financial and leadership skills, and may not be a political office bearer.
- Audit committees must be constituted so as to ensure their independence and their membership must be disclosed in the annual report of the institution.
- Members of an audit committee who have been appointed from outside the public service pursuant to the Section 77(a)(i) of the Public Finance Management Act should have appropriate experiences.
- Relevant executive authority should concur with any premature termination of the services of a person serving on an audit committee.
- Audit committee should operate in terms of written terms of reference which should deal adequately with its membership, authority and responsibilities. The terms of reference should be reviewed at least annually to ensure its relevance.

It should be disclosed in the institution's annual report whether or not the audit committee has adopted formal terms of reference and, if so, whether the committee satisfied its yearly responsibilities in compliance with the terms of reference (RSA, 1999; National Treasury, 2001).With regards to the reviews and a high-level oversight that need to be undertaken by the audit committee of the NGD concerned with a view to improve the control environment in an institution in which the audit committee operates, the audit committee must review the following as enacted by the legislative requirement:

- Effectiveness of internal control systems;
- Effectiveness of internal audit function;
- Risk areas of the institution's operations to be covered in the scope of internal and external audits;
- Adequacy, reliability and accuracy of the financial information provided to the management and other users of such information;
- Any accounting and auditing concerns identified as a result of internal and external audits;
- Institution's compliance with legal and regulatory provisions; and
- Activities of internal audit function, including its annual work programme, coordination with the external auditors, reports of significant investigations and responses of management to specific recommendations (National Treasury, 2001).

The legislative framework provides the audit committee with powers to investigate matters within its mandate as identified in the written terms of reference. To this extent, the PFMA and the Treasury Regulations (RSA, 1999 and National Treasury, 2001) call for the audit committees to be granted resources it requires to investigate any matter within their terms of reference by granting full access to information.

With the exception of Section 3.1.9 which deals with the adoption and compliance of the terms of reference that should be reported in the audit committee report, and Section 3.1.13 which requires that the annual report should be carried by the audit committee introducing the comments on effectiveness of internal control, on quality of in-year management and monthly/quarterly reports submitted in terms of the Public Finance Management Act and the Division of Revenue Act as well as the comments on the audit committee's evaluation of annual financial statements (National Treasury, 2001), it was noted that not much was said about the extent and nature of information that should be contained in the audit committee reports. With the lack of guidelines relating to the extent and nature of information that should be reported on the audit committee reports, it would be difficult to determine how audit committees performed their oversight role in the national government departments to combat undesirable effects as the mechanism which determines what should be reported on is not present. It would be further difficult to determine the nature of activities that audit committees were engaged in to improve the control environment in the national government departments in which they operate so as to communicate and build confidence with the stakeholders that something was being done to improve the control environment.

3 Overview of the Existing Literature on Audit Committee Reporting

There was not much work done on the subject of audit committee reporting in South Africa, both in private sector and public sector. However, the work has been done on a broader topic of audit committees and such work includes the works performed by van der Nest (2006 and 2008) and van der Nest, Thornhil and de Jager (2008) in the South African public sector as well as Marx (2009) on top 40 listed companies featured in the Johannesburg Securities Exchange (JSE).

In the South African public sector, van der Nest (2005) undertook a study that evaluated the performance of audit committees with regards to risk management, financial reporting oversight, internal control and corporate governance from the heads of internal auditing perspectives. Since the focus was not on audit committee reporting, there were no findings made in this regard. In another study aimed at investigating the perceived effectiveness of audit committees in the South African public service, van der Nest (2008)

found that audit committees could still improve their performance of certain key functions, such as oversight on risk management, governance, financial reporting, internal control and support of external audit function. Once more, the focus of the study was not on audit committee reporting and, as such, there were no findings on this area.

In a study entitled *Audit committees and Accountability in the South African Public Sector*, van der Nest, Thornhil and de Jager (2008) viewed audit committees as key contributors to proper governance in the public sector and their study found that in some national government departments audit committees were not effective. Again, since the aim of the study was not focused on audit committee reporting, there were no findings in this regard.

In the South African private sector, Marx (2009) investigated the responsibilities performed and the disclosure practices of audit committees in large listed companies in South Africa. Marx's (2009) findings were that audit committees properly performed their traditional responsibilities of overseeing external audit, internal audit, financial reporting, internal control and risk management. Further, Marx (2009) found that audit committees dealt with emerging issues, such as integrated report and ethics compliance reasonably satisfactorily. However, regarding the audit committee reporting, Marx (2009) found that the observed companies performed poorly.

In the United States, Carcello, Hermanson and Neal (2002) took a random sample of 150 proxy statements in the spring of 2001 to study the disclosures in audit committee charters and reports. Their study aimed at understanding the audit committee activities and also at the identification of possible areas for further audit committee reform. Their findings have revealed that there was a high level of compliance with the mandated audit committee disclosures, such as disclosures related to reviewing and discussing the financial statements with the management. Their study however observed that a voluntary disclosure of audit committee activities was more common for depository institutions, larger companies, NYSE listed companies, and companies with more independent audit committees (Carcello et al., 2002).

In another study conducted in the United States, Rezaee, Olibe and Minmier (2003) conducted a content analysis exercise to determine the level and extent of audit committee disclosures in the Fortune 100 companies. Their study found that there was a high level of audit committee disclosures amongst the observed Fortune 100 companies.

On an international scale, particularly in private sector, focus on audit committee reporting is increasing. A group known as Audit Committee Collaboration (2012) consisting of the organisations, such as the National Association of Corporate Directors, the Corporate Board Member/NYSE Euronext, Tapestry Networks, the Directors' Council, the Association of Audit Committee Members, Inc., and the Center for Audit Quality have all been at

the forefront with regards to the calls for improvement in the audit committee reports. The Audit Committee Collaboration (2012) has called for institutions to enhance audit committee reporting by arguing that this is an important element that is surely to promote the investors / stakeholders' education on the audit committee's critical responsibilities as well as the audit committees' effectiveness of executing its responsibilities. Accordingly, audit committee reports are to be enhanced by changing formats of reporting, streamlining and consolidating all audit committee related information where possible into a meaningful report.

One of the recent studies of audit committee reports was recently undertaken by the Financial Reporting Lab (2013) in the United Kingdom. The Financial Reporting Lab report found that investors / stakeholders did not read much of the audit committee reports because, in their view, amongst other things:

- Audit committee reports did not have sufficient content;
- Sometimes there was repetition of information that has been already disclosed somewhere else in the annual report;
- Audit committee reports contained much in the "letter" but not much in the spirit; and
- Audit committee reports contained rhetoric and clutter, whereas investors wanted more meaningful information (Financial Reporting Lab, 2013).

4 Research Method Followed

This paper critically analysed information reported on audit committee reports to gain insight into the nature of audit committee activities and its strategic engagements with the NGD's management. To achieve this objective, audit committee reports for all NGDs had to be analysed to identify the themes and reporting patterns within the audit committee reports. As such, a methodology that was deemed suitable for this purpose is known as thematic analysis.

Daly et al. (1997) support the use of thematic analysis in studies that search for themes emerging as important to the description of a certain phenomenon. Another description of thematic analysis that is consistent with the above is provided by Braun and Clarke (2006) where thematic analysis is described as a method that can be used in identifying, analysing and reporting patterns (themes) within the data.

Antaki et al. (2002) criticise thematic analysis as a methodology that lacks clear and concise guidelines which result in "anything goes" approach. Other researchers such as Attride-Stirling (2001), Boyatzis (1998) as well as Tuckett (2005) have all raised concern that there is no clear agreement about what thematic analysis is and how a researcher should go about applying it in a study. To address this weakness, Braun and Clarke (2006) proposed

step-by-step guidelines for conducting thematic analysis, emphasising the importance of thematic analysis as a flexible and useful research tool which has a potential of providing detailed analysis of complex data.

Table 1: Established themes emanating from inductive thematic analysis

First order themes established	Second order themes established
FO Theme 1 – Committee members and their meeting attendance	SO Theme 1.1 – Disclosure of identity and qualification of audit members SO Theme 1.2 – Disclosure of number of meetings by each member
FO Theme 2 – Audit committee responsibilities	SO Theme 2.1 – Indication of whether there was compliance with responsibilities arising from section 38 (1) (a) of the Public Finance Management Act (PFMA) SO Theme 2.2 – Indication of whether there was compliance with Treasury Regulation 3.1 SO Theme 2.3 – Responsibility of adopting the formal terms of reference as a charter SO Theme 2.4 – Responsibility of conducting the audit committee affairs in compliance with the charter
FO Theme 3 – Effectiveness of internal control system	SO Theme 3.1 – Realisation and indication that internal controls are a cost effective assurance for safeguarding of assets and effectively liabilities and working capital SO Theme 3.2 – Reviewing the state of internal controls within the NGD concerned indicating whether there were instances of non-compliance and repeat findings SO Theme 3.3 – Reporting on strategic role of audit committee in monitoring corrective actions
FO Theme 4 – Quality of reporting	SO Theme 4.1 – Reviewed content and quality of monthly and quarterly reports in the year under review SO Theme 4.2 – Reviewing of reports relating to the information submitted by management on the pre-determined objectives (performance information)
FO Theme 5 – Evaluation of annual financial statements and compliance	SO Theme 5.1 – Responsibility to review financial statements SO Theme 5.2 – Responsibility of reviewing AGSA's report and management response to such a report SO Theme 5.3 – Responsibility of evaluating and reviewing changes to accounting policies and practices SO Theme 5.4 – Responsibility of evaluating and reviewing compliance with legal and regulatory provisions SO Theme 5.5 – Evaluation and reviewing of the pre-determined objective information to be part of the annual report SO Theme 5.6 – Evaluation and reviewing significant adjustments as a result of audits (should there be any)
FO Theme 6 – Internal audit	SO Theme 6.1 – Reporting on the effectiveness of internal audit function in addressing risks pertinent to the NGD concerned SO Theme 6.2 – Monitoring implementation of audit plans approved by the audit committee
FO Theme 7- Risk management	SO Theme 7.1 – Risk management reviews including reviewing of risk management strategy SO Theme 7.2 – Monitoring of risk management activities including the implementation plan in the NGD concerned
FO Theme 8 – Engagements with Auditor-General of SA	SO Theme 8.1 – Engagement with Auditor General of SA so as to ensure that there are no unresolved matters

For the purpose of this paper, there was no benchmark as to what NGDs audit committee reports should contain. In this manner, an inductive or bottom up thematic analysis had to be conducted. Braun and Clarke (2006) view an inductive thematic analysis as "a process of coding the data without trying to fit it into a pre-existing coding frame, or the researcher's analytic pre-conceptions". An inductive thematic analysis followed a process where

a benchmark was established by analysing the legislative and regulatory requirements contained in the PFMA (RSA, 1999) and the Treasury Regulations (National Treasury, 2001) in conjunction with all audit committee reports to identify the themes and reporting patterns. Table 1 contains the identified themes and NGDs audit committee reporting patterns.

For the purpose of analysing how NGDs performed in reporting the benchmark information, the coding principles were formulated and used in coding and analysing relevant information from the NGDs audit committee reports. Once the determination was made in line with the formulated coding principles, the information was then entered into the code-book for analysing performance. Formulated coding principles for the themes reported in the audit committee reports were based on the guidelines that if the audit committee report contains the coded category of information, the item is marked as YES in the designed code-book. On the contrary, if the audit committee report analysed does not contain the coded category of information, the item will be marked NO in the designed code-book.

With regards to the data, it was established that in all reports, the information on audit committee reports was contained in the governance section of the NGDs annual report. As such, obtaining the annual reports for all NGDs was an important component of this study. The list with links of all NGDs was then obtained from the National Treasury and it was used to access the NGDs websites in order to download the annual reports.

During the collection phase, it was noted that two NGDs were consolidated as part of the Presidency's annual report (they did not have separate annual reports for analysis). Annual reports for the other four (4) departments could not be located on their websites or any other potential source. The rest of the NGDs (34) had their annual reports published on their websites. In addition to publishing their annual reports on their respective websites, thirty two (32) NGDs annual reports were available on the government online website.

For a detailed analysis and presentation, the South African national government departments were categorised based on the economic cluster. The classification of NGDs was based on the list obtained from the National Treasury of South Africa. This is a list kept by the National Treasury for the purpose of overseeing the Chief Financial Officers' forum (CFOs).

Table 2: Classification of national government departments

Categorization of National Government Departments (NGDs) per cluster		
	Central	Finance
	a) Cooperative Governance and Traditional Affairs b) Home Affairs c) International Relations d) Monitoring and Evaluation (in the presidency) e) Presidency f) Public Works g) Women, Children and People with Disabilities (in the presidency)	a) Department of Public Enterprises b) Department of Public Service Administration c) Department of Telecommunications d) Public Service Commission e) National Treasury f) National School of Government g) Statistics South Africa
	Economic	
	a) Agriculture b) Communications c) Economic Development d) Energy e) Environmental Affairs f) Human Settlement g) Mineral Resources	h) Rural Development and Land Reform i) Science and Technology j) Tourism k) Trade and Industry l) Transport m) Water Affairs
	Justice	Social
	a) Correctional Services b) Defence c) Independent Police Investigative Directorate d) Justice and Constitutional Development e) Military Veterans f) South African Police Service g) National Prosecuting Authority	a) Arts and Culture b) Basic Education c) Health d) Higher Education e) Labour f) Social Development g) Sports and Recreation

Source: Author's own illustration of information sourced from the National Treasury

There are five (5) clusters used by the National Treasury for the purpose of categorizing NGDs namely: central cluster, finance cluster, economic cluster, justice cluster as well as the social cluster. The economic cluster contains thirteen (13) NGDs and this is almost twice as the rest of other clusters while the rest of the clusters contain seven (7) NGDs.

5 Research Findings and Interpretation

The research findings presented below demonstrate the results of content analyses performed on the audit committee reports for national government departments (NGDs).

Table 3: Consolidated analyses of audit reports for NGDs

Category observed	Total NGDs assessed	Yes	No
Committee members and attendance: identity and qualification of members	34	29	5
Committee members and attendance: number of meetings by each member	34	33	1
Audit committee's responsibilities: compliance with responsibilities arising from section 38 (1) (a) of the Public Finance Management Act (PFMA)	34	30	4
Audit committee responsibilities: compliance with Treasury Regulation 3.1	34	32	2
Audit committee responsibilities: adoption of the formal terms of reference as a charter	34	32	2
Audit committee responsibilities: conducting the affairs in compliance with the charter	34	33	1
Effectiveness of internal controls: cost effective assurance for safeguarding of assets and effectively liabilities and working capital	34	9	25
Effectiveness of internal controls: the state of internal control within the NGD concerned i.e. indicating whether there were instances of non-compliance and repeat findings	34	31	3
Effectiveness of internal controls: the role of audit committee in monitoring corrective actions	34	24	10
Quality of reporting: reviewing of reports relating to the information submitted by management on the pre-determined objectives (performance information)	34	10	24
Quality of reporting: content and quality of monthly and quarterly reports in the year under review	34	20	14
Evaluation of annual financial statements: reviewing of financial statements	34	34	0
Evaluation of annual financial statements: reviewing AGSA's report and management response to such a report	34	26	8
Evaluation of annual financial statements: reviewing changes to accounting policies and practices	34	21	13
Evaluation of annual financial statements: reviewing compliance with legal and regulatory provisions	34	20	14
Evaluation of financial statements: reviewing the pre-determined objective information to be part of the annual report	34	16	18
Evaluation of annual financial statements: reviewing significant adjustments as a result of audits (should there be any)	34	22	12
Internal audit and risk review: effectiveness of internal audit function in addressing risks pertinent to the NGD concerned	34	28	6
Internal audit plans: monitoring implementation of audit plans approved by the audit committee	34	29	5
Risk management reviews: reviewing of risk management strategy	34	20	14
Risk management activities: monitoring of risk management activities including the implementation plan in the NGD	34	21	13
Engagement with Auditor General of SA meeting with AGSA to ensure that there are no unresolved matters	34	34	0

Source: 2013/14 NGDs Audit Committee Report Disclosure

Table 3 shows the result of categories coded in the NGDs audit committee reports. Categories relating to the compliance with the Public Finance

Management Act and the Treasury Regulation of the audit committee's charter, identity and qualifications of the NGDs audit committee members, attendance of meeting, state of internal audit in the NGDs, review of annual financial statements and management responses to issues raised by AGSA, effectiveness of internal audit directorates in addressing risks and monitoring of implementation of audit plans as well as engagements with AGSA to deal with unresolved matters were all highly reported in the audit committee reports of NGDs.

