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FOREWORD

For the 9th time, the two decisive European professional associations of Public Administration, the Network of Institutes and Schools of Public Administration in Central and Eastern Europe (NISPAcee) and the European Group on Public Administration (EGPA) held a joint conference in the series of Trans-European Dialogue (TED 9). Six conference sessions brought together numerous professionals from research, education, public administration, etc. in order to promote and interchange current information on topics of openness, transparency and ethics in public administration (PA). O/T/E concepts are interrelated and intertwined and considered as the basic pillars of the modern PA. Ethical conduct in PA has been somehow assumed as a leading principle for conduct of public servants for a very long time while other two concepts are much younger and became subject of normative codification in most countries only in the last two decades. Openness and transparency are two principles that are often used interchangeably in literature, but it is important to define the differences and connection between them.

The OECD definition recently upgraded to focus more on practical aspects and impacts rather than procedures and rules, defines Open Government as a “government open to contribution of citizens and society to –co-create public value and engaged to respect three main principles: ensure full Transparency of its actions, its processes and its data, enable Participation of citizens to its decisions and processes, promote and accept the Collaboration of citizens to the production of services” or let us put it in a more formal form: $O = T + P + C$.

	<p>So the main aim and objective of TED9 was to serve as an academic forum of experts to highlight all these concepts and to discuss their relevance for further development of PA theory and its implications.</p>
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THE INFORMATION AND DATA PROTECTION COMMISSIONER'S EFFECTIVENESS ON TRANSPARENCY

CASE STUDY ALBANIA

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The new Albanian law of 2014 "On the Right of Information" fully reformed the existing system regarding the obligation of the public administration institutions to make available public data to any interesting party. Inspired by European western countries models like UK, Sweden, Spain, Germany, etc. it created the Information and Data Protection Commissioner. Considered a special form of external control, the new Institution has the obligation to guarantee the citizens' right to access public data and in the same time to have their personal data protected.

The 2014 law makes considerable changes compared with the previous law by liberalizing the citizens' access on public data. Anyone can request information considered as public, without the need to explain his motives. In case of refusal, the Commissioner orders the public administration institutions to make available the requested information. If the institution's refusal persists, the Commissioner has the right to fine the head of the institution.

According to UN Report, *transparency* refers to unfettered access by the public to timely and reliable information on decisions and performance in the public sector. Considering that Albania has not a good record, when it comes to public administration transparency, the aim of the paper is to analyze the effectiveness of the new law and the new Institution, given that transparency is one of the main pillars of a responsible public administration. This is achieved through the comparison with the system used by other countries in the region and by the examination of data transfer operations, which is a good way to assess the adequacy of the system created.

The new law entered into force in November 2014 and the office of the Information and Data Protection Commissioner, received 26 complaints for 2 months. During 2015 the Commissioner has taken 47 Decisions, most of them have accepted the private parties request for accessing public data. In some cases the PA institution has taken the case before the administrative court, refusing to obey to the Commissioner's order. The revision of the Commissioner's overall activity, including acceptance or refusal decisions, hearing sessions, court cases, makes possible reaching a reasonable conclusion, whether the institution will fulfil the purpose, for which it was established, or if Albania will have to implement another system to ensure transparency.

Key words: *transparency, right of information, public administration, public data.*

Introduction

Albania's route towards EU integration has raised the necessity for legal and institutional reforms, particularly in respect of public administration authorities. Public administration transparency and raising the appropriate legal mechanisms to guarantee this transparency, has not been in the focus of the Albanian's governments in the beginning of the transition process. This lack of interest caused the existence of restrictions, mostly not legal but practical ones, meaning that the law provisions for guaranteeing PA's transparency are not sufficient without the establishment of the special mechanisms in order to guarantee this right. The countries' first important steps in this direction were the article 23 of the Albanian Constitution and the approval of the law no. 8503, dated 30.6.1999, "On the right of information on official documents".

Theoretically and practically speaking, *transparency* as a concept is very difficult to be designated. This is the reason why currently there is no commonly agreement upon the definition of this concept.² According to the UN

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² Bauhr, Monika, Marcia Grimes, 2012. What is Government Transparency? New Measures and Relevance for Quality of Government, *The Quality Government Institute*, 2012:16, University of Gothenburg, http://www.qog.pol.gu.se/digitalAssets/1418/1418047_2012_16_bauhr_grimes.pdf.

Report, *transparency* refers to: “*unfettered access by the public to timely and reliable information on decisions and performance in the public sector.*”³ In law, transparency mainly refers to *the freedom of access in the administrative documents, the freedom of information, the guarantees of an administrative justice and also the motivation of the taken decisions.*”⁴

Post-communist transition countries like Albania have the tendency to restrict the access of public to official and public information. This is caused by the absence of the independent public administration during communist regimes. The state structure was centralized, hierarchical and under the complete control of the state party. All the control is concentrated in the hands of the party. Transparency is incompatible with the socialist system.⁵ The fall of communism and other totalitarianism regimes was in part a moral condemnation of the culture of “*secrecy,*” and lack of access to public documents.⁶ Based on these premises, Albania, like the other countries of Central and Eastern Europe, faced the challenge of building a public administration based on a new operation system.⁷

Transparency in public administration serves various purposes. Transparent administrative action ensures legal certainty because decisions become more predictable. By means of transparency, citizens are informed about administrative action and organization, and are provided with some sort of control: the administration becomes directly accountable towards citizens. Administrative transparency may compensate for a lack of democratic legitimacy and enhance the legitimacy of public administration.⁸ Taking in consideration that the democratic deficit is considered a threat to public administration’s legitimacy, the open public administration theory stresses the importance of individual participation in the adoption of executive regulations and public access to all information on public administration operations. They can obtain all public information on the work of the public administration and participate in adopting its decisions.⁹ The right of access to public information is one of the modalities in which citizens exercise their democratic participation. Transparency can be considered a counterweight to administrative power and may reduce the risk of arbitrary action by the administration. If administrative performance becomes more transparent, it also can be evaluated better.¹⁰ The literature stresses the benefit of systems with a central authority responsible for implementing the law, as court cases can be rather lengthy. Furthermore, the lack of a central authority also reduces the possibility of accurately supervising the law’s implementation. Since the freedom of information Law is considered as one of the main ‘objective’ measures regarding transparency,¹¹ the scope of the paper focuses precisely on this law and the new institution it has created, that of the Commissioner on Information, as the supervising authority of the law.

³ Armstrong, Elia, 2005. Integrity, Transparency and Accountability in Public Administration: Recent Trends, Regional and International Developments and Emerging Issues, United Nations, <http://unpan1.un.org/intradoc/groups/public/documents/un/unpan020955.pdf>

⁴ <http://shtetiweb.org/>, website that aims to promote the public information, administered by the Institute for Cooperation and Development (Instituti për Bashkëpunim dhe Zhvillim).

⁵ Liem, Susan I., 2007. Constituents of Transparency in Public Administration with Reference to Empirical Findings from Estonia, Dissertation of the University of St. Gallen, Graduate School of Business Administration, Economics, Law and Social Sciences (HSG), Gutenberg, Schaan.

[http://www1.unisg.ch/www/edis.nsf/SysLkpByIdentifier/3350/\\$FILE/dis3350.pdf](http://www1.unisg.ch/www/edis.nsf/SysLkpByIdentifier/3350/$FILE/dis3350.pdf)

⁶ Bugarič, Bojan, 2012. Openness and Transparency in Public Administration: Challenges for Public Law, *Wisconsin International Law Journal*, Vol. 22, No.3.

<http://hosted.law.wisc.edu/wordpress/wilj/files/2012/02/bugaric.pdf>

⁷ Armstrong, Elia, 2005. Integrity, Transparency and Accountability in Public Administration: Recent Trends, Regional and International Developments and Emerging Issues, United Nations, <http://unpan1.un.org/intradoc/groups/public/documents/un/unpan020955.pdf>

⁸ Report, The principles of Public Administration, SIGMA, OECD, November 2014

<http://www.sigmaweb.org/publications/Principles-Public-Administration-Nov2014.pdf>

⁹ Bugarič, Bojan, 2012. Openness and Transparency in Public Administration: Challenges for Public Law, *Wisconsin International Law Journal*, Vol. 22, No.3.

<http://hosted.law.wisc.edu/wordpress/wilj/files/2012/02/bugaric.pdf>

¹⁰ Liem, Susan I., 2007. Constituents of Transparency in Public Administration with Reference to Empirical Findings from Estonia, Dissertation of the University of St. Gallen, Graduate School of Business Administration, Economics, Law and Social Sciences (HSG), Gutenberg, Schaan.

[http://www1.unisg.ch/www/edis.nsf/SysLkpByIdentifier/3350/\\$FILE/dis3350.pdf](http://www1.unisg.ch/www/edis.nsf/SysLkpByIdentifier/3350/$FILE/dis3350.pdf)

¹¹ Bellver, Ana, and Daniel Kaufmann, 2005, “Transparenting Transparency: Initial Empirics and Policy applications,” World Bank Policy Research Working Paper

The Albanian Legal Framework

The right for access to public information in Albania is a constitutional right, guaranteed by Article 23 of the Albanian Constitution. *“The right to information is guaranteed. 2. Everyone has the right, in compliance with law, to obtain information about the activity of state organs, and of persons who exercise state functions.”* Being a constitutional right provides it with the special position, but in case the constitutional principles are not complemented with the appropriate laws and other normative acts they become unenforceable. On 18th of December 2014, the Albanian Parliament approved the law no.119/2014, *“On the right for information”*. This law abolished the law no. 8503, dated 30.6.1999, *“On the right of information on official documents”*. There are substantial changes to the new law, compared with the previous law, aiming at the improvement of the implementation of this right. First of all the new law guarantees the public access in all kinds of public information, not just official documents, as it was previously stated. According to the 1999 law, the term “official document” referred to *“every kind of document, held by a public authority, in accordance with the applicable rules and that is related to the exercise of a public function.”* The concept used by the new law is much more ample, defined as the right of information on public information. According to the 2014 law, public information regards any kind of data registered in any kind of form and format, during the exercise of public functions, despite whether prepared or not by the public authority.

Considered very important the right of information was not restricted by either law. The scope of application is not a prerequisite for having access to the public information. The law granted to any person the right to get knowledge of public information, without being forced to explain its motives, or the direct legal interest with the information requested. The law presumes that everyone has a legal interest in specific information which is considered public. This right was acknowledged also by the previous law, but since it lacked the appropriate guaranteeing mechanisms, was difficult to be implemented.

If the information is not available in time, it may cause the same damages as not receiving it at all. The time limits for responses by the public authorities who receive a request for information, according to the previous law varied from 40 – 50 days. The new law reduces considerably the time granted to the public authority that is competent for handling the request for information. He is obliged to response as soon as possible, but not later than 10 working days, from the submission of the request. This term can be prolonged only by five days. The failure to handle the request for information within the above-mentioned limits will be considered a refusal.

The transparency is assured in two ways, through the individual requests and through public disclosure of information. With the adoption of the new law on the right to information, all institutions should draft and implement the institutional transparency program in order to guarantee access of citizens and civil society to information. The transparency program will be available without the need for a request. The public authority while drafting the transparency program must take in consideration the public’s best interest, especially to make as much information available, in order to decrease the need for individual requests for information. The law defines the information’s categories that should be made public without individual request, including laws, and bylaws, statutory acts, ethical codes, procedures, forms, addresses, data on public functionaries including their salaries, financial data, public procurement data, etc.

Pursuant to article 10 of Law no. 119/2014 *“On the right for information”*, every Public Authority will have to nominate a coordinator, to ensure the law implementation. The coordinator is one of the institution’s civil servants, whose assignment is the coordination of work throughout the institution, or with other public institutions, in order to guarantee the right of information. The Information Commissioner has the right to fine the information coordinators and in their absence the executive manager of the public authority. The fines vary from 150.000 to 300.000 ALL (approximately 1.100 -2.200 euro). The fines are considerable, when having in mind the average wage in Albania.

The request for information should be in writing and sent personally, by mail or electronic mail. It should contain the exact identity of the petitioner and his signature. In accordance with the request, the information may be sent by simple mail, or through the electronic mail. The complainant will decide which the recommended way for receiving the appropriate information is. Public administration services are free of charge. In case, the reproduction of the information costs, than the public authority can charge the applicant with the expenses. This fee is appointed previously and must be made public through the PA’s website and to his public waiting areas. The fee should reflect

the real cost of the reproduction of the requested information and when it is the case the cost of mailing the information. If the information is requested through electronic mail, it is granted free of charge.

One of the main innovations of the new law concerns the right for the judicial protection, in case the public authority or the Information Commissioner should not fulfil their legal obligation. Every individual, legal entity, or NGO, that considers that his legal right to information is infringed, has the right to submit a complaint to the Information Commissioner. The IC will review the complaint within 30 working days from the refusal or from the term expiration. The previous law regarding the administrative and judicial complaint provided only general guarantees, without specific provisions. Judicial remedy is considered crucial for guaranteeing transparency.¹² The applicant or the public authority has the right to appeal the Commissioner's decision before the competent administrative court. The competent courts are the administrative courts of first instance. This is an important step ahead compared to the previous law, especially with the inclusion of administrative courts, which have a simplified procedure and shorter terms of judicial processes. Similar experiences in other countries have contributed in constructing an open public administration by improving the access of public information.¹³

The Information Commissioner's Effectiveness

The new Albanian law on the right to information is considered overall a good law which has brought significant progress in guaranteeing this right. Nevertheless, this does not necessary mean that Albania now will overcome the practical problems related with the freedom of the public to have liberal access in public information. Transition in Albania has witnessed numerous good laws, which have failed to change the landscape, because of the implementations deficiency. The time of entry into force of the law is very short, to enable a full and final analysis. However a full year of activity of the Information Commissioner allows drawing some general conclusions regarding the effectiveness of this new institution, whose main scope is to supervise the accomplishment by the institution of public administration of their obligation to grant to the public, the public information.

Using legal frameworks to assess actual access to and availability of information is far from ideal, since countries' level of implementation of laws varies considerably. Access to information depends on well-organized records and a professional civil service.¹⁴ This is the reason why the paper aims to achieve its goal for evaluating the effectiveness and applicability of the right to information, by using as a criterion the Information Commissioner's activity.

From the procedural perspective, after receiving a complaint from a legal entity, individual or NGO, the Information Commissioner is the competent authority, that decides the proceedings to be followed. The first step is the verification of the legal status of the claiming public authority, or the subject to whom the request for information was directed. The appointed structure of the office of the Commissioner verifies the facts and the legal base of the complaint. The Commissioner may request the public authority to present in writing its pretensions regarding the case. The law gives the Commissioner the right to investigate not only at the premises of the public authority, but he may also gather information from any other source which he considers necessary. When the Commissioner deems it appropriate he conducts a hearing session. The hearing session is an exceptional case and only held on special occasions, because it is more time consuming and requires greater engagement of human resources. Only a few of the decisions of the Commissioner were taken after the hearing session in presence of both parties. The preferred procedures are the writing session and the administrative inspection performed by the representatives of the office of the Commissioner.

The Information Commissioner influence in many cases is indirect. Public authorities are more inclined to render public information, in case the legal basis of the request is the new law on public information. This is confirmed also

¹²Report, The principles of Public Administration, SIGMA, OECD, November 2014.

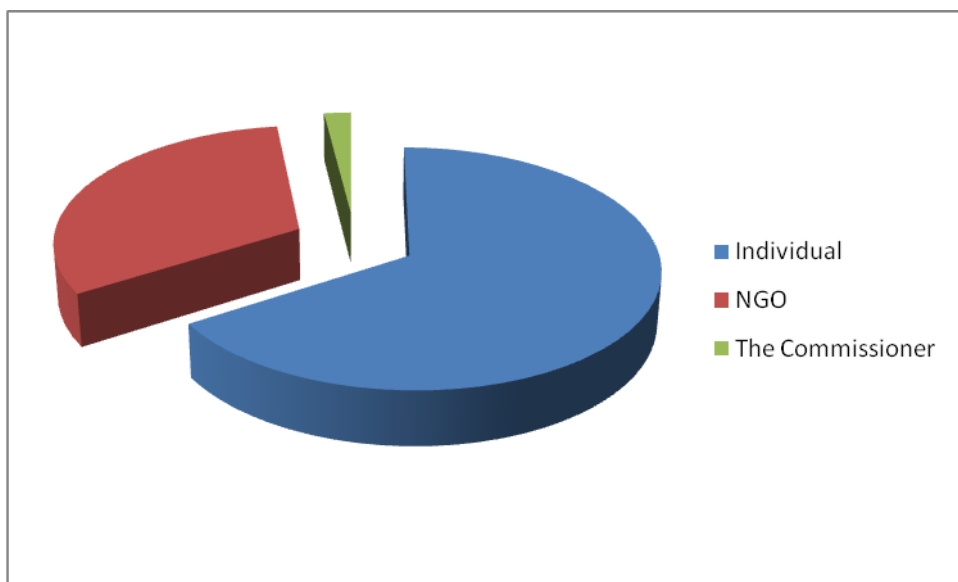
<http://www.sigmaxweb.org/publications/Principles-Public-Administration-Nov2014.pdf>

¹³ The law on public information that was passed in Ireland in 1997, significantly contributed to reforming Ireland's state administration and transforming it into an open public administration. (See Bugarič, Bojan, 2012. Openness and Transparency in Public Administration: Challenges for Public Law, *Wisconsin International Law Journal*, Vol. 22, No.3.)

¹⁴ Roberts, Alasdair. 2006. *Blacked out: Government secrecy in the information age*. New York: Cambridge University Press

by the survey performed by the Respublica centre, which confirms that several cases the public authorities act according to the law after receiving the administrative complaint addressed to the Commissioner.¹⁵

The law on the right of information entered into force in November 2014. The first decisions were taken in 2015. During 2015 the Commissioner examined and decided about the acceptance or refusal of 50 complaints. (*Graphic 1*) In case the complaint lacks the necessary data to determine which is the documentation requested, the Information Commissioner obligates the public authority to contact with the complainant to replenish the missing data. 33 of the complainants were from individuals and 16 from Non Governmental Organizations. The number of complaints is limited, but is increasing progressively. This is understandable taking in consideration the short time of entry into force of the law. A peculiarity is the relatively high percentage of the complaints drawn by NGOs, who don't have a direct interest in the information and is not related with a close personal interest, but for informing the public. One of the factors that have influenced this outcome is the conducting of several studies, which aim to supervise the law on information.¹⁶

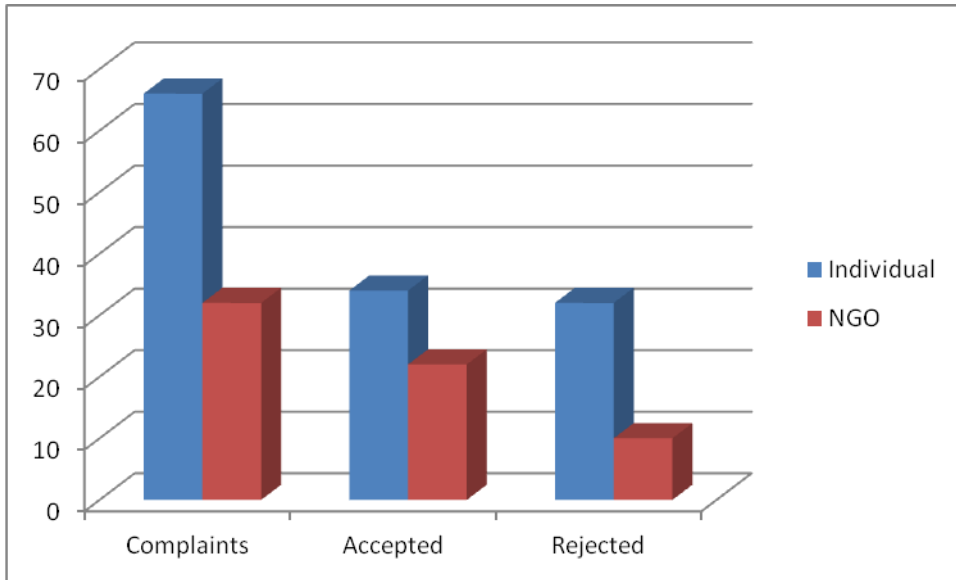


Graphic 1 - Complainants

The review of the Information Commissioner's decisions points out several important conclusions. They are fully reasoned, with a detailed overview of the circumstances and effective legal examination. The Commissioner explains all the procedures followed by the complainants and is very clear on the duties he assigns to the public authorities. These properties are encountered in the acceptance and rejection decisions, without any apparent difference. During 2015 the Commissioner has accepted 54% of the complaints and rejected 44%. (*Graphic 2*) By reviewing the connection between the legal statuses of the complainants, if it is a private individual, or an NGO, with the accepted or rejected complaints, it is concluded that NGOs have a lower number of rejection decisions. It can be assumed that this is related with a better knowledge by the NGOs. The reasons of the refusal for both categories of complaints show a better knowledge of the law and its requirements, compared to private individuals.

¹⁵ Study, 2015. E drejta e informimit në bankoprovë (*Right of information tested*), RESPUBLICA.

¹⁶ Report, 2015, Monitorim per Zbatimin e Ligjit për të drejtën e informimit. (*Monitoring of the Implementation of the law on the right of information*), Albanian Media Institute; Report, 2015. Monitorimi i Transparencës dhe Sjelljes së Administratës Gjyqësore ndaj Publikut. (*Monitoring of Transparency and Behaviour of the Judicial Administration towards the Public*), Albanian Institute for Political Study; Study, 2015. E drejta e informimit në bankoprovë (*Right of information tested*), RESPUBLICA.



Graphic 2 – Acceptance or rejection of the requests according to the complainants

To reach a plausible conclusion regarding the effectiveness of the Information Commissioner in Albania, it is crucial to identify and review the reasons for which the Commissioner has rejected the access to information. Table 1 recapitulates these reasons, ranking them according to the frequency encountered. The public authorities and the commissioner can refuse to render information in exemptions cases related with private data, or classified information, in accordance with specific laws.

Reason for rejection	Number of decisions
The data requested were personal data	7 Decisions
The public authority has already given a response	5 Decisions
The subject to whom it was requested was not a public administration institution	4 Decisions
The information requested did not exist	2 Decisions
The legal term had passed	3 Decisions
The request is not found	1 Decision

Table 1, Reasons for the rejection of the request by the Commissioner

As can be seen from the table the main reason for which the Commissioner has rejected the access of public to a specific set of information is the protection of personal data. According to law no.9887, dated 10.03.2008, personal data are defined as: “Any information about a physical person, identified or identifiable, directly or indirectly, in particular referred to an identification number or one or more specific factors regarding his physical, physiological, mental, economic, cultural or social identity.” The law and the Commissioner recommend interpreting as narrowly as possible the cases when the law restricts the right to access public information. In order to protect the personal

data, but also act according to the right of information the Information Commissioner recommends deleting only specific data, in order to preserve the anonymity.

The public authorities who did not act according to the law and were subjected to the Commissioner's decision were of all kind, including Universities, Municipalities, Police, Prosecutor, the Offices of the Registry of Immovable Property, and even the Informative Services of the State (the secret services in Albania). In the majority of the decisions taken, the Information Commissioner highlights the lack of the appointed coordinator, pointing the breach of a law from public authorities. Despite of this the Information Commissioner has not been willing to take penalty decisions. The Commissioner has been cautious in imposing fines. This has happened because the law requests some provisional time in order to give possibility to public authorities to comply with the law. One of the decisions¹⁷ was not initiated by the complaint of an individual or NGO, but as an investigation process, initiated by the Commissioner's office. In this case, the Commissioner concluded that the public authority had failed to implement the law, because the coordinator requested by the article 19/4 of the Law on Information, was not appointed. The public authority administrator was fined.

The applicant or the public authority can appeal the Information Commissioner's decision before the competent administrative court. The Administrative Courts of First Instance have had several cases regarding complaints in order to guarantee the right of information. First of all it is very important to emphasize that these decisions could be accessed only through the secretary of the Court.¹⁸ The Administrative Courts in Albania in breach of the law on the right of information, have not installed an electronic system available online. In all of the decisions that were accessible the Court confirms the decision of the Information Commissioner. This happened in the case of the acceptance and in the cases of rejection as well.

Conclusions

The Strategy for reforming the public administration in Albania highlights several of the deficiencies that have been estimated in the area of transparency. More specifically is mentioned the significant lack of transparency in the activities and decision-making. Institutions generally provide little information and are not open to transparency. Civil society and interested persons have little access to the activity of the administration, which tends to be hermetic. The steps to establish a new system regarding transparency in public administration focus not only on the civil service, but also on other important elements to address the need to improve the services provided to citizens and businesses, to increase transparency and accountability or issues such as governance innovation, which the Government has set as priorities in its political program of 2013-2017.¹⁹ The importance of transparency emerges even in "*The national plan for the European integration*", adopted by DCM no.438, dated 07.02.2014, where the term "*transparency*" was mentioned in 53 cases.

Regarding the reform on the public access to the right of information what is more important is the activity of the Information Commissioner. As outlined in the paper the Information Commissioner is a new institution in Albania, to whom was given the responsibility to supervise the overall implementation of the law on information by the public authorities and also the review of special individual cases.

Commissioner's Decisions and the Court's Decision show a good starting point for the implementation of the new law. The Commissioner's office has been very prudent to respect all the aspects of law, the term, the legal status of the subject, the legal status of the data requested. The decisions taken by the Commissioner are reasoned and include all the legal reasons and legal norms in which it is based. The increase of individual requests towards the Information Commissioner, will grant this institution the possibility to have a more active position.

Transparency is a fundamental requisition for a functioning democracy, especially in a post communist country like Albania, where corruption, lack of ethics, incompetence and other factors, hamper the administration's

¹⁷ Decision of the Commissioner on the Right of Information and the Protection of Personal Data, no.49, dated 06.11.2015.

¹⁸ Accessibility was made more difficult because the Administration of the Administrative Court had to search for the decisions in the paper registers, because the electronic system was not available even for internal use.

¹⁹ Crosscutting Public Administration Reform Strategy 2015-2020, Albanian Ministry of Innovation and Public Administration and the Department of Public Administration.

effectiveness. The Information Commissioner is a good opportunity to change the approach that the majority of the public administration has towards public disclosure of its activity and documents. The hitherto performance shows a good initiation, but there is still much progress to do. Other public authorities' institutions play an important role in implementing in the appropriate way, the law on information and guaranteeing to the public this constitutional right. The cooperation between the public authorities and the Information Commissioner and the good will to implement the law, are the essential requirements for guaranteeing the effectiveness of the legal framework on the right of access to public information.

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What Drives Transparency of Slovak Municipalities?

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Abstract

This paper focuses on transparency of the Slovak municipalities. It identifies the main trends in transparency of the 100 largest Slovak local governments since 2010 till 2014. It shows that there are different degrees of transparency in the Slovak municipalities and applies regression analyses to identify the main factors behind this state. The regression analysis identifies convergence effect by which transparency of municipalities improve inversely to their initial score. It also finds slight negative incumbency effect that means lower improvement for incumbent than for new mayors. This research is descriptive and explanatory and adds to literature by examining the factors related to the political supply of transparency in the local government level.

Key words: transparency, municipality, incumbency, convergence.

Introduction

The concept of transparency is one of the main issues discussed within the good governance for the last 20 years and therefore attracts a scholar interest. The implications of transparency, as well as factors that trigger transparency are intensively studied. Within this paper we look at the level of transparency of the Slovak municipalities and identify main trends in this area as well as explore factors influencing the state in 2014.

The paper consists of 5 parts. The first part provides theoretical embedding of the concept of transparency that is often related to the access to information and can be defined as “the deliberate attempt to make available all legally releasable information – whether positive or negative in nature – in a manner that is accurate, timely, balanced and unequivocal for the purpose of enhancing the reasoning ability of publics and holding organizations accountable for their actions, policies and practices” (Rawlings, 2009). The second part looks at the transparency development in the Slovak municipalities, mainly from the legal perspective. Then the research questions and methodology are discussed. We apply quantitative approach and use regression analysis to test the impact of the selected factors. After clarifying the methodology, the paper continues with the presentation of the findings and a short discussion.

1. On Transparency

This part provides the definition of the concept of transparency as well as the overview of the types of transparency. It also looks at its implications.

1.1. Defining Transparency

The research conducted during the last 20 years provides several approaches to conceptualization of *transparency*. Some definitions are descriptive, other normative. A common denominator of many of those definitions is a belief in *information* as sine qua non of transparency (Rawlings, 2009). Rawlings (2009) also states that transparency is “the deliberate attempt to make available all legally releasable information – whether positive or negative in nature – in a manner that is accurate, timely, balanced and unequivocal for the purpose of enhancing the reasoning ability of publics and holding organizations accountable for their actions, policies and practices”.

Within the context of governance, Piotrowski et al. (2007) stresses the role of transparency in finding out what is going on inside the government and Strathern (2000) emphasizes the proposition that “if procedures and methods are open to scrutiny, then the organization is open to critique and ultimately to improvement”.

Several family resemblance concepts are related to the transparency – as for example *openness*, *insights or clarity* (Oliver, 2004). Links between transparency, openness and information are however often vague and unclear.

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Christensen (2015) provides one way of explaining the relations by stating that organizational openness may be a precondition for transparency and information accessibility is seen as precondition for openness and transparency

1.2 Types of Transparency and its Measurement

Transparency in the public sector, as indicated in its definitions above, may have many forms. For example Meijer (2009) discusses three types of transparency: a premodern, modern and post-modern perspective shown in the following table.

Table 1: Society, government and transparency from three perspectives

	Premodern	Modern	Postmodern
Society	Union of time and space	Time-space distancing	Decoupling time and space
Government	Personalized government	Centralized government	Fragmented government
Transparency	Unmediated transparency and reality	Computer-mediated transparency reflect reality	Computer mediated transparency is a separate reality

Source: Meijer (2009)

Characteristic of modern forms of transparency is that they are generally mediated. According to Hood (2006) they differ from direct face-to-face transparency in traditional town meetings. They are mediated through a mass media for some time and a new media such as the internet. Thus computer-mediated transparency is “the ability to look clearly through the windows of institution through the use of computerized systems” (Meijer, 2009). E-transparency is the type of the mediated transparency. Bannister and Connolly (2011) discuss e-transparency and divide it as following: data transparency, process transparency and decision-making transparency as shown in table 2.

Table 2: Types of transparency and principal type of question addressed

	What?	Who?	Where?	When?	How?	Why?
Data	X	X	X	X		
Process			X	X	X	
Decision					X	X

Source: Bannister – Connolly (2011)

Many organizations and scholars have applied instruments to **measure transparency** and openness for more than last 20 years. One of the examples is measuring transparency by comparing freedom of information legislation conducted through the experts’ evaluations. The studies also differ in the used indicators for assessing laws and transparency, one of the possible approaches being the comparison of transparency of budgetary processes defined by the legislation (The Open Budget Survey, 2015). Thus there is a growing body of literature focusing on freedom of information (e.g. Piotrowski et al., 2002....), government information practices (e.g. Banisar, 2004), the impact of transparency and the attempts to measure the demand for transparency on the local level (Piotrowski, 2006). In this regard Vishwanath and Kaufmann (1999) indicate that studies that try to measure transparency have used proxies such as “weak rule of law” and “corruption” that are related to weak transparency but do not fully reflect it.

The similar approach in measuring transparency is conducting the benchmarking of government bodies or regions in terms of their e-government performance (Beynon-Davies, 2007). Competitive benchmarking of the electronic agenda is done on a number of levels within UK and Europe generally (Beynon-Davies, 2007). As Beynon-Davies states – two types of indicators have been used: percentage of a basic public services on-line and the use of on-line public services by the public for information purposes or submission of the forms. Several studies evaluate the performance and characteristics of e-government initiatives. For example Pina et al (2010) conducted empirical evaluation of the EU local government web sites. He looks at the following dimensions: transparency, interactivity, usability and web maturity (Pina et al., 2010). Similarly Moon (2002) conducts benchmarking and compares the programs and outcomes of e-government in US municipalities. Chadwick and May (2003) evaluate US, EU and British government web sites. Norris and Moon (2005) conducted longitudinal analysis on US municipalities – their websites, citizen’s perception of the impact of e-government and barriers to adoption. Scott (2006) evaluated to what extent municipalities web sites favor a higher participation in democratic processes in 100 US cities. In Europe, for example Pina et al (2007) looked at the effects of e-government on transparency, openness, and accountability in 15 EU countries. This paper compared the development and sophistication of 318 government web sites at sub-national level and tested the impact of contextual and organizational factors. They assessed the

level of e-government development based on four dimensions: transparency, interactivity, usability and web site maturity (Pina et al, 2007). They also examined 6 contextual factors/variables, such as independent administration styles, size of each city or use of the internet. As for the public administration styles, the research in the implementation of ICTs for the development of e-government initiatives does not identify clear borders. Population shows strong significance and positive sign in three models: thus the size of the city seems to encourage the development of e-government.

1.3 Implications of Transparency

It is assumed that transparency can effectively steer individual and collective behavior towards desirable objectives, that include holding elected or appointed public officers accountable and making processes more efficient (Hansen et al. 2015, Adsera et al., 2003). More information may facilitate *access* to truth and thus generate *knowledge, insights* and *clarity* on the part of the observer (Oliver, 2004) and expected outcomes range from increased visibility and efficiency to accountability, authenticity, participation, involvement, empowerment, emancipation and trust (Hansen et al. 2015).

As for the accountability, it has many dimensions (e.g. Radin, 2002): it can focus on agency leaders, administrative performance and professional relationships. According to Piotrowski (2006), transparency crosscuts many dimensions of accountability, mainly legal and political. Thus as Oliver remarked (2004), in the long run, transparency will bring more democratic and more affluent societies.

Many scholars discuss the relation between transparency and the trust in the society. According to Rothstein (2005) transparency helps to build the trust, however Putnam (2000) and Fukuyama (1996) are critical of new forms of transparency. They have a pre-modern perspective on society in the sense that they emphasize the perverse effect of the technology. Traditional ways of producing trust, direct contacts and contextualized interactions are seen by them as superior to new mechanism of trust. In their view, impersonalized system may even undermine trust. On the other side, postmodernist believe that a greater variety of systems of government transparency will make for more quality (Meijer, 2009).

The relationship between the governance and transparency is also discussed in the literature. Islam (2003) shows that countries with better information also govern better while using two indicators: one is index based on the existence of freedom of information law and the second is called “transparency” index that measures the frequency with which economic data are published in countries around the world (Islam, 2003).

Several scholars also discuss the costs and risks of delivery in the context of transparency. For example Bannister and Connolly (2011) point out the rights of public servants (e.g. infringement of employee rights, as information about one-self) and costs of the transparency policies (front-end costs and running costs), defensive thinking, blame avoidance and failure to confront problems, conformal thinking, informal procedures and blame and hassle avoidance strategies.

2. Slovak Public Administration and Access to Information on Local Level

The current three-tier administrative division in Slovakia was established in 2001. Regional level is divided into eight counties (*kraje*) and their main competences are health care, high school education, road administration, preparation and approval of county’s budget, etc. (Law on Self-government of Higher Territorial Units). Counties also collect car tax and may impose fees to ensure its original competences.

There are 2927 municipalities (cities, towns and villages) within 8 counties. According to Swianiewicz (2003), the average size of one municipality in Slovakia is only 17 square kilometers with 1 700 inhabitants. The most populated municipality is the capital city with almost half million inhabitants. On the other side, there are municipalities with only 10 or 15 people. The main competences of cities and villages are primary school and pre-school education, road administration, waste management, preparation and approval of budget, etc. (Law on municipalities). These units may impose fees for using areas or services (parking, waste) and also collect property tax. However, some municipalities are more important than others. The Law on Municipalities defines “the city” as an economic, administrative, cultural or tourist centre that is an important transport hub, it has urban character and the number of inhabitants exceeds five thousand⁴ (Law on Municipalities). There are 138 cities in Slovakia.

The County councilors, chairmen as well as mayors and municipal councils are elected in elections held every four years. Both counties and municipalities have high level of fiscal and political decentralization. According to one of the key persons of fiscal decentralization in Slovakia Nižnanský (2005), although the process of decentralization of competences began in 2001, the process of fiscal decentralization came into force in 2004 with implementation in 2005. Counties as well as municipalities, have original competences and shared competences. Original

⁴ There are several cities with less than five thousand inhabitants in Slovakia. The Law on Municipalities recognizes the exception if this is justified by the fulfillment of the other conditions.

competences are exclusive competences such as own budget, road administration, public order, local taxes and fees, investments and business activities. Shared competences are financed from state budget transfers. It is for instance health care, education, elderly care, or tourism.

As for the access to information of the Slovak public sector, it is guaranteed by the Slovak constitution adopted in 1993. The Slovak Act on Free Access to Information was legislated later, in 2000 (Láštic, 2008) and amended several times. This Act regulates the subjects that are compulsory to provide information as well as procedures related to it. The Act allows for any person or organization to receive, within 10 working days, information held by a state agency, local government or private organization that makes public decisions. In cases where institutions fail to respond to requests, those seeking information can appeal to a higher agency or demand a review in court. Fines can be applied where non-compliance is proven. The 2010 amendment of the Act even requires public institutions to actively disclose all contracts, invoices, and financial transactions relating to the public on the internet. The Slovak Act on the Free Access to Information is considered to be one of the most progressive in Europe without bigger implementation problems (TI, 2012).

As already stated, the Slovak local governments are public bodies that are obliged to provide publicly available information. The access to information of the Slovak local governments is also regulated by other legislation: Public Procurement Act, Budgetary Act, Administrative Act and the Slovak Municipal Act. For the example the Public Procurement Act explicitly defines what types of information related to the procurement process have to be actively published, e.g. procurement plan, the call for the procurement, evaluation of the procurement, the contract etc. In addition to what the legislation requires local governments to actively publish on their web pages or on the publicly available spaces at the magistrates, each local government is free to develop its policy what additional information are to be actively provided to public.

3. Material and Methods

3.1. Datasets

The research draws on the data collected by non-governmental organization Transparency International Slovakia (TIS). TIS develops rankings of transparency of 100 largest Slovak municipalities every alternate year since 2010, hence there are three such rankings created so far. The change in the level of municipal transparency (the computer-mediated and unmediated transparency) during one electoral term, measured as the percentage change between the scores of the municipalities in years 2010 and 2014, is used as a dependent variable in testing the convergence effect (as explained below) and also in the political factors analysis.

As the methodology of the TIS ranking in 2014 has slightly changed compared to the methodology used in 2010, for purposes of this research the scores in 2010 ranking were recalculated using the 2014 scoring system. Therefore, only the indicators used in both of the rankings were selected to create comparable datasets. Second change in ranking methodology related to the fact that although the title of the ranking is "ranking of transparency", some indicators are connected to other concepts, mainly effective management of the public resources and public ethics.

Thus out of more than one hundred indicators originally used by TIS, our adapted ranking is based on 65 indicators. Most of them (55) concern e-transparency - a form of mediated transparency already discussed in the theoretical section and key component of e-government defined by Curtin et al. (2004) as *...the use of any and all forms of information and communications technology (ICT) by governments and their agents to enhance operations, the delivery of public information and services, citizen engagement and public participation, and the very process of the governance*. In this case, the indicators look at the online presence of various documents and information relevant not only to informed assessment of the municipal administration but also to possibility of public participation in municipal decision-making processes. These include documents such as materials for municipal parliamentary sessions, Chief Comptroller's reports, minutes from parliamentary, committee and council sessions, online forums for complaints and inquiries of the public, results of open competition processes of municipality's asset sale, annual budgets and their analyses, documents informing about allocation of the grants etc. The evaluation examines the transparency and openness of processes and mechanisms in several municipal policy areas, e.g. budgeting, grants policy, public procurement and so on.

The data for the rest of the selected indicators were gathered through Freedom of Information Act (211/2000) requests solicited by TIS. They focus on unmediated form of transparency - e.g. whether the sessions of the municipal bodies are open to public or test the readiness of the municipalities to provide the requested information. Therefore it is possible to state that the ranking provides an overview of both computer-mediated transparency as well as unmediated transparency. We will further refer to this as "transparency".

3.2. Research Questions and Hypotheses

First we try to identify the main trends in the development of municipal transparency during the four-year period (2010-2014). Since most of the indicators in our datasets relate to e-transparency, we expect that with more legal demands on municipal websites and increasing level of internet users in Slovakia (Eurostat), the overall state of transparency will be higher in 2014.

Then the relationship between the change in transparency since 2010 (data from 2014) and the level of transparency in 2010 is explored. We try to identify if the level of transparency of the Slovak governments converges or diverges over time (since 2010 till 2014). In other words, if there is the path dependency or convergence in transparency of the Slovak local governments. We expect convergence effect due to competition effect at the local government level and due to low hanging fruit effect (as it is easier to pursue standards, which are relatively easily to achieve). To explore this, we apply the regression analyses, where the change of the score is tested towards the 2010 data on transparency.

We also explore three political factors in relation to the change in the level of municipal transparency since 2010 till 2014. They are as follows: partisanship of the mayors, political competitiveness and incumbency. As for the control variables we look at age and gender of the mayors.

McNeal et al. (2003) claim that **partisanship** has an influence on implementation of e-government services and therefore e-transparency as well. Within the electoral system of the Slovak local governments, candidates for mayor can be supported by a single political party, coalition of parties (while they do not need to be members of any of them) or they can run as independents. Due to technical difficulties in assigning the "true" party affiliation in such system, we divide the mayors into two groups based on information stated on ballot papers - mayors who run as partisan candidates and mayors who run as independents. As there is an increasing number of independent mayors that run as independent candidates in municipal elections (Statistics Office) it even makes the research in this aspect more relevant.

Our second variable is **political competitiveness**. Here the hypothesis is that narrow competition between the candidates for mayor in the municipality, operationalized as a percentage difference in elections between the successful candidate and the runner-up, give more incentives for the incumbent to use transparency as a political instrument to attract more votes in the next elections. Welch and Hinnant (2002) highlight the positive relationship between transparency and political trust that is essential for electoral success. Likewise, Norman et al. (2010) remark that transparency is valuable not only for the public, but also for leaders themselves - the leader's transparency influence perceived trust and evaluation of leader's efficiency among the followers. Maybe because open communication and communication transparency has historically been viewed as essential ingredients in effective organizations (Grosse, 2002).

Based on the same understanding of transparency as a political instrument, the effect of **incumbency** should be inverse. Building on previous research of Sloboda (2014), we assume that mayors holding the office for (at least) second election term have less incentives for raising the level of transparency in their municipalities. This may be caused by other benefits of the incumbency, for example Gordon and Landa (2009) claim that the incumbency advantage consists of several direct and indirect benefits. One of the most significant direct benefits are less costly campaigning due to the utilization of officeholder's staff during election campaign and easier access to media. The indirect benefits lie in the power of incumbent's office itself. The office opens the window of opportunities to build and maintain relationships and agreements with influential groups or/and individuals which increase the visibility of the candidate for the electorate. Cox and Katz (1996) point out that the quality of the incumbent candidate is easier to evaluate due to the recognisability of candidate's name, support of the political party, ability to accumulate resources for the campaign and ability to solve problems and cooperate with leaders. As for the Slovak municipalities, the advantage of the incumbency in elections proves to be accurate - incumbents were almost seven times more successful than non-incumbents in 2010 elections (Sloboda, 2014). In this paper we test whether Sloboda's finding of negative relationship between incumbency and performance in transparency is valid with the new datasets.

Two control variables are explored as well - **age and gender of the mayors**. These are not of primary concern in the experimental outcome. However, they are important for the test of the robustness of the effect of other selected variables on change in the level of the transparency. The data were extracted from the ballots of municipal elections in 2010. The ballots were collected through e-mail requests and search on the official municipal websites.

Here we apply regression analysis where these selected variables are tested towards the change in the level of transparency in 100 largest Slovak municipalities.

4. Results

In relation to the developments of the transparency at the Slovak municipalities, the data show that the average state of transparency in 2010 was 31,7 percent, while the average figure in 2014 was 42,5 percent. Median shows the same increasing pattern with 30,9 percent in 2010 compared to 41,8 percent in 2014. In sum, 81 out of 100 municipalities raised the level of transparency since 2010.

As was already mentioned in the methodological section, the change of the transparency level, represented by the percentage change between the scores of the municipalities in years 2010 and 2014, is our dependent variable in linear regressions which test the convergence effect, the incumbency effect and the effect of the political competitiveness, and political affiliation. We used age and gender of mayors in the regression as control variables. Firstly, we test whether we can observe any convergence effect of municipal transparency level. The convergence effect hypothesis presupposes that higher initial level of transparency produce slower improvement in the future and consequently lower initial level of transparency produce faster following improvement. Linear regression shows that independent variable (the state of transparency level 2010) is statistically significant. Presumption of convergence is valid with the path dependency explaining 20 percent of the change in the transparency level of municipalities. The coefficient of the state of transparency level 2010 is 0,45. Hence, if the state of transparency level in 2010 was higher by one percentage point, the change in the transparency level was lower by 0,45 percentage point. More transparent municipalities tend to subsequently grow slower than worse performing municipalities, and vice versa.

Figure 1: Convergence effect

SUMMARY OUTPUT

Regression Statistics	
Multiple R	0,45352993
R Square	0,20568939
Adjusted R Square	0,19758418
Standard Error	0,11393003
Observations	100

ANOVA					
	df	SS	MS	F	Significance F
Regression	1	0,32940034	0,32940034	25,3774286	2,1514E-06
Residual	98	1,2720451	0,01298005		
Total	99	1,60144545			

	Coefficients	Standard Error	t Stat	P-value	Lower 95%	Upper 95%	Lower 95,0%	Upper 95,0%
Intercept	0,25096537	0,0305991	8,2017242	9,3991E-13	0,19024245	0,31168829	0,19024245	0,31168829
X2010	-0,4515342	0,08963278	-5,0376015	2,1514E-06	-0,6294076	-0,2736609	-0,6294076	-0,2736609

Research conducted in US (McNeal et al., 2003) indicated that partisanship may have an influence on implementation of e-government services and therefore e-transparency as well. With awareness of the diversity of the party systems in USA and Slovakia and specifics of the Slovak local electoral system, we test whether political affiliation is significant for a growth in transparency in cities by comparing the performance of the mayors who ran for the office as the candidates of political party or coalition and mayors who ran as independent candidates. This political variable turned out not to be significant in 100 largest Slovak municipalities. It should be noted, that we collected the data on official political affiliation from ballots. However, several candidates ran for mayoral office as officially independent but with the support of a political party. Therefore, it is arguable whether these candidates can still be perceived as independent.

Transparency may also represent a political instrument to attract more votes in the next elections. Hence, narrow competition in election 2010 might lead to greater improvement in level of transparency. However, linear regression did not prove the competition variable (close-run) to be statistically significant. Narrower competition does not lead to greater improvement in transparency in observed sample. There could be several other factors which may be more relevant in this particular case than close-run or tightness of competition. The reader should be aware that presented paper do not analyze whether transparency was salient issue in election competition or who was the bearer of the issue.

The incumbency may have significant effect on change in the transparency level. The separation of power in 100 largest Slovak municipalities between incumbents and newcomers is in the ratio of 48 to 52 in favor of newcomers. Based on theoretical literature, we assume that mayors holding mayoral office for (at least) second term have less incentives for raising the level of transparency. Linear regression confirmed this hypothesis. Incumbency effect is significant with 5 percent level of confidence. The coefficient of the state of transparency level 2010 is 0,06. Transparency International Slovakia rates the level of transparency of local governments on the scale 0 – 100 percent. Hence, the results from regression (negative coefficient) mean that on average, incumbents increase level of transparency less by 6 percent compared to the newcomers. Incumbency appeared to be one of the factors which lead to lesser improvement in transparency.

Figure 2: Incumbency effect

SUMMARY OUTPUT

Regression Statistics	
Multiple R	0,23601277
R Square	0,05570203
Adjusted R Square	0,04606633
Standard Error	0,12422173
Observations	100

ANOVA					
	df	SS	MS	F	Significance F
Regression	1	0,08920376	0,08920376	5,78080087	0,01808107
Residual	98	1,51224169	0,01543104		
Total	99	1,60144545			

	Coefficients	Standard Error	t Stat	P-value	Lower 95%	Upper 95%	Lower 95,0%	Upper 95,0%
Intercept	0,13659771	0,01722645	7,92953137	3,5851E-12	0,10241237	0,17078305	0,10241237	0,17078305
Incumbent	-0,0597818	0,02486424	-2,4043296	0,01808107	-0,1091241	-0,0104396	-0,1091241	-0,0104396

There are several possible interpretations of this phenomenon. Incumbents in the office may mitigate the transparency issue by highlighting their achievements concerning other salient issues that emerged during their time in office (sport facilities, schools, transportation, etc.), while newcomers may focus on “bringing the office closer to people” with transparency being the obvious device to do so. Moreover, newcomers can be more motivated and determined to push forward policies that improve transparency. Other possible interpretation may be related to the convergence effect. An incumbent could have significantly increased the level of transparency in the municipality in the previous term in the office. Subsequently, higher level of transparency causes catch-up effect as we already illustrated above. It is necessary to note that we did not analyze number of terms in office – multiplicity (strength) of incumbency effect. It might be one of the challenges for the further research. Last but not least, we also conducted linear regression with the model composed of all presented independent variables. However, the model did not prove to be statistically significant. Both control variables, age and gender of mayors, did not improve statistical significance of the linear regression.

4. Discussion and conclusion

This research is descriptive and explanatory, it adds to the literature by examining the factors related to the political supply of transparency in the local government level. It is devoted to transparency of the 100 largest Slovak local governments since 2010 till 2014. It shows the overall improvement in transparency with the average level of transparency in 2010 being only 31,7 percent and raising to 42,5 percent in 2014. Median figure shows the same pattern with 30,9 percent in 2010 compared to 41,8 percent in 2014.

The first research question explored whether the changes in transparency are driven by past results and in which direction. One can plausibly posit both the convergence theory (those with worse scores tend to improve more in the subsequent period) due to the effect of low hanging fruits as well as increased public pressure on laggards, as well as the divergence theory - if the previous good scores were driven by exogenous factors that continue to be valid, then the improvement in the subsequent period should be larger for those who already possess high scores. Empirically, it is the convergence theory that prevails, with a relatively large effect of lower 2010 score meaning higher improvement between 2010 and 2014.

The paper also discovered slight negative incumbency effect – incumbent mayors tend to improve their cities’ score less than new mayors. In other words, over the second (or latter) term, transparency tends to feature less prominently on the mayors’ agenda.

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**Increasing Transparency Is Not Always the Panacea:
An Overview of Alternative Paths to Curb Corruption in the Public Sector**

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- **Purpose:** This paper argues that the analysis of corruption must distinguish between corruption in organizations where this kind of behaviour is widespread and corruption in organizations where it is rare, and must also distinguish between corruption as the outcome of an economic cost-benefit analysis and corruption induced by social-psychological factors.
- **Design/methodology/approach:** This is a conceptual paper.
- **Findings:** In order to be effective in combating corruption, a fit is needed with the main determinants of corrupt behaviour: first, at the individual level in which either personal morality, social or economic considerations are at stake; second, at the organizational level in which social-psychological factors might be determinative; and third, at the contextual level in which economic prosperity, the nature of the political system and cultural features are important.
- **Practical implications:** Especially in systems where corruption is widespread, policymakers could benefit from theories in social psychology to combat corruption.
- **Social implications:** To see corruption as the result of an individual cost-benefit analysis or as a lack of morality often misses the point in cases of widespread corruption.
- **Originality/value:** The paper points at the added value of social psychology approach to corruption as compared to the approaches at present dominant in public administration.

Keywords: corruption, social psychology, contextualization, cost-benefit analysis, cognitive balance, public sector

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Introduction

Many governments and international organizations aim to combat corruption in the public sector by increasing transparency, installing strict anti-corruption laws and rules, and meting out harsh punishment to offenders (Quah, 2007; Collier, 2002; De Graaf and Huberts, 2008).

