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ACCOUNTABILITY MANAGEMENT IN INTERGOVERNMENTAL PARTNERSHIPS

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For further information, please contact Ms. Elke Löffler,
Tel (33-1) 45 24 90 76, Fax (33-1) 45 24 17 06, E-mail elke.loeffler@oecd.org

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ACCOUNTABILITY MANAGEMENT IN INTERGOVERNMENTAL PARTNERSHIPS

by Elke Löffler*

Abstract: Forces of globalisation and localisation are inducing national governments to shift many tasks upward to international organisations and similar organisations as well as downward to provincial and local governments. Mismatches between financing (revenue and expenditure capacities), policy and management competencies can give rise to accountability problems. Emerging “performance partnerships” between levels of government are a promising tool that could transform these agency relationships into contractual arrangements that reduce agency and co-ordination costs. This paper identifies different types of intergovernmental partnerships, analyses the weaknesses of their accountability management and points out solutions to strengthen accountability of intergovernmental partnerships.

Accountable Partnerships between Levels of Government

Introduction

The purpose of the paper is assist decision-makers in the public sector to select the appropriate contractual framework for intergovernmental partnerships.

The paper is divided into three sections: It starts with a discussion of accountability problems of intergovernmental service delivery by drawing on examples from OECD Member countries. The second part of the paper analyses the accountability management of different intergovernmental partnerships. The last part considers under what circumstances relational intergovernmental contracts should be turned into legally enforceable contracts.

This paper offers an analytical review on the nature of contracting arrangements between levels of government and considers strengths and weaknesses of these arrangements in addressing issues of performance accountability. The analytical framework of the paper is based on principal-agency theory.

The analysis mainly focuses on five intergovernmental case studies that were compiled at an OECD expert meeting in co-operation with the Research Institute for Public Administration in Speyer, Germany. The approach used for the production of the case studies was innovative, using the perspectives of representatives of various levels of government. A “neutral” expert with experience in the field put the case study in a broader context and assured a balanced assessment of the partnership.

The intergovernmental case studies used in the paper are the following:

- *Switzerland:*
Devolution of Education Policies from the Federal Government to the Cantons in Switzerland
- *Sweden:*
Devolution of Labour Market Programmes from the Central Government to the Local Level in Sweden
- *United States:*
The National Environmental Performance Partnership System (NEPPS) between the States and the US Environmental Agency
- *Spain:*
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Part 1: Accountability Problems of Intergovernmental Service Delivery

Globalisation and Devolution Driving Allocational Shifts between Levels of Government

International, national and subnational levels of government operate in an increasingly global market with a high mobility of capital, people and ideas. This brings up new public policy issues but also raises anew the question of the future role of centres of government. The opportunities offered by globalisation enhance the capacity of governments to deal with problems on an international scale that they previously could not confront with domestically designed policies.

At the same time, the role of the national government is changing to give way to new networks as international co-operation emerges at all levels of government (national and subnational) and among all types of organisations (public organisations, business and so-called third sector organisations). There is more and more pressure on governments to make public administration more responsive to the citizen and to give expression to primary group attachments - linguistic and cultural ties, religious connections, historical traditions and social practices. As a result, governments are faced increasingly with the demand of their people "to be both global consumers and local citizens at the same time" (Watts, 1996:4f.).

There is, in other words, *a double movement of globalisation on the one hand and devolution on the other*. The United Kingdom's current "double constitutional problem devolution and Europe" (Leicester, 1998) illustrates very well that globalisation and devolution are two sides of the coin: At the European level, the political debate centres on the extent to which sovereignty is to be shared externally with other nation states. At national level, it resolves around the question as to how it should be shared internally, within the nation state.

The current trends of globalisation and devolution give the traditional debate on centralisation and decentralisation a new momentum and quality: Changed environments raise the classical question of fiscal federalism: which distribution of responsibilities conform with the principle of subsidiarity and is in balance with the distribution of revenue and expenditure capacities? The new question is what are the appropriate accountability structures and instruments to manage shifts of responsibilities to a different level of government?

The transfer of policies and administrative tasks to higher or lower levels of government is not only an issue of sound change management. In the case of administrative decentralisation, the original level of government remains accountable even after transferring administrative tasks to higher or lower orders. Nevertheless, the central level of government can no longer control the performance of the service delivery by itself, which implies that *accountability has to be shared between levels of government*.

Traditionally, in most federal states, constitutions require a substantial portion of federal law to be administered by the states. This kind of administrative decentralisation now takes place in other non-federal OECD Member countries, where the national government passes many administrative obligations to subnational levels of government. The primary tool for this kind of devolution may be block grants and waivers, that give subnational levels of government new amounts of latitude in pursuing intergovernmental programmes. This new latitude raises concerns about the extent and certainty of accountability for results.

Examples

Improving the accountability management of *policies and service delivery cutting across different levels of governments* is considered to be an issue of high priority in many OECD Member states:

- *The German “Lean State” Advisory Council* recommended to reduce the system of joint financing as it blurs accountabilities and necessitates a great deal of administrative effort (Geschäftsstelle des Sachverständigenrats “Schlanker Staat”, 1997:30). This recommendation referred to government activities such as housing, new universities and economic promotion which became common tasks of the Federation and the Länder with the amendment of Art. 91a and Art. 91b in the German constitution in 1969.
- The same line of criticism can be found in the *Decentralisation Promotion Plan* which was adopted by the *Japanese Government* on 29 May 1998. It stipulates that an excessive co-operation and fusion of functions of central and local governments have undermined an efficient and effective performance of the public sector (Furukawa, 1998).
- The *Government of Canada* redesigned federal and provincial responsibilities in the labour market sector (Canada Employment Insurance Commission, 1997: 19-26). Part II of the Employment Insurance (EI) Act permits provinces and territories to design and deliver their own labour market programmes through *partnership agreements with the Minister of Human Resources Development*. Any provincial or territorial government preferring not to assume the full responsibility for the design and the delivery of the active employment benefits and measures could, alternatively, choose to formalise co-management arrangements. Agreements negotiated to date reflect both these models.

Accountability problems also exist for *municipal service provision* in the case where municipalities transferred responsibilities to single and/or multi-purpose agencies:

- The Netherlands is an illustrative case because it has many intermunicipal arrangements. The Act on Intermunicipal Arrangements (Wet Gemeenschappelijke Regelingen, WGR) has stimulated the establishment of intermunicipal arrangements. Although many services are provided via such pre-selected partner WGR arrangements on the basis of assumed economies of scale, the relative efficiency has not yet been analysed. However, serious accountability problems give rise to the assumption that such intercommunal arrangements are a relatively inefficient way of municipal service provision (see in detail, Boorsma and de Vries, 1998): The board members of the intermunicipal authority will normally consist of some aldermen from participating cities who have no incentive to monitor the performance of the intermunicipal. The members of the council of a partner city will not control the autonomous intermunicipal either. They only have to pay for part of the total outlays of the intermunicipal, which have to be weighted against the benefits of services that are spread over all the participating cities. The consequence of the weak accountability structure is that no party will feel responsible for the total outlays as compared to the total benefits.

The tension between federal level concerns for the creation of control systems and the desire for autonomy of subnational levels of government is a well-known phenomenon for federal systems. However, concerns about accountability of delegated responsibilities should be more pronounced in multilateral settings than in federal or “regionalised” structures. The reason is that more and more policies are no longer the exclusive responsibility of national and subnational government but they are still held accountable for these policies by their citizens. The critical importance of global governance is to assure democratic and managerial accountability for administrative obligations that are removed further and further from the citizenry. The abundant rhetoric about “intergovernmental partnerships” indicates a new concern for accountability in the light of globalisation and devolution.

Definitions and Focus of the Study

The aim of this study is to analyse how shifts of administrative responsibilities can be managed in such a way to ensure that the transfer of authority from one government level to another pursue performance accountability.

This means that the study will mainly focus on *administrative decentralisation* as opposed to legislative/political decentralisation and financial/tax decentralisation. Likewise, administrative tasks may be transferred to higher levels of government. The table below gives an overview of different kinds of delegations of power, authority and the ensuing accountability relationship between the central government and other levels of government.

Table 1: Types of Delegations of Power and Authority - An Overview

Cases	Delegation of Power	Delegation of Authority	Lines of Accountability	Example
Clear separation of power	Power to make strategic policy decisions and to raise finance via taxes and borrowing within the constitutional/ legislative framework	Authority to implement strategic policy decisions and to incur expenditure	Accountability to the public for performance and expenditure	Devolution of education policy to the Cantonal level in Switzerland
Shared power and authority	Power to make operational policy decisions within the strategic policy framework provided by central government and to raise finance via taxes and borrowing within the constitutional/ legislative framework	Authority to implement operational policy and to incur expenditure	<i>Accountability to central government and the public for performance and expenditure</i>	“National Environmental Performance Partnership System” in the United States
Shared authority	Power to make operational policy decisions within the strategic policy framework and finance provided by central government	Authority to implement operational policy and to incur expenditure	<i>Accountability to central government and the public for performance and expenditure</i>	Partnerships between the central Government and the National Health Service in the United Kingdom
Clear separation of authority	(little power to make strategic or operational decisions or to raise finance)	Authority only to implement strategic and operational policy within the finance provided by central government	Accountability to central government for prescribed performance and finance provided	“Next Steps” Agencies in the United Kingdom

Source: Malcolm Morley, modified by the author.

The study will mainly deal with scenarios described in lines two and three of the above table where the central government delegates limited political powers but full authority for the implementation of these policies to other levels of government. Whereas in scenario two, the transfer of power and authority includes revenue raising powers, the transfer of power and authority in scenario 3 takes the form of an intergovernmental grant. An example for the former is the National Environmental Performance Partnership System (NEPPS) in the United States (see Löffler and Parker, 1999); the latter form of delegation is represented by the partnership between the central government and the National Health Service in the United Kingdom (Department of Health, 1998:2-3). However, in both cases, the other level of government/administration is accountable both to the central government and to the public. This type of partnership relationship between two or more autonomous bodies will be at the centre of the study.

The first row reflects cases of a clear separation of political power and administrative responsibility, including the financing and spending capacity between levels of government. This scenario is currently the aim of the new fiscal equalisation system project in Switzerland (see Buschor, Hofmeister and Junod, 1999). Also Scandinavian countries have to a large extent a clear distribution of powers and authority between the central and local government. It is evident that in this case no problems of blurred accountabilities exist. Nevertheless, as the devolution of education policies to the Cantonal level in Switzerland shows, devolution of policies to lower levels of government may require a high degree of vertical and horizontal co-ordination. The fourth row presents the opposite scenario: A given level of government only transfers narrowly defined administrative tasks within a specified financial and performance framework to another administrative level. A typical example of such a client and contractor-relationship are the Next Steps Agencies in the United Kingdom. In this case, the performance targets will usually be set by the client. This case is of less interest for this study as it refers rather to classical performance contracts than to partnership contracts.

The study approaches this globalisation - devolution debate from an *intergovernmental perspective*. Administrative tasks may not just be reallocated between different levels of government and administration but they may also be transferred to the private sector and the non-profit sector. As a matter of fact, the new focus of think tanks on “public-private partnerships” and third sector organisations indicates that decentralisation has to be seen in a wider governance context. However, for pragmatic reasons it was necessary to limit the analysis to the area of partnerships between levels of government. This includes international and supranational levels of government, the central government and subnational levels of government as well as administrative levels.

Since the key concepts of this study -- partnerships and accountability -- are both very vague it is necessary to provide a clear definition of these terms. In particular, partnership has become a buzz word to mean anything from symbolic partnerships, relational contracts between two autonomous parties to legal contracts between levels of government. This raises the question how partnership arrangements differ from client-provider contracts in an intergovernmental context (see also Armstrong and Lenihan, 1999:13-14).