There were, however, areas where some NGDs audit committee reports lacked transparency and these areas included the indication in the audit committee report that internal controls were viewed as a cost effective way for providing assurance in the NGDs concerned, the role of audit committees in monitoring corrective actions, information reviews submitted by the management on pre-determined objectives, indications of whether the audit committee concerned was satisfied with the content and the quality of reports submitted monthly/quarterly by the management, reviews of compliance with legal and regulatory provisions, reviews of changes in accounting policies and practices, information reviews relating to the pre-determined objectives to be part of the annual report, information reviews relating to the significant adjustments made on annual financial statements following an audit engagement, the role of audit committees in reviewing the NGDs risk management strategy as well as monitoring of risk management activities including its implementation in the NGDs.

Table 4 below provides a detailed cluster analysis of information reported in the audit committee reports of NGDs.

Table 4 shows a detailed analysis of categories reported in the audit committee reports per cluster classification. The minus (–) sign in the table indicates that the NGD analysed in that particular cluster had not reported the information on the audit committee report reviewed. The analysis of Table 4 indicates that the finance and economic clusters perform better in terms of reporting the observed categories. On the contrary, the justice and social clusters appear to be prone to lesser reporting of the observed categories.

Table 4: Cluster analyses of information reported in audit commmittee reports

Category observed	Central cluster		Finance cluster		Economic cluster		Justice cluster		Social cluster	
	Y	N	Y	N	Y	N	Y	N	Y	N
Disclosure of identity and qualification of audit members	3	–1	6	0	11	–1	4	–2	5	–1
Disclosure of number of meetings by each member	4	0	6	0	12	0	5	–1	6	0
Indication of whether there was compliance with responsibilities arising from section 38 (1) (a) of the Public Finance Management Act (PFMA)	4	0	6	0	11	–1	4	–2	5	–1
Indication of whether there was compliance with Treasury Regulation 3.1	4	0	6	0	12	0	4	–2	6	0
Responsibility of adopting the formal terms of reference as a charter	3	–1	6	0	12	0	5	–1	6	0
Responsibility of conducting the audit committee affairs in compliance with the charter	4	0	6	0	12	0	5	–1	6	0
Indication that internal controls are a cost effective assurance for safeguarding of assets and effectively liabilities and working capital	0	–4	4	–2	3	–9	0	–6	2	–4
Reviewing the state of internal controls within the NGD concerned indicating whether there were instances of non-compliance and repeat findings	4	0	6	0	–10	–2	6	0	5	–1
The role of audit committee in monitoring corrective actions	3	–1	5	–1	9	–3	2	–4	5	–1
Reviewing of reports relating to the information submitted by management on the pre-determined objectives (performance information)	1	3	2	–4	2	10	3	–3	2	–4
Reviewed content and quality of monthly and quarterly reports in the year under review	2	–2	3	–3	8	–4	5	–1	2	–4
Responsibility to review financial statements	4	0	6	0	12	0	6	0	6	0
Responsibility of reviewing AGSA's report and management response to such a report	3	–1	4	–2	9	–3	5	–1	5	–1
Responsibility of evaluating and reviewing changes to accounting policies and practices	2	–2	4	–2	8	–4	3	–3	4	–2
Responsibility of evaluating and reviewing compliance with leg al and regulatory provisions	2	–2	4	–2	6	–6	4	–2	4	–2
Evaluation and reviewing of the pre-determined objective information to be part of the annual report	3	–1	3	–3	4	–8	3	–3	3	–3
Evaluation and reviewing significant adjustments as a result of audits (should there be any)	3	–1	3	–3	8	–4	3	–3	5	–1
Reporting on the effectiveness of internal audit function in addressing risks pertinent to the NGD concerned	3	–1	4	–2	11	–1	4	–2	6	0
Monitoring implementation of audit plans approved by the audit committee	3	–1	6	0	11	–1	3	–3	6	0
Risk management reviews including reviewing of risk management strategy	1	–3	5	–1	7	–5	2	–4	5	–1
Monitoring of risk management activities including the implementation plan in the NGD concerned	1	–3	6	0	7	–5	2	–4	5	–1
Engagement with Auditor General of SA so as to ensure that there are no unresolved matters	4	0	6	0	12	0	6	0	6	0

Source: 2013/14 NGDs Audit Committee Report Disclosure

6 Conclusion and recommendations

The paper critically assesses audit committee reporting in South Africa's national government departments. During the review, it was established that, from the regulation perspective, there were limited guidelines relating to the extent and nature of information that should be reported on the audit

committee reports, and consequently, it would be difficult to determine how audit committees performed their oversight role in the national government departments to combat undesirable effects as the mechanism which determine what should be reported on was not present. It was further established that it would be difficult to determine the nature of activities that audit committees were engaged in to improve the control environment in the national government departments in which they operate so as to communicate and build confidence with the stakeholders that something was being done to improve the control environment.

With the Auditor-General of South Africa (2013) raising concerns on continuing high levels of unauthorised, irregular as well as fruitless and wasteful expenditure in South Africa's public service, it is deemed important that audit committees in national government departments improve the mechanisms for eliminating or reducing the undesirable effects through a robust oversight, identification of risk areas requiring urgent attention and coordinating assurance on these and other areas under the ambit of the audit committees. All the areas of activity that the audit committee are engaged in should be communicated to the stakeholders through the audit committee reporting process.

The main contribution of the paper is a proposal for uniform benchmark features of audit committee reporting in the South Africa's national government departments. These categories were developed using an inductive or bottom up thematic analysis applied on the regulations and all national government departments' annual reports to determine the comprehensive themes and patterns of audit committee reporting across the departments. It is recommended that those audit committees in NGDs which do not currently report on these themes should expand their reporting to be comprehensive by including these themes.

Using the established benchmark features in the form of themes, audit committees reports were coded and analysed to determine the disclosure of information relating to these themes. Analysed results found that categories relating to compliance, identity and qualifications of the NGDs audit committee members, attendance of meeting, state of internal audit in the NGDs, review of annual financial statements and management responses to issues raised by AGSA, effectiveness of internal audit directorates in addressing risks and monitoring of implementation of audit plans as well as engagements with AGSA to deal with unresolved matters were all highly reported in the audit committee reports.

Majority of categories analysed, however, revealed that there were areas where some NGDs audit committee reports lacked transparency and these areas included the indication in the audit committee report that internal controls were viewed as a cost effective way for providing assurance in the NGDs concerned, the role of audit committees in monitoring corrective

actions, information reviews submitted by the management on pre-determined objectives, indications of whether the audit committee concerned were satisfied with the content and the quality of reports submitted monthly/quarterly by the management, reviews of compliance with legal and regulatory provisions, reviews of changes in accounting policies and practices, information reviews relating to the pre-determined objectives to be part of the annual report, information reviews relating to significant adjustments made on annual financial statements following an audit engagement, the role of audit committees in reviewing the NGDs risk management strategy as well as monitoring of risk management activities including its implementation in the NGDs.

In addition to the expansion of information reported in the audit committee reports as recommended above, audit committees in NGDs should also consider to voluntary disclose some additional information on their oversight activities in the NGD concerned. Disclosure of additional voluntary information would improve the usefulness of audit committee reports as users of this information would gain an understanding of yearly audit committee activities. Further, the nature of the oversight and engagements that the audit committee would have had with the management would come to the fore. The potential benefit for users of audit committee reports in NGDs is envisaged as unlocking exposure, flexibility and different dimensions in the nature of information reported by different NGDs. The potential benefits for audit committee members, for instance, would be an improvement in perception of their independence from the management (it is noted here that all audit committee reports analysed indicated that the members were independent).

Finally, there is a need to improve coherence in audit committee reporting. One of the areas observed was that the majority of audit committee reports indicated their satisfaction with the content and the quality of information provided by the monthly and quarterly management reporting. This implies that the audit committee was satisfied with the integrity of systems generating such information. This becomes contradictory as, on several occasions, it was noted that in the same audit committee reports, but in the "serious audit committee concern" category, the audit committees, on several occasions, raised lack of general controls in the information technology systems.

Tankiso Moloi, PhD *is a professor in the Department of Financial Governance at the College of Accounting Sciences, University of South Africa. His research interest area is corporate governance. His qualifications include a PhD in Finance, a Master of Commerce in Accounting and a Master of Science in Financial Management.*

References

Agoglia, C. P., Doupnik, T. S., & Tsakumis, G. T. (2011). Principle-Based versus Rules-Based Accounting Standards: The Influence of Standard Precision and Audit Committee Strength on Financial Reporting Decisions. *The Accounting Review, 86*(3), 747–767. DOI: 10.2308/accr.00000045

Antaki, C., Billig, M., Edwards, D., & Potter, J. (2002). Discourse Analysis Means Doing Analysis: A Critique of Six Analytic Shortcomings. DAOL Discourse Analysis Online [Electronic Version], 1(1).

Attride-Stirling, J. (2001). Thematic networks: an analytic tool for qualitative research. *Qualitative Research, 1*(3), 385–405. DOI: 10.1177/146879410100100307

Audit Committee Collaboration. (2012). *Enhancing the audit committee report: a call to action*. Retrieved 04.03.2015, from: http://www.auditcommitteecollaboration.org

Auditor-General South Africa (AGSA). (2013). *Consolidated general report on the national and provincial audit outcomes*. Pretoria: South Africa.

Beasley, M., Carcello, J. V., Hermanson, D. R., & Neal, T. L. (2009). The Audit Committee Oversight Process. *Contemporary Accounting Research, 26*(1), 65–122. DOI: 10.1506/car.26.1.3

Bhasin, M. L. (2012). Audit Committee Mechanism to Improve Corporate Governance: Evidence from a Developing Country. *Morden Economy*, (3), 856–872. DOI: 10.4236/me.2012.37109

Boyatzis, R. E. (1998). *Transforming qualitative information: Thematic analysis and code development*. Thousand Oaks, CA: Sage.

Braun, V., & Clarke, V. (2006). Using thematic analysis in psychology. *Qualitative Research in Psychology, 3*(2), 77–101. DOI: 10.1191/1478088706qp063oa

Carcello, J. V., Hermanson, D. R., & Neal, T. L. (2002). Disclosures in Audit Committee Charters and Reports. *Accounting Horizons, 16*(4), 291–304. DOI: 10.2308/acch.2002.16.4.291

Daly, J., Kellehear, A., & Gliksman, M. (1997). *The public health researcher: A methodological approach*. Melbourne, Australia: Oxford University Press.

Klein, A. (2002). Audit Committee, Board of Director Characteristics and Earnings Management. *Journal of Accounting and Economics, 33*(3), 375–400. DOI: 10.1016/S0165-4101(02)00059-9

Marx, B. (2009). An Analysis of Audit Committee Responsibilities and Disclosure Practices at Large Listed Companies in South Africa. *South African Journal of Accounting Research, 23*(1), 31–44. DOI: 10.1080/10291954.2009.11435138

National Treasury. (2001). *Treasury's Regulations*. Pretoria: South Africa.

Rezaee, Z., Olibe, K. O., & Minmier, G. (2003). Improving corporate governance: The role of audit committee disclosures. *Managerial Auditing Journal, 18*(6/7), 530–537. DOI: 10.1108/02686900310482669

Republic of South Africa. (1999). *The Public Finance Management Act No.1*, 1999. Retrieved 04.02.2015 from: http://www.treasury.gov.za/legislation/PFMA/act.pdf

The Financial Reporting Lab. (2013). *Lab project report: Reporting of Audit Committees*. UK: London.

Tuckett, A. G. (2005). Applying thematic analysis theory to practice: A researcher's experience. *Contemporary Nurse, 19*(1–2), 75-87. DOI: 10.5172/conu.19.1-2.75

Van der Nest, D. P. (2005). Audit committees in Government Departments: An Internal Audit Perspective. *Southern African Journal of Accountability and Auditing Research, 6*(1), 75–84.

Van der Nest, D. P. (2008). The Perceived Effectiveness of Audit Committees in the South African Public Service. Meditari Accountancy Research, 16(2), 175–188. DOI: 10.1108/10222529200800019

Van der Nest, D. P., Thornhill, C., & de Jager, J. (2008). Audit committees and Accountability in the South African Public Sector. Journal of Public Administration, 43(4), 545–558.

Tankiso Moloi

POVZETEK

1.01 Originalni znanstveni članek

Kritična analiza revizijskih poročil v sektorjih državne uprave: primer Južne Afrike

Ta članek kritično ocenjuje poročanje Revizijskih komisij v okviru Južnoafriških nacionalnih vladnih služb (NVS). Raziskava ima svoje omejitve, ocenjevala je, na primer, poročila revizijskih komisij v okviru nacionalnih vladnih služb. Pokrajinske vladne službe, institucije, ustanovljene na podlagi 9. poglavja Južnoafriške ustave (Poglavje 9, Institucije), občine in podjetja v državni lasti niso bile predmet ocenjevanja, zato to predstavlja priložnost za nadaljnjo raziskavo na tem področju. Poleg zgoraj omenjenih omejitev, štirih (4) letnih poročil NVS-jev ni bilo mogoče najti na njihovih uradnih spletnih straneh oziroma drugih potencialnih virov, nekaj nacionalnih vladnih služb pa se je združilo po splošnih volitvah maja 2014. Zato se ugotovitve, ki jih vsebuje ta članek, nanašajo na štiriintrideset (34) analiziranih NVS-jev.

Med pregledovanjem je bilo ugotovljeno, da so z vidika uredb smernice, ki se nanašajo na obseg in naravo informacij, o katerih bi morala poročati poročila revizijskih komisij, pomanjkljive, in kot posledica je bilo navedeno, da je bilo težko določiti, kako je revizijska komisija izvajala svojo nadzorno vlogo v nacionalnih vladnih službah v boju proti neželenimi vplivi, saj mehanizem, ki določa, o čem bi bilo treba poročati, ni bil predstavljen. Nadalje je bilo ugotovljeno, da je težko določiti naravo dejavnosti, ki so jih izvajale revizijske komisije, s pomočjo katerih lahko izboljšujejo okolje nadzora v NVS-jih, v katerih delujejo, da bi z zainteresiranimi stranmi gradile zaupanje in jim sporočile, da je nekaj bilo storjeno v zvezi z izboljšanjem okolja nadzora. Ko je Urad generalnega revizorja v Južnoafriški republiki (2013) izrazil zaskrbljenost nad nenehno visokimi nepooblaščenimi, neenakomernimi, neplodnimi in potratnimi izdatki v Južnoafriških javnih službah, se je zdelo pomembno, da revizijske komisije v okviru nacionalnih vladnih služb izboljšajo mehanizme, ki odpravljajo ali zmanjšujejo nezaželene vplive s pomočjo zanesljivega nadzora, prepoznavanjem področij tveganj, ki zahtevajo nujno pozornost in usklajevanje med temi in ostalimi področji, ki so pod revizijskimi komisijami. O teh in drugih področjih dejavnosti, s katerimi se ukvarjajo revizijske komisije, bi morale biti zainteresirane strani obveščene v okviru procesa poročanja revizijskih komisij.