This view is based on an understanding of corruption as an unlawful activity that thrives in the dark and is to be resolved by more internal and external exposure and subsequent sanctions. However, when corruption is widespread, public officials perhaps do not perceive their behaviour as being abject, even when the outside world does depict it as corrupt. They perceive it in rather a different way: as an acceptable tip for doing a task effectively and efficiently, or as the normal routine in which one gets a reward for delivering a requested service. Sometimes public officials are very open about their conduct, as illustrated by the story from a colleague who provided an ethics training for high-level public officials in one of the Central Asiatic countries. She addressed the issue of bribing and stated that she had heard that public officials had the dubious reputation of taking 20 per cent of bribes in every contract closed between the private and public sectors. One of the participants responded without embarrassment, 'Well, I don't know of such standards. Personally I take 30 per cent.'

If such behaviour is not concealed or seen as bad behaviour, one might doubt the effectiveness of trying to curb corruption through increased transparency (Azfar and Nelson, 2007), as well as the applicability of the standard definition of corruption, namely 'the abuse of public service for personal profits' (de Asis, 2006; Tanzi, 1998; Andersson, 2002; Huberts, 2014). This definition sees corruption as a despicable act by an individual acting in self-interest where public interests should have prevailed, and calls for increasing the risk of exposure, with ensuing sanctions.

Therefore Gephart argued that 'the existing anti-corruption consensus is problematic' (2009, p. 18) and suggested adapting the universality of the anti-corruption norm to its specific and local application (cf. Gephart, 2009, p. 32); and Collier asked for an interdisciplinary approach on corruption, including political economic and cultural dimensions (Collier, 2002, p. 2). Other scholars making a plea for the contextualization of corruption were Shah (2007); Persson, Rothstein and Teorell (2013); and Marquette and Peiffer (2015). For instance, according to Shah (2007), one should tailor anti-corruption measures to the governance system in place, distinguishing among systems with weak, fair and good governance.

This conceptual paper aims to continue this line of thinking. It extends the framing of corruption by illustrating the added value of using the social-psychological frame in analyzing corruption, in comparison to the currently dominant theoretical frames. It does not present new empirical research on the causes of corruption, but questions the universal applicability of understanding corruption in economic terms. It asks whether alternative theoretical frames of corrupt behaviour, more specifically social-psychological theory, could enhance our understanding of corruption in the public sector and whether such theorizing might result in new policies to combat corruption.

This question is answered by first elaborating on the specifics of currently dominant theories on corruption and the policies that follow from such analysis. Second, the specifics of social-psychological theories are addressed together with policies that could be the result thereof. At the end of this article, the added value of such social-psychological framing, especially when corruption is endemic, is discussed.

Corruption as an Individual Act

This section summarizes two theories that see corruption as an individual act stemming from either economic motives or from a lack of deficient morality. It describes the main assumptions as well as the recommended policies based on such theories.

Corruption as an Individual Cost-Benefit Analysis

The economic –rational choice – approach to corruption stems from the assumption that individual self-interest dominates human behaviour. Viewing human beings as *homoeconomicus* (economic man) implies that everyone's behaviour is guided by the desire to maximize selfish benefits, based on the well-known maxim by the eighteenth-century philosopher Adam Smith: 'It is not from the benevolence of the butcher, the brewer, or the baker that we expect our dinner, but from their regard to their own interest.'

This classic view towards corruption follows directly from the way corruption is defined, for instance, by the World Bank. Corruption in this view is based on a cost-benefit analysis of the malfeasant in which he or she weighs the personal profit against the risk of being exposed and sanctioned.

This basic idea is also found in principal agent theory on which, according to Persson et al., most anti-corruption measures are based (Persson et al., 2013). This theory emphasizes that the combination of self-interest and information-asymmetry results in moral hazard. It assumes that if the interests of the agent and principal are not aligned, the information asymmetry provides opportunities to the agent to serve his own interests at the expense of the principal, through acting inappropriately.

From this theory, it makes sense to reduce the discretion of civil servants, improve on transparency, accountability and monitoring, and increase sanctions on those calculations of the agent that result in malfeasance (cf. Ugur and Dasgupta, 2011, p. 43; Marquette and Peiffer, 2015). The country best known for such an approach is Singapore. Analyzing the 'best practice' in combating corruption in Singapore, Jon Quah (2007) examined the problem of corruption as a result of (1) personal economic needs, indicated by 'low wages'; (2) opportunities seen in the number of situations in which government employees, and especially policemen, are exposed to opportunities for misbehaviour (Quah, 2007, p. 11); and (3) a lack of control, seen in the low risk of detection and punishment. Singapore's solutions to curb corruption were found in raising wages, which reduced the need to engage in corruption, although it probably did not diminish greed; diminishing opportunities by identifying positions that are most exposed to such opportunities and putting additional controls in place; simplifying complicated bureaucratic processes that corrupt officials because of the opportunities for misbehaviour these provide; and enforcing punishment that changes corruption from a low risk-high reward activity into a high risk-low reward activity.

The country seems to have been very successful, as international rankings have put Singapore in the top ten least corrupt countries globally for many years. According to a representative of Transparency International, Singapore accomplished this by introducing and maintaining 'good and sound legal systems, consistent implementation of the law, healthy access to information and government officials who are accountable' ('Straits Times' n.d.).

Singapore's Prevention of Corruption Act (PCA) was enacted in 1960 and repeatedly revised, with the last modifications made in 2012. Until then, corruption, caused by low wages in the public sector, ample opportunities for corruption, and the low risk of detection and punishment (Quah, 2007, p 9 ff.) was widespread. The PCA introduced the concept that the briber as well as the bribed, inside and outside Singapore, are guilty of an offence and will be convicted to a fine of the sum paid and received, plus a fine of US \$100,000 and/or five years of imprisonment

(section 6). Moreover, in the case of accepting or giving gratifications or inducements in relation to government contracts, actors can be even convicted to seven years of imprisonment (section 7). The law further states that all gratifications paid and received to public officials are deemed to have been paid or given and received corruptly unless the contrary is proved (section 8) and specifies that gratifications not only include money but also loans, fees, valuable securities, property, offices, contracts, services, offers, undertakings and promises (section 2).

As to transparency, this is mainly internal transparency, that is, transparency within government. A Corrupt Practices Investigation Bureau (CPIB) was installed as a separate and independent office within the government, with its director appointed by the president. The Bureau has extensive powers to respond to all allegations of corruption and to investigate any account or any safe deposit box in any bank, and it has sufficient authority for the disclosure or production by any person of any information, accounts, documents or articles as may be required by the officer so authorized. Hence, the public prosecutor can require a person to furnish a sworn statement, and the manager of any bank to give copies of the accounts of that person and of the spouse, son or daughter of that person at the bank (section 21, 22). Furthermore, informers are protected, as they are guaranteed anonymity.

Preventive measures were also introduced, such as regulation calling for regular investigations in to whether wages of public officials are comparable to salaries in the private sector; and if not, it is required that salaries be adapted.

The law further stipulates:

- All public officials are not allowed to borrow money from persons or organizations with whom they have official dealings.
- They may not have unsecured debts and liabilities exceeding three times their monthly salary. They have to declare their assets when first appointed in the public service, and annually afterwards.
- They are not allowed to receive presents or entertainment from the public
- It is part of each standard contract that contractors are reminded of the termination of the contract if evidence of bribery is found afterwards.

It is important to note here that Singapore's anti-corruption laws were not just symbolic paperwork but were actually implemented irrespective of the position/rank of the accused.

CPIB's work led to the conviction of several ministers, members of parliament and CEOs (Quah, 2007, p. 25). This could only be accomplished, according to many observers, because of the political stability, the political will of the president to curb corruption at every level and the independence of an incorruptible CPIB from other political agendas.

However, one could also interpret the Singapore cleansing in the public sector differently. It can also be seen as the effect of a president's order to give himself, his colleagues and senior management in the public sector an extravagant salary increase under two conditions: namely, (1) not trying to make even more money through corruption, and (2) making higher-level officials control the corruption in the lower echelons of their organizations. The salaries of politicians and high-level officials in Singapore are extremely high as compared to those of others in these positions, internationally and nationally. This is the result of the decision to make such salaries competitive with the highest salaries paid in the private sector. The prime minister himself earns more than five times the salary of the president of the United States; his ministers have a yearly salary of over US \$1 million; and parliamentarians get an allowance of US \$150,000, with pensions for life after they have reached age 50 and retirement after having been an MP for more than nine years. Top members of the civil service earn more than US \$300,000 a year, additionally receiving extensive leave, medical benefits, group insurance, the use of holiday resorts, membership in the Civil Service Club and employee support services such as on-site childcare centres and private rooms for nursing mothers. The realistic conclusion is that Singapore made an effective trade-off between the benefits of widespread corruption and regular remuneration by making the monthly earnings (of the top echelons) of the political arena and the civil service higher than could ever have been achieved through corruption.

This interpretation of Singapore's success in combating corruption might well hold, because the introduction of similar policies in countries like Hong Kong, Malaysia, India and China had varying success, with Hong Kong and Malaysia being relatively more successful in combating corruption than India and China.

All this is indicative of the importance of a favourable context for countries like Singapore. Singapore is a small, strategically located country of 276 square miles; it experienced huge economic growth over several decades and is therefore known as one of the Asian Tigers. Officially it is a parliamentary democracy, but in practice it is an authoritarian super-presidential system with one party, the People's Action Party, occupying 82 out of 84 seats in parliament. The previous president, Lee Kuan Yew, was officially in power for over three decades, until 1990,

and effectively in power almost half a century (after 1990 as senior minister), until 2004. Since then, his eldest son, Lee Hsieng Loong, has been in power first as vice-premier and later as prime minister, after already having served in his father's government since 1984. The near absence of any political opposition and vast economic growth presented him with the opportunity to grant the above-mentioned salaries to himself and his inner circle.

Countries lacking the economic means to pay such salaries to the top of the public service and to befriended politicians, because they are less autocratic, less top-down and larger in size, are also expected to be less effective in curbing corruption through laws and anticorruption agencies similar to the ones established in Singapore, which were created to uphold the law.

Corruption as Deficient Morality

One of the basics of public administration is that public servants must fulfil their duties according to the regulations and laws. They should act as the regulations tell them to do, irrespective of their personal emotions or preferences, implying that they act meticulously, based on equality before the law, trust and fair play (cf. De Vries and Kim, 2011). In other words, they should adhere to deontological values. From this moral point of view, the problem with corruption is that it breaks rules, indicating, perhaps, a lack of understanding of the rules, but at least a deficient morality, for such behaviour shows the malefactor has insufficient respect for the laws and regulations.

Out of such moral reasoning, scholars and international organizations have made a plea to combat such behaviour by introducing codes of conduct, an oath of office, the creation of an ethics office and regular ethics training programs. These are meant to increase the awareness among public officials about norms and values, to improve their understanding of ethics and to make them internalize the ethical demands placed on them in the expectation that they will act accordingly, or at least will find it more difficult to be corrupt.

In the case of deontological values conflicting with values of consequentiality, because the implication of just abiding the law is problematic in the light of higher values, public servants should act virtuously, that is, based on wisdom, honesty, accountability and having an adequate sense of traditions, aesthetics, altruism, duty and courage, and out of care and concern for others, even when it involves risk of harm or danger to one's self (MacIntyre, 1985, pp 226 ff; De Vries and Kim, 2011). Corrupt behaviour is in opposition to such virtuous behaviour, because in taking a

decision, a corrupt official does not weigh the application of rules and regulations against the consequences thereof for the public interest, but against the consequences thereof regarding his or her personal interests.

Based on this notion, scholars have made a plea for strengthening the morality of public officials through creating, maintaining and continuously emphasizing an intrinsic job motivation or job engagement in the public sector, with officials showing compassion, that is, the desire to help other people, and benevolence towards people in need (cf. Perry and Hondeghe, 2008). A further policy is to create and maintain checks and balances through which no individual can make decisions alone, but always needs must have the consent of some other official or department. Transparency is the magic word by which corruption is curbed, and officials lacking in morality can be limited because of their inclination to let their personal interests prevail over public interests.

This is visible in, for instance, the European Union (EU). The EU incorporates countries that, like Singapore, are on the top of the list of Transparency International regarding anti-corruption measures. Denmark, Finland, Sweden, the Netherlands and Luxemburg all in the top ten of the 2014 global ranking of least corrupt countries, with Germany, the United Kingdom, Belgium and Ireland following close behind.

European countries which have achieved effective control of corruption managed it by means other than strict legislative or repressive approaches (Mungiu-Pippidi, 2015, p. 31). For European countries, there is no evidence that strict legislation or the establishment of anti-corruption agencies has been effective in curbing corruption (Mungiu-Pippidi, 2015, p. 31). The report concludes that, notwithstanding the fact that the establishment of dedicated anti-corruption agencies has been one of the main institutional recommendations of international organizations, 'It is unlikely that any single institution or tool can ensure evolution from particularism to ethical universalism' (Mungiu-Pippidi, 2015, p. 36).

The European countries scoring best on combating corruption are those countries that seem to be the most transparent and open. Such transparency is, however, not just about the existence of a freedom of information act, but about the intensity with which media and citizens make use of rights provided by such acts through information requests and litigations that induce transparency. Also important is the number of e-services that make procedures and public processes transparent for everybody, in conjunction with a high percentage of e-government users

who interact with government through such services. The effectiveness of transparency is furthered by administrative simplicity, high standards of auditing and accounting in the private as well as the public sector, and the presence of a critical and engaged civil society, an independent judiciary and independent, critical and investigative media.

The effectiveness of such policies can also be attributed to the fact that when corruption occurs only occasionally, it thrives in the dark, and the official will try to do everything to conceal the corrupt behaviour. The corrupt official does not want to be exposed; therefore, all measures making such exposure more probable are effective in curbing corruption.

In Europe, this might well be related to the specifics of European culture, which is characterized, according to Hofstede, by a much lower power distance than in Latin, Asian and African countries. In Europe, uncertainty avoidance is medium to high, and individualism prevails over collectivism. In such a case, corruption is likely to be an individual instead of a collective act. Trying to curb corruption by strict legislation and harsh punishment through internal controls misses the point if it is imposed top down, and complicates administrative and political functioning. Rather, the main inhibitor of corruption in Europe seems to be that public decision making and policy implementation are under constant scrutiny, and corruption is under the constant threat of exposure. Reasons for this are variously because of administrative simplicity, which makes bureaucratic processes relatively easy to understand and criticize; high auditing and accounting standards; or because of outside pressure in which newspapers, television news programs and engaged civil society groups can ask for information about any bureaucratic and political processes and the implementation of all procedures. The availability of mechanisms increasing the risk of exposure will – given the medium-to-high culture of risk avoidance – reduce the inclination to act in a corrupt way.

This approach is not to be universalized either, because it is based on the assumption that corruption is an individual act of an official working in an organization with a vast majority of officials showing integrity, who will blow the whistle when they witness the corrupt behaviour of one of their colleagues. It assumes a relative high quality of governance, a relatively highly educated and engaged citizenry who are rather critical about the public sector, and the existence of relatively independent media valuing investigative journalism and eager to have a scoop about scandals within the public sector.

Corruption as a Joint Activity

This section summarizes two types of theories that see corruption as collective behaviour, either as the outcome of game-theoretical notions about playing in a prisoner's dilemma or as the result of the social-psychological theory on P-O-X models, in which all O(thers) show corrupt behaviour. In this section, attention is given to the main assumptions underlying the theories as well as the recommended policies based on such theories.

Corruption as Defecting in a Prisoner's Dilemma

This individual and economic kind of reasoning underlying corruption was recently criticized by Persson et al. (2013). Based on observations in Uganda and Kenya, where corruption is systemic, they doubt that in such societies there are principals or colleagues who are willing to hold others accountable for abuses in which they themselves are also involved. In such a context, transparency might not be effective at all. Instead of viewing this as a principal agent problem, Persson et al. propose understanding such widespread corruption as a problem of collective action, implying that in any solution the whole system must necessarily be upended, creating new rules for a new game. To change the basic modus operandi will preferably involve improving the quality of institutional settings without them becoming mere façades (Persson et al., 2013, p. 465–66).

Persson et al. did label their theory as one of collective action but immediately continue their analysis with game theory, especially the prisoner's dilemma. The explanation for individual corruption in a system with widespread corruption is that it would be stupid for individuals to be the only ones not to defect if all other players judge it profitable to defect, even though the combination of all individual actions result in suboptimal outcomes and even though each player may have a personal inclination to act honestly. They suggest that the expected outcomes of choosing one's strategy in a prisoner's dilemma game differ given the knowledge of each player about the varying percentage of players that is likely to defect. Hence, the natural inclination to avoid or take part in corrupt behaviour varies accordingly.

Framing corruption in such theoretical game terms explains why widespread corruption increases the odds that officials, even if they are basically inclined to be honest, will still join such practices. In systems where corrupt behaviour is the exception to the rule, officials might be more inclined to act honestly and to be morally righteous. One implication of this theory on corruption is that characteristics of the institutional system are self-reinforcing. This is in line with the findings of many scholars in the field of integrity and corruption, who see historical,

cultural, economic, moral and both traditional and modern values as determinants of the spread of corruption.

Another implication of research is that methods of curbing corruption will differ for systems where corruption is widespread compared to the approaches suitable for systems where corruption is the exception to the rule.

Marquette and Peiffer (2015) suggest some tools to curb corruption that might be effective in this regard. They return to the original theory of collective action (Olson, 1965) and point to subsequent research that stresses the importance of the organization's size and heterogeneity, the development of group norms instead of individual norms, the effectiveness of monitoring the whole group instead of only individuals and the importance of emphasizing the salience of the collective good for the livelihood or survival of the group as a whole (Marquette and Pfeiffer, 2015, p. 5).

Their suggestion for curbing corruption is to keep organizations small and the staff heterogeneous, and make staff aware of the consequences of suboptimal outcomes for their organization as a whole as well as indirectly for themselves.

The analyses by Persson et al. and Marquette and Peiffer suggest that combating widespread corruption requires coordinated actions, anti-corruption coalitions and coalitions of usually elite actors within and across the state. These measures should be combined with acknowledging that political factors are at stake and recognizing that, in a political sense, corruption is difficult to combat because in practice it might 'function to "solve" the political problems of maintaining stability, providing access to state services and serving as a mechanism for political redistribution in a challenging environment' (Marquette and Pfeiffer, 2015, p. 10).

Corruption as the Reduction of Stress

The previous perspective on corruption still perceives it as an intended individual and economic choice in which costs and benefits are calculated, but unlike the purely individual approaches, it assumes that the individual knows that it is a game in which the actions of others co-determine the outcomes. An alternative to this economic perspective is given in a social-psychological theory which explains the tendency to join one's colleagues in their corrupt behaviour rather differently. This theory explains why people who dislike something are persuaded to change their preferences and do it anyway.

Social-psychological reasoning tells us that corruption can also be committed by relatively honest people who are persuaded to become corrupt by the environment they work in, and points to the behaviour of officials who act out of social or organizational pressure because they want to avoid the stress caused by acting differently from their colleagues. This basic finding does not condone such malfeasance or explain it away, but rather points to opportunities missed in current approaches aimed at combating corruption.

Two dimensions of such stress are distinguished. Firstly, stress caused by cognitive imbalance and secondly, stress caused by doing something which might negatively affect one's positive self-concept. In this theory, corruption is seen as the outcome of a sometimes-unintended process in which an individual implicitly weighs the stress caused by not joining colleagues in their malfeasance and the internal stress caused by the desire to have a positive self-concept, which might be impaired by joining corrupt practices.

The main explanation is found in the universal need of cognitive balance (Heider, 1958) and the avoidance of cognitive dissonance (Festinger and Carlsmith, 1959). In its simplest form, for instance, in the acceptability of taking bribes, a triadic relationship exists between a person (P), some other person (O) and something being evaluated (X). This triadic relationship includes three attitudes: (1) P's attitude toward O, (2) P's attitude toward X and (3) O's attitude toward X. A balanced triad exists when all the attitudes are positive or when two are negative and one is positive. Known as the P-O-X model, any P(erson) and O(ther) will have a balanced relation if the two are positive towards one another and share positive or negative preferences regarding X (in this case, the acceptance of bribes) or if they dislike one another and disagree with regard to their preference on X.

Cartwright and Harary (1965) found that Heider's original idea about triadic relationships can be extended to any number of objects. Such a network is similarly balanced if the product of the sign of all preferences in the group is positive and when the preferences in all triads within the group are balanced. Continuing to build on this theory Horowitz, Lyons and Perlmutter (1951) found that the evaluation of X by P is not only explained by P's position towards O and O's evaluation of X but also by the evaluation of X by other members of the group (Qs), thus resulting in a P-O-Qs-X model. This extension makes the theory suitable for analyzing widespread corruption. The more Qs accepting bribes, the more an individual P's choice to become an outsider or to join the practice will tend to the latter. The alternative of maintaining a

virtuous position would result in the stressful situation of disliking all of one's colleagues, which creates stress because of the necessity of cooperating with them, and the disliking by all one's colleagues, who may see the person as a threat to their daily activities as the person may become a whistle-blower.

Joining the malfeasance by colleagues is a way to reduce stress created by the need to belong to a group of colleagues who all have a positive attitude towards corruption. Joining the group in their behaviour creates trust among accomplices and makes for less psychological stress. Working in an office in which all colleagues have the reputation of being corrupt thus influences the nature of cooperation and interaction among colleagues and can even make corruption an open, instead of covert, action within that office. If everyone in the office is involved, why conceal it?

However, changing one's preferences is also stressful. People prefer a positive self-concept, as argued in the Balanced Identity Theory. This theory is the modern variant of the different versions of the cognitive balance theory and can be seen as a unified theory of implicit attitudes, stereotypes, self-esteem and self-concept (Greenwald et al., 2002; Cvencek, Greenwald and Meltzoff, 2012). The theory emphasizes the importance of values, especially the values one has internalized because they were transmitted through education and socialization in early life. Such values remain rather stable through life (Rokeach, 1973). One such a value – which might well be universal (De Vries, 2002) – is the value of honesty. One would thus expect that people jeopardize their positive self-concept when acting dishonestly. Social-psychological research has shown, however, that there are two ways to avoid this, namely, through categorization and by ignoring moral standards (Mazar, Amir and Ariely, 2008, p. 8). Categorization implies that people don't see their behaviour as contrary to their norms, but reinterpret their behaviour in a self-serving manner (Mazar et al., 2008, p. 9). Public officials can interpret a bribe as being similar to a tip received by a waiter who does a good job, and thus as an incentive to do a job more efficiently and effectively. Ignoring one's moral standards implies that in some circumstances people will not relate their actions to their value system. In some cases, they will suppress or negate their value system when acting in a corrupt way, or else the magnitude of the corruption is so limited that it becomes insignificant to their self-concept and does not have to be related to their value system. If profits increase, it becomes increasingly difficult to disregard the relationship of the corrupt action to one's value system, and it will create cognitive dissonance.

This notion was already supported in the famous Festinger-Carlsmith experiment, first reported in 1959 and known as the reverse incentive experiment, which was repeated and adapted many times. People disliking a task (e.g. making a false testimony) were offered an incentive to do so nevertheless. The experiments showed that the higher the incentive, the less enjoyable the task was perceived to be, which can, according to Festinger and Carlsmith, be explained by the increased cognitive dissonance between the participants' attitudes towards the task (negative) and the reward (positive). Theorizing from the assumption that everybody maximizes economic utility, one would not expect this, because in that theoretical frame, the reward would compensate the behaviour.

Similar experiments conducted more recently (Mazar et al., 2008) also result in the conclusion that people value honesty, that they want to maintain this aspect of their self-concept and that they do this by limiting the profits from transgressive behaviour in order to make it insignificant in terms of their self-esteem; hence, they can categorize such behaviour in such a way that it becomes unrelated to their norms and values.

The question is what individuals will do when working in an organization where corruption is widespread and how to prevent people from changing their values regarding corruption. Rosenberg (1960) hypothesized that attempts to resolve situations of inconsistency follow the path of least resistance. The effort to attain a balance is likely to be at the expense of content, which is what is actually seen in the case of corruption. Peer pressure (Cavill and Sohail, 2007), the role of social networks, social codes and culture seem to be stronger factors than the inclination to maintain a positive self-concept. In 1957, Osgood, Suci and Tannenbaum had already argued that people are inclined to decrease cognitive imbalance by decreasing the importance of their original values and that an individual's strive for balance outweighs content.

This theory was recently reconfirmed and further explained by a neuropsychological finding by Izuma and Adolphs (2013) that preferences for goods changed by telling participants in an experiment the preferences of other groups of people who were strongly liked or disliked. Participants' preferences converged to those of the liked group and diverged from the disliked group, and this remained the case for months. Izuma and Adolphs found a cause for this preference change in the activation of a part of the brain called the 'dorsomedial prefrontal cortex'.

Attempts to reduce corruption based on this line of reasoning would aim to disrupt the reduction of stress and the creation of cognitive stability resulting from joining colleagues in their malfeasance. Basically this can be done in two ways: first, by increasing the stress involved in changing one's own attitudes towards a more moral stand regarding corruption, and second, by enabling individuals to still have stable P-O-X relations while waving aside the corruption by colleagues.

The first option involves increasing the stress involved in value change in order to prevent officials changing their attitudes in favour of corruption. Although values are stable through life, there are certain junctures in life in which value change becomes more likely and values become more susceptible to external pressures. Researchers identified that such points occur especially in the first year that children go to school, the first year of students in university and especially during the first year of employment. This implies that no matter how honest a newcomer is when leaving high school or university, when this person enters an organization, the development in his or her value system depends largely on the values dominant in the organization as experienced during the first year in office. When the newcomer enters a department in which corruption is widespread, this newcomer is likely to become corrupted also and to adapt his or her values.

Out of this notion one could recommend having newcomers recruited only in departments in which such malfeasance is absent or very unlikely, and then using their first year in the public service to socialize them in the essentials of public service motivation and the importance of public norms and values. This would validate the value system internalized in their early life, could have a lasting effect throughout their career and would make value change more stressful and therefore less likely, even if later they entered a department with widespread corruption. Departments known for their widespread corruption or known to foster opportunities for corruption could be prohibited from recruiting young high-school or university graduates without any previous experience and would be forced to recruit new personnel out of the stock of already employed officials, preferably from departments that could be regarded as safe havens and among personnel who are already socialized within a 'clean' organizational culture.

Such a policy is feasible because even if corruption is widespread, it is still likely to be concentrated in departments with ample opportunities for such malfeasance, namely where the public and private sector meet. Typical areas on which to focus are those where officials are in charge of delivering basic services such as drivers' licenses, passports and permits, and waste

disposal; in the police force and immigration office; in departments dealing with public procurement – contracting, licensing; in the collection of taxes and customs revenues; and in the appointment or election of public officials (cf. Stapenhurst and Kpundeh, 1999, p. 2 ff.).

If the anecdote about South Africa mentioned in the introduction contains any truth, it would be unfortunate if those young people who have the idea that government is totally corrupt were recruited in the public sector and started working in a department in which experienced colleagues confirmed their prejudices about widespread corruption.

This points to the importance of socializing newcomers, including their exposure to situations in which cognitive dissonance is bound to occur, and providing an ethics training program to strengthen the value system and to increase the likelihood of dissonance occurring in behaviour contrary to those values, because in their first year of employment newcomers are at such junctures. Although evaluations of such ethics training, oaths of office and codes of conduct demonstrate their temporary effectiveness, research in the socialization of people at junctures indicates long-term stability of results. Such socialization in the first year of employment could create a kind of psychological contract in which the newcomer learns to know what the organization expects from him or her and what in turn to expect from the organization (Rousseau, 1995). Such socialization could create a justified trust that the job will be done according to expectations, even under adverse circumstances, and could replace the need for continuous oversight – monitoring, performance measurement and evaluations. According to Guest, trying to establish such a psychological contract ‘has the potential, not yet realized, to integrate a number of key organizational concepts . . . such as trust, fairness and exchange’ (Guest, 1998, p. 659).

Researchers also point to the possibilities for countering such corruption by introducing small changes in the workplace. Experiments by Bateson, Nettle and Roberts (2006) show that just putting an image of a pair of eyes on a money box used to collect money for drinks in a university coffee room is effective in increasing payment, even when there are no controls as to whether and how much people pay for their drinks. It was found that users paid nearly three times as much for their drinks when eyes were displayed. Bateson et al. conclude that it suffices to induce a perception of being watched to make people more honest. Making people continuously aware of their values and preventing them from categorizing their behaviour in a self-serving manner can be achieved through a wide variety of relatively easy-to-implement policies.

Another policy to disrupt the conditions conducive to joining in corrupt practices is to enable stable triadic relations within the office, characterized by their moral stance towards corruption. One way of accomplishing this is by guarding against a person becoming a loner. Job rotation, which would introduce new colleagues in a corrupt office, could also have several advantages: disrupting the mutual trust among co-conspirators within the department, disrupting the feeling of safety among colleagues who know, accept and join one another's malfeasance; and enabling the needed moral and stable triadic relations. Job rotation, by regularly swapping jobs between people working in high-opportunity departments and experienced people from low-opportunity departments, is expected to be effective in this regard – especially when the officials being rotated have an impeccable reputation (thus creating anxiety among the group of corrupt officials in that office) or when no information about their past is available (creating insecurity among the same group).

Research confirms that information about a person's past behaviour is an important predictor for the manner in which he or she will interact and cooperate (Nowak and Sigmund 1998; Panchanathan and Boyd, 2004). In cultures with high power distance, the rotation of departmental leadership between clean and dirty departments might be considered; in cultures with low power distance, the rotation of a minimal amount of staff might suffice to disrupt the needed basic trust between accomplices in a department. Creating triadic stability reduces the probability of an official's value system being changed, and would aim at creating and enlarging safe havens that counterbalance the cliques of corrupt officials by disrupting the latter's behaviour.

Concluding

Public administration as an interdisciplinary study is embedded within economic, political, sociological and juridical thinking. Likewise, theories about corruption in the public sector define corruption in economic terms, for example cost-benefit analyses; by political factors, for example the nature of regimes and the prevalence of political rights; through sociological theories on collective action; and by juridical factors, such as laws, rules and regulations. This paper asked whether social-psychological theories could enhance our understanding of corruption in the public sector, compared to the present-day dominant theoretical frames, and whether such theorizing might result in new policies to combat corruption.

To answer that question, first the essentials of those currently dominant theories were examined together with the policies that result from such reasoning. In Table 1, the main aspects of the theories as well as policy implications and limitations are given in the first three columns.

[[Insert Table 1 near here]]

In all three models, transparency plays a crucial role in explaining and reducing corruption. However, in practice it is not an independent, self-contained factor, but always occurs in combination with something else, making it difficult to ascertain whether it is a lack of or an increase in transparency that is the most important. In Singapore, the increase of internal transparency through internal controls and the establishment of the national anti-corruption agency went hand in hand with an enormous increase in public-sector salaries, which diminished the need to be corrupt. In Europe, internal transparency through controls by national anti-corruption agencies seems to be less effective than external transparency. Furthermore, external transparency is only effective because of its use in conjunction with the existence of active media and a critical civil society eager to make use of that transparency in their continuous scrutiny of the conduct of public officials, who, in cases of misconduct, are depicted as devoid of morality. If such an active and critical public is absent, or in situations where corruption is not concealed, but rather is widespread, increasing transparency is likely to be less effective.

Increasing transparency seems to be effective only when corruption thrives in the dark, not when it is done in the open, as is the case when there is widespread corruption.

The alternative paradigm provided by social psychology emphasizes the reduction of and increase in stress caused by corrupt behaviour. On the one hand, there is the individual stress involved in maintaining a positive self-concept while practicing corrupt behaviour, which people – through social-psychological reasoning – solve by categorization, ignoring their values and reducing the amount of money involved. On the other hand, there is social-psychological stress in triadic relations where a person who was socialized to dislike malfeasance wants to have a positive relation with other persons who engage in or have a positive attitude towards corruption. According to Social Psychology theorizing, the expected inclination for such a person is to change attitudes in favour of corruption in order to establish triadic balance.

It does not frame corruption as the result of an individual cost-benefit analysis, but aims instead at changing the organizational context within which individuals operate. Based on such

Social-psychological theories policies meant to curb corruption should try to disrupt the process through which corruption takes place.

Such proposals are not based on Klitgaard's (1988) interpretation of corruption as monopoly plus discretion minus transparency, or the economic equation of corruption as profit seeking minus risk of exposure and severity of sanctions, but rather on corruption as a function of organizational habitude and network stability minus socialization and collective moral awareness.

We know that the fight against corruption, as well as the analysis of such behaviour needs to be contextualized. This article argued that this does not just imply contextualizing over cultures, countries and regions, but also theoretical contextualization. In different situations, different explanations for such behaviour are needed. As corruption can be the result of a variety of causes, we also need a variety of theoretical lenses, pointing to a variety of policies to curb it. If corruption is widespread in an organization different mechanisms might be at work inducing individuals to join such practices than in case corruption is rare and an official acts on his/her own. In that regard the use of Social-psychological theories could be a useful addition in the fight against corruption.

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Table 1. Theoretical Frames on Corruption and the Proposed Policies

	Corruption in an Economic Frame	Corruption in a Normative-Ethical Frame	Corruption in a Game-Theoretical Frame	Corruption in a Social-Psychological Frame
Unit of Analysis	Individual	Individual	Collective	Collective
Definition	Corruption as profit seeking minus risk of exposure and severity of sanctions	Corruption as a moral deficiency shown in insufficient respect for the laws and regulations	Corruption as defecting within a prisoner's dilemma game in which the actions from others are known	Corruption as a way to reduce stress through maintaining a positive self-concept and triadic stability
Main cause(s)	<p><i>At meso level</i></p> <ul style="list-style-type: none"> • Lacking controls • Lacking laws • Sanctions too soft • Lacking internal transparency • Institutional setting <p><i>At the macro level</i></p> <ul style="list-style-type: none"> • Economic development • Openness economy • Political rights • National culture 	<ul style="list-style-type: none"> • Lacking moral awareness • Too much discretion • Monopoly in service delivery • Lacking external transparency • Lacking public service motivation 	<ul style="list-style-type: none"> • Spread of corruption • Self-reinforcing institutions • Size of the organization • Lacking heterogeneity • Dominance of group norms over individual norms • Insufficient awareness of the importance of the collective good • Lacking monitoring of the whole group 	<ul style="list-style-type: none"> • Organizational habitudes • Network stability • Lacking socialization • Lacking collective moral awareness • Possibilities to categorize corruption
Examples of proposed policies	<ul style="list-style-type: none"> • Increase transparency • More checks and balances • National anti-corruption agency • Strict rules and laws • Harsh sanctions • Socio-economic development 	<ul style="list-style-type: none"> • Increase transparency • Ethics training • Codes of conduct • Oath of office • Create intrinsic job motivation • Create job engagement • More checks and balances • Reduce policy discretion • Privatization 	<ul style="list-style-type: none"> • Increase monitoring of the work of the group as a whole (organizational transparency) • Reduce the size of organizations • Create heterogeneous staff • Increase the awareness of staff of organizational consequences of corruption • Create anti-corruption coalitions 	<ul style="list-style-type: none"> • Change the work environment • Disrupt the network in which corruption takes place • Job rotation • Change recruitment procedures • Socialization emphasizing the organization as a moral agency • Introduce small changes in the infrastructure of the workplace

THE RIGHT OF INFORMATION FOR THE OFFICIAL DOCUMENTS AS AN IMPORTANT ELEMENT OF THE OPENNESS AND TRANSPARENCY OF PUBLIC ADMINISTRATION IN ALBANIA.

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Transparency and openness are of a great importance for the functioning of public administration in a democracy. They are in the center of the contemporary PA, in part because of the size and growth of the governments. PA' transparency relates with the processes and activities by which public administrators make public and inform citizens (by different ways and means) about their activities and the associated benefits and costs.

A very important step in relation with the openness and the transparency of Albanian public institutions was the adoption of the Law no. 8503, date 30.06.1999, for the Right of Information for Official Documents (elsewhere, Freedom of Information Act, FOIA), even more in the context of the inherited "culture of secrecy" of the previous communist regime before the 1990s. The law relates with the transparency of PA in Albania and serves to the further democratization of the country and good-governance. The intent of this reform was to inform citizens about the government functions and activities and, in the same time for awareness and citizens' participation in the governmental decision-making process.

The law requires that public administrators give citizens (in accordance with their requests) information and documents, except for the documents that are considered as personal, private data, a national secret, state classified information, documents that need a certain period of maturity in archives, and trade-related information.

The article focus is on the application of the law of the information right or FOIA, and the differences it has made so far in relation with transparency and openness in Albanian public administration. Another objective is the analysis of the role of public relations offices and information officers and, more specifically, the case of information officer in higher education public institutions and their contribution in informing the different interested parties, as an important step towards transparency and openness of the public administration.

Keywords: FOIA, right of information law, PA' transparency and openness, information officers.

1.1. Introduction

The Albanian Law for the right to information on official documents, no. 8503, date 30.06.1999 represents a stepping-stone in direction of guaranteeing an important level of transparency from public sector bodies and for further country democratization. Recently, to complete and to expand the right to information being produced or held by public sector bodies, another important law was approved in 2014, Law no. 119, "On the Right to Information". The aim of this law is to ensure the public access to information, in the framework of assuming the rights and freedoms of the individuals in practice, as well as establishing views on the state and society situation and to encourage integrity, transparency and accountability of the public sector bodies. Thus, civil participation begins

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when citizens are informed about governmental activities, and at the same time, this ensures a greater respect on other important human rights.

In this context, we can define good-governance as: “The achievement of public works, the management of public resources, and the respect of human rights in a way that is free from abuses and corruption, by focusing on the concepts of rule of law, and where the only test is the extent in which human rights are respected- civil, cultural, economic, political and social rights”.²

Good-governance is based on different factors, like: public sector management, a legal framework for development, accountability and, transparency and information. The last ones are very important to understand and monitor the institutions and processes that affect the everyday life of the public.³

Transparency in PA relates with the processes and activities by which public administrators make public and inform citizens (by different ways and means) about their activities and the associated benefits and costs.

1.2. The citizens right to information and its importance

The right to information in the Universal Declaration of Human Rights is defined as: “Every human being has the right of freedom of opinion and speech, and this right includes the freedom to hold opinions without interference, and to deepen, conserve and transmit information and ideas from means of press and without limitations”.⁴

This right presupposes that in a democratic regime, different public operations must be known, not only by governmental employees, but most importantly by the governed. There are different important elements incorporated in the right to information, and related with the public’ right of information such as:

- a. The right to information from government (or other institutions) in relation with their activities.
- b. The right to information from government (or other institutions) for their relative benefits.
- c. Public officials and private’ sector employees have the right to engage in “whistle-blowing” practices, making public bad practices in important institutions.
- d. The public has the right to see and listen about what is going on in parliament.
- e. The public has the right to see and listen about what is going on in courts.
- f. The public has the right to see and listen about what is going on in other public institutions.

Consequently, the right of information contains or implies different aspects regarding the right to request information on the official documents, related with the activities of public sector institutions and individuals that work for the government; the right to be informed about personal data of the individuals that work for the government or that perform public services, contained on official documents, at the extent that they relate with required conditions prescribed in law or related acts, without need to prove that there is a personal or private interest; the obligation of the public institution to give information, except for the cases provided in law; the attainment of the right to information in a timely and reasonable fashion; without discrimination; in effective ways.

The advantages resulting in a state or a country from the implementation of the freedom of information or right to information are the following:

- The right to information helps to live in a society free of corruption.
- It helps to live in a society free from poverty.
- It helps to live a healthy life.

² Qendra për Studime Parlamentare, Revista. 2004. *E drejta parlamentare dhe politikat ligjore*, Nr 3, 24-25

³ Qendra për Studime Parlamentare, Revista. 2004. *E drejta parlamentare dhe politikat ligjore*, Nr 3, 27

⁴ Qendra për Zhvillimin dhe Demokratizimin e Institucioneve and ARTICLE 19 (Organizata Botërore për Shprehjen e Lirë). 2003. « *Liria e Informimit. Manual trajnimi për nëpunësit zyrtarë* ». Tiranë, , 10

- It helps to live in a society where the people respect the environment.
- It guarantees that our privacy is respected.
- It guarantees the safety of the country.
- It guarantees that the country's political system is more democratic.
- It guarantees that the chosen government is more efficient.
- It involves better decision-making.
- It helps the economy to run more efficiently.
- It secures that the institutions treat the individuals better.
- It guarantees that basic human rights are respected.

The right to information and the level of transparency it guarantees are very important also in higher education institutions because students and other interested parties need to be informed to increase their awareness and participation for the consolidation of democracy.

1.3. The standards of the right to information and the Albanian legislation.

The basic principles that the legislation for the right to information should reflect are numerous, but at the same time each of them has a special importance. These principles take into account the fact that the right to information legislation should be guided by the maximal openness principle; public institutions or public sector bodies should be obliged to publish their most relevant information; public sector bodies should promote the principle of open government; the exclusions from the information right should be clear and detailed; information requests should be answered within the specified periods of time, with accuracy and only in separate cases may result in a refusal to give information; the individuals should not be prevented by means of administrative costs to request information; meetings in public sector bodies should be open to public; the laws that disagree with the principle of the maximum openness of government should be amended or even remade; the individuals that engage in "whistleblowing" practices should be secure from punishment, when making public a fraud, an abuse, etc.

1.4 The role of public sector bodies in the successful implementation of right to information

Albania has sanctioned the right to information constitutionally in the articles 78 and 83, point 1 of the Constitution. The actual law on the right to information replaced the previous one, Law no.8503, by extending the concept of information right on every public sector body or institution that offers public services.

For guaranteeing the successful implementation of the law for the right to information of citizens, a very important role is attributed to public institutions, which on one side should be sensible to giving information for the interested parties, and from the other side should be responsible to them.

Therefore, by definition from Council of Europe, the term "public sector body or institution" means:

1. The government and the administration, in national, regional or local level, and
2. The natural or legal person that executes public functions or that exercises administrative authority sanctioned in national law.

As sanctioned in the Albanian law of right to information for official documents, in article 3, point 1, 2 and 3: "Any person enjoys the right to access public information, not being subject to explain the motives.

2. The public sector body shall be obliged to inform the applicant whether it holds the requested information or not.

3. Any person shall be entitled to access the public information, either through the original document or receiving copies in the form or format enabling full access to the document contents.”⁵

1.5 The law on the right to information and its implementation in the Higher Education Public Institutions.

In this study is made an attempt to analyze the implement of the important law no. 119/2014, “On the right to information”, in the Higher Education Public Institutions in Albania. There are 11 Public Institutions of the Higher Education in all the country. It was drafted a questionnaire directed to the responsible for implementing the law on the right to information in these institutions and precisely directed to coordinators for the right to information. The first step was the establishment of contacts with the coordinators for the right to information in each institution. Only 55% of Higher Education Institutions (HEI) have published on their official website the contact details of the responsible for the implementation of the law in the institution. In this case, the coordinators have been contacted by phone or by e-mail. 18% of the coordinators have been contacted at their offices and for the other 27%, it has not been possible to establish contacts. Therefore, it is contacted with 73% of the institutions that make the population. 62.5% of respondents answered the questionnaire. 32.5% did not respond for the following reasons: in two cases the persons holding the coordinator’s position, were temporary replacement and had no willingness to respond, and in one case, the person named as coordinator on the official website of the institution, did not held this position anymore and was not replaced by another one. In terms of legal obligation, in accordance with Article 4 of the law on access to information, for the formulation of transparency program by the AP, a program which defines the categories of information to be made public without request and manner of publication of this information, only 55% of HEIs have published it on its official website. Regarding the results of the questionnaires, in the opinion of all respondents, the law on the right to information obviously encourages integrity, transparency and accountability of the PA. Mainly, the programs of transparency are designed in line with the draft of transparency program that it is provided by the Commissioner of the Right to Information, which is responsible for the implementation and enforcement of this law. These programs taking into account the necessity of guaranteeing the recognition maximum public information and implementation available, without a request, as much information as it possible; The period for the review of the program of transparency is 1-2 years. This can be explained by the fact that being in the early stages of implementation of the law, there is still no comparative period to test the validity of the draft program of transparency and to identify the individual requirements of each HEI. The period of 2 years is judged more appropriate to create a feedback and to have the opportunity to reflect the individual characteristics of each institution that may appear in the future. It is observed that the role of Coordinator for the right to information is attached to another current position in these institutions and mainly relates to the positions of specialist in the legal department, human resource specialist or specialist in public relations. So, these institutions have not a unique conception of the role and the powers that should have the person who has to cover this position. Somewhere, this position is seen closer to the position of the legal and elsewhere closer to the position of human resources specialist or public relations specialist. This may be as a result of brief experience of this job in the HEIs, which creates difficulty to identify the problems that the coordinator must face, and consequently creates difficulty to the determination of the characteristics of this job.

Also, anytime, this position is still uncovered, contrary to Article 10 of the law on access to information. In other cases the coordinator hardly has clear its duties.

Another phenomenon that is observed, has to do with the conception of the right to information from the applicant that request the information. Often these requests exceed the rights that the law provides for information, violating the right to privacy of personal data protected by law for the protection of personal data, implemented in Albania since 2008. The main object of refusal to provide information to the applicants, it is the violation of the law for the protection of personal data. Other reasons for refusal of information are the following; cases of disciplinary

⁵ Law no. 114, 2014: “*On the right to information*”

procedures, auditing or procurement, which are not yet completed or the fact that the requested information have been made public through the Web site or through the transparency program.

1.6 Problems and deficiencies in the implementation of right to information law and some recommendations for improvements in this direction.

1.6.1 Problems and deficiencies in the implementation of right to information law:

When the first FOIA, law no.8503 was approved in 1999, there have been some initiatives to measure the impact of the law on public sector bodies and citizens. In this way, it would involve making a real analysis on the law understanding and what it meant for the different political, social and economic country' actors.

In this context, actually the FOIA coordinator⁶ is the responsible institution for the law implementation, by substituting the ombudsman that was firstly assigned as responsible institution in the first law.

In relation with responses by central public institutions we can mention several problems in law implementation:

1. 'In several cases the concept of the regulation "On the creation of measures for information on public documents" is confused. Also, in some cases this regulation is confused with the regulation of the offices of public relations that can be found in every institution.'⁷
2. 'In some cases, the regulations are not self-enforcing, or sufficient, and require further legal specifications from the departments or directories in every ministry'.⁸
3. In every case the regulations lack the provided (or specific) forms.
4. In some other cases the regulations are absent, constituting a flagrant violation from the obligation of the law.

Also, in the monitoring of the Center for Parliamentary Studies in 20 central public sector bodies in Albania it resulted that there are number of problems coming from the implementation of FOIA and very little progress is achieved. The most problematic aspect relates to regulations and offices of public relations, in order to get information on official documents.⁹

In relation with the answers from the local administrative bodies the major problems are:

1. There is no distinction between services and information on official documents.
2. In some cases the giving of information on official documents is monopolized by the director or some other higher level official, when in fact the procedure should be routine and manageable by every employee in the institution.
3. Often the language of law is given too much credit, without further consideration for the areas that need more regulation for addressing different problems.
4. In some cases, the approved regulation for information itself is labeled as "for internal use only".
5. The regulation in place of setting the approval and being specific about different regulations, procedures, forms, tariffs, delegates this function endlessly in other departments and sectors, making impossible the effective process of information for the public.

⁶ FOIA coordinator in Albania is actually Mr. Besnik Dervishi.

⁷ Avokati i Popullit, me ministrin e shtetit pranë Kryeministrit, ISPL dhe DANIDA në Shqipëri. 2003, "Konferenca kombëtare e 12.12.2002: E drejta e informimit, e drejtë themelore e njeriut". Sht. Bot: "Luarasi", Tiranë, 35

⁸ Avokati i Popullit, me ministrin e shtetit pranë Kryeministrit, ISPL dhe DANIDA në Shqipëri. 2003, "Konferenca kombëtare e 12.12.2002: E drejta e informimit, e drejtë themelore e njeriut". Sht. Bot: "Luarasi", Tiranë, 35

⁹ Qendra për Studimet Parlamentare. 2005, "Raport: Rezultatet e monitorimit të zbatimit të ligjit për të drejtën e informimit mbi dokumentet zyrtare". Tiranë, 6-14

6. In other cases, there is no difference between the concept of archive documents and that of official documents.¹⁰

According the Annual Report 2014 of the Commissioner for the Right to Information and Protection of Personal Data¹¹, there are several problems related to the content of the provisions of law, as well as their actual implementation, such as:

1. Necessity to determine the category of "public authorities", as far as some of them though public officials do not meet defined criteria contained in the definition.
2. Analysis of the 15 days for the review in exceptional cases, appears to be insufficient where some actions such as the development research submissions or hearings, the need to refer to the terms defined in Administrative Procedures Code or nr.10279 law, dated 20.05.2010 "On administrative offenses".
3. It should be clarified the term "public information" (in terms of information created).
4. Failure to take action by the public bodies for the application of Article 10 of the law, for the appointment of a coordinator of officials for the right to information which the law has provided some power, is a key impediment to the implementation of this law time with the right quality.

Other problems that resulted from the law implementation are related with the fact the major part of public officials lack knowledge and training in relation with law, and in this way they become a serious obstacle with their behavior in informing the interested citizens.

1.6.2 Different causes of the ‘deficiencies’ in the law implementation:

It is very important to analyze the reasons and the causes that condition the successful implementation of FOIA in Albania. In this way we can understand and overcome the problems from implementation, by providing the necessary measures to improvement in this direction, from the different social actors.

The major deficiencies and problems in law implementation comes from two principal factors. *First*, the country political culture, often cited as a ‘culture of secrecy’, because of the transition from a communist regime toward a democratic system of government. The country has endured for 50 years a communist political regime, where human rights were violated constantly. In this way we can say that we have inherited an exclusion attitude toward citizens from public administration. This type of political culture has conditioned the existence of a closed administration toward the public and that often behaves as it is independent from citizens. This attitude causes that the decision-making process is not in function and best interest of citizens and it lacks transparency. Thus, the state apparatus has issues regarding the application of maximum openness and transparency, as a necessary condition for a democratic regime. *Second*, the implementation of FOIA is obstruct by the long period of transition toward democratization, accompanied by instability of the institutions. In this period, there have been efforts and failures for a stable democracy in the country and for accomplishing standards specified in different legal acts. The efforts made for implementing the Law to information right have not achieved a satisfactory level, because public officials and citizens themselves do not know yet the specifications of the law.

“It is judged that the low level of implementation of the freedom information has its origins and is based in two factors: firstly, the freedom of information is an imported value and secondly, the reform has not yielded yet the desired results and as a result it is the right for information suffers the consequences”.¹²

In relation with the most important recommendations for the improvement of implementation of freedom of information from public administration, it should be taken in consideration especially some aspects:

¹⁰ Avokati i Popullit, me ministrin e shtetit pranë Kryeministrit, ISPL dhe DANIDA në Shqipëri. 2003, “Konferenca kombëtare e 12.12.2002: E drejta e informimit, e drejtë themelore e njeriut”. Sht. Bot: “Luarasi”, Tiranë, 37

¹¹ http://idp.al/images/autoriteti/Raporte_Vjetore/RAPORTI_VJETOR_2014.pdf

¹² Instituti i Studimeve Publike dhe Ligjore. 2006. “Përfundimet FOIA”, Tiranë

The process of integration in the European Union should be accompanied naturally with the practical engagement of the Albanian public administration to apply correctly the EU standards. Also, central and local public sector bodies should have as a main concern the care for the proper and efficient implementation in practice of FOIA. Every agency of public administration should notify and promote without reserve the services that they offer to the public. In this way, public employees should be aware about the fact that official documents should be public for everybody that is interested in them, except the cases when the law specifications condition or limit this right. So, the public administration should give to citizens the opportunity to be closer and take part in the decision-making process, because this improves and guarantees a base for the public institutions. Very important here is the role of not for profit organizations to the dissipation of the right of information that citizens have from the public administration, as a way of achieving good-governance.

