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Assessing Governmental Capabilities  
to Manage European Affairs:  
The Case of Lithuania

VITALIS NAKROSIS

**RSC No. 2000/58**

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**EUROPEAN UNIVERSITY INSTITUTE, FLORENCE**

**ROBERT SCHUMAN CENTRE  
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**Assessing Governmental Capabilities to Manage European  
Affairs: The Case of Lithuania**

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**RSC and Vilnius University**

**EUI Working Paper RSC No. 2000/58**

**BADIA FIESOLANA, SAN DOMENICO (FI)**

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## INTRODUCTION: THE FRAMEWORK FOR AN ANALYSIS<sup>1</sup>

The Lithuanian government's policy with regard to the European Union (EU) is passing through a particularly difficult period. It has become increasingly criticised, not only by the European Commission<sup>2</sup>, but also by the national legislature<sup>3</sup>. It is primarily the EU's pressure to decommission Lithuania's nuclear power plant that is blamed by the Lithuanian government for its failure to secure a place within the EU's first-wave enlargement.<sup>4</sup> In contrast, this analysis argues that major difficulties that are encountered by the Lithuanian government in acceding to the EU can be explained in terms of its weak governmental capabilities to manage EU matters<sup>5</sup>.

The evolution of Lithuanian governmental capabilities is at the centre of this analysis. This research question is important for several reasons. From the theoretical perspective, an analysis of Lithuanian governmental capabilities may shed some light on the evolution of governmental capabilities to manage EU matters in *small* and *post-communist* countries. This question resonates with Olsen's (1995b) argument that the focus of scholarly attention has to be moved from examining formal changes to the EU's organisation and functions to looking at institutional capabilities for action.<sup>6</sup> In addition, since this research question examines the EU's impact on the development of governmental capabilities in Lithuania, it is similar to Grabbe's (1999) argument that it is

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<sup>1</sup> This research paper was made possible by the research project 'The Eastward Enlargement of the European Union: the Case of the Baltic States' undertaken by the Robert Schuman Centre, European University Institute in co-operation with the Academy of Finland. I gratefully acknowledge helpful comments provided by H. Grabbe, M. Haverland, J. P. Olsen, J. Trestrour, T. Verheijen, R. Vilpisauskas, J. Zielonka and two anonymous reviewers.

<sup>2</sup> See the *Commission Opinion on Lithuania's Application for Membership of the European Union*, 1997 ([http://europa.eu.int/comm/dg1a/enlarge/agenda2000\\_en/op\\_lithuania/b34.htm](http://europa.eu.int/comm/dg1a/enlarge/agenda2000_en/op_lithuania/b34.htm)) and

*Regular Report from the Commission on Lithuania's Progress Towards Accession*, 1998 ([http://europa.eu.int/comm/dg1a/enlarge/report\\_11\\_98\\_en/index.htm](http://europa.eu.int/comm/dg1a/enlarge/report_11_98_en/index.htm)).

<sup>3</sup> See *Lietuvos Respublikos Seimo Europos Reikalų Komiteto Isvada-Pranesimas apie Nacionalines Acquis Priemimo Programos Vykdyta ir Siulymai, Kaip Gerinti Sios Programos Administratima*, Lietuvos Respublikos Seimas, 1999, Valstybes Zinios.

<sup>4</sup> See *Lietuvos Rytas*, 18 March 1999, 'Komisijos Atstovas Vel Pagrasino Lietuvai', p. 2 or *Agence Europe*, 22 July 1998, 'Closure of Ignalina Nuclear Power Plant has to be Part of Lithuanian Energy Strategy Says van der Broek – Progress in Preparing the Country for Membership'.

<sup>5</sup> This analysis defines EU matters (or the Lithuanian EU policy) by making an arbitrary distinction between the administration of EU matters and the administration of non-EU matters for analytical purposes. We are aware that isolating European affairs from other public affairs is increasingly difficult with the expansion of EU business during the pre-accession process.

<sup>6</sup> J. P. Olsen, *European Challenges to the Nation State*, Arena Working Paper, No. 14/95, Oslo: University of Oslo, 1995, p. 3.



important to consider the extent to which, and the ways in which, the EU affects domestic EU policies in the CEECs.<sup>7</sup>

Lithuania's desire to join the EU stems largely from its concerns regarding security. The primary perception of EU membership as 'a medium-term security generator' in part explains Vilnius' disappointment with the European Commission's recommendation to the Council not to invite Lithuania into the first round of negotiations.<sup>8</sup> However, it is clear that Lithuania's ability to enhance its security through EU membership depends greatly on its governmental capabilities to assume the obligations of EU membership spelled out by the Copenhagen criteria.<sup>9</sup> Lithuania's governmental capabilities for administering EU matters will affect not only Lithuania's ability to benefit from EU membership, but also the EU's governance capacity, in particular the uniform application and enforcement of the *acquis*.

The importance of governmental capabilities extends much wider than just the Lithuanian EU policy. In all transitional countries state capacity-building, needed for the protection of law and order as well as the enhancement of economic prosperity, is key to the process of transition. As Norgaard (1996) concluded, 'Lithuania has to improve the technical capacity and administrative efficiency of the state administration' in order to successfully manage the process of economic transition, which involves among other things the regulation of economic activities.<sup>10</sup> Thus, this analysis can to a large extent illuminate the extent to which Lithuanian governmental capabilities allow for the effective management of transition and delivery of public goods. Finally, this research question can also shed some light on the current (and future) value and legitimacy of the Lithuanian state, measured in terms of its effectiveness and efficiency in delivering its goals.<sup>11</sup>

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<sup>7</sup> H. Grabbe, *A Partnership for Accession? The Nature, Scope and Implications of Emerging EU Conditionality for CEE Applicants*, EUI, Robert Schuman Centre, Working Paper, 1999.

<sup>8</sup> G. P. Herd, 'The Baltic States and EU Enlargement', in K. Herderson (ed.) *Back to Europe: Central and Eastern Europe and the European Union*, UCL Press, 1999, p. 261. This recommendation was followed by a controversial article published by the Minister of European Affairs which blamed large member states, in particular Germany, for obstructing Lithuania's accession to the EU. *Lietuvos Aidai*, 29 October 1997, 'As Jus Myliu, Bet Niekam Nesakykite', pp. 4-5.

<sup>9</sup> They include stable institutions to guarantee democracy, the rule of law and respect for human rights, a functioning market economy with the capacity to cope with competitive pressures and market forces within the EU and the ability to take on the obligations of membership. Commission of the European Communities, *European Council: Conclusions of the Presidency*, Bulletin of the European Union, Copenhagen, 1993.

<sup>10</sup> O. Norgaard, *The Baltic States after Independence*, Edvard Elgar, 1996, p. 225.

<sup>11</sup> J. P. Olsen, *Europeanization and Nation-State Dynamics*, Arena Working Paper, No. 9/95, Oslo: University of Oslo, 1995, p. 16.



It is important to define the relationship between the process of national adaptation to European integration and the evolution of governmental capabilities to administer European affairs.<sup>12</sup> While the analysis of national adaptation is often limited to detailing the substitution of old institutions and policies with new ones in response to explicit or implicit European requirements, the analysis of governmental capabilities has the potential to delve deeper by looking at the extent to which the adaptation process leads to the emergence of adequate governmental capabilities. Additionally, the fact that the EU's Phare programme explicitly refers to reinforcing administrative and institutional capacity in the CEECs as one of its most important objectives allows one to examine the impact of not only domestic reform efforts, but also European efforts on developing governmental capabilities in Lithuania.

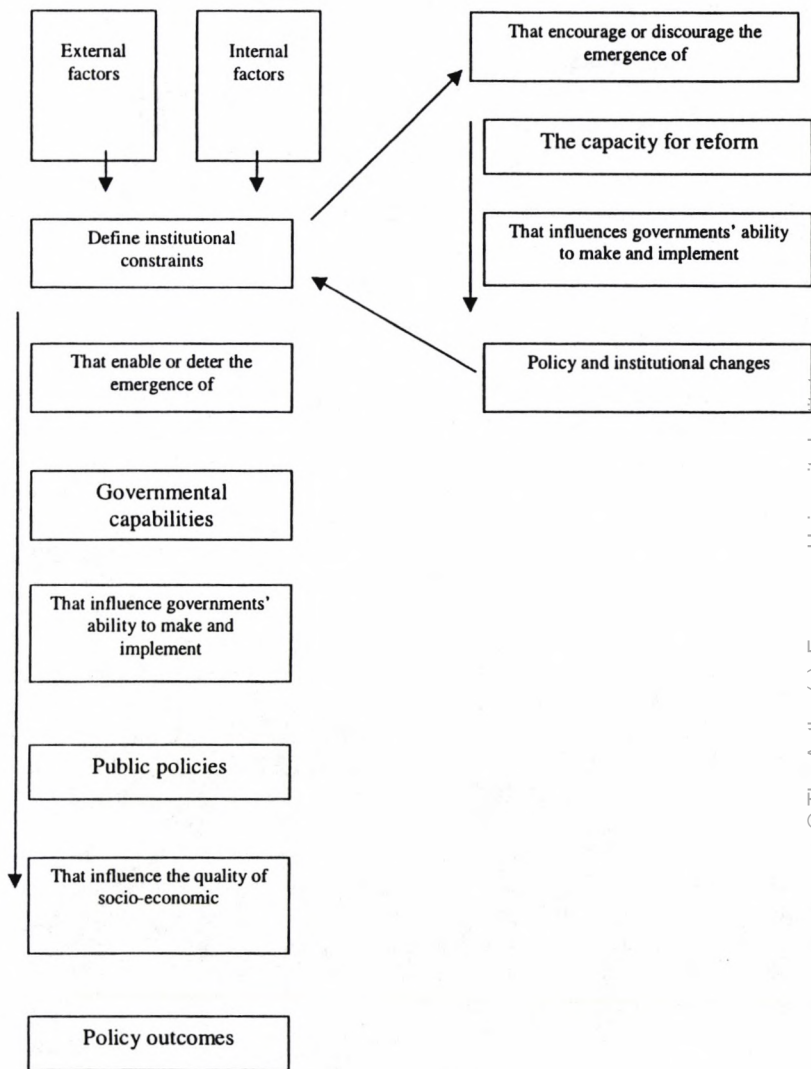
### *Conceptualising Governmental Capabilities*

The development of governmental capabilities will be analysed primarily by looking at Lithuania's ability to transpose EU law (which currently dominates the Lithuanian EU policy), to anticipate the impact of EU law at the national level, to form coherent negotiating positions for representing its interests at the EU level and to implement and enforce the *acquis*. This analysis is primarily concerned with the adequacy of Lithuanian governmental capabilities or, in other words, the extent to which Lithuanian governmental capabilities allow for the effective administration of different EU matters. Effectiveness is defined here as the degree to which Lithuanian authorities are able to achieve objectives, laid out either separately by the Lithuanian government or jointly by the Lithuanian government and the European institutions. Lithuania's governmental capabilities will be analysed by looking at the evolution of institutional constraints upon the effective administration of EU matters. It is assumed here that an indication that constraints are becoming less binding shows that Lithuanian governmental capabilities are becoming more adequate and *visa versa*. It is expected that institutional constraints, defined by internal and external factors, affect governmental capabilities in the way specified in Figure 1. It is important to note that this analysis is not entirely based on this assumption. The evolution of governmental capabilities is also analysed by looking at the management of the NPAA.

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<sup>12</sup> One can mention such studies as Andersen and Eliassen (1993), Olsen (1995a), Olsen (1995b), Meny, Muller and Quermonne (1996), Bulmer and Burch (1998), Hanf and Soetendorp (1998), Knill (1998), Spanou (1998), Haverland (1999).

**Figure 1 Framework for Assessing Governmental Capabilities**



Source: adapted from R. K. Weaver and B. A. Rockman (eds) *Do Institutions Matter? Government Capabilities in the United States and Abroad*, The Brookings Institution, Washington, D.C., 1993, p. 9.

In this analysis the term 'governmental capabilities' refers to the ability of the Lithuanian government to exercise EU matters through both individual institutions and institutional relationships. This can be contrasted with the primary emphasis of many previous studies on individual institutions. The Commission in its *avis* (1997b) and regular reports (1998a) on the CEECs utilised the single institution as a main unit of analysis for evaluating administrative and institutional capacity.<sup>13</sup> Similarly, another study stressed the importance of human resources within individual institutions to the adoption of the *acquis*.<sup>14</sup> This focus on individual institutions is too narrow as it omits institutional relationships despite their significant impact on governmental capabilities. Institutional relationships are important because the administration of Brussels affairs includes extensive co-ordination of inter-ministerial matters at the domestic level, at the EU level and at the domestic-EU interface.<sup>15</sup> From the theoretical perspective, the most appropriate unit for analysis within the public administration must not be the single organisation, but rather organisational networks.<sup>16</sup>

Since the institutional constraints that affect governmental capabilities are usually defined by a highly complex set of factors, one needs to define the scope of this analysis. It is not aimed to provide an all-encompassing conceptualisation of governmental capabilities. Even if such conceptualisation were possible, the number of factors involved would make the analysis unwieldy. Thus, this analysis is primarily concerned with the impact of independent variables found within the administrative and governmental level on the evolution of governmental capabilities. This focus can be in part justified by the fact that Lithuania, along with other CEECs, inherited an administrative structure that is strong relative to the political institutions. Its power to administer Brussels matters is strengthened by the very nature of the EU, which delegates the primary responsibility for EU matters to the administrative level.

One must recognise that a number of institutional constraints matter to governmental capabilities. The most important of these that are examined by this analysis seem to be the following:

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<sup>13</sup> See *the Commission Opinion on Lithuania's Application for Membership of the European Union*, 1997 and *Regular Report from the Commission on Lithuania's Progress Towards Accession*, 1998.

<sup>14</sup> H. G. Krenzler and M. Everson, *Preparing for the Acquis Communautaire*, EUI, Robert Schuman Centre, Policy Paper, No. 98/6, 1998.