Glavni prispevek tega članka predstavlja predlog o enotnih referenčnih mehanizmih poročanja revizijskih komisij v okviru Južnoafriških nacionalnih vladnih služb. Te kategorije so se razvile s pomočjo induktivne ali tematske analize po principu »od spodaj navzgor«, ki se uporablja na predpisih in vseh letnih poročilih NVS-jev, da so se lahko določile celovitih teme in vzorci poročanja revizijskih komisij po oddelkih. Priporočljivo je, da bi revizijske komisije v NVS-jih, ki o teh temah trenutno ne poročajo, lahko dosegle celovitost poročanja z vključevanjem le-teh. Z uporabo uveljavljenih

referenčnih mehanizmov v obliki tem so bila kodirana in analizirana poročila revizijskih komisij, da bi se lahko ugotovilo razkritje informacij v zvezi s temi temami. Analizirani rezultati so pokazali, da so bile vse kategorije, ki se nanašajo na skladnost, identiteto in usposobljenost članov revizijskih komisij, njihovo udeležbo na srečanjih, stanje notranje revizije v NVS-jih, pregled letnih računovodskih izkazov in odzivi uprave na vprašanja, ki jih je izpostavil Urad generalnega revizorja v Južnoafriški republiki, učinkovitost direktoratov za notranjo revizijo pri obravnavanju tveganj in spremljanje izvajanja revizijskih načrtov kot tudi sodelovanje z Uradom generalnega revizorja v Južnoafriški republiki pri reševanju nerešenih zadev, skrbno zajete v poročilih revizijskih komisij.

Kljub temu pa je večina analiziranih kategorij pokazala, da so bila poročila revizijskih komisiji na nekaterih področjih pomanjkljiva in na teh področjih je poročilo revizijskih komisij vsebovalo navedbo o notranji kontroli, ki je bila opredeljena kot stroškovno učinkovit način za pridobitev zagotovil v zadevnih NVS-jih, navedbo o vlogi revizijskih komisij pri spremljanju korektivnih ukrepov, navedbo o pregledanih informacijah o vnaprej določenih ciljih, ki so bili predloženi s strani uprave, navedbe o tem, ali je bila zadevna revizijska komisija zadovoljna z vsebino in kakovostjo poročil, ki jih je uprava predložila vsak mesec oz. vsako četrtletje, navedbe v zvezi s pregledom skladnosti z zakonskimi in regulatornimi določbami, navedbe o pregledanih spremembah v računovodskih usmeritvah in praksah, navedbe o pregledanih podatkih, ki se nanašajo na vnaprej določene cilje in ki so del letnega poročila, navedbe o pregledanih informacijah v zvezi s pomembnimi popravki v letnih računovodskih izkazih, narejenih po reviziji, navedbe o vlogi revizijskih komisij pri pregledu strategije obvladovanja tveganj v NVS-jih kot tudi navedbe o spremljanju dejavnosti v zvezi z obvladovanjem tveganj, vključno z njihovim izvajanjem v NVS-jih.

Poleg obsežnejših informacij, predstavljenih v poročilih revizijskih komisij, kot je bilo priporočeno zgoraj, bi morale revizijske komisije v NVS-jih razmisliti tudi o prostovoljnem razkrivanju nekaterih dodatnih informacij v zvezi z njihovimi nadzornimi dejavnostmi v zadevnih NVS-jih. Razkritje dodatnih prostovoljnih informacij bi pomagalo izboljšati uporabnost poročil revizijskih komisij, saj bi uporabniki teh informacij lahko bolje razumeli, s katerimi dejavnostmi so se med letom ukvarjale revizijske komisije. Nadalje bi to v ospredje izpostavilo naravo nadzora in sodelovanje, ki bi ga revizijska komisija morala imeti z upravo. Možna korist za uporabnike poročil revizijskih komisij v NVS-jih je predvidena v smislu proste poti pri izpostavljenosti, fleksibilnosti in v različnih vidikih narave informacij, o katerih poročajo različni NVS-ji. Možne koristi za člane revizijskih komisij pa bi bile, na primer, izboljšave v percepciji njihove neodvisnosti od uprave (tukaj je treba opozoriti, da so vsa analizirana poročila revizijskih komisij pokazala, da so bili člani neodvisni).

Nenazadnje bi bilo treba izboljšati skladnost poročanja revizijskih komisij. Na enem izmed področij je bilo ugotovljeno, da je večina poročil revizijskih komisij izrazila zadovoljstvo z vsebino in kakovostjo informacij, ki jih je uprava posredovala v svojih mesečnih oziroma četrtletnih poročilih. To pomeni,

da so bile revizijske komisije zadovoljne z integriteto sistemov, ki so oblikovali te informacije. Nenazadnje je to protislovno, saj so revizijske komisije večkrat pokazale pomanjkljiv splošni nadzor sistemov informacijskih tehnologij, kar je bilo sicer zabeleženo v prav istih poročilih revizijskih komisij, vendar pod rubriko: resna zaskrbljenost revizijskih komisij.

DOI: 10.17573/ipar.2015.2.04 *1.04 Professional article*

Unsolved Questions Regarding EU Citizens Access to Public Healthcare Services in Spain

Alejandra Boto
University of Applied Sciences Kehl, Germany
botoalejandra@uniovi.es

ABSTRACT

Spain is nowadays living the echoes of economic crisis adopting measures to boost employment figures and to correct the excessive macroeconomic imbalances. This paper reviews previous research findings on how these policies affect European citizenship and the access to welfare systems, healthcare provision in particular.
Special attention is paid to the so-called "medical tourism" and to the transposition on Directive 2011/24 into national law. The challenges and transformations that the adequate provision of healthcare for EU citizens will require in the next future are also pointed out, notwithstanding some critical legal problems unsolved till the moment.
However, as the paper is aimed at underlining, the main barriers that still exist to exercise citizenship right to health protection within EU are not legal, but practical.

Keywords: *medicare, public healthcare provision, medical tourism, cross-border healthcare*

JEL: K 32

1 Introduction[1]

European citizenship is regulated in the Treaties and in the Charter of Fundamental Rights of the European Union, which can be considered as one of the main achievements of the European project. It implies, among others, the right to move freely within the territory of the Member States. While travelling or staying in another Member State, EU citizens who fall ill or suffer an injury have the right to receive the same access to healthcare as nationals of that Member State. As it will be hereby exposed, and could not be otherwise, Spanish legislation fulfils that scheme. Nevertheless, its neutral provisions, combined with inefficient and budget cutbacks policies not distinguishing between nationals and non-nationals, put nationals from other

1 This research was conceived as a part of the *bEUcitizen project*, which has received funding from the European Union's Seventh Framework Programme for research, technological development and demonstration under grant agreement no 320294 (http://beucitizen.eu/).

EU Member States at a particular disadvantage compared with nationals of the host Member State. Validating this statement proves how far we still are from a real and effective European citizenship.

The paper begins introducing briefly Spanish social and economic background in relation to the access to an essential service: healthcare. Afterwards, some facts regarding the situation of EU citizens' towards this service are offered: firstly, it will be stated how we lack of any specific official data; secondly, a literature review on the topic will be presented. As it will thereby be explained, existing research pays special attention to the so-called "medical tourism" and Spanish Public Authorities are very concerned about the price paid for it. The next chapter of the paper gives an account of the recent legal changes put in force according to EU law in order to achieve a more effective access to cross-border healthcare, especially by providing clearer rules on reimbursements. In this new regulation, the principle of non-discrimination with regard to EU nationality is formally underlined but, as it will be finally discussed, there are still practical barriers preventing EU citizens from enjoying the benefits of national patients when needing medical assistance in Spain.

2 Spain Background

As it is widely known, Spain is currently experiencing very difficult times due to effects of the global economic crisis. Nowadays Spain still goes through a deep structural adjustment following the build-up of large external and internal imbalances during the housing and credit boom. Thus, every policy discussed in recent times has been related to boost economic growth and employment and to correct the excessive macroeconomic imbalances. Meanwhile welfare, equality and human rights remain in the background.

Since 2010, the revision of public policies has concerned mainly fiscal consolidation, recapitalization and restructuring of the banking sector. Some structural reforms have been accomplished in order to launch competitiveness and to correct external funding needs. All such reforms aim at increasing the efficiency, flexibility and competitive capacity of the Spanish economy, taking steps towards debt cuts, budgetary discipline and savings in public expenditure; goals quite contradictory and not always directly related, as proved by the evolution of Spain ranking in World Economic Forum's Global Competitiveness Index[2].

The effects of these reforms are calculated in terms of impact on Gross domestic product (GDP) and impact on employment, as it can be seen in the National Reform Program, sent by Spain to European Commission by the end of 2013[3]. But the effect on immigration and access to welfare systems is not in the picture.

2 Available at: http://reports.weforum.org/global-competitiveness-report-2014-2015/rankings/#indicatorId=GCI.A

3 Available at http://ec.europa.eu/europe2020/pdf/nd/nrp2013_spain_en.pdf

On top of everything, previous political debates concerning such reforms are commonly avoided due to the general use of a special executive order with the force of an Act (Royal Decree-Law) disciplined in article 86 of Spanish Constitution: in the case of extraordinary and urgent necessity, the Government may issue provisional legislative decisions which must be immediately submitted for debate and voting by the entire House of Representatives of Deputies, within a period of thirty days after their promulgation. Then, the House of Representatives must expressly declare its approval or repeal, or treat it as draft laws by emergency procedure. Governing party more than often uses then its absolute majority to validate the Royal Decree-Law without any change (Iglesia Chamorro, 2013, p. 79).

Several stakeholders have been mobilized against this situation. Some examples might be seen at the Social platform in defence of the welfare state and of the public services[4] or at the so-called "white/green tides" organized as 15M spin-offs to defend public healthcare/education system[5].

3 Healthcare Provision for EU Citizens: Some Data

In Spain there is not much information available to the general public related to the use of healthcare; the problems regarding the access to health services; or the healthcare insurances issues, concerning either foreign citizens or even Spanish citizens. People tend to keep themselves informed through mass media which, generally speaking, only take count of gutter cases.

There is in fact an official system of healthcare information, created by Act 14/1986, 25th April, approving the General Law of Healthcare and Act 16/2003, 28th May, regarding cohesion and quality of the National Health System. Nevertheless, the last information available dates from year 2010 and does not integrate information depending on the nationality of the users[6].

Regarding EU dimension, in recent times, government representatives have increasingly condemned the so-called "medical tourism" from EU citizens from other countries[7]. Consequently, several pieces of regulation have been passed in order to ensure the reimbursement of the bill by the authorities of the native country and to avoid patients being encouraged to receive treatment outside their Member State of affiliation; always according to Directive 2011/24/EU of the European Parliament and the Council of 9th March 2011 on the application of patients' rights in cross-border healthcare.

4 Available at http://www.ugt.es/actualidad/2012/julio/MANIFIESTO%20PLATAFORMA%20RECORTES%20Movilizaciones%2019%20de%20julio.pdf

5 Besides the commonly spread use of this expressions in media and society, see the presentations available at http://wiki.15m.cc/wiki/Marea_blanca and http://wiki.15m.cc/wiki/Marea_verde.

6 See https://www.msssi.gob.es/estadEstudios/estadisticas/sisInfSanSNS/pdf/SISNS.pdf (retrieved in January 2015).

7 An official brochure published by the Ministry of health, social services and equality even talks about it; see http://www.msssi.gob.es/gabinetePrensa/reformaSanidad/docs/cuadripticoReformaSanitaria.pdf (retrieved in January 2015).

The most relevant of such pieces of regulation is the Royal Decree-Law 16/2012, 20th April, passing urgent measures to guarantee the sustainability of the National Health System and to improve the quality and safety of its benefits. It followed a research carried by the Spanish supreme audit institution (*Tribunal de Cuentas*) on the cost of management of health services derived from the application of EU regulations and international agreements on public healthcare system.

The report[8], signed in March 2012 and finally approved later in October[9], analyses the cost of globalizing the right to receive sanitary assistance within EU. It concludes that the Spanish National Health System more than often takes over the cost of sanitary assistance to people who have it already covered by their Member State of affiliation or by private insurances (active workers and retired people especially). Such an expenses pattern disturbance could be explained by the lack of databases and by several misfits on the monitoring processes that should be built up by the Social Security and the Autonomous Regions.

In June 2010 the same report identified more than 450,000 EU citizens from other countries and people from third countries being covered by agreements for the free healthcare assistance due to the presumed fact of not having enough economic resources. The cost of such healthcare assistance rises to more than 450,000,000€ per year and becomes unaffordable[10]. Thus, the government is currently working to better shape up the notion of "person without enough economic resources" in order to avoid abuses and to ensure that such people do not really have enough economic resources nor have their healthcare covered by private insurance or by their native social security system. As the first step towards that goal, the government has passed the Royal Decree 576/2013, 26th July, establishing the essential requirements to provide healthcare to people not having insured status or not being National Health System beneficiaries and modifying Royal Decree 1192/2012, 3rd August, regulating the insured and National Health System beneficiary status.

4 Actual use of public healthcare system by EU citizens

Due to the lack of official information mentioned above, scholars have studied the use of healthcare by EU citizens on their own. There are several research papers that provide information on the use of health care by foreigners but, like the few pieces of official information previously cited, they usually do not differentiate between EU citizens and citizens from third countries (García Armesto et al., 2011). Hereby, only the researches that take

8 Available at http://www.tcu.es/uploads/I937.pdf (retrieved in January 2015).

9 Available at http://www.boe.es/boe/dias/2013/03/25/pdfs/BOE-A-2013-3242.pdf

10 As an example, the Official Gazette of the Valencian Autonomous Region published last 5th February several lists with thousands of patients, the majority foreigners, to whom the Autonomous government claims the amount of the invoices of the sanitary attention in public Valencian hospitals (see http://www.docv.gva.es/portal/).

into account the origins of the immigrant people, or the fact of possessing European citizenship, will be considered.

Hernando Arizaleta, Palomar Rodríguez, Márquez Cid and Monteagudo Piqueras (2008) have studied acute-care hospital admissions in Murcia in 2004–2005. The groups to be compared were established on the basis of the country of birth (Spain/Europe-25/remaining countries). The paper stated that the most frequent causes of admission were related to pregnancy, childbirth and puerperium in all groups, and that hospital utilization and costs per admission and for person-year of insurance between the group "Spain" and the group "Europe-25" were very similar.

Hernández Quevedo and Jiménez Rubio (2010) have studied the existence of differences in health services use between immigrants and the native population and concluded that all immigrants, regardless their nationality or country of birth, seem to face barriers of entry to specialized care. Several papers also concluded that being a child born from immigrant parents means less access to health resources due to a poor degree of system knowledge and cultural barriers worldwide (Weinick & Krauss, 2000, p. 1771). In Spain, Rivera, Casal and Currais (2009) have found that parental origin leads to differences in the utilization of the various levels of the Spanish health system. While no widespread pattern of increased or decreased use of the whole system was identified, differences were found in the number of specialist visits and admissions. Statements of the child's perceived health status were influenced by immigrant families' socioeconomic conditions, which probably affected outcomes.

Some research has pointed that EU citizens in Spain have increasing needs on specialist consultants while non EU citizens tend to use only emergency services and general practitioners' services; Carvajal Gutiérrez and Corpas Alba (2006) explain this fact taking into account that proportionally among the EU citizens there are more elders whereas the third countries foreigners are young adults who do not need much sanitary follow-up or even they elude it due to their long workdays. This role distribution, nevertheless, is too focused, as the research paper is limited on areas around the Mediterranean Sea where there is a huge community of retired English and German people and may not be extrapolated.

The impact of medical tourism in the private sector of healthcare in Spain has been studied by the EOI (*Escuela de Organización Industrial*)[11]. According to their data, EU citizens have easy access to diagnostics and check-ups, fertility treatment, cosmetic surgery, eye surgery and cancer treatment. On the other hand, they could experience severe difficulties to access to organ, cell and tissue transplantation due to the restrictions imposed by the ONT (Organización Nacional de Transplantes). Apparently, the National Transplant

11 The study is available at http://www.minetur.gob.es/turismo/es-ES/PNIT/Eje3/Documents/turismo_salud_espana.pdf (retrieved in February 2015).

Organization only gives access to transplantation to the Spanish citizens and to those foreigners who have legally established their residence in Spain[12]. According to that, the length of time of residence could be a barrier to accessing some health services in Spain, despite the fact that no regulation disposes such an express requirement[13].

According to statistics made public by the Health Department, Spain was in 2011 the second ranking country of EU-27 with a higher foreign resident population (5.7 million), only surpassed by Germany which had over 7 million[14]. In Spain, the rights to health protection and public healthcare through the National Health System are held by people who have insured status[15]. Not having such a status, EU citizens (Spanish nationals included), European Economic Area or Switzerland residing in Spain and foreigners holding a residence permit in Spanish territory, may be covered by NHS as long as they prove that they do not exceed the income limits of 100,000 euros. Unfortunately, as it has already been said, there is no official information available separating the use of public healthcare depending on the nationality of the insured person.