Definition

Client-Provider Contracts

This kind of performance contract can be found between government and the private or third sector or in hierarchical relationships within the public sector. The client specifies the tasks it wants performed and pays the partners for performing them. Negotiating these arrangements revolves around defining the terms of the contract. Managing them is about ensuring that the partner complies with the terms. In contrast to partnership agreements, client-provider contracts do not involve sharing power or decision-making.

Intergovernmental Performance Partnerships

This kind of performance contract is made between two or more autonomous parties within the public sector. Traditionally, intergovernmental partnerships have tended to be some sort of cost-sharing arrangements. In intergovernmental performance partnerships, both parties define jointly performance targets for the services to be delivered and also evaluate jointly the performance of the partnership arrangement. The management of intergovernmental performance partnerships goes beyond classical performance contracting because it involves joint performance specification and joint evaluations within a framework of shared decision-making.

Any accountability relationship -- regardless whether in the public sector or in other social contexts -- always presupposes some delegated authority. In the public sector, however, accountability has a very distinct meaning as it is the basis for democratic societies. *What delegated authority in the public sector has to be accountable for and against who differs from country to country* (see the proceedings of the Performance Management Activity Meeting, 24-25 November 1997 on accountability and public organisations under <http://www.oecd.org/puma/mgmtres/pac/account/index.htm>).

Yet, in all OECD Member countries, *the concept of accountability has been changing and broadening over the years from a rather narrow technical focus on financial accountability and compliance with rules and regulations to accountability for results*. This new dimension of accountability does not only challenge control bodies such as audit courts (on the issue of "Performance Auditing", see OECD, 1996), but also the accountability management of different levels of governments. It is evident that in OECD Member states where public policies are implemented through an array of intergovernmental arrangements outcomes cannot be attributed to a particular level of government. This means that accountability for outcomes has to be shared among different levels of government (Hatry, 1997:38). In the future, the outcome-measurement movement could become another driving force to encourage levels of government to redesign their accountability management.

In order to capture this new dimension of shared accountability in the paper, accountability information is confined to information on outcomes as outputs can be attributed to individual levels of government. This does not imply that the criterion of purposefulness is imposed on the principle of legality. It rather depends on the legal and cultural framework of each OECD Member country to decide in which areas results-oriented accountability can complement or even substitute input-oriented accountability. With regard to the application of results-oriented accountability in Switzerland, the lawyer Mastronardi and the economist Schedler (1998) argue that for many tasks of the enabling state accountability is better secured through the definition of goals than through procedural rules. For example, even though all social welfare recipients are given the same amount of welfare payments, the actual assistance they receive in terms of responsiveness and effectiveness may differ across jurisdictions. In this case, purely input-oriented accountability may not secure equal treatment. However, as far as the relationships of the public administration to third parties is concerned, the principle of legality has to remain valid. The principle of legality implies the definitions of conditions and procedures in order to protect legal equality and legal certainty. The extent to which the legal framework emphasises the Rechtsstaat differs across countries.

Principal-Agency Theory as Analytical Framework

The analysis of the transfer of administrative responsibilities to higher or lower levels of government will be based on a principal-agency framework. This theoretical choice can be justified on the grounds that principal-agency theory addresses the issue of delegation and the resulting problems of control. Thus, it promises to identify instruments and structures to manage shared accountability between two levels of government.

Definition

Principal-agent theory can be defined as an economic theory of co-operation with respect to the utilisation of scarce resources in a world where externalities and imperfect information prevail. The starting point of principal-agent theory is an agency relationship which is characterised by one party (the agent) acting on behalf of another party (the principal). The rationale for agency relationships is specific information and skills advantages of the agent with regard to the task to be carried out. An agency problem arises when the agent does not act in the interest of the principal and the question arises how the principal can motivate the agent to behave in such a way as desired by the principal (see Milgrom and Roberts, 1992:214ff.).

The monitoring costs of the principal, the signalling costs incurred by the agent and the remaining welfare loss from opportunistic behaviour of the agent give rise to agency costs. Other welfare losses arise from incomplete contract specification due to bounded rationality, which makes it impossible to anticipate all future risks, including market risks, at the time “the deal is made”. First-best solutions cannot be realised in general because of incomplete information. As complete monitoring of the agent’s activities would be too costly, principal-agency theory focuses mainly on the problem of indirect steering of the agent’s behaviour through *incentive contracts*. The efficiency criterion for the structure of contractual arrangements is the minimisation of agency costs. This implies that the economic analysis of contractual arrangements of agency relationships are at the centre of principal-agent theory.

The application of principal-agent theory to intergovernmental partnerships is not straightforward as the former supposes a transfer of tasks between two partners with an unequal power relationship whereas the latter is based on a delegation of responsibilities between two equal partners. In other words, principal-agent theory seems to be the appropriate analytical framework for client-contractor-relationships where the agent has no power to make strategic or operational policy decisions. Partnerships, however, suppose that both parties are autonomous (see Sommermann, 1999), which suggests that both parties are “principals”. A principal-agent framework seems to be particularly problematic in the case of horizontal partnerships (for example, intermunicipal associations).

Yet, the analysis of intergovernmental partnerships within a principal-agent theory framework can be justified on two grounds: In the case of vertical intergovernmental partnerships, there will in general be an imbalance in terms of political and financial power even if both parties are legally autonomous (such as two orders of government). In the case of horizontal partnerships, there is a transfer of administrative responsibilities to a new administrative body/level, which can to be considered as an agent. A good illustrative example is the administrative co-operation in the Euroregion Neisse-Nisa-Nysa where regional municipal associations transferred cross-border tasks to a new administrative organisation consisting of trilateral governing bodies (see Jeřábek, Sliwa, Vidláková and Watterott, 1999).

How can the welfare losses arising from agency costs and uncertainty be reduced? The concept of “intergovernmental performance partnerships” suggests to transform inefficient agency relationships into contractual relationships, which are based on the following elements:

- a) *joint specification* of expectations of performance;
- b) reporting of valid and reliable information on what was achieved;
- c) *joint evaluations* whether pre-determined expectations have been met and
- d) feedback on the performance achieved as well as maintaining responsiveness through positive incentives or negative sanctions.

In contrast to the classical performance contracts, the concept of performance partnerships implies that the specification of the contract and the evaluation of the contract are not to be carried out unilaterally by the

principal. In political reality, however, imbalances of political and financial power will give the principal incentives to impose performance targets on the other contracting party. Indeed, this behavioural problem is also one of the chief bottlenecks of the NEPPS in the United States as the states and the Federal Environmental Protection Agency disagree on the extent to which core performance measures are mandatory for NEPPS and non-NEPPS states (Löffler and Parker, 1999). The following section will give more details about accountability problems of different kinds of intergovernmental partnerships.

Accountability Management in Different Kinds of Intergovernmental Partnerships

Types of Intergovernmental Partnerships

The selection of case studies has been guided by empirical observations about the main contents of (vertical or horizontal) intergovernmental partnerships. Three categories of resource problems can be distinguished that give rise to intergovernmental partnerships (see also Lundqvist, 1998):

1. *Joint production of public services:* These partnerships aim at the *efficient use of available resources* by making use of *economies of scale*. They jointly create public or mixed goods (for example, infrastructure investments, the establishment of transportation and communication facilities).
2. *Regulation of a common pool:* This type of intergovernmental partnership involves the joint management of common pool resources (for example, natural resources and land use) in order to assure *resource sustainability*. Individual jurisdictions might overuse the resources and create negative external effects so that it is necessary to limit the usage and to establish recognised rules of distribution.
3. *Pooling of resources:* This category includes intergovernmental partnerships with the *aim to mobilise resources* as individual actors are not able to produce an optimal amount of that good. The reason is that individual actors are unable to capture the benefits from the provision of a good/service because of positive external effects or the resources of individual actors are simply insufficient to provide the desired service/good at all. For example, in metropolitan areas, a city is unlikely to bear the investment costs of a swimming pool by itself as the surrounding cities would benefit from this facility as well.

It is evident that existing intergovernmental partnerships are often established to solve several resource problems at the same time. For example, the devolution of labour market programmes from the central government to the local level in Sweden (see Hellstrand, Joyce and Sjölander, 1999) can be considered as a “common pool”-partnership (guarantee of a national labour market) as well as a “joint production”-partnership (joint provision of labour market programmes). As will be shown, the existence of different objectives within an intergovernmental partnership will inevitably cause accountability problems. Nevertheless, for analytical purposes, it seems to be legitimate to focus on the dominating resource problem of the partnership case studies. This does not exclude that attention is also given to accountability problems resulting from the co-existence of several resource problems within an intergovernmental partnership.

Accountability Management in Joint Production-Partnerships

“Joint production”-partnerships are characterised by the co-operation of two or more jurisdictions in order to produce goods or services together. This usually involves the establishment of some kind of common organisation which acts on behalf of the “principals”.

As “joint production”-partnerships are output-oriented *the specification of performance targets is relatively easy*, especially since “joint production”-partnerships will in general focus on industrial services. It is evident that in the case of personalised services, economies of scale are much harder to achieve. This implies *that output-oriented performance information can be expected to be readily available*. However, *joint performance evaluations between the principals and the agents of the “joint production”-partnership as well as the use of effective (positive or negative) sanctions are often missing* due to inappropriate accountability structures.

An example of the characteristic accountability problems of “joint production”-partnerships are the *mancomunidades* in Spain, which are municipal multi-purpose associations (with a possible participation of the third sector). Especially small municipalities in rural areas use this intergovernmental arrangement for the purpose of joint service delivery. The *Uribe-Kosta Services Partnership in Metropolitan Bilbao* illustrates very well the accountability problems arising from traditional agency relationships (see Parrado Díez, Gutiérrez Suárez and Font, 1999).

The Uribe-Kosta Services Partnership (UKSP) delivers a wide range of services, including waste management, social services, consumer information and protection of the Basque language. Over the time, the UKSP has taken over more and more municipal tasks. The great variety and the nature of the services provided by the UKSP has two negative implications for accountability management: First, accountability expectations of the “principals” are mainly political as elected political leaders have a great interest in the affordability of social and cultural services for their electorate. Secondly, the management of the UKSP is not very professional and rather weak as municipal councillors have great incentives to micro-manage the UKSP. The wide spectrum and the non-technical nature of the services also provides them with many opportunities to interfere with operational management. *Mancomunidades* even give rise to financial and legal accountability problems as members try to evade from their contributions. The recurrent problem with the financial commitment of municipal members in *mancomunidades* made the Province of Biscay pass a special law in order to punish “free-rider behaviour”.

Accountability Management in “Joint Production”-Partnerships

Weaknesses:

In general, the owner jurisdictions will have a strong political interest in the services provided by the “joint production”-partnership so that the managerial accountability tends to be weak. In most cases, the governing body of the partnership is appointed by the political majorities of the member jurisdictions so that there may be a conflict of interests. In addition to this, the management of the partnership tends to have only little managerial autonomy, which often goes hand in hand with insufficient professional staff. All in all, weak managerial autonomy of the “agent” and weak managerial accountability management of the “principals” will result in inefficient production.

Actions to be taken:

In order to ensure efficient behaviour of the governing body, a competitive environment has to be created (ranging from market competition, managed competition to forms of quasi-competition like benchmarking). Performance contracts between the owner jurisdictions and the appointed governing board have to assure that the board acts on the basis of well-specified accountability expectations. The specification of citizen's charters with the participation of citizens assure that the performance targets of the "joint production"-partnership integrate technical, political and well as user expectations. There also has to be a management body with a sufficient degree of managerial autonomy. Performance contracts between the governing board and the management body have to assure managerial accountability. The establishment of financial accounting and management accounting systems enable the governing body to monitor the managers' performance. The inclusion of the "joint production"partnership into a system of contract management will make sure that the principals' long-term objectives are specified and pursued by the institution.

Even though none of the partnership case studies represents this kind of "contractual production partnership" in pure form, the *Greater Bilbao Water Partnership can be considered as a promising good practice* (see Parrado Díez, Gutiérrez Suárez and Font, 1999). Consortia are one-purpose associations between municipalities and higher levels of government, often with the involvement of the private sector. Most types of consortia have a general manager who is accountable to the politicians of the governing body. Because of the technical nature of the service provided by consortia, politicians interfere less with management decisions.