<sup>15</sup> V. Wright, 'The National Co-ordination of European Policy-Making: Negotiating the Quagmire', in J. Richardson (ed.) *European Union: Power and Policy-Making*, Routledge, 1996, p. 149.

<sup>16</sup> B. G. Peters, 'Managing Horizontal Government: the Politics of Co-ordination', *Public Administration*, Vol. 76, No. 3 (1998), p. 297.



(i) Institutional constraints that affect capabilities of individual institutions:

- ministerial organisation;
- number of officials and their distribution;
- staff management, including recruitment, training, career development, pay conditions, turnover;
- ministerial decision-making, including intra-departmental relationships;

(ii) Institutional constraints that affect institutional relationships:

- government organisation, including the establishment of co-ordinating institutions or committees;
- distribution of officials and their mobility within the civil service; formal and informal governmental decision-making processes, including co-ordination and implementation processes and culture;
- institutional networks, including the integration of interest organisations into the policy process and the emergence of 'policy communities'.

Political factors are also covered by this analysis. However, it is difficult to hypothesise the way in which they affect governmental capabilities. Although political factors have the potential to considerably influence governmental capabilities through individual personalities, party politics in the legislature and executive and coalition politics in the cabinet, their impact is highly contingent in an uncertain environment of transition, depending among other things on the ideological compositions of governing coalitions. In contrast, it must be noted that both the evolution of judicial capabilities and the impact of institutional constraints that are defined by factors found at the sub-national level fall outside the scope of this analysis.

### *The New Institutional Approach*

The analysis adopts the new institutionalist approach, which is relevant to the assessment of governmental capabilities to manage European matters in transition countries. Its basic claim is that institutions do matter. First, it adopts a wider interpretation of what constitutes an institution. According to one definition, institutions include formal institutions, informal institutions and conventions, the norms and symbols embedded in them as well as policy instruments and procedures.<sup>17</sup> This definition allows for an examination of the informal aspects of politics and policy-making, which are crucial to the understanding of post-communist politics and policy-making.

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<sup>17</sup> S. J. Bulmer, 'New Institutionalism and the Governance of the Single Market', *Journal of European Public Policy*, Vol. 5, No. 3 (1998), p. 370.

More specifically, the paper uses two conceptions of new institutional theory - the normative institutionalism and the historical institutionalism – to analyse the evolution of governmental capabilities in Lithuania.<sup>18</sup> The first school of new institutionalism, the normative institutionalism, is associated with the work of March and Olsen (1984).<sup>19</sup> Its most fundamental proposition is that institutional behaviour is shaped by the logic of appropriateness defined by the values internal to the institution. By shaping institutional behaviour, institutions can constrain or facilitate policy change. It is the logic of appropriateness that guides institutional behaviour by setting ‘parameters of acceptable behaviour’.<sup>20</sup>

The analysis tests the proposition that *institutional and policy changes are dependent on the extent to which the old logic of appropriateness is institutionalised*.<sup>21</sup> In other words, it is expected that the more institutions are embedded in the existing institutional settings, the less latitude exists for policy and institutional reform. Institutionalisation (or embeddedness) is defined here as ‘the emergence of enduring practices and rules, structures of meaning, and resources’.<sup>22</sup> In order to explain different levels of embeddedness, which vary across institutions and, probably more significantly, across nations, one must make cross-institutional and, in particular, cross-national comparisons. Thus, the comparative dimension is introduced into this analysis. Emphasis is put on possible sources of divergence between Lithuania and other countries, flowing different sets of constraints upon the development of their governmental capabilities.

Another school of new institutionalism whose propositions are tested by our analysis is historical institutionalism. Its fundamental proposition lies in the ‘path-dependency’ argument. Its basic idea is that reform outcomes are dependent on initial conditions. In the context of transition, it is useful to interpret this argument in two ways by employing two different time spans. First, path-dependency can be equated with the impact that inherited institutions exert upon administrative reform, thus linking the evolution of governmental capabilities to the post-communist heritage. Alternatively, path-dependency can be equated with the impact of the initial decisions on administrative reform, thus

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<sup>18</sup> Peters recently applied a similar research strategy to the analysis of managerial reform in the United States. See B. G. Peters, *The New Institutionalism and Administrative Reform: Explaining Alternative Models*, Centro de Estudios Avanzados en Ciencias Sociales, Estudio/Working Paper, No. 1998/113, 1998.

<sup>19</sup> J. G. March and J. P. Olsen, ‘The New Institutionalism: Organizational Factors in Political Life’, *American Political Science Review*, Vol. 78 (1984), pp. 738-749.

<sup>20</sup> Peters (1998a), p. 8.

<sup>21</sup> A similar hypothesis was tested by Knill (1998). Ch. Knill, ‘European Policies: the Impact of National Administrative Traditions’, *Journal of Public Policy*, Vol. 18, No. 1 (1998), pp. 1-28.

<sup>22</sup> Olsen (1995b), p. 5.



linking the evolution of governmental capabilities to policy and institutional choices made during the transition. Therefore, it is predicted that both *institutions inherited from the past affect the evolution of governmental capabilities through constraints upon decision-making*<sup>23</sup> and *initial reform choices affect the evolution of governmental capacities through constraints upon decision-making*.

Historical institutionalism assesses both the evolutionary and transformative models of change.<sup>24</sup> From the evolutionary perspective, institutional change is viewed as incremental and not challenging deeply embedded institutions. Thus, in our context, one can predict that *the evolution of governmental capabilities is subject to a series of incremental rather than radical changes*. This analysis also expects different institutions to be subject to different change patterns depending on their embeddedness. Alternatively, from the transformative point of view, institutional development can be seen as interrupted by windows of opportunities bringing possibilities for significant change, but not guaranteeing it. If such opportunities are exploited, they introduce policy or institutional changes that entail clear departures from previously established patterns. It is important to note that both internal and external forces can open windows of opportunities. Thus, it allows us to predict that *the evolution of governmental capabilities is marked by windows of opportunities that may lead to significant policy or institutional changes*.

The study is organised into three different sections, followed by a conclusion. The first section assesses the mismatch between the nature of Lithuanian administration and the EU requirements, which poses institutional constraints to the emergence of governmental capabilities to manage EU matters. The second section attempts to determine the extent to which Lithuanian governmental capabilities for administering EU matters are adequate by looking at the impact of institutional constraints, divided into the constraint of inadequate human resources and that of ineffective policy co-ordination, on the Lithuanian EU policy, in particular the administration of the National Programme for the Adoption of the *Acquis*. The third section focuses on the EU's impact on the evolution of governmental capabilities in Lithuania through its financial assistance and agenda-setting instruments.

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<sup>23</sup> This proposition was borrowed from J. Pontusson, 'From Comparative Public Policy to Political Economy: Putting Political Institutions in their Place and Taking Interests Seriously', *Comparative Political Studies*, Vol. 28, No. 1 (1995), pp. 118-119.

<sup>24</sup> S. Bulmer and M. Burch, 'Organizing for Europe: Whitehall, the British State and European Union', *Public Administration*, Vol. 76, No. 1 (1998), p. 605.



## THE IMPACT OF EXTERNAL FACTORS ON LITHUANIA'S ADMINISTRATION

This section provides a detailed examination of the external factors affecting governmental capabilities to manage European affairs. The analysis assumes that they affect governmental capabilities by defining institutional constraints, as specified in Figure 1 above. In addition, the binding character of institutional constraints depends primarily on the extent to which the nature of Lithuanian administration (internal factors) matches the EU-level requirements (external factors).<sup>25</sup> To determine the specific manifestations of this mismatch, it is necessary to undertake a detailed examination of EU requirements and the characteristics of Lithuanian administration.

One of the main EU's characteristics is the very large volume of EU legislation. It is estimated that the *acquis* currently consists of over 20,000 regulations and 2,000 directives, with approximately 80 per cent of socio-economic legislation applicable in the member states originating from the EU.<sup>26</sup> The ability of Lithuanian central government to adjust to this volume of EU legislation within a relatively short period of time is limited by its relatively small size (11,000 officials). It must be noted that administrative adjustment pressures vary considerably, depending on a particular sector. This puts limits on the even evolution of governmental capabilities across different policy fields. Such well-developed policy areas in the EU as agriculture or environment pose more problems for Lithuanian authorities than such underdeveloped policy areas as transport.

Lithuania's accession to the CAP (Common Agricultural Policy) is particularly problematic, since it contains numerous provisions, ranging from the enforcement of veterinary standards to imposition of various production quotas to the monitoring of 'set-aside' rules. The following example is particularly illustrative. A newly-built Lithuanian piggery with the annual capacity of 54,000 and complying with EU veterinary standards applied for export license to the EU market. The Commission refused to grant the right to export to the EU market on the grounds that the piggery had no guarantee that every pig had been vaccinated against swine fever in a 300-kilometre radius,

<sup>25</sup> The EU-level requirements can be divided into explicit and implicit. If the former refer to different *acquis* or Accession Partnership provisions, the latter refer to 'co-ordination and planning mechanisms, rebalancing of politics-administration relations, continuity, respect for formal rules and obligations, [...], effective monitoring and control mechanisms, and increased transparency'. See C. Spanou, 'European Integration in Administrative Terms: A Framework for Analysis and the Greek Case', *Journal of European Public Policy*, Vol. 5, No. 3 (1998), p. 474.

<sup>26</sup> G. Majone, 'A European Regulatory State', in J. Richardson (ed.) *European Union: Power and Policy-Making*, Routledge, 1996, p. 266.

which extends beyond the Lithuanian jurisdiction to neighbouring countries.<sup>27</sup> Administrative adjustment is also circumscribed by the 'moving target' problem. The fact that such *acquis* areas as finance, agriculture and structural funds are subject to radical overhaul renders the adjustment process in the CEECs more difficult.

Another EU's feature is its emphasis on the regulation of economic activities. The adjustment of Lithuanian administration to the European pattern of regulation requires huge reform efforts, in particular the establishment of new regulatory institutions and the development of new regulatory skills. Lithuania inherited regulatory frameworks incompatible with those in the EU member states, in particular in the area of environment where regulation was particularly underdeveloped. The Lithuanian regulation still follows the inherited rule that 'everything that is not explicitly allowed is forbidden', which stems from the communist tradition. Few European regulatory requirements, e.g. air quality standards, entail significant policy innovations for the member states themselves<sup>28</sup>, let alone Lithuania. The principle of mutual recognition of regulatory standards, e.g. professional standards, requires knowledge of regulatory legislation that is enacted not only by the EU, but also by its member states. The sheer size of reforms demanded by the EU renders the estimate that a whole decade may be required to make regulation more effective even in the most advanced CEECs hardly surprising<sup>29</sup>.

In addition to regulatory requirements, CEE administrations need to adjust to European financial control requirements. In order for the CEECs to accede to the CAP and the structural funds, their financial control mechanisms must be brought into line with those of the EU. The development of financial control, much like the development of regulatory institutions, is limited by the post-communist legacy. The CEECs inherited no independent financial control and audit institutions and they 'have no experience of modern "project administration" including public procurement with contracts awarded through tendering procedures'.<sup>30</sup> Currently, financial control in Lithuania is currently executed through the Laws on Budgeting, State Control and Local Self-government. The Lithuanian administration is presently strengthening the internal financial control function and establishing the external performance

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<sup>27</sup> House of Lords, Select Committee on the European Communities, *Enlargement and Common Agricultural Policy Reform*, HL Paper 92, London: HMSO, 1996, p. 30.

<sup>28</sup> Majone, p. 265.

<sup>29</sup> R. Baldwin, *Toward an Integrated Europe*, London: Centre for Economic Policy Research, 1994, p. 193.

<sup>30</sup> A. Pratley, 'Financial Control and Audit in the European Union', in OECD, *Effects of European Union Accession, Part 1: Budgeting and Financial Control*, Sigma Papers, No. 19, Paris: OECD, 1997, p. 152.



control function. Hungary is probably the most advanced applicant country in this field, as its recently established internal audit office has already carried out an audit of the Phare programme in an attempt to prepare to take control of the administration of the EU's structural funds.<sup>31</sup>

The implementation and enforcement of voluminous European legislation frequently requires significant human and budgetary resources, often more than the applicant countries can afford. The CEE 'skeleton public administrations and skeleton budgets'<sup>32</sup> puts limits on their ability to effectively apply the *acquis*. This constraint appears to be the most constraining in the case of environment. The adoption and enforcement of about 300 pieces of EU environmental legislation is impossible without the significant strengthening of existing environmental institutions. It was estimated that approximately 15 new officials should be recruited to the Environment Ministry and another 20 to its regional departments by 2002 to ensure their ability to accomplish their tasks.<sup>33</sup> To ensure effective implementation and enforcement of environmental provisions, new institutions must be established, including a National Agency for Environmental Protection or a Chemical Substances and Preparations Control Agency. For budgetary resources, it was estimated that the implementation of only 15 of the most costly pieces of EU environmental legislation would cost to Lithuanian authorities approximately Ecu 3,1 bn. Excluding the most expensive directive (70/220/EEC on car pollution) whose costs will be mostly covered by the private sector, in 2010 the implementation of the remaining 14 most costly pieces of environmental legislation would cost to Lithuanian authorities Ecu 381,9 mln, what amounts to 6,0 per cent of the Lithuania's 1996 GDP.<sup>34</sup>

It is important to note that the constraint of limited human resources is more binding for some CEECs than others due to significant variations in the size of CEE administrations. The similar scope of EU matters and, in turn, similar workloads with which all applicant countries are confronted renders the size constraint more binding in Lithuania, where approximately 11,000 officials are employed in the central government, than in, for instance, Poland, where 100,000 officials are employed in the central government<sup>35</sup>. If Poland appears to be facing a scarcity of human resources in the transposition of the *acquis*<sup>36</sup>, this problem must be more severe in Lithuania. However, this constraint did not

<sup>31</sup> *Ibid.*, p. 153.

<sup>32</sup> *Financial Times*, 12 March 1997, 'Uncertain Map of the Future', p. 17.

<sup>33</sup> Ministry of Environment, *Mid-Term Reform Strategy for Environment*, Internal Documents, 1998, p. 9.