1.7 Conclusion

The Albanian Law on the right to information for the official documents no.114, 2014, replaced the first FOIA no. 8503, date 30.06.1999. It represents a very important step in achieving a greater level of transparency from the public administration and a milestone for the democratization of the country. This law is based on the respect of the basic human right to be informed on the activities of public institutions, and because citizens in this way, can be a vital part of the governance, by exercising control on these institutions and at the same time supporting them. Therefore, this secures a democratic system that is based on the respect of human rights and the forging of collaboration between state institutions and citizens.

Citizen participation begins with the information of the public on the governmental activities. This leads to more accountability from the government and more transparency, as a necessary condition in securing good-governance in the country.

In this context, more and more countries, including Albania are approving and enforcing several laws for accessing information on official documents, based on the models of the West European countries. Thus, the right to information and democratization are related with each-other interchangeably, because the application of the information right is highly related with a high level of democratization, in the same time when the implementation of this right is related with the enforcement of other important rights in a democratic regime.

Also, the right of information includes a different number of principles or standards, but the most important of them is for public administration to apply the principle of maximal openness and transparency for the public. Only in this way, we can secure a collaborative and realist relationship with citizens. Also, the public administrators should offer the required information in a short period of time and correctly, in order to offer an efficient service to the public.

An important part of the law are the exceptions from this right because they represent limitations related with the protection of private information or data, with national secret, state classified information, archive documents that have a maturity period and with trade information.

At the same time it is important that public sector bodies guarantee and take measures to correctly implement the law on the right to information. Only in this way people will be sufficiently aware of their right. This can be achieved especially by organizing a promoting campaign for acknowledging the individuals with their right for information and the procedures of getting the desired information, and by organizing trainings of public officials, to knowing the law and their obligation to be transparent with their citizens. The promoting campaigns and trainings should be undertaken from the civil society in collaboration with other national and international organizations.

Based on Albanian FOIA we can conclude that it contains the most important standards related with freedom of information in a democratic state, but that it is necessary much more work for successful implementation. Even if there are a number of problems that are related with the implementation of FOIA, we can conclude that the law gives citizens the right to know the official documents that result from the activities of public administration. This is very important from the point of view of the securement of transparency with the public and at the same time from

the perspective of the further country democratization, because it is the only way in which citizens can exercise their democratic right of participation in decision-making and control on governing institutions.

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Ensuring Accountable Government through Openness, Transparency and Ethics:
The Case of Bulgaria

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Ultimately, government is the most significant institution of any society for at least three reasons. First, it is the only institution of society which possess the legitimate right to take away one's property, freedom and, ultimately, one's life. Second, as it organizes and structures any society, it is the critical enabling institution for all other societal institutions. Finally, while it is often not recognized, in reality government is the most important source of policy and economic innovation in society. For all of these reasons, the issue of ensuring accountability in government is absolutely critical to both individual and collective wellbeing. It is also very difficult, and sometimes very problematic to ensure a government with such characteristics.

Government can do very great things. Most of the major technological innovations of the past 75 years (the computer, radar, the internet, geographic information systems and vaccines that have brought major epidemics under control) are the product of government conducted and/or funded research and development. However, the holocaust, genocide in various parts of the world and slavery of many kinds are also the result of government action or, in some cases, conscious inaction. All of which is to say that the task of maintaining accountable government is critical to the wellbeing of any society.

Openness, transparency and governmental ethics in most cases are the critical building blocks for ensuring governmental responsiveness and thus accountability in government. In this paper, we shall look at the institutional, procedural and cultural factors that shape issues of openness, transparency and governmental ethics. In doing so, we will obtain significant insights into the manner in which openness, transparency and ethical behavior can play roles in ensuring governmental accountability. This paper will then look at the manner in which the concepts of accountability, openness, transparency and ethical behavior have been implemented in Bulgaria.

Introduction

Ethical values are one of the most important categories of public values. Transparency, responsibility, accountability are among the main elements of the ethical values framework for the public sector¹. Different countries have different groupings of these values. Transparency and

¹Suwaj, Patrycja J., Hans J. Rieger, (eds.), Public Integrity: Theories and Practical Instruments, NISPAcee Press, 2009, p. 27.

personal accountability are key issues in the British system and are included in the so-called “Seven Principles” of public life that have been endorsed by successive governments and have become the benchmark by which standards in public life are assessed². In the UK, the standard of accountability means that holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office, while the standard of openness means that holders of public office should be as open as possible about all of the decisions and actions that they take. They should give reasons for their decisions and restrict information only where the wider public interest clearly demands.

In its simplest form, according to J. McKinney and L. Howard³, accountability may be defined as any situation in which individuals who exercise power are expected to be constrained, and in fact are reasonably constrained, by external means (e. g. reversal of decisions, dismissal and judicial review) and also, to a degree, by various societal norms (e. g. codes of ethics and professional training). Administrators must know, through established criteria, to whom and for what they are accountable. The holders of power are stewards performing tasks specified by those who have the authority to review their actions – based on codes, regulations and guidelines -- and the ability to displace them.

Responsibility means assuming responsibilities for implementing public policy in an open manner and acting accordingly. Furthermore, all the means at the disposal of the civil servants will be focused on the achieving of this objective. Transparency implies the disclosure of appropriate information which will provide a true picture of civil servants’ actions through providing information that is accurate and verifiable. Both internal and external communication will be clear and timely in order that, in keeping with the EU Regulation on public access to documents of the European Parliament, transparency “allows citizens to participate closer in the decision making process and guarantees that the administration is proud of a higher rightness, is more efficient and responsible to citizens in the democratic system.”⁴ In addition, transparency contributes to the enhancement of democratic rules and respect for basic rights as defined in Article 6 of the Treaty of the European Union and in the Charter of the Fundamental Rights of the European Union.

Nevertheless, the unfortunate reality is that there is no single best policy or strategy for ensuring accountability, ethical behavior or transparent and responsive government and/or politics within either a single community or broader society. This is because there is not one best set of policies - - no silver bullet or magic formula -- limiting either the extent of, or the impact of, corruption on society. Certainly, as some research suggests, democratic societies are likely to have less, rather than more, corruption. But this is not, per se, because they are democratic. Rather, it is because they are much more likely to have put in place, and to continue to put in place, numerous safeguards – multiple procedures and institutions -- that help to create an anti-corruption culture than are societies where political power and governmental authority are more highly concentrated.

² Suwaj, Patrycja J., Hans J. Rieger, (eds.), *Public Integrity: Theories and Practical Instruments*, NISPAcee Press, 2009, p. 50-51.

³ McKinney, Jerome B., Lawrence C. Howard, *Public Administration: Balancing Power and Accountability*, 2nd ed., Praeger Publishers, 1998, p. 37.

⁴ Suwaj, Patrycja J., Hans J. Rieger, (eds.), *Public Integrity: Theories and Practical Instruments*, NISPAcee Press, 2009, p. 151.

So, what are the critical factors which contribute to the discouraging of corruption and which encourage accountability, ethical, transparent and responsive government, especially on the part of public employees and elected officials⁵. For analytic purposes, one might suggest that they fall into three general categories. The first category is that of cultural factors, that is to say the qualities, norms and values of a society. The second category is the institutional arrangements which often have been established as part of the process of democratic institution building; many of which do play a key role in helping to discourage corrupt behavior. Finally, there are procedural factors which include the various policies that regulate individual behavior, performance and relationships, and which have been designed to limit the opportunities for corrupt behavior and activities.

Procedural elements will be examined first because, in most instances, they are the easiest and quickest to implement and, if implementation is carried out in a committed fashion, there can be significant immediate impact. However, generally speaking, procedural factors are perhaps the least consequential over the long term since procedures, when established by a government (or one of its agencies), can often be rapidly changed, ignored or subverted. Institutional structures, on the other hand, especially those designed to assure the accountability of public officials, when effectively established, are more difficult to undermine or circumvent. Most assuredly, however, over the long term, arguably the most important factor in discouraging corrupt behavior, and encouraging accountable, ethical, transparent and responsive behavior, is the growth and development within any country, or society, of a culture that promotes, values, and inculcates a very real concern about, and commitment to, ethical, transparent and accountable behavior on the part of public officials, government employees, and the entire citizenry.

Procedural Factors to Encourage Accountable, Ethical, Responsive and Transparent Government

There are a myriad of procedural arrangements which governments around the world, and especially in more democratic settings, have adopted to combat corruption and encourage accountability and ethically responsive conduct on the part of public employees and officials. Any effort to fully catalogue all of these, let alone analyze their effectiveness, not to mention assessing the contextual factors that contribute to their effectiveness, would require at least a book length analysis. However, in general, procedural approaches to maintaining ethically responsive and accountable behavior tend to fall into two very broad categories – first, ensuring the availability of full and adequate information on governmental activities in order to enable the citizenry to exercise effective oversight over public officials and government employees and, second, the regulation of the individual behavior of public officials and governmental employees.

The former category includes the establishment of such procedural arrangements as the implementation of open records laws, the requiring of open meetings and the holding of public hearings generally (and especially on governmental budgets) and the provision of extensive, relevant documentary information to enable the citizenry to accurately assess the activities of their

⁵ The next few sections of this paper draw heavily upon my portion of the chapter “Advancing Good Government through Fighting Corruption” by Milena Neshkova and Allan Rosenbaum which will be forthcoming in the Handbook of Public Administration edited by James Perry.

government and those who represent them. The latter includes the making readily available to the citizenry of governmental statutes, regulations and rules and the providing of clear and extensive written information about the activities, budget and programs of government and the organization and delivery of public services. All of this, of course, presupposes that government, its public officials and employees, will be held legally accountable for any efforts to withhold information or deceive the public that are not provided for by law.

Of particular importance in terms of the maintaining of accountable and ethical government is the availability of regular, accurate, understandable and highly specific information on government financial transactions. While many, if not most, practices which contribute to the availability of such information have been in use for some period of time in well-established democracies, in relatively new ones, such practice often does not exist or is very limited. Indeed, in many recent democracies, the traditional practice has been to keep information about the implementation of government activities and programs quite secret – indeed, just the opposite of making information about government readily accessible to the public.

Consequently, many international organizations have placed increasing emphasis on encouraging the adoption of procedures that make governmental information much more available in countries making the transition to democracy and market economies as a means of promoting more responsiveness on the part of government agencies and their employees. For example, the World Bank and the U.S. Agency for International Development have worked in many parts of the world to encourage the introduction of various types of public hearings, and other forms of citizen participation, in budgetary processes at all levels of government and especially at the local level. In at least some instances, these agencies have made efforts to go a significant step further and introduce open records laws which require many, if not all, of a government's written documents – ranging from an individual's personal notes of a meeting, to formal government records (generally with the exception of national security documents and individual personnel records) -- to be open to the scrutiny of the public and the news media.

Another, approach to making adequate information available to the public involves institutionalizing various kinds of procedures that ensure the extensiveness and adequacy of the information that will be produced by government agencies. The introduction, for example, of effective management information, performance measurement and planning, program budgeting systems can all contribute significantly to making more extensive governmental information available – thus enabling the citizenry to more effectively evaluate the performance, and, in many instances, the integrity and accountability of their government officials. Various innovations such as making available better and more detailed agency reports and informational documents can be helpful – especially in those countries where the local media, and/or non-governmental organizations have developed some level of investigative capacity. The use of new technologies, such as the establishment of web pages, and the making available of information about government contracts via internet can all contribute to ensuring the openness, and thus the responsiveness, of government. In so doing, such initiatives will help to encourage, if not ensure, the ethical behavior of those whose job it is to serve the public.

Equally important in efforts to combat corruption is the establishment of those procedures and processes that ensure that, when there is a question about the ethical behavior of government

officials and public employees, adequate investigations can occur. Governments around the world have taken many different approaches to dealing with such matters. These include the establishment of internal and external audit arrangements, the conduct of legislative oversight activity and the requirement of specified executive responsibility for governmental performance.

A second major approach to combating corruption and encouraging ethical, open, responsive and accountable government is to regulate the behavior of government employees and public officials. Frequently, this is done through codes of ethics which in some instances (where laid out by professional associations) are enforced only through social pressure. In many instances, however, governments themselves have chosen to pass a variety of laws, which regulate the performance of public employees and make those employees who deviate from the standard established in law liable for criminal penalty. Such arrangements especially are useful in areas where financial matters are centrally involved -- such as the procurement for government of supplies, equipment and facilities. Similarly, the establishment of effective rules and procedures regarding the manner in which government services are provided to the public, and the programs doing so are managed, are of critical importance.

Another area in which the activities of public employees are regulated in order to attempt to minimize the possibilities of corruption is with regard to political activities. In some democracies, public employees are by law not allowed to engage in partisan political activity and therefore are assumed to be less susceptible to efforts to manipulate governmental activities in such a manner as to benefit one or another political party, or group of individuals, at the expense of others. Finally, it should be noted that increasingly, democratic societies are creating procedural safeguards to protect those individuals on whom they sometimes must rely for the revealing of conduct and performance that is less than ethically responsive. Nevertheless, while more such laws are being put in place, the reality is that they are often not as effectively implemented as is needed.

In many democracies, it is typical, especially at the local government level, for government officials to contract with private sector accounting and auditing firms to review the effectiveness and integrity of governmental financial and general management procedures. The companies contracted with are themselves subject to legal prosecution should their reports on these matters be found to be negligent or misleading. Likewise, various kinds of procedures exist for oversight to be carried on internally within the government itself. These range from simply requiring that the chief executive be held responsible in one manner or another for the performance of those who report to him or her, to requiring on some regular routine basis reviews of individual and agency performance.

Institutional Factors to Encourage Accountable, Ethical, Responsive and Transparent Government

Without question, one of the most important structural arrangement helping to ensure responsive government involves the separation of contemporary government into different branches and levels in such a manner as to disperse power and authority. As the 19th century British political analyst, Lord Acton, commented, "Power corrupts, absolute power corrupts absolutely."

Consequently, dispersing the ability to control government activity, and especially the allocation and disbursement of public funds, and other financial activity, among different units of government and individuals can be a critical factor in discouraging corrupt behavior and insuring accountable government. Such arrangements limit very significantly the possibilities for the monopolization of power and provide a critical opportunity to encourage checks and balances among branches and levels of government.

A system of multiple independent branches of government, requires the making available of information among branches and thus also helps to ensure ethical, open, effective and transparent government. Of particular importance, it encourages the responsiveness of government bureaucracies, and the people who staff them, by holding them accountable to the legislative branch of government, as well as to the chief executive of the government, and, ultimately, to the judicial system. Of particular note in this regard is the existence of a fair, impartial and effective, prosecutorial and judicial system. Without such conditions, the likelihood for effectively minimizing the probability of corruption in any community or society is, at best, problematic. Without question, the independence and effectiveness of the prosecutorial and judicial systems are among the most critical factors for encouraging accountable, ethical, responsive and transparent government.

Also of note is the fact that many established democratic governments, and particularly those well known for responsiveness and integrity, rely very heavily upon the decentralization of governmental institutions. Especially notable in this regard are some of the countries of Northern Europe and North America, where a very high proportion of governmental expenditures occur at the sub-national level, thus providing citizens with the possibility to more closely understand the activities and workings of their government. This allows the citizen the possibility of a more direct relationship with, and a better sense of the workings of government that is close to them – as well as to more easily understand and gain access to information about the government and its programs.

Many democratic governments also have established, and rely heavily upon, various institutional arrangements which provide for oversight of governmental activities. The Scandinavian countries introduced the institution of the Ombudsperson, an institutionally independent government official, who possess extraordinary investigative powers to determine if governmental agencies are acting appropriately - both as regards responsiveness to the citizenry and with integrity as well. In the United States, at the national level, and in many state and local governments, there has been established within individual government departments and/or agencies the office of “Inspector General.” These are officers within government agencies who are given extraordinary powers and authority to investigate the normal operations of the government agencies of which they are a part in order to ensure the maintenance of the highest levels of professional responsibility and integrity.

Equally useful is the authority given to the legislative branch of government, as well as the judicial branches, to carry out their investigative activities unimpeded by the executive branch of government. Often when legislative branches (usually through their committees) are given significant oversight authority, they will have various important resources which enable them to engage in thorough independent investigations of the accountability and integrity of the executive branch and its various agencies. When fully developed, legislative bodies will possess expert staff

and, in many cases, have the power to compel testimony from members of the executive branch on the threat of imprisonment. In addition, many legislative bodies establish audit agencies designed to exercise direct oversight over the executive branch. Some such agencies focus principally on issues of financial management and auditing, while others have much more wide-ranging authority.

There are other structural arrangements that democratic governments have established to encourage ethical, accountable, transparent and responsive government. These include, for example, institutional arrangements which directly involve private citizens in the policy making and management of specific government programs. Thus, the United States relies very heavily upon volunteer citizen boards to advise, oversee and, in many cases, actually make critical policy decisions for government agencies. These boards will often have access to highly trained staff and have high levels of legal authority to require the provision of information by the government agencies they oversee or advise. The use of such boards enables citizens to gain better access to information as well as to develop expertise in the area of policy for which the board is responsible. It also enables them to hold non-responsive agencies much more accountable and, in so doing, encourage and support the responsiveness and/or ethical behavior of public authorities.

There are other kinds of institutional arrangements which facilitate accountable government. For example, in the United States, especially at the local level, many governments have arrangements whereby individual citizens can initiate the removal of public officials from office by obtaining a designated number of signatures on a petition. This results in the conduct of “recall elections”, which, if the electorate approves, leads to the individual officeholder being removed from government prior to the conclusion of his or her term of office. In some communities, the participation of political parties in local elections is forbidden as a means of encouraging ethical accountability and responsiveness by limiting the potential for corruption that sometimes arises from intense party competition involving the control of patronage, jobs and government contracts. Also, in some democracies a high reliance is placed upon the employment of professional, non-partisan managers in local (and to a lesser extent, national) government as another way of encouraging responsive, non-corrupt government and lessening the potentially corrupting influence of intense political competition.

Creating a Culture that Supports Accountable, Ethical, Responsive and Transparent Government

As noted earlier, procedures established by government sometimes can be easily changed or manipulated. Likewise, institutional structures can, in some instances, be significantly altered – especially in newer or more fragile democracies. Consequently, in the end, the traditions, values and cultural norms of a society represent a very important, perhaps the most important, means of sustaining the procedures and structures that insure accountable, responsive, honest and open government. Certainly, one of the very most important factors promoting honest, responsive and accountable government in many Western democracies is the tradition of a free and open investigative press. It is arguable that the existence of a strong independent media may represent the single most important force for encouraging and preserving integrity and accountability in government. While frequently attacked and criticized by government officials for being biased, in

most democratic societies, media investigation is an extraordinarily important force in the promotion of responsiveness and honesty in government. However, because of the tradition of politicians routinely attacking the media, it is important that governments have constitutional or statutory protection for journalists who call attention to inappropriate and/or illegal behavior on the part of those within government.

Another key factor in promoting ethical and accountable government is the approach taken to educating and socializing those who work in government. In academic public administration programs great emphasis should be placed upon the notion of the person working in government being “a public servant” who is responsible and accountable to the citizenry. In educating those who will go into government there should be a widespread consensus that public officials must be responsive to the citizenry and be held accountable for high standards of integrity. Thus, the culture of government, and the expectations of society (reflected in both public attitudes and professional norms), must place great emphasis upon maintaining high levels of integrity and responsiveness on the part of governmental employees. This in turn requires that public employees receive fair and adequate salaries.

Also contributing in important ways to an honest, responsive and accountable government is the long term political and economic stability of a country combined with the presence of an active civil society. Adequate funding of government is also very important. Stability and adequate funding help to facilitate the establishment of strong norms and expectations for ethical and effective individual and institutional performance. Similarly, the existence of an energetic civil society, which demands honesty and responsiveness on the part of government officials, is a critical factor in promoting governmental integrity and accountability. Many non-profit organizations and civic groups, through various means of financing, are able to employ individuals who become experts in particular areas of public policy and governmental activities. These individuals, through their investigative skill, represent an important check on the potential for corrupt and non-responsive behavior by government agencies and officials. Often such organizations take great pride in their capacity to investigate the activities of government officials and serve as “watchdogs” over government agencies.

The Concept of Open and Accountable Governance in Bulgaria and its Implementation

After 25 years of purposeful reforms Bulgarian citizens are still seeking good governance and accountable government. Ensuring accountability in the government of Bulgaria is an issue of great importance for citizens, business and civil society because it leads to mutual respect and greater involvement of the public. As administration is the engine to provide coordination and guidance of public efforts for a better life, and to ensure favorable business environment and economic growth, restoring the confidence of citizens and the private sector turns out to be a critical factor for public administration. The motto for the Development of the State Administration for 2014-2020⁶ is “We work for the people” and it highlights the government’s intention to turn the focus of the administration to what citizens and the private sector want. In fact, this is what separates it from existing strategic documents. The strategy includes a critical

⁶ Working for the People Development Strategy for Public Administration 2014-2020.

analysis of the functions and efficiency of the public administration and identifies the main weaknesses, deficits and challenges before its development.

The vision for good governance in Bulgaria is based on the well-known principles of rule of law, equality, accountability and transparency, responsibility, effectiveness and efficiency, broad participation and consensus building. The implementation of these principles is envisaged in the Strategy for Public Administration 2014-2020. This Strategy reflects the key recommendations of the European Commission, the World Bank and other international institutions, and the recommendations of the business and non-governmental organizations in Bulgaria to improve governance. The measures envisaged in the Strategy are in full compliance with and focused on the implementation of priority six. "Strengthening the Institutional Environment for Higher Efficiency of Public Services to Citizens and Businesses" of the National Development Programme: Bulgaria 2020.

This new strategic document outlines new directions for the development of the public administration. The previous comprehensive strategic document for public administration reform - the updated Strategy for the Modernization of Public Administration – was intended to conclude in 2006. Since then a number of separate strategic documents have been developed. These include: the Strategy for Human Resources Management in Public Administration 2006 - 2013, Strategy for Training Civil Servants, updated in 2006, and the Better Regulation Program 2010-2013. In 2002, the concept for improving administrative services in the context of the "one stop shop" was adopted, but it has not been updated. The development of a new integrated strategy for the development of the public administration was a result of the increased expectations of citizens and business. The new strategy is functionally connected with the e-Government Development Strategy, the Decentralization Strategy, and the Strategy for the Support of the Development of Civil Organizations in Bulgaria. In the future, all strategic documents and plans that will be developed and adopted are to be linked and synchronized with the Strategy for Public Administration 2014-2020.

Ensuring an open and accountable government is a key objective of the strategy and, by the end of 2020, three major groups of activities and measures should be implemented. The first group of activities aims to implement an open data approach and to improve the exchange of information and public awareness; the second group aims to improve monitoring and evaluation of government policies; the third is to increase the accountability of managers and employees in compliance with ethical standards.

In Bulgaria, implementing an open data approach and improving the exchange of information and public awareness is considered to be a key factor for ensuring good governance. In this connection, it is important to highlight that Bulgaria joined the "Open Government Partnership" initiative, launched in 2011, together with 62 other countries and, as a member of this initiative, it has to apply the four key principles of open government - transparency, citizen participation, accountability and technological innovation. The key is to ensure the openness of public databases and information sources that are currently used only for administrative purposes. In short, the Open Government Partnership is a multi-stakeholder initiative focused on improving government transparency, accountability and responsiveness to citizens. It brings together government and civil society champions of reform who recognize that governments are much more likely to be effective

and credible if they open their doors to public input and oversight⁷. As such, it is planned that by the end of the program period a comprehensive, coherent and operational system for collection, processing, systematizing, exchange and provision of public information to the benefit of citizens and business will be put in place. This will allow correct and accurate statistics for making objective and informed decisions in all areas of governance.

Introducing the “open data” approach requires gradual reduction of the existing restrictions on free access to information. Provision of data in an open format in digital form is an important tool to strengthen the potential for innovations and use of information resources in an optimum manner. In this way, the information held by the institutions and the public sector will be available for reuse for purposes other than the original purpose for which it has been created. Data will be provided in a format that allows a computer program to uniquely identify separate data contained in the electronic document as well as their internal structure. The goal is for public information (including primary data) to be open and accessible to all persons for free use and to be published in a structured and easy to process format.

It is anticipated that opening access to public data will facilitate greater participation by civil society in political life and will contribute to the improvement of many areas of policy -- including health, education, environment and transport. The economic impact is also important, because it will create opportunities for greater innovations and a variety of business applications and services that result from analysis and visualization of data from different sources. The administrative burden on users and civil servants will be reduced by facilitating the electronic issuance of various reports.

Another positive effect is connected with the anticipated greater openness and accountability of the policies of governmental institutions themselves. The idea of the government is that the website of the Ministry of Finance will publish regularly updated expenditure information about the payments made through the System for Electronic Budget Payments. Comprehensive information will be published in one place regarding the programs and results-oriented budgets of the government institutions. There will also be reports on program implementation.

The key specific activities to be implemented in order to achieve the open data approach, and to improve the exchange of information and public awareness, can be summed up in the following way:

- Development and implementation of a unified filing methodology and nomenclature covering all similar administrations, the central administration and its subordinate units.
- Development of a national archive register of public documents on the basis of a system for e-archiving, with open access.
- Determination of a national center, or a body of the central executive, responsible for the methodology and standards for collecting, storing, structuring and the use of information by public organizations and institutions.
- Introduction of the obligation of the administration to exchange information in providing services to citizens, as well as introduction of penalties for failure to apply the principle of

⁷ Open Government Partnership: Four-Year Strategy 2015-2018, at www.opengovpartnership.org

"once collected, information from a citizen from one administration is provided free of charge to another administrations in providing service to the same citizen."

- Establishment of a specialized unit for general supervision of the preparation of the projects for the implementation of e-government and introduction of the principle of refusal to fund IT developments of administrations related to the e-government in case of incompatibility of their and other platforms and in case of inability of communication between platforms for the implementation of the Strategy.
- Double guarantee of the information security and ensuring public ownership of the source codes and rights to use the operational, technical and technological systems for collection, maintenance, processing and providing public information; and also publication in one place of the complete information about the program and result-oriented budgets of institutions, the reports on their implementation, as well as for the payments made through the System for Electronic Budget Payments.

The second group of activities is oriented at establishing an effective system for monitoring the implementation of policies and implementation of the laws and regulations adopted by the Council of Ministers. This is aimed at ensuring sound management decisions and providing the information necessary for implementation of major policies of the government through improved reporting of annual goals of the administration. It will constitute the basis on which the responsible administrations will assess the implementation of policies. In the introduction of a policy implementation monitoring system for assessing the results achieved by the administration, accurate, specific and measurable indicators will be defined.

In this way, the capacity of relevant administrations and civil society organizations to conduct evaluations will be strengthened. It is also important to note in this regard the role to be played by non-governmental organizations in serving as a social corrective to government policies. In this respect, civil society institutions should develop and implement tools and procedures for the monitoring and evaluation of public policies. In order for this to happen, and to increase the efficiency of the administration, administrative organizations need to create and maintain databases on the results of the implementation of public policies. For this purpose, special emphasis is placed on the implementation of integrated initiatives for the regular assessment of the quality of public services received by citizens and the public sector.

The major activities to be implemented in order to achieve improved monitoring and evaluation of policies conducted include an information system for reporting on the implementation of the annual goals of the administration and development and approval at central level of a Methodology for Monitoring and Evaluation of Policies. Other important issues are the introduction of public databases on the results of implemented policies and initiatives for regular quality assessment of administrative service.

The third aspect of the concept of open and accountable governance is connected with promoting ethical behavior and moral standards in administration. In order to respond adequately to the expectations and needs of citizens and businesses, the Bulgarian administration must have motivated employees who are distinguished by their professionalism and expertise. In view of this, it is necessary to reform the policy of human resource management in administration to improve its effectiveness and efficiency, with an emphasis on expanding the opportunities for career

development and acquisition of new knowledge and skills that will help employees to better perform their functions.

It is necessary to underline that the strategy contains a special section on career development with relevant measures for strengthening the competitive principle in the selection of employees and promoting higher professional competence; introducing compulsory tests conducted during the competitive selection for promotion; and creating mechanisms to sanction and control the bad or poor implementation of regulations or for breach of duties. Consequently, the development of effective mechanisms for interaction between senior civil servants and political leadership is strongly required. This will help to coordinate the development and implementation of priority policies, and ensure the necessary stability and continuity in accordance with international best practices

Closely connected with these measures are the activities aiming at improved accountability of managers and employees and greater compliance with ethical standards. This is because the professionalism of the employees in the administration inevitably depends on adherence to the highest moral and ethical standards. These are important for promoting a positive public image of the public administration in the broader society. Therefore all measures should ensure implementation of and compliance with the highest ethical standards in accordance with current trends in the Member States of the European Union. This includes periodic updates to the Civil Servants Code of Conduct with the aim to unify standards across administrations, while respecting their specific character, as well as refinement of measures to prevent conflicts of interest and abuse of office.

Designing a methodology for the monitoring and enforcement of compliance with ethical standards for civil servants together, with measures and procedures for introduction of penalties for irregularities, deserves special attention. The reason is that penalties should be clearly stipulated for breach of duty and sanctions should be imposed for acts or omissions of employees, which harm or prejudice the legal rights of citizens. Regarding the large number of cases against the administration a focus will be placed on prevention and a procedure will be established for administrative arbitration to reduce complaints, appeals and judicial proceedings. Therefore, the objective of improving accountability of managers and employees and compliance with ethical standards requires the implementing the following key activities:

- Updating the Civil Servants Code of Conduct and working out a methodology for monitoring and enforcement of compliance with the ethical standards of civil servants as well as measures and procedures for introduction of sanctions for irregularities.
- Introduction of effective sanctions for breach of duty and establishing a procedure for monitoring the cases against the administration and administrative arbitration.

Ensuring an open and accountable government for Bulgaria depends on successful implementation of the adopted activities and measures. For this reason a systematic review of the activities and the progress of the various institutions involved in the implementation of the strategy is needed. In this process, the Council of Ministers has a key role, because it adopts plans for implementation of the strategy based on the proposals of, and after consultation with, stakeholders. The Administrative Reform Council and the administration of the Council of Ministers are responsible

for coordination and monitoring of progress. The Administrative Reform Council itself bears the responsibility for monitoring the implementation of the strategy, based on reports of ministries and expert analysis. In 2017, with the participation of non-governmental organizations, an interim evaluation of the results of the strategy, and its impact on citizens, businesses and administrations, will be made.

CONCLUSION

There are many procedural, institutional and cultural factors that contribute to discouraging corruption on the part of public employees, government officials and those who interact with them. No single approach – be it procedural, institutional or cultural – represents the one best way. The reality, as Bulgaria and other neighboring countries are finding, is that human nature is such that there will always be some measure of corrupt and unresponsive behavior on the part of government employees and officials. Consequently, countries like Bulgaria must rely on many different approaches to address these issues. Procedural, institutional and cultural factors, when taken together, all can play important roles in the institutionalization of honest, responsive, accountable and transparent government. The various strategies initiated by Bulgaria are designed to begin to address such matters.

Because no single recipe exists for eradicating corruption, various theories have attempted to explain corruption as a phenomenon and each of them has provided a set of practical solutions: from increasing civil servants' wages and reducing the incentives for bribery, to the development of new anti-corruption strategies and the need for committed political elites to exemplify new ethical standards. The choice of methods to implement depends on the particular challenges the country is facing, as well as the local historical, political, and cultural context. What is clear, however, is that more is better – the more procedural and institutional arrangements put in place, the greater the likelihood of accountable and ethical behavior.

Although neither the practitioner nor the academic community has been able to offer definitive advice on how to end corruption in all contexts, we have a better understanding of the shared attributes, structures, and methods of organizing administrative systems that have served to limit corruption. These systems are typically characterized by highly professional administration, suggesting that an effective, well-trained and fairly paid civil service should be one of the main steps in anticorruption efforts. More educated and professional civil servants are more likely to work toward broader public goals than toward their personal enrichment. Anti-corruption laws aiming to reform the bureaucracy, increase transparency, and curb corruption can remain just empty shells if not backed up by strong implementation and enforcement.

Open Government from the perspective of agency theory

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In this paper I would like to propose a model for interpretation of public administration paradigms. For instance, traditional weberian administration was mainly based on law and simple communication that did not involve new technologies, such as ICTs. All social theory models could basically be reduced on cooperation or conflict (competition), which are also well known in economics, and from the other point of view, this cooperation or conflict could be going on on different spheres, namely material sphere (competing for limited resources or cooperating to maximize utility), and in the sphere of communication. In this sense, the principal in modern governments are citizens, and the agent is the public administration. The idea of conflict is more present in traditional weberian government, where hierarchical structures are governed by strict laws (rules), in order to preserve the coherence and assure that goals are met. On the other hand, modern ideas of government as a civil service and participatory government that has to be transparent, responsive and involve citizens in decision making is promoted by ideas of cooperation. This cooperation is further stimulated by the development of new ICTs as enablers of communication, but there are likewise pulls in the opposite direction, where ICTs are used to strengthen the government position toward the citizens in order to be more efficient and effective. Sometimes these pushing and pulling effects between government and citizens are combined with centralisation and decentralisation movements, the first giving more power and control to the government and second giving more leeway and participatory power to citizens. Traditional weberian government, Open Government, New Public Management and Good Governance paradigm could therefore be analysed in terms of conflict and cooperation in communication and material (economic) sense. The relationship between principal and agent becomes more blurred in Open Government, and it could give rise to new kind of ethics and demarcation between public and private, where some problems have already become apparent (e.g. Issues of privacy and secrecy, leaking of governmental secret information or abuse of personal information of citizens, etc.)

Key words: agency theory, public administration paradigm, ethics, communication technologies, cooperation

1. Introduction

In recent studies in economics based on behavioral economics (or simply economics that doesn't treat economic actors as just rational and selfish agents), the concept of cooperative models with explicit or implicit social rules has been used to explain the ability of economic actors or the whole society to control itself without market mechanisms. In classical economic theory, this is regarded as a theoretical impossibility, as the human actors are treated as completely selfish and rational. In public administration, according to classical economic theory, the rationality of actors should thus necessarily be regarded as limited since public administration is by definition public and designed to operate as public and to administrate public goods in order to contribute to the common good of the society. After the demise of welfare state, based on traditional weberian government and redistributive logic, New Public Management emerged as a new theory that tried to apply market mechanisms and classical economic logic to public administration. This has led to new models of public-private partnerships and the concept of risk distribution among public and private partners. The neoliberal doctrine of minimal state has also found its way into such theories, which sought to minimize government costs and liberate market mechanisms from the constraints of government policies. However, it appears that market mechanisms were not superior in some cases to old methods based on rules and regulations, so hybrid models of government appeared, and in order to return some of the power to citizens new models of Open Government and Good Governance appeared, providing citizens with mechanisms to make government more accountable and transparent. This shows that the essence of problem in cooperation is not just the management of material resources, as it seemed to classical economists, but also in information and communication management as a prerequisite for accountability. Therefore, new models should be constructed on the basis of dual axis – material and communication – in which actors may enter into conflict or cooperate. In this paper, we would like to investigate the role of new ICTs as the enablers of such new models, and to discuss its possible superiority to old weberian and NPM models.

2. Methodology

The old models of public administration may be reorganised according to a new paradigm, along two axis, material and communicative, in which there are two possible modes of action for actors: conflict and cooperation. It can be shown that there is an open space for new models that are ICT enabled, and that may be called ICT enabled governance – based mainly on intertwined communication and cooperation of actors, which was elaborated by **Eugen Pusić** on the basis of theoretical models of **Niklas Luhman** and **Manuel Castells** in contradiction to old weberian, marxist and neoclassical or neoliberal models of economies and societies. Those based on conflict in the material axis are mainly market-oriented, so they correspond to New Public Management models, and those that are mostly based on cooperation in the material world and conflict in communication represent classic public management, whereas good governance models are based on cooperation in communication (information), where on one side we have push towards transparency, openness and accountability, and on the other side pull towards more centralisation and government control over information. As the new models of distribution of risks and cooperation between private and public actors have appeared in the public sector as a product of New Public Management ideas, based on contract law between public and private actors and distribution of risks in order to achieve value for money, the same is now happening in the communication sphere, where good governance has appeared as a reaction to New Public Management and as it is becoming more and more technology based due to increasing digitalisation of all government services, the new models of conflict and cooperation between public and private actors have appeared in an analogy to public-private partnerships in the material world, where the demarcation between government and citizens is not so clear, but where there are also risks involving information leaks (on the government side) and threats of surveillance (on the side of citizen, also with respect to business actors).

Table 1 – towards a new paradigm for understanding public administration models

	Material	Communication
Conflict	New Public Management	Hyerarchical (weberian) gov't
Conflict and Cooperation	Public-private partnership	ICT enabled governance
Cooperation	Redistribution (welfare state)	Good governance

The new model of ICT enabled governance moves towards seamless integration of actors into a smooth system of conflict and cooperation or some form of autopoiesis. For example, in smart cities there may exist certain systems of governance that are not based on legal provisions, but also do not represent simply a drive towards more efficiency and effectiveness, but are a kind of centralising reaction to the demand of citizens for more transparency and accountability. As there is also a reaction from government to private actors becoming more and more independent from government control, and those can no longer be controlled with legal provisions, the new control is exercised in the realm of communication, enabled by ICTs. The main issue is how to control risks, as the communication based on technology is beyond the control of standard legal control in public administration based on administrative law. Nowadays, control is mainly exercised through independent regulators (agencies and ombudsmen), or supranational entities such as EU, whereas national administrative courts, constitutional court and courts for human rights (e.g. ECHR) remain as last resorts, becoming progressively unable to deal with the mounting number of cases that are brought before them. This calls for a comprehensive analysis of new models of governance in order to preserve and protect already achieved standards of democracy and citizen-oriented governance. One possibility is to use agency theory in which citizen are the principal, and the government acts as agent through independent agencies, which has been developed by Musa. The problem with such model appears to be that information assymetry in which the principal is not provided with all information about the usage of its data may give rise to moral hazard and presents risks and threats to the citizen. The question is whether citizens should accept such risks and to which level in order to maximize gains from services provided by government and/or business.

3. Social networks and new models of online communication and cooperation

The appearance of new social networks in cyberspace have enabled yet unprecedented possibilities of communication in real time between government, business and citizens. The new models of communication such as G2B, G2C, B2B, B2C have profoundly changed older schemes dividing society on government, private (business) and NGO (citizen) sector, as now the citizens are able to project more influence without the need to organise in NGOs, but at the same time they have become more vulnerable to control from government and business. The business sector becomes more and more able to override mechanisms that divide actors in the society and their influence on both government and citizens becomes more direct – through lobbying on one side and advertising in real time on social networks on the other.

The way of controlling and regulating in such an environment is mainly through more or less independent regulators – agencies and ombudsmen – such as Agency for electronic media, Agency for data protection, Ombudsman for information, etc. Those agencies act on law providing them with means to protect or punish actors from information abuse or manipulation. The recent case in Croatia of punishing hate speech on Z1 Television has spurred a quick reaction from some 6000-8000 vigilanties camping for over a year on the streets of Zagreb, organising street demonstration against the Agency for electronic media that has issued the punishment – revocation of broadcasting licence for three days. The power of independent regulators has thus become a barrier even to those that would like to increase censorship or strengthen manipulation through hate speech, and such regulators are able to handle large quantities of information and complaints in short time, with respect to courts, even when underfunded and not well equipped with personnel. Nonetheless, the

punishment provided in legal texts may stir reaction of citizens, as such decisions that are quickly executed are not based on court decision or reached by regular court procedure, and instead experts and commissions act as 'judges' in such cases. The possibilities of complaint are limited and taking the case to court is costly and damage done can hardly be repaired. Therefore, people on the streets may be real threat in the future in countries such as Croatia, that have entered into a zone of instability either because of poor governance, or public indebtedness, or some other overwhelming reason.

3. Surveillance and privacy protection – problems with Safe Harbors

European regulations (EU Data Protection Directive 95/46/EC¹, which is currently under debate) governing data protection have rather high standards that require notification of subjects whose data are used and using such data only for purpose for which they are collected. However, american companies operating in Europe, among which are the largest ICT operators, such as Google and Facebook, have been given a privilege of Safe Haven regulation allowing them to work according to US standards of privacy protection. It is well known that US standards of privacy are not better than those in Russia or China, according to evaluations regularly issued by Transparency International and evaluations of independent activists, experts and NGOs dealing with privacy issues. Therefore, the Safe Haven has been overturned by European Commission and those firms are now facing possible legal repercussions from EU citizens. The main problem is that according to Homeland Security Act private operators are required to hand all data to american agency NSA in case they request them, facing serious charges in case of non-compliance, which has been leaked by whistleblower Snowden. The extent of surveillance by US government agencies is overwhelming and has probably led to this development. The main problem which remains is inacting of such regulations, which would probably require that Europe invests in its own digital resources replacing those owned by US companies. This is not likely given that signature of TTIP will possibly give US companies even more access to EU market. Another common problem is advertising that can be overcome with browser addons, such as AdBlock. In this case the citizens interests are also not protected by any governmental decree, but it is instead necessary for them to install the add-on themselves and protect their own interests. EU has not done much to assure the interests of their citizens in real cases, despite providing for it in its regulations.

4. Smart cities, mobile applications and other ICT enabled services

Another example of integrated ICTs that replace traditional government are Smart Cities. In the case of Singapore, it is the citizens that change, and not the rules. In a sort of authoritarian government citizens submit voluntarily to the regime in order to benefit from its services, but are not able to change the rules by voting or any other means. In this "electronic dictatorships", they are only free to leave, but are not interested. In this case they exchange their liberty of movement and other democratic values for money. In this sort of libertarian utopia, citizens would probably be able to give away their human rights for some service or money, which doesn't seem to matter to them. This seems to work towards a more libertarian society, where the government does not protect human rights and civil liberties, which for libertarians provides a different kind of freedom – a freedom to renounce their own freedom in exchange for some other goal that they are free to choose among those offered by the system.

1 The Data Protection Directive provides that the transfer of personal data to a third country may, in principle, take place only if that third country ensures an adequate level of protection of the data. The directive also provides that the Commission may find that a third country ensures an adequate level of protection by reason of its domestic law or its international commitments. Finally, the directive provides that each Member State is to designate one or more public authorities responsible for monitoring the application within its territory of the national provisions adopted on the basis of the directive ('national supervisory authorities').

5. Conclusion

Technological advance in ICT and e-government on one side and development of social networks and mobile applications on the other side has given way to new forms not only of governance, but also of government, which is more service oriented and libertarian. While on one hand it tries to achieve old goals of New Public Management – more efficiency and effectiveness – on the other hand the good governance which demanded more accountability and transparency from governments has yielded to new forms of government in which citizens are more seamlessly integrated with the governmental institutions. This raises important issues of privacy and information security, which may threaten both citizens and governments alike, whereas the only side profiting from it may be the large private business. The old models of three sectors – government, private and NGO – now seem almost obsolete, as they have given way to new more integrated ICT enabled models of acting and communicating in cyberspace: G2B, G2C, B2B, B2C etc. This may be usefully explained on two axes – material and communication – with the possibility of cooperation and conflict of actors, which may require new models of economy and society to be developed, that are not based only on market and competition, but also on cooperation dynamics. It seems that in some cases citizens are able to gain more than they give in terms of risks to their privacy, according to agency theory, for example in the case of Smart Cities, whereas in some other cases of strong government such as US the extent of surveillance does not justify the gains, which leads to revolt and changes of regulations such as Safe Harbor for US companies.

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IMPROVING BUDGET TRANSPARENCY THROUGH PROGRAM BUDGET

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Abstract

This paper studies the place of Russian Federation in the Open Budget Index, calculated by the International Budget Partnership. We focus on the program budget as a means to increase budget transparency in Russia. Especially on the regional level. The data comes from regional administrations. We point out the main problems of program budgeting implementation on regional level.

Keywords: Open Budget Index, International Budget Partnership, Program Budgeting, Budget Transparency, Public Participation

1 Introduction

In 2015, the International Budget Partnership (IBP) published its latest study on the openness of budgets around the world. This study was the fifth conducted since the beginning of the measurement the Open Budget Index (OBI). Previous indices were calculated at 2006, 2008, 2011 and 2012. The index is calculated according to IBPs unified methodology.

The latest survey included 102 countries, and Russia took the 11th place with 74 points while the world average is 45 points. In the integral ranking Russia follows such countries as New Zealand, Sweden, South Africa, Norway, the USA, Brazil, France, United Kingdom, Romania and Peru.

Highest rated New Zealand in 2015 scored 88 points. Thus, Russia was confidently included into the group of countries with a significant level of openness of the budget according to the methodology of the IBP.

If we talk about the dynamics of the index, which shows the Russian Federation, it can be described as positive (2006 - 46 points; 2008 - 58 points; 2010 - 60 points; 2012 - 74 points; 2015 - 74 points).

Program budget is regarded as a tool to improve the openness of the budget process, which follows from the IMF guidance to ensure transparency in the fiscal area [Afanasyev, Alekhin et al., 2010].

International experience shows the success of the program budgeting as an element of public administration in general [Belenchuk, Eroshkina et al., 2011].

According to the Government Decree of Russian Federation (of August 2, 2010 № 588) «State program» is a system of measures and tools to ensure the achievement of the objectives and priorities of state policy in the sphere of socio-economic development. Nowadays State budget in Russia consists of 43 State programs, which includes subprograms.

2 Budget openness and transparency: international comparisons and prospects for Russia

The importance of budget transparency growth is reflected in the number of documents approved by the Government of the Russian Federation. For example, the program to improve public finance management for

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the period until 2018[‡], states that "... it is necessary to ensure publicity of the process of public finance management...The objectives of fiscal policy should be presented in an understandable and accessible to the citizens form."

The State program "Public Financial Management and regulation of financial markets," contains an indicator "Open Budget." It is linked with major activities of subprogram 3 "Ensuring the openness and transparency of public finance management" and subroutine 6 "Public debt Management and state financial assets of the Russian Federation." Table 1 shows the index growth according to this State program.

Table 1

Indicator of the state program "Public Financial Management and regulation of financial markets"

Year	Open Budget Index
2013	74
2014	77
2015	77
2016	80
2017	80
2018	83
2019	83
2020	85

Source: <http://programs.gov.ru/Portal/programs/passport/42>

Thus, it is seen that as of 2015 Russia lags behind the plan to achieve this indicator as defined in the government program.

Table 2

Russia's place in the Open Budget Index

Rank position	Country	Score
1	New Zealand	88
5	USA	81
6	Brazil	77
8	UK	75
11	Russia	74
16	Georgia	66
19	South Korea	65
41	Kazakhstan	51
42	Azerbaijan	51

53	Ukraine	46
92	China	14

Source: The Open Budget Survey in 2015. <http://www.internationalbudget.org/opening-budgets/open-budget-initiative/open-budget-survey/publications-2/full-report/>

It should be noted that the construction of the index does not calculate a number of countries, including developed countries, such as Australia and Japan. Thus, Russia's position would be worse if the sample involves a large number of countries.

A country location in the ranking of budget transparency is determined by a number of basic principles and standards (norms).

In 2015, the International Budget Partnership in some way changed the methodology of its study. Now it includes three main components.

The first component, as before, is a transparency (measured by the Open Budget Index). The essence of this component is that it shows availability of key budget documents to the public, as well as estimates their complexity and usefulness. Table 3 shows the Assessment of the quality of fiscal information provided by the Central Government in Russia

Table 3

The quality of budget information provided by Central government in Russia

Documents	Scores	The utility points according to the methodology
Pre-Budget Statement	89	High
Executive budget proposal	75	essential
Enacted budget	67	essential
Citizens Budget	67	essential
In-year review	82	High
Mid-year review	85	High
Annual Report	69	Limited
Audit report	57	Limited

Source: The Open Budget Survey for 2015: Russia. <http://www.internationalbudget.org/wp-content/uploads/OBS2015-CS-Russia-Russian.pdf>

Under this component, Russia improved its performance thanks to the publication of the civilian budget and mid-year review, as well as developed the pre-budget statement completeness. At the same time, these improvements were eliminated in the integral rating because of the fact that some others scores were lower than in 2012.

In this regard, the presence of significant differences in the understanding of the international community between "open budget", "Citizens budget" and "E-Budget" should be noted. The first is a publicly available budget documents.

Citizens budge should contain the basic provisions of the draft law on the budget and report on its performance in an accessible and understandable form for citizens. E-budget involves electronic forms to provide information on the budget.

The second component of openness is public participation. The essence of this component is defined by the possibility of public participation in the budget process. In 2015, Russia scored 25 points for this part that exactly equals the average of the countries scores in the world. The level of public participation in Russia was classified by the International Budget Partnership as insufficient. The leaders of the rating scored strongly higher. For example, in New Zealand it is 65 points; in the US - 69; UK - 58; Brazil - 71; In South Korea - 83; Georgia - 46. Thus, the Russian public participation in the budget process is close to rating outsiders. In Kazakhstan the index is 27 points; in Azerbaijan - 19; in Ukraine - 23; in China - 6.

The third component is the openness of budgets oversight of the budget by the legislature and by Supreme Audit Institution. Table 4 shows the position of Russia in relation to other countries in the context of supervision of the budget.

Table 4

Russia in the ranking of countries by the ability of Legislature and the Supreme Audit Institution to oversee the budget

Country	Points for supervision by the Legislature	Points oversight by the Supreme Audit Institution
New Zealand	45	92
United States	85	100
Brazil	80	75
United Kingdom	45	92
Russia	79	100
Georgia	73	100
South Korea	73	50
Kazakhstan	70	59
Azerbaijan	37	50
Ukraine	79	83
China	3	50

Source: The Open Budget Survey in 2015. <http://www.internationalbudget.org/opening-budgets/open-budget-initiative/open-budget-survey/publications-2/full-report/>

Thus, Russia's position on this indicator is extremely high, even in comparison with countries that are ahead of Russia on the Open Budget Index.

Some efforts to improve the transparency of the budget are taken on the regional level. The leaders of regional budgetary transparency rating for 2014 are Krasnodarskiy kray, Krasnoyarskiy kray and Omskaya oblast [Y. Belousov & O.Timofeyeva, 2015].

An analysis of the rankings and methodology can make the following recommendations. International Budget Partnership gives recommendations to Russia to increase the budget openness. Most of these recommendations concerns public participation.

Some recommendations of the International Budget Partnership on reflection of public opinion in the public sector have already been applied. Therefore, the Ministry of Finance of the Russian Federation successfully works in contact with Public Council, which held 17 meetings in 2015.

In addition, there is a need for public hearing at the State Duma and the Federation Council. Obviously, the existing institution of parliamentary hearings poorly working to improve the federal budget transparency and budgets of state extra-budgetary funds. Moreover, there is a need to organize public participation at the preparation of audit program to the Accounts Chamber of the Russian Federation.

In the area of improving the budget supervision it is proposed to consult with the legislative body, if it is planned to use the unapproved budget expenditure from the Emergency Fund.

In general, the budget openness and transparency leads to higher efficiency of governance, which is an urgent task for the authorities in the medium term.

3 Implementation of program budgeting on regional level in Russia

Although the term "strategic planning" appeared in the literature in the 1970s, the complex system of the state strategic planning of social and economic development in the Russian Federation is absent still. In this regard choosing of an optimal way of transition from current state of social and economic development to a desirable condition is extremely complicated. It is necessary to concentrate different resources (financial, organizational, information, human) for achievement of the planned purposes and consolidate the efforts of various subjects of economy for achievement of such development objectives. Program budgeting combines strategic and budget planning and actually is the link between these two types of planning.

In the last decade, the Russian practice of program budgeting methods is closely related to performance-based budgeting, where funding is tied to specific performance indicators. Since 2004, the Ministry of Finance has been promoting this system in Russia.

Program budgeting uses cost-benefit analysis for making decisions about the allocation of funding.

There are three tiers of government and budgetary system in Russia:

- Federal Government → Federal Budget
- Regional Governments → Regional Budgets (85 subjects of the Russian Federation)
- Local Self-governments → Municipal Budgets (more than 23,000 municipalities).