The Greater Bilbao Water Partnership represents a vertical intergovernmental partnerships with a highly decentralised structure of control. The 19 founding municipalities and the other 24 municipalities which joined the partnership later have voting powers to make strategic decisions as well as executive powers to monitor the performance of the management body of the GBWP. The management that provides the governing board with timely financial information as well as on outputs. Information on outcomes is weak due to the dispersion of administrative responsibilities in this field. With the provincial government being the most important financial contributor to the partnership it uses its financial power to determine the overall policy and sanction bad performance of the consortium's management. This is clearly a second-best solution compared to the definition of positive and negative incentives in a complete performance contract for the managers of the Greater Bilbao Water Partnership.

The problem is that not all "paying jurisdictions" are represented on the governing board. With the geographical extension of the water partnership throughout the Province of Biscay and increasing provincial financial contributions the provincial Government has initiated changes in the governance structure of the GBWP. So far, the provincial level of government has had neither voice nor voting power in the consortium. Also other "principals" making financial contributions to the GBWP such as the European Union are not represented on the board. What is needed is a more comprehensive partnership contract between these various levels of government that defines performance expectations and provides for effective sanctions.

Accountability Management of "Common Pool"-Partnerships

This form of intergovernmental arrangement has the purpose to manage jointly some common pool. The most typical examples are land use planning, environmental protection and the regulation of some local public goods. Due to administrative decentralisation, this kind of intergovernmental partnership becomes more and more common. This means that higher levels of government transfer competencies to lower levels of government in order to allow for a better match between "regional" preferences and national demands.

A good example is the devolution of labour market programmes to the local level in Sweden (see Hellstrand, Joyce and Sjölander, 1999). Especially in times of high unemployment the Swedish Ministry of

Labour has made use of this possibility as a kind of crisis management. The management of labour market policies in Sweden is determined by two considerations: On the one hand, the task of the employment offices is to assist workforce that cannot find a job locally to find a job in other parts of the country. On the other hand, jobless workforce may become attractive for the local job market after adopting the appropriate skills profile through some local labour market programme. Local governments do not only have information advantages regarding the appropriate placement of unemployed in labour market programmes but also have a financial interest to reduce the number of young unemployed welfare recipients.

The accountability management of labour market programmes with municipal co-management is based on Local Employment Office Boards that are supposed to co-ordinate and supervise the activities of the state-run local employment offices and the municipalities. Since 1996, the municipalities have the right to appoint the majority of the board members. This highly problematic management structure as well as the fiscal incentives of Swedish municipalities to keep as many residents (even unemployed) as possible in their constituency and the high volume demand of the central government for labour market programmes is likely to induce the Local Employment Office Boards to hamper mobility of the unemployed. Because of the imminent danger that the "common pool" nature of this partnership is dominated by a "joint production" labour market programme partnership the state labour market administration has kept the right to override the decisions of the Local Employment Office Board. A more constructive way to assure accountability would focus on outcome indicators such as the unemployment rate in a municipality. This would also enhance the managerial freedom of local labour market management as a whole. The effectiveness of local labour market management could be compared relatively easily across the country through benchmarking.

Also in the Switzerland, there is no benchmarking of educational services provided by the Cantons. As the Swiss case study on the devolution of educational policies to the Cantonal level shows, Cantons have always enjoyed a high autonomy in educational policies (see Buschor, Hofmeister and Junod, 1999). This implies that education policies can be quite different from Canton to Canton: For example, in the Canton of Zürich, the primary target for educational services is economic efficiency (costs-per-student) whereas in the Canton of Geneva the focus is on user satisfaction (students and parents). Nevertheless, the resulting diversity is not evaluated through process or results benchmarking. This implies that the Swiss Maturity Board, which has to deal with the recognition of certificates of maturity, has to issue qualitative conditions to be fulfilled by grammar schools instead of quantitative performance goals. In the end, certificates from grammar schools in each of the 26 Cantons that fulfil the provisions of the Swiss Maturity Board may be legally equal. The unanswered question is whether they are equal in educational quality.

Accountability Management of "Common Pool"-Partnerships

Weaknesses:

Because of the non-productive nature of the partnership, the output and outcome orientation is low. This makes it very difficult for the "owner" governments to evaluate whether the joint management leads to efficient results.

Actions to take:

The joint regulation institution should also include a management body which provides performance information to the political board members and the "owner" governments. Also all the stakeholders should be represented on the regulation board with a voting right in proportion to their financial commitment.

The achievements but also the difficulties with the creation of the National Environmental Partnership System (NEPPS) illustrate very well the transition from classical agency-type joint pool-partnerships with high costs of control and little performance orientation to a performance-based management of a joint pool (see Löffler and Parker, 1999).

The system was designed to improve the quality of the environment across the United States and, at the same time, to allow the states to deal with local problems of solutions through innovative approaches. The basic idea of

environmental performance agreements between states and the federal Environmental Protection Agency (EPA) was to trade off reduced reporting to the federal level for a set of core performance indicators for state-level environmental management. The definition and interpretation of those core performance measures proved to be the greatest difficulty: Whereas the states want to align the performance indicators with their reporting systems, the national level wants to integrate them into Government Performance and Review Act (GPRA). Also EPA was reluctant in many cases to reduce federal control. This means that the incentives provided by the performance agreements have been inadequate. This has been aggravated by the fact that the performance leadership programme, which was meant to offer additional incentives to high-performing states, has not been implemented yet.

Accountability Management of “Pooling for Resources”-Partnerships

This type of intergovernmental partnership will usually be distributive in nature as the pooling of resources involves the alignment of jurisdictions with a weak resource base with financially strong jurisdictions. In general this implies the involvement of higher levels of government(s). The partners tend to administer the resources through a separate fund with its own administrative structure. In the case of large pooling, the administration of a common fund may require the establishment of international organisations. This kind of “international partnership” has very complex multi-level accountability structures. One reason is the multitude of actors involved in such partnerships, which are often embedded in different administrative and political structures. The other reason is the necessity to establish a dual accountability structure: accountability relations for providing the resources and accountability relations for using the resources.

“Pooling for resources”-partnerships will usually have great difficulties in performance measurement and evaluation. The problem is that the main aim of intergovernmental partnership is to pool resources for rather broadly defined common goals. Also the management of performance information is a challenge in itself. Because of the dual accountability structure with a multitude of players the performance data are not always produced timely and channelled to the appropriate user. Also the evaluation of results is methodologically difficult as outcomes are hard to attribute to the beneficiary. As a consequence, feedback mechanisms are usually missing because expected outputs and outcomes were not well specified in the beginning.

This type of international intergovernmental partnership is very well illustrated by the *Euroregion Neisse–Nisa-Nysa (ERN)*, which is a municipal partnership of three border territories between Germany, Poland and the Czech Republic (see Jeřábek, Sliwa, Vidláková and Watterott, 1999). The ERN is the organisational framework for all kinds of horizontal, vertical and in particular hybrid forms of cross-border partnerships. The uneven economic and financial power of the municipal member associations on the Polish and Czech side on the one hand, and on the German side on the other hand, make it a “pooling for resources” partnership in practice. This means that often funds for declared “cross-border” projects are used as a source of revenues for municipal budgets.

These different administrative structures but also language problems, the divergent economic development and national interests make municipal co-operation difficult. The work of ERN also suffers from the fact that it has to rely on unprofessional working groups to a large degree. Altogether, insufficient staffing of the ERN bodies as well as of the Home Secretariats make it impossible to manage the huge information flow that is involved with cross-border project work and to evaluate the use of joint projects at least on a periodic basis.

The weak financial basis of the ERN make it dependent on transfers from third parties. Especially on the Polish side, the Phare Cross-Border Co-operation Programme uses the organisational and management structure of ERN to carry out small scale projects. Even though the EU Programme has ex-ante and ex-post project evaluation criteria, there are all kinds of performance measurement problems making accountability management difficult. For example, the measurement of the cross-border impacts can yield to very different results, depending on which stakeholder is responsible for the evaluation. Also project proposals are made on the basis of insufficient information and unrealistic expectations concerning the size of the funding. The problem is that there are no interim evaluations of on-going projects so that many projects that started as cross-border co-operation end up as domestic projects supported by EU

funding. Nevertheless, the Phare Programme provides for some positive incentives for successful projects by making a financial reward of 5 per cent of the transfer payment to the ERN.

In the case of the ERN it seems there is empirical evidence that the ERN has been very successful in solving cross-border problems of a municipal scale. This includes “joint production partnerships” to establish common sewage systems as well as “common pool regulation”-partnerships to extend bike paths across the border. However, as surveys reveal, the ERN is less effective in dealing with cross-border-problems of a regional scope. The large involvement of the ERN in regional projects also weakens accountability to local authorities. Instead of having regional policies carried out by the ERN, the task should be transferred to the regional administrative level in the three countries provided that such a level will exist in the Czech Republic by the year 2000.

Accountability Management of “Pooling for Resources”-Partnerships

Weaknesses:

Especially the accountability link between the owner governments and the fund administration is often weak, which is mainly because of measurement problems regarding the outputs and outcomes to be achieved with the pooling of resources. This results in compliance-oriented decision-making regarding the use of resources with an overall negative effect on the efficient and effective use of the resources.

Actions to be taken:

Due to their weaknesses, “pooling for resources” partnerships should be transformed into “joint production”-partnerships and “regulation of common pool”-partnerships with a distinct contract management and involvement of audit institutions. In particular, the following measures should be taken:

- unambiguous definition of expected outcomes;
- stimulating the self-interest of beneficiaries in the efficient use of resources by requesting them to contribute substantially to the amount of transfers;
- performance contracts between the common institution and the beneficiaries should form the basis of the accountability management by the fund administration;
- reporting of the fund administration to the owner governments about the performance achieved with the redistributed resources
- and periodical evaluation of at least a part of the subsidised activities. The evaluation results might also be used as performance incentives.

Shared transfer programmes are a classical example of inter-governmental partnerships with high agency costs. These efficiency losses have induced the Swiss Government as well as the Government of the Region of Cantabria in Spain to reform redistribution programmes on the basis of contract management.

As the Swiss case study explains, the on-going reform of the federal financial equalisation system does not only pursue fiscal goals but also aims at a restructuring of obligations between levels of government (see Buschor, Hofmeister and Junod, 1999). The overall objective is to re-establish the principle of equivalence for as many tasks as possible. This means to assign spending powers and taxing powers on the governmental level where the task is carried out. Where institutionalised co-operation between levels of government is inevitable, performance contracts are defined that are supposed to reduce the agency costs from unconditional grants.

The initiative of the Government of Cantabria goes into the same direction (see Parrado Díez, Gutiérrez Suárez and Font, 1999): The Local Co-operation Fund will distribute financial resources to municipalities on the basis of indicators and targets for “financial health” on the municipal level. This means that the aim of the redistribution

scheme is not only to improve the quality of services but also to improve the budget management of municipalities in Cantabria.

Summing-up, the inter-governmental partnerships that are based some form of contractual relations are clearly superior to partnerships with serious agency problems with regard to accountability. Yet, the case studies show that contract management is still in an early stage regarding its application to inter-governmental relations. This is not surprising because the establishment of non-statutory contract relations requires trust between political and public managers with different constituencies and different interests. This might be the explanation why an empirical example for a redistribution partnership with external beneficiaries based on contractual relations could not be identified. This rises the question if explicit contracts would not be adequate in the context of inter-governmental relations than quasi-contracts given the lack of trust problem.