<sup>34</sup> *Ibid.*, pp. 10-11.

<sup>35</sup> J. J. Hesse, 'Rebuilding the State: Public Sector Reform in Central and Eastern Europe', in J.-E. Lane (ed.) *Public Sector Reform: Rationale, Trends and Problems*, Sage, 1997, p. 138.

<sup>36</sup> A. Mayhew, *Recreating Europe: The European Union's Policy towards Central and Eastern Europe*, Cambridge University Press, 1998, p. 230.

preclude Estonia and Slovenia, both having relatively small civil services, from becoming first-wave applicant countries.

This can be explained by two major factors. First, the size constraint has not yet fully materialised yet. The readiness of the CEECs to accede to the EU was judged on a number of criteria, and progress in implementing and enforcing the *acquis* was not the most important. It has been pointed out that 'the capacity to transpose and implement the *acquis* [...] was of little importance for the selection of formal negotiation partners. Although Slovenia's score on this point fell of short [sic] of all associated countries except Bulgaria and Romania, it was admitted to the top group due to its good political and economic record'.<sup>37</sup> However, this constraint, and the difficulties that it poses to Lithuania, is highly likely to become more restrictive with a gradual shift of focus from the transposition of the *acquis* to its application, the latter significantly depending on human resources. Second, the size constraint must be viewed in the context of other constraints, in particular human resource constraints. The Hungarian experience shows that governmental capabilities are unlikely to be enhanced by merely increasing the number of officials: while the number of Hungarian officials increased from 65,000 in 1989 to 95-100,000 in 1995, the effectiveness of public administration, including co-ordination, did not improve.<sup>38</sup>

It is highly likely that the constraint of an inadequate civil service will become even more binding with EU membership because it will bring the loss of a significant number of the most experienced and senior staff. This was the case in many countries, including Spain, where civil servants from the Spanish accession management team took up positions in the EU institutions or the Spanish Permanent Representation.<sup>39</sup> Consequently, this considerably reduced the ability of the Spanish government to co-ordinate its domestic decision-making on EU matters.<sup>40</sup> EU membership will bring the further need for the Lithuanian administration to improve its ability to formulate coherent negotiating positions to ensure that its interests are well represented at the EU level. In an attempt to cope with its under-representation at the European level, Great Britain has introduced a fast-track recruitment system for European posts.<sup>41</sup> Thus, the likelihood that the constraint of an inadequate civil service

<sup>37</sup> F. Schimmelfennig, *The Eastern Enlargement of the European Union: A Case for Sociological Institutionalism*, Unpublished Paper, 1998, p. 28-29.

<sup>38</sup> OECD, *Country Profiles of Civil Service Training Systems*, Sigma Papers, No. 12, Paris: OECD, 1997, p. 83.

<sup>39</sup> L. Metcalfe, *Trends in European Public Administration*, European Institute of Public Administration, Working Paper, 1993, p.4.

<sup>40</sup> *Ibid.*, p. 4.

<sup>41</sup> H. Wallace, 'Relations between the European Union and the British Administration', in Y. Meny, P. Muller and J-L. Quermonne (eds), *Adjusting to Europe: the Impact of the European Union on National Institutions and Policies*, Routledge, 1996, p. 66.



will become more binding must be very worrying to Lithuania due to its existing difficulties. Even though civil servants with foreign language skills, negotiating skills and good knowledge of EU law and EU decision-making procedures are scarce in the Lithuania's civil service, Lithuanian authorities have not yet started implementing a comprehensive civil servant training programme on EU matters.

## **GOVERNMENTAL CAPABILITIES FOR MANAGING EUROPEAN AFFAIRS IN LITHUANIA**

The previous section illustrated the specific manifestations of the mismatch between the nature of Lithuanian administration (internal factors) and the EU-level requirements (external factors), which pose institutional constraints. This section undertakes a detailed examination of how these constraints affect governmental capabilities to manage EU matters by looking at the way in which they feed into the Lithuania's EU policy. Thus, this section proceeds to determine the extent to which Lithuanian governmental capabilities are adequate for administering EU matters. Additionally, the analysis examines the dynamics of national administrative adjustments to the EU's adaptation pressures by looking at the key institutional and procedural changes within the Lithuania's central government.

### **Dynamics of National Adjustments**

The form that the evolution of the institutional structure of Lithuanian EU policy took was essentially shaped by a governmental decree in mid-1995. This decree established the general outline of the today's institutional structure, which consists of a high-level co-ordination committee (the Governmental Commission for European Integration), its secretariat and a co-ordinating institution (the European Integration Department within the Ministry of Foreign Affairs (MFA)) and, finally, special European affairs units within every ministry through which the involvement of policy ministries is ensured. The MFA assumed the lead responsibility for EU matters, stemming from its responsibility for co-ordinating external economic issues (due to the centrality of trade in the early relationship with the EU) and the management of foreign affairs (due to the connotation of the EU as an international organisation).

Subsequent adjustments to the institutional system have been accommodated within the old administrative framework. It is not to say that the evolution of the institutional structure has not been marked by significant institutional changes. Since the establishment of the initial machinery in mid-1995 a first window of opportunity to introduce significant institutional changes opened as early as in late-1996. Immediately after the 1996 parliamentary election, which brought in power the coalition government dominated by the

Lithuanian Conservatives, the institutional machinery was overhauled. The Ministry of European Affairs and the Negotiations Delegation were established, thus bringing a clear departure from the existing institutional framework.

A new window of opportunity emerged in mid-1998, when the Minister for European Affairs was involved in a car accident, leading to one casualty. This accident further undermined her political legitimacy both within the public and the cabinet. This in turn triggered a governmental re-organisation, which affected the institutional machinery of Lithuanian EU policy. As a result of this reorganisation, the number of sectoral ministries has been reduced from 17 to 14. In terms of Lithuania's co-ordinating machinery, the Government Commission for European Integration was strengthened, and the European Committee replaced the Ministry of European Affairs. Following the governmental re-organisation the European Committee emerged as the winner of the departmental turf war with the MFA over the lead responsibility in co-ordinating EU matters. Its terms of reference has been widened, leaving the MFA with only the co-ordination of the implementation of the Europe Agreement, technical assistance, servicing the negotiation team, and controlling co-operation within the framework of the CFSP (Common Foreign and Security Policy).

This analysis suggests that significant institutional changes have been precipitated by internal political forces in the form of government changes (late-1996) or shifts in the political personalities within the cabinet (mid-1998). However, the Commission's criticism with regard to Lithuania's relatively slow progress towards EU membership was used as a bargaining chip to make politically difficult changes more legitimate. This reveals the contribution of external forces to the evolution of Lithuania's institutional machinery, primarily in the form of the Commission's criticisms. It is national forces, however, that remain key to turning windows of opportunities into significant institutional changes.

The mere assessment of institutional adjustments does not allow one to examine the effectiveness of Lithuanian EU policy. Thus, the analysis proceeds with a more specific analysis of Lithuanian EU policy by looking at the role of the civil service and policy co-ordination. It attempts to determine how the mismatch between the nature of Lithuanian administration and the EU requirements affect the Lithuanian EU policy, and, more importantly, the extent to which Lithuania's current and, to a lesser degree, potential capacity for administering EU matters is adequate.



## Capabilities of Individual Institutions: the Constraint of an Inadequate Civil Service

With the increasing scope of EU matters, the involvement of Lithuania's civil service in their administration substantially increased in quantitative terms. Since 1995 every ministry established a special division or department for European affairs. Their size and effectiveness exhibit considerable variation. Often, they simply oversee ministerial liaison with other ministries and the legislature, while other ministerial divisions deal with substantive matters falling under ministerial jurisdiction. Also, there was a shift of responsibilities from coordinating institutions to sectoral institutions that bear main responsibility for sectoral alignment of national law with the *acquis*. Whereas until 1995 the MFA was responsible for virtually all Brussels business, at present every policy ministry is to a larger or lesser extent involved in the administration of EU matters. This section argues that despite these adjustments, Lithuania's civil service is still plagued by the lack of information and expertise on European affairs, which can be explained by the persistence of institutions inherited from the communist past and forces attributable to the transition process.

In Lithuania, each institution is allowed a great deal of autonomy to build its administrative capacity. At present, in the absence of a uniform civil service, all aspects of personnel management, including recruitment, training and promotion, is the employer's duty. This is largely attributable to the post-communist heritage: under the communism, there was no concept of a uniform civil service, and each public institution was an independent employer<sup>42</sup>. Under the principle of ministerial autonomy, it is assumed that each institution best understands its reform needs and is best placed to reform itself.

However, in the absence of effective central steering, the ability of individual central government institutions to build their administrative capacity has been limited and uneven. They function in a highly institutionalised environment that limits their ability to change the existing logic of appropriateness. It is evident that these institutions, whose political leadership has been able to recognise the gap between old practices and new demands, have been more responsive. However, the ability of individual institutions to see this discrepancy is not sufficient to ensure successful adaptation across the board at the governmental level.

The ability of Lithuania's civil service to effectively manage European affairs is constrained by its low degree of internal coherence. Due to the absence

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<sup>42</sup> S. Synnerstrom, *Professionalism in Public Service Management: The Making of Highly Qualified, Efficient and Effective Public Managers*, Regional Conference on the Public Service in Transition, 1997 ([http://www.otenet.gr/un\\_thessaloniki](http://www.otenet.gr/un_thessaloniki)).

of a civil service under communism, Lithuania inherited a specialist-biased and fragmented administration, which still puts limits on effective co-ordination. This trend was further exacerbated during the transition process by the failure to establish a uniform civil service and by the deliberate decision to keep individual central government institutions weak in order to prevent the possible dominance of a single authoritarian politician over the whole Lithuanian central government. However, few positive trends can be identified such as the emergence of the network of European 'cadres', sharing similar values acquired during education, training or working together. This network, linking the European Committee, the European Integration Department in the MFA and individual European integration units in sectoral ministries, appears to be contributing to the coherence of Lithuanian EU policy by fostering co-ordination among sectoral policy institutions.

Additionally, the inherited separation between expertise in technical sectoral matters and expertise in foreign affairs, including foreign languages and diplomatic skills, constrains the evolution of administrative capabilities. Although this distinction is no longer appropriate as the exercise of EU responsibilities entails both types of expertise, it is still manifested in the institutional organisation of Lithuanian administration. Special units, which harbour expertise in foreign (including European) affairs, are responsible for the administration of foreign and European affairs, while other units are responsible for technical sectoral matters. Given this distinction, the effective exercise of EU responsibilities requires extensive internal co-ordination between two types of administrative units, which is frequently ineffective.

Lithuania's public sector is still not capable to recruit and retain qualified personnel. The fast growing private sector has attracted not only best graduates, but also best officials from the civil service primarily by offering more competitive salaries and better incentive structures. In parallel to the 'brain-drain', Lithuania's civil service has been subject to a high degree of politicisation during the transition, stemming in part from the existence of two competing political parties (the Lithuanian Democratic Labour Party and the Lithuanian Conservatives). In the absence of effective civil service regulation regarding job security, the political polarisation has produced numerous dismissals of officials based on political grounds. Political interests still play a major role in the appointment of officials. Consequently, job security has not been ensured, and promotion chances have been largely based on political loyalty rather than on performance. A combination of the high level of politicisation within the Lithuanian administration and its limited attractiveness explains, to a large extent, the limited stability of Lithuania's civil service. This fact is manifested in the relatively high employment volatility within the



Lithuania's civil service: in 1997, the average career length in the Lithuania's civil service was less than 3,8 years<sup>43</sup>.

The adoption and enacting of civil service legislation was not a priority in Lithuania during the early transition. Even though in 1994 the Lithuanian government finally adopted the Law on Officials, it failed to develop an autonomous and professional career civil service. The main imperfection of civil service legislation lies in its narrow scope, insufficient for creating the legal preconditions for the establishment of a professional civil service. The Law on Officials did not aim at ensuring the unification of diverse remuneration and grading systems within the Lithuanian public administration nor did it introduce effective mechanisms for the implementation and enforcement of its provisions. It contained no administrative appeal system to challenge illegal dismissals of partisan nature, thus leaving the careers of officials subject to the whim of political appointees. As a result, the Lithuanian government decided to draft new civil service legislation rather than enforce the old civil service legislation. The new Law on Civil Service will be biased towards the career system.

Training is still governed by the labour law rather than by the civil service legislation. Every state institution is bound by law to set aside a minimum of 3 per cent of its total remuneration budget for training purposes. However, in reality, only a total of 0,54 per cent of the mandated 3 per cent had been spent during the first three quarters of 1998.<sup>44</sup> Training possibilities in Lithuania have been incidental and driven more by external assistance programmes than by a comprehensive national programme. Training geared toward the European 'cadres' does not constitute an exception, although in quantitative terms training opportunities for EU matters have been more extensive. The effectiveness of existing training programmes has been constrained by the weak ability of Lithuanian officials, in particular mid-career civil servants, to absorb new skills and, equally important, to apply them in daily work. A survey of training programmes carried out by one of the training institutions identified that only 49 per cent of all participants were capable of applying their knowledge acquired during the training programmes.<sup>45</sup>

In the absence of a comprehensive training strategy and a school for coordinating training programmes, the activities of more than 20 training

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<sup>43</sup> *Lithuania's Progress in Preparation for Membership of the European Union, July 1997 – July 1998*, European Committee under the Government of the Republic of Lithuania, 1998, p. 111.

<sup>44</sup> *Respublika*, 17 November 1998, 'Orientuoti Viesojo Valdymo Reformos Zingsniai: Valdymo Reformu ir Savivaldybiu Reikalai Ministro p. K. Skrebio Pranesimas LR Seime 1998 m. Lapkricio 12 d.', p. 9.

<sup>45</sup> *Kauno diena*, 5 December 1998, 'Ar Verta Valdininkui Mokytis?', p. 8.

institutions have been unco-ordinated and ineffective. This situation is in sharp contrast with Poland, where the Polish National School of Public Administration has been operating since 1990 and a comprehensive training programme is being implemented. To address training deficiencies, a Strategy for Training of the Lithuanian Civil Service for Accession to the European Union has been drafted and the Lithuanian Institute of Public Administration has been established in 1999. However, it will take some time for the new institutional set-up to settle down and produce expected results.