In this respect, state programs of the Russian Federation, regional and municipal programs are linked with each other.

International experts formulate certain principles that had to be followed for the successful implementation of

program budgeting [Robinson & Last, 2011].

These principles include:

- definition of public programs through public services consumed by the public and through social effect;
- understanding of the program as expenses combination related to services;
- presence in the programs of the maximum number of corresponding outputs and outcomes parameters, which requires the systematic development and improvement of the program performance.

According to A. Lavrov there were three directions of fiscal reform in Russia during last three decades [Bogacheva, Lavrov, & Yastrebova, 2010]:

- **Short-term budgeting (1990s)**
 - establishment of budget procedures and regulation
 - cash-based budgeting and Federal Treasury
 - intergovernmental equalization transfers
- **Introducing medium-term performance budgeting (2000s)**
 - long-term budget stability and sustainability
 - revenue and expenditure delineations between government tiers
 - international standards in public accounting and reporting
- **Increasing of expenditure efficiency (2010s)**
 - program budgeting
 - coordination of long term economic and fiscal strategies
 - new system of external and internal fiscal control

The main reasons for the implementation of fiscal reforms in Russian regions are: rapid introduction of long-term strategies in sub-federal governance, fiscal planning for three-year period, lack of revenues for covering own responsibilities, unpredictable intergovernmental fiscal transfers (grants), large state (and municipal) debt in some regions.

There are many difficulties in introduction of fiscal innovations in Russia: organization immobility of functional departments in governments to introduce innovations; complicated results measurement in performance budgeting; orientation to management process opposite to results indicators; informational lack between federal and regional authorities.

During the beginning of the transition to the program budgeting in Russia the main problems were:

- the lack of understanding of how the introduction of the program budgeting will be carried out on regional and municipal level
- the problem of inter-agency cooperation in determining the main authority responsible for the implementation of specific program
- the uncertainty principle of the division of the budget for the program and building a program classification
- an effort to formally maximize the share of "program part" in the budget
- the lack of understanding of what should remain beside the program part of the budget [Klimanov & Mikhaylova, 2011].

State programs of the Russian Federation first appeared in 2010 in Astrakhan and Sverdlovsk regions. In 2011 15 more regions have introduced program budgeting. By 2013 almost all Russian regions have introduced

program budgeting, except Magadan and Tyumen regions, the Republic of Crimea (2014) and the Republic of Kalmykiya and the city of Sevastopol (2015).

With the help of the Ministry of Finance of the Russian Federation the request to answer questions on the implementation of the program budget has been sent to 85 regions. Questions were addressed to the financial authority of regional administrations. The questionnaire was open. It included questions about the main problems of transition to the program budgeting in Russian regions and about the regional activities in this regard. In addition, the region authorities have been asked to propose changes to the federal legislation in connection with the transition to the program budgeting in Russia. We received 85 responses to questionnaires. In addition, a number of statistical indicators requested:

- the share of the budget, which is formed under government programs
- the share of subsidies to local budgets, provided under government programs
- the share of investment expenditure implemented under the state program
- the share of regional programs with the amount of funding that has changed by more than 10% during the year.

4 Main problems of program budgeting implementation on regional level

There is a list of main problems of program budgeting implementation on regional level (according the research). In the brackets there are numbers of regions, which have mentioned current problem (out of 85 Russian regions).

1. Poor quality of planning of target variables (27);
2. Inadequate monitoring of state programs (22);

Including:

- the absence of a uniform methodology for assessing the effectiveness of government programs;
- formal control of the program implementation progress;
- monitoring results do not affect the programs implementation;
- inability to account the results obtained by individual measures;
- the use of estimates due to the late submission of the official statistics of actual values;
- the need to introduce criteria for evaluating the effectiveness of the public executive authority and satisfaction with the quality of services;
- the lack of automated information systems for monitoring and analysis of the implementation of programs;

3. Lack of an adequate system of strategic documents (16);
4. The requirements for regions for the formation of regional programs according the standards, some of which contradict the current legislation (11);
5. Later distribution of subsidies from the federal budget to the regions (9);
6. The problems associated with the reflection of the different public policy instruments in state programs (8);
7. Partial funding of programs. The limited resources of the regional budgets to finance programs (7);
8. Statistical data presentation (6);
9. The absence of linking strategic and budgetary planning (5);
10. Lack of current legislation to clearly define whether a program is an expense commitment (3);
11. Lack of methodological documents on the federal level (5);
12. Lack of effective inter-agency cooperation during the implementation of programs (5)

13. The need to change the structure of state programs due to changes in the budget classification (4).

5 Conclusion:

In this paper we point out 13 common problems of program budgeting implementation on regional level in Russia. Program budget is regarded as a tool to increase budget transparency. According to the methodology of the IBP Russia is a country with a significant level of budget openness. Solving problems of transition to the program budget would enhance Russia's rating in the index.

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OPENNESS AND TRANSPARENCY IN THE SLOVENE ADMINISTRATIVE PROCEDURES: MYTH OR REALITY?

Polonca Kovač¹

ABSTRACT

Openness and transparency are general administrative principles, closely related to lawfulness, accountability, responsiveness, participation, and other elements of good administration. Despite their long existence in theory and legal documents, both at European and national levels, the content and the relation of and among the respective principles is blurred. This applies even in single-case administrative procedures through the classic rights of defense, such as the right to access to information or the right to be heard. The paper explores these dimensions based on comparative analyses of the EU Charter, the OECD principles on good administration and governance, and the Slovene law on administrative procedures, proving compliance between Slovene and European regulation. Furthermore, a consistent definition is proposed. Transparency is thus understood as parallel to participation. Both are seen as subcategories of openness which, as a sum of the rights of defense, is based on lawfulness and leads to accountability and ethics. However, as revealed by an empirical survey in 2015, the Slovene public administration sees these issues in a rather formal way. Finally, suggestions are made for future legislation and its implementation in terms of open and good administration.

Keywords: openness, transparency, administrative procedure, rights of defense, Slovenia, EU principles.

1. Introduction

Open administration is a concept that emerges in theory, policy papers, and various supranational and national strategies within the context of reforms and Europeanization of public administration.² Namely, in public administration, public authority is exercised in a range of relations and procedures requiring legitimacy and efficiency. A significant share of public administration relations is conducted in the form of administrative procedures as single-case decision-making, particularly in Eastern Europe. Consequently, reforms are directed also toward openness and transparency in administrative procedures (Rusch, 2014; cf. Kovač and Virant, 2011, 197, 229; Koprič et al., 2014, 329 *et seq.*).

Open administration aims at a participative, accountable, and hence democratic execution of authority (Banisar, 2006, 18). The principle of openness has developed parallel to judicial control and opposite to Weber's theory (Bugarič, 2003, 120–124). Openness and transparency are closely connected to lawfulness, accountability, responsiveness of the authorities, etc. (see OECD, 2004, 7–25; 2014;³ in detail on several aspects in Bevir et al., 2011). The said principles constitute a set of key elements of what is known as the European Administrative Space (hereinafter: EAS), developed over the last two decades (cf. Cardona and Freibert, 2007, 53). The EAS principles are systematized in four groups: reliability and predictability (rule of law), openness and transparency, accountability, as well as efficiency in the use of public resources and effectiveness in accomplishing the goals established in legislation (OECD, 1999, 9–14; 2014, 67). Likewise, the aforementioned and additional principles upgrade the EAS development in Western and Eastern Europe within the concepts of good governance and good administration (cf. Venice Commission, 2011, 3–20; Aristovnik et al., 2015, 10).⁴

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² Cf. Vintar et al., 2013, particularly for Eastern Europe. Open and transparent administration is explicitly mentioned *inter alia* in Articles 5 (publicity), 11 and 15 (transparency), 1, 10, 15 and 298 (openness) of the Treaty on the Functioning of the European Union (TFEU, OJ C 326/47, 26 October 2012). Transparency is – according to the Court of Justice of the European Union (hereinafter: CJEU) – also closely related to equality (see Buijze, 2013; cf. Article 56 of the TFEU). Similarly at national levels in constitutions, umbrella laws, and PAR strategies.

³ As put forward by OECD, 2014, 58: »Accountability has a broader scope, which includes the organisation of the administration, openness and transparency, internal and external accountability, and oversight institutions.« Or by OECD, 1999, 12: »Openness and transparency are also necessary instruments for the rule of law, equality before the law, and accountability.«

⁴ According to OECD, 2004, there are eight main principles of (good) governance: the rule of law/lawfulness, participation, consensus orientation, equity and inclusiveness, transparency, responsiveness, accountability, efficiency and effectiveness. In the updated version as of November 2015 (OECD, 2015), there are six groups of respective principles, among which »disclosure and transparency«.

The respective concepts have theoretically and practically evolved from the Weberian and German oriented state governed by the rule of law. Their constituting principles are therefore the »classic« administrative law guarantees as well as the more contemporary or »modern« principles of good administration. In terms of EAS and good administration, openness and transparency act definitely as characteristics of nowadays public administration or in a post-Weberian sense. This means they are something new, formed in the last decades, together with principles such as efficiency and effectiveness. All these seem to be complementing the traditional principles, characteristic of the period between the 19th century and the decades following WW2, such as lawfulness or the rule of law (more see in Nehl, 1999, Rose-Ackerman and Lindseth et al., 2011, Sever et al., 2014, Galleta et al., 2015).

Openness and transparency are most often understood as complementary twin principles; if not a synonym, at least as an inseparable unit (see, for instance, OECD, 1999; 2014, or Art. 15 of the TFEU, cf. Musa, 2013, 10). Such an approach is understandable since the most common definition of these principles, both in theory and official documents, sees openness as a proactive attitude of the authority available for outside scrutiny (OECD, 1999, 12; cf. Bugarič, 2003). The basic idea behind open government is that the government should not conduct its business secretly, behind closed doors, but rather out in the open (Brandsma et al., 2010, 5 *et seq.*). Transparency is similarly defined as a ground and a tool for the purpose of scrutiny. A transparent government provides people with the information they need to ascertain and understand the state of the world and to predict how their actions will affect them and their environment (cf. Buijze, 2013, 2). In this sense, following most references transparency represents a narrower dimension compared to openness.⁵ However, there are other authors who emphasize parallel understanding of openness and transparency (cf. Musa, 2013, 12 *et seq.*) - but in this paper, we argue as the most consistent a hierarchal relation between openness and transparency as elaborated in further sections. However, both principles express the ethical dimension of good administration.⁶

The regulation of administrative procedures must therefore encourage openness and accountability of public administration. Principles such as openness and transparency reflect and direct public administration on value based regulation (cf. Pavčnik, 2007, 599). A key path to achieve such is to develop participative rights of defense in procedural law and implement them in practice. However, the exact content of openness and transparency is rather evasive and understood differently in various contexts. Some even doubt that there is one general principle of transparency in the EU law or on the national level (see Buijze, 2013, 1).

In order to verify whether and how »openness and transparency« are taken into account in Slovenia, a research was conducted and carried out in two steps. First, the main European documents addressing openness and transparency in administrative procedures were compared to key Slovene laws on the rights to access to information. Second, an empirical survey related to first instance administrative procedures before administrative units was conducted. These agencies are the most significant in this respect since there are annually app. 1 million procedures run in Slovenia at this level. Administrative units as territorially dispersed state agencies of general jurisdiction are most closely connected to the parties (citizens and businesses) since they are competent for different fields, from internal and social affairs to economy or construction.

The paper predominantly addresses legal but also broader political perspectives. The research problems tackled are, among others, the following: How are openness and transparency principles understood in political-administrative relations in general? Is there a difference on this understanding when comparing the EU and Slovene levels? Are openness and transparency principles crucial pillars of contemporary good administration or rather a bypass to more formal elements of lawfulness? Does the level of (detailed) codification of procedures affect the results in practice? Which elements of open government are most represented in Slovene administrative procedures? Can we speak of open administration in Slovenia in terms of a mere provision of information upon request, or is there proactive intercommunication? What is the role of the heads of administrative agencies in this respect? We believe that the Slovene case study can be further applied and upgraded in other countries with similar legacy, mainly German oriented administrative culture and post-socialist environment.

⁵ Thus, openness is understood as C2G and transparency as G2C, hence the most important criterion of differentiating the concept is a direction of information (from general public to government sector or *vice versa*). Other criteria may be defined as instruments and results. In this respect, openness is more in an analogy with participation (i.e. receiving and elaborating such information) while transparency would mean openness of PA (to deliver information externally).

⁶ Ethics is a concept that concerns both individuals and groups of people, likewise in public administration. See more on ethics from legal and other aspects in a framework of accountability and good administration in Kovač, 2012.

2. Methodological framework

The following research question is addressed: What is the understanding of the European principles of openness and transparency in the Slovene context of administrative procedures according to relevant laws and practice? There are problems common to all the countries in the region, such as strongly legally oriented PA with low capacity, lack of transparency, rather formal participation and accountability, etc.⁷ Regarding these, a double gap was assumed as a result of legal tradition and historical development with post-socialist characteristics in Slovenia and Eastern Europe. First, a gap between European principles and Slovene rules, and second, a further gap between regulation and its implementation at the national level. Research was thus carried out in two parts. The first part tackled the theoretical comparison of the EU related key documents that explicitly stipulate openness and transparency with the organic legislation in Slovenia. This issue was explored by means of a normative comparison of:

- European documents, i.e. OECD/SIGMA Principles of European Administrative Space (1999) and its Principles of Public Administration (2014), and the EU Charter of Fundamental Rights (hereinafter: the EU Charter; 2010) on good administration⁸ versus
- Slovene umbrella law in force since 2000 for all single-case administrative decision-making procedures, i.e. the General Administrative Procedure Act (hereinafter: GAPA, 2000), together with the Access to Public Information Act (hereinafter: APIA, 2003).⁹

We explored to what extent national priorities and rules comply with the EU perceived good administration principles. Some of the GAPA rules, for instance, obviously refer to principles of openness and transparency, e.g. parties' access to information or the right to be heard. On the other hand, we believe that openness and transparency, due to the socialist legacy, are not fully transposed in Slovene laws as perceived by the above listed European documents. Moreover, in this part we also expected to indirectly answer the question of how to understand »openness« and »transparency«. The question that seems particularly important in this context is: Do we take the respective principles as an inevitably unified approach or as autonomous but connected concepts?

In the second, empirical part of the research, conducted in spring 2015, we verified the hypothesis of the anticipated implementation gap between the prescribed rules and the actual practice based on the GAPA and the APIA in Slovenia. The web-administered survey among the heads of all administrative units in Slovenia (58 in total throughout the country) was recognized as the optimal method in this respect. There are almost 1 million of such proceedings per year, initiated either at parties' request or *ex officio*, in the fields of internal affairs (registers and permits), construction permits, social benefits, agriculture related matters, etc. In this part, the respondents were asked how they understood and pursued the individual elements of good administration as defined through aforementioned documents and field scientific literature on good governance (more in Aristovnik et al., 2015). Special attention was placed on the rights stipulated by the EU Charter and the Slovene GAPA that are included under openness and transparency, namely lawfulness and responsiveness. The heads of administrative units expressed their opinions based on 17 questions in the survey, concerning their awareness and implementation of the whole set of rights and of individual rights (above all the right to be heard, the right to information, the right to use own language, the right to get reasoned decision and file an appeal against it). Most questions were closed type questions where the respondents selected one option only or ranked the given elements in order to elaborate answers as objectively as possible. Additional explanations could be provided in the concluding three open questions. The rate of response was 69%, with 40 heads out of 58 participating in the survey. As a next step, structured interviews were conducted in April 2015 with four of them, representing different sized and located units, to clarify unexpected findings. Consequently, we find the results significantly representative despite the subjective character of the survey.

⁷ More in depth see Kovač and Virant et al., 2011; Koprić, 2011, 6–25; Vintar et al., 2013, 152–177; Rusch, 2014; Vidačak and Škrabalo, 2014, etc. Most experts argue that openness and transparency are declaratorily claimed in the reforms in the region, but there is an apparent deficit in their actual implementation.

⁸ OJ C 83/389, 30 March 2010. See Art 41 on the right to good administration; Art 42 on the right to access to documents; and related Art 43 on referring to the EU Ombudsman and judiciary in a case of maladministration, with the Ombudsman's Code of Good Administrative Behaviour (2001, supplemented in 2005 and 2012). Cf. Council of Europe, CM/Rec (2007)7 on good administration with nine principles: lawfulness, equality, impartiality, proportionality, legal certainty, taking action within a reasonable time limit, participation, respect for privacy, and transparency. And the earliest Resolution No. 77 (31) on the Protection of the Individual in Relation to the Acts of Administrative Authorities, with five rights: the right to be heard, access to information, assistance and representation, statement of reasons, and indication of remedies. Cf. Hofmann et al., 2014, with regard to the Resolution on the Law on Administrative Procedure Act of the EU adopted by European Parliament in January 2013, pursuing nine principles (lawfulness, non-discrimination and equal treatment, proportionality, impartiality, consistency and legitimate expectations, privacy, fairness, transparency, efficiency and service) and ten rights.

⁹ In Slovene: *Zakon o splošnem upravnem postopku (ZUP)*, Official Gazette of the Republic of Slovenia, No. 80/99 and amendments, in force since April 2000; and *Zakon o dostopu do informacij javnega značaja (ZDIJZ)*, Official Gazette of the Republic of Slovenia, No. 24/03 and amendments.

3. Results of the analyses on openness and transparency in the Slovene administrative procedures

3.1 A European-Slovene comparison of the principles and rights on openness and transparency

The EU Charter was taken as the basis for comparing the European principles on openness and transparency with the regulation in Slovenia. The Charter is a fundamental EU treaty with direct implications for European institutions. Yet, like nearly all documents at the level of the EU, it is conceived as a compilation of national good practices (cf. Hofmann et al., 2014, 7, 34 *et seq.*; Galleta et al., 2015). Its effect on individual countries is seen in the (1) general legal principles of the European space, (2) case law at the European level, and (3) spill-over effect as an indirect impact of EU rules on the Member States (cf. Pavčnik, 2007; Venice Commission, 2011; Bousta, 2013).

In such context, particularly relevant are Articles 41 and 42 of the EU Charter providing the right(s)¹⁰ to good administration and the right to access to documents.¹¹ Also important are Articles 43, 47 and others, for instance providing legal protection in case of infringement of Articles 41 and 42, but we only refer to the latter two to focus on openness and transparency. Indeed, there are many interrelating principles and rights. They combine also in terms of their predominantly substantive or procedural nature; particularly with regard to the connection between classic procedural rights to access to one's file and broader access to public information (cf. Savino, 2010, 7 *et seq.*). However, in the sense of good administration, both rights must be considered as a rather harmonized or even unified right regardless of its substantive and procedural origins.¹²

In the table below we thus analyzed the main elements of the right(s) to good administration, both in terms of EAS principles and in terms of the GAPA and related regulations. As regards the comparison between principles and rights under the EU Charter and EAS and good governance principles advocated by the OECD, the available literature in fact lacks a clear connection or distinction.¹³ This is also the reason for making a comparison focused on openness and transparency at such point.

Only later we tried to establish whether there are relevant provisions in the Slovene GAPA corresponding to the said principles or rights. We were able to identify certain provisions that – although not directly linked to the elements of good administration under the EU Charter – indeed refer to the said principles, such as publicity, which is an expression of transparency according to the OECD understanding of EAS. Publicity is in this sense seen as the essential linking mechanism between transparency and participation (Brandsma et al., 2010, 15).

¹⁰ See more in Nehl (1999, 28–55) and Bousta (2013, 481–488), on the question whether there is one joined-up right to good administration or there are (only) several autonomous rights. We agree that good administration is (still) a broader concept and not a right in a legally enforceable mode.

¹¹ Article 41, *Right to good administration*: »1. Every person has the right to have his or her affairs handled impartially, fairly and within a reasonable time by the institutions and bodies of the Union. 2. This right includes: the right of every person to be heard, before any individual measure which would affect him or her adversely is taken; the right of every person to have access to his or her file, while respecting the legitimate interests of confidentiality and of professional and business secrecy; the obligation of the administration to give reasons for its decisions. 3. Every person has the right to have the Community make good any damage caused by its institutions or by its servants in the performance of their duties, in accordance with the general principles common to the laws of the Member States. 4. Every person may write to the institutions of the Union in one of the languages of the Treaties and must have an answer in the same language.« Article 42, *Right of access to documents*: »Any citizen of the Union, and any natural or legal person residing or having its registered office in a Member State, has a right of access to European Parliament, Council and Commission documents.«

¹² More in Kovač, 2015, 187 *et seq.*, see also on relevant constitutional case law in Slovenia, particularly Decision U-I-16/10 and Up-103/10, 20. 10. 2011. Cf. Rose-Ackerman in Lindseth et al., 2011, 342.

¹³ See in particular Galleta et al., 2015, 22, namely the list identifying 20 principles of European administrative law. Yet, as noted by the authors themselves, several methodological levels are involved, while individual »principles« overlap in content or certain categories contain elements of other categories, although they are listed in parallel. *Ib.*, 17: »Although there is no established hierarchy of general principles applicable to EU administrative procedural law, not all are equal in content and scope. Some principles, such as the rule of law, good administration, or sincere cooperation are formulated in such general manner that their exact content is defined by their sub-components which, if the latter are clear, precise and unconditional also contain individual rights.«

Table 1 Comparative analysis of the EU Charter and the Slovene GAPA related to openness and transparency

The EU Charter's right(s) of good administration (2010; Art. 41-47)	Corresponding EAS (OECD, 1999) & governance principles (ib., 2004/15)	Corresponding rules in the Slovene GAPA rules with number of Art. & potential constitutional grounds
The right to be heard	Openness and transparency Rule of law and accountability Participation, responsiveness, equity and involvement, consensus orientation	Principle of hearing, 9, 146, <i>et seq.</i> (with participation of parties in fact finding and evidence proceedings); based on the Constitution, 22 (equal protection of rights)
The right to access to one's file	Openness and transparency Rule of law and accountability Participation, responsiveness, equity and involvement	The right to access to one's file, 82; based on the Constitution, 22 (equal protection of rights)
The right to use own language	Openness and transparency Rule of law and accountability Participation, responsiveness, equity and involvement	The right to use one's language, 62; based on the Constitution, 11 and 62 (equal protection of rights)
Reasoning and legal protection (and the right to compensation)	Rule of law and accountability Openness and transparency Participation	The right to appeal against delivered and reasoned decision, 13, 83, 214, 229 <i>et seq.</i> & the Administrative Dispute Act; based on the Constitution, 22 (equal protection of rights), 25 (effective legal remedy), 23 and 157 (administrative dispute as judicial review)
Access to public information	Openness and transparency Accountability Participation, responsiveness, equity and involvement	Access to public information, 82, & the APIA; based on the Constitution, 39 (freedom of information; complementary to 35, 37, and 38, on privacy protection) ¹⁴
	Openness and transparency Accountability Participation, responsiveness, equity and involvement	Public oral hearings, 155, 156, 159 ¹⁵
	Rule of law Openness and transparency Participation, responsiveness, equity and involvement, efficiency	Public notification/delivery of acts, 94 <i>et seq.</i> ¹⁶
	Openness and transparency Accountability	Publication of the names of responsible officials, 319

The center column clearly indicates that the rights to good administration and access to information in both EU and Slovenia involve not only the principles of openness and transparency, but also and necessarily the principles of legality, accountability, and participation. In Slovenia alike, these rights are not »merely« a GAPA category but have, nearly all, a direct constitutional basis. In fact, the GAPA protects the constitutional guarantees and strives for democratic authority, yet only insofar as it involves a proactive implementation of the law, placed within the context of democratic authority (cf. Kovač and Virant et al., 2011, 201–205; TIS, 2015, 16). This points to a legal and sociological significance of the rights of defense, exceeding the regulation of administrative procedures in the formal sense.

¹⁴ The system to provide open administration in Slovenia is rather complex and multifaceted. In addition to the GAPA and the APIA, there are the Media Act, the Decree on Administrative Operations, the Inspection Act, the Tax Procedure Act, and sector-specific laws.

¹⁵ As a general rule, hearings in Slovenia are public in order to allow public participation as a form of informal control and the possibility of broader participation (cf. Androjna and Kerševan, 2006). Publicity, however, does not apply for the reading out of decisions, unless they are exceptionally made public, with due account of the protection of personal data, or anonymized, or as a preventive measure to protect third persons under sector-specific laws (e.g. Inspection Act). However, publicity is seen as the essential linking mechanism between transparency and participation (Brandsma et al, 2010, 15, cf. Figure 1 in the following section of this paper).

¹⁶ Public notification is an exception stipulated by the GAPA only subsidiarily if an addressee is not reachable otherwise, and aims to the efficiency of protection of the public interest and parties' rights (Kovač and Virant et al., 2011, 213).

3.2 *On openness and transparency in the practice of Slovene administrative units*

Among the results of the survey, emphasis is put on those relating to the principles of openness and transparency and the rights of defense. However, the survey's scope was broader, inquiring other aspects of good administration as well (cf. Aristovnik et al., 2015). As expected, the respondents initially confirmed that the management of administrative units was fully or highly aware of the importance of the concept of good administration and instructed the officials to act accordingly in as much as 73% of the cases (i.e. 29 out of 40 heads); and at least partially aware in the remaining percentage. However, when asked about more tangible elements of good and open administration, the result proved to be rather abstract. Such gap was revealed generally when the heads were asked to evaluate the importance of three categories of elements of good administration, namely legality, openness and transparency, and other participative rights of defense. We expected, in this controlling question, the heads to answer that the said principles and right complied as a unit, although legality is a prerequisite for upgrading proactive administration. The heads, however, actually underlined only legality, which points to their rather limited or formal understanding of good administration.

Table 2 Priorities of legality, openness and participation in Slovene administrative units (Aristovnik et al., 2015)

<i>Prevailing principles</i>	<i>Average level (1-max, 5=min)</i>	<i>Priority</i>
Legality/lawfulness	1.1	1
Openness and transparency	1.3	2
Other rights of defense related to participation (the right to be heard, etc.)	2.5	3

Similarly, the heads rated the impact of employee (dis)satisfaction with the implementation of the rights of defense with an average 2.5 (1 max, 5 min). 46% of the heads replied that the staff of administrative units had highly or prevalently favorable conditions to implement the rights of defense, 41% of them evaluated the conditions as largely or totally unfavorable, while 13% saw the situation as neutral. Moreover, the heads rated the conditions for lawful work as very good (the highest score out of five) in 72% and as favorable in 92%. Such perceptions were unexpected for three reasons. First, the legislation is clear and case law equally consistent that prejudicing, let alone infringing the rights of defense is an unlawful act by the administrative unit. The infringement of such procedural rights represents a significant procedural error regardless of whether the infringement (might) affect the established state of affairs and the application of legal provisions thereon (Androjna and Kerševan, 2006, 30). Second, the participative rights of the parties are considered as classic rights and are thus in advantage in the development of administrative law compared to the more contemporary elements of openness and transparency (prim. Sever et al., 2014, Galleta et al, 2015). Third, various systemic measures for the work of administrative units, in the sense of bridging the economic crisis and improving quality, scored the best results particularly in the administrative units (compared to other parts of public administration), as proven by various measurements and user satisfaction surveys (cf. Kovač and Virant et al., 2011, 259; Vintar et al., 2013, 168).

The survey also revealed that 80% of the heads see the users to be much or at least partly more demanding than in the past. There is also an evident correlation between or influence of management on the achievement of good administration. It is better when the management of an authority is more autonomous. Such is the case, according to the respective survey, in administrative units, with an average result of 1.85 (1 max, 5 min). Moreover, 75% of the respondents see austerity measures – particularly restricted employment and training of officials – as a factor of lower pro-activity of their services. This results in increasing dissatisfaction of officials and their insisting on more formal rules.¹⁷ The above eventually affects the duration of procedures; although maximum duration is determined by law, the administrative units, despite having equal powers, differ – according to official statistics for 2012–2014 – in as much as 20% as to the length of procedures (although 99% are concluded within (maximum) deadlines). In terms of openness and transparency, an important issue is also how the clarity of regulations affects the work of administrative units. The respondents were asked whether the regulations governing the work of administrative units were transparent and consistent (clear, coherent, mutually consistent, do not change too rapidly); 55% replied that they were not or mostly not, while 45% agreed they were transparent and consistent, but not entirely. The average score for transparency of regulations was thus only 2.6 (1 max, 5 min). Therefore, it is not surprising that 85% of the heads evaluate this factor as highly or quite crucial for the gap between the principles of good administration and practice.

¹⁷ During one of the interviews, we were told that in a concrete dispute between a party and an official, the latter, once the situation had been resolved, refused to shake hands with the party although instructed to do so by the superior, arguing that there is no law that binds him to do so.

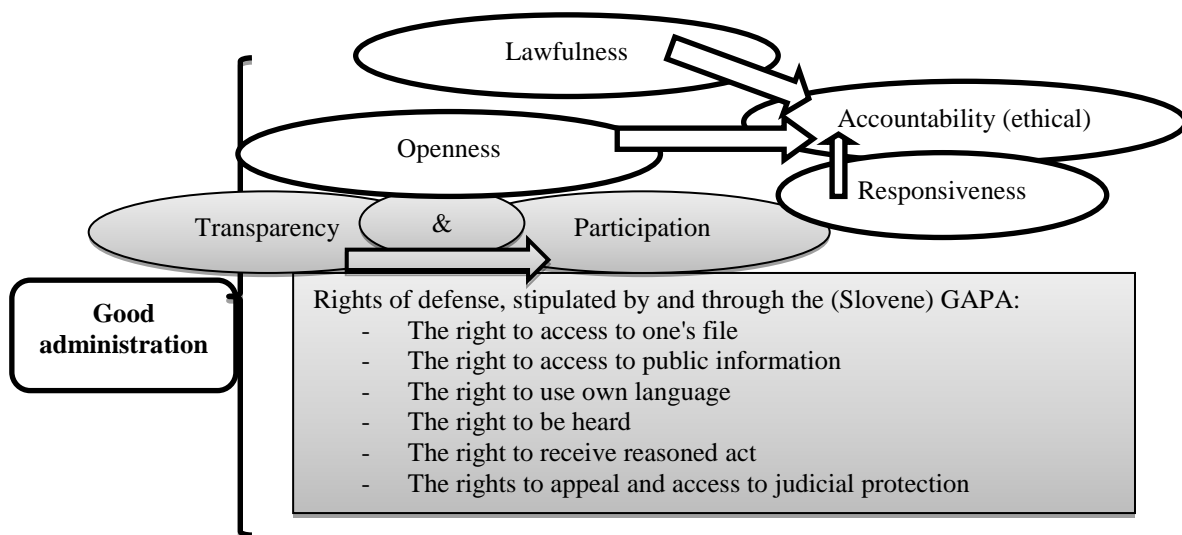
4. Discussion: how to understand openness and transparency in administrative procedures?

Openness, or any other fundamental principle in public administration, is not determined as a principle or rule *per se*. Principles and basic rights of administrative law have evolved through time with a certain purpose (more in Galleta et al., 2015, 6 *et seq.*). Hence, one can fully and adequately understand these principles and rules as long they are interpreted within their societal context.

In public administration in general and in administrative procedures in particular, where general rules are applied on individuals in an authoritative manner, the above principles need to be understood in the spirit of good administration. This means that public administration should indeed be efficient, but primarily it should be democratic. Subordinate participants in procedures need to be guaranteed fundamental rights, particularly the rights of defense. The rights of defense, including direct rights to information in one's own case or public information, are a crucial internationally recognized standard and a constitutional guarantee (Nehl, 1999, 41 *et seq.*, Kovač, 2015, 188 *et seq.*). In administrative relations, where the administrative authority is *a priori* superior to the party, these guarantees are particularly important. The extent to which authority is restricted in fact indicates the actual degree of (non)democracy of an authority at the national level. Theory outlines a system of good governance based on law that is consensus-oriented by regulating participative collaboration of public and private entities and organizational networking and open structures (cf. i.e. Schuppert in Bevir, 2011, 286–299).

If openness and transparency are placed in the above context, the analyses presented in the previous sections suggest that the two are not an end in itself but rather serve a dual function. First, openness and transparency act as a frame to include the affected participants in administrative relations as soon as possible in order for them to effectively protect their legal status.¹⁸ Second, openness and transparency serve to provide for accountability and ethical behavior of the holders of public authority.¹⁹ Transparency and likewise openness therefore have rather an instrumental value for other principles (Buijze, 2013, 4 and 6). If the relation between the two and other principles is defined as above, the following model can be drawn (Figure 1). All these principles in fact apply together, the one with the other to make a complete whole.²⁰ Nevertheless, it is evident that the principle of the rule of law is the basic and lawfulness against maladministration the final goal to be achieved (see on legality as a primary principle in Sever et al., 2014, Galleta et al., 2015, 16 *et seq.*).

Figure 1: Relations among good administration and governance principles and the GAPA rights of defense



¹⁸ Cf. OECD, 1999, 13: »Openness and transparency in public administration serve *two specific purposes*. On the one hand, they *protect the public interest* as they reduce the likelihood of maladministration and corruption. On the other hand, they are essential for *protecting individual rights*, as they provide the reasons for the administrative decision, and consequently help the interested party to exercise the right to redress through appeal.«

¹⁹ Integrity (the internal moral norm) and accountability (the external norm) together stimulate the reflection of the official as well as the necessary autonomy, responsiveness and accountability of public administration (Kovač, 2012, 28). Cf. Bevir et al. 2011, 373–375, on several aspects of accountability, from institutional to professional and personal.

²⁰ Thus, it is not surprising that some authors see as more connected openness and participation on one hand as opposed to transparency and responsiveness as the other twin (see more in Musa, 2013, 11 *et seq.*).

Openness and transparency serve several purposes, above all participation of citizens, their control over public administration, and greater legitimacy of the administration as long as it becomes more transparent and accountable (Savino, 2010, 3; Banisar, 2006, 6). Yet participation, inclusion, partnerships, openness, etc., cannot be achieved if the addressees of administrative procedures are not first informed of the purposes and goals and of the content and manner of authoritative decision-making (Kovač, 2015, 189; Galleta et al., 2015, 20). Transparency therefore represents a twin principle with participation, and simultaneously its prerequisite, both leading, based on lawfulness, to openness and responsiveness and finally to accountability. The suggested model answers the theoretical research problems or questions posed at the beginning of the article. The answer to the question how to understand openness and transparency in administrative procedures is that they are just two of the several coinciding principles that together form the concepts of good governance and good administration. Yet, openness should be regarded as superior to transparency since the latter, together with participation, gives effect to openness through tangible rights under the GAPA and APIA.²¹ More so, this applies both in single-case administrative procedures and in the issuing of implementing regulations.²² The same understanding derives from European documents as well as from Slovene regulation and theory. However, in order to be fully respected, openness and transparency must be understood as elements of good administration.

In addition to the joint effect of all principles and rules, we feel it necessary to also point out the autonomous nature of individual rights, as only in such manner the latter can be enforced. This derives, for instance, from a 2011 decision of the Slovene Constitutional Court. The court argued in the respective case that the right to access to the file for persons with legal interest without the status of a party is an independent and *per se* legal right with a specific purpose according to Article 23 of the Constitution on access to judicial protection. Therefore, it is important that in particular the right to access to one's file and the right to public information are explicitly defined as autonomous rights, based on case law and several international legal documents.²³ Both rights, regardless if regulated separately or as a joined-up right, are positive rights. That leads to them being *ex officio* and pro-actively guaranteed by the state. The principle of openness is, in this framework, binding for public administration. Hence, officials must actively communicate with the parties if the democratic function of authority is to be accomplished (Bugarič, 2003, 2 *et seq.*, Buijze, 2013). A merely passive response to individual requirements under the APIA or Art. 82 of the GAPA does not suffice. Moreover, only active transparency can enable accountability.

The first hypothesis, i.e. that there is a gap between the European standards and the Slovene GAPA, is rejected. The comparative analysis in fact proved that, at least on paper, all the said principles apply also in Slovenia. Although the Slovene GAPA does not separately define the principles, as for example the Czech one on good administration or the Macedonian one on accountability (cf. Sever et al., 2014, 264), the rights that put openness and transparency into effect are regulated and have, as a general rule, also a constitutional basis. Thus, even the courts, in case of administrative dispute or constitutional review in administrative matters, may and do interpret the said rights in a value based context.

On the contrary, we confirmed the second hypothesis, saying that the degree of implementing the prescribed principles and rights in the spirit of openness and transparency is not (sufficiently) high to provide for a proactive behavior of administrative units in practice. The survey conducted among 40 heads of administrative units revealed that at a declaratory level, openness, transparency, participation and responsiveness are deemed as crucial guidelines of their work. Contrary, concrete answers show a discrepancy since it is obvious that administrative units (still) stick to rather formal (procedural) norms instead of incorporating good administration principles. It can therefore be established for these units that their heads are not sufficiently aware of the necessary interdependence of all elements of good administration. In this regard, over-detailed codification of

²¹ Cf. Buijze, 2013, on »citoyen« related transparency (here as type B). There are other functions, such as regulatory quality, economic related market safety and free movement of goods, etc. Some also emphasize the relation to human dignity (ib. as type F; cf. Nehl, 1999, 20–26, 166; Rusch, 2014, 197).

²² Cf. Brandsma et al., 2010, 6; Vidačak and Škrabalo, 2014, 155; Kovač, 2014, Galleta et al, 2015, 20, etc. Different authors hereby understand openness as a sum of transparency and participation although they refer to various administrative relations (e.g. civil society in general decision-making or parties in administrative procedures). Cf. Galleta et al., 2015, 20 (emphasized by the author of this article): »The principles of *transparency and of participatory democracy are applicable also to situations where the proceedings lead to the adoption of an act of general application* including decisions with general applicability.« See relevant case law as well, such as CJEU Case 64/82 Tradax v Commission [1984] ECR 1359, etc.

²³ More on case law see in Nehl, 1999, 46–54; and Pirc Musar in Kovač and Virant, 2011, 241 *et seq.*; and Kovač, 2015, for Slovenia. The right to access documents is stipulated by the EU, *inter alia*, under TFEU (Art. 15, 42), *Regulation (EC) 1049/2001 (OJ L 145) regarding Public Access to European Parliament, Council and Commission Documents, Directive 90/313/EEC on the Free Access to Information on the Environment, ECJ ruling C-465/00 on the disclosure of civil servants' income*, etc. In addition, there are sector-specific acts (cf. Buijze, 2013). See also the *European Convention on Human Rights*, Article 10 (freedom of expression). On pro-activeness, see Trpin, 2008, 157.

administrative procedures and freedom of expression might have a counter-productive effect (cf. Kovač and Virant et al., 2011, 220). Furthermore, the expectations of the parties stimulate the participation of the public administration, whereas service-minded civil servants solve the life situations of the parties in administrative procedures significantly better while balancing private and public interests (cf. Bevir et al., 2011, 287).

We therefore suggest a systemic revision of the Slovene GAPA, which also otherwise – when compared to other similar laws, even in the same region – appears as obsolete with its excessive regulation and several shortcomings in the sense of good and participative administration (cf. Cardona and Freibert, 2007; Rusch, 2014; Koprić et al., 2014, 333 *et seq.*). In such regard, it would be necessary to consider *inter alia* the introduction of new principles and individual rules following the models in the EU.²⁴ More focus should be placed on proactive openness, broader participation of several participants in the procedure, individual accountability, and service-mindedness in general. The future also calls for improvements in the sense of a more systematic approach with regard to different rights on access (cf. Pirc Musar in Kovač and Virant, 2011, 237), based on the uniform concept of the right to know. This would also broaden the scope of understanding of transparency itself, nowadays often taken more or less (e.g. by Savino, 2010) as access to information only, thus providing grounds for a »culture of openness« based on pro-activity (Banisar, 2006, 32; Brandsma et al., 2010, 8).

5. Conclusions

Given the superior position of the authority in administrative matters, public administration must develop forms of cooperation with the public in order to be fair and efficient. Openness and transparency of public administration are thus at the same time a prerequisite and the objective of good administration and good governance at national and global levels. However, these dimensions need to be understood in parallel with participation and other guiding principles to lead to full effect. Good and open administration is a holistic concept that can be fully realized only when all its elements are balanced and interdependently achieved.

In administrative procedures, which record a growing trend within the modern society, openness of administration is achieved primarily by procedural legal entitlements of the parties i.e. the ruled in their relations with the rulers. These rights simultaneously affect transparency and participation that in combination enable open administration. Such idea is, according to the comparative analysis, implemented in the Slovene GAPA since it provides all principles and fundamental rights as acknowledged at the European level. However, there is a gap in terms of implementation. Since openness and transparency aim to a value based good administration, there is inevitably a further need to enhance awareness of the respective principles. According to the findings of analyses presented in this paper, further steps require a changed approach, namely strategic support in the overall administrative system instead of new amendments to existing norms as insofar. On a long term and in the wider context, the procedure should not be considered – as it has been for decades – merely as a way to protect the rights (even constitutional ones) of the weaker parties. Similarly, it should not be regarded exclusively as a field of de-bureaucratization in the framework of neoliberalism and short-term reduction of administrative barriers on the account of achieved European civilization principles. The right way is a holistic one, such that the elements of transparency and participation under the GAPA lead to lawfulness, openness and accountability. In this respect, general administrative principles and rights stipulated by the EU documents can indeed serve as a guide to national policy-makers and administrative authorities.

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²⁴ Cf. Trpin, 2008; Rusch, 2014; Sever et al., 2014. A person participating in an administrative procedure has the right of access to documents on which the decision of the administration is (or will be) based in all European legal orders but not necessarily as a fundamental principle (cf. Savino, 2010, 9; Venice Commission, 2011). The principle of transparency may thus be found in the Hungarian GAPA of 2004 and could serve as a model for Slovenia, which could in turn be a model for other countries.

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Author's bibliography

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Modeling ethical behavior in Albanian Public Administration

Abstract

It is well known in the organizational sciences the influence and the positive relationship between organizational parameters and factors and ethical behavior. Public organizations have their specifics in a large part of parameters and factors, this is reflected also in the individual, personal and professional behavior of public servants. In this context the main purpose of this paper is to reflect from the theoretical and practical point of view a model of ethical behavior in the workplace, reflecting all distinguished specifics it has for Albanian public organizations. Another objective of this paper is to differentiate the influence of individual factors and organizational factors in the influence they have on the ethical behavior.

To realize the goals of this paper were followed two main ways. Initially was conducted a theoretical picture of factors and components that influence the ethical behavior of an employee, this theoretical framework is crowned in a model of ties of interdependence between the organizational and individual factors. Later in order to answer to key questions of research is designed and distributed a questionnaire on the Albanian public administration whose data are processed further. At the end of this work based on literature review and practical results reflected some recommendations and conclusions.

Keywords: ethical behavior, individual factors, organizational factors, public administrator performance, organizational performance.

1. Introduction

Conducting ethical behavior is felt by many experts as a challenge in recent years. The decisions of the managers to behave ethically or not is influenced by many individual and situational factors, conducting ethical behavior is obviously a critical social problem for business organizations. Also is a very complex problem that requires deep understanding of the many factors that contribute to behave or not ethically. The model discussed in this study theoretically and practically, explains the integration of these factors, actions, and consequences that are reflected in the behavior of individuals in organization. This model also gives some suggestions on how ethical conduct can be addressed effectively in an organization.

2. Methodology

2.1 Main questions of the research

How is influenced ethical behavior of the individual by external organizational factors?

How is influenced ethical behavior of the individual by internal organizational factors?

Which is the dynamism of this mechanism under the influence of various individual and organizational factors and the intermediation of role expectations?

In an effort to realize the main purpose of this study work is oriented by two main directions. Originally it realized a theoretical framework to reflect different approaches regarding internal and external organizational influences, individual level factors under the intermediation of role expectations, while this process comes to the end still is influenced by top management characteristics. Since there is enough theoretical evidence that considers role expectations as part of individual characteristics and decision making these two components will be seen further in this study as a single variable. Internal Organizational Influences is represented in this form its main components as Ethical Code, organizational Culture, the size of the Organization, its structure, the pressure for results and the strategy of the corporate. While External organizational influences are represented by Political/ Legal components, the Industry Culture and the national Culture and the environment. As a central mechanism is the individual, which is represented by its personality, its values and attitudes, moral principles, its internal history of reinforcement and gender. Theoretically the influence of internal and external influences on individual is seen and measured through the intermediation of role perception and expectations. Since in the literature role perception is classified as an independent variable that directly influences individual behavior at work¹, in this study as well will be considered as an independent variable, instead of a control or intermediate variable. Finally what comes out from the interaction process of internal and external organization influences on individual under the light of role expectations is still influenced neutralizing factors of top management characteristics which in this study will be seen as an intermediary variable which stimulates or prevents the influence of this conglomerate on ethical behavior. Top management characteristics in this study will be represented only by Age and Length of Service. So internal and external organizational influences, role expectations as part of individual factors are always independent variables, top management characteristics is an intermediary variable while ethical behavior is the dependent variable which behavior we want to explain.

In the second part the study is directed towards practical research, data analysis originally was done between descriptive statistical analysis and testing hypotheses through the econometric model of multiple and simple linear regression by the method of least squares (OLS). Database was provided by primary sources through primary data collection therefore directly from the investigator. This process took place between creation and distribution of a questionnaire. For the design of the questionnaire initially we relied on the theoretical framework, but also in the interviews conducted for this purpose with representatives of the departments of human resources management of some public organizations. The questionnaire was designed with closed questions. The questions were in the form of statements, where respondents are required to hold a position from 1 - Strongly disagree 5 - I totally agree. 100 questionnaires were

¹Kasimati, M. 2010. Organizational Behavior. Tiranë. Pg. 35.

distributed and the data were processed on the statistical program STATA version 11. The data collection is based on the perceptions of the respondent on the questions asked for each of the variables, the sample was chosen only for Albanian public organizations so Albanian public administrators are the population.

3. Literature Review

3.1 Understanding ethical behavior

Today's research on the behavior of strongly supporting person - situation interaction, where both elements of this relation influence individual choices and behavior.² Undoubtedly, ethical behavior is product of person and personality influences, but on the other side situation part of the environment and experiences influence a person's ethical system, system philosophies and patterns of behavior.

Main factors influencing ethical behavior are also factors come from environments in which the individual develops his life in the organization. Ethical or unethical behavior is the product of a complex combination of several influences different in the center of the model in the picture below is the individual decision-making; he or she has a unique combination of personality characteristics, values and moral principles that lie or associate ethical behavior. Personal experience of reward or strengthening of a certain ethical behavior gives form to the tendency of acting ethically or not ethically. So it can be a good strategy to motivate ethical behavior through rewarding it. The truth is, conversely, that good ethics pay over the long run and that the benefits of good ethics actually far outweigh the costs.³ People have several roles in their lives in general and in their work life as well, including that of manager or employee simple. One of the important intermediary variable that influence the individual behavior at work is the role perception⁴ which is defined as the conviction of the individual on the kind of behavior that he should have at work. On the other hand the role itself is defined as what is expected from him to behave. This relation is moderated by the psychological contract which is defined as the unwritten agreement between employer and employee about the expected and percept behavior⁵. It is easily understood that in all the steps and elements of the process of perception till concrete behavior ethical problems and dilemmas can take place. So the individual parameters don't say it all, other important elements impact one's expectations on how these roles will be perceived and played. These expectations are formed by a combination of internal and external organizational factors as well.

Let's analyze how these different influences whether interior or exterior impact the ethical behavior and how these effects are neutralized under a certain management. Several models try to explain ethical behavior sometimes concerning the individual point of view and sometimes concerning organizational point of view. Since the approach of this study is to be comprehensive in the variables and elements that influence ethical behavior so the below model chosen to explain it includes both external and individual influences.

² Trevino, K. L., 1986. Ethical Decision making in organizations: A Person – Situation Interactionis Model. The Academy of Management Review. V. 11, Nr. 3. pp 601-6017

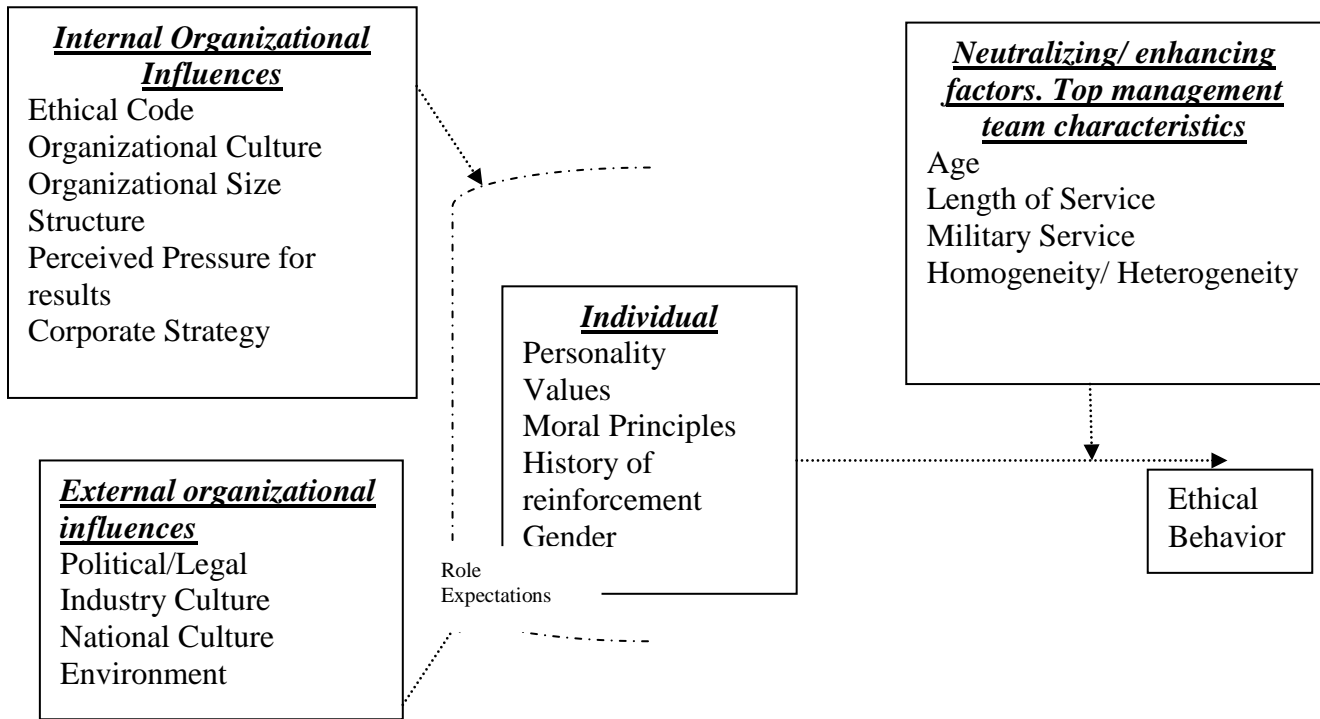
³ S. D., Raymond. Ph.D 2002 .Motivating Ethical Behavior through Cost-Benefit Analysis. World Business Academy. Rekindling the Human Spirit in Business. Vol 16. Issue.1 p.4

⁴ Kantor, J., Weisberg, J., 2002 "Ethical attitudes and ethical behavior: are managers role models?", International Journal of Manpower, Vol. 23 Iss: 8, pp.687 - 703

⁵ Kasimati, M. 2010. Organizational Behavior. Tiranë. Pg. 35.

3.2 The model of ethical behavior in the workplace (Kreitner & Kinicki 2006)⁶

As mentioned before main components of this model concern to external and internal organizational influences and individual influences. At the center of the model is the individual decision maker. This individual has a certain special equilibrium and combination of variables as personality characteristics, values and attitudes, moral principles, leaning toward from ethical behavior. Personal experience with being rewarded or reinforced for certain behaviors and punished for others also shapes the individual’s tendency to act ethically or unethically. Finally gender plays an important role in explaining ethical behavior. Men and women have different orientations toward moral behavior in the organization in the following model are two major groups of influence on the role expected of someone⁷. As mentioned before the role expectation is a complex process which is in a certain way is conducted both from inside of the individual so is influenced by individual factors and in the same time form organizational factors. But this combination of organizational and individual influences is shaped through the role expectations. One’s expectations for how those roles should be played intermediate the relation between internal and external organizational influences with individual characteristics and the product of this in its time defines the ethical behavior. At the end the ethical behavior can be strengthen or weaken from top management team characteristics⁸



3.3 Internal Organizational Influences

⁶Kreitner & Kinicki Organizational Behavior 2006 Mc Graw Hill Irwin, pg 28Source: Based in part on AJ Daboub AMA Rasheed RL Priem and D A Gray “Top Management Team characteristics and Corporate Illegal Activity”, Academy of Management Review.