Part 3. Perspectives and Limits of Interjurisdictional Trust Relationships

Legal contracts and non-statutory contracts mainly differ with regard to their enforcement and specification: Whereas legal contracts can be taken to courts, there is less legal protection of relational contracts. Given their goal to externalise all possible negative economic consequences through opportunistic behaviour of one of the contract parties, legal contracts attempt to provide for as many future contingencies as can be foreseen or to agree on compensation payments ex-ante in the case the contract cannot be fulfilled (Ripperger, 1998:58). Of course, this is not possible in a world of incomplete information and limited rationality so that in reality legal contracts are not fully specified and require some degree of trust. Relational contracts are not only exclusively based on trust with regard to endogenous risks (given their lack of judicial enforceability) their logic is also different: Legal contracts try to reduce behavioural risks by restricting the managerial freedom of the parties concerned. By contrast, relational contracts do not limit the set of economically relevant contingencies but rather rely on risk absorption through the establishment of adequate incentive structures.

This means that quasi-contracts between levels of government are only viable if a political and administrative system has developed social incentives for the protection of trust. Is such a culture of trust realistic in a highly dynamic environment with a multitude of actors? The diffusion of trust as a mechanism of inter-governmental interactions presupposes a critical mass of organisations that already apply the strategies “to use trust” and “to reward trust”. The probability that such a critical mass can be obtained varies with the degree to which the misuse of trust is effectively sanctioned and the use and effectiveness of reputation mechanisms which allow to identify trustful actors. As a matter of fact, all the case studies with more or less strong contractual inter-governmental relationships are characterised by an organisational context with a high use of contract management within organisation (see Lidbury, 1999). This shows that there might be spill-overs from intra-governmental contract management to intergovernmental contract building.

Nevertheless, the specific characteristics of intergovernmental relations is not likely to create the sufficient conditions for contract management of inter-governmental management: Trust relationships will only pay off in the long-term and may require high transactions costs in the initial stage. The NEPPS partnerships offer a good example for the difficulties in building up this trust capital. Of course, long-term gains are very problematic incentives in a political world where actors are guided by short-term legislative periods. This means that especially in cases of horizontal inter-governmental “partnerships”, the actors involved may find legal contracts preferable to non-statutory contracts, especially in the case of “co-ordination contracts” between equal partners as opposed to “subordination contracts” between unequal partners.

This does not exclude that legal contracts and relational contracts cannot be used complementary in order to reduce complexity due to information asymmetries: For example, transfer payments may be accorded to a lower level of government on the basis of some unilateral legal provision whereas the performance objectives of the transfer payment are specified in a relational contract. The other trend that becomes more and more common is to change the nature of the administrative law, which means to accord subsidies on the basis of administrative contracts as opposed to administrative acts. So far, “performance partnerships” between levels of governments are still treated as exceptions in the legal framework as the use of waivers in the United States shows. As intergovernmental performance partnerships will become more common, the legal framework will have to be changed accordingly.

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ACCOUNTABILITY MANAGEMENT OF INTERGOVERNMENTAL PARTNERSHIPS IN A LEGAL PERSPECTIVE

by Karl-Peter Sommermann

Introduction

The term “partnership” has a persuasively positive connotation. Partnerships are personal or legal relationships which are characterised by the confidential sharing of burdens or responsibilities. Who will declare his or her opposition against any kind of partnership? In the world of public administration, partnerships seem to be even more attractive if they aim at better performance and improved efficiency of public authorities. However, performance, efficiency and effectiveness are not the only values that governments must concern themselves with. Public authorities are not private enterprises, whose position is primarily defined by the market. They have a public duty which derives from their constitutional and legal authority and principles, among which the protection of individual rights is a pre-eminent one in modern democracies. Therefore, intergovernmental partnerships can never be an end in themselves; they have to serve the public interest, i.e. the interests of the citizens.

If we assume that intergovernmental partnerships are more than a pattern of behaviour, that they lead to a sharing or altering of responsibilities, it always must be asked whether the new allocation of responsibilities provides for a better fulfilment of public tasks and whether they represent a solution which does not prejudice the democratic and other constitutional principles or rights of the individual. In this sense, accountability management in a legal perspective means, on one hand, the elaboration and observation of the existing legal limits to a sharing of responsibilities, and, on the other hand, the development of new legal instruments and procedures which enable public entities to be engaged in new intergovernmental partnerships without infringing constitutional rules or principles. Hence, innovative accountability management often will not work without the creation of certain legal preconditions by the legislature.

Generally, the essence of accountability is described as an obligation to present an account of and answer for the execution of responsibilities to those who entrusted those responsibilities (see, Gray, 1998: 8 and 15). However, given the outstanding importance of legal remedies, accountability must not be limited to answers to those who entrusted the responsibilities, but should also refer to other control mechanisms, which have been created to monitor or implement the execution of responsibilities in accordance with the Constitution and the law. In this sense, the present paper will follow a broader approach.

There is a difference between vertical partnerships and horizontal partnerships which is useful also for a legal consideration of accountability management. In horizontal partnerships, e.g. co-operation between local governments, between regions or between States, the status of the parties concerned will generally be the same or at least comparable, however the powers and functions of public bodies involved in vertical partnerships will be different, often accompanied by relationships of subordination, so that it can become difficult to speak of a real partnership. However, vertical and horizontal partnerships will not be dealt with separately in the present paper. If necessary, differences will be indicated in the context of the following three steps of a legal approach to accountability management in intergovernmental partnerships:

- elaboration of the guiding principles for allocation and execution of responsibilities;
- examination of the instruments of supervision and control; and
- the proposal of criteria for a satisfactory relationship between legal principles and control mechanisms, a task which touches upon the core of the legal management of accountability.

Guiding Principles for the Allocation and Execution of Responsibilities

In a legal perspective, there are three guiding principles which define prerequisites for real intergovernmental partnerships and their accountability: autonomy, legality and subsidiarity. The first one refers to the character of a “partnership”, the second one to the legal framework and the third one to the allocation of responsibilities.

1) Autonomy

Partnership can only exist where public bodies possess different options. The law must entrust them with spheres of self-determination or, at least, of discretion which they can use for co-operation with other public entities. Where co-operation is prescribed by law or is ordered by a superior authority, without leaving room for individual arrangements, there cannot be a real “partnership” and the parties cannot be made accountable for their action. Partnership and accountability presuppose a minimum of autonomy of the partners.

- a) As far as the *co-operation between Nation States* is concerned, the autonomy derives from the principle of sovereign equality of the States, which is laid down in article 2 (1) of the United Nations Charter. States have the power to create international organisations in order to co-ordinate their policies or to execute public tasks by common organs.
- b) In States with a federal structure, like Austria, Belgium, Germany, Switzerland, and, to a certain extent, Spain, the Constitutions guarantee a wide range of legislative and administrative powers for the *States (Länder) or Autonomous Regions* which form the Nation-State. Their autonomous rights empower them to establish a wide range of intergovernmental partnerships. Partnerships may be established with States (Länder) or Regions of the same country or with different countries (horizontal partnerships), or with the central State to which they belong, or with foreign States (vertical partnerships). Besides the different forms of co-operation which are provided explicitly in the respective Constitutions, the States (Länder) or Autonomous Regions often use, like Nation-States, conferences and treaties in order to co-ordinate their policies or to fulfil their constitutional duties by common institutions.

Regions within constitutionally unitary States have less autonomy so that the margin of self-determined co-operation is smaller, but still opens many possibilities for the establishment of partnerships. Moreover, in many countries, we are witnessing a process of revaluation of the regions, which will lead to strengthening of powers of these entities situated between central government and local authorities. There are even signs of the emergence of a “Europe of the Regions”. While the creation of the (quite heterogeneous) Regional Committee of the European Community/Union by the Maastricht Treaty of 1992 can still be considered as an acknowledgement of the political importance of regional and local governments according to the *status quo*, a more dynamic approach comes from the Council of Europe. Already in 1980, its member States signed the European Outline Convention on Transfrontier Co-

operation between Territorial Communities or Authorities which was followed by two additional Protocols (1995 and 1998). On 5 June 1997, The Congress of Local and Regional Authorities of Europe adopted a Draft European Charter of Regional Self-Government, which is to enshrine the right to self-government and the guarantee of financial resources for the regions. The draft also provides for guidelines concerning the co-operation of regions with the central and local level and for interregional and transfrontier relations (article 8 of the draft). If the Charter should be opened for ratification and, later on, enter into force, this might foster the extension of regional partnerships with regard to those States which, until now, have put narrow limits to the action of the regions.

- c) *At the local level*, we find the greatest variety of (horizontal) intergovernmental partnerships. In several European countries, local self-government is constitutionally guaranteed. In other countries, which traditionally are more centralised, spheres of autonomy are laid down in ordinary laws. The European Charter of Local Self-Government of 1985, which was elaborated under the auspices of the Council of Europe, demonstrates a far-reaching consensus of European States about the importance of local self-government. The Charter of 1985 recognises in article 10 the right of the local authorities to co-operate and to associate themselves with other local authorities of the same or of another State.

As for the behaviour and respect of supervisory organs towards local governments, Alan Norton (1994:53) writes in his comparative analysis of local and regional government: “The exercise of supervision by governors or prefects has not generally been oppressive in recent years: it tends to be one of advice, liaison and maintaining the mutual interests of state and local authorities by joint agreements and the co-ordination of their services.” This nearly implies the development of forms of real partnership between local government and supervisory organs, even in more centralised States. However, *Norton* also observes “an intermeshing between central and local administrative functions within each locality which is difficult to unravel”. This statement hints already at a serious problem of accountability which always arises when the responsibilities of two or more public entities cannot be distinguished clearly.

2) *Legality*

The establishment and implementation of intergovernmental partnerships must be in accordance with the legal order to which the respective public entity is submitted. As for the national legal order, legality refers to the consistency with constitutional and other legal regulations. Often partnerships transcend the domestic legal order and therefore have to observe rules of different orders.

- a) *Partnerships among States* have to fit in the framework of international law which comprises customary international law, conventional international law and the general principles of law (See article 38 (1) of the Statute of the International Court of Justice.). In essence, international law aims at the maintenance of an order of co-ordination among the States. It is a general rule of international law, for instance, that partnerships between States may not be established to the prejudice of other States, or as article 34 of the Vienna Convention on the Law of Treaties puts it: “A treaty does not create either obligations or rights for a third State without its consent.” The rule “*pacta tertiis nec nocent nec prosunt*” applies also to the creation of international organisations, and, furthermore, to all other partnerships which are based on treaties, as long as constitutional or legal rules do not provide for exceptions. It goes without saying that State organs, when they act at international level, are not only bound by international law, but, at least from the national perspective, also have to respect the distribution and scope of powers laid down in the Constitution. Special limitations of the

sovereign power of States and therefore also for partnerships result from supranational obligations.

- b) The constitutional order of powers is the main criterion for partnerships at regional level. If the Constitution does not provide for rules on interregional co-operation, the respective powers of the region normally can be deduced from its general powers. Special problems arise in the case of transfrontier co-operation. The Constitutions - in case they touch upon the question at all - often are not clear with respect to the granting of such powers to the regions. In general, the (central) State will defend its all-comprising authority for foreign relations and for entering into agreements under international law. However, agreements between regions of different States do not necessarily belong to international law. In order to clarify powers and to avoid conflicts between the States and their regions, it is useful that the States conclude a framework treaty by which they establish a solid legal basis for the transfrontier co-operation of regions¹.
- c) Irrespective of constitutional guarantees of local self-government, the *local authorities* submit to the restrictions of the Constitution and the laws. However, the laws often have a positive, a propulsive function rather than a negative, a restrictive one. In Germany, e.g., the laws of the Länder on local self-government admit explicitly different patterns of institutionalised co-operation between local authorities. Such patterns are “working groups” (*Arbeitsgemeinschaften*), “public law agreements” (*öffentlich-rechtliche Vereinbarungen*), by which one participant assumes the administrative responsibility for one or more common functions or permits use by other units of its facilities, “special-purpose associations” (*Zweckverbände*) which are public corporations created for the purpose of executing one or more public tasks, and the “association of villages” (*Verbandsgemeinde*) which assumes responsibility for tasks that require greater resources in personnel and revenue than the member villages possess on their own (Gunlicks, 1986:40-46).