### **Institutional Relationships: the Constraint of Ineffective Policy Co-ordination**

Apart from the civil service, it is important to consider how institutional relationships that are covered by the term 'policy co-ordination' constrain Lithuania's ability to effectively manage EU affairs. It has been noted in the previous section that the fragmented nature of public administration constrains effective co-ordination. Effective policy co-ordination is also constrained by the lack of expertise and information on EU matters. Since the highly technical and specialised nature of EU matters prevents mobility of officials within the civil service, other co-ordination instruments must solve co-ordination problems. It is important to note at the outset that the problem of weak co-ordination is not confined to Lithuania or other CEECs. Administrations of some member states, particularly in Germany, Greece, Portugal and Spain, suffer from ineffective policy co-ordination.<sup>46</sup>

Effective co-ordination is essential for the successful negotiation process with the EU. Poland provides an example of how ineffective inter-ministerial co-ordination can slow down accession negotiations with the Commission. Poland was criticised for the insufficient co-ordination of its application talks among its ministries, when 'one ministry does not know what the other is doing'.<sup>47</sup> A lack of clear distribution of functions among the key institutions in charge of EU matters resulted in a considerable degree of confusion in the EU over 'who was calling the tune'. The head of the Polish European Integration Committee has clashed with both the Polish Minister for Foreign Affairs and Poland's Chief Negotiator in the EU membership talks.<sup>48</sup> Consequently, as Commission officials admitted, EU's talks with Poland have proceeded slower than with the other four CEE first-wave applicants.<sup>49</sup>

<sup>46</sup> L. Metcalfe, 'International Policy Co-ordination and Public Management Reform', *International Review of Administrative Sciences*, Vol. 60, No. 2 (1994), p. 289.

<sup>47</sup> *The Wall Street Journal Europe*, 30 April 1998, p. 1.

<sup>48</sup> *Financial Times*, 28 July 1998, 'PM to Spearhead EU Bid' (<http://www.ft.com/search97cgi>).

<sup>49</sup> *Ibid.*



## *Formal Co-ordination Structures*

The Lithuanian co-ordination machinery is supposed to orchestrate the EU policy through meetings (of the cabinet committee, inter-ministerial committees or the twelve legal working groups), state institutions (the European Committee and decreasingly the MFA) and procedures (co-ordination of draft legal acts). Due to the importance of high-level co-ordination the analysis starts from the description of the Governmental Commission for European Integration (GCEI).

GCEI is a cabinet committee headed by the Prime Minister. It has been argued that the GCEI failed to become a 'real decision-making body' due to the combination of the infrequency of its meetings until early-1998, the lack of formal decision-making power (its decisions had to be referred to the government for its approval) and the primary control over the GCEI's agenda by the MFA.<sup>50</sup> After its re-organisation in mid-1998, the GCEI's position has been consolidated by making its meetings more frequent and increasing its size. Also, the GCEI was empowered to make legally binding decision through the government centre. However, the reforms failed to produce changes in the old pattern of agenda setting. At present, the GCEI's agenda is almost entirely set by the European Committee and dominated by the National Programme for the Adoption of the *Acquis*. Sectoral institutions are not inclined to place their issues on the GCEI's agenda due to its limited capacity for arbitration and the principle of ministerial autonomy.

A distinctive feature in the Lithuania's co-ordinating machinery is the underdevelopment of low-level co-ordination capacities. Lithuania has still not established a co-ordination committee bringing together permanent officials, in particular, the heads of European affairs units in sectoral ministries. The underdevelopment of low-level co-ordination capacities can in part account for the overload at the top of the political decision-making system. This problem is also acute because, given the lack of stability in the political executive in Lithuania, the appointment of a new political executive with limited knowledge in EU matters can substantially reduce the co-ordinating capacity of the administration. Furthermore, the performance of 12 low-level legal co-ordinating committees, or legal working groups with responsibility for achieving Lithuania's alignment with the *acquis* in different sectoral areas, has been ineffective due to the absence of clearly defined objectives and accountability lines to the sectoral policy ministries or the European Committee.<sup>51</sup>

<sup>50</sup> K. Maniokas and G. Vitkus, *Lithuanian Euro-institutions and Democracy*, NATO Research Fellowship Programme, Final Report, Vilnius, 1998, p. 28.

<sup>51</sup> *Lietuvos Respublikos Seimo Europos Reikalų Komiteto Isvada-Pranesimas apie Nacionalines Acquis Priemimo Programos Vykdyta ir Siulymai, Kaip Gerinti Sios Programos Administratima*, p. 21.

At present, the Lithuanian co-ordinating machinery reflects a balance between fairly heavy central co-ordination (the European Committee has staff of approximately 70) and large ministerial involvement. It is in contrast to such member states as Great Britain whose co-ordinating machinery is light (the Cabinet Office European Secretariat has staff of 20)<sup>52</sup> or to such applicant countries as Poland whose co-ordinating machinery is extremely heavy (the Committee for European Integration has the largest staff in all the CEECs, 160<sup>53</sup>). However, judging by responsibilities of the European Committee, Lithuania's co-ordinating machinery is definitely light. Co-ordinating institutions in the EU member states with staff over 50 have much more extensive functions than the European Committee. In Lithuania total staff size and responsibilities are not closely linked, in part because the function of checking the (mis)match between responsibilities and administrative resources is not properly executed. Therefore, the relationship between total staff levels and functions is as much attributable to departmental competition over staff remuneration budgets as administrative logic.

The evolution of co-ordinating capabilities in Lithuania had been constrained by the existence of two concurrent secretariats, one based in the Ministry of Foreign Affairs, the other in the Ministry of European Affairs. This situation has resulted in a considerable degree of confusion over their respective roles in the area of European affairs and required additional co-ordination activity between the two. Recently, a shift in the balance of power in favour of the European Committee has brought significant clarity to the distribution of functions between two secretariats. However, despite these improvements, neither of two secretariats are as of yet capable of forecasting the potential impact of new EU legislation, in contrast to the French SGCI (the General Secretariat of the Inter-Ministerial Committee on European Economic Co-operation), the Spanish SECE (the Secretariat of the State for the EU) or the British European Secretariat. This is also in contrast to Hungary, where a Strategic Task Force for European Integration within the Prime Minister's Office, has long been working on costs and benefits of Hungary's accession to the EU.<sup>54</sup>

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<sup>52</sup> Bulmer and Burch, p. 614.

<sup>53</sup> T. Verheijen, 'The Management of EU Affairs in Candidate Member States: Inventory of the Current State of Affairs', in OECD, *Preparing Public Administrations for the European Administrative Space*, Sigma Papers, No. 23, Paris: OECD, 1998, p. 20.

<sup>54</sup> 'Hungarian Task Force Supports Country's Integration Goals', *Public Management Forum*, Vol. 2, No. 4 (1996), p. 3.



## *Processes, Procedures and Culture*

A distinctive feature of Lithuanian co-ordinating processes is the weak arbitration of inter-ministerial conflicts. When disputes inside the bureaucracy cannot be solved at lower levels, the GCEI must interfere. However, the GCEI's steering and arbitration capacity is limited by the collegiate nature of governmental decision-making and high ministerial autonomy. Although these principles prevail in every modern bureaucracy, their effect in Lithuania is exacerbated by the lack of cohesion within its civil service (in contrast to Great Britain, Ireland or Denmark) and the lack of consensual decision-making style (in contrast to The Netherlands or Belgium). In addition, since the Prime Minister chairs the GCEI, the GCEI's capacity of arbitration depends greatly on the Prime Minister's willingness to interfere, which is very limited.

This constraint invariably feeds into the difficulties that the European Committee faces in exercising its functions, since it derives its authority from the GCEI. The European Committee is not willing to be involved in arbitration, even though there is a constant need for it, unless it is delegated by the GCEI. In contrast, when conflicts of interest arise among Dutch sectoral institutions, the Dutch Ministry of Foreign Affairs attempts to settle them by acting as 'a honest broker', while unsettled issues are referred by the Dutch Prime Minister to a cabinet sub-committee, the Council for European Affairs, where conflicts are arbitrated before they reach the cabinet.<sup>55</sup>

The policy co-ordination culture is inadequate to meet the growing needs of Lithuania's accession to the EU. In Lithuania policy co-ordination is narrowly equated with central control. Such elements as 'the definition of an institutional mission and role', 'the institutional embodiment of purpose', 'the defence of institutional integrity' and 'the ordering of internal conflict'<sup>56</sup>, which are crucial for effective policy co-ordination, are often missing. The embedded principle of ministerial autonomy hinders the evolution of extensive information-sharing networks that would be likely to facilitate policy co-ordination. Though the European Committee does supply guidelines on the administration of EU matters, to whom sectoral institutions have to obey, they are not extensive and, most importantly, they often originate in the Commission or the EU Delegation in Vilnius. The practice of exchanging information through circulation lists is still underdeveloped, though copying letters to interested parties becomes increasingly popular. At the level of working groups and committees, the flow of information between legal working groups and responsible institutions is

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<sup>55</sup> B. Soetendorp and K. Hanf, 'The Netherlands: Growing Doubts of A Loyal Member', in K. Hanf and B. Soetendorp (eds), *Adapting to European Integration: Small States and the European Union*, Longman, 1998, pp. 41-42.

<sup>56</sup> Wright, p. 148-49.

inadequate. All this can be contrasted with Great Britain whose culture of sharing information, partially stemming from the doctrine of governmental responsibility, is particularly conducive to policy co-ordination.<sup>57</sup>

The co-ordination of policy implementation is particularly weak. This stems largely from the lack of an appropriate implementation culture. In the communist administrative system, characterised by an excessively hierarchical and legalistic nature, officials were primarily concerned with carrying out formal orders rather than implementing their substantive provisions in practice.<sup>58</sup> At present, the implementation of governmental assignments is monitored on a similar basis. This is again in contrast to Great Britain, where the deeply embedded norm that the effective implementation of EU law must be ensured is viewed by the British European Secretariat as 'one of the key oversight tasks'<sup>59</sup>. Additionally, an Austrian example illustrates that EU membership is likely to demand more flexibility in the future from the Lithuanian administration. After Austria's accession to the EU, its deeply embedded principle that 'all state behaviour has to be based on written law' was limiting the necessary flexibility for the negotiations at the EU level.<sup>60</sup>

### *Policy Networks*

The effective management of European affairs also depends considerably on the relationship between the civil service and specialised interest organisations. The EU member state administrations usually draw their expertise and information from various non-governmental organisations. Equally important, they rely on professional organisations for the implementation and enforcement of regulatory requirements, e.g. safety at work standards. In most member states professional organisations of actuaries, accountants or veterinarians exercise self-regulation.<sup>61</sup> Under the principle of partnership, professional organisations and other groups are entitled to be involved in the administration of the EU's structural funds. In an attempt to increase their performance, several member states have consolidated their links with different interest organisations.<sup>62</sup>

<sup>57</sup> Bulmer and Burch, p. 620.

<sup>58</sup> N. Barr, 'The Forces Driving Change', in N. Barr (ed.) *Labor Markets and Social Policy in Central and Eastern Europe: The Transition and Beyond*, Oxford University Press, 1994, p. 105.

<sup>59</sup> *Ibid.*, p. 621.

<sup>60</sup> P. Luif, 'Austria: Adaptation through Anticipation', in K. Hanf and B. Soetendorp (eds), *Adapting to European Integration: Small States and the European Union*, Longman, 1998, p. 126.

<sup>61</sup> Mayhew, p. 222.

<sup>62</sup> France, for instance, set up a number of 'mobilisation groups' in an attempt to facilitate the exchange of information between the bureaucracy and interest organisations. See S. Mazey and J. Richardson, 'Promiscuous Policymaking: The European Policy Style?', in C. Rhodes



Conversely, the involvement of Lithuanian interest organisations (and sub-national authorities) in domestic decision-making on EU matters is minimal. Thus, Lithuanian authorities are not capable of drawing their expertise and information on EU matters from such organisations. The internal organisation of Lithuanian interest organisations is generally weak, and there are no strong links between interest organisations and the Lithuanian government in the Lithuanian EU policy-making process. Lithuanian business and professional organisations are too weak to exercise self-regulation or delegated regulation. This means that the Lithuanian government, as other CEE governments, should assume primary responsibility for a larger amount of regulatory activities than their west European counterparts, even though it may not be best placed to do so in terms of knowledge and experience.<sup>63</sup> The development of policy networks, akin to those in the member states, is limited by the need to replace old policy networks, which collapsed as a result of the elimination of central control through communist party links and privatisation of state-owned enterprises, with completely new networks. As an example, severe tensions between revamped 'old' trade unions and new unions constrain their integration into policy networks and thus their impact on EU matters.

In addition, the absence of intellectual discourse in Lithuania on European issues must be noted, which is in contrast to most EU member states where domestic policy communities are actively involved in the domestic EU decision-making. In the Lithuanian context, these groups would have the potential to accumulate institutional memory on European matters and promote adjustments to the Lithuanian EU policy. However, the evolution of policy communities seems to be subject to 'vicious circle': it is largely the absence of stability within the Lithuania's civil service that both hinders the evolution of policy communities and necessitates their establishment at the same time. In contrast to Lithuania, Hungary's Strategic Task Force serves as a policy community. By acting as an advisory body to the Integration Cabinet and the secretariat, the Task Force links various research institutes, universities, chambers of commerce and private companies in 19 working groups, thereby generating its expertise and information.<sup>64</sup>

Furthermore, Lithuania has missed out on the opportunity to take advantage of regional co-operation networks. The ability of Lithuanian

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and S. Mazey (eds) *The State of The European Union: Building a European Polity?*, Vol. 3 (1995), Longman, p. 353.

<sup>63</sup> Mayhew, p. 222-223.