⁷ Tilley, E. 2010. Ethics and gender at the point of decision-making: An exploration of intervention and kinship. *PRism* 7(4): <http://www.prismjournal.org>

⁸ H. Mintzberg 1975. “The manager’s job: Folklore and Fact”, Harvard Business Review”, pp 61.

The above model shows six key organizational internal influence on ethical behavior. Codes of conduct and codes and organizational culture contribute sufficiently to reduce the occurrence of unethical behavior.⁹ Many studies have found a positive relationship between the size of the organization and unethical behavior, companies or large organizations have more similarities to behave illegally. So the size of the organization is negatively related not only with ethical behavior although indirectly, but also with cultural dimensions and transparency.¹⁰ Some interesting research shows that managers have more similarities to behave unethically in decentralized organizations.¹¹ Pursuant to a possible conclusion on the link between hierarchy and ethical behavior, can be said that have been found a tendency among middle and lower managers operating unethically when they face pressure for achievement of results.¹²

3.4 External Organizational Influences

In the figure above are identified four key internal influences. The political system/law clearly influences ethical behavior¹³. In the same way and the same pressure exercise ethical behavior and culture of the industry in which we need to understand how competition is managed and the decision -making in a particular industry, as well as significant influence is the national culture¹⁴ as the environment in which the organization conducts its activities.¹⁵

4. The study design and data analysis

For the realization of this study was compiled and distributed a questionnaire with 24 questions, were distributed 152 questionnaires but only 100 were available for further processing of data. The questionnaire was distributed only in public organizations while the focus of this study is public administrator. The data are based on personal perceptions that public administrators interviewed have about external organizational influences, role expectations and individual as a single variable and top management characteristics on their ethical behavior and general ethical behavior. To select the source of the first public institutions was approved budget of the Ministry of Finance for 2015, later addressed the website of each institution to verify the accuracy of the list under its institutions, and on this basis was created a database on the form of a genuine network of connections that served as a guide for data collection. Then the selection of respondents in each institution was distributed then collected from the contact person. At the end of data collection resulted in a relatively successful process was taken seriously either by the persons who were either distribution by respondents.

⁹ J. Pfeffer and J F Veiga (1999). "Putting People First for Organizational Success", Academy of Management Executive. P 37.

¹⁰ Kaptein. M. 2008. "The Relationship between Ethical Culture and Unethical Behavior in Work Groups: Testing the Corporate Ethical Virtues Model". ERIM Report Series Research in Management. P20

¹¹ O. C. Ferrell and Steven J. Skinner 1988 Ethical Behavior and Bureaucratic Structure in Marketing Research Organizations Author(s): Journal of Marketing Research, Vol. 25, No. 1 (Feb., 1988), p. 107. pp. 103-109

¹² Stephen P. Robbins, Mary Coulter 2002 Mngement (activebook) 7/e, Prentice-Hall, Inc. A Pearson Education Company

¹³ Ekici. A., Onsel. S., 2013. How Ethical Behavior of Firms is Influenced by the Legal and Political Environments: A Bayesian Causal Map Analysis Based on Stages of Development. Journal of Business ethics.

¹⁴ Militaru. C., Zafir. Adriana., 2012. International Journal of Academic Research in Accounting, Finance and Management Sciences Volume 2, Special Issue 1, p.28.

¹⁵ Andrei Shleifer 2004. Does Competition Destroy Ethical Behavior? AEA Papers And Proceedings, Vol. 94 No. 2

4. Analysis of results

4.1 Sample description

Referring whether respondents belong central public administration, local or other category describes sample 40.2% are central public administration, 28.8% belong to the local public administration while 31.0% belong to other categories. Regarding the characteristics of the sample size according to data processing by gender shows that 42.5% are male and 57.5 are female, while in terms of educational attainment for the sample described by 75.2% with university degrees, 23.6% have completed studies of second level - Master, while 1.2% have scientific degree 'Doctor'. Respondents were also asked about their position in the structure or hierarchy of the organization, finding that 77.8% of them are in the current position of specialist, 16.8% of them are in charge of the sector position while 5.4% are in the position of director.

4.2 Descriptive Statistics

In the table below the descriptive statistics about the means of the variables in function of individual or organizational characteristics. As described before the respondents were asked to take attitude (expressed in 1 don't agree to 5 totally agree) to the declarative questions, in synthesis of which we can draft some descriptive statistics (which are calculated on the mean of the mean of the questions results) that are reflected in the table below:

Ind./Org. Characteristic/Top Management characteristics	External and internal Org. Influences	Role expectations	Ind. parameters	Top mang. in pub. Org. to 5 years	Top mang. in pub. Org. to over 5 years	Age of Top mang. 25-45	Age of Top mang. Over 45	Ethical behavior
Central Administration	3.4	3.9	3.6	3.2	3.6	3.1	3.2	3.6
Local Administration	3.7	4.1	3.8	3.1	3.2	3.2	3.4	3.9
Gender – male	3.2	4	3.6	2.9	3.5	4.1	3.8	3.7
Gender – female	2.9	1	3.7	3.4	2.9	3.6	3.9	3.8
Age 21-40	3.5	3.9	3.6	3.2	3.5	3.4	3.1	3.6
Age 40-65	3.5	4.1	3.7	2.9	3.2	3.5	3.1	3.9
High education	3.5	4	3.7	3.8	3.7	3.8	2.9	3.2
Master	3.5	4	3.7	3.1	3.9	2.9	3.9	3.8
Doctorate	3.9	4.4	4.1	3	3.6	2.8	3.8	4.1

As can be analyzed from the above table greater means are role expectations and individual parameters, so from this we can tell that the individual puts himself in the middle of the mechanism that influences internal and external influences to their effect on ethical behavior. On the other side the smallest values of means are under the column of internal and external organizational influences. So from the respondents is in the middle of the process and somewhat important is perceived the individual and the way he behaves and manages his role, more than the external and internal instrument that tent to manage his ethical behavior. On the other hand top management characteristics present the lower mean of all variables, from these we can analyze that from the respondents, top management is not seen as an important influence on their behavior. Since from the theory this variable has an important role on the ethical behavior, we

can conclude that maybe the respondents attach the top management to the internal influences and not like a variable itself, or since Albanian public administration often is characterized from instability and circulation of the employees, may be the respondents don't perceive the top management as a stable and systematic influence on their behavior.

4.3 Linear regression analysis regarding the hypothesis

In order to answer the research questions the first step is to test the relation of all independent variables on ethical behavior, is it really perceived by the respondents that the ethical behavior is influenced by internal and external organizational influences, role and individual parameters? Which is the gravity that each of these components have on ethical behavior? So the main general equation is:

$$\text{Ethical behavior } Y = \text{external influences } X + \text{internal influences } X + \text{role and individual parameters } X$$

In effort to verify and answer all the up mentioned questions we raise the following hypothesis Ho: internal & external hypotheses, role and individual parameters have no influence on ethical behavior. So after regressing all independent variables on ethical behavior, we have the following table:

Table1. The regression Internal & External Organizational, Role and Individual Parameters on Ethical Behavior

Ethical Behavior	OLS
External Organizational Influences	0.1280839*** (0.0194517)
Internal Organizational Influences	0.3123735*** (0.0337281)
Role and Individual Parameters	0.5492015*** (0.0401835)
Gender (male)	- 0.0034489 (0.0288439)
Status (married)	0.0040093 (0.036494)
Medium Org	0.1895169** (0.0453736)
Big Org	0.1285041** (0.04713118)
Age	0.0013845 (0.0022967)
Years in public administration	-0.0049444 (0.0022985)
Central Public Administration	-0.0059484 (0.039656)
Local Public Administration	-0.022688 (0.0405083)
Others	
Nr. of persons in charge	0.0001156 (0.0123318)

F	132.54
R²	0.7656
Nr. Of Observations	100
β₀	-0.1255193
Note:	* 10% statistical significance **5% statistical significance ***1% statistical significance

As we can analyze from the above table the three independent variables are statistically significant since the p value < 0.01, as expected the perception of the respondents for the influence that role expectations and individual parameter has on ethical behavior is greater than for the other variables, this can be understood from the β coefficient that this variable has, β=0.5492015 that is the greater value from all the other coefficients. Gender and status results statistically not significant to this regression, so are not taken into consideration. But as the literature preaches the size of the organization is statistically significant and influences ethical behavior.

Male gender , marital status married , central public administration , public administration years , the number of dependents present value of their negative coefficients have a statistically not significant relationship with the performance of public organizations and some of this variables present e negative β value, so they have e negative relation with ethical behavior.

In this regression hypothesis null and alternative hypotheses are as follows:

Ho: Internal & External Organizational, Role and Individual Parameters have no impact on Ethical Behavior

Ha: Internal & External Organizational, Role and Individual Parameters have impact on Ethical Behavior

The model is statistically significant since p-value < 0.01. the coefficient of determination is R²=0.7656 that means that 76.5% of the variance if the dependent variable is explained from the independent variables. This way we can conclude that the null hypothesis falls and alternative hypothesis is proven, so internal & external organizational, role and individual parameters have impact on ethical behavior.

5. Conclusions

Theoretically and practically is evidenced that ethical behavior is well explained by organizational and influences either internal or external. The individual perceives the impact all the internal and external instrument has on him in order to direct his behavior. On the other side the individual perceives himself in the center of the mechanism that manages ethical behavior in public organizations. This is an important point of view, because this means that the work and the energy of the leadership of public organizations to conduct and change ethical behavior should concentrate initially on individual and individual parameters. From this perspective internal and external public organization instruments such as ethical code, organizational culture, pressure, political and legal influences should be in harmony with the individual perception, clear and well served to the public administrator in order to help and conduct him to improve his ethical behavior and not be perceived as an obstacle.

Internal organizational influences have a greater impact than external organizational influences on public administrator ethical behavior. This is an expected conclusion since, firstly and often lastly public administrator faces the internal organizational influences more than external organizational influences. The effect of external organizational influences is well reflected on internal influences. For example organizational culture which is an internal influence is certainly effected by national culture and by environment, organizational size is structure is influenced by political/ legal and industry culture. So the public administrator in order to arrange his ethical behavior refers essentially to internal influences. Top management team characteristics, theoretically have an intermediary role on ethical behavior but practically seems that this influence is faded. The explanation for this was that public administrators attach the top management characteristics to the internal influences and not like a variable itself, or another reason would be that Albanian public administration often is characterized from instability and circulation of the employees, may be the respondents don't perceive the top management as a stable and systematic influence on their behavior.

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ETHICS IN FINANCIAL REPORTING

Abstract

In this study we will present the performance of financial reporting for the organizations and the relation between these organizations with the financial reporting. In order to achieve the targeted results of the study we have analyzed the finances as one of the scientific disciplines that study occurrences, relations and institutions related to the establishment, collection, allocation, reallocation, spending and managing money, in order to meet the general needs of society. For the preparation of the annual financial statements is required to provide comparability between the previous financial period and the reporting financial period. Through this study is observed that a necessary and indispensable element for a business to have continuity in performance is the professionalism and ethics in financial reporting. Based in the collected data during the fiscal period in the financial reporting of expenditure and revenue, at the end of the fiscal year, management of the organizations builds the statement of income and expenses, which presents a systematic and summarized information on types and magnitudes of costs of revenues, as well as information concerning the results achieved by management during the reporting period.

Key words: financial reporting, organizations, financial statement, ethics on reporting data, revenues, management, performance.

Introduction

Ethics is a term subject to numerous, sometimes conflicting, interpretations and as such ethical problems are a very relevant issue present in many aspects of real life. Ethics can be examined through different points of view and under different levels of analysis, modern or classic.¹A distinguishing mark of the financial and accountancy profession is its acceptance of the responsibility

¹Filipe, J.A., Alberto, M., & Ferreira, M. 2011. An ethical issue in anti-commons management aquaculture case in Portugal. *International Journal of Academic Research*, 3(1), 250-252.

to act in the public interest². Key qualities which appear in the codes of ethics of professional bodies include independence, integrity, objectivity, competence and judgment.

Reporting of organization conduct specially from financial point of view is crucial for both the organizations who send out the reports and the investors, consumers, business partners, competitors, and public agencies who receive and utilize these reports. In their reports companies represent themselves to the public, conveying, explicitly and implicitly, an image of their activities and philosophies, trying to enhance their reputation, and possibly rendering accountability for their deeds and objectives. On the other side, the receivers may check the quality of the reports, needing at least some truthful information for their own decision making and holding the companies accountable for their conduct.³ So main scope of this study observed that a necessary and indispensable element for an organization to have continuity in performance is the professionalism and ethics in financial reporting.

Methodology

To realize this paper we have used secondary data. The theoretical framework was conducted by detailing the literature referring to main argument, that emphasize main concepts of ethics, the importance of ethics in financial reporting, why the process is linked to ethics in accounting etc. For each of the issues under discussion was conducted a comparative theoretical interpretation and practice. The practical part of the study is related to a case study. At the end of the paper reached some conclusions recommending nature.

Literature review

Ethics are the moral principles that an individual uses in governing his or her behavior⁴. It is the personal criteria by which an individual distinguishes right or wrong". When we talk about ethics and ethical values, we mean our concern about things, which we think, say and/or practice that may not necessarily violate the rules of the organization or infringe the law of the land or amount to outright crime or felony, but which borders on our sense of morality, our sense of right and wrong. It concern itself with issues like conflict of interest, insider's dealings, compromising integrity, objectivity, independence, confidentiality, disclosure of official secrets and destruction of official documents for financial benefits and other similar acts that are against moral principles and ethical standards. It is argued that ethics or morality as matters of good and evil, right and wrong and subscribes to the fact that "we are living today in an ethical wilderness"⁵. He believes that ethics is in ferment and chaos among all people. Ethics represent a set of moral

²Ceni. A., 2011. Menaxhimi I oraganziatave Publike. SHBLU. P 170

³G. Enderle 2004 The ethics of financial Reporting, the global Reporting initiative, and the balanced concept of the firm. Brenkert.qxd

⁴Ogbonna, G.N., & Appah, E. 2011. Ethical compliance by the accountant on the quality of financial reporting and performance of quoted companies in Nigeria. *Asian Journal of Business Management*, 3(3), 152-160.

⁵Nwagboso, J. 2008. Professional Ethics, Skill and Standards. Inspirations Media, Jos.

principles, rules of conduct or values. Ethics apply when an individual has to make a decision from various alternative regarding moral principles. Ethical behavior is necessary for society to function in an orderly manner. The need for ethics in society is sufficiently important that integrity, loyalty, and pursuit of excellence cannot be incorporated into law.⁶ Further stated that the following ethical principles incorporate the characteristics most people associate with ethical behavior; honesty, integrity, promise keeping, loyalty, fairness, caring for others, respect for others, pursuit of excellence and accountability. Another approach is when the field of ethics is divided into Meta ethics, ethical theories and applied ethics. Meta ethics is the reflection upon ethics concepts and theories.⁷ Ethical theories is the substantive proposals regarding those consideration that would determine morally acceptable conduct and applied ethics is the deliberation related to a specific field of enquiry. Examples include ethics in business, public service and general professional ethics. It is stated that a formal code of ethics ensures that professional members will be more aware of the moral aspects of their work; an accessible reference tool for managers to keep ethical concerns in mind; abstract ideas will be translated into concrete terms applicable to every situation; members as a whole will act in a more standardized fashion throughout the profession.⁸ While on the other hand professional ethics provides accountants with certain advantages such as determining the professional posture should adopt if willing succeed the right position and prosperity and determine the prosperity of his conduct in his professional relationship.⁹

Accounting ethical issues

In today's modern world, the accounting profession is vital because Without the current economic system cannot exist. Enhancing the accounting profession distinct lobes, responsible for the society.¹⁰ Meet the social needs of the public interest requires the removal of four of the following: 1 - information validity :society requires valid financial information and information systems. 2 – introduction of professional people: clients, employers and other interested parties should be able to easily identify professional accountants. 3 - Quality of Services: Ensure that accounting services are performed with the highest possible quality. 4 - Trust: professional Service users should be sure that the services of professional accountants offering their services in the form of monitoring is scheduled to be done.¹¹

⁶Hayes, Dassen and Wallage. 1999 Principles of accounting: An International perspective. Mcgraw-Hill College

⁷Ajibolade, S.O., 2008. A survey of the perception of ethical behaviour of future nigerian accounting professionals. The Nigerian Accountant, 41(3): 54- 59.

⁸Mathews, M.R., & Perera, M.H.B. 1996. Accounting Theory and Development. South Melbourn, Australia: Thomson Publishing Company.

⁹Jenfa, B.I. 2000. *Elements of Professionalism and Practice of Accountancy*. Jos: Ehindero Nigeria Limited.

¹⁰Salek, N., 2008. accounting ehics.Ethical Issues in Science and Technology, 3(1-2).

¹¹AliMadad, M., 2004. Introduction to ethics and rules of professional conduct of accountants, auditors Journal, pp: 27.

It is observed that accounting failures are failures of individuals to perform their fiduciary duties, to fulfill their responsibilities to behave ethically.¹² Accountants' continued involvement in the major corporate scandals of the past twenty years suggests that accountants have not complied with the expected ethical standards of the profession. Accountants' failure to reflect ethically on the dilemmas they encounter in their work may lead them to make wrong decisions.¹³ It has been suggested by groups such as the International Education Standards Board (IAESB) that accountants should be trained to be sensitive to moral dimensions of the ethical dilemmas they face in their work. The Framework for International Education Standards for Professional Accountants (2009)¹⁴ states: "...the overall objective of accounting education should be to develop competent professional accountants, who possess the necessary (a) professional knowledge, (b) professional skills, and (c) professional values, ethics and attitudes". So the main factor in ethical or unethical process in accounting is the accountant itself. Providing quality accounting services to clients and investors is affected by economic factors but also extends into the dynamics of the ethical decision making process. Ethical decisions can lead to conflicts and dilemmas arising from different beliefs and values inherent in the various roles individuals play in their personal and professional lives. It has been argued that accountants have been the main contributors to a corporation's declining moral environment. However, a corporation's value dilemmas are affected by experiences, traditions and the values of society – not merely the personal idiosyncrasies of individual practitioners.¹⁵ From the Albanian practice about this issue a financial reporting is defined as a structured representation of historical financial information, including the explanatory notes accompanying that aims to communicate the economic resources or obligations of an entity in a moment of time or changes occurring in them over a period of time, in accordance with a framework of certain financial reporting.¹⁶ Meanwhile for the person that is engaged in financial reporting for its attitudes and values is emphasized the commitment to the public interest, professional skepticism, professional judgment, and ethical principles. Ethical principles include integrity, objectivity, professional competence and right care, confidentiality, professional behavior. Another ethical principle is to identify and take under consideration and evaluate threats to objectivity and independence that may happen during the audit. Lastly the protection of the confidentiality of the entity is required.¹⁷

¹² Staubus, G. J. 2005 Ethics Failures in Corporate Financial Reporting. *Journal of Business Ethics*, 57:5-15.

¹³ Senaratne, Samantha. 2013. *The Role of Ethics in Accounting*. CIMA: Chartered Institute of Management Accountants. <http://www.cimaglobal.com/Thoughtleadership/Newsletters/Regional/The-CIMA-Edge-S...> Retrieved 3/19/2013.

¹⁴ <https://www.ifac.org/education>

¹⁵ George F. Kermis Marguerite D. Kermis. Financial reporting regulations, ethics and accounting education. *Journal of Business Ethics*.

¹⁶ Fjalori i termave, Manuali i Deklaratave të IAASB për Kontrollin e Cilësisë, Auditimin, Rishikimin, Dhënien e Sigurive të tjera dhe Shërbimet e lidhura – Botimi 2013, Volumi I.

¹⁷ IEKA 2014. Kontabiliteti Finance dhe Auditim. Reviste periodike. Nr. 35. Pp15

What about the system itself

Transparency and Trust

In the financial reporting system is an essential component for the proper functioning of the system and can be considered a “public good,” from which all participants in the system benefit, but which is destroyed by those who manipulate. Trust is based also in “transparency” of financial reporting. In simple words in financial reporting this means that numbers must be honest. This number should reflect the practice and the real process and states of the company under consideration in an adequate manner, that is, according to appropriate rules of reporting. Moreover, they should be generated by trustworthy people who are competent and motivated by the knowledge that they are being trusted and by a moral commitment to honor this trust.¹⁸ In short, transparency and trust are the outcome of a combination of factors at the macro, and micro level. If financial reporting is inadequate and deceiving, trust will shrink or may even collapse. Without transparency and trust, the system would be destroyed and the perspective of principles that should follow the provision of public services.¹⁹

As it can be analyzed from the above table and previous discussed issues regarding the transparency and the trustworthiness of the system and the process of financial reporting are emphasized both actors, in one hand the role of the individual, so the role of the accountant on the other hand the role of the system itself.

Practical analyzes

The idea is that the reporting of these tables all the items contained therein are important that directly affect pocket investors or partners. Most problematic and that should be good for the owners details to third parties is the relationship with suppliers and customers introduced tax state taxes.

Finally accountant who issues the outcome of our case is at a premium (and example is the single partner) and is a partner then you decide to reinvest the capital increase , or to distribute profit and pay tax at source .

All statements presented in the above example in order to provide detailed income and expenditure of the taxpayer. During the fiscal year 2013 this business results with profit entity over which should pay taxes. Then is the competence of the partners who by decision of the members' assembly must decide whether this profit to distribute among themselves, or to invest as equity in society. The main task is to reconcile accountant payments made to Taxation invoices. The same applies to the flow carried out by the bank. For each payment or encashment must keep a register bank.

¹⁸Hausman, D. M. 2002. Trustworthiness and self-interest. In T. Cosimano, R. Chami, & C. Fullenkamp (Eds.), *Managing ethical risk: How investing in ethics adds value. Journal of Banking and Finance*, 26(9), 1767–1783.

¹⁹Structuring the Field of Financial Reporting pg 89

These analytical statements drafted as catalyst actions are recorded in the book or Large which includes records for the accountant carries the book to magazines, the cash book, bank book, and books of VAT.

The most problematic in reporting results are the following items which is directly affecting investor society in its relations with third parties. It appears this includes the statements of state obligations and ethics accountant plays a major role.

Table. 1 Source Statement of Income And Expenditure for year 2013 taken from the Balance Sheet Of An Albanian Company (QKR – National Center of Registration) detailed balance sheet Anex 1

- Customers for goods, products and services		496,260	604,200
- Debtor's other creditors			
- Profit tax		29,258	661
- VAT		300,718	207,044
- The rights and obligations of partners			
-prepayments suppliers			

There is no a definition for separating goods from services, though scholars have been trying for a very long time. In their attempts to identify the differences between goods and services the similarities between them are often neglected. Firstly, both goods and services can be tradable which means both entities must at least have one provider and one customer. Secondly, the characteristics of goods and services often overlap each other. It is believed that there are actually very few pure goods and pure services.²⁰ Tax profit is used to distinguish between accounting profit or earnings. Tax profit is the number that is used to calculate tax on income. Actually according the Albanian Tax Law the Tax Profit is 15% (www.tatime.gov.al).²¹ VAT is a type of consumption tax that is placed on a product whenever value is added at a stage of production and at final sale. A value added can either increase the product's price or value. According the Albanian Tax Law the Value Added tax is VAT is applied at 20%, unless otherwise defined in this law differently. (Legislation)²² Value added is used to describe instances where a firm takes a product that may be considered a homogeneous product, with few differences from that of a competitor and provides potential customers with a feature or add-on that gives it a greater sense of value.²³

Companies use financial statements as the main road to communicate information within and outside accounting firm groups. Accounting is the language of the common financial communications.²⁴

Managers should certainly have perfect knowledge of financial transactions and the way in which they impact on financial results. All those associated with the company's financial

²⁰Glenn Parry, L. N. (n.d.). Chapter 2. In *Goods, Products and Services*.

²¹www.tatime.gov.al. 2015. *Law Nr. 8438, Date 28.12.1998*.

²²Legislation, A. T. (n.d.). www.tatime.gov.al.

²³www.irstaxdisputes.com. (n.d.).

²⁴Berisha-Vokshi, P. N. 2014. *ekonomiku.uni-pr.edu*.

performance as owners, investors, creditors, employees or government and public services, accounting must recognize that we may measure the financial performance of the business.²⁵

The dates are figure out from a balance sheet. The duty of accountant is to collect carefully all the information. But it is because according the Law on accounting the accountant is responsible for measuring income, expenses, and profits (publications, 2015).²⁶

The business is an economic activity in order to provide profits and ensure the individuals with goods and services that they need. Ethics in reporting is especially important because the accounting information accuracy depends on the sincerity of those who prepare, and audit report claims.

Conclusions

Accountant often gives in to pressure to make a more profitable business giving up to his professionalism. The accountants sequential education is and remains critical, so the state should encourage the inclusion of more ethical issues mandatory training as part of requirements Law Nr.10091. This will increase the visibility and promote a greater distribution of ethical awareness. Government should issue regulations, which force banks and companies of taxes to be in line with each other for those balances that are charged on credit. Accountants cannot continue to prepare three balances instead of one. Accounting is not only e profession, but it is behavior, attitude and values system, this is the right way to consider accounting. Since early the education of an accountant, high school and further should be associated and tested by ethical moral standards.

Ethics in the accounting profession is fundamental in the quality of financial reports of organizations. In conclusion high ethical standard is the base of objective achievement process, reliable and transparent financial report. Ethics is a crucial element in the accounting profession. The future of the accounting profession depends on leaders of moral leadership by professional accounting profession. Moral and ethical standards need to be promoted, trained and explained in harmony to honesty and personal training needs, current and future accountants to lead the noble. Obviously, doing this will ensure that in future research to accounting career fair to its important role in economic growth and prosperity and the public welfare. On the other hand, the existence of accounting standards and rules does not guarantee an ethical, clear appropriate financial reporting. Combination of professional ethics and qualitative characteristics of financial reporting must be used. The accounting profession is based on the confidence, trust and transparency of investors and business owners, in addition to working in skill, proper moral perspective is also important. Thus, perhaps a more detailed plan for developing the moral lesson plans and discussions with other potential financial issues in specialized accounting students as managers of firms can be considered. This can help improve the quality of financial information and compliance with professional ethics.

²⁵Jovanova, N. 2013. www.e-ucebnici.mon.gov.mk. Retrieved from KONTABILITETI.

²⁶Publications, C. f. (n.d.). Law 9228 dated 29.4.2004 "On accounting and financial statements".

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- Structuring the Field of Financial Reporting pg 89
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www.qkr.gov.al. (QKR), A. N. (n.d.).
<http://www.cimaglobal.com/Thoughtleadership/Newsletters/Regional/The-CIMA-Edge-S...>
Retrieved 3/19/2013

Annex 1

FINANCIAL STATEMENTS 2013

Nr	ASSETS	Notes	Reporting Period	Previous Period
I	SHORT TERM ASSETS		13,748,309	9,433,979
	1. Monetary assets	a	331,073	131,074
	- Bank		331,073	131,074
	- Cash			
	2. Derivative and assets for trading			
	3. Other short-term financial assets	b	826,236	811,905
	- Customers for goods, products and services		496,260	604,200
	- Debtor's other creditors			
	- Profit tax		29,258	661
	- VAT		300,718	207,044
	- The rights and obligations of partners			
	- Prepayments suppliers			
	4. Inventory	c	12,591,000	8,491,000
	- Raw materials			
	- Inventory Petite			
	- Production in process			
	- Products available			
	- Goods for resale		12,591,000	8,491,000
	- Subscription for supplies			
	- wrapping material			
	5. Short-term biological assets			
	6. Current assets held for resale			
	7. Prepayments and deferred expenses		0	0
	- Costs of future periods			
II	LONG TERM ASSETS		184,682	184,682
	1. Long-term financial investments			
	2. Property and equipment	d	184,682	184,682
	- land			
	- Building			
	- Machinery and equipment			
	- plant and equipment and other assets		184,682	184,682
	- Long term assets in the process			
	3. Long-term biological assets			

	4.Long-term intangible assets			
	5.Unpaid equity			
	6.Other long-term assets			
	TOTAL ASSETS (I + II)		13,932,991	9,618,661

FINANCIAL STATEMENTS 2013

No	LIABILITIES AND EQUITY	Notes	Reporting Period	Previous Period
I	SHORT TERM LIABILITIES		8,586,176	6,333,416
	1. Derivative			
	2.Borrowings		0	0
	- Bank overdrafts			
	- Short term borrowings			
	3.Loans and advances	e	8,586,176	6,333,416
	- Payable to suppliers		8,526,458	2,650,822
	- Payable to employees		39,072	35,096
	- Due to social and health insurance.		20,646	17,207
	- Taxation liabilities on personal income tax		0	2,200
	- Liabilities for Income Tax			
	- Liabilitiesfor VAT			
	- Taxation liabilities for withholding tax			
	-Subscription for supplies			
	- Rights and obligations to partners			3,628,091
	- Dividends to be paid			
	- Other debit and credit			
	4. Grants and deferred income			
	5. Short-term provisions			
I	LONG-TERM LIABILITIES		0	0
	1.long-term loans		0	0
	- Loans, bonds and liabilities from finance leasing			
	- Convertible bonds			
	-Subscription for supplies			
	2.Other long-term borrowing			
	3.Grants and deferred income			
	4. long-term provisions			
	TOTAL LIABILITIES (I + II)		8,586,176	6,333,416
II	EQUITY		5,346,815	3,285,245
	1.Minority shares (consolidated financial statements)			
	2.Parent society equity (consolidated financial statements)			

	3.Capital invested by a natural person			
	4.action premium			
	5.Units or shares of treasury (Negative)			
	6.statutory reserves			
	7.legal reserves			
	8.Other reserves			
	9.Retained earnings		3,285,245	1,252,654
	10.Profit (Loss) of the financial year		2,061,570	2,032,591
	TOTAL LIABILITIES AND CAPITAL (I+III)		13,932,991	9,618,661

STATEMENT OF INCOME AND EXPENDITURE FOR 2013

No.	Description of the Elements	Reporting Period	Previous Period
1	Net sales	17,896,067	15,920,311
2	Other income from operating activities		
3	Changes in inventories of finished product manufacturing process		
4	Materials consumed (import + purchase within the country)	14,508,819	11,377,800
5	Labor cost	974,826	631,143
	- Staff salaries (Gross wage January-December)	829,180	492,000
	- Expenses for social and health insurance (15%+1.7%+23%+7%)	145,646	139,143
6	Amortization and impairment		
7	Other expenses (commissions + Taxes + Other municipality)	950,969	1,652,934
8	Total expenditure (Total 4-7)	16,434,614	13,661,877
9	Profit (loss) from main activities (1 + 2 +/- 3-8)	1,461,453	2,258,434
10	The financial income and expenses contracted from units		
11	The financial income and expenses Participations		
12	Financial income and expenses	0	0
	12.1 Financial income and expenses from other long-term investments		
	12.2 Income and interest expense	0	0
	12.3 Gains (losses) from exchange conversion	0	0
	12.2 Income and other financial expenses	0	0
13	Total financial income and expenses	0	0
14	Profit (loss) before taxes (9 +/- 13)	1,461,453	2,258,434
15	Costs not recognized	829,180	
16	Fiscal profit	2,290,633	2,258,434
17	Income tax expenses	229,063	225,843
18	1.Profit (loss) net of financial year	2,061,570	2,032,591
19	Elements of the Consolidated Statements		

Balance sheet of an Albanian Company (QKR – National Center of Registration)

TRANSPARENCY AND TRUST IN GOVERNMENT (2007-2014): A COMPARATIVE STUDY

Vincent Mabillard¹, Martial Pasquier²

Abstract

In a 2000 report entitled “Trust in government. Ethics measures in OECD countries,” OECD Secretary-General Donald J. Johnston emphasized the fact that public ethics are considered as a keystone of good governance. Moreover, public ethics are a prerequisite to public trust, which is in turn vital not only to any public service, but also to any society in general. At the same time, transparency reforms have flourished over the last few years and have several times been designed as a response to public distrust. Therefore, ethics, transparency and trust are closely linked together in a supposed virtuous circle where transparency works as a factor of better public ethics and leads to more trust in government on the citizens’ side. This article explores the links between transparency and levels of trust in 10 countries between 2007 and 2014, using open data indexes and access to information requests as proxies for transparency. A national ranking of transparency, based on requests submitted by citizens to the administration and open data indexes, is then proposed. Key findings show that there is no sharp decline of trust in government in all countries considered in this article, and that transparency and trust in government are not systematically positively associated. Therefore, this article challenges the common assumption, mostly found in the normative literature, about a positive interrelation between the two, where trust in government is conceived as a beneficial effect of administrative transparency.

Keywords

Transparency, freedom of information, open data, trust in government, public administration

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1. Introduction

The link between transparency and ethics seems rather straightforward: as organizations are held accountable and citizens have access to information, which may directly affect their lives, transparency enhances the ethical nature of public institutions (Rawlins, 2009). In this sense, the exposure of public actions is supposed to eliminate the problem of moral hazard (Stasavage, 2003). Based on first reflections developed by famous philosophers of the 18th century, such as Rousseau, Kant and Bentham, inspiring actors of the French revolution, transparency has been gradually thought as a fundamental right and a moral imperative for citizens to get access to information detained by the authorities. Following Bentham's idea of the Public Opinion Tribunal (see Bozzo-Rey, 2011), Sullivan (1965) affirms that "each person has a right to true information in matters which affect him [and] has a right to participate in decisions which affect him". Therefore, the moral essence of transparency lies in the fact that citizens have a right to information, which in turn allows them to evaluate the relevance of the processes and the decisions taken by public organizations. The European Commission fully agrees with this idea, as highlighted by its transparency portal, which is designed to help the citizens to "be better informed and better prepared to follow and participate in the EU decision-making process, to enjoy [their] rights and to play [their] role as a European citizen to the full."³

If transparency has mainly been conceived as a moral imperative for democratic institutions towards their citizens, organizations themselves have also come to realize that transparency leads to solid bottom-line benefits in terms of reputation, possibly gaining more trust on the people's side. Starting from this assumption, transparency and trust have been associated positively by many governments, as exemplified by Obama's memorandum on transparency and open government, in which he insists on working together for implementing a system of transparency and ensuring public trust.⁴ In the United Kingdom (UK), the governmental website dedicates a page to transparency issues, saying that it is necessary to strengthen people's trust in government.⁵ More generally, the OECD promotes transparency as a remedy for trust, correlating positively both concepts with economic growth.⁶ Nevertheless, according to the academic literature, this optimistic view is not empirically proven and remains mostly normative.

This article will first provide details about the definitions of transparency and trust. Second, it will explore the relationship between the two concepts, in the light of current research on the topic. Finally, using open data indexes and access to information requests as proxies for transparency, the article will investigate into the relationship between disclosure of information, implication of the citizens and their level of trust, and present our key findings and limitations.

2. Transparency

Just like many other notions in Public Administration research, transparency is a polysemous and multifaceted concept, considered by some prominent scholars as more often invoked than defined, and more often preached than practised (Heald & Hood, 2006). In other words, it can have diverse meanings according to the context and the exact wording of its definition. It is also made up of different dimensions, which may depend upon the type of transparency addressed. This preliminary remark is necessary for the sake of this article, as we will focus on two specific forms of transparency and embrace a particular approach accordingly.

First of all, being transparent is mostly defined as being visible. Transparency is frequently opposed to opacity and secrecy, a position already defended by philosophers of the 18th century, mainly as a reaction against political absolutism which prevailed at the time (Hood, 2006). The debate about the integrity of the state and the fight against conspiracy is still vivid nowadays, and administrative secrecy remains a key issue in contemporary governance. Transparency is often linked with accountability, in the sense that secrecy prevents any administration to disclose information, therefore making it unaccountable to the general public because information and actions are deliberately hidden (Florini, 1998). In a normative perspective, transparency is then considered as a desirable good. The proactive disclosure of information by the government is labelled as "active transparency" (Meijer, Curtin, & Hillebrandt, 2012). It involves all forms of deliberate communication about government decisions and activities, including press statements, information published on websites, brochures, official journals, etc. Such a restrictive definition is insufficient, because "disclosure, alone, can defeat the purpose of transparency. It can

³ Available at: http://ec.europa.eu/transparency/index_en.htm [15.01.2016]

⁴ Available at: https://www.whitehouse.gov/the_press_office/TransparencyandOpenGovernment [18.01.2016]

⁵ Available at: <https://www.gov.uk/government/topics/government-efficiency-transparency-and-accountability> [20.12.2015]

⁶ Available at: <http://www.oecd.org/governance/transparencytrustandgrowth.htm> [12.01.2016]

obfuscate, rather than enlighten” (Rawlins, 2009). This last remark is in line with a recurrent critic of administrative transparency: the overload of information may turn the desirable goal of availability into a nightmare for the recipients of that information (Brin, 1998; Curtin & Meijer, 2006). Therefore, one should also pay attention to other types of transparency.

Secondly, freedom of information has growingly been perceived as a fundamental human right. The idea was inscribed in the United Nations Charter in 1948, positively associated with peaceful coexistence and democracy, but was more related to the right to seek and pass on information. Regarding access to documents, a recommendation on access to documents was passed by the Council of Europe in 1981 (Birkinshaw, 2006). However, at the country level, Sweden had already adopted a legislation on the matter in 1766, in parallel to the transition from Swedish absolutist to liberal bourgeois rule (Erkkilä, 2012). Finland enacted a transparency legislation in 1951, followed by the Freedom of Information (FOI) law in the United States in 1966. FOI laws gained popularity and even gained ground in 100 countries (McIntosh, 2014). They allow citizens to submit requests to the administration in order to have access to documents, following procedures specific to each country. This different kind of transparency is called “passive”, as information is not proactively released by the authorities. Nevertheless, the idea of counteracting secrecy remains essential on the citizens’ side. According to Pasquier and Villeneuve (2007), documentary transparency enables “the public [to have] a legally guaranteed right of access to information held by the government, the main objective being to force public authorities to disclose what they would rather keep secret.”

3. Trust

So far, trust has mainly been addressed as a psychosocial aspect. Studied in diverse scientific fields (human sciences, philosophy, psychology, management, etc.), it is usually considered as having a positive impact on social relations (Giddens, 1984). In spite of the consensus about beneficial effects of trust, there is no commonly agreed definition. In this respect, Blomqvist (1997) affirms that “there is still a good deal of conceptual confusion [and] there has been *no real conceptual development* regarding trust, although, in some studies a definition of trust is given and in others merely implied.“

Research has focused on ties between individuals (interpersonal trust) and relationships between them, while studies connecting public administration to trust have remained rather rare (Bouckaert, 2012; Edelenbos & Klijn, 2007). Recently, there has been a growing interest for trust between public authorities and stakeholders in charge of carrying out public tasks, due to the new organizational forms observed and the limits of coordination mechanisms between these actors (Fivat & Pasquier, 2014). It involves a bilateral kind of trust (*inter partes*) which would bolster cooperation. However, research on trust and institutions has traditionally been centred on relationships between an organization and the citizens (Bouckaert & Van de Walle, 2003; Carter & Bélanger, 2005; Hardin, 2013). In this perspective, trust is unilateral, because it is exclusively regarded from the citizens’ side and directed towards public institutions. As direct relations between the citizens and institutions often remain sporadic, there is no need to consider a reciprocal, *inter partes* relationship between the two. Moreover, if trust has mainly been thought as a relation between the citizens and public entities, it may also be possible to raise the issue of institutional trust (Zucker, 1986). In this sense, citizens can have trust in principles emanating from institutions, which ensure social interactions, such as trust in justice.

As mentioned above, the definition of trust is still depending on the context, the type of relationship and the dimensions considered in the study. The same issue arises with measurement of the citizens’ level of trust in government. According to Fivat and Pasquier (2014), dimensions used to conceptualise inter-organizational trust could also be used to measure citizens’ trust in government. Following preliminary work from Sako and Helper (1998), trust is based on expectations and divided into three dimensions:

1. Competence (is the other party capable of doing what he says it will do?);
2. Contractual (will the other party carry out its contractual agreement?);
3. Goodwill (will the other party make an open-ended commitment to take initiatives for mutual benefit while refraining from unfair advantage taking?).

These dimensions are considered by Sako and Helper (1998) as three different types of trust, because they refer to diverse expectations. However, other approaches distinguish trust from perceived trustworthiness, focusing on specific factors, including ability, benevolence, and integrity (Mayer, Davis, & Schoorman, 1995), or other dimensions such as reliability, predictability and fairness (Zaheer, McEvily, & Perrone, 1998). Unfortunately, most institutions (e.g. the European Union) do not take all these dimensions into account and usually question citizens

about their general level of trust in government.⁷ In spite of this lack of precision, this article will deal with data from supranational institutions and consider trust as a unidimensional variable. This approach will allow us to compare the evolution of levels of trust with passive transparency in the countries covered by this study.

4. Linking the Two Concepts

In the normative literature, trust is usually treated as a beneficial effect of transparency, assuming that both concepts mutually reinforce each other (Brown, Vandekerckhove, & Dreyfus, 2014). Many FOI laws find some of their legitimacy in the increase of trust, as it is the case in Switzerland: “the principle of freedom of information [...] contributes to keeping the public informed by allowing all citizens access to official documents, thereby increasing confidence in the state and authorities.”⁸ In the European Union (EU), the link between transparency and trust has been formally established in the adoption process of the Maastricht Treaty (Lenaerts, 2004). On this occasion, it has been said that “the Conference considers that transparency of the decision-making process strengthens the democratic nature of the institutions and the public’s confidence in the administration.”⁹ Therefore, increased trust in the government has been a key driver for implementing documentary transparency (Worthy, 2010). This assumption is underpinned by the idea that information asymmetry between the state and the citizens must be reduced to empower the citizens. With more information available, the latter will be able to better evaluate the institutions and make more informed decisions about policy choices. However, understanding seems at least as important as availability of information, because less understanding may lead to less trust (Strathern, 2000).

According to Zand (1971), trust is not an emotion or a global feeling, but rather the regulation of one’s dependence on another, in a relational perspective. It is necessary, since trust rests on an incomplete exchange of information (Blomqvist, 1997). This remark makes a study between transparency and trust relevant. Indeed, if one has trust in a particular organization or system because of a lack of knowledge, resulting from the asymmetry of information, what happens if greater transparency reduces the gap? According to Hardin (2013), current low levels of government trustworthiness in the citizens’ perceptions are the direct consequence of this lack of knowledge. However, as mentioned by Möllering (2013), “the reason Hardin gives for why citizens should be unable to trust government is exactly the reason why they have a need to trust government: their lack of knowledge.” The debate between the two authors suggests that transparency and trust do not have a linear relation and that a degree of uncertainty is necessary for trust to exist. One could therefore suppose that full secrecy would lead to mistrust, while full transparency would create a situation of constant distrust, but such hypotheses remain to be shown empirically. Moreover, this debate leads to two main questions (Fivat & Pasquier, 2014):

1. Does greater transparency lead to greater trust? In other words, does more information disclosed by the state increase government trustworthiness and citizens’ trust in the government?
2. Or did transparency emerge as a remedy for the lack of trust in the government? Is it working as an *ex post* mechanism of control, because of initial low levels of government trustworthiness?

According to the perspective adopted, the study of the relationship between transparency and trust in government will probably strongly differ and lead to divergent conclusions. This article will address the two questions, using data from the European barometers for EU member states and OECD for other countries, as there is no standardized dataset for all countries.

5. Access to Information Requests

This section is based on a study carried out by Pasquier and Holsen (2009). According to the authors, the current praise for access to information (ATI) laws results from a global campaign from journalists, civil society groups and international non-governmental organizations (NGOs). A “transparency revolution” has been growing in the last few decades because of two main motivations: the increase of the public bodies’ accountability towards their citizens (and possibly generate greater trust in the government) and the empowerment of the citizens, who would make better informed decisions (and possibly participate more in the political process).

⁷ See for instance Standard Eurobarometer 80 (2013). Available at: http://ec.europa.eu/public_opinion/archives/eb/eb80/eb80_first_en.pdf [13.01.2016]

⁸ Available at: <http://www.edoeb.admin.ch/oeffentlichkeitsprinzip/00887/00888/index.html?lang=en> [04.01.2016]

⁹ All details about the Conference and the annexes to the Maastricht Treaty are available at: <http://aei.pitt.edu/2944/1/2944.pdf> [17.11.2015]

Even though ATI laws vary in the different countries that have adopted such a legislation, and processes can take diverse forms, the main objectives often present similarities. Governments claim that the public can obtain information and use it to verify that they work in the citizens' interests. From a philosophical point of view, Bentham directly connects secrecy with conspiracy and thus affirms that public officials will be less tempted to misuse power because of external monitoring (Hood, 2006). Despite such a support, coming from both the governments and the citizens, one can notice that, in some countries, there has been relatively low usage of the new legislative instruments so far. Table 1 shows how ATI requests have evolved over the last few years in 10 countries.

Table 1. Evolution of the number of ATI requests (absolute numbers), 2007-2014

	2007	2008	2009	2010	2011	2012	2013	2014
Canada*	29,182	31,487	34,041	35,154	41,641	43,194	55,145	60,105
Ireland	1,044	1,666	1,913	1,849	1,490	2,192	1,724	2,002
UK	32,978	34,950	40,548	43,921	47,141	49,464	51,889	46,806
U.S.	N/A**	605,491	514,541	597,415	644,165	651,254	704,394	714,231
Germany	1,265	1,548	1,358	1,557	3,280	6,077	4,736	8,673
Switzerland	249	221	232	239	466	506	469	575
India	171,398	263,261	329,728	529,274	416,641	629,960	811,350	834,183
Mexico	94,723	105,250	117,597	122,138	123,293	131,154	147,148	149,918
New Zealand	812	897	809	920	992	1,236	2,374	1,207
Australia	38,787	29,019	27,561	21,587	23,605	24,764	24,944	28,463

* In Canada and India, requests are based on the fiscal year, running from April 1 to March 31; in the United States, fiscal year runs from October 1 to September 30; in New Zealand and Australia, from July 1 to June 30. All other collected data are calendar-year based.

** There is no data for the United States in 2007, because new reporting requirements were introduced in 2008, limiting FOIA annual reports only to access requests that involve use of the FOIA. In 2007, the number of requests reported peaked at 21,758,651.

The number of ATI requests depicted above excludes requests made by phone, email, etc. and those submitted at subnational levels, using for instance ATI state / cantonal laws in federal states. A typical example can be found in Switzerland, where cantons have adopted transparency laws at different times. Bern was the first to legislate on the matter (the law was adopted in 1995), then followed by 14 cantons between 2001 and 2011 (Meillard, 2013), while a transparency law at the federal level (Ltrans) has been voted in 2004 and enforced two years later. In some decentralized states, ATI legislation exists at subnational levels and would certainly give another picture of passive transparency.

A brief analysis of the data show that there has been a global increase of requests submitted in all countries considered in this article, but at a different rate. The only exception is Australia, where the number of requests was higher in 2007 compared to 2014, though it is increasing again since 2011. In some countries, there is a constant increase for the whole period 2007-2014, whereas others have witnessed a more or less slight decrease in the last 2-3 years. For instance, requests submitted in New Zealand almost doubled between 2012 and 2013, but the administration received in 2014 almost the same amount as in 2012. In the UK, there were 5,000 requests less in 2014 compared to the year before, while the amount of requests had been constantly growing since 2007.

Explanations about the usage of ATI laws vary according to the context. Institutional and historical factors, together with timing issues, may help to better understand why citizens have welcomed and used ATI laws in diverse ways. In Switzerland, the recent character of the law leads to a poor level of publicity and knowledge, and does not attract much interest in the population (Pasquier & Holsen, 2009). Moreover, the Swiss political system of "concordance" (consensus system) and semi-direct democracy, including referendum and popular initiative rights, provides citizens with other avenues to information. The consultative system and "militia" politics (Parliamentarians are not professional politicians, and keep a professional activity) are also important factors. This unique feature of the Swiss system has an impact on citizens, especially journalists, who are more likely to use the Ltrans for professional purposes: they seem to use it less frequently than their British fellows, who have additionally been trained to do so (Pasquier & Holsen, 2009). Legislation in Switzerland does not allow citizens to have access to documents completed before the enforcement of the law, while a retrospective law is in place in

other jurisdictions such as the UK, Australia and Scotland. On a more practical level, individuals have sometimes experienced difficulties filing a request or have complained about deficient instructions, in particular in the Indian countryside (Roberts, 2010). Some hypotheses have been explored theoretically about ATI requests in some countries, especially Switzerland and the UK (Pasquier, 2009; Worthy, 2010), but a systematic study on the matter is still missing. Nevertheless, effects of novelty, citizens' focus on local issues, and a lack of awareness, due to insufficient promotional measures, have been raised by scholars as crucial factors (Hazell, Worthy, & Bourke, 2009; Holsen, 2012; Roberts, 2010).

6. Levels of Trust in Government

Trust in government is increasingly seen as a key component of democracy. In this sense, contemporary literature assumes that any government need citizens' trust if it is to work well (Hardin, 1999). As a result, institutions have focused more and more on the levels of citizens' trust in government. In the United States, polls about public trust in government date back to 1958, while European surveys have emerged more recently. In both cases, though, the preoccupation is driven by the same factors: electoral considerations and satisfaction with the government, but also the confidence of investors and consumers, and the success of governmental policies which require cooperation and compliance from the citizens.¹⁰ As there is a growing feeling of decline of trust in the public sector (Van de Walle, Van Roosbroek, & Bouckaert, 2008), this article addresses the level of trust in government in ten countries for the period 2007-2014.

Before going deeper in the analysis of the data, a conceptual clarification should be made about trustworthiness, trust and confidence. Trustworthiness, like trust, is in essence relational, but in a more limited sense. It does not need any call for trust and rests upon the assurance of potential trusters that they will not be betrayed by the trusted party (Levi & Stoker, 2000). Trust differs from trustworthiness in the sense that it refers to a judgment which reflects beliefs about the trustworthiness of the government. Confidence also differs from trust, as developed in a report from Adams (2005). Though often used interchangeably with trust, confidence is more often linked with reason and facts, while trust partially involves faith (Shaw, 1997). In this article, the concept of trust is used as the notion includes asymmetry of information and is also used in the datasets considered for our study. In the case of Gallup polls and their use by the OECD, trust and confidence are mixed up, as trust is measured through a rate of confidence in government.

Table 2. Evolution of trust in government, 2007-2014 (in %)

	2007	2014	2007-2014
Canada*	64	46	-18
Ireland	32	23	-9
UK	30	31	+1
U.S.	39	35	-4
Germany	40	48	+8
Switzerland	63**	75	+12
India	82	73	-9
Mexico	42	33	-9
New Zealand	59	63	+4
Australia	53	45	-8

* Data for non-EU member states come from OECD reports, based on Gallup polls. The question asked is "Do you have confidence in national government?" Data refer to those who answered "yes". In Eurobarometers' surveys, the question is formulated in these words: "Do you tend to trust the government?" Data refer to those who answered "tend to trust".