3) *Subsidiarity*

The fact that States and other political entities show multi-tier structures, is a significant phenomenon. There are rational grounds for the fulfilment of public tasks at different levels, although the concrete form and function of such levels is shaped by historical evolution. Larger political entities may be more appropriate when major resources or homogeneous societal solutions are required. They are disadvantageous when the needs of the individual in its local context have to be met. We owe to Catholic social theory a deeper insight in the principle that social responsibility should rest primarily with the individual or that level of society nearest to the individual. This so-called principle of subsidiarity meanwhile has become a basic element of political theory and has been laid down in different legal instruments. Article 3b (2) of the EC-Treaty rules:

In areas which do not fall within its exclusive competence, the Community shall take action, in accordance with the principle of subsidiarity, only if and so far as the objectives of the proposed action cannot be sufficiently achieved

¹ See, for example, the “Accord entre le Gouvernement de la République fédérale d’Allemagne, le Gouvernement de la République française, le Gouvernement du Grand-Duché de Luxembourg et le Conseil fédéral suisse agissant au nom des cantons de Soleure, de Bâle-Ville, de Bâle-Campagne, d’Argovie et du Jura, sur la coopération transfrontalière entre les collectivités territoriales et organismes publics locaux” of 23 January 1996.

by the Member States and can therefore, by reason of the scale or effects of the proposed action, be better achieved by the Community.

The above-mentioned Draft European Charter of Regional Self-Government likewise puts special emphasis on the principle of subsidiarity. On the one hand the principle aims at the reduction of powers of the State in favour of the regions (art. 3 para. 1), on the other hand it is designed to limit the powers of the regions in favour of local authorities (art. 7 para. 2).

The concept of subsidiarity is not only a useful instrument for States revising their territorial distribution of powers, but is also a valuable criterion for controlling intergovernmental partnerships. To the extent that partnerships create new levels of responsibility, they can only be justified if they enable the public bodies to fulfil a task more effectively. Here, the principle of subsidiarity converges with economic criteria.

Instruments of Supervision and Control

In principle, the instruments which are generally used for the supervision and control of public entities have also to be used for the control of partnerships: In hierarchical relationships, the superior authority has to control the legality of the co-operation; the courts, generally upon request of affected individuals, grant protection against illegal action; and, if the public corporation limits or destroys democratic representation, the citizens may express their discontent in elections.

However, in the case of intergovernmental partnerships, specific difficulties and conflicts may arise. If two or more public entities create new institutions which fulfil the public tasks on their behalf, the hierarchical control can be split up to several authorities. Democratic legitimacy can become also ambiguous. If a clear distinction of responsibilities is no longer possible, there will be a lack of accountability. This specific problem has to be kept in mind when proposals for effective accountability management are to be formulated.

Creating the Legal Basis for an Effective Accountability Management

The survey of guiding principles for the allocation of responsibilities and the examination of the instruments of control lead to the following conclusions:

- 1) Intergovernmental partnerships presuppose a minimum of autonomy of the partners. Otherwise, they cannot be made accountable.
- 2) Autonomy (self-government) of regional and local governments (which includes the capacity to co-operate in different forms and in different intensity) opens the way to flexible solutions. The authorities of the smaller entities can decide themselves if they are able to fulfil a task alone or if they will use forms of co-operation, thus sharing the responsibility. In this sense, intergovernmental partnerships can be considered as a kind of adjustment or tuning up at the lowest level of powers.
- 3) Notwithstanding the possibility of adjustment by different forms of co-operation, the distribution and allocation of powers in accordance with the principle of subsidiarity should be done in a way so that, in principle, the respective public bodies are able to effectively fulfil the tasks conferred upon them.

- 4) The legislator has to provide for legal regulations which prevent public bodies from disposing of responsibilities by means of intergovernmental partnerships. The responsibilities must remain clearly defined.
- 5) To the extent that responsibilities are exercised by or delegated to other public authorities, the instruments of control have to be adapted. The supervision of the legality by superior authorities has to be extended to the action executed within the relationships of co-operation. Judicial protection of individuals affected by such action must not be abridged. If substantial functions of a public authority which is legitimised democratically, pass to a new public corporation, rules for democratic compensation have to be provided.

In the transfrontier co-operation, it is especially important to prevent the creation of uncontrollable spheres into which public authorities can discharge responsibilities. If public entities of different States establish a common institution, the applicable law and the procedures of supervision must be determined.

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THE DEVOLUTION OF LABOUR MARKET PROGRAMMES FROM THE CENTRAL GOVERNMENT TO THE LOCAL LEVEL IN SWEDEN

By Håkan Hellstrand, Patrick Joyce and Katarina Sjölander

Introduction

Labour market training has always been seen as an essential part of active labour market policies in Sweden. In terms of claims on resources, labour market training has historically been the most important part of adult education, the average cost being higher than for the adult education system, although participation is lower: at its peak in 1992, labour market training comprised on average 86,000 persons, (close to 2 per cent of the labour force), but it had been reduced to 46,000 by the second half of 1996 (OECD, 1998a:110).

The reduced scope of labour market training programmes reflects a reassessment of labour market policies as well as the budgetary situation in Sweden. First, due to the widening gap between low skilled workers and other unemployed categories more efforts and resources were directed towards the formal education sector, with labour market training sharply reduced in scope (OECD, 1998a:111). Secondly, the huge budget deficits and the massive increase in government debt in the early 1990s also contributed to raise the awareness of the high costs of labour market programmes.

In order to be effective, labour market training must be carefully targeted to both individual and labour market needs. Municipalities have better information about the needs of their citizens than central government but they also have less incentives to consider the overall interests of national market policies. The devolution of labour market training programmes from the central government to the local level illustrates very well this dilemma. The reasoning behind the delegation of labour market training to the municipal level is that municipalities are the closest level to employers as well as employees, and thus have information advantages. However, the nature of the Swedish fiscal equalisation system also gives them incentives to keep the unemployed in their own municipality "at any price" rather than investigating job opportunities in the neighbouring municipality. This kind of barrier to efficient labour market management places accountability management in a new light, as it becomes central in order to capture the efficiency gains from devolution. As other OECD Member countries are also considering the devolution of labour market programmes, the Swedish case may be very instructive.

The aim of the Swedish case study is to analyse the implications of the management reforms of labour market training in terms of managerial and political accountability. The analysis presents the views of the Swedish Association of Municipalities, Statskontoret (Swedish Agency for Administrative Development) and the Ministry of Labour.

Management Reforms of Labour Market Training in Sweden

The Institutional Framework of Swedish Labour Market Policy

Labour market policy has been a state responsibility in Sweden since the 1940s when some of the features that characterise labour market policy - a common unemployment insurance, employment offices, relief works and labour market training programmes - were instituted.

Central control over labour market policy was retained because Sweden should be regarded as one common labour market. People who cannot find employment locally have to be prepared to move. The employment offices direct people to jobs as nobody should be allowed to live on unemployment benefits if there are job opportunities for them somewhere else. Labour market programmes train people for jobs all over the country.

Nowadays, labour market policy in Sweden is often equated with the activities of the National Labour Market Administration. This authority consists of the National Labour Market Board, 21 County Labour Market Boards and around 360 Local Employment Offices. Figure 1 illustrates how the various levels of the National Labour Market Administration relate to each other.

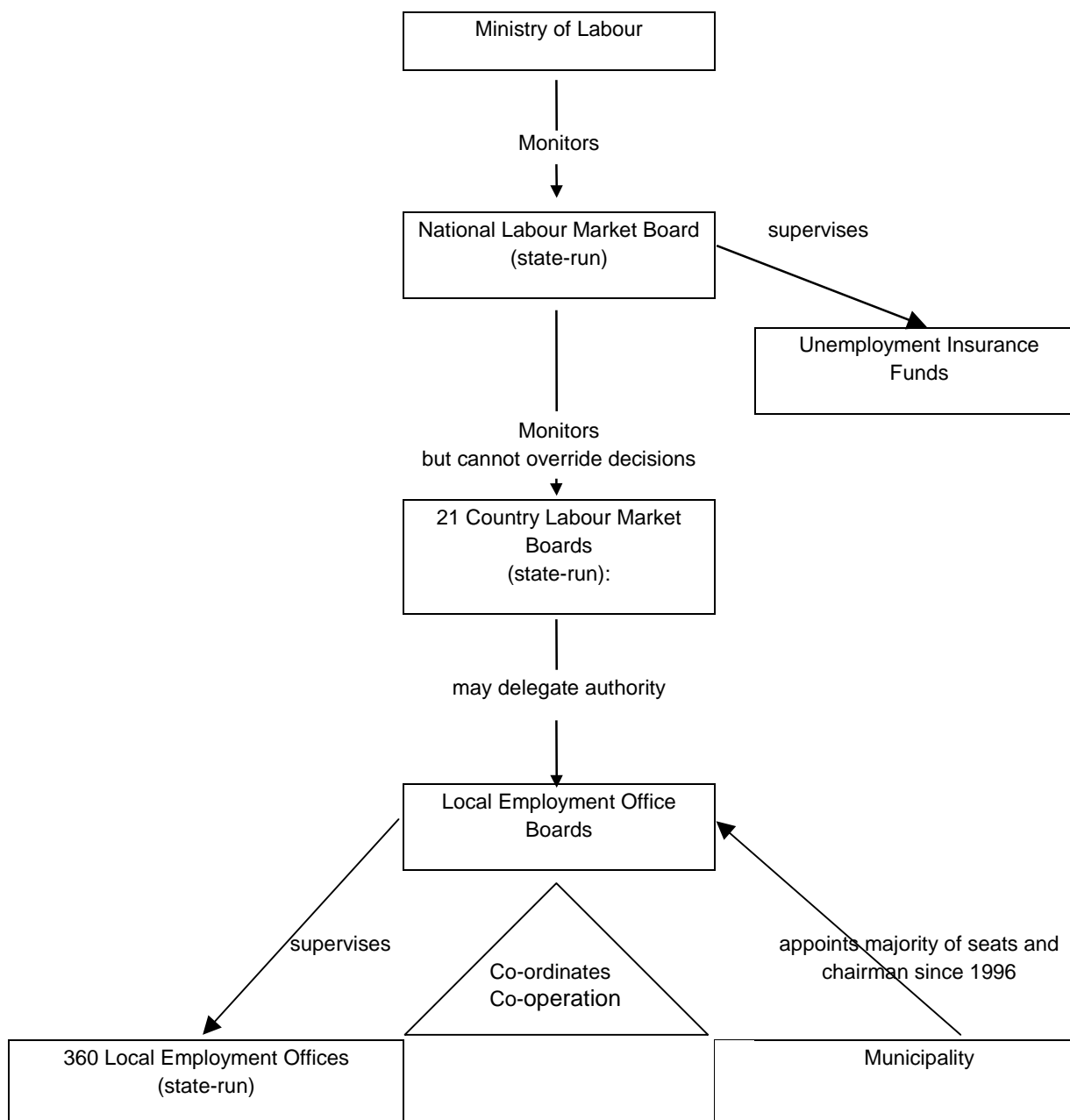
The members of the National and County Labour Market Boards are appointed by government according convention. Members of the present National Labour Market Board are representatives of some individual employers in the industrial and the public sector, representatives of the large trade unions, members of the Riksdag, that is the Swedish Parliament, and the directors of the 21 County Labour Market Boards. At present, the chair is held by a Member of Parliament of the ruling Social Democratic Party, however this varies.

The County Labour Market Boards are responsible for labour market issues at their level. Currently, they consist of representatives of trade unions, employers and representatives of political parties. The chairman of the County Labour Market Board is always the King's Governor of the County. Decisionmaking is based on majority vote with the National Board being unable to override decisions of the County Boards. This means that the County Labour Market Boards have a strong position.

The Local Employment Offices are the local branch of the County Labour Market Board. Every Local Employment Office has a board that has an important role for exerting local influence on labour market policy. In October 1996, the composition of the Local Employment Office Boards was modified in order to increase the influence of the municipalities. A majority of the seats and the chairman of the Employment Office Boards are appointed by the local authority. So far, the municipalities have regarded the Local Employment Office Boards as an important institution for local labour market policies. The fact that 80 per cent of the municipalities are represented by the mayor as the chairman of the board is evidence.