As for the access to insurance for health care, Jiménez-Martín and Jorgensen (2009) have proved that the increased percentage of immigrants has resulted in a greater demand for private health insurance. Private healthcare has then been increasingly sought to gain access to specialized and emergency services more rapidly by groups with a middle-to-high income and with children, or with a greater inclination to choose a private healthcare provider (as it happens in a paradigmatic way in the case of civil servants). According to that, the access to private insurance depends on the socio-economic level of the family and not in the origin (EU/non EU) of the citizen.

5 Recent regulatory changes to improve the situation

Just a year ago, the process of transposition on Directive 2011/24 into national law was finished. The Royal Decree 81/2014, 7th February, based on the Treaty on the Functioning of the European Union, in particular articles 114 and 168, provides rules for facilitating the access to safe and high-quality cross-border healthcare and promotes cooperation on healthcare between Member States according to the European Directive. The regulation also aims at transposing the Commission implementing Directive 2012/52/EU of 20th December, laying

12 See http://www.ont.es/informacion/Paginas/PreguntasFrecuentes.aspx.

13 For instance: Royal Decree 1723/2012, 28th December, which regulates the activities of obtaining, clinical utilization and territorial coordination of the human organs and establishes quality and safety requirements.

14 http://www.msssi.gob.es/organizacion/sns/docs/sns2012/SNS012__Espanol.pdf (accessed in February 2015).

15 Access to public health services is obtained through the Individual Healthcare Card issued by each Regional Health Service. This is the document which identifies every citizen as a healthcare user throughout the National Health System.

down measures to facilitate the recognition of medical prescriptions issued in another Member State.

Thus, the Royal Decree 81/2014 establishes in article 6, regarding healthcare provided in Spain to patients whose State of affiliation is another Member state, that patients shall receive from the national contact point and healthcare providers all the relevant information and that they shall also have access to complaint procedures in order to seek remedies in accordance with Spanish legislation, if they suffer harm arising from the healthcare they receive. The very same article establishes that Spain has to ensure the patients' access to a written or electronic medical record of the treatment and the exchange of information, always according data protection legislation, to ensure the continuity of treatments. Certain healthcare (identified in annex II and related for instance to overnight hospital accommodation, radiotherapy, disabilities support and reproduction treatments) is subject to a prior authorization.

Finally, the principle of non-discrimination with regard to EU nationality is recorded in black and white in article 6.4 and so article 12 establishes that public or private healthcare providers must apply the same scale of fees for healthcare for patients from other Member States as for domestic patients. An important point to be outlined is that, due to the severe dimension of financial crisis in Spain, all the provision in the Royal Decree must be put into operation without any public cost increase.

6 Challenges for the future

Speaking about the challenges involved in a public Medicare to an increasing foreign population, there are reports stating how sanitary staff has modified the guidelines of attention to incorporate a cultural diversity dimension and to extend the knowledge of endemic pathologies of other latitudes and hemispheres through several training programs[16]. In some Autonomous Regions services of cultural mediation and interpretation in different languages have been put in operation but they focus mainly in non-EU citizens (Sales Salvador, 2005). For instance, in Catalonia, practical lexis and guides of conversation have been elaborate to translate, among others, Arab, Chinese, Tagalog, Ukrainian or Rumanian into Catalonian (Gràcia & Bou, 2006, p. 60); in Andalusia, as reported by Mediaria, a public Foundation, cultural health mediation has been experienced, on-site, through telephone or across specific software[17]; in Basque Region, a project named Immigration and Transcultural Health was launched in 2003 to test immigrants' integration in socio-sanitary Basque system[18]; in Murcia Region, there are several incipient projects,

16 See the *II Plan Estratégico de Ciudadanía e Integración 2011–2014* published by the Executive Management of Immigration at the Ministry of Employment and Social Security (available at http://extranjeros.empleo.gob.es/es/IntegracionRetorno/Plan_estrategico2011/, accessed in January 2015).

17 Available at http://www.fundacionmediara.es/index.php/mediacion/mediacion-sanitaria (accessed in February 2015).

18 More information at: http://www.imisate.eu/Imisate/Inicio.html (accessed in February 2015).

still in a very early stage (Valverde Jiménez, 2013, p. 383). Several unions, charity works and NGOs also offer this kind of cultural and linguistic mediation regarding sanitary services[19]. Specially talking about EU citizens, there are some volunteer groups providing support in emergencies with illness and accidents when medical services are involved. They provide hospital visiting teams and an interpreting service at several hospitals around east Mediterranean villages[20].

On the other hand, some private medical centers have a specific "welfare" department to handle tourist healthcare[21]. Finally, some universities offer PhD programs on intercultural communication and public service interpreting to train students into the theoretical knowledge and the skills, abilities, and tools they need to act as linguistic, communicative, and cultural liaisons between institutional, medical, judicial, educational staff and the users of these public services who do not speak fluent Spanish[22]. All these programs pay particular attention to healthcare settings and provide stages at hospitals and healthcare centers despite the fact that no juridical framework is fairly established in the matter and some relevant problems remain unresolved regarding, for example patients' rights, privacy and nondisclosure agreements.

Respective the need of cultural mediation, there are studies that have concluded that foreign population access to public healthcare in Spain depends more on the language skills and on the cultural proximity than on the fact of being EU or non EU citizen (Baigorri Jalón et al., 2006, p. 175). Certainly, the biggest difficulties in accessing to public National Health System in Spain are referred to the bureaucracy, especially in terms of severity, dehumanization and coldness in the manners, the rigid system of appointments and the undue administrative filters (Raga Gimeno, 2006, p. 217).

7 Discussion

The above summarized findings point out relevant problems regarding access of European citizens to Spanish healthcare services. That is not surprising taking into account that healthcare system in Spain is characterized by a territorially complex and diverse provision, because it falls under Autonomous Regions jurisdiction (according to the constitutional rule provided in article 148.1.21 of the Spanish Constitution of 1978). Misinformation, cost inefficiency and challenges regarding interoperability systems are a direct consequence.

19 See for instance, in Navarre: http://www.saludaria.org/programa-de-mediacion-linguistica-e-intercultural-en-navarra/; in Catalonia: http://obrasocial.lacaixa.es/ambitos/inmigracion/mediadoressanitarios_es.html (both last accessed in February 2015).

20 More information at http://www.helpofdenia.com/pages/denia/index.php

21 See, for example, information regarding Quiron Palmaplanas Hospital in Balearic Islands: http://www.quiron.es/es/mallorca_palmaplanas/informaci%C3%B3n_util (accessed in February 2015).

22 See, in particular, FITISPos Group's initiatives at University of Alcala (Madrid): http://www2.uah.es/traduccion/inicio.html (accessed in February 2015). The Master program provides training on Arabic-Spanish, Bulgarian-Spanish, Chinese-Spanish, English-Spanish, French-Spanish, German-Spanish, Polish-Spanish, Portuguese-Spanish, Romanian-Spanish and Russian-Spanish.

There is no legal barrier in form of direct discrimination that European citizens can find when they access public healthcare services in Spain. On the contrary, the principle of equal treatment is word-for-word outlined in regulation. As mentioned in previous sections, it is only a question of practical barriers, which means that, despite there is no direct discrimination for European citizens with a non-Spanish nationality, they can find difficulties on effectively exercising their rights (e.g. those due to the language in which the service is provided).

It is vital to overcome those barriers, because in the current situation the notion of European citizenship is not complete. In order to achieve this goal, a more extensive provision of resources is vital, for example regarding foreign language skills of sanitary staff, but a definition of clearer legal frameworks, for instance aimed at marking out the role and duties of mediators and interpreters, is also needed.

Alejandra Boto *holds a European PhD in Administrative Law and currently works as a lecturer and researcher in Public Law at the University of Oviedo in Spain. Her research interests cover administrative organization, public services provision and users' rights. She is the author of "La pervivencia de la potestad gubernativa de derribo" (Oviedo: University of Oviedo, 2006), "La Administración instrumental en el proceso" (Madrid: Reus, 2011), "El enigma de la descentralización funcional" (Barcelona: Erasmus, 2013) and several parts of books published in Canada, Germany and Spain. Recent work also includes a wide range of articles in journals published in The United States, France, Italy and Colombia, focusing on Comparative Public Law.*

References

Baigorri Jalón, J., Alonso Araguás, I., Canas Remesal, R., Otero Moreno, C., & Russo, M. (2006). Notas sobre la interpretación en los servicios públicos de salud en Castilla y León. *Revista española de lingüística aplicada*, (extra 1), 175–186.

Campos López, J. G. (2004). Mediación intercultural y traducción/interpretación en los servicios públicos: el caso de la atención sanitaria a población inmigrante de origen magrebí. *Jornades de Foment de la Investigació*, Jaume I University. Retrieved 02.03.2015 from http://www.uji.es/bin/publ/edicions/jfi10/trad/12.pdf

Carvajal Gutiérrez, C., & Corpas Alba, J. (2006). Utilización de los hospitales públicos por los extranjeros en la provincia de Málaga. Baetica. *Estudios de Arte, Geografía e Historia, 28*(1), 283–301.

García Armesto, S., Abadía Taira, M. B., Durán, A., Hernández Quevedo, C., & Bernal Delgado, E. (2011). España: Análisis del sistema sanitario. *Health systems in transition, 12*(4), 1–269.

Gràcia, L., & Bou, C. (2006). Lenguas, inmigración y comunicación en los centros de salud. In B. Gallardo, C. Hernández & V. Moreno (Eds.), *Lingüística clínica y neuropsicología cognitiva. Actas del Primer Congreso Nacional de Lingüística Clínica* (pp. 60–82).Valencia: Universitat.

Hernández Quevedo, C., & Jiménez Rubio, D. (2010). *Salud y acceso a los servicios sanitarios en España: la realidad de la inmigración*. Fundación Alternativas.

Hernando Arizaleta, L., Palomar Rodríguez, J., Márquez Cid, M., & Monteagudo Piqueras, O. (2009). Impacto de la inmigración sobre la asistencia hospitalaria: frecuentación, casuística y repercusión económica. *Gaceta Sanitaria, 23*(3), 208–215. DOI: 10.1016/j.gaceta.2008.06.006

de la Iglesia Chamorro, A. (2013). Crisis económica y expansión del ejercicio normativo del Gobierno. En particular, de los decretos-leyes nacionales y autonómicos. *Revista Estudios de Deusto, 61*(2), 69–80.

Jiménez-Martín, S., & Jorgensen, N. (2009). Inmigración y demanda de seguros sanitarios. *Gaceta sanitaria, 23*(null), 19–24. DOI: 10.1016/j.gaceta.2009.09.005

Raga Gimeno, F. (2006). Comunicación intercultural y mediación en el ámbito sanitario. *Revista española de lingüística aplicada*, (extra 1), 217–229.

Rivera, B., Casal, B., & Currais, L. (2009). Estado de salud y frecuentación de los servicios sanitarios de los menores hijos de inmigrantes. Gaceta Sanitaria, 23(null), 53–56. DOI: 10.1016/j.gaceta.2009.09.011

Sales Salvador, D. (2005). Panorama de la mediación intercultural y la traducción/interpretación en los servicios públicos en España. *Translation Journal*, (9).

Valverde Jiménez, M. R. (2013). Mediación intercultural en el ámbito sanitario de la Región de Murcia. *Enfermería global: Revista electrónica semestral de enfermería, 12*(1), 383–391.

Weinick, R., & Krauss, N. (2000). Racial/ethnic differences in children's access to care. *American Journal of Public Health, 90*(11), 1771–1774. DOI: 10.2105/AJPH.90.11.1771

POVZETEK

1.04 Strokovni članek

Nerešena vprašanja glede dostopa državljanov do storitev javnega zdravstva v Španiji

Evropsko državljanstvo med drugim pomeni pravico do prostega gibanja na ozemlju držav članic. Državljani EU, ki zbolijo ali se poškodujejo med potovanjem ali bivanjem v drugi državi članici, imajo pravico do enakega dostopa do zdravstvenega varstva kot državljani te države članice. Španska zakonodaja to shemo ustrezno izpolnjuje. Kljub temu njene nevtralne določbe, skupaj z neučinkovitimi politikami proračunskih znižanj, ki ne razlikujejo med državljani in nedržavljani Španije, postavljajo državljane druge države članice EU v posebej neugoden položaj v primerjavi z državljani države članice gostiteljice. Kar dokazuje, da smo še vedno daleč od resničnega in učinkovitega evropskega državljanstva.

Članek uvodoma na kratko predstavi špansko socialno in ekonomsko zaledje v zvezi z dostopom do temeljne storitve: zdravstvenega varstva. Kot je znano, se danes Španija sooča s posledicami gospodarske krize, zaradi katere sprejema ukrepe, ki spodbujajo stopnjo zaposlenosti in odpravljajo prekomerna makroekonomska neravnovesja. Cilj vseh takšnih reform je povečati učinkovitost, prilagodljivost in konkurenčno sposobnost španskega gospodarstva, kar naj bi vodilo v smeri odpravljanja dolga, proračunske discipline in prihrankov pri javnih izdatkih; kar precej nasprotujoči si cilji, ki niso vedno neposredno povezani, kot dokazuje razvoj uvrstitve Španije na lestvici globalnega indeksa konkurenčnosti Svetovnega ekonomskega foruma. Učinki teh reform so izračunani glede na vpliv na bruto domači proizvod (BDP) in vpliv na zaposlovanje, kot je razvidno iz nacionalnega programa reform, ki jih je do konca leta 2013 Španiji poslala Evropska komisija; vendar pa njihov učinek na priseljevanje in dostop do sistemov socialnega varstva nista poznana. Potemtakem ni presenetljivo, da so se v tej situaciji aktivirale številne zainteresirane skupine, ki zahtevajo varstvo socialne države in javnih storitev, ohranitev javnega zdravstva in izobraževalnega sistema.

V nadaljevanju članek analizira posebnosti položaja državljanov EU v javnem sistemu zdravstvenega varstva v Španiji. Predstavljen je pregled literature na to temo. Uradni podatki o tem položaju so pomanjkljivi. Uradna statistična baza podatkov je neuporabna, saj ni bila posodobljena od leta 2010 in v nobenem primeru ne vključuje informacij o državljanstvu uporabnikov. Po drugi strani pa je odkrito izražena zaskrbljenost o tako imenovanem zdravstvenem turizmu državljanov EU iz drugih držav. Vlada, več upravnih organov in ne nazadnje zakonodajalci so obravnavali ta pojav in posledično je bilo odobrenih več različnih uredb, na podlagi katerih so organi v domovini bolnika dolžni zagotoviti povračilo stroškov zdravstvenih storitev bolnikom, ki bi želeli

prejemati zdravstveno oskrbo izven njihove države, članice zdravstvenega zavarovanja.

Glavna takšna uredba je Kraljeva uredba 81/2014, zlasti člena 114. in 168., z dne 7 februarja 2014, ki temelji na Pogodbi o delovanju Evropske unije, in določa pravila, ki zagotavljajo lažji dostop do varnega in visokokakovostnega čezmejnega zdravstvenega varstva v Uniji, ter spodbuja sodelovanje med državami članicami na področju zdravstvenega varstva v skladu z Evropsko direktivo 2011/24/EU Evropskega parlamenta in Sveta z dne 9. marca 2011 o uveljavljanju pravic pacientov na področju čezmejnega zdravstvenega varstva.

V tej novi uredbi je načelo prepovedi diskriminacije glede na državljanstvo EU sicer formalno zapisano, vendar še vedno obstajajo praktične ovire, ki preprečujejo državljanom EU, ki potrebujejo zdravniško pomoč v Španiji, da bi izkoristili prednosti, ki jih imajo domači bolniki. Kot je poudarjeno v pregledani literaturi, so take praktične težave v glavnem povezane z nizko stopnjo sistemskega znanja, s kulturnimi ovirami, z znanjem jezika in s socialno-ekonomskim statusom. Tudi časovno obdobje prebivanja je lahko ovira pri dostopu do presaditve organov, celic in tkiv v skladu z omejitvami, ki jih določa španska nacionalna organizacija za presaditve (ONT).