** 2006

These are the only data about trust in government which allow to carry out a comparative study on a yearly basis. Other datasets exist, but do not include all countries considered in this article or do not have surveys conducted every year. For instance, the *World Values Survey* (WVS) dataset remains fragmented. Data is available for

¹⁰ Available at: <http://www.oecd.org/gov/trust-in-government.htm> [12.01.2016]

multiple year periods and covers only 25 OECD countries, excluding Ireland. It seems difficult to compare the data, since the answer scale differs strongly from one dataset to the other.¹¹ However, general tendencies can be drawn from these polls. As depicted in table 2, but also in other surveys, there is no global decrease of trust in government in the world for the period 2007-2014. Strong variations, depending on the context, remain the norm in a comparative perspective. Just to give an example, trust in government in Germany has risen from 40% to 48% between 2007 and 2014, or from 22.7% to 44.4% between 2006 and 2013 according to the WVS. On the contrary, in Mexico trust in government has dropped by 9 percentage points between 2007 and 2014, and by 5.2 points between 2005 and 2012 according to the WVS.

Since trust is a volatile concept, studied from various angles, it seems impossible to give a precise explanation of the variations shown above. A global analysis of trust would involve economic, political, social and individual factors. Determinants of trust are numerous but never investigated in the surveys carried out on a large scale. Moreover, in strongly polarized bipartisan systems, such as the United States, identification with a party plays a significant role in the way citizens tend to trust the government or not (Levi & Stoker, 2000). The analysis could even be extended to individuals in a strong presidential system or authoritarian regimes.

Therefore, a comprehensive study of trust levels requires national analyses, because context matters enormously. For instance, contextual events such as the Vietnam War or the 9/11 in the United States have impacted trust in government in a specific way. Though it may be possible to isolate a variable in a comparative perspective, such as the financial crisis, it remains difficult to study trust in all its components across all countries. The main key finding that we would like to draw from this issue is the fact that no global decrease of trust in government has been observed in the last few years, but that levels of trust in government strongly vary according to the states considered.

7. Disclosure, Access to Information, and Trust in Government

This section deals with the association between transparency and trust in government. Using the data presented so far, it aims to give an answer to the questions mentioned above: does more administrative transparency bring about more trust from the citizens? And does transparency result from low levels of trust in government? These two questions show the ambiguity of the relationship between the two concepts. On the one hand, it is hypothesised that transparency has an effect on trust, always perceived by practitioners as being positive (Grimmelikhuijsen, 2012). On the other hand, trust in government can also be a driver, not only an objective, depending on the theoretical approach selected (Bouckaert, 2012). In this sense, initial levels of trust can foster transparency reforms.

It has already been said that this article addresses primarily passive transparency, focusing on access to information requests under ATI laws. Though this parameter can be used as a proxy, one may also take into account the active form of transparency, a concept closer to the notion of disclosure. Both types of transparency are part of a bigger movement towards openness, resulting from a need to reduce information asymmetry between the administration and the population in an information society (Pasquier, 2013). This objective becomes even more crucial with the development of new technologies. In this context, many interests groups and organizations, like *Open Government Data*,¹² promote the free access to information about administrations online. Several governments have responded to this movement with the creation of open data portals, where datasets are made available to the public. This kind of active transparency attracts most attention from the citizens, the civil society and the governments together. Open government, including open data, can also be used as a proxy to measure transparency, though transparency itself does not include participation in all definitions (see Meijer et al., 2012). In order to do so, two other datasets will be considered in this article: the *Global Open Data Index (GOD)*,¹³ although there is no data available for New Zealand in 2015, and the OECD survey on open government data (OECD, 2015), despite the fact that only OECD countries appear on the list, thus excluding India.

The GOD includes 122 states and takes into account 13 variables to establish its ranking. All these variables, such as national statistics and legislation, consists of the same 9 dimensions, including for example openly licensed, machine readable, free and up to date information. States obtain a certain percentage according to how well they perform in the 9 dimensions. The OECD survey focuses on the following categories: data accessibility and availability on the national data portal, and governments' efforts to support data re-use. Countries' score is

¹¹ Wording of the WVS question is: "how much confidence do you have in the government?" with four different choices of answers: a great deal / quite a lot / not very much / not at all. Edelman Trust barometer includes a nine-point scale, ranging from "do not trust at all" to "trust them a great deal".

¹² Available at: <http://opengovernmentdata.org/> [14.01.2016]

¹³ Available at: <http://index.okfn.org/place/> [14.01.2016]

calculated on 0 (lowest) - 1 (highest) scale. Tables 3 and 4 show how the countries considered in this article score on both rankings.

Table 3. Global Open Data Index (2015), in %

Country	Score	Rank (out of 122)
UK	76	2
Australia	67	5
U.S.	64	8
Mexico	58	13
Canada	55	17
India	55	17
Germany	49	26
Switzerland	47	29
Ireland	46	31

Mean: 57.4%

GOD average: 33.3%

Table 4. OECD Open government data Index (2015), on 0 (lowest) - 1 (highest) scale

Country	Score	Rank (out of 30)
Great Britain*	0.83	3
Australia	0.81	4
Canada	0.79	5
U.S.	0.67	9
Mexico	0.66	10
New Zealand	0.59	15
Germany	0.55	16
Switzerland	0.48	21
Ireland	0.43	22

* Data only available for Great Britain and not the U.K.

Mean: 0.65

OECD average: 0.58

Although there are a few differences in the rankings, a comparison of these two datasets shows that the UK / Great Britain and Australia are considered particularly committed to openness, while Germany, Switzerland and Ireland (in the same order) score especially low compared to the other countries selected in this article. As these data focus only on active transparency, which means proactive disclosure of information, one may also take into account passive transparency data presented above and compare them with GOD and OECD indexes. With respect to the number of requests submitted to the administration in 2014 (per 1000 inhabitants), U.S. government agencies have received 2.24, Canada 1.69, and Australia 1.21. At the same time, Germany and Switzerland's scores remain low, at respectively 0.11 and 0.07. One may wonder if countries such as the U.S., Australia, Canada and the UK have reached their stated goal of creating a "culture of transparency", while others have failed to do so, have not striven to achieve it, or have not identified it as a fundamental issue. Other factors mentioned above, related to contextual particularities, lead us to leave this debate open.

Now turning to trust in government, how does this variable covariate with transparency? Once again, national particularities seem to play an enormous role, since data vary significantly from one state to another. For instance, there has been a sharp decrease of trust in government and a dramatic increase of requests submitted to the administration in Ireland between 2007 and 2014, whereas Switzerland and Germany have experienced greater trust in government and a sharp rise in requests over the same period of time. The same analysis would apply to the 7 other countries, with more or less strong variations according to the states considered. Therefore, it appears impossible to draw an association, whether positive or negative, between the evolution of levels of trust in government and the total number of ATI requests (passive transparency) in a comparative perspective. Data for all countries are summed up in table 5.

Table 5. Evolution of trust in government (percentage points) and number of ATI requests per 1000 inhabitants (in %), 2007-2014

Country	Trust in government	ATI Requests
Canada	-18	+92.0
Ireland	-9	+79.2
UK	+1	+35.2
U.S.	-4	+12.6*
Germany	+8	+450.0
Switzerland	+12**	+133.3
India	-9	+42.9
Mexico	-9	+42.1
New Zealand	+4	-33.9
Australia	-8	+326.7

* 2008-2014

** 2006-2014

Regarding the relationship between transparency and trust in government, data presented in table 5 will help to answer the two questions put forward by Fivat and Pasquier (2014). First, data do not prove that greater transparency (both in terms of active and passive transparency) generate greater trust in government in all states considered here. As already raised above, trust in government certainly depends on other factors – institutional, historical, and political – but transparency is most of the time presented as having a positive impact on trust in government. However, data show that even in some countries where transparency has been enhanced, trust in government has declined significantly. Indeed, Mexico and India have experienced a sharp increase in requests submitted to the administration, and score relatively high in open data indexes, but levels of trust in government have dropped by 9 percentage points in both countries between 2007 and 2014. Based on this observation, the interpretation which can be drawn is rather general: effects of transparency on trust in government should not be overestimated.

The absence of direct association between the two does not mean that there is no positive impact of transparency policies, but they remain relatively low compared to other factors. At the same time, one could also argue that transparency has no significant effect on trust in government, as shown by previous experiments (Grimmelikhuijsen, 2012). Secondly, is transparency considered as a remedy for declining trust in government? Data presented in this article tend to prove that trust in government is not declining on a large scale, leading us to refute this argument. Other factors have played a crucial role in the enforcement of transparency rules, once again based on historical and institutional roots. The need for more accountable and participatory governments, the growing perception of access to information as a fundamental human right, now supported by the development of new technologies, have all contributed to the global praise for transparency. Therefore, trust in government should not be always seen as an objective or supposed beneficial effect of transparency, because such an effect is still to be proven empirically. However, other studies suggest that the relationship between transparency and trust in government could be investigated in another perspective: benefits to opening government data are better appreciated among citizens who have a higher level of initial trust in government.¹⁴ In this sense, trust should not be regarded primarily as an effect of transparency, but rather as a determinant of perceived transparency on the citizens' side.

8. Key Findings

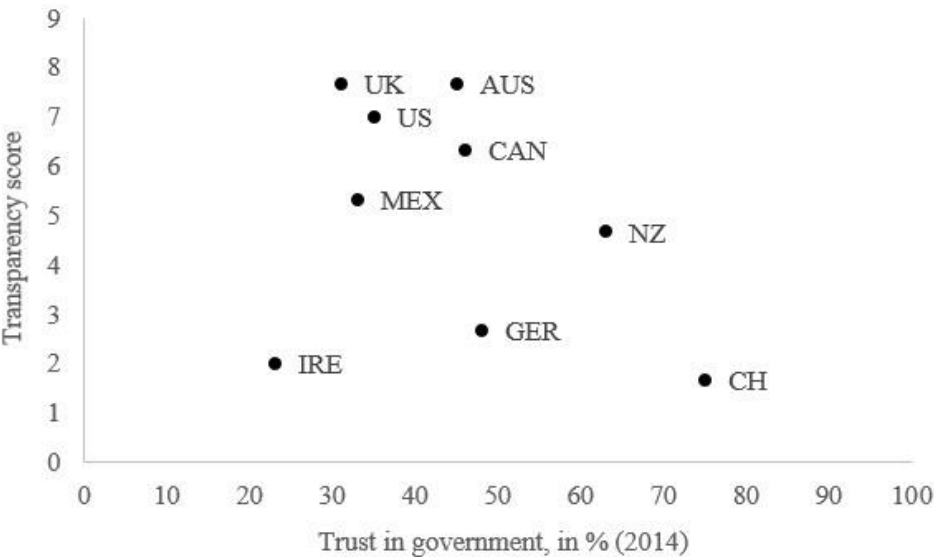
In this article, data about requests submitted to the administration, and indexes of open government data have been merged for the first time. To our knowledge, there was no general dataset about requests for all the states where data is available, and no attempt to compare this data (considered as passive transparency) with active transparency. Proactive disclosure of information, including open data, was measured here with the two indexes developed by the OECD and the GOD. In spite of different methodologies and various categories, results of the rankings appeared somewhat similar. In terms of ATI requests (per 1000 inhabitants), the U.S., Canada and Australia are the top-3 countries, way ahead than other countries, which have adopted a legislation recently, especially Germany and Switzerland. Based on this observation, we are able to establish four categories. The first

¹⁴ Pew Research Center, April 2015, "Americans' views on open government data". Available at: <http://www.pewinternet.org/2015/04/21/open-government-data/> [23.01.2016]

one, where countries have adopted FOI laws a long time ago and which score relatively high on both open data indexes, include the U.S., Canada and Australia. The second category refers to the states that have adopted FOI legislation quite recently, but have experienced a sharp increase of requests and also belong to the best nations in terms of release of public sector data (the UK, India, and Mexico). The third category includes only New Zealand, where the FOI law was enacted in 1982, but where the number of requests has remained limited so far. In the OECD index, New Zealand scores just above the OECD average. The last bunch of countries is composed of Ireland, Germany and Switzerland. Although Ireland had already adopted a FOI law in 1998, all three states still have a relatively recent legislation about transparency. The total amount of requests does not reach more than 0.45 per 1000 inhabitants, way behind the other countries (apart from New Zealand), and they also score relatively poorly in the open data rankings.

As shown above, data about trust in government over the last few years do not indicate a tendency towards a sharp decline in all countries, though often highlighted in the normative literature. Only half of the states considered in this article have experienced a decrease, while the other half has seen an increase for the period 2007-2014, with Switzerland gaining up to 12 points according to the OECD (2006-2014). An analysis of both data about trust in government and sets of countries mentioned above show no direct association. Indeed, while the UK, India, and Mexico belong to the same “transparency group”, levels of trust in government change completely among the three countries: trust in government has gained 1 point of percentage in the UK and dropped by 9 points in both India and Mexico. The same phenomenon is observed in the group formed by the U.S., Canada, and Australia, where trust in government has strongly decreased in Canada, but has not dropped dramatically in the U.S. A comparison between the evolution of requests submitted by citizens to the administration and trust in government (2007-2014) also tends to prove that there is no association between both variables at the international level (see table 5). For instance, the number of requests in Canada has gained 92%, compared to 35.2% in the UK, but trust in Canada has decreased and grown in the UK. At the same time, New Zealand has experienced greater trust in government, but the number of requests has dropped by almost 34% (it is the only country to have a negative ratio).

In a comparative perspective, each country can be assigned a rank based on how they perform compared to other states in the two transparency dimensions, active and passive. India cannot be included in the following graph, since it does not appear in the OECD index. Data for New Zealand in the GOD comes from the 2014 index. For instance, on a 1-9 scale, Canada receives 8 points because it has the second highest number of ATI requests per 1000 inhabitants compared to other countries (in 2014), 7 points as it scores third in the OECD index, and 4 points as it is only ranked sixth in the GOD index. As a result, Canada scores on average 6.33 points. In comparison, Australia and the UK are the countries with the highest score (7.67) and Switzerland the lowest (1.67). The graph below situates countries according to their transparency performance and their level of trust in government in 2014. It confirms that there is no linear relation between transparency and trust in government, as no general tendency can be drawn.



9. Limitations and Discussion

First of all, data used in this article come from various sources, as data about trust in government come from Eurobarometer surveys and from Gallup polls (published in OECD reports), while data about transparency come from two indexes and our own comparative dataset on ATI requests. As such, this study is not based on a single dataset and a unique population. Secondly, other factors, which have a potential effect on trust in government, are not considered in this study. They include interest and participation in politics, political preferences and party affiliations (Citrin, 1974), evaluation of the economy, homicide rates, international affairs, and political scandals (Chanley, Rudolph, & Rahn, 2000). Moreover, these factors are related to contextual issues and restrict the scope to regional or national studies. Consequently, it seems difficult to draw any association between transparency and trust in government, or even isolate the relationship between the two concepts, as a single dataset, including exogenous variables, is lacking.

Other limitations involve definitions issues. Indeed, measurement of transparency heavily depends on the dimensions considered. Until now, most measurements have only included one dimension of transparency, active (through experiments, e.g. Grimmelikhuisen (2012), or open data rankings) or passive (ATI requests). In a comparative perspective, we have tried in this article to merge ATI requests and open data indexes. However, both previous studies and ours do not take into account forced transparency (Pasquier, 2011), a different kind of transparency based on whistleblowing acts. Though such acts remain rather rare, they may have an effect on trust in government and should be looked at more closely in further research. The robustness of the data about trust in government can also be questioned, since figures vary from one survey to another. In this case, Gallup polls have been preferred for countries outside the EU but members of the OECD, and Eurobarometers have been selected for EU member states. However, alternative sources exist, such as the Edelman trust barometer,¹⁵ or surveys conducted by the media.¹⁶ For instance, data about trust in government in the U.S. in 2014 can vary from 35% down to 24%. Moreover, questions asked do not distinguish trust from confidence. They do not consider the dimensions of perceived trustworthiness (competence, probity, benevolence), but keep it rather simple with one encompassing question. Such a question remains vague and may lead to confusion, as a result of its high level of abstraction.

In conclusion, the positive association between transparency and trust in government should not be overestimated. Although it is necessary to take all limits mentioned above into consideration, a study based on data from international and national institutions lead us to challenge the common normative assumption, which always postulates a positive effect of transparency on trust in government. Further research could build on this preliminary result. It may create an index of transparency, including existing data about both active and passive transparency. With respect to trust in government, research could be conducted at the national level, but a comparison remains a perilous enterprise, due to contextual differences. At this stage, we can only assert that transparency does not have a significant impact on trust in government (compared to other factors), or does not play any role at all. A deeper study on the relationship between the two concepts, able to isolate such a relationship, will prove necessary to assess the true effect of administrative transparency on trust in government.

¹⁵ Available at: <http://www.edelman.com/> [25.01.2016]

¹⁶ See for instance the New York Times' article "The Long Decline of Trust in Government, and Why That Can Be Patriotic", which is based on data from ABC/Washington Post, CBS/New York Times, CNN, Gallup, A.N.E.S. and Pew Research Center. Available at: http://www.nytimes.com/2015/07/04/upshot/the-long-decline-of-trust-in-government-and-why-that-can-be-patriotic.html?_r=0 [17.01.2016]

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“Role of Municipal Council in Increasing Citizen Participation at the Local Level”

Memet Memeti and Veli Kreci

ABSTRACT

In this paper we attempt to determine the state of management at municipalities while identifying the strengths and weaknesses of the various dimensions of municipal management which will provide guidelines for selecting appropriate policy development activities. Additionally the paper provides evidence on how the budgetary process at municipal level may accelerate citizen participation through policy process. We argue that legal budget requirements on local governments (such as public hearings) may either enhance or constrain participation. In the case of Macedonia we argue that sustainable political institution play crucial role for civic engagement.

KEY WORDS Policymaking; quasi-legitimate actors; political power;, citizen participation, council, budget, budgetary process, committees for budget and finance, transparency, accountability, neighborhood units

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1. INTRODUCTION

This paper aims at analyzing the processes and established systems through which the municipal councils carry out their constitutional and legal competences, decision making, supervision and representation as well as the relations with the municipal administration and the local community in the process of adopting the budget, the quality of local service delivery, communications and the process of submissions and complaints. In other words, the paper reviews the principles of good governance: transparency, voice and participation, accountability, and rule of law.

In this paper we attempt to determine the state of management at municipalities while identifying the strengths and weaknesses of the various dimensions of municipal management which will provide guidelines for selecting appropriate policy development activities. Meanwhile we will present the differences and similarities in the management systems and their practices in different municipalities. At the same time provide evidence for comparability assessment of the changes applied during the project policy intervention.

The paper is divided into three major parts in which in the first part we established theoretical framework on effective citizen participation at the municipal level. Budgetary process at municipal level is under our scrutiny in accelerating of citizen participation. Additionally, among other variable for civic engagement we argue that in the case of Macedonia sustainable political institution play crucial role. Second part of the paper deals with the function and role of the municipal council in budgetary process at the local level. We argue that the municipal council has a significant role in the public policy process at local level because the local government councilors have the right to propose reviewing issues, occurrences and states of local importance for the citizens in the municipality. We finish the paper by presenting empirical findings out of field research at six municipalities in Macedonia.

2. THEORETICAL FRAMEWORK-CITIZEN PARTICIPATION

In this part of the article we will dwell on the work of the scholars of “citizen participation” in the budget process. When analyzing the literature on citizen participation there are certain elements that are crucial with regards to the budget participation. Related, Ebdon and Franklin (2006) developed an interesting typology of elements and variables that are important in describing and explaining citizen participation in the budget process in terms of its adoption, process design, mechanisms, goals, and outcomes. According to these scholars three commonly reported elements (independent variables) represent (1) **the governmental environment**, (2) **the design of the process**, (3) **the mechanisms used to elicit participation**. The fourth element (a common dependent variable) represents **the goals and outcomes** desired from participation in budgetary decision making. Thus there are four components of the environment are identified in the literature: (1) structure and form of government, (2) political dynamics and culture, (3) legal requirements, and (4) population size and heterogeneity.

It is quite vivid that there is an ambiguity of theory regarding the correlation between form of the local government and the citizen participation. The debate at this level focuses mainly on dichotomy between council managers versus strong mayor. According to the scholars of citizen participation, the most important variable for the civic engagement is the form of the government (Greenstone & Peterson, 1971; Streib, 1992). Ebdon and Franklin (2006) support the view that the form of government makes a difference in participatory budgeting adoption in the way that “the council-manager form of government appears to be more likely to solicit input”.

Similarly, Kweit and Kweit (1981) argue that communities with the council-manager form of government, due to the fact that they employ a full-time professional, are more likely to seek citizen input. Nalbandian (1991) stresses that cities with a council-manager form of government are more prone to stimulate citizen participation. According to Greenstone and Peterson (1971) council-manager cities have more citizen participation than strong-mayor cities, because information necessary to mobilize and empower citizens is often withheld by the mayor. Yang and Callahan (2005) argue that council-manager governments are more likely to adopt involvement mechanisms such as public hearings, community meetings, and citizen surveys; but they do not differ from other governments with regard to citizen involvement in strategic decision making, management, and service delivery.

On a contrary, Wang (2001) does not find evidence of such a correlation, regardless of the dimensions of participation. Cole (1974) goes even further arguing that council-manager governments have less participation. Marlowe and Portillo (2006) assume that city managers are important for citizen participation in local governments because if they “do not view participation as adding value to budget decision processes”, they may discount it or even discourage it. Political culture may also be an important variable in the environment’s influence on budget participation because the history of participation is a fairly good predictor of the forms that participation will take (Kweit and Kweit 1981).

Miller and Evers (2002) suggest that the government must want to seek participation as much as the participants want to give it, and citizens are less likely to participate if the political environment is not positive and accepting of input. Using Elazar’s political culture typology, Ebdon (2002a) found differences in the use of budget participation methods in cities with varying political cultures. Northern moralistic cities generally have greater use of participation, followed by southern cities with traditional cultures, with the least participation in individualistic cities in the middle portion of the country.

In addition, legal budget requirements on local governments (such as public hearings) may either enhance or constrain participation. In the case of Macedonia we argue that in addition to the above mentioned variables political institutions are an important one. A contrary to the bottom-up approach which emphasize cultural and other societal factors (culture), institutionalist scholars adopt a ‘top-down’ approach and postulate that key characteristics of the country’s political context are crucial in shaping civic engagement. Here, two strands can be distinguished. Firstly, there are approaches, grounded in historical institutionalism, which emphasize path-dependent relationships between key processes and structures of a country’s history (such as the constellation of social forces, particularly organized religion, or the emergence of different types of welfare regimes) and the size and shape of contemporary civil society (Salamon and

Anheier,1996).Secondly, other studies suggest that features of the current political environment, such as the quality of democracy, effectiveness of the state, extent of rule of law and other factors of a democratic governance system, provide important enabling conditions for the growth of civil society(Hadenaius & Uggla, 1996.¹Population size and heterogeneity may also affect the participation environment. Participation has been found to be more prominent in larger cities (Wang 2001 ; O ' Toole, Marshall, and Grewe 1996; Ebdon 2000a). Protasel (1988) argues that larger cities are more heterogeneous, which might lead to increased political conflict because of varying group demands. Citizens in bigger cities might desire increased access to decision makers (Nalbandian 1991).

Even though all of the variables mentioned are important our article focuses on municipality councils as agents for eliciting or preventing good governance and citizen participation in the budgetary process.

3. FUNCTION AND ROLE OF THE COUNCIL, BUDGET AND BUDGETING PROCESS AT LOCAL LEVEL

The Municipal Council has a significant role in the public policy process at local level because the local government councilors have the right to propose reviewing issues, occurrences and states of local importance for the citizens in the municipality.The councilors are mediators between the citizens and the municipality because they present proposals and opinions of the citizens and suggest to the Council to take their stand on the proposals and opinions related to the Council's competency; - they make initiatives for adopting regulations upon the Council's competency and submit amendments to the proposed regulations;- they propose reviewing issues, occurrences and states which are important for a certain activity and significant for the citizens;- they propose issues that are relevant to the Mayor's work; - they require that the Mayor informs them about his/her work; - they propose questions that are related to implementing supervision on the work under municipal competency; - they propose reviewing issues about the state in the municipality for which services, public enterprises, institutions and enterprises have been established, and issues related to the supervision of their work; - and they propose conducting surveys related to issues in municipal competence.

In other words, in order to carry out the principles of good governance at local level, it is crucial to have councils which possess the capacity and the skills and competences to perform the three functions: decision making, representing and supervising the work of the local self- government. All these functions are reflected in the budgeting process.

3.1 Budgetary Process and Entry Point for Participation

The budget of the local self government is a declaration on the values and priorities of the local self government. The analysis of the budget reveals the priorities of the local self government. Planning the budgeting and fiscal techniques are the key elements in maintaining the fiscal

¹A. Hadenius and F. Uggla, "Making Civil Society Work, Promoting Democratic Development: What Can States and Donors Do?" *World Development*, 24, no. 10 (1996).

integrity and are significant for all levels of government, including the local government. This is particularly important for preserving the confidence of the citizens in those who they have entrusted to spend their money. In line with the Law on Budgets, the budget of the self government unit is an annual plan of incomes, other inflows and approved funds and it includes the basic budget, subsidy budget, donation budget, borrowings budget and self funding activity budget.²

The local government is supposed to have a realistic budget, i.e. a system of planned financial activities. The basic elements of such a system are: a realistic basis, analytical approach, defining options and informing about the options, complete coverage of the expenditures and incomes, powerful mechanisms for monitoring and control etc. Planning incomes should match the needs of the local self government units. In recent practice, budget planning which covers several years is more a practice of the central government, but is becoming regular practice of the local self government. The fiscal framework which defines the incomes and expenditure for longer periods should be transparent, stable, responsible, honest and effective. Transparency means that the objectives of the fiscal policy of the municipality should be known, but also the implications of the fiscal policy which the municipality is supposed to undertake, the implications of the fiscal policy and publication of the public account. The stability of the process of defining the fiscal policy is in the way that this fiscal policy will affect the overall development of the local self government unit. Responsibility means being careful in spending citizens' money. Honesty in fiscal policy refers to the reasonable spending and honesty towards the future generations. Efficiency means spending money in a way that costs for the services that the citizens receive in their communities are at a minimum level.

When adopting the budget, or immediately after the budget is adopted, a budget calendar is adopted which defines all activities, which include preparing the budget, executing the budget accompanied by financial reports which the municipality submits and monitoring the budget execution by the municipal administration. The Mayor of the municipality prepares a Draft Plan of Development Programs in line with the guidelines of the Circular (Ministry of Finance) and submits it to the Council for approval no later than 20 October of the current year. The Municipal Council approves the Draft Plan of Development Programs no later than 20 November of the current year. The approved Plan of Development Programs is a compound part of the Draft Budget of the municipality.³ The next year's budget is adopted by the Municipal Council no later than 31 December of the current year.⁴

Adopting the Annual Account – After the end of the fiscal year, the Municipal Council adopts an Annual Budget of the municipality. It includes all elements that are included in the Municipal Budget presented as planned and realized incomes and expenditures for all municipal budget beneficiaries. The Mayor submits the Annual Account to the Municipal Council for adoption no later than 28 February in the next year. The Council adopts the Annual Account no later than 15 March of the current year referring to the last year and submits it to the Ministry of Finance no

² Law on Budgets Official Gazette of the Republic of Macedonia, no. 64/05, 4/08, 103/08, 156/09, 95/10, 180/11 and 171/12)

³ Article 21 Article 21-6 of the Law on Budgets (Official Gazette of the Republic of Macedonia no. 64/05, 4/08, 103/08, 156/09, 95/10, 180/11 and 171/12)

⁴ Article 28, Law on Financing the LSGU (Official Gazette of the Republic of Macedonia, no. 61/2004, 96/2004, 67/2007, 156/2009 47/2011)

later than 31 March of the current year. **After the Annual Account is adopted, the Mayor informs the public about its contents.**

Periodic financial reports—The municipal budget beneficiaries submit to the Mayor monthly reports which contain explanations on the execution of the financial plans within 15 days from the end of the month for which the report is prepared.

The Mayor submits to the Ministry of Finance and the Municipal Council quarterly reports with elaboration on the budget execution within one month from the end of the quarter. The Minister of Finance prescribes the form and contents of the reports.

Relevant actors – in this process a significant role is played by two committees:

The Finance and Budget Committee which monitors, reviews and analyzes the problems and questions related to funding the functions in the municipality; reviews the budget draft and proposed and the budget balance sheet, monitors the state of implementing the source incomes of the municipality and reviews the implementation of the planned expenditures; the Committee for Equal Opportunities for Women and Men gives its opinion on the materials and proposals for the LSGU Council sessions; participates in designing and adopting strategic documents, and in particular, designing and adopting the development strategy of the local self government unit, **adopting the budget** of the local self government unit etc.⁵

It may be concluded that in the budgeting process, the Municipal Councils have a significant role by means of their Finance and Budget Committees, the Committee for Equal Opportunities for Women and Men and with their participation in the work of the Council and the basic committees. The councilors have opportunities to give input in all stages of the budgeting process, beginning from the preparation, and then adoption and execution of the budget. At the same time, being representatives of the local community, they have the obligation to facilitate the process of participative budgeting with their own active participation, but at the same time do monitoring of the work of both the Mayor and the municipal administration for a consistent implementation of this significant instrument of citizen's participation in the process of public policies. In this respect, a very important aspect is the knowledge of the budget and the budgeting process as a basis for active involvement of the councilors in all stages of the budgeting process.

3.2 HYPOTHESES

The abovementioned theoretical ramifications will be tested in the municipalities in the Republic of Macedonia assessing how the model of government, political cultures size of the municipality impact on the capacity of the local government to elicit citizen participation. The focus will be on municipality councilors as who are carrying the function of representation, decision making and oversight.

Councilors can have an tremendous impact on citizen participation because they are link between citizens and the Mayor and municipality administration.

We are interested in empirically testing the following research questions:

- ✓ If municipality councilors have knowledge and competence on budget process will have more input and the process will be more open to citizen involvement?

⁵ Article 14, Item 6, Law on Equal Opportunities for Women and Men (Official Gazette of the Republic of Macedonia no.6/2012)

- ✓ If the councilors have access/logistics/support to implement proper mechanisms of communication with citizens municipalities will be open the budget process to citizen involvement?

Municipal councilor's knowledge can be indicated by their professional education, participation in professional associations, and professional experience. Professional education is an important component of professionalism because it is supposed to enrich person with professional skills and professional ethics. Having in mind that the contemporary models of governance taught in higher education institutions focus on good governance principles we are inclined to propose that municipality council education would increase their willingness, skills and the capacity to promote citizen participation in the budget process.

Thus we are testing the following

H1: Councilors education is positively associated with the municipality adoption of citizen involvement in the budget process.

In addition we assume that networking is crucial factor for sharing good practices and multiplying these practices in different municipalities across the political and demographic scope.

H2: Networks of Municipality councilors are positively associated with the municipal adoption of citizen involvement in the budget process.

Councilors' inability or ability is affected by their institutional authority and political environment. Institutional authority or autonomy refers to the legitimate power that one exercises within the organization.

H4: Councilor 's institutional authority is positively associated with the municipality's adoption of citizen involvement in the budget process.

Councilors institutional authority and their ability in the position is greatly influenced by the local political environment—whether the local politics is rational, healthy and easy to deal with, and whether there is political stability.

H5: Political stability is positively associated with the municipality's adoption of citizen involvement in the budget process.

Endogenous factor which are correlated with the organizational culture and the institutional capacity to support, promote and carry out civic engagement are crucial for promotion of civic engagement in the budget process. If the municipal administration does not have capacity to utilize the tools of transparency during the budgetary cycle, utilize ICT to inform citizens, then civic engagement is not real proposition.

H6: Capacity and will of municipal administration are positively correlated with citizen involvement in citizen in the budgetary process

3.3 METHODOLOGY

The primary data source is from a semi-structured interview that was designed for a broader project. Semi structured interview was conducted, with representatives of municipality councils and offices for administration and budget in six municipalities. In order to have more valid data from the councilors in the interview was conducted with the following actors:

- Chairperson of the municipality council
- Chairperson of the committee for budget
- Chairperson of the committee for equal opportunities
- Chairperson of the committee for inter-ethnic relations
- Offices of finance and budget

Municipalities that were part of the research represent dichotomy of variety of context, small rural municipalities (Gradsko, Bogovinje, Bogdanci) with 9 councilors and big urban municipalities (Gostivar, Gevgelija and Kisela Voda)

Data from semi-structured interviews was validated with Observation – Observation is an important instrument for validating information acquired from the semi-structured interview. Related to this analysis, observation was a useful tool to validate the data acquired from the interviews and compare to the information received from the LSGU with the web-site related to transparency, voice, participation and accountability in the budgeting process of local service delivery. Observation was carried out immediately after obtaining data from semi-structured interviews (November-December, 2015).

4. FINDINGS BASED ON THE FIELD RESEARCH IN SIX MUNICIPALITIES

In this part of the paper we will focus on the findings in the six municipalities covered in this research. The topics of interest were the established processes and systems in the local self government units regarding:

- ✓ Involvement of councilors and citizens on Budget preparation; Budget approval;
- ✓ Information (lack) and transparency (lack of) on the issue of capital budgeting by the councilors;
- ✓ Accountability to the citizens and the councilors regarding the Service delivery (reporting to the municipality councilors, citizen satisfaction surveys etc)
- ✓ Accountability to the council and general public on Public Procurement
- ✓ Existence and accountability of the complaint mechanisms
- ✓ Council communication with the public

Guid. Questions		M1 ⁶	M2 ⁷	M3 ⁸	M4 ⁹	M5 ¹⁰	M6 ¹¹
Involvement of councilors on Budget preparation and Budget approval		Active involvement Programming phase Lack of input in committees Lack of input in plenary session (Orientation toward consensus)	Active involvement Programming phase Lack of input in committees Lack of input in plenary session (Orientation toward consensus)	Active involvement Programming phase Lack of input in committees Lack of input in plenary session	Active involvement Programming phase Lack of input in committees Lack of input in plenary session (political divide)	Active involvement Programming phase Lack of input in committees Lack of input in plenary session (political divide)	Active involvement Programming phase Lack of input in committees Lack of input in plenary session (political divide)
Barriers for councilor input		Lack of skills and knowledge, capacity of municipal administration	Lack of skills and knowledge	Lack of skills and knowledge	Lack of skills and knowledge (political divide of the municipality administration)	Lack of skills and knowledge, capacity of municipality administration	Lack of skills and knowledge

⁶Municipality Brvenica is in the north-west part of Macedonia. The municipality has been independent since 1996 and includes 10 villages along the Suva Gora Mountain. The population is ethnically mixed with 15,855 inhabitants on a territory of 164.3 km². The council consists of 15 councilors from 5 different political parties.

⁷The Municipality of Bogdanici is in the southern part of the Republic of Macedonia with a population of 8,707 (monoethnic) covering an area of 114.54 km². The Council consists of 11 councilors from two political parties.

⁸Municipality Gevgelija is in the most southern part of the Republic of Macedonia, covering an area of 485 km². The population is 22,988, out of which about 15,685 citizens live in the municipal center, the town of Gevgelija. The Council consists of 19 councilors from two political parties.

⁹Municipality Gostivar is in the north-west part of the Republic of Macedonia. It covers an area of 513.39 km² and has a population of 81,042 (ethnically mixed). The council consists of 31 councilors representing from 6 political parties.

¹⁰Municipality Gradsko is in the Tikvesh Valley bordering Lozovo to the north, Shtip to north-east, Negotino to the east, Rosoman to the south, Chashka to the south, Rosoman to the south and Velse to the north-west. According to the last census, Gradsko Municipality has a population of 3,760 (ethnically mixed) on an area of 236.19 km². The Council consists of 9 councilors from two political parties.

¹¹Municipality Kisela Voda covers an area of 46.86 km² and is located in the south-east part of Skopje Valley. It borders with Centar Municipality and the newly established municipalities of Aerodrom, Studenichani and Sopshte. Based on data from the last census the population is 58,216 out of which 91.2% Macedonian. On the territory of the municipality there are 13 local communities to meet the needs of the population. The council consists of 23 councilors from three political parties.

					process)	tion	
Involvement of citizens	Information Consultation Involvement in the decision making	Information in programing phase	Information in programing phase neighborhood units no input after	Consultation prior to programing phase no input after	Consultation prior to programing and after programing no input after	Ad hoc information	Consultation at programing phase via neighborhood units
Transparency¹²	Pub.of budget proposal in the Web	Yes	X	X	X	X	X
	Pub. of yearly report in the Web	X	X	X	X	X	X
	Publication of quarterly reports on the Web	X	X	X	X	X	X
Account.to the citizens and the councilors regarding the	NOTE ¹³	Non existent	Non existent	Non existent	Non existent	Non existent	Non existent

¹² These reports are published in the Official Gazette of the Municipality. This model is falling short of transparency due to the fact that entry and finding the document by this model is more complicated compared with attaching it in the web page of the municipality.

¹³ Existence of accountability mechanisms such as citizen surveys, citizen cads, minimum standard of services and reporting the data to the Council members

Account. to the council and general public on Public		Non existent	Non existent	Non existent	Non existent	Non existent	Non existent
Existence and accountability of the complaint mechanisms		Non-existent	Yes, no analysis and follow up reporting to the Council and the public	Yes, no analysis and follow up reporting to the Council and the public	Yes, no analysis and follow up reporting to the Council and the public	Yes, no analysis and follow up reporting to the Council and the public	Yes, no analysis and follow up reporting to the Council and the public
Council communication with the		Not satisfactory	Not satisfactory		Not satisfactory	Not satisfactory	Satisfactory
Need for training and networking		Yes	Yes	Yes	Yes	Yes	Yes

It ought to be emphasized that the citizen participation was measured solely by the responses from the municipal counselors and office of budget and finance of the municipality. Involvement of council in the process of budget preparation is not satisfactory due to the lack of infrastructure, logistics, funds, lack of motivation of the public to communicate and last but not the least perception of the public that the person to be spoken is not the councilor but the mayor. Interviewed councilors stressed that lack of knowledge of the councilors on technicals and components of the budget, which is serious barrier on comprehensive input from them and thus it has a consequence on citizen involvement due to the fact they are not able to explain the process and entry point comprehensively to their constituency.

Professional networking is seen crucial for councilors to get access to training, best practices, opportunities, and socialization.

¹⁴ Reports to the municipality council, publication of the public procurement planning documents in the municipality web-page

¹⁵ Assessment of the communication with citizen derived from the following indicators: perception of the councilors that they have optimal communication with citizens, information on the web page about council members (email, telephone contact), assignment of office for councilors to meet constituency, assignment of days to meet constituency, visit of neighborhood units to explain the budget proposal to the local community

In our case easy and stable local politics is not in a positive correlation with citizen participation. Easy stable politics are strived in smaller municipalities but this in our sample does not result with greater citizen participation in the budgeting process. Regarding the influence of demographic, population size are correlated with citizen involvement. Formal models of engagement (neighborhood units, forum of municipality and budget forums are tools utilized in bigger municipalities. However, a shortcoming of the research is to assess who is involved in these mechanism, is there a genuine involvement of the variety of segments of the local population or is the process monopolized by specific interest group. In addition, ICT and interactive web-portals are tools used more comprehensively in bigger municipalities then in smaller who lack capacity and human resources to regularly maintain their web portal. On the other hand a comparative advantage of the smaller municipalities is at least at political level to strive for consensus between political parties, this is result of being part of smaller community and smaller councilors.

5. CONCLUSIONS

The municipalities make use of various forms of participatory mechanisms in the process of public policies and budgets which also points to a different management in these municipalities. In some municipalities this process is uniform and established based on legislation, but in other ones this process is a result of the specific context and characteristics of the LSGU and is an outcome of the ad hoc solutions which have not been established.

There are evident differences in the implementation of the principles of good governance between rural and urban municipalities. The small municipalities like Brvenica and Gradsko lack municipal administration capacity with insufficient use of IT, i.e. web portals to raise the level of informing, consulting and active participation of the citizens in the public policy process in general, and in the municipal budget in particular. The difference in the regular update of the web sites with important documents (Status, Rules of Procedures, budget proposal, budget, quarterly reports, balance sheets, annual reports etc.) is obvious. According to the councilors this state of affairs is a result of the fact that the citizens do not show interest for this information on the web site of the municipality, but also the insufficient personnel in the LSGUs to be able to respond to this trend of communication with the citizens.

The fact that very little is done in defining the processes and developing systems related to accountability and responsibility in the municipality, the municipal administration the Council and other organs of the municipality towards the local community is evident. Due to objective and subjective reasons, the councilors are not able to perform their function of decision makes, mediators and do supervision of the policies at local level. Most of the councilors believe that they do not have sufficient knowledge of the budgeting process for a more substantial role in the budget cycle.

There are perceptions that the councilors are insufficiently included and involved in addressing these needs. This situation is a result of the perception of the citizens that it is more expedient to communicate with the Mayor than with the councilors when resolving their problems is in

question. However, some councilors believe that the councilors themselves are also to blame because they do not demonstrate interest to visit the local communities. In some LSGUs there is no office for the councilors where the Council members could meet the citizens and representatives of the local community. In some LSGUs administration and the councilors believe that the process of identifying priorities is unnecessary because the Mayor gets the citizens' trust by having been elected by the citizens based on a political platform which, according to them, is a sufficient ground that the public policy and budgeting process is already legitimate and there is no need to legitimize it anew.

The fact that in some LSGUs there is no internal audit system is something to worry about, this is *condicio sine qua non* of accountability. In those that have such a system there is no adequate channel of informing the public and the councils. In none of the municipalities, according to the interviewed councilors were they informed about an external audit by the State Audit Office in their municipality.

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DRAFT!

THE STRETCHED TANGLE – A METAPHOR FOR CORRUPTION IN HUNGARY and explaining a new approach to curbing corruption through openness, participation and transparency
by Katalin Pallai¹

Abstract

The integrity approach to curbing corruption led to good results in many countries, like the Netherlands or Australia. The introduction of an adapted version of the Dutch integrity method in Hungary did not prove strong enough to countervail other forces. In the paper I construct an explanation why could this happen and develop a proposal for an alternative methodology.

In the first part of the paper I refer to corruption theories discussed in the key note presentations of the conference and to other theoretical frames to the study of corruption that offer explanation to different aspects of corrupt practices. I also give a short summary of relevant empirical research findings about the actual conditions in Hungary. Based on the description of the situation, I propose a metaphor that captures the gist of the Hungarian corruption phenomenon. The metaphor is a stretched tangle. A knot of multiple interdependent factors. The tangle symbolizes the complexity of the interdependencies. It is stretched because structural arrangements, power structures and networks anchor and sustain deficient practices and produce strong moral and material incentives towards stakeholders to accept the status quo. The role of the metaphor is to divert attention from the explanation of different aspects of corruption and various intervention mechanisms and to focus attention to the complexity and wickedness of the Hungarian problem. This new focus and the corruption concept captured by the metaphor serves as reference for the later discussion of the actual public integrity mechanisms introduced in Hungary and for the explanation of their suboptimal results.

The argument is that the complex challenge betray positivist approach and distinct policy instruments adapted from the Dutch method and introduced with the support of OECD technical assistance programs. In face of complex, wicked problems the solution can only be a transformative process. The focus should shift from individual policy instruments to a post-positivist concept of a transformative process. A process that creates and maintains collective learning and engagement of stakeholders. Only a collectively trusted process of collaborative reframing and organizational learning can create and sustain a “space” where the long process and coordinated action of untangling the stretched tangle is possible.

In the last part of the paper I describe a new method for organizational integrity analysis and development that we elaborated in Hungary. A method that was the result of a shift of focus from positivist policy instruments to a post-positivist approach to transformative change and organizational learning. This new method extends the integrity risk analysis and intervention planning method applied in Hungarian public organizations with a strong collaborative process component. Preliminary results suggest that through the process organizational stakeholders involved gain understanding of the system, build mutual trust and energy for collective action. The collective exploration and learning process may create the engagement and the coordination potential for the long process of dismantling the faulty arrangements and curbing corruption - to untangle the stretched tangle.

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1. Introduction

Before the conference drafts and power point versions of key note presentations were distributed. Two of the key note presentations of the conference discussed the challenge of curbing corruption and strengthening public ethics. Professor de Vries compared the economic, normative-ethical, game-theoretical and the social psychological theoretical frames stressing the importance of the last. Emília Sičáková-Beblavá built her analysis of policy agendas and reforms aimed at improving public ethics in Slovakia on Bazerman's bounded ethicality theory: another frame for socio-psychological inquiry.² The two socio-psychological frames direct attention to the interplay of individuals' cognitive and emotional processes and the influences and imperatives of the social and organizational context and explain processes that can lead honest people to act unethically.

At the end of his introductory note Professor de Vries acknowledges that curbing corruption in corruption tolerant and intolerant contexts pose different challenges and proposes that "As corruption can be the result of a variety of causes, we also need a variety of theoretical lenses, pointing to a variety of policies to curb it." (de Vries 2016:2) I fully agree with this proposition, and taking the invitation of Professor de Vries, in the first part of my paper, I bring in additional theoretical lenses that are relevant to the analysis of the corruption problem in the Hungarian public administration, and give a short summary of key findings of recent empirical research. However, as my field is not the analysis of corruption but the building of public integrity, the problematization of corruption for me is only a starting point for the discussion of intervention approaches. Based on the theoretical frames and empirical findings I constructed a metaphor that aims to capture the gist of the problematic in the Hungarian social and organizational environment. The metaphor is a stressed tangle. A knot of multiple interdependent factors. The role of the metaphor is to divert attention from the individual factors, which can be explored with various theoretical frames, to the whole, i.e. to the complex interdependence of the factors. This metaphor proved to have explanatory and communicative power in the community of practice of integrity professionals I work with in Hungary.

In the second part of the paper I use this metaphor to support my argument that one important cause of failures to curb corruption in Hungary and Central-Eastern Europe (CEE) is that anticorruption reforms are focused on technical interventions directed to eliminate individual components of the problem instead of a complex, systemic approach. I will argue that corruption can be curbed only if we can handle the complexity of the phenomenon. For this beyond the applicable good policies and variety of technical instruments, process and system approach is also necessary. I have no intention to deny or downgrade the importance of technical expertise in policy making and in the design of anticorruption instruments. I propose that the key question is not which theoretical lenses or policy tools can bring results. Anticorruption reforms based on any combination of individual positivist technical instruments cannot be successful in corruption tolerant contexts, like the public administration in Hungary. I propose that a positivist approach alone brings weak results. I will argue for the necessity of going beyond positivist³ technical instruments and the positivist concept of rationalistic planning of reform processes. Instead, I suggest to conceptualize the anticorruption process with a post-positivist approach⁴ to transformative change: where transformative change is a complex learning and engagement building process of

²Bounded ethicality refers to the systematic and predictable ways in which humans act unethically beyond their own awareness. (Chugh, Bazerman and Banjali 2005)

³The positivist approach is built on the proposition that scientific method means objective, rational analysis that is transcultural and produces results that are independent from the analyst. In public administration the approach is underpinned by the concept of the rational actor, often the selfish agent, and the assumption of regulatory control built on coercive power and rational incentives. In the policy process a key player is the technical expert whose task is to produce objective analysis, predictions, solutions that bring optimal results and schemes for objective measurement. For us relevant resulting methods are: the rationalist planning and the PDCA cycle, and the predict-and-provide, and command-and-control methods.

⁴The post-positivist approach goes beyond logical positivism and technical rationality that have long governed the public administration profession. It proposes that human knowledge does not rest exclusively on unchallengeable foundations but cultural perceptions, and interpretations are also part. Knowledge and truth is a social product, it is the result of community processes. Social reality is socially constructed in communication and actions. Besides the rationalist analysis and planning argumentation and interpretations also play a key role in processes. In political science since the 1990s the argumentative (US), and interpretative (UK) turn has directed attention to discourses, narratives and meanings, to the role of communicative processes in the collective production of reality. In the paper the reference to the post-positivist methods will mostly mean the argumentative method and its underpinning concept of change processes.

stakeholders.⁵(Senge 1999) My proposition is that a post-positivist conceptualization of and strategy for the process can help creating an organizational “space”⁶ where stakeholders can face wicked problems. (Senge 2013) In our case stakeholders can collaborate on “untangling” the stretched tangle of the metaphor. When the “space” engenders the positivist technical skills and policy instruments will become effective.

2. Problematizing the public integrity development challenge in Hungary

It is a widely recognized problem in international development that legal instruments adopted by countries through international normative pressure often become distorted during the implementation process to such a degree that they can even become counterproductive. In the anticorruption literature it is also widely discussed how and why adopted legal instruments become “empty shells” and how more regulation can lead to more corruption. (Dimitrova 2010) The same distortive process can also happen in organizations when a new regulatory instrument is perceived as an external intrusion into “internal affairs”, or when staff perceives an internal instrument as dictated from above. Experience shows that stakeholders, who lack the commitment to implement the spirit and the word of new regulation, tend to preserve old practices as much as the new rules can be stretched. Research results also suggest that the risks for hollowing out of legal anti-corruption instruments during the implementation process is high when legal change is not adequately supported by a norm socialization process that create acceptance for the new rules and commitment to change old practices. (Moroff- Holger 2010 and Samson 2010)

In order to mitigate this risk it became a key tenet of the integrity approach to anti-corruption that the introduction of new regulatory instruments, has to be coupled with instruments that strengthen the supporting values. The aim is to create a fine balance between the rules, i.e. ‘hard instruments’, and the ‘soft instruments’, the norms, that support their implementation. (OECD 2009) The integrity approach led to good results in many countries, like the Netherlands or Australia but in Hungary its introduction did not prove strong enough to countervail other forces. Below I try to construct an explanation why.

The integrity approach arrived to Hungary in 2009 through a technical assistance program supplied by the Dutch Audit office. At the time, the need for effective anticorruption strategy in Hungary was beyond question because twenty years after the political changes and much after the EU accession corruption was still a key and widespread problem. However, conditions, integrity deficits and challenges in the Hungarian public administration were obviously very different than the ones in Netherland whose anti-corruption method was taken over.

According to the categorization developed by Six and Lawton’s configurational theory to integrity systems (2013) Hungary is a corruption tolerant, while the Netherland is a corruption intolerant country. This condition makes a huge difference in the necessary problematization of corruption. In a corruption intolerant environment social values and institutional logic work against corruption. Shared values, narratives and institutional logic actively supporting corruption are absent. (Sixt-Lawton 2013: 644) In such corruption intolerant environment the corruption problem can be conceptualized through individual selfish actors’ or groups, who find regulatory holes and breach collectively accepted rules for private benefits (Klitgaard 1988), and additionally, through some honest actors who, due to external influences and to their bounded awareness and ethicality, slide into such transactions (Bazerman 2013 and Mazar et al 2008). In such contexts with dominant ethical logic the strategy to curb corruption can be focused on analyzing motives of perpetrators and the gaps in the control system, and strengthening risk containment. Such a strategy can be implemented through distinct interventions, like

⁵ By the post positivist concept of the transformative process I mean a complex change process that is different than a technical change process because its aim is not only the ideation and implementations of a rational solution but a complex change process inclusive of the transformation of perceptions, interpretations and relations of involved actors. The solution is, at least partly, the result of the transformation of actors that happens through their communication and interaction. In order to engender a process that can untangle complex, wicked problems leadership is needed that can create a space with committed stakeholders where solutions can be generated and then facilitate the process of change.

⁶With the term „space” I refer to similar processes as to the concept of „presence” introduced by Otto Scharmer and Peter Senge.

regulatory changes “fixing incentives” (Klitgaard 1988) and on soft integrity tools guiding their implementation. These are the key components of the Dutch integrity method. A package of positivist policy instruments assembled according to a regulatory logic.

Six and Lawton’s configurational theory to integrity systems also suggest that integrity development is a different challenge in a corruption-tolerant context, like Hungary. A different path, i.e. different combination of policies and practices, leads to success. (Six-Lawton 2013: 646) They propose that “in countries that currently have low integrity performance, outside pressure, even when financial and consulting support are provided, to introduce anti-corruption agencies, passing laws and introducing new regulations, may be futile as long as little attention is paid to the institutional logic in the wider society. This is consistent with the argument presented by Persson et al. (2013), who argue that corruption is a collective action problem rather than a principal-agent problem. Furthermore, a focus on compliance-based policies and practices without attention to the degree to which they weaken or strengthen ethical value internalization is likely to be futile in such situations.” (Six-Lawton 2013: 655)

According to this theoretical proposition the balanced introduction of the hard (rule/compliance-based), regulatory instruments and the soft, value-building components of the Dutch integrity method would have been absolutely necessary in Hungary. Moreover, the contextualized “healthy balance” could have even meant more and stronger soft (value-based) components. However, the sad reality is that the Dutch integrity approach was only partly adopted in Hungary and with a strong focus on the hard components. The fact that the Hungarian integrity reform has yet failed to bring the expected results in curbing corruption, or make any advance towards stronger public integrity contests the imperfectness of the implemented method.