The locally appointed boards are meant to co-ordinate the efforts between the state-run Local Employment Office and the municipality on labour market policies. The boards also provide a forum for representatives of the local business sector to give their views on labour market policies and specific projects in the municipality.

Figure 1: Organisational Chart of the National Labour Market Administration



The authority of the Local Employment Office Boards varies between counties. With the exception of pilot municipalities, the County Labour Market Board decides what authority it wishes to delegate to the Local Employment Office Board. The boards should receive authority in all fields where labour market policies would benefit from being adapted to specific local circumstances. In the test municipalities, the authority of the boards is determined by the government itself and cannot be revoked by the County Labour Market Board. The County Labour Market Board has the right to overrule the decisions of the Local Employment Office Board and even strip it of authority if it is misused. So far, the work of the Local Employment Office Boards has not been evaluated and no study has been commissioned to date.

In Sweden, the Local Employment Offices have never had the authority to suspend the unemployment benefit of recipients. These decisions are made by the unemployment insurance funds. Members of the trade unions are collectively members of an unemployment insurance fund related to their specific branch of work. Legally the funds are independent and can be compared with co-operative societies. The National Labour Market Board is a supervisory authority and pays out state grants to the Unemployment Insurance Funds.

The National Labour Market Board developed into an extraordinary institution among Swedish authorities in respect of its size, influence and independence. When the National Labour Market Board was established there were few regulations directing the Board's actions. The authority was given much freedom to have the capacity to act flexibly and promptly whenever requested. In fact, for a long time this authority could spend much more money than it had been given in the budget as it could always acquire the money afterwards. Due to these provisions, the National Labour Market Board became the biggest Swedish authority. It used to have about 20,000 employees (in a country with 8 million inhabitants).

This "bureaucratic expansion" of the National Labour Market Board was also assisted by laws prohibiting private employment offices and making notification of vacancies to the Local Employment Offices compulsory.

From the beginning, Sweden's labour market policy was integrated into economic policy. There was an overall consensus that labour market policy was to be an active policy and not a policy that comes afterwards to console and heal. In 1976 the Ministry of the Interior changed its name into Ministry of Labour, which illustrates the importance of the labour market policy in Sweden. The Ministry of Social Affairs has different functions altogether: it is responsible for social welfare from birth to death but not for the questions which concern labour. For example, the Ministry of Social Affairs is responsible for the disabled but not for the questions of disabled and labour.

Companies can advertise for people directly but they are still obliged to notify the Local Employment Office of the vacancy. Since 1991 they have been permitted to match jobseekers and vacancies at private employment offices but always in a very limited fashion. Nowadays there is a perception that private offices in the big cities handle about 15 per cent of the job vacancies but otherwise there is minimal competition.

Thus, for several years almost everything that concerned the labour market was gathered under one roof. The system gained its legitimacy firstly from the social partners and secondly from Parliament. Wage negotiations have never been an issue for the state in Sweden but wage formation was an important part of the so-called Rehn-Meidner model. This model is based on the following elements:

1. loyal wage policy;
2. a selective employment policy;
3. mobility facilitating programmes;
4. a restrictive demand policy.

The loyal wage policy meant that the unions requested the same wage for the same job, which led the unprofitable companies into bankruptcy. Through a selective employment policy and mobility facilitating programmes, the labour market authorities took care of the employees who lost their jobs when the companies disappeared. The mobility could be both geographic and professional. There were employment services to find a new job; education and training to find a new profession and financial support to move to the jobs.

This policy was successful: companies which could not pay proper wages disappeared, which led to a healthy restructuring and good economic growth in Sweden with low unemployment rates. It took time to discover that this system had disadvantages, too. For example, there was the problem of regional imbalances and the elderly workforce who lost their jobs had little chances to find another profession or to move to other places.

Managerial Reforms and Devolution to the Local Level as Crisis Management

During the late 1970s and the early 1980s, Sweden's budget deficits grew more rapidly than in any other OECD Member country. While public sector expansion had previously been considered as a means to solve both social and macro-economic problems -- and the National Labour Market Administration is a very good example of this trend -- public sector growth was now considered as a problem. The crisis management of the then Social Democratic Government was guided by two strategies (see Premfors, 1991:87): first, the implementation of an austerity programme in order to limit public sector growth relative to GNP; second, to establish a new public administration policy ("förvaltningspolitik").

In this new public policy context, the National Labour Market Administration had to reduce its expenses. Allan Larsson, currently Director General of General Directorate V, was the Director General of the National Labour Market Board in the early 1980s. He introduced "Management by Objectives" (målstyrning) for the National Labour Market Administration. This also included various changes of the process management: Local Employment Offices were asked to find the right person for a vacancy and not the other way round; the contents of the counselling of the Local Employment Offices changed and overall the customer-orientation was strengthened.

Allan Larsson also decided to reorganise labour market training in 1986 with a split of the provider and production functions. The responsibility for training services for the registered unemployed was transferred to the Local Employment Offices and produced by a government-owned corporation *Amugruppen*, in competition with private suppliers and public producers (see also OECD, 1998:110). As a result, there was a reduction of staff at the central level in favour of the Local Employment Offices. The staff at central level was reduced from 1 000 persons to around 300 at present. On the whole, there are around 12 000 persons working for the National Labour Market Administration today.

"Management by Objectives" means that the National Labour Market Board transfers one aggregated budget to each County Labour Market Board -- the amount varies and is based on key figures such as the number of inhabitants and unemployment rate. The performance review and monitoring of the County Labour Market Boards is based on economic policy goals like social stability, economic growth and fair distribution. These broad objectives are broken down into sub-objectives, stating that not more than a certain percentage of the unemployed should be long-term-unemployed. As this is the case with all Swedish agencies, the County Labour Market Boards receive one single appropriation to fund all of their running costs with no restrictions on the choice of inputs (OECD, 1998b: 26f.).

However, accountability for results is rather weak. On the one side, the County Labour Market Boards have no positive incentives for seeking efficiency gains in their operations as they are not allowed to carry-forward their unused appropriations. On the other hand, neither the Government nor the National Labour Market Board can interfere in the management of the County Labour Market Boards. This means that the County Labour Market Boards have more influence at the regional level than the Central Board or the Government. Every citizen has the right to learn about the performance of County Labour Market Boards, according to the Swedish principle of public access to official documents, but the performance results are not advertised. In any case, the unemployed do not have the right to choose between the Local Employment Office and the County Labour Market Board.

Whereas in the 1980s there was a strong focus on organisational decentralisation of the Swedish labour market administration, the local participation in the labour market policy increased considerably during the 1990s. There are basically four reasons for this:

a) More local responsibility in all public areas: over the decades there has been a significant trend of shifting responsibility for public programmes from central level down to the counties or municipalities. Sweden has a great degree of local government autonomy. The municipalities have their own income tax base and take care of a very large portion of public sector activities such as child care, health care, schools etc. (Larsson, 1995:70f.). More than half of the public sector employees work in the municipalities. Public functions which used to be administered by the state, have been transferred to become local responsibilities. The increased local participation in labour market policy can be viewed in this context. The assumption is that municipalities have knowledge of the needs of both local trade and industry and unemployed members of the community and can therefore contribute to programmes of high quality.

b) Urgent crisis in the labour market:

In the early 1990s, the Swedish unemployment rate soared from around 2 per cent of the labour force in 1990 to the level of about 8 per cent in 1993 (OECD, 1998a:184). Since then unemployment has fallen slightly but still remains around 8 per cent of the labour force. The Swedish labour market policy focuses on the training of the unemployed to update their skills and helping them to stay connected to the labour market. At present, roughly one third of all registered unemployed in Sweden are part of some labour market programme.

When the unemployment rate jumped to a level of 5.3 per cent of the labour force in 1992 (OECD, 1997:226), the state needed more than 200 000 places in labour market programmes. That would not have been possible without commissioning help from the municipalities to set up training courses, on-the-job training and other programmes to assist the unemployed. The municipalities set up nearly 100 000 places in labour market training programmes on behalf of the state and were compensated for most of their costs.

The municipalities have previously helped the state in urgent situations. When a large amount of refugees came to Sweden in the late 1980s and early 1990s, the state commissioned help from the municipalities to find housing and to set up training programmes and basic social services for them. The municipalities did the job and the state paid them for their efforts.

c) Reducing welfare costs:

The rising unemployment has also put an economic strain on the municipalities and has motivated them to be involved in labour market programmes. Approximately one-fourth of the unemployed are not entitled to state unemployment benefits. These are mostly young people or recent immigrants who have not worked long enough to become eligible for unemployment benefits. They must rely on social welfare from the municipalities. The municipalities have therefore spent considerable sums of their own taxes to set up different types of labour market training programmes intended to steer the unemployed away from social welfare and towards regular work or education.

d) Municipalities are often the largest or one of the largest employers in a community.

As such they have an important role to play in the labour market. Furthermore, the placing of unemployed people in municipal activities will not lead to unfair competition with enterprises in the free market.

The devolution of labour market policies to the local level reflects a general trend of political and administrative decentralisation in Sweden. This decentralisation from central to local government has been far from only being a matter of "load-shedding" (Premfors, 1991:91) from state to local governments. As the labour market partnership between the Swedish state and municipalities will show, this has partly also involved deregulation of local governments.

Description of the Labour Market Partnership between the State and Municipalities

The Framework of the Partnership

The co-operation between the state and municipalities on labour market policy consists of three basic parts:

- 1) *Special tasks* given by state to the municipalities. The state defines the objective of the task, sets the rules -- often in co-operation with the municipalities -- and compensates the municipalities for their costs. Central government assignments in labour market policies focus on special programmes that are available to unemployed youth.
- 2) *Extended co-operation* between the state and the municipalities in order to adapt the labour market policy to local conditions. This extended co-operation is being tested in selected municipalities and counties for a fixed period of time. The state has given the County Labour Market Board and the Local Employment Office Boards a great degree of freedom to co-operate with each municipality to adapt the labour market programmes to local conditions. If the new system works well, the same may be used throughout the country.
- 3) Establishing *joint institutions* like the Local Employment Office Boards. As described above, the boards supervise the employment offices in each municipality. The majority of board members are appointed by the municipality. In most cases, the chairman of a committee is also the mayor of the municipality.

The Devolution of Youth Programmes to the Local Level

Between 1990 and 1996 Swedish youth unemployment rose from 4 per cent of the labour force up to 19 per cent. Young people who have never worked and become unemployed for long periods are in great risk of becoming permanently unemployable. It is therefore very important to avoid long-term unemployment among young people. In an effort to bring down youth unemployment, the municipalities have gradually taken over most of the responsibility for unemployed young people.

Since October 1995, the municipalities may take over responsibility for all unemployed under 20 years of age. This is part of an effort to make sure that all in this category will complete their high-school education in the municipal schooling-system before entering the labour market. The municipalities may require a high school certificate before considering anyone for labour market training programmes.

The costs for this *Municipal Follow-up Activity for Young People* are shared between the state and the municipalities. Each municipality has negotiated individually with the state over the financial terms of the scheme so that costs vary slightly between municipalities.

On 1 January 1998 the municipalities were offered responsibility for the young unemployed between 20 and 24 years of age. The so-called *Development Guarantee for Young People* offers all unemployed persons between 20 and 24 a training programme or some sort of trainee position within 100 days of

unemployment. The state pays the municipalities a fixed sum (150 SEK, roughly 18 US\$) for each day they provide an activity for a unemployed youngster.

The responsibility for the unemployed between 20 and 24 is divided between the state-run employment offices and the municipalities. For the first 90 days, the employment office tries to help the unemployed to find a job, further their education or do some sort of training. If these efforts fail, the municipality takes over the responsibility and has to provide some sort of activity for the individual within 10 days. That activity can last up to 12 months and the purpose is to give the young people enough training to make them employable in the open labour market or to motivate them enough to start further education. Around 250 of Sweden's 289 municipalities have so far agreed to provide this guarantee.