Ko govorimo o izzivih, ki zadevajo naraščajočo populacijo tujcev, vključeno v javni sistem zdravstva, obstajajo poročila, ki potrjujejo, da so zdravstveni delavci spremenili smernice o zdravstveni oskrbi z namenom vključitve razsežnosti kulturne raznolikosti. V nekaterih avtonomnih pokrajinah so vzpostavili storitve kulturne mediacije in tolmačenja v različnih jezikih, vendar kljub temu še vedno obstajajo velike regionalne razlike. To pravzaprav ni presenetljivo ob upoštevanju, da je za španski zdravstveni sistem značilna ozemeljsko kompleksna in raznolika določba, ki sodi pod pristojnost avtonomnih pokrajin (v skladu z ustavno ureditvijo, določeno v 148.1.21 členu španske ustave iz leta 1978). Povrhu vsega so zaradi finančne krize javne spodbude majhne. V velikih mestih se v glavnem osredotočajo na neevropske državljane, medtem ko v nekaterih bolnišnicah v vzhodnih mediteranskih vaseh nudijo tolmačenje prostovoljne medicinske ekipe na terenu. Nekateri zdravstveni centri imajo celo t. i. posebne oddelke za dobro počutje, ki skrbijo za zdravstveno nego turistov. Ne nazadnje, univerze ponujajo doktorske študijske programe o medkulturni komunikaciji in tolmačenju v javnih službah, s katerimi študenti pridobivajo teoretično znanje, veščine, sposobnosti in orodja, ki jih potrebujejo, da delujejo kot jezikovni, komunikacijski in kulturni posredniki med institucionalnim, zdravstvenim, sodnim, izobraževalnim, itd. osebjem in uporabniki teh javnih storitev, ki španskega jezika ne govorijo tekoče. Vsi ti programi posvečajo posebno pozornost izvajalcem zdravstvene oskrbe in v bolnišnicah ter zdravstvenih centrih omogočajo pripravništvo, kljub dejstvu, da v zvezi s tem pravni okvir dejansko ni oblikovan in je še vedno treba razrešiti nekaj zadevnih težav, na primer, v zvezi z bolnikovimi pravicami, zasebnostjo in sporazumi o varovanju informacij.

V Španiji obstajajo težave v zvezi z dostopom državljanov EU do zdravstvenih storitev v javnem zdravstvu. Ni nikakršnih pravnih ovir v obliki neposredne

diskriminacije, s katerimi bi se državljani EU lahko srečevali, ko dostopajo do zdravstvenih storitev v španskem javnem zdravstvu. Nasprotno, princip enake obravnave je v uredbi dobesedno izpostavljen. Gre torej zgolj za vprašanje praktičnih ovir, kar pomeni, da čeprav ne gre za neposredno diskriminacijo državljanov EU, ki nimajo španskega državljanstva, se le-ti lahko srečujejo s težavami pri učinkovitem uveljavljanju pravic.

Da bi premagali te ovire, si je treba prizadevati, da se koncept evropskega državljanstva izvaja, saj v trenutni situaciji ni popoln. Da bi dosegli ta cilj, je bistvenega pomena bolj obsežno zagotavljanje sredstev, na primer v zvezi z znanjem tujih jezikov zdravstvenih delavcev. Vendar je kljub temu potrebna tudi opredelitev bolj jasnih pravnih okvirov, ki bi določala vlogo in dolžnosti mediatorjev in tolmačev.

DOI: 10.17573/ipar.2015.2.05 *1.04 Strokovni članek*

Vloga plače pri motiviranosti in zavzetosti zaposlenih na izbranem ministrstvu v Sloveniji

Silvija Drašler
Ministrstvo za javno upravo, Slovenija
silvija.drasler@gmail.com

Eva Boštjančič
Univerza v Ljubljani, Filozofska fakulteta, Slovenija
eva.bostjancic@ff.uni-lj.si

IZVLEČEK

Leta 2008 so v javnem sektorju zaradi gospodarske krize uvedli številne ukrepe na področju plač zaposlenih. Plača pomeni enega ključnih motivatorjev za zadovoljstvo in zavzetost zaposlenih. Članek predstavlja študijo, v kateri sva raziskovali vlogo plače pri zavzetosti, zadovoljstvu z delom in motivaciji zaposlenih na izbranem ministrstvu v času krize. Sodelovalo je 167 zaposlenih, vključili pa sva tri merske instrumente – Lestvico delovnega zadovoljstva, Lestvico delovne zavzetosti in Lestvico delovnih preferenc.
Ugotovili sva, da so bolj zavzeti tisti zaposleni, katerih zadovoljstvo s plačo je višje, in ne tisti, katerih sama plača je višja. Povezava med plačo in zadovoljstvom je sicer pozitivna, vendar ni jasno linearna. Pri delu so bolj zavzeti zaposleni z višjo stopnjo notranje motivacije, medtem ko višja stopnja zunanje motivacije pomeni nižje zadovoljstvo s plačo. Tako sva opozorili na pomembno vlogo denarnega nagrajevanja ter ob koncu predstavili smernice za nadaljnje delo na tem področju.

Ključne besede: plača, zavzetost pri delu, zadovoljstvo z delom, motivacija

JEL: H00, L00

1 Uvod

Slovenija je leta 2008 uvedla nov plačni sistem v javnem sektorju. Pogajanja za novi sistem so bila dolgotrajna, Zakon o sistemu plač v javnem sektorju je bil sprejet že leta 2002, nov plačni sistem je bil uveden šele leta 2008, saj so v vmesnem času potekala pogajanja o kolektivnih pogodbah dejavnosti in poklicev, sam proces reforme pa je bil zapleten. Izvajanje reforme je še dodatno zapletla nepričakovana upočasnitev rasti slovenskega gospodarstva in slabše javnofinančno stanje. Proračunski rezi so privedli do administrativnih

sprememb v javni upravi, še posebej pa do sprememb v plačah, ki so se z nastopom varčevalnih ukrepov znižale.

Pri sprejemanju varčevalnih ukrepov na področju plač javnih uslužbencev se je treba zavedati njihovega pomena in morebitnih posledic. Plače pomenijo eno bistvenih komponent sistema upravljanja človeških virov. Opredelimo jih lahko kot denarne nagrade, ki jih zaposleni prejmejo za opravljanje svojega dela. Plača vključuje osnovno plačo, ki je fiksno določena, dodatke k osnovni plači, ki so v slovenskem plačnem sistemu v javnem sektorju določeni glede na različne pogoje dela, in spodbude, ki so variabilni del plače. Odločitve glede plač javnih uslužbencev imajo neposreden vpliv na veliko število ljudi, na njihov način življenja in kariero. Posledic nižanja plač pa se zavedajo tudi delodajalci, ki so zaskrbljeni, kako bodo ukrepi vplivali na zaposlene, še posebej v razmerah, ko so delodajalci prisiljeni hkrati nižati plače in višati zahtevnost dela.

1.1 Zadovoljstvo s plačo

Heneman (1985) ugotavlja, da je pozitivno razmerje med plačo in zadovoljstvom z le-to pogost in konsistenten rezultat raziskav. Pri tem pa moramo biti previdni, ker ta odnos pogosto ni linearen, saj obstajajo tudi dokazi o pozitivni, nelinearni povezavi med plačo in zadovoljstvom s plačo (npr. Porter, Greenberger & Heneman, 1990; Judge, Piccolo, Podsakoff, Shaw & Rich, 2010). Prva od povezav je potenčna funkcija, pri kateri zadovoljstvo s plačo rahlo upada pri srednjih zneskih in se ponovno zvišuje z višjimi zneski. Pri tej funkciji zadovoljstvo s plačo torej narašča v večji meri pri višjih zneskih, medtem ko pri nižjih zneskih, tudi ob višanju le-teh, zadovoljstvo narašča počasneje (Heneman, Porter, Greenberger & Strasser, 1997). Sledi Adamsov (1965) efekt pravičnosti, ki pravi, da se zadovoljstvo s plačo zvišuje do določene višine le-te, nato pa kljub višjemu znesku upada. Razlog za upadanje je v občutku neudobja in nepravičnosti zaposlenih, saj pri previsokih zneskih občutijo, da plačilo presega njihov vložek. Gabris & Mitchell (1988) sta predlagala odnos, imenovan Matejev učinek, ki pomeni, da so posamezniki, ki prejemajo višjo plačo, z njo zelo zadovoljni, medtem ko so tisti z nizko plačo z njo zelo nezadovoljni, saj občutijo nepravičnost v primerjavi z bolje plačanimi. Porter idr. (1990) je predlagal še odnos v obliki kvadratne funkcije, ki so ga dokazali na vzorcu bolnišničnega osebja v ZDA. Kvadratna funkcija pomeni, da je zadovoljstvo s plačo najvišje pri najnižjih in najvišjih zneskih le-te, najnižje pa pri srednjih vsotah. Porter idr. (1990) tako ugotavlja, da vsak izmed nelinearnih modelov razloži dodaten del variance zadovoljstva, ki ga linearni odnos ne razloži. Katera od možnih nelinearnih povezav bo prevladala, pa je odvisno od značilnosti organizacije in v raziskavo vključenih teoretičnih konstruktov.

V primerih plačnega sistema v javnih organizacijah se pogosteje potrjuje odnos med plačo in zadovoljstvom z njo v obliki potenčne funkcije. Heneman et al. (1997) so na primeru bolnišnice ugotovili, da zadovoljstvo s plačo narašča hitreje pri višjih zneskih. Razlaga za potenčen odnos je po mnenju Kreftinga (1980) simbolna narava plače. V očeh zaposlenih naj bi tako plača služila kot

povratna informacija o kvaliteti njihovega dela, kar še posebej drži za javne uslužbence, ki ne prejemajo povratne informacije tako redno kot zaposleni v privatnem sektorju. Višina plače je torej v teh primerih znak zaupanja in priznanja.

1.2 Motivacija in motiviranost zaposlenih

Rynes, Gerhart & Minette (2004) dokazujejo, da ljudje, ko poročajo o pomenu plače kot motivacijskem faktorju, pripisujejo plači manjši pomen kot pa izhaja iz njihovih dejanskih vedenj in izbir – delavci v študijah običajno zatrjujejo, da je plača manj pomembna, kot pa dejansko je. Raziskave, ki proučujejo vpliv plače na motivacijo, se skoraj izključno opirajo na predpostavke agentne teorije (Jensen & Meckling, 1976), saj je bila večina raziskav s področja plačnih sistemov in njihovih vplivov na uspešnost podjetij izvedena na področju ekonomije in financ, kjer ta teorija prevladuje, pri čemer se v veliki meri ni upoštevalo vključenih spremenljivk, kot je na primer motivacija. Rynes, Gerhart in Minette (2004) dokazujejo, da ljudje, ko poročajo o pomenu plače kot motivacijskem faktorju, pripisujejo plači manjši pomen, kot pa izhaja iz njihovih dejanskih vedenj in izbir. Povedano drugače, delavci v študijah običajno zatrjujejo, da je plača manj pomembna, kot pa dejansko je. Teorija samodoločenosti (angl. *Self-Determination Theory*, SDT), ki sta jo Deci in Ryan utemeljila leta 1985 (Deci & Ryan, 2002), temelji na predpostavki, da imajo vsi posamezniki naravno notranjo težnjo, da bi razvili občutek samega sebe. Teorija samodoločenosti ponuja uporaben pristop pri razumevanju motivacijskih faktorjev. Temelji na razlikovanju med avtonomno motivacijo in motivacijo, ki je od zunaj nadzorovana oz. regulirana, obe pa stojita nasproti demotiviranosti. Zunanja motivacija variira v stopnji nadzora oz. avtonomije, notranja motivacija pa predstavlja popolnoma avtonomno motivacijo. S perspektive teorije samodoločenosti je težava agentne teorije v tem, ker predpostavlja, da delojemalec ne more ponotranjiti ciljev delodajalca in potemtakem je edini način, s katerim lahko delodajalec vpliva na vedenje delojemalca, ta, da sprejme »prisilne« ukrepe, kot je npr. povezava višine plače zaposlenega z uspešnostjo celotne organizacije.

1.3 Zavzetost zaposlenih pri delu

Zavzetost je pomemben koncept, saj zavzeti zaposleni uživajo v svojem delu, bolj so pripravljeni pomagati drugim in prispevati k uspešnosti organizacije, sprejeti dodatno odgovornost, vložiti več truda v svoje delo in nenazadnje so pripravljeni tudi bolj vztrajati v organizaciji kot zaposleni, ki so manj zavzeti (Scott, 2010). Schaufeli, Salanova, Gonzales-Roma & Bakker (2002) definirajo delovno zavzetost kot pozitivno, izpopolnjujoče, z delom povezano stanje, ki ga opisujemo kot vitalnost, predanost in vpetost. Kahn (1990) pa je izpostavil tri psihološke pogoje, ki so povezani z zavzetostjo ali z nezavzetostjo zaposlenih, in sicer smiselnost, varnost in dostopnost. May, Gilson & Harter

(2004) so model preizkusili in ugotovili, da so smiselnost, varnost in dostopnost pomembno povezane z zavzetostjo.

Kahn (1990) je pri raziskavi vpliva nagrad in priznanj, med katere sodi tudi plača, ugotovil, da se razlike v zavzetosti med ljudmi pojavijo v odvisnosti od njihovih percepcij koristi, ki jih bodo prejeli z opravljanjem določene delovne vloge. Občutek vračila vloženega lahko izhaja iz zunanjih nagrad in priznanj. Podobno so Maslach et al. (2001) menili, da sta primerno priznanje in nagrada pomembna za zavzetost.

Z raziskavo sva želeli preveriti, kakšna je vloga plače pri zavzetosti zaposlenih na izbranem ministrstvu v času gospodarske krize. Poleg tega sva v raziskovanje vključili tudi dva, z zavzetostjo povezana koncepta: zadovoljstvo s plačo in motivacijo na delovnem mestu. Zastavili sva si naslednji raziskovalni vprašanji:

- Kakšen je odnos med plačo, motivacijo ter delovno zavzetostjo zaposlenega?
- Kako lahko pojasnimo zavzetost zaposlenih s pomočjo spremenljivk, vključenih v raziskavo ?

2 Metoda

2.1 Udeleženci

V raziskavi je bilo udeleženih 167 oseb, 49 moških in 116 žensk, zaposlenih na izbranem ministrstvu v Sloveniji. Njihova povprečna starost je bila 42,4 let.

Razdelitev udeležencev glede na stopnjo izobrazbe udeležencev ter plačni razred je vidna v tabeli 1.

Tabela 1: Razdelitev zaposlenih glede na stopnjo izobrazbe in plačni razred

Stopnja izobrazbe	*f*	*p (%)*
Osnovnošolska izobrazba	0	0,0
Poklicna ali srednješolska izobrazba	10	6,0
Višja ali visokošolska izobrazba	28	16,8
Univerzitetna izobrazba	89	53,3
Znanstveni magisterij, specializacija, doktorat	39	23,4
Drugo	1	0,6
Plačni razred		
Do 20. plačni razred (do 922 € bruto)	8	4,8
od 21. do 30. plačni razred (od 959 € do 1.360 € bruto)	32	19,2
od 31. do 40. plačni razred (od 1.414 € do 2.001 € bruto)	54	32,3
od 41. do 50. plačni razred (od 2.079 € do 2.930 € bruto)	63	37,7
51. in več plačni razred (nad 3.042 € bruto)	9	5,4
Skupaj	167	100,0

Opombe: *f* pomeni frekvenca, *p* pa delež izražen v %.
Udeleženec, ki je kot stopnjo izobrazbe podal drugo, ni dopisal, kakšno izobrazbo ima.
Eden od udeležencev pa ni odgovoril na vprašanje o plačnem razredu.