<sup>64</sup> See 'Hungarian Task Force Supports Country's Integration Goals', *Public Management Forum*, Vol. 2, No. 4 (1996), p. 3 or M. A. Rupp, 'The Pre-accession Strategy and the Governmental Structures of the Visegrad Countries', in K. Herderson (ed.) *Back to Europe: Central and Eastern Europe and the European Union*, UCL Press, 1999, p. 98.



authorities to learn from more advanced CEECs has been limited by several factors. Besides limited Lithuanian governmental capabilities to foster regional co-operation on EU matters, a limited willingness of some countries to work together with Lithuanian authorities on EU matters is particularly relevant to mention here. For instance, Estonia has clearly emphasised its exclusive status in the Baltic states, while Poland has closely worked together with Hungary on EU matters. A more recent feature is a growing co-operation with Latvia, manifested in increasing bilateral meetings between Lithuanian and Latvian authorities. The Lithuanian case suggests that the multilateral approach to screening<sup>65</sup> applied by the Commission to the second-wave applicant countries has not significantly advanced co-operation on European affairs. Co-operation had been long hindered by the attempts of more advanced reformers to secure their places in the first-wave enlargement of the EU<sup>66</sup> and the EU's inability to open accession negotiations with, and offer its membership to, all the applicants. It is not surprising that co-operation among the first-wave applicants has become more intense at the expense of the second-wave applicants, when in 1997 the Luxembourg European Council decided to open accession negotiations with five CEECs.<sup>67</sup>

The constraint of weak policy co-ordination is likely to become even more binding after Lithuania's accession to the EU. EU membership will further increase administrative requirements for Lithuanian authorities, as they will be involved in all stages of the European policy process, ranging from agenda setting to policy enforcement. In terms of different co-ordination levels, EU membership will bring the need for extensive policy co-ordination at the domestic level, at the EU level and at the domestic-EU interface.<sup>68</sup> Weak co-ordination is likely to limit Lithuania's ability to maximise its advantage from EU membership, e.g. through its inability to define a coherent position in the negotiations, which is of particular importance for the small states in order to ensure the representation of their interests at the European level. Therefore, it is highly likely that inadequate policy co-ordination capabilities in Lithuania will render its governing system even more unwieldy unless substantial reform efforts will be undertaken.

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<sup>65</sup> Screening refers to systematic and detailed analysis of national legislation to check its compatibility with the *acquis* divided into 29 chapters.

<sup>66</sup> Mayhew, p. 355.

<sup>67</sup> They first met in Prague in late-1997 to discuss their integration strategies.

<sup>68</sup> Wright, p. 149.

## The Case Study: the Implementation of the National Programme for the Adoption of the *Acquis* in Lithuania

This case study assesses Lithuania's governmental capabilities to prepare, administer and implement the National Programme for the Adoption of the *Acquis* (NPAA). The NPAA's importance stems from being a key instrument for the implementation of the Accession Partnership, which is a key element of 'the [EU's] enhanced pre-accession strategy'. The Accession Partnership, adopted by the Council, lists broad priority objectives for every applicant country and links all forms of assistance, in particular the Phare programme, for their achievement. The extensiveness of priority objectives depends significantly on the EU's functions: EU's policy prescriptions are less detailed in areas where the EU lacks authority<sup>69</sup>. These Accession Partnership objectives must be achieved by setting out a number of measures in the NPAA along with timetables for their achievement. Although the NPAA remains a national programme, its direct relationship to the Accession Partnership makes it similar to measures enacted by the member state administrations to implement EU legislation. Thus, the NPAA's analysis can illuminate Lithuania's current and future ability to enact EU policy measures at the domestic level.

It is necessary to note at the outset that the NPAA represents one of three integration programmes that exist in Lithuania, which have been drawn up in response to changing circumstances. When the Commission adopted its White Paper in 1995<sup>70</sup>, the Lithuanian government adopted a National Programme for Legal Harmonisation (1996) in order to transpose the *acquis* outlined in the White Paper. Second, the NPAA (1998) was prepared following the adoption of the Accession Partnership. Finally, when the Commission published its regular report, Lithuanian authorities responded to it with an Action Programme (adopted in late-1998), whose basic objective is to address deficiencies outlined by the Commission in its first report until the second one is drafted. Thus, each integration programme has been only assessed in light of new circumstances, often resulting from the changes in the EU's pre-accession strategy, rather than strategic integration objectives.

Since these integration programmes basically share the same objective, namely Lithuania's ability to comply with the *acquis*, they ultimately exhibit a high degree of overlap, thus not only adding to administrative costs, but also contributing to confusion. An abundance of 'programmes' and 'action plans' cannot replace the need to have a single comprehensive integration strategy. However, its preparation is circumscribed by insufficient strategic planning and

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<sup>69</sup> See Grabbe.

<sup>70</sup> *Preparation of the Associated Countries of Central and Eastern Europe for Integration into the Internal Market of the Union*, COM (95) 163 Final, 3 May 1995.



predictability not only in Lithuania, but also in the EU. Until recently, frequent changes in the EU's approach to pre-accession imposed severe limits on the Lithuania's ability to design the comprehensive integration strategy.

In the absence of a clear integration strategy, Lithuanian authorities are more exposed to a variety of external and internal demands with often conflicting priorities. The Commission's proposals, flowing from its pre-accession strategy, need to be compromised and balanced with Lithuania's own organisational goals. Institutional uncertainty, coupled with significant human resource constraints, can in part explain the persistence of the reactive approach to the administration of EU matters in Lithuania. This is manifested by the absence of a rational approach to legal harmonisation with the *acquis* based on the prior assessment of possible domestic impacts of particular *acquis* provisions. The fact that the Lithuanian government by its decree delayed the implementation of some NPAA's measures reflects that the NPAA was organised without having sufficient knowledge about the NPAA's funding and without the *a priori* assessment of what it is necessary for the achievement of the Accession Partnership priorities.

In addition to the constraint of the inadequate civil service, the principle of ministerial autonomy feeds into the NPAA's organisation and administration. Primarily drafted by sectoral institutions, the NPAA represents more a collection of sectoral measures than a consistent programme. Such sectors as regional policy and economic policy are under-represented in the NPAA.<sup>71</sup> This situation has been attributed to insufficient attention attached to the NPAA and the absence of sectoral reform strategies.<sup>72</sup> Indeed, as the Commission noted, 'an operational institutional structure for the implementation of regional policy has not been established in Lithuania' and 'Lithuania has not yet established a medium term economic strategy'.<sup>73</sup>

Apart from these issues, of utmost importance is the absence of an institution to check for a (mis)match between national sectoral measures and the Accession Partnership priorities. In an environment characterised by a high degree of ministerial autonomy and weak control by the political executive, sectoral institutions are not willing to present detailed measures, whose formal execution will be tightly controlled. Thus, it is not surprising that such sectors as audio-visual policies were initially left out by Lithuanian authorities in the first draft of the NPAA, even though they are listed in the Accession Partnership.

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<sup>71</sup> *Lietuvos Respublikos Seimo Europos Reikalų Komiteto Isvada-Pranesimas apie Nacionalines Acquis Priemimo Programos Vykdyta ir Siulymai, Kaip Gerinti Sios Programos Administratima*, p. 15.

<sup>72</sup> *Ibid.*, p. 15.

<sup>73</sup> *Regular Report from the Commission on Lithuania's Progress Towards Accession*, 1998.



Additionally, most of the NPAA's measures are related to sectoral reform rather than to the implementation of EU law.<sup>74</sup>

The European Committee, having formal responsibility for the NPAA's administration, does not check (and has no capacity to check) the extent to which the implementation of sectoral measures, as set out in the NPAA, is consistent with the Accession Partnership priorities. Thus, it is possible that the NPAA's implementation would not lead to the full transposition of the *acquis* into national law. The European Committee acts primarily as a 'post office': it collects sectoral inputs into the NPAA and then exercises the formal and hierarchical control over their execution. It has been admitted that in that respect the performance of the European Committee does not differ from that of its predecessor, the Ministry of European Affairs.<sup>75</sup> More effective monitoring of the NPAA, possibly including regular reports on the NPAA's implementation, has the potential of enhancing its effectiveness. If the European Committee lacks sufficient human resources for the effective oversight of the NPAA, it can exercise the monitoring of the NPAA on a selective basis. The example of Spain, where the implementation of EU directives of an inter-ministerial or problematic nature are subject to more extensive oversight<sup>76</sup>, offers a possible instrument for Lithuania.

It is interesting to note that only the Commission has commented upon a (mis)match between NPAA's measures and the Accession Partnership priorities. This reveals that the steering of the NPAA is exercised more by the Commission than the Lithuanian government.<sup>77</sup> The Commission came to conclusion that not all Accession Partnership measures have been reflected in the NPAA; the NPAA does not cover the whole *acquis*; the inclusion of some NPAA's measures lacks sufficient justification; information on the financial and staff resources necessary for the achievement of NPAA's measures are insufficient; responsible institutions are not clearly spelled out; and detailed implementation schedules for NPAA's measures are missing.<sup>78</sup>

The administration of the NPAA suffers from a high degree of formalism and rigidity. The NPAA and all changes to it must be approved by the

<sup>74</sup> *Lietuvos Respublikos Seimo Europos Reikalų Komiteto Isvada-Pranesimas apie Nacionalines Acquis Priemimo Programos Vykdyta ir Siulymai, Kaip Gerinti Šios Programos Administratimą*, p. 15.

<sup>75</sup> Interviews with Lithuanian officials, December 1998 – January 1999.

<sup>76</sup> F. Morata, 'Spain: Modernization through Integration', in K. Hanf and B. Soetendorp (eds), *Adapting to European Integration: Small States and the European Union*, Longman, 1998, p. 105.

<sup>77</sup> The Commission's steering ability is facilitated by its perception as being at the top of administrative hierarchy, in the same way as Moscow was perceived under the communism.

<sup>78</sup> *Regular Report from the Commission on Lithuania's Progress Towards Accession*, 1998.

government. Delaying the implementation schedule is possible, but not looked upon with favour. Although sectoral institutions are entitled to amend the list of measures, whose implementation is their responsibility, they are not allowed to do it on an ongoing basis. Apart from this, the formal control exercised by the European Committee over the achievement of measures hinders flexibility. Since the cost of correcting errors is high, the adjustment of sectoral measures to new circumstances is infrequent. Sectoral institutions have limited incentives to seek efficiency gains, since the funding is allocated for separate measures and the limited possibility exists for redistributing resources among them. One solution could be the introduction of an appropriate incentive structure, involving such incentives as the removal of constraints or the delegation of authority.

Ineffective policy implementation is evident in the case of the NPAA. By late-1998, approximately 40 per cent of the NPAA's measures planned for 1998 were not carried out on time. The implementation record widely differs across sectors. The area entitled 'the reinforcement of institutional and administrative capacity', the essential element of the Accession Partnership, is one of the most lagging behind. By late-1998, Lithuanian authorities managed to carry out only 5 administrative reform measures out of 28.<sup>79</sup> The late implementation of major legislative acts in this field has strangely been attributed by the government to the fact that 'many legal acts [...] are being harmonised with European Union requirements and are co-ordinated with the other national legislation'<sup>80</sup>, although there are no EU legislation in this field.

The implementation of NPAA's measures is hindered by the slow governmental and legislative decision-making process, which suffers from an enormous workload. It can be hardly surprising, since in Lithuania most EU pieces of legislation are incorporated into national law through parliamentary laws and governmental decrees. In contrast, in Denmark 85 per cent of EU legislative acts are administratively transformed through 'a law of authorisation'.<sup>81</sup> In early-1999, to shorten the lengthy procedures, by which European legislation is incorporated into the Lithuanian legal system, it was decided to prioritise the transposition of EU law. A special 'fast-track'

<sup>79</sup> Lietuvos Respublikos Seimo Europos Reikalų Komiteto Isvada-Pranesimas apie Nacionalines Acquis Priemimo Programos Vykdyma ir Siulymai, Kaip Gerinti Sios Programos Administratima, p. 26.

<sup>80</sup> Action Programme of the Government of the Republic of Lithuania for 1997-2000: At a Half-way Point the Major Part of the Measures Stipulated for Four Years Have Already Been Implemented, the Government of the Republic of Lithuania, 1999 (<http://www.lrvk.lt/aktualij/progr-ang.htm>).

<sup>81</sup> S. Z. von Dosenrode, 'Denmark: The Testing of a Hesitant Membership', in K. Hanf and B. Soetendorp (eds), *Adapting to European Integration: Small States and the European Union*, Longman, 1998, p. 55.



deliberation system for European matters has been launched. Its essence is that draft legal acts that are related to the transposition of EU legislation, are marked by 'E' (standing for Europe) and attributed a preferential status in the governmental decision-making system. However, even though it is too early to judge the possible effectiveness of this system, it is safe to argue that without a fundamental overhaul of the governmental decision-making system or of the transposition process the mere introduction of the 'fast-track' system is unlikely to solve this problem. The advantage of streamlining the deliberation of EU matters comes at the countervailing disadvantage of delaying the deliberation of other public matters, which may be conducive to the transition process. Additionally, the opportunities offered by the 'fast-track' system are likely to be soon exhausted with the increasing amount of EU matters.

Furthermore, slow implementation can be attributed to the limited financial resources available for funding the achievement of NPAA's measures. At present, most measures are carried out by civil servants, but some of them are separately funded by the government. Uncertainty about the funding of NPAA's measures has triggered intense competition for budgetary appropriations among sectoral institutions. The total size of budgetary appropriations requested for achieving NPAA's measures in 1999 amounted to almost Ltl 2,5 bn for 1999, an increase from 1998 by remarkable 17 fold.<sup>82</sup> Some sectoral institutions, assuming that the NPAA's implementation will be separately funded, increased the number of sectoral measures and requested funding for their achievement. The Ministry of Agriculture, uncertain about the funding of agricultural measures listed both in the NPAA and the government programme, attempted to secure additional funding for the achievement of the same measures by listing them in two different programmes.