If the young person refuses to take part in the activity, he or she will lose her unemployment benefits and the right to social welfare. The Local Employment Office Board co-ordinates and supervises the efforts of the employment office and the municipality. The youth programmes are regularly monitored by the Swedish Labour Market Board. It is possible to monitor the weekly placements made in youth programmes in every single municipality and compare the number of persons placed in these programmes with the number of unemployed young people. The youth programmes are also evaluated more in depth through special studies commissioned by the Ministry of Labour and carried out by various government agencies and universities.

Pilot Municipalities for Extended Local Co-operation

From the end of 1996 through 1997, twenty-eight Swedish municipalities were selected by the government to test a form of extended local co-operation on labour market projects. The state-run Local Employment Office and the municipality administer the projects jointly. The Local Employment Office Boards co-ordinate the efforts. This is also a financial partnership, the municipality provides a quarter of the costs of the projects.

In these municipalities, the funds allocated for the labour market project can also be used in a lesser regulated way than funds in other parts of the country. The purpose is to innovate and find new and locally adapted ways of reducing unemployment.

These pilot cases have been evaluated by the National Audit Office (RRV) and the University of Vaexjoe. The evaluations indicate that the activities in the test municipalities are not so different from activities in the rest of country and the test has shown no significant effect on unemployment in these municipalities to date. 19 of the 28 municipalities were granted permission by the government to continue the test through 1998.

Special Test Counties

During the spring of 1998, five counties in Sweden were selected as test counties (Skane, Varmland, Dalarna, Gavleborg and Jamtland with a total population of 1.6 million -- one fifth of Sweden's population). They were given the right to use funds allocated for labour market programmes in a lesser regulated way than before. The five test counties all have significantly higher unemployment than the national average.

In these test counties, the County Labour Market Board is given wide authority to initiate special labour market projects and to co-operate with the municipalities on labour market projects. The County Labour Market Board is not compelled to place a certain amount of unemployed in labour market projects as in the

rest of the country. The Board instead has been ordered to work towards reducing total unemployment in the county down to or closer to the national average.

In Skane, where total unemployment is about 2 per cent above the national level, the board has been given the task of increasing total employment -- as a share of the working population -- to the national average before the end of 1999.

The scheme includes a clause of "profit-sharing". If the goal on employment is reached and less money is spent than has been set aside in the budget for unemployment benefits and labour market programmes, a share of the savings will remain in Skane at the disposal of the County Labour Market Board. This will give the labour board and the municipalities, who are part of the experiment, the possibility of increasing the quality of the labour market programmes in Skane. They will *not*, however, be able to increase unemployment benefits or other payments to people who take part in labour market programmes.

If -- on the other hand -- the goal on unemployment is not reached and if the County Labour Market Board spends more money than has been set aside for 1998 and 1999, some of that deficit will be taken from their grants for the year 2000. The agreement does not specify how the potential surplus -- or deficit -- will be shared between the county and the state. The state reserves the right to terminate the test if conditions in the test counties turn out to be worse than expected.

The Ministry of Labour has commissioned several evaluations of the work in each five test counties from various government agencies.

The Participation of Municipalities in Labour Market Programmes

In the 1990s, Swedish municipalities have assumed responsibility for an increasing part of participants in different labour market-related programmes. At present, they receive more than 50 per cent of all participants in programmes subsidised by the state. The number of persons participating in different programmes can be seen in the table below. The table also show the municipalities' share of persons enrolled in each labour market programme.

The number of participants in these different programmes totals slightly more than 200 000, which is equal to 5 per cent of the work-force. The municipalities thus receive approximately 2.5 per cent of the total workforce in Sweden in different programmes. The programmes are to be found among standard activities -- old-age care, child day-care as well as special projects.

In addition to the programmes which to varying extent are subsidised by the state, the municipalities also have approximately 3,000 people employed in temporary job creation schemes fully paid by municipalities. The municipalities also employ in various projects 8 000 people entitled to social welfare payments.

Table 1: Number of Participants in Various Active Labour Market Programmes (February 1998)

	Total number of persons	Share of Municipalities in number of persons
<i>Demand side programmes:</i>		
Individual hiring support	13,300	60 %
Work-experience scheme	43,000	50 %
Public temporary jobs for older persons	7,500	90 %
Temporary "resource jobs"	5,400	90 %
<i>Supply side programmes:</i>		
Workplace introduction scheme	22,800	35 %
Labour market training	44,600	25 %
Adult education initiative	100,000	85 %
<i>Youth programmes:</i>		
Municipal follow-up responsibility for young people (18-19)	15,200	100 %
Computer/ Activity centre	12,900	100%
Development guarantee	2,100	100 %
<i>Disability programmes:</i>		
Sheltered jobs in the public sector	6,000	95 %
Work with wage subsidy	48,900	15 %
Sheltered employment (SAMHALL)	26,800	0 %
<i>Programmes fully paid by municipalities:</i>		
Temporary job creation schemes	3,000	100 %
Job schemes for people on social welfare	8,000	100 %

As mentioned, labour market policy programmes are largely a voluntary commitment -- the municipalities are not forced to pursue these activities. This implies that in spite of widespread activities in the country as a whole there are great differences between municipalities. Some municipalities invest less than 1,000 SEK (125 US\$) annually per unemployed, others more than 7,000 SEK (875 US\$), the national average being slightly more than 4,000 SEK (500 US\$).

The number of placements in labour market programmes in relation to total unemployment (openly unemployed and subjected to labour market programmes) also varies considerably. Some municipalities have 7-8 jobs per 100 unemployed persons, others have 22-23 jobs.

In spite of a political climate in favour of wider municipal responsibility, the devolution of labour market programmes has not given rise to intermunicipal co-operation. One plausible explanation is the competitive character of labour market policies: More employed inhabitants mean a broader municipal tax base and even unemployed inhabitants mean higher equalisation payments. It is strategically sound for municipalities to try to pursue their own interests in attracting labour (as well as business). This means that

municipalities have little incentives to be well informed about vacancies in other municipalities. This in turn implies that intermunicipal partnerships on labour market issues may not be very common. A 1993 study of the existence, purposes and forms of intermunicipal co-operation in Sweden found that local partnerships on labour market issues are not common, accounting for less than 5 per cent of all formalized co-operation. As Table 2 points out, the policy area involving most intermunicipal partnerships is that of infrastructure, technical services and communications, followed by rescue services and tourisms/leisure/culture, education and R&D (research and development).

The table also reveals that most of the intermunicipal co-operation in industrial and labour market development is organised in joint-stock corporations or foundations rather than in less binding mutual agreements regulated by the municipalities themselves. This result is somewhat surprising, as the competitive nature of labour market policies should induce local municipalities to negotiate loose partnerships from which they could easily withdraw. (Lundqvist 1998: 102). But it is important to note that labour market development also includes labour market training programmes, which give incentives for intermunicipal co-operation for efficient use of resources.

Table 2: Local-to-Local Partnerships Among Swedish Municipalities in 1993: Area and Forms of Cooperation

<i>Area of Cooperation</i>	<i>Forms of cooperation Municipal Associations</i>	<i>Inter-municipal joint stock companies</i>	<i>Economic associations</i>	<i>Foundations</i>	<i>Non-profit organizations</i>	<i>Within country</i>	<i>“Other forms” across countries</i>	<i>International</i>	<i>Total</i>
<i>Resource mobilization</i>									
Culture, leisure, Tourism		6	1	26	5	20	6	8	72
Industrial & labour market development		7		9	1	5	2	4	28
<i>Resource utilization</i>									
Economy, administration, equipment						27		2	29
Technical services, collective transportation	7	112		1	1	24	27	5	177
Education, R&D	5	4		3	1	38	19		70
Rescue services, animal protection	7	1		4		67	19	2	100
Health & social care	6	2		2		19	4		33
<i>Resource sustainability</i>									
Environmental management				6	43	5			54
Physical planning & housing	9	2	2			3	1		17
“Other” & “general”		2	6	1	1	10	6	18	44
Total	34	136	9	52	52	218	84	39	624

Source: Swedish Association of Local Authorities 1993, *passim*, printed in: Lundqvist, L. (1998:100).

Managing Divergent Accountability Expectations

Accountability Management within the National Labour Market Administration

There is continuous performance monitoring within the National Labour Market Administration. The National Board monitors the results of the County Labour Market Boards and has regular meetings with them to discuss the results. The monitoring is based on a sophisticated statistical system which follows activities by week, and by month, for each County Labour Market Board and each Local Employment Office. It is possible to see how many are registered, for how long, how many have got jobs, how many participate in programmes, in which programmes and who has left the employment offices and why and what has happened in the following 90-day period.

There is also a continuous dialogue between the Minister of Labour and the National Labour Market Administration. Once every quarter, the Director General of the National Labour Market Board and some of his Directors meet the Minister of Labour and staff to discuss the results and whether changes are needed.

The social partners have always been members of the boards on a central and regional level. When the Rehn-Meidner model was introduced, there was some dissatisfaction from Parliament that it had not been involved. Subsequently, a new policy was discussed in Parliament and a new representation scheme was accepted. As a consequence, Members of Parliament could become board members. In the early nineties, the Swedish Employers' Confederation left the National Labour Market Board but some big individual employers are still members of the boards at the regional and local level. When the County Labour Market Boards obtained more managerial freedom and their own budget as a result of the introduction of "Management by Objectives", the board members became more interested in management and more involved than before. There has been good co-operation for many years, as Employers and unions have important knowledge that the labour market authorities need.

General Accountability Problems of the Local Partnerships

Since labour market policy is a responsibility of the state overall objectives are set by the state. Goals and regulations laid down by the Parliament and the Government set the framework for the labour market policy. One important goal set by the Government is the number of unemployed people that should be subjected to labour market programmes. This volume target restricts substantially all the employment offices' freedom of action. Rules and regulations for different programmes within the overall labour market policy are also specified. This can specify, for example, when and for how long an individual can participate in a programme and what benefits should be paid.

Given decisions taken by the Parliament and the Government, the National Labour Market Board sets objectives for each County Labour Board and distribute financial resources. The County Labour Board then does the same for each Local Employment Office in the county. It would be possible, and indeed desirable, to reduce the rules and regulations and let local conditions influence labour market activity. decisions.

According to a survey of the Swedish Association of Municipalities, almost every municipality (90 per cent) is satisfied with the co-operation it maintains with the Local Employment Office (Swedish Association of Municipalities, 1997). This refers to the common view of the municipalities and the state-run labour market administration regarding the contents of the youth programmes and a common understanding of the problems involved with unemployed young people. However, the municipalities are

very disappointed with the placement and guidance service. Fifty per cent of the municipalities state that the financial compensation from the state is not enough to meet the costs.

This indicates that the co-operation between municipalities and the state-run employment offices is not without problems. Different cultures in the National Labour Market Administration and the municipalities are one part of the explanation. Another, more serious reason is that the representatives from the municipalities feel like they do not have any real managerial freedom. That is due to centrally stipulated volume demand and detailed regulation of the programmes. The only way to meet the demands is to offer on many cheap programmes, often with inferior quality. The municipalities would rather offer fewer programmes but better quality.

One factor contributing to the emphasis on quantity is the Government's goal of reducing the open unemployment from 8 per cent in 1994 to 4 per cent by the year 2000. It is considered necessary to have a high volume of active labour market programmes to fulfil that goal. The municipalities are also dissatisfied with the fact that the County Labour Board always has the last say. Thus, the Local Employment Office Board cannot challenge a decision of the County Labour Market Board in case of a disagreement.

Accountability Management for Specific Tasks Delegated to the Municipalities

Local authorities can exert influence on activities if the responsibility to implement labour market programmes has been transferred to them through intergovernmental performance agreements. This kind of agreement has been used in specific areas such as the *Municipal Follow-Up Responsibility for Young People*, *Computer/Activity Centre and Development Guarantee for Young People*. The Government still has rules and regulations for these activities but more freedom is given to local initiatives within these programmes, especially for the *Development Guarantee*.