Največ udeležencev ima univerzitetno izobrazbo, sledi znanstveni magisterij, specializacija, doktorat in pa višja ali visokošolska izobrazba. Najmanj je udeležencev s poklicno ali srednješolsko izobrazbo. Posameznikov z osnovnošolsko izobrazbo pa v vzorcu ni. Glede na plačni razred se večina udeležencev uvršča v 41. do 50. plačni razred oz. v 31. do 40. plačni razred. Najmanj pa jih je v najvišjem in najnižjem plačnem razredu.

Obravnavani vzorec je glede na število in strukturo zaposlenih reprezentativen za izbrano ministrstvo (sodelovalo je 50,6 % vseh zaposlenih), hkrati pa lahko določene vzporednice prenesemo na strukturo zaposlenih na drugih ministrstvih.

2.2 Pripomočki

V raziskavo sva vključili tri vprašalnike, ki so bili predhodno uporabljeni za raziskovalne namene na področju delovnega zadovoljstva, motivacije in zavzetosti ter katerih merske vrednosti so se izkazale za ustrezne. Pri izboru sva se držali načela racionalnosti, saj sva bili usmerjeni k iskanju čim krajših ter veljavnih merskih pripomočkov.

Lestvica delovnega zadovoljstva (Pogačnik, 1997) je preprost pripomoček, s katerim lahko ugotavljamo bodisi posameznikovo zadovoljstvo z delovno situacijo bodisi analiziramo organizacijsko klimo podjetij ali manjših skupin v podjetjih (Pogačnik, 2003). Naloga udeležencev je bila, da stopnjo zadovoljstva z določenim vidikom dela ocenijo na lestvici od 1 (nisem zadovoljen) do 5 (sem zelo zadovoljen). Lestvico sva delno prilagodili namenu raziskave, tako da sva postavko »Plača in druge materialne ugodnosti« razdelili na tri postavke, in sicer »Osnovna plača«, »Dodatki k plači« ter »Variabilni del plače«. Končna verzija vprašalnika je vsebovala 15 postavk in je pokazala primerno stopnjo notranje zanesljivosti (α = 0,886).

Lestvica delovnih preferenc (*The Work Preference Inventory* – WPI; Amabile, Hill, Hennessey & Tighe, 1994) je sodeč po rezultatih preteklih raziskav zanesljiv (α = 0,705) pripomoček za merjenje delovne motivacije oz. stopnje notranje in zunanje motiviranosti posameznika. Tvori jo 30 postavk, od katerih se jih 15 nanaša na zunanjo motivacijo (npr. Raje imam, da mi pri mojem delu nekdo določi jasne cilje), 15 na notranjo (npr. Težji kot je problem, bolj uživam pri njegovem reševanju). Udeleženci so za vsako od postavk na lestvici od 1 do 4 (1 – velja nikoli ali skoraj nikoli, 2 – velja včasih, 3 – velja pogosto, 4 – velja vedno ali skoraj vedno) označili, v kakšni meri je bila le-ta veljavna za njih. Višji rezultat je pomenil višjo stopnjo motiviranosti.

Lestvica delovne zavzetosti (*Utrecht Work Engagement Scale* – UWES–9; Schaufeli et al., 2006) vsebuje devet postavk in je trenutno na raziskovalnem področju najpogosteje uporabljena lestvica za merjenje zavzetosti zaposlenih. Postavke opisujejo vedenja, ki so značilna za zavzetost (npr. Na delovnem mestu sem poln energije). Vprašalnik je na najinem vzorcu pokazal visoko

notranjo zanesljivost (a = 0, 921). Udeleženci so za vsako od postavk na lestvici od 0 do 6 (0 – nikoli do 6 – vsak dan) označili pogostost pojavljanja opisanega vedenja. Višji seštevek ocen vseh postavk je pomenil večjo zavzetost pri delu.

Ob koncu so udeleženci odgovarjali še na demografska vprašanja o spolu, starosti, stopnji izobrazbe ter plačnem razredu, v katerega se uvrščajo.

2.3 Postopek

Raziskava je potekala v mesecu decembru 2013. Izbrane vprašalnike so udeleženci izpolnjevali preko spleta. Zaposleni na izbranem ministrstvu (330 zaposlenih) so po elektronski pošti prejeli povezavo do vprašalnika, skupaj s sporočilom, pod katerega se je podpisal generalni sekretar ministrstva, hkrati pa sva za boljšo odzivnost udeležence zaprosili za sodelovanje tudi z obvestili na interni tabli na ministrstvu. Navodila za izpolnjevanje so prejeli na prvi strani vprašalnika. Reševanje ni bilo časovno omejeno.

3 Rezultati

3.1 Opisne statistike

Na podlagi vključenih vprašalnikov sva oblikovali spremenljivke, ki so bile uporabljene za nadaljnjo analizo podatkov. To so zadovoljstvo s plačo, zavzetost pri delu, zunanja in notranja motivacija. Zadovoljstvo s plačo je predstavljal seštevek odgovorov udeležencev na tri postavke o plači (zadovoljstvo z osnovno plačo, z dodatki k plači in z delovno uspešnostjo) na Lestvici delovnega zadovoljstva. Zavzetost pri delu sva dobili kot seštevek vseh postavk Lestvice delovne zavzetosti. Zunanja in notranja motivacija pa sta predstavljali seštevek odgovorov na postavke, ki spadajo k posamezni lestvici. Opisne statistike obravnavanih spremenljivk so navedene v tabeli 2.

Tabela 2: Opisne statistike obravnavanih spremenljivk

Spremenljivke	*Min*	*Max*	*M*	*SD*	*Z*	*Asim*	*Spl*	*a*
Zavzetost pri delu	1,00	54,00	34,59	9,87	0,03	–0,51	0,45	0,92
Zadovoljstvo s plačo	3,00	15,00	7,19	2,76	0,00	0,50	0,08	0,79
Notranja motivacija	20,00	57,00	45,92	6,10	0,02	–0,65	1,04	0,63
Zunanja motivacija	19,00	50,00	37,68	5,24	0,20	–0,29	0,47	0,81

Opombe: *Min* – najmanjša vrednost spremenljivke, *Max* – najvišja vrednost spremenljivke, *M* – aritmetična sredina, *SD* – standardni odklon, *Z* – Kolmogorov-Smirnov test, *Asim* – asimetričnost, *Spl* – sploščenost, *a* – koeficient zanesljivosti

V tabeli 2 vidimo, da se glede na rezultate testa Kolmogorov-Smirnov normalno porazdeljuje spremenljivka zunanja motivacija. Druge spremenljivke pa od normalne porazdelitve nekoliko odstopajo. Zavzetost pri delu je tako

zmerno levo asimetrična in koničasta, kar velja tudi za notranjo motivacijo. Porazdelitev zadovoljstva s plačo pa je nekoliko desno asimetrična. Vendar pa porazdelitve od normalnosti odstopajo zmerno. Brenk (2001) trdi, da dokler se vrednost asimetričnosti in sploščenosti nahaja med –1 in 1, normalnost ni pomembneje kršena, kar nam v nadaljevanju omogoča uporabo parametričnih testov.

3.2 Povezanost plače ter zadovoljstva s plačo z motivacijo in delovno zavzetostjo

V prvem koraku sva preverjali raziskovalno vprašanje o povezanosti motivacije z zavzetostjo na delovnem mestu in zadovoljstvom s plačo na izbranem ministrstvu. Rezultati Pearsonovega koeficienta korelacije med spremenljivkami so prikazani v tabeli 3.

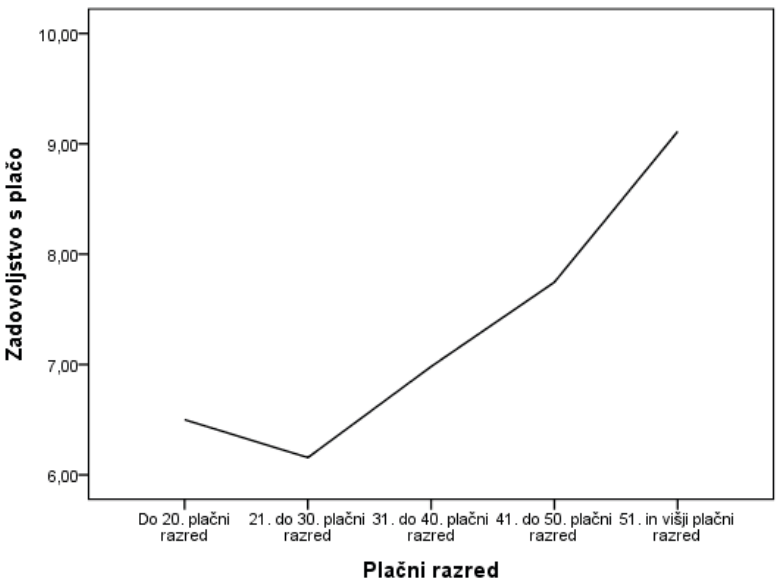
Tabela 3: Korelacije med delovno zavzetostjo, zadovoljstvom s plačo ter motivacijo zaposlenih

Spremenljivke	1.	2.	3.
1. Zavzetost pri delu			
2. Zadovoljstvo s plačo	0,24**		
3. Notranja motivacija	0,33**	0,02	
4. Zunanja motivacija	–0,13	–0,22**	0,00

Opombe: ** pomeni statistično pomembnost na nivoju $p < 0,01$.

Vidimo, da je notranja motivacija pomembno pozitivno povezana z zavzetostjo pri delu. Zunanja motivacija pa je pomembno negativno povezana z zadovoljstvom s plačo, medtem ko z zavzetostjo pri delu ni statistično pomembne korelacije. Čim višja je torej notranja motivacija posameznika, tem bolj je zavzet pri delu. Čim višja je zunanja motivacija, tem manj je zadovoljen s plačo. Bolj ko so torej udeleženci zadovoljni s plačo, višja je njihova zavzetosti pri delu. Kljub pomembni korelaciji sva za natančnejši vpogled v odnos med plačo in zadovoljstvom s plačo uporabili še analizo variance ($F(4,161) = 3,205$; $p = 0,015$), ki je pokazala statistično pomembno razlike med plačnimi razredi v zadovoljstvu s plačo. Izjema sta le najnižja plačna razreda, saj so udeleženci v najnižjem plačnem razredu bolj zadovoljni s plačo kot pa udeleženci v 21. do 30. plačnem razredu. Razlike sva zaradi boljše predstavljivosti oblike odnosa prikazali z grafikonom 1.

Grafikon 1: Odnos med zadovoljstvom s plačo in višino plače



Grafikon odnosa med plačnimi razredi in zadovoljstvom s plačo kaže, da ima odnos med spremenljivkama obliko potenčne funkcije, od katere pa odstopa najnižji plačni razred.

V drugem koraku sva ugotavljali, kako je zavzetost zaposlenih pri delu povezana z višino plače. Pri analizi sva uporabili spremenljivko plača, katere podatke sva dobili na podlagi plačnih razredov udeležencev. Izračun Spearmanovega koeficienta korelacije je pokazal, da med plačo in zavzetostjo pri delu ni statistično pomembne korelacije (r_S = 0,14; p = 0,075). Dodatno sva s pomočjo analize variance izračunali še razlike v stopnji delovne zavzetosti glede na plačni razred zaposlenega in s tem preverili, ali obstajajo razlike med skupinami, ki niso linearne. Rezultati testa so pokazali statistično pomembne razlike v zavzetosti med plačnimi razredi (F(4,161) = 2,777; p = 0,029). Smer razlik je prikazana v tabeli 4.

Tabela 4: Aritmetične sredine in standardni odkloni zavzetosti pri delu glede na plačne razrede

Plačni razred	*N*	*M*	*SD*
Do 20. plačni razred (do 922 € bruto)	8	40,12	9,55
Od 21. do 30. plačni razred (od 959 € do 1.360 € bruto)	32	31,19	12,68
Od 31. do 40. plačni razred (od 1.414 € do 2.001 € bruto)	54	33,85	7,94
Od 41. do 50. plačni razred (od 2.079 € do 2.930 € bruto)	63	35,40	9,50
51. in več plačni razred (nad 3.042 € bruto)	9	40,89	8,34

Opombe: *N* – število udeležencev v plačnem razredu, *M* – aritmetična sredina, *SD* – standardni odklon.

Iz tabele 4 je razvidno, da so najbolj zavzeti pri delu zaposleni v najvišjem plačnem razredu in v najnižjem plačnem razredu. Sledijo preostali plačni razredi v vrstnem redu od drugega najvišjega (41. do 50. plačni razred), srednjega (31. do 40. plačni razred), do drugega najnižjega plačnega razreda (21. do 30. plačni razred). S pomočjo Gabrielovega *post hoc* testa, ki je priporočen za uporabo v primerih, ko se velikosti skupin zmerno razlikujejo, saj ima tudi takrat zadostno stopnjo statistične moči (Field, 2009), sva ugotovili, da statistično pomembnih razlik med posameznimi pari skupin ni.

3.3 Dejavniki, s katerimi lahko napovemo stopnjo delovne zavzetosti

Nazadnje sva zavzetost pri delu pojasnili v okviru celotnega raziskovalnega modela s pomočjo multiple regresijske analize, kar je tudi najino zadnje raziskovalno vprašanje. Kot napovednike zavzetosti sva v regresijski model vključili zadovoljstvo s plačo, notranjo motivacijo in zunanjo motivacijo zaposlenih na izbranem ministrstvu.

Tabela 5: Rezultati regresijske analize modela zavzetosti

Prediktorji	*b*	*SE*(*b*)	*β*
Konstanta	10,96	7,91	
Zadovoljstvo s plačo	0,75	0,26	0,21***
Notranja motivacija	0,54	0,11	0,33***
Zunanja motivacija	–0,17	0,14	–0,09
R^2	0,17		
SE(e)	9,05		
F	11,44***		

Opombe: *b* – nestandardiziran koeficient, *SE*(*b*) – standardna napaka *b*, *β* – standardiziran koeficient. R^2 – koeficient determinacije, *SE*(*e*) – standardna napaka ocene modela, *F* – F razmerje, *** statistična pomembnost na nivoju $p < 0,005$.

Iz tabele 5 je razvidno, da zadovoljstvo s plačo in notranja motivacija statistično pomembno napovedujeta zavzetost, medtem ko zunanja motivacija ni statistično pomemben napovednik zavzetosti. Zadovoljstvo s plačo in notranja motivacija tako statistično pomembno pojasnita 17 % variance delovne zavzetosti.

4 Razprava

V pričujoči raziskavi sva z ozirom na trenutne zaostrene javnofinančne razmere, ki so prisotne v Sloveniji že vse od leta 2008, raziskali, kakšna je vloga plače in zadovoljstva s plačo pri zavzetosti zaposlenih na izbranem ministrstvu, pri čemer sva upoštevali tudi njihovo stopnjo motivacije.

4.1 Vloga motivacije pri zavzetosti in zadovoljstvu s plačo

V raziskavi sva se najprej osredotočili na vlogo motivacije pri zavzetosti in zadovoljstvu s plačo. Najino delo je potekalo na osnovi teorije samodoločenosti (Deci & Ryan, 2002), ki loči zunanjo in notranjo motivacijo. Zunanja motivacija pomeni vedenje v želji izpolnitve zunanjih zahtev ali pridobivanja zunanjih nagrad (npr. Skinner, 1967), ki so trenutno na izbranem ministrstvu zaradi varčevalnih ukrepov znižane. Rezultati raziskave so potrdili predvidevanje, da višja ko je izraženost zunanje motivacije pri udeležencih, manj bodo v razmerah ekonomske krize in varčevalnih ukrepov s plačo zadovoljni. Notranja motivacija ni pomembno povezana z zadovoljstvom s plačo, kar je tudi pričakovano. Po Deci & Ryan (2002) je namreč notranja motivacija prototip samodoločenosti in nanjo zunanje nagrade nimajo vpliva.

Notranjo motivacijo po mnenju Klasen et al. (2012) lahko prepoznamo po zavzetosti pri delu, zato sva tudi predvidevali, da sta notranja motivacija in zavzetost pri delu pozitivno povezani. Rezultati so to potrdili, kar pomeni, da višja ko je stopnja notranje motivacije, bolj so udeleženci zavzeti pri delu. Zunanja motivacija ni pomembno povezana z zavzetostjo pri delu. Glede na to, da notranja motivacija ne izvira iz zunanjih nagrad, ki so v času ekonomske krize nižje, je po najinem mnenju povezanost notranje motivacije in zavzetosti za delodajalce še posebej pomembna ravno v tem času.