This example illustrates that a clear position as to the funding the NPAA's implementation was required before its preparation started. In contrast, the position of the Lithuanian authorities was ambiguous, and the NPAA's funding has not been linked up to the annual budgetary process. Due to the combination of at least three different factors - namely the existence of overlapping programmes, the absence of an effective monitoring system to determine the appropriateness of measures and the absence of a comprehensive integration strategy - it has been very difficult to match public resources with real funding needs. The achievement of some measures is partially or wholly funded by foreign assistance programmes, including Phare. Various action measures might be used to legitimise sectoral demands for increased appropriations rather than advance Lithuania's accession to the EU. In 1999, the funding of NPAA's measures envisaged from the national budget and other sources will only cover

<sup>82</sup> *Lietuvos Rytas*, 26 November 1998, 'Biurokratu Armija is Valstybes Kaulija Milijardus Litu', p. 3.

50 per cent of actual needs.<sup>83</sup> Thus, it is highly likely that some measures, including those whose achievement can be of utmost importance, will remain short of funding and *visa versa*.

## THE EU'S IMPACT ON THE EVOLUTION OF LITHUANIAN GOVERNMENTAL CAPABILITIES

The problem of inadequate governmental capabilities concerns not only Lithuanian authorities, but also the EU because the accession of ten CEECs to the EU is likely to exacerbate administrative deficiencies, already existing in the EU. Therefore the EU needs to close the gap between the inability (or even unwillingness) of CEE governments to implement comprehensive administrative reform programmes and the basic requirement that new members must have effective civil services as well as effective co-ordination and monitoring instruments. The EU faces considerable constraints, however, in affecting administrative reform both in the existing member states and the candidate countries. Since administrative reform falls within the exclusive domain of national sovereignty, the EU is not capable of directly imposing its own administrative solutions upon them.<sup>84</sup> These difficulties have shaped the way in which the European institutions have affected the management of EU matters in the CEECs. The analysis conceptualises the EU's pressure by making a distinction between its financial aid and agenda-setting power.

It is expected that the EU's influence, in particular the Phare programme, produces 'policy learning' effects in the CEECs, defined in terms of improved knowledge and skills on EU matters. As a result of 'changing perceptions of how the policy problem in question is to be defined, and what appropriate solutions are'<sup>85</sup> policy learning may be translated into important institutional or policy changes. The importance of learning in the transition countries is manifested in the argument that the long-term nature of institutional development in these countries can be explained by the substantial need for 'the gradual accumulation of experience and the acquisition of skills'.<sup>86</sup>

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<sup>83</sup> Lietuvos Respublikos Seimo Europos Reikalų Komiteto Isvada-Pranesimas apie Nacionalines Acquis Priemimo Programos Vykdyta ir Siulymai, Kaip Gerinti Sios Programos Administratima, p. 18.

<sup>84</sup> J. Fournier, 'Governance and European Integration - Reliable Public Administration', in OECD, *Preparing Public Administration for the European Administrative Space*, Sigma Papers, No. 23, Paris: OECD, 1998, p. 124-125.

<sup>85</sup> T. Conzelmann, "'Europeanization" of Regional Development Policies? Linking the Multi-Level Governance Approach with Theories of Policy Learning and Policy Change', *European Integration online Papers*, Vol. 2, No. 4 (1998) (<http://eiop.or.at/eiop/texte/1998-004a.htm>), p. 8.

<sup>86</sup> EBRD, *Transition Report 1998: Financial Sector in Transition*, EBRD, 1998, p. 5.



The analysis is limited here because, 'empirically, it is extraordinary difficult to show that the EU context actually induced processes of policy learning'.<sup>87</sup> Thus, the EU's impact on policy learning in Lithuania is analysed by looking at the extent to which the evolution of Phare has facilitated policy learning in the Lithuanian civil service. This approach can be partially justified by the uniformity of the EU's pre-accession strategy with regard to all the CEECs (even after the Luxembourg summit differentiated among them), which is likely to have similar effects upon policy learning processes in the CEECs.

The analysis makes an assessment of the EU's impact on the domestic policy-making process, since one can expect that the form that the EU's influence takes, and the extent to which it is translated, is mediated by domestic institutional settings. The EU's impact is mediated by national institutions, which have the monopoly power of translating the EU's pressure into institutional and policy changes. Thus, the analysis assesses the extent to which the EU's influence actually generated policy learning in the Lithuanian civil service and the extent to which new knowledge and skills have produced institutional and policy change. The case of fisheries administration examined below provides an example of the interplay of these factors.

### **The EU's Financial Assistance and Policy Learning**

The EU's key instrument to enhance the effectiveness of managing European affairs in the CEECs, including Lithuania, has been its financial assistance through various aid instruments, and in particular through the Phare programme. Phare has the objective of strengthening the public administration sector so that it can assume the obligations of EU accession and membership. In Lithuania, Phare funded civil servant training, the preparation of a draft Law on Civil Service, the modernisation of civil servant training centres and support to the establishment of the Lithuanian Institute of Public Administration.

The evolution of Phare reveals the increasing ability to generate policy learning effects. The 'demand-driven' Phare (from its outset to 1997) suffered from several sets of problems. First, it has been pointed out that the EU seemed more concerned with channelling money to its highly paid consultants rather than actually assisting the CEECs.<sup>88</sup> It was estimated by the European Investment Bank and OECD that 75 per cent of Phare allocations to the CEECs were channelled through European consultants operating in central and eastern

<sup>87</sup> C. J. Bennet and M. Howlett, 'The Lessons of Learning: Reconciling Theories of Policy Learning and Policy Change', in *Policy Sciences*, Vol. 25, No. 2 (1992), p. 292-294, quoted in Conzelmann, p. 8.

<sup>88</sup> J. Zielonka, *Policies Without Strategy: The EU's Record in Eastern Europe*, EUI, Robert Schuman Centre, Working Paper, No. 97/72, 1997, p. 4.

Europe. The effectiveness, efficiency and relevance of Phare suffered from its rigid tendering and contracting procedures, leading to long time gaps between the presentation of assistance proposals and the start of their implementation.<sup>89</sup> Even one Commissioner responsible for Phare had to admit that bureaucratic procedures and the lack, or low quality, of specialist knowledge hampered the effectiveness of European assistance to the CEECs.<sup>90</sup> Additionally, the generation of policy learning effects was circumscribed by the limited dissemination of knowledge and skills, although the limited Phare budget points to the importance of spreading new knowledge as wide as possible.<sup>91</sup>

Second, the limited success of technical assistance has been attributed to the limited capacity of the CEECs to absorb technical assistance due to their weak and ill-adapted administrations as well as a lack of experience in managing foreign assistance programmes.<sup>92</sup> The effectiveness, efficiency and sustainability of Phare projects were considerably undermined by the low degree of stability within the post-communist administrations. It has been pointed out that 'the officials and ministers dealing with Phare change quite regularly, often causing lack of institutional memory which affects the running of programmes'.<sup>93</sup> The Project Management Units (PMUs), which were set up within relevant sectoral ministries to support the administration of Phare, suffered from significant staffing problems<sup>94</sup>, high staff turnover and inappropriate role definition<sup>95</sup>. Additionally, the low planning capacity of the beneficiary countries hindered their ability to identify and prepare high quality Phare projects.<sup>96</sup>

It is interesting to note that Phare assistance considerably differed in its effectiveness, efficiency and sustainability across countries. The evaluation of two Phare programmes found Lithuania's record to be the worst of four evaluated countries, namely Bulgaria, Hungary, Lithuania and Poland.<sup>97</sup> To a large extent this stems from the low planning capacity and instability within the Lithuania's civil service, illustrated by the fact that Consulta, a state-funded

<sup>89</sup> *Phare Customs Programmes*, Evaluation Report, December 1998 ([http://europa.eu.int/comm/dg1a/evaluation/phare\\_customs/index.htm](http://europa.eu.int/comm/dg1a/evaluation/phare_customs/index.htm)).

<sup>90</sup> *Financial Times*, 10 June 1993, 'Brittan Admits Flaws in Aid', p. 3.

<sup>91</sup> *Phare Restructuring and Privatisation Programmes*, Evaluation Report, November 1998 ([http://europa.eu.int/comm/dg1a/evaluation/phare\\_privat/index.htm](http://europa.eu.int/comm/dg1a/evaluation/phare_privat/index.htm)).

<sup>92</sup> PHARE, *infoPHARE*, No. 8, Brussels: European Commission, July, 1995, p. 7.

<sup>93</sup> Mayhew, p. 145.

<sup>94</sup> Pratley, p. 152.

<sup>95</sup> *Phare Customs Programmes*.

<sup>96</sup> *Phare Cross-Border Co-operation Programme*, Evaluation Report, November 1998 ([http://europa.eu.int/comm/dg1a/evaluation/phare\\_cross\\_border/index.htm](http://europa.eu.int/comm/dg1a/evaluation/phare_cross_border/index.htm)).

<sup>97</sup> *Phare Restructuring and Privatisation Programmes and Phare Banking Sector Programmes*, Evaluation Report, November 1998 ([http://europa.eu.int/comm/dg1a/evaluation/phare\\_banking/index.htm](http://europa.eu.int/comm/dg1a/evaluation/phare_banking/index.htm)).



agency for enterprise restructuring, was losing its Phare-trained staff due to the insufficient commitment from the Lithuanian government to the agency's future until it was finally liquidated.<sup>98</sup>

In terms of different skills, the fact that European assistance takes the form of the hierarchical imposition of the *acquis* on the CEECs has had unequal effects on the development of governmental capabilities.<sup>99</sup> The advantage of facilitating 'policy management' skills, important for the transposition of the *acquis*, has been achieved at the expense of the development of 'policy entrepreneurship' skills, key to the successful implementation and enforcement of the *acquis* as well as the future participation of the CEECs in the European policy process. This can partially account for the fact that the process of transposing the *acquis* in the CEECs is more driven by the rule 'the faster, the better' rather than based on the prior assessment of possible domestic impacts of particular EU legislative provisions.

The final set of Phare deficiencies can be explained by its 'demand-driven' nature. In the absence of specific funding priorities, Phare was primarily executed on the basis of the beneficiaries' needs, to the extent that they were able to determine them in the terms of reference. Due to its 'demand-driven' nature, Phare sometimes was forced to support ineffective policies, e.g. in Bulgaria, which lacked sound restructuring policies, or Lithuania, where there was little stability in the privatisation policy.<sup>100</sup> Most importantly, Phare aid was not based on the principle of conditionality<sup>101</sup>, which could have been attached to Phare assistance in the form of *ex-ante* conditions (to be fulfilled prior to starting a Phare project) or *ex-post* conditions (by making future Phare projects dependent on existing ones).

A real break-through came in 1997, when another set of significant changes was enacted. The EU explicitly acknowledged the primary importance of the institutional and administrative capacity in the candidate countries for the preparations for EU membership and re-orientated the Phare programme from a 'demand-driven' into an 'accession-driven' programme. 30 per cent of the total Phare assistance has been allocated to the reinforcement of administrative and judicial capacity in the CEECs.<sup>102</sup> More importantly, new forms of technical

<sup>98</sup> *Phare Restructuring and Privatisation Programmes*.

<sup>99</sup> J. Caddy, 'Harmonization and Asymmetry: Environmental Policy Co-ordination between the European Union and Central Europe', *Journal of European Public Policy*, Vol. 4, No. 3 (1997), p. 325.

<sup>100</sup> *Phare Restructuring and Privatisation Programmes*.

<sup>101</sup> *Ibid.*

<sup>102</sup> In late-1997, the Luxembourg European Council decided that the remaining 70 per cent of the overall amount, previously allocated to investment projects, will be spent on investments related to the adoption and implementation of the *acquis*. Commission of the European

assistance have been spelled out, including such important instruments as curricula development, bilateral co-operation and secondments. The fact that they pre-suppose greater involvement of both the European institutions and the member state administrations in the Phare management is likely to produce greater policy learning effects.

In addition, the 1997 reforms attempted to improve the effectiveness, efficiency and sustainability of Phare assistance through the principle of conditionality. To overcome constraints deriving from the 'demand-driven' nature of Phare and to reinforce internal reform efforts, the EU applied the principle of conditionality to its financial assistance in the CEECs, thus rendering the allocation of EU's financial aid conditional upon the fulfilment of several requirements. Article 4 of a new Regulation empowers the Council to 'take appropriate steps', which may take the form of cutting or suspending financial assistance, if any of the CEECs fails to satisfy its commitments under the Europe Agreement, progress towards fulfilling the Copenhagen criteria or the Accession Partnership priority objectives (*ex-ante* conditionality).<sup>103</sup> Under conditionality, progress of individual CEECs will be reviewed every one or two years, rendering the partnership in the next year dependent upon progress achieved (*ex-post* conditionality).

These reforms are likely to generate greater policy learning effects by addressing the aforementioned problems stemming from the 'demand-driven' nature of Phare. The principle of conditionality is likely to facilitate the translation of new knowledge and skills on EU matters into institutional and policy changes, particularly those not desired by CEE governments. However, despite their advantages, the new Phare rules, in particular the principle of conditionality and the EU's decision to set priority objectives for financial assistance through the Accession Partnerships, have been criticised by CEE officials.<sup>104</sup> This may stem from the fact that while demanding higher administrative responsibility for managing EU affairs, they leave less autonomy. Additionally, the new Phare rules may be less relevant for more advanced CEECs with the greater planning capacity and more effective management. Interestingly, despite the criticisms, the Commission has already utilised its new powers by cutting Poland's allocation of Phare funding for 1998 by Ecu 34 mln

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Communities, *European Council: Conclusions of the Presidency*, Bulletin of the European Union, Luxembourg, 1997.

<sup>103</sup> 'Council Regulation No. 622/98 of 16 March 1998 on Assistance to the Applicant States in the Framework of the Pre-Accession Strategy, and in Particular on the Establishment of Accession Partnerships', in *Official Journal of the European Communities*, L 85, 20 March 1998, Luxembourg: Office for Official Publications of the European Communities, p. 2.

<sup>104</sup> See *Financial Times*, 22 December 1997, 'EU Conditions for Aid under Attack', p. 2.