No systematic analysis is available on how much of this failure can be attributed to the strongly legalistic tradition of the Hungarian public administration (Gellén 2013) and how much to the power of vested interests in preserving corrupt practices and networks. Probably a combination of both. In my argument below I will discuss both.

3. Empirical research findings and personal experiences about the Hungarian context

Findings of researchers exploring the actual corrupt practices in Hungary and post-communist Central-Eastern Europe (CEE) not only support the propositions of the above mentioned collective action problem theory with empirical evidence but add some additional explanatory concepts as well. Jancsics in his recent paper, argues that a web of material and moral imperatives push people into illicit practices. He claims that “informal transactions to exchange organizational resources in the region should not be considered as primarily matter of individual morality or character.” (Jancsics 2015: 59) He argues that “such informal behavior is the result of structural arrangements that manifest themselves as imperatives on the individual. ... People face strong external imperatives to get involved in everyday informal transactions.” (Jancsics 2015: 59) He also attempts to provide an understanding of illicit practices in post-socialist CEE deeper than the over-simplistic “moral inferiority” approach. (Jancsics 2015: 60) According to his explanation roots of actual practices can be traced back to the communist era, to the socialist “get things done” culture and the resulting networks that evolved as the “second economy” in communism to provide solution for everyday problems. (Hankiss 2002 cited in Jancsics 2015) This “tradition” of creating private arrangements as substitutes for public order institutions and effectively functioning formal arrangements has continued after the regime change and today it is not only present as a cultural pattern but it is also embedded into organizational power structures. (Jancsics 2015: 66) Other researchers go one step further: they suggest that network type corruption is not only present but it is growing in actual Hungary. (Szántó et al 2013) Jancsics and Jávör (2012), in their award winning article, have elaborated a detailed analysis of the major network elements and their functions in corrupt transactions.

My personal experiences are very similar to the cases reported in the articles of Jancsics (2015) and Jancsics-Jávör (2012): during public ethics and integrity management trainings civil servant from all areas and levels of the administration equally complain about being ordered to participate in extractive practices and imprisoned in networks and in already normalized illicit organizational practices. The illicitness of part of the practices are

obvious for many, creating tremendous personal stress for the honest ones and toxic organizational climates for all. Although, the relevance of the theories referred to in the key note presentations, like bounded ethicality and the maintenance of positive self-concept, is also undeniable in some cases, many other of the reported experiences do not fit into these socio-psychological theoretical frames. It would be fair to say that the two phenomenon rationalization and emotional resistance/frustration can be both observed, and in combination with the above mentioned collective action problem.

4. A metaphor that captures the problem

In the first two parts I discussed two important sources of corrupt practices that are beyond the concept of selfish personal or group interest advancement and moral deficiency. One source is the normative clash between correct⁷ formal regulation and informal culture, the other is the survival and reproduction faulty structural arrangements that stabilize corrupt practices with a web of material and moral incentives. These two factors, as I will discuss later in more detail, considerably enhance the complexity of the challenge in curbing corruption in Hungary compared to the challenge faced in the corruption intolerant Netherland.

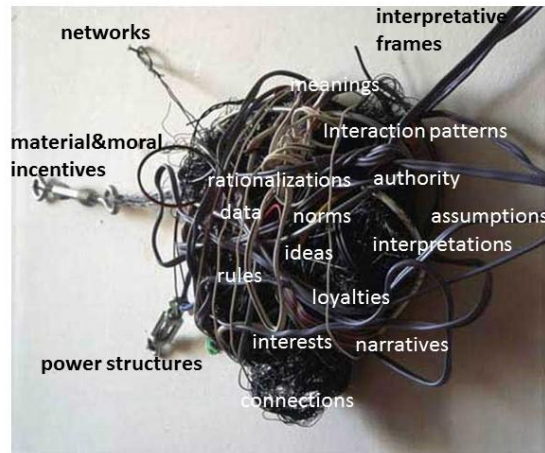
Our problem is much deeper and wider than some individual perpetrators who can be identified and sanctioned and a few distinct holes in the regulatory mechanism that can be corrected. A large part of abuses in public service are deeply rooted in a corruption tolerant culture where the avoidance of formal rules is often a collective practice, widely perceived as normal functioning. In this context many anticorruption initiatives can be interpreted as “external” intrusion. An interpretation (labeling) that leads to rationalization of avoiding the effective implementation of anticorruption measures, and with it, solidifying rule avoidance as collective praxis.⁸In this environment many honest people can slide into corrupt practices without realizing. At the same time some corrupt practices, remain beyond the possible rationalization processes of many. As long as these stakeholders who perceive corruptions are isolated in the organizations, they find themselves in a collective action problem. It further complicates the situation that the same person can fall into the first or second group even along issue lines and all these people with all these diverse perceptions and experiences are bound together in a common institutional reality. This is a complex, wicked problem. Like a “stretched tangle” that seems impossible to untangle. (see Figure 1)

Figure 1 – The stretched tangle

⁷ as I speak of public integrity by correct regulation I mean rules that comply with the norms of democratic public integrity

⁸ Jancsics (2015) explains the phenomenon in details.

INTEGRITY DEFICITS IN A „STRETCHED TANGLE”



 Katalin Pallai 2015

For the visualization
the art work of Roza el Hassan:
Stretched tangle, 1995. was used

The tangle symbolizes the complex interdependence of factors and the resilience of the corruption phenomenon. On the one hand objective factors, like formal rules, structures, incentives, connections, and interactions, and on the other hand personal and collective factors, like perceptions, assumptions, interpretations and informal relations, are entangled in this knot. The problem with this tangle is that its components are densely interconnected. They cannot be untangled one by one. This complex interdependency renders the untangling process extremely difficult. I call it not only a tangle, but a stretched tangle because deeply rooted structural arrangements, power structures and networks anchor and sustain deficient practices and produce moral and material incentives towards stakeholders to accept the status quo. This makes the tangle especially resilient.

The role of the metaphor is to divert attention from the individual factors, which can be explored with various theoretical frames, to the whole, i.e. to the complex interdependence of the factors. This metaphor proved to have explanatory and communicative power in the community of practice of integrity professionals I work with in Hungary. It helped explain why the actually implemented quantitative and mechanistic risk analysis methods can capture only fragments of the problem, and why the distinct technical fixes developed on the basis of such positivist technical analysis cannot curb corruption effectively.

5. The actual, positivist method of risk analysis and intervention planning

The national methodology for organizational corruption and integrity analysis was elaborated by the State Audit Office in 2009. This is a quantitative survey based on a standard compliance risk analysis method, developed on the basis of the method of the Dutch Audit Office. The survey is based on a uniform questionnaire that explores in details risk factors and control mechanisms of public organizations. It is the duty of integrity advisors⁹ of the organizations to collect the information, feed it into the questionnaire and send it to the Audit Office. The information is then processed in the Audit Office by an algorithm that creates three measures: one figure for inherent vulnerability, one for factors enhancing corruption vulnerability and one for factors of risk reducing controls. These figures are the basis of macro surveys prepared by the State Audit Office that compare corruption vulnerability of different organizations and trends in changes in risks in specific types of organizations. The survey results are published year by year. (Pulay 2014) Designers of the method had an intention beyond the

⁹Detailed description of the work of the integrity advisors in Pallai 2015a.

macro analysis as well. Their idea was that the survey offers a blue print for organizational risk analysis. The data collection obliges organizations to review their own conditions and processes and may call attention to the gaps between vulnerabilities and controls and can guide the process of developing new control mechanism where necessary. This is clearly a positivist regulatory approach to corruption prevention that is focused on the control system. In this process actually the responsibility for the data collection and intervention planning is delegated to the integrity advisor who report results to the head of the organization.¹⁰

In December 2015 a new methodology for organizational risk analysis was shared on the government's anticorruption website that had been elaborated by the State Audit Office and Ministry of Interior Affairs.¹¹ This method is a gap analysis similar to the aforementioned one. It surveys individual risk factors and the existence of rules to mitigate them. Where gaps are identified between vulnerability and risk the method suggests to elaborate additional control mechanisms in order to mitigate the risk. (State Audit Office-Ministry of Interior 2015) At the same time, this new method is more detailed: it has matrixes not only for the organization as a whole, but for departments and for specific functions as well. This means that the regulatory approach did not change during the years, it only became more detailed. Integrity advisors should go through this mechanistic process that results in more regulation to decrease risks. The question is whether, the more complicated but still mechanistic survey of individual risk factors is better. On the one hand, the question can be raised whether, in view of the above described Hungarian culture of rule avoidance, such a process can really mitigate risks – even in the hand of integrity advisors with highly developed regulatory skills. On the other hand, whether individual regulatory interventions pushed through the system can be effective in face of the wicked problems – whether they can “untangle” the stretched tangle expressed by the metaphor.

At the same time, it is clear that the logic underpinning the actual risk analysis and intervention planning method is the standard rationalistic, positivist policy logic: the integrity advisor, the “wise expert”, or a group of experts make an analysis, suggest the best solutions that are legislated and then the organization is expected to operate according to the new rules. This logic raises many questions. May this method be effective in the context of already overregulated Hungarian public administration where many illicit practices are stabilized by networks and structural arrangements and the culture of rule avoidance is widespread? Can clear, rational arguments about public purpose supporting regulatory instruments alone deconstruct power structures and networks? Is there a good chance that the individual regulatory instruments identified through the detailed risk analysis matrixes will have power to untangle our stressed tangle? Or is it more plausible that many of the good proposals will be screened out during the policy process? The experience is that the first screen for rational policy ideas is in the expert: in the learned helplessness and personal loyalties of the experts. Often they do not see or do not imagine plausible some of the necessary interventions. The second filter is the decision making process: few decision makers are prepared to dismantle the structures where they are involved in and that has put them in their advantageous positions. Even if two “local heroes”, a committed expert and a decision maker, both free from bounded rationality and ethicality, met in one organization and decided to implement the “magic rational instrument” that could make real changes, could they effectively push through the instrument without major distortions in the context of the “stretched tangle”?

At this point it is important to note that the original Dutch organizational integrity development method is different than the Hungarian adaptation. It is equally based on a gap analysis method but in the Netherlands the analysis is a process executed by integrity working groups assembled from staff members from various organizational units. Staff collaborate in a coordinated self- and peer-analysis process that involves mutual learning, in internal transparency and leads to wide support for the resulting report. I find it symptomatic to the Hungarian context that during the adaptation this collaborative process component “somehow” disappeared both from the methodology and the practice. This is a grave problem because the collaborative analysis process produces the organizational learning: the sharing of information, the complex mapping and analysis of problems, the system understanding of the stakeholders and the organizational and personal relations that make effective

¹⁰ For detailed explanation on the role of the survey see Pulay (2014) and the work of the integrity advisors and Pallai (2015 a).

¹¹ The status of this method is not clear yet. We will find out later whether it be a suggested or obligatory methodology for integrity advisors.

and coordinated interventions possible. This organizational learning process that is transparent and accessible for internal stakeholders would be utmost important in the corruption tolerant context of the Hungarian public organizations as well. Only the collective process could solve the collective action problem that cannot be solved by the above mentioned lonely “local heroes” alone. However, if local initiators could create a process where many are involved and become engaged, the forces of the “learning organization” could be the engine for reform. (Senge 1999)

The problem is that the actual condition of the Hungarian public administration units is so far from the culture of learning organizations that this a paradigm shift seems nearly impossible to achieve. Nevertheless some of our results give hope.

6. Our experience in transmitting “post-positivist experiences”

The first step to elaborating our own method and assessing the possibilities to achieving changes with dialogic problem solving processes with Hungarian civil servants was the positive experience of a large Public ethics and integrity management training program implemented in 2013. We delivered the trainings for some ten thousand civil servants by the same methodology. The objectives of the trainings were to (1) encourage participants to reflect on the integrity-deficient organizational practices in order to collectively reframe them (2) break their apathy and learned helplessness towards positive action and strengthen their trust in possible change, and (3) help them see the operation of their organizations and the wicked corruption problems as systems and find their potential role in anticorruption, i.e. lead them to take responsibility. For all these objectives we had to show that criminalization of corruption alone is not enough, i.e. the full responsibility cannot be shifted to the legal system. Additionally, we had to show the role of a well-organized and functioning public administration in curbing corruption, and with this encourage participants to understand their own potential role in fighting corruption and to take responsibility. The teaching method best suited for this purpose was a participant-centred interactive, experiential method with a strong argumentative component based on facilitated peer learning. (Pallai 2014b: 142-146. Pallai: 2015: 96) A post-positivist approach to transformative education.

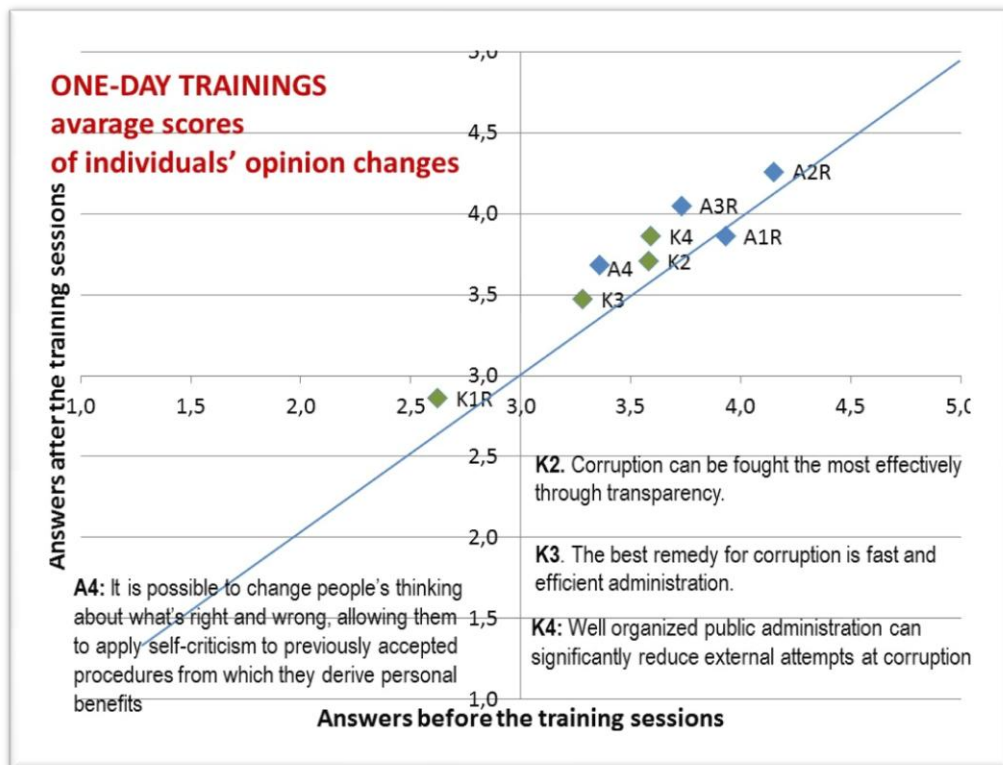
During the trainings we attempted to offer not only personal experiences about the power of reframing problems and the transformative power of dialogic processes, but we discussed cases from home and abroad where transformative leadership played a key role in changing corrupt organizational operation to high level of integrity.

We surveyed effectiveness of the trainings through questionnaires filled up by 6,692 participants of single day trainings and the 670 participants of the three-day courses.¹² Participants completed a questionnaire prior to the training session and immediately after it. Respondents were told to choose and write the same pseudonym for both questionnaires. This technique ensured the possibility of matching precisely the pre and post surveys and tracking the change of responses, even at the individual level, for each item.

For our survey we included 8 questions regarding corruption and anticorruption in a longer list of questions. In both (pre- and post-training) questionnaires these 8 questions were identical in wording. 4 questions aimed to survey changes in attitudes: they revolved around apathy, helplessness, and trust. The other 4 were knowledge questions that determined whether participants understood better that not only legal instruments, but transparency, organization, and effectiveness are also key instruments in fighting corruption. Results confirmed that in both training designs, changes of average agreement along each item was statistically significant. We could produce results even with the shorter versions of the trainings. (see: figure 2)

Figure 2 – Effectiveness survey results of one day training sessions (source: Pallai-Gregor 2015)

¹² Detailed results of the survey in Pallai-Gregor 2015.



Although the surveys had proved that the trainings implemented in 2013 had been successful, the question was open whether the insights and energy generated during the trainings would be exploited in the organizations.

Six months after the training sessions we conducted interviews with former participants in high positions to explore longer term impacts. (Siklaci 2015) The result of this qualitative survey confirmed that key attitude and knowledge components had lasting impacts and the cases carrying the essential messages about transformative change processes could be recalled. There was however one unexpected element: the strongest experience for many in high leadership position was to be part of an interdependent group involved in constructive “learning” dialogue. After six months the more committed leaders were still reflecting on how they could implement similar processes in their own organizational environments. (Siklaci 2015) This was good news because it showed that the experience opened some leaders’ attention to collaborative organizational processes but it also showed that method and process support was yet missing. In principle, in the Hungarian public administration integrity advisors could take the role of initiating collaborative integrity survey and reform processes, however, as we discussed above the actual integrity method they were expected to implement was not developed for this purpose.

In 2014 I had the opportunity to revise the post-graduate education program of integrity advisors. The old curriculum was a typical academic program teaching legal and management theories in the form of frontal education. The aim of the revision was to offer integrity advisors both technical expertise in corruption risk containment and commitment, competence and methods for leading organizational processes of transformation. (Pallai 2014a) The strategy of the curriculum is to start the post-graduate education of integrity advisors with a process of personal competence building that is itself a transformative process. The process gives students an experience of transformation within the group: the transformation of perceptions, knowledge and relations, and the resulting coproduction of ideas and learning. This experience builds up a learning environment where the technical subject can also be mastered through engaged dialogue. (Pallai 2015a) This experience opens new doors for the participants. Already after the first semester, some start to experiment with dialogic methods for solving complex problems in their own organizations. Our hope was since the beginning that many of the integrity advisers graduating from the new program will be able to support organizational leaders open to collaborative

processes to initiate processes where substantial advances happen in integrity development through organizational learning processes.

The third contributing factor to the development of the new methodology was that the formation of community of practice was initiated in 2014 during the operation of the Center for Excellence for Integrity at the National University for Public Service that survived in the form of faculty workshops for the development of the post-graduate integrity advisor curriculum. Faculty was composed by active integrity advisors, academics and professionals in expertise in designing and leading organizational development and change processes. During the one to three day long faculty workshops faculty a creative professional dialogue evolved for creating an integrated integrity method adapted for the actual condition of the Hungarian public administration. The most important innovations grew at the border of different fields of expertise: from the deep collaboration of technical and process experts. (Pallai 2015a) The new integrity development method that we work on actually, and I will shortly present in the next part, is one of the fruits of this collaboration between technical experts of risk analysis and experts on collaborative process management. (Pallai 2015b)

7. The new method we work on

The new method we trust is built both on the relevant experience from the internal integrity working group of the Dutch method and the positive reactions and results to the dialogic method applied through the Public ethics and integrity management trainings and during the post-graduate education of integrity advisors. What we suggest as a new method is a structured collective process of organizational mapping of weaknesses and risks, a systematic exploration of the interdependencies and design and prioritization of interventions.

The process is structured in two ways: one is the structuring of the process of inquiry, the other is the structuring of the involvement of stakeholders. The innovation in the structure of the inquiry is that instead of following lists and blue prints like in the previous methods, internal stakeholders are led through the exploration and mapping process constantly focusing on three interrelated components of the integrity system: the organizational rules (control and compliance system), the organizational ethics and culture and the personal and organizational competences. This structure of analysis sharpens participants' system awareness: a key capacity for untangling the complex problems.

The exploration happens through a facilitated dialogic process where sharing and exchanging hard information and the sharing personal and local knowledge and perceptions are equally possible. This allows stakeholders to develop the necessary insight, and shared understanding on the one hand, and the trust and engagement on the other hand that gives chance to untangle the stressed tangle of the metaphor mentioned above. Through the dialogue and formal analysis not only the deconstructing but the reconstructing of various interdependencies can also happen. The result of the dialogic process is that shared aspirations, a shared understanding of necessary interventions and a "shared memory of the future" can evolve that will be crucial during the implementation of the agreed interventions. The expectation is that during the process stakeholders' attitude changes, in similar manner as in during the training and post-graduate education groups, from the apathetic, corruption tolerant pattern to a responsible ethical stance and that, at the same time, the openness¹³ of the process solidifies its results and makes the political cost of refusing its results very high. The evolving mutual trust among stakeholders built during the process and the evolving connectedness in thinking contributes to the weight of the process.

For the effectiveness of the method the structuring of stakeholder involvement is equally important. Nevertheless, its discussion is not included because it is more a technical question, would overstretch the limits of this paper while it is less connected to the main argument here. The focus here was on the characteristics of a post-positivist concept of a transformative process that is proposed in the paper as a response for the wicked corruption problem symbolized by the metaphor of the stretched tangle.

¹³. i.e. transparency within the organization

As a closing information it must be stated that the method is not yet introduced fully in any organization. There are only cases where some steps have started. Consequently, I cannot prove the effectiveness of this method, like the effectiveness of the training method. I can only share the reactions of active integrity advisors whom we led through the method, as kind of peer reviewers, at the end of the post-graduate program. They shared their experience in statements like, “the method of collaborative analysis has brought in many angles and made me realize many important aspects that were new for me”¹⁴, or “during the process the connections established among the components revealed possibilities for better interventions”¹⁵, and finally a method “that renders integrity development in our context accomplishable”¹⁶.

8. Conclusions

In my paper I proposed that in our corruption tolerant context integrity development within public organizations is a transformative challenge: both the structural arrangements and the prevailing organizational culture need to be changed. The process needs to be systemic and collective. It can happen neither on the basis of individual technical fixes, nor through individual initiatives, either from above or below. In the case of a dysfunction embedded in structures and norms, when a technical fix is implemented without changing the structures and norms where they are embedded, the risk of abuse is high. If individuals led by personal integrity break widely accepted practices, they take disproportionate personal risk and have little chance to succeed. This is a very different context than the corruption intolerant Dutch context where the Hungarian integrity mechanisms were adopted from. My proposition in the paper was that a key source of the weakness of results of the integrity approach in Hungary is that the difference in the implementation context was not adequately dealt with during the adaptation of the Dutch method.

If we accept the stretched tangle metaphor integrity reform can only happen through a systemic and collectively trusted processes. Only a cooperative process that involve a wide range of stakeholders can build the necessary insight, trust and engagement that gives chance to untangle the stressed tangle. A process that change stakeholders’ attitude and behavior from the apathetic, corruption tolerant pattern to a responsible ethical stance and that, at the same time, builds mutual trust among the stakeholders so as all feel ensured that will not act alone and trust the connectedness in thinking and action. For this, beside the positivist instruments of the Dutch method, coordinative communicative processes are also necessary that can prepare stakeholders and the ground for collective action through altering shared assumptions, interpretations and expectations. (Schmidt 2015: 100) Beside the positivist tools a post-positivist dialogic strategy is also necessary for creating the “space” for the long transformative process that can gradually dismantle those structural and personal arrangements that support the corrupt, extractive practices.

My claim about the need for the transformative space where change evolves in consequence of change in attitudes, sense making, behavior and relations of stakeholders, does not imply any kind of neglect of positivist analysis and policy tools. Technical tools and mastery of them remain crucial. What I suggest is that, in a corruption tolerant culture, for the effectiveness of the positivist anticorruption instruments a post-positivist strategy is also necessary. A strategy that changes institutional reality, builds mutual trust among stakeholders, breaks learned helplessness, initiates involvement and action, and with it creates the space and coordination for the effective application of the policy instruments. Untangling the, sometimes petrified, arrangements is a long “journey”. Time, system thinking, engagement and collaboration of stakeholders across boundaries and a processual approach are necessary. An approach that is different not only from regulatory logic but also from the rationalist planning paradigm of the positivist schools. (van der Heijden 2005: xvi)

The positivist components of such transformative processes are well known and familiar for civil servants in Hungary and in the Central European region, but leadership of transformative processes is very rarely part either

¹⁴feedback regarding the method from student in leadership position in a large unit of public administration

¹⁵feedback of student who already works as integrity advisor in his organization

¹⁶participating faculty contribution during a faculty workshop

the education or the practice of our civil servants yet. The focal question in my public integrity work in Hungary has ever been how the norm building component can be developed in our context. How the excellent technical experts, schooled exclusively in positivist methods can extend their understanding to system thinking, norm building and process management, and how can new methodologies for public integrity development be envisioned through the cooperation of many different professionals who can bring in all necessary competences. This paper allowed only to sketch the conceptual frame but allowed not to go into details. Concrete experiences produced during the last years in this direction are reported in details in my other papers (Pallai 2015a. and b. and Pallai-Gregor 2015)

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What is Public Administration Ethics? The Ambiguous Meaning of the Ethical Issue in a Context of NPM Reforms: Insights from the OECD, Canada and France

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Abstract

An important interest for public administration ethics has been expressed in OECD member states since the 1990s in reaction to the development of new public management (NPM) reforms. However, the meanings attached to the ethical issue in a context of managerial modernization remain ambiguous depending on the country and/or time period studied. Therefore, this article aims at underlining the main characteristics of administrative ethics thanks to the creation of a theoretical concept which summarizes them and serves also as an analytical grid to engage in further research and especially comparisons between varying cases.

For that purpose, the analysis is divided in two parts and draws insights from the OECD, Canada and France through a review of major official reports and a series of semi-structured interviews with public officials and experts in charge of these questions. First of all, it concentrates on the OECD historical activities on public service ethics in order to devise the theoretical concept of administrative ethics. The utility and relevance of the latter is then tested while being implemented to compare the Canadian and French governments' overall interest for ethics in their process of public management reform.

The article distinguishes two key dimensions of public administration ethics, namely the managerial and normative ones, which are strongly intertwined. On the one hand, the managerial dimension focuses on the management of civil servant's daily behaviors and combines the compliance-based and integrity-based approaches to govern conducts in public administration. On the other hand, the normative dimension refers to the normative framework incorporating the core values and principles which define civil servant's professional identity and guide their specific mission and goals within the democratic system.

Finally, the comparison of major trends in terms of administrative ethics in Canada and France shows that, despite national characteristics, the two countries have tended progressively to deal with the ethical issue in a more comprehensive way, taking into account for example problems due to conflicts of public values or combining compliance-based and integrity-based instruments of ethics management. These evolutions shed light more generally on the movement of hybridization incorporating elements from traditional public administration and new public management which seems to develop in both states.

Keywords: ethics – public administration – New Public Management – OECD – Canada – France.

Introduction

Ethics is regarded as one key pillar² of public administration and governance as a whole by the Organization for Economic Cooperation and Development (OECD). Some of its member states have made efforts recently to update their policies and measures in this area. One of the latest examples was the adoption by the French National Assembly in October 2015 of a draft law related to civil servants' ethics, rights and obligations³. Similarly, a new version of the Values and Ethics Code for the Public Sector was issued in 2011 by the Government of Canada.

If there has been a growing interest in public administration ethics in the recent years, it must be kept in mind that it was also a major reason for the establishment of a professional and neutral civil service at the end of the 19th century and the beginning of the 20th century in most western countries⁴. Indeed, problems of patronage and corruption caused by the close proximity between political leaders and civil servants at the time paved the way for structural changes like the strict separation between politics and administration, merit-based recruitment, hierarchy and command and control systems. Unlike these evolutions, the analysis of administrative ethics has developed slowly throughout the last century. It was not before the 1970s in the United States that a specialized

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² See OECD. 2009. *Towards a Sound Integrity Framework: Instruments, Processes, Structures and Conditions for Implementation*. Paris. 23 April. GOV/PGC/GF(2009)1.

³ *Projet de loi relatif à la déontologie et aux droits et obligations des fonctionnaires*, available at <http://www.assemblee-nationale.fr/14/ta/ta0594.asp>, accessed 25 January 2016.

⁴ For example, the Pendleton Civil Service Act of 1883 in the United States or the Civil Service Acts of 1908 and 1918 in Canada.

and significant field of research emerged in the wake of John Rohr's seminal work (1978) before progressively extending to the rest of the world (Cooper, 2001).

A renewed concern for this central issue has been strongly expressed among OECD states since the 1990s in reaction to the development of managerial reforms usually inspired by the famous New Public Management (NPM). The latter does not refer to a coherent reform model but rather to a "set of broadly similar administrative doctrines" (Hood, 1991:3) which advocate the introduction within public administration of market-types mechanisms and private sector management tools in order to improve its economic performance (Merrien, 1999).

In spite of differences in the scope and ways public management reforms have been implemented in each national case, they have almost unanimously raised questions about their compatibility with public sector's philosophy and functioning. It has been especially true among public administration scholars debating on "the impact of NPM-reforms on the ethics of public servants", known as the "NPM-ethics literature" (Maesschalck, 2004:466). Diverse types of works have emerged in relation to these debates. Some deal for example with the empirical assessment of supposed increasing ethical violations (Kolthoff, Huberts, and Van Den Heuvel, 2007; Kolthoff, 2007) or conflicts between different public values (De Graaf and Van Der Wal, 2010; De Graaf and Paanakker, 2015).

A big stream of research has also focused in the United States and Europe on "ethics management" (Menzel, 2001) strategies which could complement and compensate for possible corruption and ethics risks caused by managerial innovations but without undermining them (Maesschalck, 2004, 2005). In a similar vein but from a different theoretical background, a research program developed in the French-Canadian province of Québec since the early 2000s on applied ethics to organizations (*l'éthique organisationnelle*) has sought to associate ethics understood as a regulation mode based on civil servant' autonomous ethical judgment with the managerial modernization of public administration (Boisvert, Jutras, Legault and Marchildon, 2003; Boisvert, 2011(a)).

Several remarks can be made after briefly reviewing this broad literature. First, there is a relative lack of comprehensiveness in the analysis of administrative ethics. Although a more integrate book was published recently (Huberts, 2014), specialists tend usually to focus on one separate aspect of this issue. For example, the ethics management approach often concentrates on implementation problems and overlooks to a certain extent reflections about conflicts between different public values. Second, research in the field remains often abstract and decontextualized. It does not explain how and why the ethics of civil servants has been perceived and tackled in various ways over time and space. While many analyses compare evolutions of the overall public management movement (Pollitt and Bouckaert, 2011) and national trajectories of reforms (Kickert, 2008; Ongaro, 2009), there is no similar attempts regarding administrative ethics even though some specialists are well aware of these limits (De Graaf and Van Der Wal, 2009).

One could ask, for example: how has public administration ethics been understood precisely in OECD states depending on specific administrative traditions? Have Anglo-American countries and Continental European countries shared the same concerns and applied the same types of measures since the 1990s? How has ethics influenced the development of administrative reforms, and the other way round? Is administrative ethics considered differently in a context of NPM or public governance? In other words, there is still a lot of confusion about the meanings attached to the ethical issue in the process of public administration's managerial reform in OECD countries since the 1990s.

In order to deal with this problem, this article strives to devise a theoretical concept of administrative ethics which outlines the key characteristics of this phenomenon. One major reason for the creation of such a concept, regarded as a kind of Weberian ideal type⁵, is to get an analytical grid enabling to engage in further research, and especially to make not only in-depth studies of national situations but also comparisons between varying countries thanks to this tool. Indeed, there are many methodological biases associated with comparison. One serious shortcoming is for instance the idea that too differing cases are incomparable (Hassenteufel, 2005) but there are also practical limits, e.g. problems of translation between languages. A good example related to the topic discussed here is the French word *éthique* whose meaning tends to go far beyond "ethics" in English. Besides, the latter is usually translated to French by *déontologie* when applied to public administration. Therefore, the theoretical concept of administrative ethics presented here intends to overcome some of these difficulties.

This study draws insights from the OECD, Canada and France but without pretending to be exhaustive. For clarity's sake, it is divided into two parts. On the one hand, it concentrates on the OECD long-lasting expertise

⁵ See Weber, Max. 1965. L'objectivité de la connaissance dans les sciences et la politique sociales. *Essais sur la théorie de la science. Premier essai*. Paris: Plon. no.19: 106-168.

(Boisvert, 2011(b):11-52) concerning public ethics and integrity⁶ in order to be able to make general conclusions synthesized in the concept. It is assumed here that the work done by this organization may be considered a representative example of the core evolutions in administrative ethics for the past twenty years. Indeed, the OECD was the first international organization to dedicate activities to this question in the 1990s and has produced since then an impressive amount of reports, models, standards and recommendations based on systematic researches and comparisons between its member states. Despite differences between OECD countries and possible biases⁷, it gives thus a relevant enough overview of big trends in this matter.

On the other hand, the usefulness and relevance of the concept is tested through the implementation of its two dimensions as an analytical grid to compare the Canadian and French governments' overall interest for ethics in their process of management reform since the mid-1980s. The choice of these two countries is due to their differences in terms of political system and administrative culture⁸ but also to their apparent opposition regarding the development of administrative ethics. Canada was among the first OECD states in the 1990s to deal with the ethical issue in the federal public service while France was reluctant to tackle civil servants' ethics but has proved to be more willing to fill the gap since the mid-2000s.

Concerning the methodology and data collected, the analysis relies for each case mainly on a review of major official reports. Some archive documents⁹ from the OECD's public management and public governance services and committees are also analyzed. Besides, an extensive series of semi-structured interviews has been carried out with former and current OECD officials, national representatives, academic and professional experts in charge of public management reforms and administrative ethics. The number of interviews directly mentioned in this article for each case goes as follows: three for the OECD, two for Canada and one for France. For confidentiality reasons, all interviews are left anonymous throughout the article and referenced with a code associating each case to a number.

1. A conceptualization of the main features of public administration ethics : insights from the OECD

1.1. The OECD work on public ethics: from ethics management to public values

As already mentioned, the OECD is considered a key reference in the fight against corruption and the promotion of ethics in the public sector. More precisely, it is the Public Management (PUMA) Committee supported by its corresponding service¹⁰ which started to turn its attention to these issues in the first half of the 1990s. It is important to recall that PUMA was at the time devoting most of its activities to put forward public management ideas and standards (Pal, 2009, 2012). Indeed, the committee drew directly on NPM practices like privatization, deregulation, devolution of power through empowerment and results-based management (OECD, 1995) which had been developed since the late 1970s primarily in the Anglo-American countries before extending to the rest of Europe.

The committee sought nonetheless during this period to balance its managerial orientation with "a more explicit reference to ethics and shared values in the public service and the importance of enhancing professional standards and democratic principles" (OECD/PUMA/M(94)1:4). Indeed, several member states had begun

⁶ No specific distinction is made between the terms "ethics" and "integrity" in this article. For more details on the different uses of these concepts, see Cox III, Raymond. ed. 2009. *Ethics and Integrity in Public Administration. Concepts and Cases*. New York: ME Sharpe.

⁷ One example is the common prejudice saying that the OECD would lean more toward Anglo-American countries, especially in terms of public management reforms. However, a careful analysis of the OECD's historical activities on this topic tends to mitigate this idea. On this point, see Pal, Leslie. 2012. *Frontiers of Governance. The OECD and Global Public Management Reform*. London: Palgrave MacMillan. 43-44.

⁸ Each country represents a different political system, Westminster parliamentary versus Semi-Presidential regime, but also a broad administrative tradition within the OECD area, i.e. Anglo-American versus Continental European system.

⁹ All documents cited are available for consultation at the Centre for External Researchers, The OECD Library and Archives, OECD Headquarters, Paris.

¹⁰ As a reminder, the OECD has a threefold structure: on the top the Council gathers ambassadors of the member states who set the broad orientations and take decisions about the existence per se of the organization. There is then a system of committees of national representatives generally specialized on a policy sector with smaller working groups and networks focusing on a theme. The third and final organ is the Secretariat led by the Secretary General and composed of administrative services (directorates) dedicated to support the work of the committees.

progressively to express concerns for the ethical issue, what was officially recognized in 1995 during a meeting of the network of Senior Officials from Centres of Government. The participants insisted on the “apparent decline in confidence in government (...) with corresponding negative implications for the legitimacy of government and its institutions” (OECD/PUMA/MPM(95)6:2) due to an increase in scandals within the public sector. The decision to start full-time activities about the ethics of public officials was thus taken explicitly in reaction to “the down side” (interviewee OECD2) of managerial reforms as clearly stated by this former consultant within the PUMA service:

“[Member states] were at that time very much into public management. And there was a concern that if you gave too much discretion to managers, this would raise ethical issues” (interviewee OECD3).

The first initiative in the field was thus to review measures of ethics management in nine self-selected countries whose results were published in 1996 in the report entitled *Ethics in the public service: current issues and practices*. It is worth underlining briefly the main features of the first ever OECD report on public ethics. First of all, it privileges a managerial and “institutional” (interviewee OECD1) approach to ethics defined as “the rules that translate characteristics ideals or ethos into everyday practice (OECD, 1996:14). It also provides an “ethics infrastructure” consisting of “tools and processes to regulate against undesirable behavior and to provide incentives to good conduct” (OECD, 1996:8) with the view to “serving three functions: control, guidance, and management” (OECD, 1996:27).

This framework relies more precisely on the combination of two broad strategies to manage ethics in the public service. On the one hand, the “low-road” or “compliance-based approach” puts the emphasis on “strict compliance with administrative procedures and detailed rules (often codified in legislation) which define what public servants should do and how” (OECD, 1996:59). On the other hand, the “high-road” or “integrity-based approach” insists on “encouraging good behavior rather than policing and punishing errors or bad behavior” (OECD, 1996:59). It focuses on achieving ends, especially thanks to values statements, non-binding codes of ethics, training to ethical decision-making etc. Given the development of public management, the OECD tended to put forward the integrity-based approach regarded as more compatible with the results-based philosophy and organizational model of NPM reforms.

It is important to note the central reference made to the ethics management knowledge which served as the main background for the report. For example, the “low road” and “high road” approaches were originally presented by Rohr in his famous book (1978). The main reason explaining this influence lies in the existence of a close collaboration at the time between PUMA officials and several academic and professional experts in administrative ethics (interviewee OECD3). One of them, Stuart Gilman, was for example the national representative of the United States to the OECD while being also “Special Assistant to the Director of the US Office of Government Ethics” (OECD/PUMA/ETH(97)11:2) and pointed out the need to “realigning ethics systems to fit the new models of public administration” (OECD/PUMA/ETH(97)11:6).

This attempt to link new working practices in the public sector with ethical requirements did not limit nevertheless to the institutional aspect. More fundamentally, PUMA highlighted the necessity to reconcile the main goals of public management, namely “the “three E’s”, economy, efficiency and effectiveness” with the growing priority attached to “a fourth “E”: ethics” (OECD, 1996:9). This statement is particularly interesting insofar as it shows a certain ambiguity about the meaning of the term “ethics” in the report. Unlike the first managerial definition cited above, the focus here seems more to be on the content of ethics understood as a specific goal or value opposed to the three others.

The PUMA committee has devoted more and more attention in the following documents to public sector values. A good example of this increasing emphasis is found in its review of the implementation by member countries of the *Recommendation on Improving Ethical Conduct in the Public Sector* adopted in 1998 by the Council. The report stresses the need to identify “core values [which] should provide a solid basis for daily operations in the public service” and the fact that “impartiality, legality and integrity are the distinct characteristics of the public service” (OECD, 2000:12) in OECD countries. More importantly, it claims that public ethics is “a keystone of good governance” (OECD, 2000:9).

The link made here between ethics, especially its normative content, and good governance must be outlined. Indeed, the work done on public ethics has been an “integral part” (interviewee OECD2) of the development towards good governance at the OECD. It has even had an impact on a broader scale in the way to conceive this new perspective according to a former OECD consultant:

“I think there was a contribution towards, you know, discussion about governance. And the whole issue of the terminology of governance came from the World Bank. But it was seen much more, just simply as a simple decision-making mechanism. The whole idea of the ethos, the values, the ethical principles underlying, I think the OECD had a contribution” (interviewee OECD3).

This shift finally triggered the demise of PUMA replaced in the early 2000s by the Public Governance committee and directorate (GOV). More importantly, the more “systemic approach” (interviewee OECD1) associated with good governance has also influenced the international organization’s program concerning the ethical issue which is framed in terms of “integrity” since the mid-2000.

One of the last significant publications on the subject defines public integrity as “the application of generally accepted public values and norms in the daily practice of public sector organizations” (OECD/GOV/PGC/GF(2009)1:9). This definition is interesting insofar as it shows a synthesis between the more explicit reference to public values and the managerial orientation always favored by the OECD. The new “integrity framework” appears also as an updated and more comprehensive version of the former ethics infrastructure. It strives to overcome “the implementation-deficit” (OECD/GOV/PGC/GF(2009)1:7) of ethics management at the organizational level in taking into account “all instruments, factors and actors that influence the integrity of the members of an organization” (OECD/GOV/PGC/GF(2009)1:9) and advocates especially to find a balance between the high-road and low-road approaches.

A general remark should be made regarding the OECD’s overall interest in matters of corruption and ethics before trying to draw general conclusions on administrative ethics. Thus far, the focus has been put on PUMA and GOV services but other committees, groups and directorates have been dealing with these broad issues. The most important example is the Working Group on Bribery in International Business Transactions. It was created to monitor the implementation of the OECD Anti-Bribery Convention signed in 1997 and support the fight against corruption of foreign public officials in international business.

There are two reasons why these initiatives are not taken into account for this study. The first one is the fact that activities concerning public service ethics and corruption in business have been “fundamentally separate” (interviewee OECD1) for a long time due to the organization of work within the OECD. It was only recently that efforts were made to coordinate the different directorates through a more integrated approach with the CleanGovBiz initiative¹¹ launched in 2011. Apart from this organizational aspect, a central difference lies also in PUMA initial focus on the “positive side” (OECD/PUMA/M(96)2:6) of ethics given its direct relationship with the movement of managerial reform. In addition to a continuous attention to conflicts of interests and corruption problems, the work on public ethics has also stressed the promotion of public servants’ good conduct. This goal implies thus to resort to non-binding ethics management tools instead of focusing only on law enforcement as generally privileged in the Anti-Corruption program.

1.2. The two key dimensions of administrative ethics

This brief overview of the OECD activities on public ethics in the past twenty years is obviously limited. Many other elements, factors and actors should be recalled in order to get a more precise and comprehensive explanation of the work done in this matter by the international organization. Nonetheless, it is believed to be far sufficient as regards to the main goal of this article which wants to identify and conceptualize the central features of administrative ethics in a context of public management reforms.

By and large, it seems necessary to distinguish between two levels of concern about the ethical issue in public administration, each level being associated to a key dimension of the theoretical concept of administrative ethics proposed in this article. These two key dimensions are the following:

- **the managerial dimension** which focuses on the management of civil servant’s daily behaviors and practices in the process of policy-making and policy-implementation. It relies on both the compliance-based and integrity-based approaches of ethics management, i.e. laws, rules, norms and all binding and non-binding instruments which govern conducts in public administration;
- **the normative dimension** which refers to the substantive content of administrative ethics, i.e. the normative framework incorporating the core values and principles, and especially the political and moral ones, which define civil servant’s professional identity and guide their specific mission and goals within the democratic system. This dimension is concerned with the legitimacy of the civil service and thus citizens trust in public administration.

Several comments need to be made just after this quick presentation. On the one hand, it is possible to single out three degrees of analysis applying to each dimension, namely: the overall civil service, the organizational level and the individual case level. An example linking the two dimensions together might refer first to the core principles (the public interest, impartiality, integrity, equality etc.) applying to the civil service and expressed in a law, e.g. the general statute of civil service in France; second, the values related to the specific mission of an

¹¹ See Organization for Economic Cooperation and Development, The CleanGovBiz initiative, available at <http://www.oecd.org/cleangovbiz/>, accessed 30 January 2016.

organization which are summarized either in a statement or in a binding code of conduct; and third, the multiple norms, rules and requirements embodying particular values and principles which are potentially conflicting that any public servant has to sort out in order to take a decision and act in the most appropriate way in given circumstances.

On the other hand, these two dimensions prove to be strongly intertwined and both are considered essential to characterize administrative ethics. The normative dimension is here particularly essential because it sheds light on the broad normative framework which legitimates any kind of public action or behavior, and finally any management system, either compliance or integrity-based, set up in public administration. This framework has usually the same basis in western countries, what the OECD summarizes in this way: “the fundamental mission of the public service is (...) serving the public interest” (OECD, 2000:28). It is however worth pointing out that the normative dimension avoids defining beforehand what values are relevant or not (Huberts, 2014). Its main function consists in highlighting the public interest as the core normative specificity of administrative ethics in democratic states.

Indeed, the common reference to the public interest does not mean that all these countries would share the same public values or, more probably, would rank them in the exact same order. This question is not only context-related but also very complex insofar as the priority attached to one or several public values may differ greatly depending on particular situations, and conflicts of values may thus be frequent. Nonetheless, the great probability of ethical dilemmas justifies at least to a certain extent to complement detailed rules and enforcement mechanisms with incentive tools like statements of values, training, ethics advisers etc. aiming rather at stimulating and supporting public servants’ ethical reflection and autonomous judgment to cope with unexpected or ambiguous situations (Maesschalck, 2005).

Finally, the normative and managerial dimensions turns out to be both mutually reinforcing and have to be taken into account in a simultaneous way to provide public administration ethics with its proper meaning, as shown in detail in scheme 1. The compliance-based approach to ethics management (referred to only as “compliance” in the scheme) appears as a top-down implementation of the normative framework, i.e. all fundamental principles and value, in particular the political and moral ones like for example the public interest, the rule of law, neutrality, probity etc. They are primarily, but not exclusively, embodied by the constitutional and legal frameworks of any democratic system.

In a complementary manner, the integrity-based approach (symbolized by “integrity” in the scheme) starts from practical behaviors to determine and justify in a bottom-up way what are the core values and principles to prevail or the rules and norms which are to be applied depending on specific circumstances. As a result, practical reality represents a point of departure from which to assess and clarify the normative content of administrative ethics. Following the three degrees mentioned before, this evaluation may be carried out at different levels by the civil servant, the leaders of his organization or the relevant court when concerning the overall civil service.



All these reflections and the concept of administrative ethics put forward in this article may seem to be quite obvious and not breaking new grounds. Indeed, it has to be acknowledged that many scholars in administrative ethics do take into account these two typical dimensions but only to a certain extent. John Rohr for instance complemented his work on ethics management with reflections about the political regime values and “the values of American people” (Rohr, 1976:399) serving as the foundation for the US civil service. A more recent example is the distinction made by Jeroen Maesschalck between the “ethical” and “organizational” dimensions (Maesschalck, 2005:28) that any ethical issue in an organization displays according to him. Although this distinction seems to mesh with the concept of administrative ethics detailed above, there is still one major difference found in the attention paid to the normative dimension of ethics. Indeed, the analysis of Maesschalck

deals in the end exclusively with the managerial side. If he is well aware of the moral aspect lying at the core of ethical dilemmas, the emphasis is put mainly on the way to handle them thanks to ethical decision-making.

Unlike this stance, the concept of administrative ethics presented in this article tries to shed light in a more comprehensive and explicit way on the specific challenges related to ethics in public administration. The normative dimension appears all the more important that it distinguishes administrative ethics from other ethical theories, especially business ethics. Indeed, it is interesting to remark that the integrity-based approach privileged by the OECD in the 1990s was actually congruent with the introduction of ethics codes and value statements in many business enterprises in the Anglo-Saxon world since the late 1970s. The idea underlying the replacement of formal controls by a greater autonomy allowed to managers (Peters and Waterman, 1982) was not only to lower control costs and increase economic performance ((Boltansky & Chiapello, 2011), but also to escape from state regulation in showing their ability to self-regulate themselves.

On the contrary, the growing priority attached to managerial values like the three “Es” (economy, efficiency and effectiveness) in OECD countries seemed to represent a more problematic ethical challenge insofar as it tended to question the identity of the civil service and its legitimate role in democracy. On a theoretical plan, it seems therefore that the clash between public administration ethics and new public management really breaks out at the normative level. On the contrary, there is no contradiction, at least formal, between the two at the managerial level where ethics is simply understood as a kind of management tool.

2. Ethical challenges of the Canadian and French public administration in a context of NPM reforms : a comparison

The following part is going to test the theoretical as well as methodological utility of the concept of administrative ethics devised previously. For that purpose, it relies on a comparison between the Canadian and French public governments’ respective ways to conceive and tackle the ethical issue in a context of managerial reforms but without being exhaustive. Using the two dimensions as an analytical grid, the study tackles each of them separately even though they are strongly intertwined as already mentioned. It starts with the managerial one before moving to the normative one and combines the presentation of major examples from Canada and France which are related to every dimension.

It must be mentioned before starting that the focus is here exclusively on the Canadian federal level and the French state civil service. There are in addition no specific distinctions made either between official initiatives and their effective implementation, or between the different positions held by civil servants (high level, middle level and the rank and file level) or even between the famous *corps*, i.e. specific “groupings of officials” (Bezes, 2011:191) in the French civil service. One has nonetheless to bear in mind these blind spots when reflecting more heavily on the topic, especially for the problem of politicization which proves to be touching much more top public officials in both countries due to traditions of political appointments (Dwivedi and Halligan, 2003:156 ; Bezes and Jeannot, 2011:198).

The time period covered runs from the mid-1980s up to the 2000s but is loosely delimited so as to accommodate the particularities of national pathways in terms of administrative ethics and more generally public management reforms. It is interesting to remark in this regard the apparent gap between the two countries. Indeed, Canada began to devote official attention to management in the public service since the early 1960s with the establishment of the “Glassco Royal Commission on Government Organization” (Dwivedi and Halligan, 2003:151) whereas the French public administration was quite reluctant towards managerial ideas up until the 1980s (Bezes, 2009).

This opposition can nonetheless be questioned due to the paradoxical fact that Canada was particularly “slow to incorporate and institutionalize” (Dwivedi and Halligan, 2003:148) management reforms. The latter really took off at national level with Prime Minister Brian Mulroney in office in the mid-1980s (Dwivedi and Halligan, 2003:151). It was nearly at the same period in France, more precisely in 1989, that the socialist Prime Minister Michel Rocard launched a managerial program of state reform entitled “Public Service Renewal” (*Renouveau du service public*) (Bezes and Jeannot, 2011:201). It was the point of departure for a series of clearly NPM-oriented reform initiatives throughout the 1990s (Bezes, 2009:377). This broad context being recalled, it is now time to examine more specifically how the ethical issue has developed in both states.

2.1. The managerial dimension of administrative ethics: the difficult emergence of a high road approach **2.1.1. Canada**

The Canadian government’s concern regarding the management of public servants’ behaviors started with the publication in 1984 of the Starr-Sharp report on conflict of interest (Boisvert 2011(b):55). This first initiative paved the way for a continuous series of conflicts of interest’s policies in the Canadian federal civil service

based mainly on compliance with detailed rules. For example, the Mulroney government adopted just one year later a “Conflict of Interest and Post-Employment Code for Public Office Holders” (Kernaghan, 1996:7) and an “Ethics Counsellor” (Kernaghan, 1996:9) was appointed ten years after the report to monitor, among other things, the enforcement of the code. This latter position was eventually replaced in 2004 by an independent Conflict of Interest and Ethics Commissioner (Boisvert, 2011(b): 85).

But parallel to this development, other initiatives focusing on a high road approach to ethics have emerged since the late 1980s and took the form primarily of attempts to define statements of public values. A good example is the establishment in 1987 of a “Committee on Governing Values” in charge of “identifying those values which are common across the Public Service” (Canada, 1987:4).