O odnosu med zunanjo in notranjo motivacijo ter zadovoljstvom s plačo in zavzetostjo lahko skleneva, da višja raven zunanje motivacije vodi do nižjega zadovoljstva s plačo, medtem ko na zavzetost pri delu ne vpliva. Višja raven notranje motivacije pa pomeni višjo zavzetost pri delu, z zadovoljstvom s plačo pa ni povezana.

4.2 Zavzetost pri delu in plača

Rezultati najine raziskave potrjujejo pozitivno povezanost zadovoljstva s plačo in zavzetostjo, ne pa tudi pozitivne povezanosti med višino plače in zavzetostjo. Tako na najinem primeru ne moreva potrditi preteklih raziskav (npr. Maslach et al., 2001), ki navajajo pozitivno povezanost plače in zavzetosti, temveč raziskave (npr. Kahn, 1990), ki trdijo, da se razlike v zavzetosti med ljudmi pojavijo v odvisnosti od njihovih zaznanih koristi in ne koristi samih.

Po podrobnejši analizi rezultatov sva ugotovili, da se pozitiven odnos med plačo in zavzetostjo ni potrdil zaradi odstopanja najnižjega plačnega razreda. Zavzetost je namreč najvišja pri najvišjem in najnižjem plačnem razredu, ki jima sledijo drugi plačni razredi v pričakovanem vrstnem redu, torej zavzetost upada od drugega najvišjega, srednjega, do drugega najnižjega plačnega razreda. Meniva, da je do takih rezultatov ponovno prišlo zaradi izobrazbe udeležencev, ki je pri večini v najnižjem plačnem razredu poklicna ali srednješolska. Pri višjih plačnih razredih prevladuje univerzitetna izobrazba,

v najvišjem plačnem razredu pa ima večina udeležencev znanstveni magisterij, specializacijo ali doktorat.

Skupno sva tako potrdili hipotezo o pozitivni povezanosti med zadovoljstvom s plačo in zavzetostjo, kar pomeni, da so zaposleni, ki so bolj zadovoljni s plačo, pri delu tudi bolj zavzeti. Hipoteza o višanju zavzetosti z višino plače se ni potrdila. Tako na izbranem slovenskem ministrstvu tudi v času ekonomske krize na zavzetost bolj kot višina plače vpliva percepcija le-te, ki pa je odvisna tudi od drugih dejavnikov, kot npr. stopnje dosežene izobrazbe.

4.3 Dejavniki, s pomočjo katerih lahko napovemo stopnjo delovne zavzetosti

Zadnje raziskovalno vprašanje je bilo usmerjeno k pojasnitvi zavzetosti zaposlenih s pomočjo v raziskavo vključenih spremenljivk. Ugotovili sva, da sta notranja motivacija in zadovoljstvo s plačo pomembna napovednika zavzetosti pri delu, pri čemer je notranja motivacija pomembnejši napovednik, oba skupaj pa pojasnita 17 % variance zavzetosti pri delu. Zunanja motivacija ne napoveduje zavzetosti pri delu. V najinem primeru so torej na delovnem mestu najbolj zavzeti tisti zaposleni, za katere je značilna visoka stopnja notranje motivacije in ki so zadovoljni s plačo, ki jo prejemajo.

5 Zaključki

Raziskava se je osredotočila na problem zavzetosti, zadovoljstva s plačo in motivacije v času krize, ko so organizacije prisiljene sprejemati varčevalne ukrepe, ki se odražajo na plačah zaposlenih.

Glede vloge motivacije ugotavljava, da je za zavzetost zaposlenih pomembna vrsta in stopnja izraženosti motivacije, saj so pri delu bolj zavzeti zaposleni z višjo stopnjo notranje motivacije. Na drugi strani pa višja stopnja zunanje motivacije pomeni nižje zadovoljstvo s plačo. Bolj ko so zaposleni zunanje motivirani, bolj bo na njihovo zavzetost pri delu vplivalo zadovoljstvo s plačo.

V povezavi z medsebojno povezanostjo plače, zadovoljstva s plačo in zavzetosti ugotavljava, da so bolj zavzeti tisti zaposleni, katerih zadovoljstvo s plačo je višje in ne tisti, katerih sama plača je višja. Povezava med plačo in zadovoljstvom s plačo je sicer pozitivna, vendar pa ni jasno linearna, temveč nanjo vplivajo tudi drugi dejavniki.

Zanimalo naju je tudi, kako se z zavzetostjo pri delu povezujejo izbrani demografski dejavniki, kot sta starost in izobrazba. Ugotovili sva, da se zavzetost s starostjo zvišuje, vse do najstarejših udeležencev, kjer upade na najnižjo vrednost. Poleg tega sva ugotovili, da je zavzetost najvišja pri udeležencih s srednješolsko ali poklicno izobrazbo ter pri udeležencih z zaključenim podiplomskim študijem. Najmanj zavzeti so udeleženci z univerzitetno izobrazbo.

Na koncu lahko s pomočjo najinih ugotovitev odgovoriva še na zadnje raziskovalno vprašanje in sicer, kako lahko pojasnimo zavzetost zaposlenih s pomočjo spremenljivk, vključenih v raziskavo. Ugotovili sva, da sta notranja motivacija in zadovoljstvo s plačo pomembna napovednika zavzetosti pri delu, pri čemer je notranja motivacija pomembnejši napovednik, zunanja motivacija pa zavzetosti pri delu ne napoveduje. V najinem primeru so torej na delovnem mestu najbolj zavzeti tisti zaposleni, za katere je značilna visoka stopnja notranje motivacije in ki so zadovoljni s plačo, ki jo prejemajo.

5.1 Pomanjkljivosti raziskave, možnosti nadaljnjih raziskav in priporočila

Raziskava ima nekaj pomanjkljivosti. Glede na to, da so vsi udeleženci zaposleni na istem ministrstvu, so lahko rezultati tudi pod vplivom situacijskih dejavnikov. V prihodnje bi bilo koristno raziskavo razširiti na druge organizacije v državni upravi, v meritve vključiti večji vzorec in s tem zmanjšati učinek situacijskih dejavnikov.

Pomanjkljivost raziskave je tudi v številu dejavnikov, ki vplivajo na merjene spremenljivke, vendar jih zaradi ekonomičnosti dela nisva merili. To so npr. potek kariere, delovne naloge in zadolžitve, stres na delovnem mestu, ravnotežje med delom in privatnim življenjem. V prihodnje svetujeva, da se v raziskave o zavzetosti in motivaciji vključi tudi te dejavnike.

Ocenjujeva, da ima raziskava dodano vrednost tako za raziskovalno področje kot tudi za praktično delo. Na raziskovalnem področju je vrednost raziskave v pridobitvi podatkov o zavzetosti, zadovoljstvu s plačo in motivaciji v času krize; teh podatkov v Sloveniji ne pridobivamo redno in tudi niso javno dostopni. Pomen raziskave za praktično delo je predvsem v tem, da je omogočila merjenje psiholoških konstruktov dela na izbranem ministrstvu v državni upravi v Sloveniji. Brez najinih meritev v trenutnih okoliščinah verjetno podatkov o zavzetosti, zadovoljstvu s plačo in motivaciji zaposlenih v državni upravi niti ne bi pridobili. Pomembno pa je, da so ti podatki na voljo vodjem za oblikovanje optimalnega delovnega okolja. Dodatno je raziskava identificirala dejavnike, ki vplivajo na zavzetost zaposlenih na izbranem ministrstvu v državni upravi, torej na kaj morajo biti vodje pozorni in katere dejavnike bi bilo dobro izboljšati. V praksi lahko te informacije prenesemo tudi na druge organizacije s podobno demografsko strukturo ter rezultate upoštevamo pri delu z zaposlenimi.

Mag. Silvija Drašler *je podsekretarka na Ministrstvu za javno upravo v Ljubljani in dela na področju plačnega sistema v slovenskem javnem sektorju. Je univerzitetna diplomirana sociologinja kadrovsko-menedžerske smeri in ima pridobljen znanstveni magisterij s področja psihologije dela in organizacije na Filozofski fakulteti v Ljubljani.*

Dr. Eva Boštjančič *je docentka za psihologijo dela in organizacije na Oddelku za psihologijo Filozofske fakultete v Ljubljani. Raziskovalno se ukvarja s področjem vodenja, stresa in pozitivnih pristopov v organizacijah. Ob tem pa tudi svetuje, vodi delavnice in predava zaposlenim v gospodarstvu in javnem sektorju.*

Viri in literatura

Adams, J. S. (1965). Inequity in social exchange. V L. Berkowitz (ur.), *Advances in Experimental Social Psychology* (str. 267–299). New York: Academic Press.

Amabile, T. M., Hill, K. G., Hennessey, B. A., & Tighe, E. M. (1994). The Work Preference Inventory: assessing intrinsic and extrinsic motivational orientations. *Journal of Personality and Social psychology, 66*(5), 950–967. DOI: 10.1037/0022-3514.66.5.950

Brenk, K. (2001). Predavanja v okviru predmeta Statistika. Neobjavljeno gradivo.

Deci, E. L., & Ryan, R. M. (2002). *Handbook of Self-determination Research*. Rochester, NY: University of Rochester Press.

Drašler, S. (2014). *Upravljanje človeških virov v državni upravi* (magistrsko delo). Ljubljana: Univerza v Ljubljani, Filozofska fakulteta.

Gabris, G. B., & Mitchell, K. (1988). The Impact of Merit Raise Scores on Employee Attitudes: The Matthew Effect of Performance Appraisal. *Public Personnel Management, 17*(4), 369–386.

Heneman, H. G. (1985). Pay satisfaction. *Research in Personnel and Human Resources Management, 3*(2), 115–139.

Heneman, R. L., Porter, G., Greenberger, D. B., & Strasser, S. (1997). Modeling the Relationship Between Pay Level and Pay Satisfaction. *Journal of Business and Psychology, 12*(2), 147–158. DOI: 10.1023/A:1025066017232

Jensen, M. C., & Meckling, W. H. (1976). Theory of the firm: Managerial behaviour, agency costs and ownership structure. *Journal of financial economics, 3*(4), 305–360. DOI: 10.1016/0304-405X(76)90026-X

Judge, T. A., Piccolo, R. F., Podsakoff, N. P., Shaw, J. C., & Rich, B. L. (2010). The relationship between pay and job satisfaction: A meta-analysis of the literature. *Journal of Vocational Behavior, 77*(2), 157–167. DOI: 10.1016/j.jvb.2010.04.002

Kahn, W. A. (1990). Psychological Conditions of Personal Engagement and Disengagement at Work. *Academy of Management Journal, 33*(4), 692–724. DOI: 10.2307/256287

Klasen, R. M., Aldhafri, S., Mansfield, C. F., Purwanto, E., Siu, A. F. Y., Wong, M. W, & Woods-McConney, A. (2012). Teachers' Engagement at Work: An International Validation Study. *The journal of Experimental Education, 80*(4), 317–337. DOI: 10.1080/00220973.2012.678409

Krefting, L. A. (1980). Differences in Orientations Toward Pay Increases. *Industrial Relations, 19*(1), 81–87. DOI: 10.1111/j.1468-232x.1980.tb00155.x

Maslach, C., Schaufeli, W. B., & Leiter, M. P. (2001). Job Burnout. *Annual Review of Psychology, 52*(1), 397–422. DOI: 10.1146/annurev.psych.52.1.397

May, D. R., Gilson, R. L., & Harter, L. M. (2004). The psychological conditions of meaningfulness, safety and availability and the engagement of the human spirit at work. *Journal of Occupational and Organizational Psychology, 77*(1), 11–37. DOI: 10.1348/096317904322915892

Pogačnik, V. (1997). *Lestvice delovne motivacije*. Ljubljana: Center za psihodiagnostična sredstva.

Pogačnik, V. (2003). *Lestvice delovne motivacije* (2. izd). Ljubljana: Center za psihodiagnostična sredstva.

Porter, G., Greenberger, D. B., & Heneman, G. L. (1990). Pay and pay satisfaction: A comparison of economic, political, psychological and psychophysical predictors. V: R. L. Launch & J. L. Wall (ur.), *Academy of Management Best Paper Proceedings* (str. 289–293). Academy of Management.

Rynes L. S., Gerhart B., & Minette K. A. (2004). The importance of pay in employee motivation: Discrepancies between what people say and what they do. *Human Resource Management, 43*(4), 381–394. DOI: /10.1002/hrm.20031

Schaufeli, W. B., Salanova, M., González-Romá, V., & Bakker, A. B. (2002). The Measurement of Engagement and Burnout: A Two Sample Confirmatory Factor Analytic Approach. *Journal Of Happiness Studies, 3*(1), 71–92. DOI: 10.1023/A:1015630930326

Schaufeli, W. B., Bakker, A. B., & Salanova, M. (2006). The Measurement of Work Engagement With a Short Questionnaire – A Cross-National Study. *Educational and psychological Measurement, 66*(4), 701–716. DOI: 10.1177/0013164405282471

Scott, D. (2010). The impact of Rewards programs on Employee Engagement. *World at Work Journal*. Pridobljeno 1. 10. 2013 s http://www.worldatwork.org/waw/adimLink?id=39032

Skinner, B. F. (1967). *Science and human behavior*. New York: Macmillan.

Zakon o sistemu plač v javnem sektorju (Uradni list RS, št. 56/2002, 72/2003, 115/2003 –upb1, 126/2003, 20/2004 – upb2, 70/2004, 24/2005 – upb3, 53/2005 70/2005 – upb4, 14/2006, 32/2006 – upb5, 68/2006, 110/2006 – upb6, 57/2007, 95/2007 – upb7, 17/2008, 58/2008, 69/2008 ZTFI-A, 69/2008 – ZZavar-E 80/2008, 48/2009, 91/2009, 108/2009 – upb13, 13/2010, 59/2010, 85/2010, 107/2010, 35/2011 – ORZSPJS49a, 40/2012 – ZUJF in 46/2013).

SUMMARY

1.04 Professional article

The Role of Salaries in Motivation and Work Engagement in the Selected Ministry in Slovenia

In 2008, Slovenia introduced a new salary system in the public sector. The implementation of the public sector salary system reform was interrupted by the unexpected deterioration of Slovenia's economic growth and public finances. Budget cuts have led to the reduction of salaries in public administration.

Salaries constitute one of the key motivators for the satisfaction and engagement of employees. With this in mind the employers are aware of the effects of declining salaries. They are concerned about the impact of the austerity measures on employment, especially in situations where the employers are forced to simultaneously decrease the salaries and raise the complexity of the work.

In the paper we discuss the role of salaries in the work engagement, job satisfaction and motivation of employees in the selected ministry in Slovenia during the crisis. To summarize, we highlighted the importance of role of monetary rewards. The research was conducted on a sample of 167 employees who completed Job Satisfaction Scale, Utrecht Work Engagement Scale and The Work Preference Inventory.

We have found that those employees, whose satisfaction with salary is higher, are more engaged than those employees, whose salary is higher. Relationship between salary and satisfaction is positive, but it is not clearly linear. Employees with higher level of intrinsic motivation are more engaged while a higher level of external motivation results in lower satisfaction with salary.

Additionally we answered to the research question, namely, how we can explain the engagement of employees with the help of variables included in the study. We have found that intrinsic motivation and satisfaction with salary are important predictors of work engagement, while external motivation does not predict work engagement. In our case, therefore, the most engaged employees are characterized by a high level of intrinsic motivation and by satisfaction with their salary.

We concluded the paper with laying out an agenda for future research on employee engagement and motivation. Particularly we advise the following research to take into consideration additional factors, for example: course of career, work tasks and responsibilities, stress at work, balance between work and private life.

Furthermore the survey identified the factors that affect work engagement in the selected ministry in Slovenia, specifying the factors that leaders should pay attention to. In practice, the results of this study can be useful to personal management of other organizations with similar demographic structure.