(or 16 per cent) on the basis of inadequately prepared applications for various Phare projects.<sup>105</sup>

In an attempt to address the constraint of the low quality of Phare expertise in the CEECs, the Commission launched the 'twinning' framework as part of Phare. Its basic objective is to transfer 'the vast body of administrative and technical expertise' from the member state administrations to the CEECs by seconding national experts to the candidate counties.<sup>106</sup> The main advantage of twinning results from the direct transfer of expertise and information rather than through the involvement of private consultants, who sometimes lack technical knowledge in different policy fields. Thus, twinning is likely to significantly improve the transfer of knowledge to the applicant countries and corresponding policy learning.

However, the positive effect of twinning is likely to be circumscribed by several factors. Even though the Commission decided to pay a supplement to the seconded national officials and their respective departments through the Phare programme<sup>107</sup>, this is unlikely to reduce the limited ability (or even unwillingness) of the member state administrations to send their officials to the CEECs for sufficiently long time periods (in principle for twelve months) due to the limited number of qualified officials. This constraint can in part explain why only a few member states presented their twinning offers to Lithuanian authorities. During the presentation of their twinning proposal representatives of one member state admitted that they would be willing to form a 'twinning team' with other member states because they have limited capacity to achieve all twinning goals by themselves.<sup>108</sup> More importantly, the effectiveness of twinning is undermined by long selection procedures, even longer than those for the selection of private consultants. In an attempt to close the gap between the immediate need for Phare expertise in the structural funds area and long selection procedures for twinning, Lithuanian authorities even asked the Commission to replace a half of twinning assistance with private consultants. However, confident in the effectiveness of twinning, the Commission rejected this move.<sup>109</sup>

Most recently, in early-1999 the responsibility for Phare was significantly devolved to the EU delegations. The main principles underlying new

<sup>105</sup> *The Economist*, 6 June 1998, 'Humble Pie for Poland', p. 51.

<sup>106</sup> *Regular Report from the Commission on Lithuania's Progress Towards Accession*, 1998.

<sup>107</sup> *Agence Europe*, 23 October 1998, 'Commission to Launch "Twinning" in January 1999, with Dispatch of First National Officials to the Ministries of Countries Candidates for Accession'.

<sup>108</sup> Interview with Lithuanian officials, January 1999.

<sup>109</sup> Interview with Lithuanian officials, December 1998 – January 1999.

adjustments are the decentralisation of Phare management, the establishment of independent financial institutions and greater transparency. Following the introduction of the new rules the EU Delegations have been granted more powers. They will not only approve on behalf of the Commission the terms of reference, but the whole tender dossier with evaluation documents. The CEECs are likely to benefit from greater decentralisation through more direct contacts with Community officials and higher responsibilities, which are likely to lead to even greater learning effects. The introduction of the new rules was marked by disagreements between two DG I directorates over the extent to which social security costs can be funded by Phare, important for the CEECs in attracting qualified personnel to participate in different Phare projects. At present, the rule remains that Phare can only finance maintenance and operating costs for training and research programmes.

Finally, it is necessary to note the EU's decision to use Phare for funding the participation of the CEECs in various Community programmes, which presupposes the spread of significant policy learning effects to interest organisations. Since 1998 Lithuania has benefited from three European cultural programmes, namely Ariane, Kaleidoscope and Raphael. All the CEECs will be fully associated with the Fifth Community Framework for Research and Technological Development on the 'step-by-step' basis.<sup>110</sup> Once legal and practical preparations are finished, Lithuania will join the Medium-term Community Action Programme on Equal Opportunities for Men and Women<sup>111</sup>. Lithuania's participation in the SAVE II programme for the promotion of energy efficiency, the programme on the prevention of AIDS and other communicable diseases as well as the programme on drug dependence is being discussed.<sup>112</sup> To overcome the limited ability of the CEECs to pay their financial contributions for the participation in the Community programmes, Phare co-funds the participation of the CEECs in the Community programmes. Under the terms and conditions adopted by the Association Council, Lithuania will only pay 10, 30 and 50 per cent of the cost of its participation in Kaleidoscope and Raphael from

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<sup>110</sup> *Agence Europe*, 27 July 1998, 'Commission Calls on Council for Brief to Negotiate Association of Applicant Countries in 5TH Framework Programme for Research' and *Agence Europe*, 15 May 1998, 'Most CEECs Contemplating "Step-by-Step" Participation in 5TH Framework Programme for Research and Call for Phare Programme Financing - Positions of Countries'.

<sup>111</sup> *Agence Europe*, 30 December 1998, 'European Commission Interim Report on the Action Programme on Equal Opportunities for Men and Women Takes Stock of Progress Achieved and Describes Actions to be Developed'.

<sup>112</sup> *Agence Europe*, 11 May 1998, 'Commission Proposes that Council Authorise Participation of Several CEECs in A Number of Community Programmes'.



its national budget of 1998, 1999 and 2000 respectively.<sup>113</sup> The remaining percentage will be financed from Lithuania's annual Phare allocations.

The evolution of the Phare programme reveals a great deal about both the EU's policy preferences and its understanding of reform needs in the CEECs with regard to strengthening the CEECs' commitment to reform their administrations. The 1994 Phare reforms are illustrative of the EU's limited commitment to increasing the ability of the CEECs to meet obligations of EU membership. Behind this stands the fact that according to one Community official 'the level of seriousness about enlargement [in the EU] is not minimal, it simply does not exist'.<sup>114</sup> Conversely, the 1997 Phare reforms reveal not only increasing European commitment, but also increasing understanding of internal institutional factors that limit external efforts to make the management of EU matters more effective. The latest reforms are the most significant in terms of policy learning. By aiming to prepare the CEECs for the administration of future structural funds through the decentralised management of Phare they are most likely to render internal constraints less binding, thus advancing the emergence of adequate governmental capabilities to manage EU matters.

In sum, it was primarily through the transfer of knowledge and expertise by Phare that the post-communist administrations discovered the nature of European requirements in different policy fields and could in turn outline their reform needs. However, it is expected that mere policy learning is insufficient for ensuring the evolution of adequate governmental capabilities, since the translation of new knowledge and skills into policy actions or institutional changes is much more difficult and is subject to the old logic of appropriateness. The higher effectiveness of Phare assistance to training in Lithuania compared to other type of projects can be largely explained by the lack of need to translate training outputs into policy and institutional changes.<sup>115</sup> After discussing the EU's agenda-setting power, the analysis will proceed to examine the ability of Lithuanian authorities to transfer new knowledge into policy actions and institutional changes by looking at the fisheries example.

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<sup>113</sup> See 'Decision No. 4/98 of the Association Council Adopting the Terms and Conditions for the Participation of Lithuania in the Community Programmes in the Field of Culture', in *Official Journal of the European Communities*, L 35, 9 February 1999, Luxembourg: Office for Official Publications of the European Communities, pp. 42-44.

<sup>114</sup> *Financial Times*, 16 November 1995, 'Brussels Keeps Shut the Gates to the East', p. 25.

<sup>115</sup> *Phare Restructuring and Privatisation Programmes*.

## The EU's Power of Agenda Setting

The EU has also influenced the capacity of the CEECs to manage EU affairs by setting both the formal and informal agenda of CEE governments.<sup>116</sup> The Commission sets the informal agenda of CEE governments through identifying particular problems and proposing specific policy solutions. The importance of EU membership to the CEECs and limited domestic expertise on EU matters facilitate the EU's ability to exercise its agenda-setting power. It is relevant to note that although the Commission does not have a monopoly over setting the agenda of CEE governments, it is better placed to do so than other European institutions or even the member states. It enjoys the formal executive authority delegated by the Council for eastward enlargement and possesses both the expertise and financial resources. Because of the wide scope of the Accession Partnerships, the Commission's influence over policy-making in the CEECs 'goes beyond the EU's role in the domestic policy processes of its member states'.<sup>117</sup>

One can identify several EU's agenda-setting instruments, which vary in their effectiveness. Initially, bilateral meetings between CEE and European officials within the framework of the Europe Agreements served as an informal agenda-setting instrument. Their effectiveness was limited by the fact that the Association Council meets once a year, while the Association Committees meet once or twice a year. Despite this, they still act as the important agenda-setting instrument by serving as constructive forums for discussing broad, but important policy issues.<sup>118</sup> The bilateral meetings became increasingly ineffective due to the increasing lack of ministerial time, as the number of the associated countries increased from three (Hungary, Poland and Czechoslovakia) to ten.<sup>119</sup> In response to this, the 1994 Essen summit adopted the 'structured relationship' (otherwise entitled 'structured dialogue'), or the multilateral framework within which heads of state and government as well as sectoral ministers coming from both sides can debate European affairs.

However, the influence of the structured relationship on the governmental capabilities for administering EU matters in the CEECs through agenda setting

<sup>116</sup> Formal agenda setting is defined as the ability to set the procedural agenda, while informal agenda setting - as the ability to set the informal or substantive agenda. See M. A. Pollack, 'Delegation, Agency, and Agenda Setting in the European Community', *International Organization*, Vol. 51, No. 1 (1997), p. 121.

<sup>117</sup> See Grabbe.

<sup>118</sup> For instance, in early-1999 the EU-Lithuanian Association Council meeting discussed the national energy strategy, public administration reform, border control and control of illegal migration. See *Lietuvos Rytas*, 23 February 1999, 'Liuksemburge - Apie Lietuvos Ateiti', p. 2.

<sup>119</sup> Mayhew, p. 163.



have been largely limited for several reasons. Similar to the meetings within the framework of the Europe Agreements, the structured relationship meetings are normally held only once a year, except for the Council of Justice and Home Affairs and the General Affairs Council, which meet twice a year. Further limiting their effectiveness, they are not preceded by any prior exchange of information or preparatory expert meetings. Consequently, they are hampered by broad agendas, divergent views among the CEECs and extremely limited time.<sup>120</sup> Although several changes (preparatory expert meetings and prior exchange of information, shorter agenda, concrete recommendations after each meeting) have been agreed with regard to the structured dialogue following the increasing criticism from the CEEC<sup>121</sup>, it has been pointed out that no substantial improvements have been achieved<sup>122</sup>. Finally, the effectiveness of the structured relationship is frequently impeded by the lack of knowledge on EU matters or institutional memory in the CEECs due to the unstable nature of CEE administrations discussed above.

The Commission's opinions (1997a) and later regular reports (1998b) on the readiness of the CEECs to accede to the EU, which serve as another informal agenda-setting instrument, have been much more effective. In its opinions, the Commission identified particular obstacles to meeting the obligations of EU membership (e.g. ineffective public administration in Lithuania) and offered policy proposals for their resolution (e.g. undertaking official training, bringing remuneration in the public sector in line with that in the private sector).<sup>123</sup> However, the Commission's opinions proved to be insufficient for overcoming internal institutional constraints. Although the Commission spurred the development of Lithuanian regional policy by pointing out that its absence will hinder Lithuania's accession to the EU, its progress still remains limited due weak inter-ministerial co-ordination and a lack of expertise and information on EU regional policies. Delayed EU membership did not serve as a sufficient threat to the Lithuanian government to reform its regional policy institutions and rules.

Recently, several reform steps have been undertaken by the EU to strengthen internal administrative reform efforts. Most policy solutions identified by the Commission in its opinions have been negotiated into short-

<sup>120</sup> V. Birkavys, 'Planning EU Integration After Cannes', *Public Management Forum*, Vol. 1, No. 3 (1995), p. 1.

<sup>121</sup> *Agence Europe*, 27 February 1998, '15 Member States and 9 Associate Countries Make Improvements to "Structured Dialogue" '.

<sup>122</sup> Rupp, p. 94.

<sup>123</sup> J. Fournier, 'Administrative Reform in the Commission Opinions Concerning the Accession of the Central and Eastern European Countries to the European Union', in OECD, *Preparing Public Administrations for the European Administrative Space*, Sigma Papers, No. 23, Paris: OECD, 1998, p. 113.

term or medium-term reform objectives and embodied in the Accession Partnership agreements between the EU and the individual CEECs.<sup>124</sup> The Accession Partnership agreement between the EU and Lithuania includes, among other things, the introduction of a comprehensive official training programme on EU matters. More importantly, progress on implementing those reform objectives has been clearly linked to EU's financial assistance. This reflects the increasing understanding in the EU that its ability to influence the performance of CEE administrations largely depends on the link between its separate instruments, namely financial assistance and agenda setting.

As a result, the 1998 Phare programme for Lithuania, amounting to Ecu 29,1 mln, is designed on the basis of priority objectives specified in the Accession Partnership. The 1998 Phare programme covers five broad objectives, namely justice and home affairs, environment, energy, transport and reinforcing institutional and administrative capacity. The last objective is the most significant in terms of financial resources in the Phare programme: a total of Ecu 11,8 bn will be allocated for this objective. Most importantly, the implementation of the 1998 Phare programme is linked to the principle of conditionality through the Financing Memorandum, signed between the European Community and the Government of Lithuania in late-1998.<sup>125</sup>

In the Financing memorandum, the principle of conditionality is most often linked to the availability of sufficient counterpart staff from the Lithuanian administration financed from the national budget in the policy fields of agriculture, regional policy and cohesion, environment and transport. This reflects the Commission's concern about the Lithuanian human resources needed to effectively manage individual assistance projects foreseen by the 1998 Phare programme. In addition, the principle of conditionality is also linked to the adoption of new legal acts in the policy fields of social security, environment and energy, the establishment of proper co-ordination mechanisms to avoid fragmentation of justice and home affairs actions and to the availability of national budgetary funds to co-fund transport projects.

It is important to note that by linking its financial assistance and agenda setting, the EU has become empowered to set the formal agenda for the CEECs.

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<sup>124</sup> 'Council Decisions 98/259/EC - 98/268/EC', in *Official Journal of the European Communities*, L 121, 23 April 1998, Luxembourg: Office for Official Publications of the European Communities.

<sup>125</sup> See Special Provisions (Annex C), Financing Memorandum between the European Community and the Government of Lithuania, 10 December 1998. Under the Financing Memorandum, Lithuania is obliged to meet a number of priority objectives specified in the Accession Partnership agreement, while the Commission is obliged to fund their implementation.