The “Public Service 2000” project launched in 1989 displayed also explicitly the link between the stress on public servants’ ethics and the managerial tide in the federal public service. It consisted in several working groups of senior officials mobilized to set the priorities for an ambitious program of reform in public administration aiming at promoting a new client-oriented culture instead of the traditional command and control bureaucracy (Dwivedi and Halligan, 2003:164). A special importance was given to “the individual responsibility and to professionalism” (Canada, 1990:2) of the members of the public service within the broad “new ‘guide and encourage’ (...) approach to management” put forward (Dwivedi and Halligan, 2003:165).

The development of a consistent integrity-based approach in the Canadian civil service reached nonetheless a turning point with the Task Force on Public Service Ethics and Values, initially set up in 1995 as a study team by the Canadian Center for Management Development (CCMD) and chaired by the deputy minister of Justice, John Tait. Indeed, it strived to overcome the relative failure of previous values exercises due to a remaining gap between good intentions and real practices within the public service. For that purpose, the team chose resort to an “inductive approach” (interviewee Canada1) based on a lucid discussion of concrete problems facing the public service, what it called an “honest dialogue” (Canada, 2000:3).

Moreover, the final report entitled *A strong foundation* pointed out for the first time the need to tackle “conflicts between values” (Canada, 2000:2) arising in public administration, especially given the new priority attached to managerial values at the expense of other important public values. The report thus called for a largely open discussion on this topic throughout the public service following its specific approach and to complement formal codes and rules often too limited in these matters with training and tools for civil servants to handle ethical dilemmas.

The activities of the Task Force created a momentum for integrity-based measures in the late-1990s and early-2000s. Two “Co-Champions of Values and Ethics in the Public Service” (Canada, 2001:1) were appointed to pursue activities and to promote dialogue on values and ethics in the federal public administration through a “case-study approach” (Canada, 2001:1) devised in two specific handbooks. The Values and Ethics Office of the Treasury Board of Canada was also established in 1999 in order to set up the conditions for a values-based management within the public service (Kernaghan, 2007:26).

However, a series of major scandals breaking out in the first half of the 2000s have finally turned the tide towards re-emphasizing the issue of conflict of interest and the strict compliance with rules. One good example among others of this dynamics is the Accountability Act passed in 2006 and which encompasses all the codes and standards regarding conflict of interest, post-employment and lobbying in one integrated law (Boisvert, 2011(b): 64). Despite this clear tendency witnessed since the mid-2000s, it seems nonetheless that the discussion of values and ethics based on the dialogical model put forward by the Tait report remains deeply rooted in the Canadian public service, and the distinction between compliance-based and integrity-based management approaches largely acknowledged (interviewee Canada2).

2.1.2. France

The French way to deal with civil servant’s ethics privileges usually a compliance-based approach. Indeed, it draws from the traditional conception of the state as the guardian both of the general will expressed by the law and the unity of society, implying the use of exclusive prerogatives. The civil service is thus based on a “specific administrative law” (Bezes and Jeannot, 2011:186) derogatory from common law and a merit and career system established in 1946 in which independent and impartial civil servants are supposed to serve the public interest and the principles of equality, continuity and adaptability lying at the core of the French concept of *service public*.

The principle of hierarchy, which is regarded as an “operational translation” (Chambon and Gaspon, 1996:49) of the law and then represents a major basic principle of the civil service, strongly shapes administrative ethics in France. The very first ethical requirement for a civil servant is to obey and abide by the orders of his superiors unless they are against the law and the public interest. Therefore, public administration ethics amounts in the first place to the exercise by the hierarchy of a disciplinary power sanctioning the bad behaviors of civil servants.

This formal view limiting the ethics of civil servants to respect their professional obligations as well as an abstract and absolute public interest, coupled with the old and largely-accepted tradition of cumulating powers and functions (Mény, 1992:20) explain to a certain extent that conflict of interest regarding public officials has been overlooked for a long time in France. A change nonetheless began in the mid-1980s with the series of laws completing the general statute of 1983 which stated a list of incompatibility between public and private functions to face the increasing phenomenon of *pantouflage*, i.e. revolving doors between public and private functions.

The movement intensified in the mid-1990s with the creation of an Ethics Commission for each specific civil service in charge of issuing opinions on potential conflict of interest concerning a civil servant leaving office for the private sector or cumulating activities in both spheres (Chambon and Gaspon, 1996:80). More generally, the Central Service for the Prevention of Corruption (*Service Central de Prévention de la Corruption*) was established in 1993 within the Ministry of Justice, in the aftermath of the specialized Bouchery commission on this topic (Lascombes, 1999:131), to collect and centralize data, give advice to authorities and raise awareness about corruption in France while also taking part in international cooperation and action¹².

Apart from issues of conflicts of interest and corruption, the attention to civil servants' ethics increased in the first half of the 1990s in close relation to the overall process of state modernization set up with the Public Service Renewal program in 1989. The activities of the General Planning Commission (*Commissariat Général du Plan*) in particular or the Picq mission on the state's responsibilities and organization (*Mission sur les responsabilités et l'organisation de l'Etat*) stressed continuously the "crisis of effectiveness" (Commissariat Général du Plan, 1993:131) and the need to improve the quality of public services delivery to citizens in accordance with NPM ideas (Bezes, 2009:373-377).

For that purpose, the major public reports put the emphasis on devolving power to more autonomous administrative service (Commissariat Général du Plan, 1993:133) and more responsible civil servants. Responsibility was regarded by reformers as a kind of "monitored trust" which allowed more discretion to civil servants in betting on their "capacity and integrity" (Commissariat Général du Plan, 1989:48). In a surprising way, this movement tended both to reinforce ethics rules guaranteeing the neutrality and impartiality of the civil service (Commissariat Général du Plan, 1989:44; 1993: 59), and to put forward ethics charters which would specify traditional and new principles guiding the work of public servants (Picq, 1994:127).

This focus on responsibility and broad charters may be seen to a certain extent as the beginning of an integrity-based approach to ethics in the French public administration. Indeed, the responsible civil servant was regarded in the early 1990s as the one able to define and adapt the changing notion of the public interest to the reality (Commissariat Général du Plan, 1993:29) in order to ensure the effectiveness of public services and thus guarantee citizens' trust in government (Commissariat Général du Plan, 1989:34-35). A high road perspective in terms of administrative ethics appeared then to the proponents of state reform as a way to reconcile legality and effectiveness (Chambon and Gaspon, 1996:6) and as "powerful lever" to finally modernize public administration (Commissariat Général du Plan, 1993:60).

Despite these initiatives, it must be noted that public administration ethics in France has remained largely insensitive to this perspective up until the mid-2000s. There has been an important increase since then in the production of soft law mechanisms in public organisations like codes and charters of ethics associated with ethics advisers giving recommendations to guide the practices of their members and thus to preserve citizens' trust (Pêcheur, 2013:4). The importance to develop a new ethics culture in the public sector implemented thanks to these guiding instruments was for instance a key recommendation of the commission established in 2010 to reflect on the prevention of conflict of interest regarding members of government and senior public officials (Sauvé, Migaud and Magendie, 2011:69).

Another good example of this dynamics is the publication in 2012 by the Council of State of a Charter of ethics for the members of the administrative jurisdiction¹³ while the institution was very much reluctant in the 1980s and 1990s towards the kind of documents giving additional written specifications of rules due to their encroachment on its jurisprudential activity (Bezes, 2009:248). Besides, it is interesting to mention that the supreme administrative court of France has made efforts recently to develop a specific doctrine regarding soft law mechanisms which adapts their definition to also guarantee both the paramount role of hard law and the respect of legal security for citizens (Conseil d'Etat, 2013).

¹² See The Central Service for the Prevention of Corruption, published on the Ministry of Justice's website on 6 December 2012, available at <http://www.justice.gouv.fr/multilinguisme-12198/english-12200/the-central-service-for-the-prevention-of-corruption-24860.html>, accessed 11 February 2016.

¹³ See *Charte de déontologie des membres de la juridiction administrative*, published on the Council of State's website on 12 January 2012, available at <http://www.conseil-etat.fr/Actualites/Communiqués/Charte-de-deontologie-des-membres-de-la-juridiction-administrative-edition-2011>, accessed 11 February 2016.

To conclude this overview, it is worth pointing out the ambiguous development of public administration ethics in the 2000s. Indeed, the traditional French term *déontologie* (ethics) and the reference to law as being its main foundation (Vigouroux, 2006:17) remain largely shared by specialists in the field who are most of the time administrative lawyers and judges. But paradoxically enough, some of them have strived to distinguish, more or less implicitly, the meaning of ethics from the ideas of discipline and sanction (Vigouroux, 2006:27; Truchet, 2010:2129) to emphasize the more positive and ambitious empowering approach to ethics management. If some commentators have raised doubts (Niquège, 2014:281) about the claim that it is a “misinterpretation” (Vigouroux, 2006:25) to associate ethics with discipline, this tendency sheds light on some of the main evolutions regarding public administrative ethics currently occurring in France.

2.2. The normative dimension of administrative ethics: debates around core public values

2.2.1. Canada

Choices regarding the most suitable ways to govern public servants’ conducts, especially in a period of managerial reforms, have been related both in Canada and France to complementary debates on the core principles and values to defend and the type of civil service system to promote.

The Canadian public service is probably the institution in the OECD zone which has developed the most intense and accurate reflection on public administration values. This is shown by the usual distinction made between values and ethics since the activities of the Task Force on Public Service Values and Ethics in the mid-1990s. As already mentioned, several initiatives were launched in the late-1980s to find out the specific values of the federal public service. The principal goal of the “Committee on Governing Values” was for example to “revitalize the Public Service” (Canada, 1987:11) through the rediscovery of shared values. It is important to stress nonetheless that the latter were in this case supposed to serve as a “means for change” (Canada, 1987:17) to improve productivity and the quality of public services.

The interest for values was here again mainly due to the focus put on them in the private sector as a key factor of successful enterprises (interviewee Canada1). Moreover, different initiatives of NPM reform at the time tended to deepen the idea of a blurring divide between the public and private sectors in favor of the latter. The final White Paper of Public Service 2000 put for example a great emphasis on managerial values like “service to the public, innovation, empowerment of employees” (Dwivedi and Halligan, 2003:164). Similarly, the “Program Review exercise” (Kelly, 2000:73) set up in 1994 to curb the financial and budgetary crisis facing the Canadian state triggered a huge movement of downsizing in the public sector (Dwivedi and Halligan, 2003:167) and put forward the principle of “employability” (interviewee Canada1) at the expense of career public servants.

It is in this broader context that the study group chaired by John Tait started its work with the explicit view to respond to potential threats on the very identity of the federal public service but also to clarify some ambiguities concerning the role of values. Indeed, the previous exercises were principally looking at values as a management tool useful to get rid of centralized and constraining rules in public administration. But according to a former member of the task force, the key question of the activities consisted in defining “what are the values defining a public service” (interviewee Canada1) and only after what are the rules able to translate them in practice.

Hence the necessity to focus separately on the values and ethics of the public service whose respective meaning may be roughly summarized in the following way: “values is who we are, ethics is what we do” (interviewee Canada1). The task force questioned heavily the idea imported from the private sector that values could replace rules and claimed that:

“it is also important not to lose sight of the important role that some rules will always play in public administration, as means to ensure democratic will and to preserve the legitimacy of government” (Canada, 2000:41).

It must be remarked here that the confusion regarding values that the task force pointed out is well identified when applying the analytical grid presented earlier in this article. The major problem in this case stemmed from the fact that the normative dimension, i.e. the substantive content of administrative ethics, was completely overlooked by NPM-types reforms. More precisely, the latter regarded values either as a mere management tool or pushed for managerial values instead of taking into account the paramount goal of public servants in democracy, i.e. serving the public interest.

The activities of the group were not though in complete opposition to NPM initiatives and tried rather to strike a balance between public management and traditional public administration in asserting that:

“a synthesis of old and new values is both possible and necessary, and that together they will help to create an even stronger culture of public service” (Canada, 2000:37).

However, the final report entitled *A strong Foundation* did shed light on the hierarchy between values existing in the public service. Among the four different categories of core values identified, what it referred to as

“democratic values, professional values, ethical values, and people values” (Canada, 2000:53), the democratic ones were stressed as “the most important of all and the one that provides the foundation for all the rest” (Canada, 2000:53) insofar as:

“The Study Team has rediscovered that the most important defining factor for the role and values of the public service is its democratic mission: helping ministers, under law and the Constitution, to serve the common good” (Canada, 2000:17).

The adoption in 2003 of the first Values and Ethics Code for the Public Sector stating this set of core public values (Canada, 2003:7-10) was finally an official recognition of them as being the normative framework guiding all Canadian public servants. It was also confirmed by the slightly revised version of the new code issued in 2011 which took up most of these values (Canada, 2011:3-4).

2.2.2. France

Contrary to the debates within the Canadian public service, there was a continuous agreement in the 1990s in France about the core values of public administration despite the more intense introduction of management reforms. An important reason for this situation was due to the French historical conception of the civil service which was constantly consolidated during the previous decade with a socialist and communist government in power. It is particularly to recall here that the adoption in 1983 of a general statute to the three civil services (state, local and hospital) brought about a significant strengthening of traditional principles and key features of the civil service (Bezes, 2009:226). This act of “rationalization and extension” (Bezes and Jeannot, 2011:192) of the existing statutory laws reinforced for instance the principle of hierarchy which was officially included in the 1983 general statute¹⁴.

Such a movement has then influenced a lot public management initiatives developed since the late 1980s. It produced an hybrid trajectory of state reform encompassing both the promotion of new economic ideas and the defense of classic administrative values (Bezes, 2009:438). Some of the official reports published during this period showed clearly this French characteristic way to deal with NPM reforms throughout the 1990s. For example, the study by the General Planning Commission on the improvement of state effectiveness claimed that the statute of the civil service was “a valuable asset” for the policy of modernization (Commissariat Général du Plan, 1989:91). In a similar vein, a following report pointed out that “equality, neutrality, continuity” remained the core public values even though transparency and responsibility had to be added to the list (Commissariat Général du Plan, 1993:59). In addition, the Council of State reasserted in its 1999 report that in spite of increasing criticisms the public interest was still “the keystone of public action of which it determines the goal and founds the legitimacy” (Conseil d’Etat, 1999:245).

Unlike Canada and other OECD countries during the same period, the French reformers finally kept emphasizing the specificity of the public sector compared to the private one. However, the situation began to change in the early 2000s given a new series of management standards more systematically affecting public administration. The main reform was the adoption on the first of August 2001 of the Organic Act on Budget Legislation (*Loi organique relative aux lois de finances*) which created a result-based and performance-oriented budgetary process fully implemented since 2006 (Bezes and Jeannot, 2011:204). The latter paved the way for devolution of powers in favor of administrative services, performance measurement and a greater individualization of civil servants’ careers.

This dynamics was deepened by the General Review of Public Policy (*Révision générale des politiques publiques*) launched in 2007 and aiming at major cutbacks in personnel and public expenditures while promoting mobility and fixed-term contracts within the public sector. This global movement has provoked “destabilizing effects” (Bezes and Jeannot, 2011:205) on the traditional model of civil service insofar as it put forward a logic of employability challenging the statute and career system. It has thus been questioning the historical identity of the French civil service in a similar way to what happened in Canada during the 1990s.

As a result, quite unusual debates in France about public values (interviewee France1) and especially the need to update and adapt them to the evolving society emerged in the mid-2000s. The “national conference on values, missions and jobs of the public service and civil service”¹⁵ (Silicani, 2008:9) was the most significant example in this regard. The six-month activities gathering politicians, civil servants, scholars, experts and citizens from October 2007 to April 2008 highlighted three categories of fundamental values for the civil service, namely “republican values” (liberty, equality, fraternity etc.), “professional values” (legality, effectiveness, adaptability,

¹⁴ See article 28 of the law of 13 July 1983 related to civil servants’ rights and obligations (*loi du 13 juillet 1983 portant droits et obligations des fonctionnaires*).

¹⁵ *Conférence nationale sur les valeurs, les missions et les métiers du service public et de la fonction publique*.

continuity, probity, exemplarity etc.) and “human values” (commitment, respect, solidarity etc.) (Silicani, 2008:58-69).

Apart from the great diversity of values referred to and the “synthesis” (Silicani, 2008:57) between traditional and modern values advocated in the final White Paper, the main contribution of the conference was to concentrate on difficulties to implement and reconcile these potentially conflicting values in daily practice (Silicani, 2008:74). For that purpose, the White Paper recommended to adopt a non-binding and incentive charter of civil service values which would be less constraining, more adaptable to particular circumstances and could evolve (Silicani, 2008:78-80).

It is crucial to note here that contrary to the situation in the 1990s, the missions and goals of the civil service are not considered anymore clear and precise enough to guide the overall process of administrative reform and the improvement of effectiveness (Silicani, 2008:84). That’s why reformers but also specialists in administrative ethics (Vigouroux, 2006:5) have expressed the need in the recent years to emphasize key public values which are not formally found in statutory laws (Niquège, 2014:284). This effort has been conceived not only as a way to stress the persistent professional morality and identity of the French civil service but also as a “conspicuous” response (Niquège, 2014:287) to more pressing expectations and demands from citizens regarding civil servants behaviors in order to guarantee public trust in public administration.

The draft law related to civil servants’ ethics, rights and obligations adopted in 2015 by the National Assembly met this concern about public values in proposing to mention explicitly in the general statute for the first time the core ethical principles and values guiding civil servants like for example “dignity, impartiality, integrity and probity” (Assemblée Nationale, 2015:3) as well as neutrality and the principle of *laïcité* (secularism). It is nonetheless interesting to underline the French traditional approach still displayed in this project carried out by the current socialist government given both the specific values as well as the legal form adopted to formulate them.

Conclusion

This article puts forward a theoretical concept of administrative ethics in order to shed light on the central features of the ethical issue in public administration, and especially in a context of NPM reforms. Devised from an historical review of the OECD activities on public ethics and integrity, this concept encompasses two major dimensions which are strongly intertwined. On the one hand, the managerial dimension focuses on the management of civil servants’ behaviors in combining the compliance-based and integrity-based approaches. On the other hand, the normative dimension emphasizes the core principles and values which embody the normative framework defining the specific identity and legitimate mission of the civil service in democracy.

Used then as an analytical grid to compare the Canadian and French interest for administrative ethics since the implementation of management reforms, this concept proves to be relevant to stress the diverse ethical challenges facing these countries. It is particularly useful to distinguish between the managerial and normative dimensions in order to be able to sort out some ambiguities about the ethical issue in both cases. It helps for example to overcome the confusion regarding the meaning attached to values in Canada, which have been regarded either as a management tool or a normative standard. Besides, it is interesting to note that the two dimensions of administrative ethics mesh perfectly with the common distinction made between values and ethics in the federal public service since the mid-1990s. In the French case, this concept enables to clarify recent evolutions in the way to perceive and deal with administrative ethics, e.g. the new focus on incentive instruments and the discussion of core values, which are not always clearly stated and remain hidden behind the historical reference to *déontologie*.

The comparison of Canada and France pathways of management reform reveals some of the proper characteristics of each civil service, like for example the rapid but cautious adoption of NPM ideas (Dwivedi and Halligan, 2003:70-71) by the former or the strong influence of administrative law for the latter. And yet one crucial similarity at least must be outlined concerning the general creation of “hybrid administrative systems” (Christensen, 2012:2) which incorporate elements from traditional public administration and new public management. This tendency is particularly visible when focusing on the increasing comprehensive approach displayed to tackle the ethics of civil servants, not only at the managerial level with a combination of compliance-based and integrity-based strategies, but also at the normative level with the search for a synthesis between “old” and “new” public values.

Finally, such a movement shows that administrative ethics represents a complex issue which includes problems of corruption and wrongdoing but goes also far beyond. Indeed, it seeks to promote the most appropriate behaviors of civil servants on a daily basis in order to reinforce citizens’ trust in public administration and thus ensure its ongoing legitimacy. However, it is important to keep bearing in mind the importance of context when

tackling administrative ethics. This article draws insights mainly from the OECD area but further comparative researches would be needed to highlight in a more comprehensive way the multiple ethical challenges facing public administration in diverse environments and the many concrete ways to deal with them. For example, the discussions engaged about the specific situation of Central and Eastern European countries in this matter during the 9th Trans-European Dialogue held in Ljubljana (Slovenia) on 4-5 February 2016 have offered interesting clues to improve the concept of public administration ethics put forward in this article and develop a better understanding of this crucial issue.

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ADMINISTRATIVE DEMOCRACY

AS A MATTER OF PRINCIPLE

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Abstract

This paper addresses the transparency obligations of public administrations through the topics of good administration and the gradual establishment of an administrative democracy. Our proposal assumes the importance of the legal texts which regulate the information relations between the administration and the citizens, but it focuses on the principles and values, as ethical and civic aspects that are beyond the norm. This theoretical reflection serves as a basis for stressing the new role of administrative law in the contemporary society.

Key words

Administrative democracy; good administration; interdisciplinary dialogue; administrative culture; values; principles; transparency; openness; recognition; dialogic theory of public relations.

1. Introduction

The paper assumes that the law is as a social phenomenon, and that is why a sociological background is provided first. This aids to explain the current deficits in the regulation of transparency and openness, as well as other related effects, such regulatory inflation or simply the limited role of the norms. After that, it will be possible to understand that interdisciplinary dialogue about values is absolutely necessary within the administrative social sciences.

Thereafter the democratic potential of the good administration principles will be explored, taking in the benefits of them in order to shape an advanced administrative culture.

Last but not least, we propose to explore the links between those principles and the value of recognition, following Honneth's theory. The purpose is to stress the moral substrate of the relations between citizens and administrations.

2. The social framework: challenges of today

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The paper assumes that law is a social phenomenon², that's why first it is essential to refer to the specificities and challenges of today's societies.

On this context, it is enough to point out that the high complexity, the dynamism and the uncertainty of each and every social system are generally accepted. At the same time we can't avoid to talk about globalisation and europeanisation processes in terms of multilevel governance and pluralism of actors and stakeholders.

On the other hand, it is almost recurrent to mention the incredible change operated by the continuing developments in information and communication technology. To the point that, we have gone from an initial informative euphoria³ to an actual scenario of «infoxication»⁴, that underlines the paradoxical effect associated with the new technology.

Though above all, if there is a sociological idea that has penetrated and totally changed the way we know the government and its roles, this is the notion of risk⁵.

In the risk society the uncertainty is the only foreseeable thing, and in that context the classical paradigm of legal certainty⁶ is directly affected. It is not possible go on without admitting and balancing the principle of legal certainty with the idea of risk, or also called principle of change in reference to the necessity of a continuous adaptation to new conditions.

For this reason, the notion of risk results ends up as ambivalent⁷. On the one hand, it poses a first and natural reaction of fear, closure, which leads to the precaution principle. On the other hand, the risk also poses the opportunity for innovation, better regulation, learning processes and adaptive management.

In the framework of a state that accepts the opportunity and also the challenge of risk, facing the fragmentary knowledge, a trend towards openness to the society arises definitely. As the state cannot go on walking alone, the traditional separation between public and private vanishes. The state takes on a new role, nearer to the guarantee of the public interests, but now more and more made up of the participation of

² See Rodríguez Molinero, M. 1990. *Derecho y Sociedad*. Anuario de Filosofía del Derecho VII: 239-259. Society is the only source of law, in particular the social awareness. From this point of view, law is a cultural product «in the society and for the society».

³ See Kloepfer, Michael. 2002. *Informationsrecht*. Berlin: C.H.Beck.

⁴ Dias, Patricia. From "infoxication" to "infosaturation": a theoretical overview of the cognitive and social effects of digital immersion. *Ámbitos: Revista internacional de comunicación*, 2014, no 24, p. 31-40.

⁵ An idea credited to Beck, Ulrich. 1992. *Risk society: Towards a new modernity*. Vol. 17. Sage. Also developed in other important works such as, Solana, Javier, & Innerarity, Daniel, editors. 2011. *La humanidad amenazada: gobernar los riesgos globales*. Spain: Grupo Planeta.

⁶ Aymerich Ojea, Ignacio. 2011. Riesgos globales y soberanías populares, 281 - 295. In *La humanidad amenazada: gobernar los riesgos globales*. Edited by Innerarity, D. / Solana, J. Barcelona: Grupo Planeta.

⁷ See, Hoffmann-Riem, Wolfgang. 2010. Wissen, Recht und Innovation. Die Verwaltung. Beiheft 09. Wissen - Zur kognitiven Dimension des Rechts :159-211.

society. All this adds up to a new distribution of the responsibility and the inherent risk of completion of the general interest. The potential consequences arising out of this displacement will be discussed in the subsequent analysis.

All that provides us an overview, where the relations between administration and citizens taken a completely new dimension, and which essentially go beyond the traditional and sole perspective of defence. From that perspective, the relations leave the exceptions; unidirectional forms that come into the complexity, diversity, and cooperation style.

Of course the directive capacity of the state has therefore been noticeably harmed by this whole social transformation. But it does not mean we should sit on our hands and take a single step backwards. The public action has to adapt constantly to that process of change, since precisely herein lies the real *force of law*⁸.

The specialized literature⁹ points us toward an answer that integrates concepts such as: governance, innovation, smart decisions, acceptability, and knowledge of democracy, amongst others.

3. Methodological implications: law and the administrative sciences in a «values-dialogue»

Facing the current and generalized uncertainty the limited role of norms was noted in order to establish factual assumptions and ultimate solutions. Equally noteworthy are the excessive reductionisms¹⁰ of the legal method against the complex and plural social systems.

This critical view is in the line of a more general discussion on the real impact within the social sciences. In fact, nowadays there is a very interesting open discussion on *Making social sciences matter*¹¹. While it is impossible to go far into it here, it is worthwhile mentioning some of its central issues, such as the value-rationality and the need of interdisciplinary dialogue.

Within this theoretical framework, the only way to ensure that the social sciences matter is by examining two things: the first one, the aspiration to imitate the rationality of natural sciences and, the second one, the complex as «soft sciences». In both cases focusing on values, namely on the relations of values and power, is a key issue¹².

⁸ Bourdieu, Pierre, and Gunther Teubner. 2000. *La fuerza del derecho*. Universidad de los Andes, Facultad de Derecho.

⁹ Schuppert, Gunnar Folke. 2011. *Governance und Rechtsetzung: Grundfragen einer modernen Regelungswissenschaft*. Baden-Baden: Nomos-Verlag-Ges.

¹⁰ Schmidt-Assmann, Eberhard. 2004. *Methoden der Verwaltungsrechtswissenschaft*. Baden-Baden: Nomos.

¹¹ Flyvbjerg, Bent. 2001. *Making social science matter: Why social inquiry fails and how it can succeed again*. Cambridge university press.

¹² Flyvbjerg, Bent. 2011. *Making social sciences matter*. Social Science and Policy Challenges. In *Democracy, values and capacities*. Edited by Georgios Papanagnou. Paris: Unesco Publishing. In this other work the modern concept of phronesis is refined taking account of power relations.

In addition, as stated before, the dialogue also appears in the centre of this «campaign» to recover the *real* social sciences¹³. This is because, under this vision any value, or any concept, is considered immutable. By contrast, their validity depends on a dialogical acceptance. It poses a continue process, where the social scientists try to find the «better option», or the better interpretation of values, being quite pertinent talk about situational or contextual ethics.

By the public administration studies, some authors also agree on the existence of an identity crisis¹⁴ within the administrative sciences. Even more, if we are aware of the object the study and its unstable nature, the necessity of a unitary comprehension becomes more evident¹⁵. It makes no sense to deny the reality or simply thinking about it as something static and immutable. What make administrative sciences matter isn't the isolated study of rules, but rather the knowing of the real problems¹⁶ and the purpose to improve the quality of life of citizens, essentially when they come into relation with the public body.

In the specific case of the administrative law, we must admit a traditional isolation towards the other administrative sciences. From our point of view, despite the shocking paradigm shift described above, the contemporary administrative law should not give into this isolation. It must face the challenge of leading these processes with legal instruments, but with the necessary aid of the rest of administrative sciences (e.g. philosophy, psychology, political science, education, economics)¹⁷.

From the point of view of our analysis, all this attaches great relevance indeed taking an open approach is the only starting point to reflect seriously about the current problems of public administration. Mainly when our aim now is *making good administration matter*. That's why right now I want to start an interdisciplinary discussion on transparency and openness as key-words of this scientist dialogue. It would be very interesting to clarify what we are actually talking about when we say “transparency,” and in other words point out the values and principles which are definitely affected.

Finally, whatever legal text related to the field of good administration, which would take into account such an interdisciplinary dialogue, it would be in absolute likelihood more effective than a typical norm of our era, that quickly goes unnoticed amidst the current regulatory inflation.

¹³ Flyvbjerg, Bent, Todd Landman, and Sanford Schram, eds. 2012. *Real social science: Applied phronesis*. Cambridge University Press.

¹⁴ See Raadschelders, Jos C.N. 2011. The Future of the Study of Public Administration: Embedding Research Object and Methodology in Epistemology and Ontology. *Public Administration Review* : 916 – 924.

¹⁵ Facing division of social phenomena, it is an always request, indeed «*urgent need for breking down these conceptual barriers so as to promote cross-fertilization of ideas*». See Dewey, John. 1938. *The theory of inquiry*. New York: Holt, Rinehart & Wiston.

¹⁶ Sayer, Andrew. 2011. *Why things matter to people: Social science, values and ethical life*. Cambridge University Press, 2011. Sharing an aporetic view of science of law, see the classic work, Viehweg, Theodor. 1953. *Topik und jurisprudenzen*. Berlin: Beck.

¹⁷ Voßkuhle, Andreas. 2012. Neue Verwaltungsrechtswissenschaft. In *Grundlagen des Verwaltungsrechts* 1, 1-61. 2th ed. Edited by Wolfgang Hoffmann-Riem, Eberhard Schmidt-Assmann, and Andreas Voßkuhle. München: CH Beck, 2008.

4. Administrative democracy: a matter of principle

Transparency has become a constant in every discussion on modern administration, up to the point of profound exhaustion. In any case, it would not be fair to dismiss the positive effects of these long years of discussions, even more when they have encouraged the first transparency law in Spain in 2013. But it could be argued transparency is something related to political mechanisms and also, why not saying, a matter of investment.

Of course the transparency commitment is definitely unwavering within the constitutional state, but It might be said that too many public bodies *have put the cart before the horse*. This means they implemented the attractive idea of a crystal administration by just opening a huge flow of information without any values transformation. For that reason it is easy to agree that another important and previous question was forgotten.

Transparency is probably the most emblematic feature of the right to good administration (recognised by the Charter of Fundamental Rights of the European Union). It would be desirable to start balancing this leading role with a larger perspective of all the principles of good administration (including simplification, amongst others). Transparency or any other of these principles cannot be conceived in isolation. The very important thing is to understand them as a system of principles that jointly serve to a major goal, such as the administrative democracy¹⁸.

It makes no sense to incorporate the right of access to information in a mechanical way, because paradoxically it creates a kind of public *voyeurism*¹⁹, which has nothing to do with trust, honesty or rational decisions. The principles of transparency and openness hold an autonomous value, a democratic potential change on the quality and nature of the relationship between citizens and government.

The administrative democracy implies of course administrative participation²⁰, but also the current challenge of taking hard decisions despite the uncertainty. Some German literature identifies this new dimension of democratic life with the idea of a rational state²¹. It is also possible to talk about a knowledge democracy²², or in other words: new principles for new models of decision-making. This is actually about

¹⁸ Chevallier, Jacques. 2011. De l'administration démocratique à la démocratie administrative. *Revue française d'administration publique*, (1), 217-227.

¹⁹ Byung-Chul, Hann. 2015. *The Transparency Society*, Stanford University Press.

²⁰ García Macho, Ricardo. 2013. Article 11. Participatory Democracy. In *The Treaty on European Union (TEU). A Commentary*, 449-465. Edited by Blanke, Hermann-Josef, and Stelio Mangiameli. Berlin: Springer.

²¹ Voßkuhle, Andreas. 2008. Das Konzept des rationalen Staates. In *Governance von und durch Wissen*, 13-32. Edited by Schuppert, Gunnar Folke. Baden-Baden: Nomos-Verlag-Ges.

²² Bunders, Joske FG, et al. 2010. How can transdisciplinary research contribute to knowledge democracy?, 125 -152. In *Knowledge Democracy. Consequences for Science, Politics, and Media*. Edited by Roeland J. In 't Veld. Springer Berlin Heidelberg.

the knowledge gathering from the plural actors and stakeholders, hence, the term of multilevel democracy is used as well.

Principles, such as transparency or openness, gain greater prominence and shift into focus in such scenario of interactional governance²³. The role of principles, as a consequence of previous values, is essential for the exciting ideas of a global administrative law, a multi-level democracy or furthermore for their potential to shape an advanced administrative culture within the European Administrative Space. Principles have the valuable power to balance the several administrative practices²⁴.

Paying special attention to the democratic administrative practices, the White Paper on European Governance [COM(2001) 428 final, p.16], is crystal clear when it says: «*creating a culture of consultation cannot be achieved by legal rules which would create excessive rigidity and risk slowing the adoption of particular policies*»

Precisely, this raises a last thought about the renewed importance of culture and principles. In fact creating a culture of consultation or transparency is not only a matter of public institutions, but also of the society, or at least of selected private sectors. Within the framework of the principles of good administration we also refer to their enforcement in such private sectors²⁵, due to their ramifications for the public interest. An example can be found in the field of regulation of services of general interest, even in light of its liberalisation²⁶.

5. Good administration principles conceived by the recognition theory: ethics in the new relational paradigm

It is interesting to conclude these preliminary and brief reflections with a summary exploration of Honneth's Recognition theory²⁷. In fact establishing links with this theory could be helpful for further theoretical developments in the field of good administration principles, as principles are derived from values.

Providing an explanation of social and legal phenomena with the help of a philosophical support is in line with the interdisciplinary nature and the receptiveness advocated above. In fact, a philosophical explanation

²³ J Kooiman, Janm, Jentoft, Svein. 2009. Meta-Governance: values, norms and principles, and the making of hard choices. *Public Administration* 87: 818-836 With an important interactive perspective of governance as interactive learning process in hard choices scenarios.

²⁴ König, K., Kropp, S., Kuhlmann, S., Reichard, C., Sommermann, K. P., & Ziekow, J., eds. 2014. *Grundmuster der Verwaltungskultur. Interdisziplinäre Diskurse über kulturelle Grundformen der öffentlichen Verwaltung*. Baden-Baden: Nomos.

²⁵ Always inspiring, Barnes Vázquez, Javier. 2014. La transparencia: cuando los sujetos privados desarrollan actividades regulatorias. In *Ordenación y transparencia económica en el Derecho público y privado*, 77 -124. Edited by Ricardo García Macho, Madrid: Marcial Pons.

²⁶ About a necessary extension of the State concept, see: Pardo, José Esteve. 2012. La extensión del Derecho Público. Una reacción necesaria. *Revista de administración pública* 189 : 11-40.

²⁷ Honneth, Alex. 1996. *The struggle for recognition: The moral grammar of social conflicts*. Translated by Joel Anderson. New York: John Wiley & Sons.

to an administrative new paradigm, as is currently the case, can definitely enrich the legal perspective and mainly make it more adequate for the context.

So as highlighted there is an ethical and civic dimension in the core of the transparency principle, as well as in all the principles of good administration. Beyond them it is possible to appreciate the emerging of a new culture, marked both by the inability of the State to face complex scenarios on its own and a certain citizen's struggle for recognition²⁸.

Recognition, conceived as a vital human need, lies in the identification of subjects and implies the moral substrate of any relationship. In that sense, morality needs the framework of a relation to be possible, but the morality of a relationship depends on recognition²⁹. Arguably the principles of good administration place the emphasis on the full recognition of the citizens within their administrative relations. So that they pose also the reference point for any ethical, fair and democratic administrative action.

Additionally, it has been noted that integrating the idea of recognition in the development of good administration fits perfectly into the so called «dialogic theory of public relations»³⁰. Here following the earliest Parson's work³¹, dialogue appears as the cornerstone of public relations ethics. Likewise, that theory stresses the link between recognition and empowerment, such that dialogue³² confers a qualified status establishing a two-way relational communication.

6. Conclusions

The main purpose of this paper has been to reflect theoretically on the significance of public transparency in the framework of contemporary societies. In fact, the method has been to create new links and new scenarios for this principle and others such as openness. All of it can reach better developments in terms of good administration.

The paper relapsed on the essential condition of interdisciplinary dialogue, especially between the administrative sciences (also called *neighbouring sciences*). It has underlined the idea of risk as a change driver in the public relations paradigm, enlisting a point of no return toward openness and shared responsibilities. The current challenge of administrative democracy and its main issues have also been studied. Through this concept, the paper offers a proper framework where the transparency principle can

²⁸ Bert van den Brink / David Owen eds. 2010. *Recognition and Power. Axel Honneth and the Tradition of Critical Social Theory*. Cambridge: University Press.

²⁹ «Recognition highlights the relational character of morality», see: van Eijck, Jan, and Albert Visser. 2012. Stanford Encyclopedia of Philosophy. Also acces in (<http://plato.stanford.edu/entries/recognition/>)

³⁰ Kent, Michael L., Taylor, Maureen. 2002. Toward a dialogic theory of public relations. *Public Relation Review* 28: 21-37.

³¹ Parsons, R. 1989. *A Theory of Public Relations Ethics*. unpublished Doctoral dissertation, Ohio University.

³² Theunissen, Petra, and Wan Norbani Wan Noordin. 2012. Revisiting the concept “dialogue” in public relations. *Public Relations Review* 38.1 : 5-13.

be further advanced. Finally, this work resorts to the recognition theory, in order to emphasise the moral and relational dimension of all new administrative approaches³³.

In following works it would be very interesting to employ this study as a base point to enter into specific procedural approaches. Those must be capable of channelling the essence of relational, dialogical and ethical rationality that, as discussed, lies in the core of all good administration principles. Similarly, it is reasonable to think of future works in field the of administrative law teaching, which use the some of the issues mentioned above.

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³³ Grunig, Larissa A. 2013. Toward the philosophy of public relations. In *Rhetorical and critical approaches to public relations*, 65-91.

- Flyvbjerg, Bent, Todd Landman, and Sanford Schram, eds. 2012. *Real social science: Applied phronesis*. Cambridge University Press.
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Ethics Infrastructure in Public Administration

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Abstract

Considering the fact that public administration is facing a number of challenges, many governments are dedicated to improving ethical behaviour in public administration. The same issue is also the focus of attention for many transnational associations. The basic goal is to ensure comparable ethical behaviour in different public administrations and develop a comparable, suitable ethics infrastructure to enable this. Modern public administration had to or will have to be able to bring ethicality of conduct to the fore and to resist unethical behaviour – moreover, ethical behaviour will need to be detected, analysed, and properly responded to.

There are different ideas on how to build an ethics infrastructure in public administration, while examples of good practice that could facilitate the decision originate from the public and private sectors of different countries. This article deals with the idea of building an ethics infrastructure based on the framework prepared by the OECD. We present the individual elements of the ethics infrastructure that support its three basic functions: control, guidance, and management. Based on our analysis, we will then carry out a study to determine the impact of an ethics infrastructure on the ethicality of the conduct of public officials.

Key words: ethics, ethics infrastructure, public administration, civil service ethics, ethical system

1 Introduction

Public administration is a social subsystem that has a significant impact on the functioning and development of society. With its position, role, and competence, public administration directly or indirectly determines the principles of sound business, to which it is also subject itself. In public administration, work is defined through the legality of conduct as the basic principle, but in addition to this normative regulation it is important to encourage administrative ethics as the regulator and internal activator of the public official's conscience. The role of ethics in public administration is reflected in two elements: ethical behaviour and ethical decision-making. It is arguably important for public officials to behave ethically and enhance their expertise, responsibility, and objectivity with an ethical dimension. However, ethical decision-making is equally as important for the credible functioning of public administration.

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Through the powers granted to them, public officials have discretion to make decisions. The role of ethicality in decision-making is particularly prominent in cases where a specific dilemma is not (yet) defined in a regulation. This means that the legislator has not yet anticipated certain matters, issues, or relationships. On the other hand, it is clear that it is impossible to define in advance every single relationship or state. In such cases, public officials are required to make a decision to the best of their knowledge based on the powers granted to them and in accordance with the legislation. This means that they have to make a decision between two or more possible solutions or to formulate the best solution independently. Decisions that public officials make (and are required to make) based on their own consideration only serve to underline the significance of ethics in public administration. The issue of ethics in public administration is thus present on two levels. Firstly, there is the lack of the right tools or instruments (the ethical infrastructure) to introduce ethics into the various bodies of public administration for the purpose of ensuring the ethicality and compliance of their operations as well as preventing or reducing the unethical conduct of and in the public administration. The second issue is in the lack of familiarity with the contents, possibilities, and requirements of said tools and instruments and the lack of communication and encouragement in transferring these mechanisms into practice.

The article deals with the issue of ethical infrastructure in public administration, its role and functioning in practice. Based on the above, we have also prepared a study to verify whether ethical infrastructure actually affects the ethicality of the conduct of public officials.

2 Ethical Behaviour in Public Administration

The administrative work done by public officials is the core of their profession, intended for settling normative and administrative matters and connecting a variety of professional tasks to realise the projected social goals. By preparing expert proposals for the decision-making process of the competent organs on one hand and implementing these decisions in real social life on the other hand, public officials directly involve themselves in social situations, introducing their professional views and subjective assessments regarding the regulation of normative contents. By doing so, they affect the contents, the manner of regulating social relationships and the implementation of the constitution and legislation, as well as the protection of the legal system (Boštic, 2000, p.10).

Civil servants work in an ever-changing environment. On the one hand, there is increasing demand by citizens; on the other, limitations are imposed by the requirements to reduce public spending. This applies to financial, material, and human resources. Civil servants assume more and more tasks that are the result of the expansion of their competences, the increased market-orientation of the public sector, and the responsibilities entailed by the new legislation.

The OECD has long expressed a lot of need to improve ethical conduct in the public service. In the document Recommendation of the Council on improving ethical conduct in the public service including principles for managing ethics in the public service OECD Member countries have introduced significant management reforms which have changed the way the public sector operates. It maintains that of further concern is the apparent decline in confidence in government and public institutions in many countries, and the implications this has for the

legitimacy of government and public institutions. Weakening confidence is associated, at least in part, with revelations of inappropriate actions - and in some cases outright corruption - on the part of public officials. Some remedial measures, broadly speaking, have the potential both to promote ethical behaviour and to prevent misconduct.

Menyah means (2010, p.5) that some of the most common ethical dilemmas with which public servants are confronted, revolve around aspects such as: administrative discretion, corruption nepotism, administrative secrecy, information leaks, public accountability, policy dilemmas. According to Hanekom et al. (1990), the most common unethical problems in public sector are:

- bribery, nepotism, and theft
- conflict of interests
- misuse of insider knowledge
- use and abuse of confidential information for personal purposes
- public responsibility and accountability
- corruption
- the influence of interest and pressure groups and so on.

The key question in general is how to support public officials in their pursuit of the highest standards of integrity and ethics in the rapidly changing environment of the public sector without weakening/destroying/undermining the main purpose of public administration reforms, whose goal is to improve the effectiveness and performance. This could be achieved with the help of a good ethics infrastructure, declarations on values, such as codes of conduct, and professional socialisation activities, such as training and education.

“The ethical dilemma is to distinguish between what is right and what is wrong, and what seems to be right but is indeed wrong” (Gildenhuis, 2004). The real problem in ethics management is not the lack of proper tools or instruments which managers should implement in their institutions in order to prevent or diminish unethical issues, but the lack of an adequate communication and dissemination of these mechanisms. For example, we have codes of ethics, but in many cases, if you ask the employees or even the managers themselves they do not know where exactly they can read these codes or what these codes really refer to (Puiu Silvia, 2014, p.606).

Despite the long-standing use of ethics codes, there is no dearth of ethical problems in government and private organisations. Ethical lapses make the news on a daily basis. When they occur in the public sector, they are not only news fodder, but are likely to become major contributors to citizen distrust of government. The question, then, is what tools are available to help build or ensure ethical competence. (Meine & Dunn, 2013, p.150).

3 Ethics Infrastructure

An ethics infrastructure is a set of tools, processes, institutions and other mechanisms that contribute to the prevention of unethical conduct in a specific area of human activity, in an organisation, institution, etc. The phrase “ethical infrastructure” itself indicates that it concerns the basic foundation and tools for the implementation of

ethics (in practice). Only a well-functioning ethical infrastructure encourages the desired behaviour of stakeholders (Stanek, 2015). The term 'ethical infrastructure' was originally coined in the United States to refer to policies and structures that support compliance with professional conduct rules (Parker et al., 2008, p.163.)

The combination of ethical standard setting, legal regulation and institutional reform has been called "the ethics infrastructure" or "ethics regime" or "integrity system". Each part is a source of public sector ethics; in other words public sector ethics emanates from several different sources. These sources range from the private ethical character of the individual public servant, via the agency-internal regulations and culture of the agency and national legislation, to international conventions with written standards and codes of conduct. The most efficient ethics regime is when these three sources work in the same direction, in parallel. We will look at each of these sources of ethical conduct in the reverse order. (Amundsen et al., 2009, p.13). An infrastructure approach implies a comprehensive view of ethics where the various elements complement each other holistically. They constitute a whole and need to function in harmony. Concentrating on one single element does not help. (Focus, 1998, p.1).

Searching for answers on how to protect common values, international institutions have enhanced the legal (convention) standards with ethical standards and an ethics infrastructure; these provide sample solutions for administration and control, serving as the common foundation for the development of public ethics and integrity in the member states. For instance, the OECD has prepared sample codes and proposals for structural measures, which serve as global guidelines for administration, resolution of ethical dilemmas and, consequently, the promotion of integrity in the different fields of the public and private sector (Kečanovič, 2012, p.158).

Various studies and research address the infrastructure ethical questions in different ways. The Office of Public Values and Ethics (2002) analysed individual aspects of ethics and ethical infrastructure in the public administration in Australia, Canada, Denmark, United States, New Zealand, and the United Kingdom. It analysed the framework for the functioning and development of public administration (Statement of Values, Code of Conduct, Promotion of Values, Controlling Wrongdoing and Coordination and Evaluation). Based on research an ethics infrastructure generally includes the following elements: a statement of values or principles, standards of conduct, tools to promote and raise awareness of values, control of wrongdoing, and management and evaluation of values and ethics programmes. Nevertheless research about influence of ethics infrastructure on ethical behaviour in public administration are rare, while in private sector we can find several conclusions and results from greater amount of research. One of the rare research in public administration is done by Garcia- Sanchez et al. (2011). Their results are disappointing since they found out that there is no influence of codes on corruption problems in the public context, both in developed and developing countries. The most determining factor is the level of education in the control of corruption, especially in developing countries.

In 1996 PUMA (OECD, 1996) identified factors affecting standards of ethics and conduct in the public service and initiatives taken by governments to strengthen ethics management frameworks. PUMA distilled from this the idea of an ethics "infrastructure" consisting of eight elements serving three functions that are capable of acting together to create an operating environment conducive to ethical conduct:

- political commitment;

- a legal framework;
- accountability mechanisms;
- codes of conduct or statements of values;
- professional socialisation;
- public service conditions that are conducive to ethical behaviour;
- ethics co-ordinating bodies; and
- public involvement and scrutiny.

A well-functioning Ethics Infrastructure supports a public sector environment which encourages high standards of behaviour. Each function and element is a separate, important building block, but the individual elements should be complementary and mutually reinforcing. The elements need to interact to achieve the necessary synergy to become a coherent and integrated infrastructure. The elements of infrastructure can be categorised according to the main functions they serve – guidance, management, and control – noting that different elements may serve more than one function (OECD, 2000, p.77). Guidance is provided by: strong commitment from political leadership; statements of values such as codes of conduct; and professional socialisation activities such as education and training. Management can be realised through co-ordination by a special body or an existing central management agency, and through public service conditions, management policies and practices. Control is assured primarily through a legal framework enabling independent investigation and prosecution; effective accountability and control mechanisms; transparency, public involvement, and scrutiny. The ideal mix and degree of these functions will depend on the cultural and political-administrative milieu of each country.

Drawing on the experience of its Member countries, the OECD has identified the institutions, systems, tools, and conditions that governments use to promote ethics in the public sector: the necessary elements and functions of a sound ethics infrastructure (Bertok, 1999, p.1). A well-functioning Ethics Infrastructure supports a public sector environment and encourages high standards of behavior. Each function and element is a separate, important building block, but the individual elements should be complementary and mutually reinforcing. The elements must interact to achieve the necessary synergy to become a coherent and integrated infrastructure.

The success of ensuring a better ethical environment depends on the proper management of the entire ethics infrastructure (Focus, 1998, p.1). Larbi (2001) argues that Political commitment to ethics reform is a key requirement for the effectiveness of other elements of the ethics infrastructure.

4 Research methodology

The research is planned to be done in two steps. In the first step the evaluation of ethics infrastructure in public administration will be done. In the second step the influence of the ethics infrastructure on civil servants behavior will be tested.

In the first step the evaluation of ethics infrastructure in public administration is done according to the eight elements determined by OECD. Since the pair of elements consist three functions and two elements stand for their own (see OECD, 1996, p. 6), we decided to grade both general elements and three functions by the grade from 0-20 points, so the total maximum grade for the ethics infrastructure can reach 100 points. For each function we determined four factors/statements (two per element) and for each general element also four statements, that should be fulfilled if we want that the element gained point 20. If nothing is fulfilled than the grade is 0. We grade each statements with 5 points that means if the statement stand in practice than we use 5 points, if not there is 0 points for the statement. The statements are presented in Table 1.

Table 1: Determinants for evaluation of ethics infrastructure

Two general elements (external elements)	Political commitment	The leading political party put the ethics in their program
		The political coalition put ethics into agreement
		At least one of the government goals include the importance of ethic behavior
		There was at least one case in last five years that a working body or process to either investigate a scandal and/or make recommendations for new ethics initiatives.
	Public involvement and scrutiny	The existens of ngos that occasionally monitor ethical behavior
		The ethics standards are published
		Transparency of decision making (informing the public)
		Openness in administration (i.e. Public access ti recirds of the meetings etc.)
The first function: Control	A legal framework	There is a court practice of prosecution of unethic behavior according to accepted laws
		There is a practice of sanctions against unethic behavior
	Accountability mechanisms	Control mechanism (i.e. Double control of the decision making, advisory committees etc.)
		Consistency of work framework
The second function: guidance	Codes of conduct or statements of values	There is ethics code of conduct
		Values are clearly determined
	Professional socialisation	Training on ethics is conducted
		Ethics is part of curriculum in education of civil servants
The third function: management	Public service conditions (internal)	Human resource policies promote ethics by ensuring fair and equitable treatment of Employees
		There is an appropriate procedures of reporting the wrongdoing
	Co-ordinating body	There are special committies for ethics
		There are practice of sanctions for wrong doing

Source: own determinants using OECD model

We evaluate the first two elements for the whole country, since the functions are evaluated for different organizations in public administration: state, local government and public institutions.

After the evaluation of ethics infrastructure of selected public administration the influence on civil servants behavior is tested. The second part of the research is still going on. We started with the survey among 500 public officials to determine their behavior. The survey was built according to questionnaire on the ethical climate developed by Cullen and Victor (1987). At the same time interviews among selected group of civil servants is going on for gaining better response.

After collection of the data from survey and interviews the statistics will be used to evaluate the influence of ethics infrastructure using correlation coefficients and different models.

6 Conclusion

As mentioned the main purpose of these paper is to present the ongoing research. There is a lot of work already done and some conclusion can be already made. In Slovenia political commitment, legal framework and function guidance can be graded very high in most parts of public administration, while other elements are performed poorer. There are some indices that several elements influence public servants behavior, but we are not determined if the influence is statistically proved. Similar to some other research it could be concluded that despite well developed ethics infrastructure, the values of the person are more important for their ethical behavior. It is still too soon to make the same conclusion for the Slovenia, but final results will bring more adequate conclusion on the topic.

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