Navodila avtorjem

V *Mednarodni reviji za javno upravo* objavljamo izvirne članke, ki obravnavajo teoretična in praktična vprašanja razvoja in delovanja javne uprave.

Znanstvene članke objavljamo v slovenskem in v angleškem jeziku, izjemoma v nemškem ali francoskem jeziku. Druge članke objavljamo v slovenskem, angleškem, nemškem ali francoskem jeziku, z daljšim povzetkom v angleškem oziroma slovenskem jeziku.

Članek za objavo v Mednarodni reviji za javno upravo pošljite na elektronski naslov: mrju@fu.uni-lj.si.

Članek imenujte po priimku prvega avtorja (Novak.doc). Članku priložite izpolnjeno Izjavo o avtorstvu, s katero potrdite, da se strinjate s pravili objavljanja v teh navodilih.

Za avtorsko delo, objavljeno v Mednarodni reviji za javno upravo, pripadajo vse moralne avtorske pravice avtorju. Materialne avtorske pravice reproduciranja (vsebuje tudi shranitev v elektronski obliki, 23. člen ZASP), pravico dajanja na voljo javnosti (32. a člen ZASP), pravico distribuiranja (24. člen ZASP) v Republiki Sloveniji in tujini pa avtor brezplačno, enkrat za vselej, za vse primere in neomejene naklade ter vse medije prenese izključno na izdajatelja.

Avtorji so za objavo slik, tabel in grafičnih prilog, za katere nimajo avtorskih pravic, dolžni pridobiti dovoljenje, ki ga pošljejo na naslov uredništva.

Vsakemu avtorju pripada 1 tiskan izvod revije in separat članka v e-obliki.

Članki niso honorirani.

Citiranje člankov, izdanih v Mednarodni reviji za javno upravo, pomembno prispeva k uveljavljanju revije. Zato vas glavna urednica prosi, da pregledate arhiv revije na naslovu http://www.fu.uni-lj.si/zalozba/mednarodna-revija-za-javno-upravo/arhiv-stevilk/, kjer najdete članke, izdane v reviji v letih 2003–2014, odnosno od letnika I do letnika XII, ki bi bili morda zanimivi za vašo tematiko, in jih citirate v literaturi svojega članka.

Uredniški postopek:

1. Uredništvo lahko še pred recenzijo zavrne objavo članka, če njegova vsebina ne ustreza najavljeni temi, če je bil podoben članek v reviji že objavljen, ali če članek ne ustreza kriterijem za objavo v reviji. O tem uredništvo pisno obvesti avtorja.
2. Članek naj bo lektoriran, v uredništvu se opravlja samo korektura. Izjemoma se po dogovoru z avtorjem besedilo tudi lektorira.

3. Vsi članki se recenzirajo in razvrstijo.[1] Med recenziranjem avtorji in recenzenti niso imenovani. Članki po 1.01, 1.02 morajo za objavo prejeti dve pozitivni recenziji, od tega eno od tujega recenzenta. Če recenzenti razvrstijo članek različno, o končni razvrstitvi odloči uredniški odbor.
4. Članek, ki ga je avtor poslal v slovenskem jeziku in sta ga recenzenta razvrstila po 1.01, 1.02, mora avtor nato poslati še v prevodu v angleški jezik.
5. Avtor prejme rezultate recenziranja praviloma v treh mesecih od oddaje članka.

Oblikovanje članka:

1. Naslovu prispevka naj sledi: a) polno ime avtorja/avtorjev, b) naziv institucije/institucij in c) elektronski naslov/naslovi.
2. Članek mora vsebovati še: a) *izvleček*, ki naj v 8 do 10 vrsticah opiše vsebino prispevka in dosežene rezultate raziskave; b) *ključne besede*: 1–5 ključnih besed ter c) *kodo iz klasifikacije po Journal of Economic Literature – JEL* (https://www.aeaweb.org/jel/guide/jel.php).
3. Članek, ki je bil razvrščen po 1.04, 1.05 ali 1.08, naj vsebuje tudi povzetek v angleškem jeziku v obsegu 3 strani. V povzetku prevedite naslov in ključne besede ter predstavite vsebino članka (opredelitev problema in ugotovitve). Prevod povzetka članka tujih avtorjev v slovenski jezik zagotovi uredništvo.
4. Članek naj bo napisan v urejevalniku besedil Word (*.doc, *.docx) v enojnem razmiku, brez posebnih ali poudarjenih črk. Ne uporabljajte zamika pri odstavkih. Razdelki od Uvoda do Sklepnih ugotovitev naj bodo naslovljeni in oštevilčeni z arabskimi številkami.
5. Slike in tabele, ki jih omenjate v članku, vključite v besedilo. Opremite jih z naslovom in oštevilčite z arabskimi številkami. Revijo tiskamo v črno-beli tehniki, zato barvne slike ali grafikoni kot original niso primerni. Če v članku

1 Članke razvrščamo po tipologiji COBISS:
1.01 Izvirni znanstveni članek. Izvirni znanstveni članek je samo prva objava originalnih raziskovalnih rezultatov v takšni obliki, da se raziskava lahko ponovi, ugotovitve pa preverijo. Praviloma je organiziran po shemi IMRAD (Introduction, Methods, Results And Discussion) za eksperimentalne raziskave ali na deskriptivni način za deskriptivna znanstvena področja.
1.02 Pregledni znanstveni članek. Pregledni znanstveni članek je pregled najnovejših del o določenem predmetnem področju, del posameznega raziskovalca ali skupine raziskovalcev z namenom povzemati, analizirati, evalvirati ali sintetizirati informacije, ki so že bile objavljene. Prinaša nove sinteze, ki vključujejo tudi rezultate lastnega raziskovanja avtorja.
1.04 Strokovni članek. Strokovni članek je predstavitev že znanega, s poudarkom na uporabnosti rezultatov izvirnih raziskav in širjenju znanja, zahtevnost besedila pa prilagojena potrebam uporabnikov in bralcev strokovne ali znanstvene revije.
1.05 Poljudni članek. Poljudnoznanstveno delo podaja neko znanstveno ali strokovno vsebino tako, da jo lahko razumejo tudi preprosti, manj izobraženi ljudje.
1.08 Objavljeni znanstveni prispevek na konferenci. Predavanje, referat, načeloma organiziran kot znanstveni članek.
1.19 Recenzija, prikaz knjige, kritika. Prispevek v znanstveni ali strokovni publikaciji (reviji, knjigi itd.), v katerem avtor ocenjuje ali dokazuje pravilnost/nepravilnost nekega znanstvenega ali strokovnega dela, kriterija, mnenja ali ugotovitve in/ali spodbija/podpira/ocenjuje ugotovitve, dela ali mnenja drugih avtorjev. Prikaz strokovnega mnenja, sodbe o znanstvenem, strokovnem ali umetniškem delu, zlasti glede na njegovo kakovost.
1.21 Polemika, diskusijski prispevek. Prispevek, v katerem avtor dokazuje pravilnost določenega kriterija, svojega mnenja ali ugotovitve in spodbija ugotovitve ali mnenja drugih avtorjev.

uporabljate slike ali tabele drugih avtorjev, navedite sklic pod sliko, tabelo ali kot sprotno opombo. Enačbe oštevilčite v oklepajih desno od enačbe.

6. Članek naj obsega največ 30.000 znakov.
7. Članku dodajte kratek življenjepis avtorja/avtorjev (do 8 vrstic).
8. V besedilu se sklicujte na navedeno literaturo na način: (Novak, 1999, str. 456).
9. Na koncu članka navedite literaturo po abecednem redu avtorjev in vire, upoštevajoč APA standard, po naslednjem vzorcu:

Članek v reviji:

Gilber, G., & Pierre, P. (1996). Incentives and optimal size of local jurisdictions. *European Economic Review, 40*(1), 19–41.

Članek z DOI številko[2]:

Boldrin, M., & Levine, D. K. (2013). The Case against Patents. *Journal of Economic Perspectives, 27*(1), 3–22. DOI: 10.1257/jep.27.1.3

Knjiga:

Katzenbach, J., & Smith, D. (1993). *The wisdom of teams*. Cambridge, MA: Harvard Business School Press.

Knjiga z urednikom:

Keene, E. (Ur.). (1988). *Natural Language*. Cambridge: University of Cambridge Press.

Prispevek na konferenci:

Bugarič, B. (2002). Od hierarhične k participativni (odprti) javni upravi. *IX. dnevi slovenske uprave. Portorož* (str. 23–29). Ljubljana: Visoka upravna šola.

Internetni vir:

Tax Administration of the Republic of Slovenia. (n.d.). Pridobljeno 8. 5. 2007, s http://www.durs.gov.si/

Uradna publikacija, poročilo:

World Bank. (2001). *World Development Indicators*. Washington: World Bank.

Disertacija:

Richmond, J. (2005). *Customer expectations in the world of electronic banking: a case study of the Bank of Britain* (doktorska disertacija). Chelmsford: Anglia Ruskin University.

Kadar ima publikacija več kot pet avtorjev, navedite samo prvega avtorja, npr. Novak et al. Če navajate dve deli ali več del istega avtorja, letnico označite, npr. 2005a, 2005b … Priporočamo, da uporabite samodejni zapis literature, ki ga omogoča Word 2007 (zapis APA).

2 Če ima članek dodeljeno DOI številko, jo v seznamu literature obvezno navedite.

Instructions for Authors

The *International Public Administration Review* publishes original articles on theoretical and practical issues in the development and function of public administration.

Academic articles are published in Slovene and English, and exceptionally also in German and French. Other articles are published in Slovene, English, German or French with an extended summary in English or Slovene as appropriate.

Please send articles for publication in the International Public Administration Review to this address: mrju@fu.uni-lj.si.

The article filename should be the surname of the principal author (e.g. Novak.doc). A completed Copyright Statement should be sent as an attachment to the article to confirm agreement with the rules of publication, as set out in these instructions.

The author retains all moral rights to any copyright work published in the International Public Administration Review. The author transfers the economic right to reproduction (including saving in electronic format pursuant to Article 23 of the Slovenian Copyright and Related Rights Act – the CRRA), the right of communication to the public (Article 32a of the CRRA), and the right of distribution (Article 24 of the CRRA) in the Republic of Slovenia and abroad exclusively to the publisher free-of-charge and once and for all for all cases and an unlimited number of copies, and for all media.

Authors are required to obtain permission for the publication of any images, tables and graphic material for which they do not own the copyright, which they must submit to the journal's editorial board.

All published authors are entitled to one printed copy of the journal and a copy of the article in electronic format. Fees are not paid for the articles.

Citations of articles published in the International Public Administration Review contribute significantly to developing the journal's standing, therefore the chief editor has asked that you review the journal archive (available at http://www.fu.uni-lj.si/en/publishing-center/international-public-administration-review/arhiv-stevilk/), where you will find articles published from 2003 to 2014 (Year I to XII), which may be of relevance to your subject, and which you may cite in the literature of your article.

Editorial policy

1. The editorial board may decide not to publish an article even before the peer-review phase, if its content does not match the stated subjects, if a similar article has already been published in the journal, or if the article does not meet the criteria for publication in the review. The editorial board will inform authors of such a decision in writing.
2. The article should already have been language edited, and the editorial board only takes responsibility for proof-reading. Exceptionally it may also edit a text in agreement with the author.

3. All articles are peer-reviewed and classified.[1] The author and reviewer are not named during the peer review process. Articles classified as 1.01 and 1.02 must have two positive peer reviews in order to be published, one of which from a foreign reviewer. If peer reviewers assess an article differently, the editorial board will make the final decision on the assessment.
4. If an article submitted in Slovene is classified as 1.01 or 1.02 by the reviewers, the author must then provide a translation into English.
5. The author will generally receive the results of the peer review within three months of submitting the article.

Article formatting

1. The article's title should be followed by: a) the full name of the author/authors; b) the name of the institution/institutions, and c) email address(es).
2. The article must also include: a) *an abstract* defining the content of the contribution and research results in 8 to 10 lines; b) *keywords*: 1–5 keywords; and c) *a JEL (Journal of Economic Literature) code* – (https://www.aeaweb.org/jel/guide/jel.php).
3. An article classified as 1.04, 1.05 or 1.08 must also have a summary in English, 3 pages in length. The summary should offer a translation of the title and keywords and present the content of the article (define the argument and findings). For foreign authors, the translation of the article abstract into Slovene will be arranged by the editorial board.
4. An article must be supplied in MS Word (*.doc, *.docx) with single spacing, without special or highlighted characters. Do not indent paragraphs. Sections should be titled and numbered with Arabic numerals from the introduction to the conclusion.
5. Figures and tables mentioned in the article should be included in the text. They should be titled and numbered with Arabic numerals. The journal

1 Articles are classified according the COBISS typology:
1.01 Original scientific article – first publication of original research results in a form that allows the research to be repeated and the findings verified. In general it must be organised according to the IMRAD structure (Introduction, Methods, Results And Discussion) for experimental research or in a descriptive manner for descriptive academic areas.
1.02 Review article – an overview of the latest articles in a specific subject area, the works of an individual researcher or group of researchers with the purpose of summarising, analysing, evaluating or synthesising data that has already been published. It offers new syntheses, including the results of the author's own research.
1.04 Professional article – a presentation of what is already known, with an emphasis on the applicability of original research results and the dissemination of knowledge, with readability adapted to the needs of users and readers of the professional or scientific journal in which it appears.
1.05 Popular article – popular (science) articles offer professional or scientific content in a simpler form, making it accessible to people without higher education in the field.
1.08 Published scientific conference contribution – lecture, presentation, organised in principle as a scientific article.
1.19 Review, book review, critique – a contribution in a scientific or professional publication (journal, book, etc.) in which the author evaluates or demonstrates the validity or otherwise of a scientific or professional work, criterion, opinion or finding and/or disputes, supports or evaluates the finding, work or opinion of other authors. The presentation of an expert opinion, a critique of a scientific, professional or artistic work, particularly in terms of its quality.
1.21 Polemic, discussion – a contribution in which the author demonstrates the correctness of a specific criterion, his or her own opinion or findings and disputes the findings or opinions of other authors.

is published in black and white, so the original of figures and graphs should not be in colour. If the figures or tables of other authors are used in the article, give the reference below the figure or table or as a footnote. Equations should be numbered in brackets to the right of the equation.

6. Articles should not exceed 30 000 characters.
7. A short CV of the author or authors should be added to the article (up to 8 lines).
8. References in the text to cited literature should be made as follows: (Novak, 1999, p. 456).
9. List the literature in alphabetical order of author and source at the end of the article according to APA standard, in the following manner:

Article from a journal:

Gilber, G., & Pierre, P. (1996). Incentives and optimal size of local jurisdictions. *European Economic Review, 40*(1), 19–41.

Article with DOI number[2]:

Boldrin, M., & Levine, D. K. (2013). The Case against Patents. Journal of Economic Perspectives, 27(1), 3–22. DOI: 10.1257/jep.27.1.3

Book:

Katzenbach, J., & Smith, D. (1993). *The wisdom of teams*. Cambridge, MA: Harvard Business School Press.

Book with editor:

Keene, E. (Ed.). (1988). *Natural Language*. Cambridge: University of Cambridge Press.

Conference contribution:

Bugarič, B. (2002). Od hierarhične k participativni (odprti) javni upravi. *IX. dnevi slovenske uprave. Portorož* (pp. 23–29). Ljubljana: Visoka upravna šola.

Internet source:

Tax Administration of the Republic of Slovenia. (n.d.). Retrieved 8. 5. 2007, from http://www.durs.gov.si/

Official publication, report:

World Bank. (2001). *World Development Indicators*. Washington: World Bank.

Dissertation:

Richmond, J. (2005). *Customer expectations in the world of electronic banking: a case study of the Bank of Britain* (Ph.D.). Chelmsford: Anglia Ruskin University.

If a publication has more than five authors, state only the first author, e.g. Novak et al. If citing two works or more by the same author, indicate the year, e.g. 2005a, 2005b, etc. We recommend the use of the automatic literature citation, which is supported by Word 2007 (APA citation).

2 If a DOI number is assigned to an article, it has to be stated in the reference list.