This linkage extended the principle of conditionality to the EU's power of agenda setting. Thus, the Accession Partnership priority objectives have been endowed with 'if not quasi-legal, at least very formal' character.<sup>126</sup> This has already placed the implementation of priority objectives, set out in the Accession Partnership, high on the agenda of the Lithuanian government, thus strengthening its reform efforts. Following the Commission's remarks outlined in its opinion, in late-1997 the Lithuanian government adopted by decree an action plan with a number of priority measures in preparation for the Accession Partnership. In a similar way, following the Commission's remarks specified in its regular report on Lithuania's progress to accede to the EU, in late-1998 the Lithuanian government adopted a new action plan. Under this action plan, a number of measures should be achieved by mid-1999 when the Lithuanian government will start drafting its second progress report for the Commission. One can conclude that the EU's pressure for administrative adaptation, exerted through linking its financial assistance to agenda setting, has considerably strengthened internal reform efforts in Lithuania.

Screening, which was launched by the Commission in mid-1998, represents another powerful agenda-setting instrument. The Commission simultaneously manages bilateral screening processes with each first-group applicant country and one multilateral screening process with all the applicant countries. Both screening processes are largely similar: they are carried out by 'the same Commission officials, on the basis of the same *acquis communautaire*, on the basis of the same questionnaire'.<sup>127</sup> However, while the multilateral screening was limited to 'pedagogical' meetings in which the Commission explained the *acquis* to all the applicant countries, the bilateral screening went beyond that and also examined difficulties involved in adopting and implementing the *acquis* in the first-wave applicant countries.<sup>128</sup> Another difference stems from the fact that, at the end of the screening, the Commission will make recommendations to the Council only with respect to the bilateral screening. Due to these differences the first-wave applicant countries are exposed to slightly higher adaptation pressure than the second-wave applicant countries. For instance, more advanced candidate countries must prepare their negotiating positions on the different chapters of the *acquis*. Thus, it appears that the involvement of the first-wave countries in the bilateral screening generates higher policy learning effects than in the second-wave applicant countries. Since

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<sup>126</sup> Krenzler, p. 14.

<sup>127</sup> *Agence Europe*, 11 June 1998, 'Screening with the Five Applicant Countries of the Second Group Should Be Over in Spring 1999 – In November, Commission to Adopt its Evaluation Reports on Situation in All Applicant Countries'.

<sup>128</sup> *Agence Europe*, 30 July 1998, 'Commission and Five Applicant Countries of Second Group End "Multilateral Screening" of 20 of 29 Chapters of the *Acquis*'.

early-1999 the bilateral screening has also been extended to the second-wave applicant countries.

Finally, the EU sets the agenda of Lithuania's central government through informal means. The Commission's pre-occupations are communicated to the Lithuanian government through the EU Delegation, the Phare Office and directly from Brussels through DG 1A or sectoral DGs. For instance, it is through these institutions that the Commission repeatedly expressed its concern about Lithuanian capabilities to administer a special project for structural funds in the Phare programme. The Commission even requested a clear definition of administrative resources lacking for the effective exercise of the project with a detailed staffing plan. The repeating reference to national administrative resources shows that the Commission exploits all agenda-setting instruments to achieve its objectives. However, the informal agenda-setting instruments of the EU are less powerful by definition. By being less institutionalised they do not well adhere to the Lithuanian legalistic and hierarchical nature of public administration.

### **The Case Study: the Administration of Fisheries**

This analysis argues that it is national institutional settings that are essential in determining the outcome of the EU's influence on policy and institutional changes that affect the evolution of governmental capabilities. This is particularly the case because most of the EU's instruments with which it influences the evolution of governmental capabilities, in particular most Accession Partnership priority objectives, have the quality of being vague and hence require interpretation in the domestic context. In addition, the Commission cannot infringe upon the principle of national sovereignty nor does it have enough internal resources to design more specific Accession Partnership priority objectives. To determine the impact of national institutions, the analysis examines the case of fisheries administration that was selected on the basis of a large discrepancy between the post-communist heritage and the EU requirements in the fisheries field.

The fisheries administration represents one of few issues that need to be addressed. At present, the fisheries sector is jointly administered by two different institutions, namely the Department of Fishery Resources in the Ministry of Environment and the Department of Fisheries in the Ministry of Agriculture. The present situation reflects the communist past: under the communism, the fisheries sector was under the direct control of Moscow, which had overall responsibility for the fisheries sector, while two committees in the Lithuanian Soviet administration enjoyed some decentralised responsibility. In mid-1997, the Commission's opinion on Lithuania (1997a) produced the impetus towards the re-organisation of fisheries administration by pointing out



that 'it will be necessary for Lithuania to establish a fisheries administration which corresponds to the Community requirements of managing fishing stocks, fishing, fish processing and fish trade, and which is capable of collecting data and co-ordinating the necessary restructuring'.<sup>129</sup> Its important role was noted by Lithuanian officials who admitted that without this opinion the re-organisation of fisheries administration would not have been placed on the agenda of the Lithuanian government.<sup>130</sup>

This criticism was accompanied by the transfer of new knowledge in the form of a report on the fisheries administration in the EU member states from Danish consultants. The recipient of foreign assistance, the Department of Fisheries, learned that in all EU member states the control over the fisheries sector was entrusted to agricultural ministries following national adjustments to the CFP (Common Fisheries Policy) or, more specifically, the increasing importance of fish processing (relative to fish conservation) and the location of the fisheries support instrument within the EAGGF (European Agricultural Guidance and Guarantee Fund). The report, coupled with the Commission's opinion, strengthened the bargaining power of the Ministry of Agriculture *vis-à-vis* the Ministry of Environment over the re-organisation of fisheries administration.

It was against this background that reform efforts for the fisheries administration have been initiated. The Ministry of Agriculture took the position that a single responsible institution must be introduced. However, this position received an outright rejection by the Ministry of Environment. It is not surprising because both institutions, albeit acting in the same policy area, view the fisheries sector through different lenses. The Ministry of Agriculture is mostly concerned with the processing of fish products, while the Ministry of Environment emphasises the conservation of fish resources. This situation produced a long turf battle between the two ministries. The Ministry of Environment has declined to agree with the provisions of the draft Law on Fisheries, which referred to the administration of fisheries by one institution. Consequently, the adoption of the Law on Fisheries, which cover another important aspects, has been delayed for three years. An attempt to merge two institutions before adopting the Law on Fisheries has also been blocked by the Ministry of Environment. A draft government decree that foresaw a transfer of the Department of Fishery Resources to the jurisdiction of the Ministry of Agriculture with its budgetary allocations and property did not come into force.

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<sup>129</sup> *The Commission Opinion on Lithuania's Application for Membership of the European Union*, 1997.

<sup>130</sup> Interview with Lithuanian officials, December 1998.

Once inter-ministerial co-ordination proved to be insufficient, attention was turned to outside interventions. Following a discussion on the administration of fisheries, the Parliamentary Committee on Rural Affairs recommended that the government have to merge two fisheries departments into one under the authority of the Ministry of Agriculture. However, no action followed this recommendation. The Prime Minister attempted to resolve this issue by authorising two sectoral policy ministries to draft a re-organisation plan for fisheries that would include the establishment of one institution responsible for fisheries. This resolution has not been implemented either. The inability to resolve the long-standing conflict over the fisheries administration illustrates the weak arbitration capacity of the government centre.

The current situation can be described as 'negative co-ordination', in which both responsible institutions exercise their formal functions and contribute minimal efforts to inter-ministerial co-ordination. This situation largely derives from the deeply embedded principle of ministerial autonomy. Inter-ministerial co-ordination takes place within the working group for fisheries which is composed of 4 officials coming from the Ministry of Agriculture and 2 officials coming from the Ministry of Environment. However, in the absence of a stable administrative structure for fisheries inter-ministerial co-ordination is not sufficient to ensure the effective administration of fisheries or, more specifically, the achievement of such tasks as drawing up a register of fishing vessels or ensuring that the fish processing in Lithuania is in conformity with European norms.

In late-1998, the Commission's regular report on Lithuania, which reiterated that 'Lithuania needs to undertake legislative and administrative reforms to implement the Common Fisheries Policy'<sup>131</sup>, re-opened this discussion after all means have been exhausted by the Ministry of Agriculture. Following the discussions of the Commission's regular report in the Governmental Commission for European Integration, the European Committee has been entrusted to present its solutions on this matter. However, after the failure of governmental intervention, it is highly unlikely that this decision will end the long conflict between two sectoral ministries over the administration of fisheries.

The fisheries case illustrates that the form the re-organisation of fisheries administration is taking is subject to the governmental decision-making process characterised by high ministerial autonomy, collegiality, weak inter-ministerial co-ordination and weak arbitration of inter-ministerial disputes. This explains why attempts to impose unilateral solutions have been ineffective. It also

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<sup>131</sup> *Regular Report from the Commission on Lithuania's Progress Towards Accession, 1998.*



illustrates that the old logic of appropriateness is deeply embedded in the national institutional settings. This is evident by the fact that the re-organisation of fisheries administration lasted for more than three years and that the possibility of delayed EU membership has not been sufficient force for overcoming the impact of deeply embedded national institutions.

## CONCLUSION

This analysis has presented an explanatory framework for the study of governmental capabilities based on the new institutionalist insights and applied it to the administration of EU matters in Lithuania. It has demonstrated that Lithuania's current governmental capabilities to manage EU matters are inadequate. This can be illustrated by the ineffective Lithuanian EU policy, including the ineffective management of the National Programme for the Adoption of the *Acquis*. The inadequacy of governmental capabilities can be partly explained by the binding nature of institutional constraints that are defined by internal factors (the post-communist legacy and the transition process) and external factors (the EU's nature) and manifested in the mismatch between the basic characteristics of Lithuanian administration and the EU requirements.

If this mismatch can partly explain the inadequacy of governmental capabilities to manage EU matters in Lithuania, its power to explain domestic institutional and policy adjustments to EU-level requirements is very limited. They cannot be explained in terms of the magnitude of the capability-requirement gap. For instance, administrative adaptation in the fisheries area is very slow despite the large mismatch between the EU requirements and the characteristics of Lithuanian institutional set-up. To explain domestic and institutional policy adjustments, one must look at the EU pressure and the domestic decision-making logic.

For the EU pressure, the ability and willingness of Lithuanian authorities to close the capability-requirements gap depended substantially on the pressure exerted by the EU institutions, particularly by the European Commission, through their agenda-setting instruments, particularly through the Accession Partnership. Additionally, this analysis indicated that Lithuanian policy and institutional change have been facilitated by the EU's Phare programme, which generated significant policy learning effects in Lithuania's administration. The EU's decision to link its financial assistance to agenda setting through the principle of conditionality considerably strengthened Lithuania's internal reform efforts.

The domestic decision-making logic represents more powerful explanatory tool. The capability-requirements gap cannot account for the uneven pattern of institutional and policy change within the Lithuanian central government. This analysis indicates that the change pattern is marked by a contrast between radical changes to the Lithuanian central government structure and the Lithuanian institutional structure for co-ordinating EU matters on the one hand and incremental changes to ministerial and governmental decision-making processes and staff management practices on the other. This contrast can be explained by different 'path-dependency' levels, which are in turn influenced by the extent to which different institutions are embedded into national institutional settings. Lithuania's formal institutional structure, which was determined by initial reform choices during the transition period, is less institutionalised than decision-making processes and staff management practices, which were inherited from the communist past.

The different levels of embeddedness can also be explained by the higher sensitivity of formal institutional structures to political pressures that often result from the dissatisfaction of political institutions with government performance. This can be illustrated by the example that major changes to the Lithuanian institutional structure for co-ordinating EU matters have been precipitated by political factors. For Lithuanian policy-makers this contrast implies that the real challenges to the Lithuanian EU policy lie not in the formal government structure itself, but in the wider institutional framework within which it operates.

It has been also demonstrated by this analysis that the binding force of institutional constraints that hinders the development of governmental capabilities is currently more conditioned by internal factors than external factors. Since the Lithuanian EU policy is still dominated by the transposition of EU legislation into national law, institutional constraints that result from the mismatch between the nature of Lithuanian administration and the EU requirements have not fully materialised yet. For Lithuanian decision-makers this means that the most needed reform efforts are those that address the binding character of internal factors.

Additionally, these domestic reform efforts are capable of increasing the effectiveness of EU's reform efforts (financial assistance and agenda setting), whose success is highly dependent upon national institutional settings. Even though Phare assistance rendered institutional constraints less binding by generating significant policy learning effects, its ability to produce policy and institutional changes has been subject to the old logic of appropriateness. Specifically, the fisheries case study showed the way in which both the impact of new knowledge and the EU's agenda-setting power was mediated by national institutional factors, namely the characteristics of governmental decision-making



process. Even the possibility of delayed EU membership has not enabled yet to overcome the impact of deeply rooted national institutional factors in the fisheries sector.

Finally, it is important to put the development of adequate governmental capabilities in the context of EU enlargement. For the EU's pre-accession process the absence of adequate governmental capabilities in Lithuania refers not only to its limited capacity to fulfil obligations of EU membership, but also to its limited ability to negotiate favourable terms of accession with the EU. However, one should not exaggerate the problem of inadequate administrative capabilities in Lithuania. This problem can be also observed in other CEECs and the EU member states, in particular in the area of implementing and enforcing the *acquis*. In addition, the candidate countries have to comply with wider *acquis* than the existing member states, they have no 'opt-out' possibilities and the very narrow scope to negotiate long transitional periods, all factors implying enormous challenges for the state capabilities. The potential benefits of eastward enlargement<sup>132</sup> must not prevent Lithuania's accession to the EU, even if it currently lacks adequate governmental capabilities for the effective administration of EU matters.

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<sup>132</sup> R. E. Baldwin, J. F. Francois and R. Portes, 'The Costs and Benefits of Eastern Enlargement: the Impact on the EU and Central Europe', *Economic Policy*, Vol. 24 (1997).

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