The *Follow-Up Responsibility* gives local authorities an option to take an overall responsibility for unemployed young people between 18-19 years old: the local authority is responsible for offering the young person either training or a trainee position whereas the Local Employment Office remains responsible for placement and guidance. The programme is managed between the municipality and the County Labour Market Board with a written agreement. The agreements stipulate how many people are covered by the programme and what kind of programme the participants will be offered. The financial compensation from the County Labour Board to the municipality should also be included in the agreement. The municipality decides the level of benefit for participants. The National Labour Board has a monitoring responsibility and the agreement should also regulate the basic data required from the municipality. In addition to evaluations done by municipalities, the programme is evaluated by the National Board for Youth Affairs.

In the case of the *Development Guarantee for Young People* a municipality may assume the responsibility for long-term unemployed aged between 20 and 24 years old. The municipality must have an agreement with the County Labour Board to regulate the responsibility. These agreements are less detailed than the agreements regarding the Follow-Up Responsibility mentioned above. The municipalities are free to develop these programmes as long as they are individually adapted to meet the needs of the participants. The municipalities are (partly) financially compensated by the state.

Even before the Development Guarantee was implemented, the state had promised that no young person should have to be unemployed for more than 100 days. An education or a labour market programme should be offered. This promise was not fulfilled. One could argue that the state has now passed this responsibility and the financial burden to local authorities in order to fulfil this promise.

The National Labour Board is monitoring this programme continuously as they do with other programmes. In addition, the Government has commissioned the Swedish Agency for Administrative Development (Statskontoret) to evaluate the Development Guarantee more thoroughly. Many municipalities do their own follow-up studies. However, they do not have the same opportunity as the National Labour Board to follow what happens to the participants after the programme is finished. Sometimes municipalities and Local Employment Offices co-operate in evaluating the programme.

Accountability for Experiments with Extended Local Co-operation

The governments' desire to strengthen the local influence on labour market policy led to the implementation of experiments with extended local co-operation starting in July 1996. The purpose was to make the use of resources more effective through a closer co-operation between Employment Offices and municipalities. After agreements with the Government, 28 municipalities and Employment Offices adopted jointly financed projects (25 percent of the costs from the municipality). The Employment Offices contributed with financial resources from their regular budget for labour market programmes. Resources set aside for the experiments could be used in an untraditional way, meaning that they were not limited by the normal regulation of programmes. However, the overall national objectives of the labour market policy remained in force.

The Local Employment Office Boards were responsible for the execution of extended local co-operation. These boards were given more responsibility and a majority representation from participating municipalities. Subsequently all Employment Office Boards were changed in this way. Furthermore, all Employment Offices are allowed to use (a smaller) part of their resources in an untraditional way. Consequently there were quite small differences between experimental municipalities and other municipalities. The only difference was the amount of untraditional resources.

One early observation was that few of the experimental activities were untraditional, going beyond established limits. Many municipalities considered that one reason was that the manager of the Employment Offices could not afford to use resources on other programmes than the cheapest in order to fulfil the volume target. In addition to the National Labour Board's monitoring activities the experiment with extended co-operation has been studied by the National Audit Office and the Centre for Labour Market Policy Research (CAFO) at the University of Vaexjoe on commission from the Ministry of Labour.

According to the National Audit Office, there are some results that indicate more effective use of resources in the experiment municipalities. However, CAFO's conclusion is that they could not observe any unambiguous positive effect of the experiment on unemployment or the probability to become employed. One possible explanation could be the experiments rather limited size and duration. Positive effects may not be expected until the demand for labour start to increase more substantial.

The purpose of the devolution of labour market policies in Sweden is to increase the influence of the local level but within a national framework and a national economic policy. The goal is to shape a policy that combines different individual perspectives and national demands. The municipalities and the Local Employment Offices have the knowledge and the competence to find solutions for the individual client but the policy must still have a national framework. People must be willing to move from one part of the country to another, and people must be willing to undergo training in order to be able to take up job vacancies when the economy grows. Local perspectives are very important when the level of unemployment is high, however when unemployment rates become lower (and this is the case in Sweden today), the national perspective becomes more dominant again.

One may gain the impression that the devolution of labour market policies in Sweden may not be a permanent phenomenon but rather a management tool to master crises in the national labour market. Only when the centre is weak does there seem to be a willingness and a perceived need to transfer authority to the local level. This raises the question about the advantages and disadvantages of a more committed devolution of labour market policies to the local level.

Pros and Cons in Devolution of Labour Market Policy

Co-ordination of policies

Increased local participation in labour market policy makes it possible to co-ordinate labour market activities with other policy areas that are municipal responsibilities - especially social welfare policy, education, development of local infrastructure and the local business sector.

Better help to groups with high unemployment

A significant portion of the labour market policy is directed towards young people, recent immigrants and low-skilled workers with a high and persistent unemployment rate. The municipalities already have a great deal of contact with these groups through the education system and the social welfare offices. Giving the municipalities responsibility for labour market activities for these groups makes it possible to co-ordinate all efforts and make sure that no individual will be left without assistance.

There is a risk in co-ordinating efforts too much towards individuals. Young unemployed especially can become too sheltered by municipal efforts if they go directly from school in to some municipal labour market training programme. They can become full time clients of the welfare offices and end up doing very little on their own to improve their situation. There is a case for keeping some distance between the employment offices and the municipalities and allowing for sufficient time for every unemployed to look for work on his own. For the unemployed under 24 this period is set at 90 days. It could be made longer.

Helping local business sector development

Advocates of increased local participation argue that the municipalities have the best knowledge of the qualifications of the local work force -- both employed and unemployed -- and know the needs of local business sector. Labour market policy is part of a larger effort to develop the local business sector which is something the municipalities already do today.

Since the municipalities also are major local employers they have some knowledge on what type of skills are in demand in the local labour market. This is useful knowledge when it comes to designing education and training programmes to meet demand.

Close ties between the municipality and the local business sector can be an advantage but can also be a disadvantage if the municipalities' efforts to promote and develop local business lead them to use labour market funds to that purpose.

There is always a risk that efforts to promote business and other local activities become part of a "beggar-thy-neighbour policy". Gains for one municipality could well be at the expense of their next door neighbour. Competition between municipalities to bring in business and jobs is probably good if it is kept at a reasonable level. However, should the municipalities gain access to the large central labour market funds this could lead to serious distortive effects.

This risk is small to date since the use of labour market funds is still quite strictly regulated, but funds with less regulations are becoming more common. In the test municipalities and test counties (see earlier section), they constitute a significant fraction of the money spent. Less restrictions make it possible to have innovations, but it also calls for regular checks by central authority to make sure they are not misused.

Less risk of distorting competition

On-the-job training and other efforts to give the unemployed work experience can distort competition in the business sector when some employers use subsidised labour and others do not. Concentrating these programmes into the public sector is a way to avoid the most distortive effects. Since the municipalities employ the majority of the public sector employees in Sweden, they have the option to use the unemployed alongside their regular workforce.

But subsidised labour can also be misused in the public sector. The municipalities are large employers. During the economic crisis in Sweden, the municipalities had to lay off a considerable part of their staff to cut costs. Under those circumstances, there was a big temptation for the municipalities to use people in labour market training programmes as cheap labour to replace regular staff. The larger the municipalities influence over labour market policy and the less control kept by the the state over labour market funds the larger the risk will be for this type of misuse.

Local influence can hamper mobility

The major disadvantage with increased local influence over labour market policy is that it could make the labour force less geographically mobile. The municipalities have a legitimate interest in making their population -- and especially the young -- stay. Sweden has a system that evens out taxes and costs between municipalities. Therefore it does not make a difference to a municipality whether someone has a job or not. But it is important that they stay in the municipality. From the municipality's position, it is preferable that an unemployed person stays at home rather than find work elsewhere.

If the municipalities have access to large funds to employ the unemployed in local training programmes, they can be used to keep people from moving even if they have a good chance of finding regular work elsewhere in the country. Empirical evidence from the early 1990s indicates that the expansion of labour market training went too far as the link between job availability, intensive job placement efforts from local Labour Market Offices and participation in labour market programmes was lost (OECD, 1998a:109). Increasing average costs and weaker motivation on the part of participants resulted in strongly decreasing returns to scale. It is plausible to assume that increased local influence in the management of labour market programmes reinforces this trend. In this scenario, the municipalities would gain economically but the country or individuals concerned would not.

The employment offices are at the centre of this problem. It is crucial that they continue to find work for the unemployed all over the country. Therefore they have to remain under control of the state. If the locally appointed Employment Office Boards (see earlier section) are a part of a strategy to increase the local influence over the employment offices, that could lead to problems in the future.

The state has the final say

The relationship between the state and the municipalities on labour market policy is usually described as a partnership. But a strict definition of a partnership requires that the co-operating bodies should be independent of each other. This is not the case here. As has been mentioned before the Swedish

municipalities enjoy a great degree of local autonomy but the state always has the final say in any disagreements between with the municipalities. The state has the sole power over taxation and legislation. In labour market policy the state also has sole access to all funds. Apart from some small funds of their own any money that the municipalities spend on labour market policy has to come from contributions from the state.

Legislative power also gives the state the option of directing the municipalities to provide certain services. The state has been reluctant to do so because it wants to keep good working relations with the municipalities, but the possibility always remains. When the municipalities volunteered to provide for all unemployed 18-19 year olds there were hints that the state might make it compulsory for the municipalities to provide this service possibly under less favourable terms than those that were agreed upon. The municipalities and the state co-operate on labour market policy because they have common interests in the area. The conflicts that have appeared are about process or the financial terms of the co-operation not about the goals.

The crucial test will come when a major difference of opinion appears between the state and the municipalities. Whether the state considers the views of the municipalities and tries to find common ground or whether it makes use of its legislative powers to impose its will on the municipalities will answer the question of whether a real partnership exists.

Concluding Recommendations

The municipalities have a great deal of competence in arranging labour market training programmes and on-the-job training. Therefore the state should continue to commission help from the municipalities for special tasks in labour market policy. It is important that these tasks are regulated by clear agreements on payment and the division of responsibilities.

Increased co-operation between the employment offices and the municipalities' welfare offices over the unemployed on welfare payment is positive and should be encouraged. However it is important to keep some distance between municipal welfare offices and the state-run employment offices. Too much co-ordination can make the unemployed full-time clients of the welfare offices and may decrease their initiative to improve their own situation.

The experiments on increased co-operation between state and municipalities at the local level are under evaluation and the results of those studies should be evaluated before the process continues any further. The first studies seem to indicate that these experiments have not had any significant positive effects on unemployment. If future studies show the same result, the government should consider ceasing the experiments. Increased local influence over the employment offices could lead to serious problems and should be avoided all together.

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**INTER-GOVERNMENTAL “PARTNERSHIPS” ON THE LOCAL LEVEL IN SPAIN:
MANCOMUNIDADES AND CONSORTIA IN A COMPARATIVE PERSPECTIVE**

by Javier Font, Rafael Gutiérrez Suárez and Salvador Parrado-Díez

Introduction

Formally inter-governmental “partnerships” have existed in the Spanish legal system during the dictatorship of General Franco and well before. However, the devolution of authority only took place after the onset of the democratic phase, which also implied territorial re-structuring of the State. In a dictatorial context of unity (one single State), uniformity (fifty equal provinces without independent political power), around 9 000 municipalities under the political control of either provincial authorities or central government and of lack of political freedom, inter-governmental arrangements were not considered to be an appropriate way of delivering services. The then territorial distribution of local units -- too many and too small in size -- may have required co-operation among local authorities (within their relative administrative autonomy) for efficient service delivery. Even though adequate forms of municipal associations (*mancomunidades* and *consortia*) had been included in the legal framework, the basic pattern of service delivery was based on central control and not on co-operation.

The principles of unity and uniformity were destroyed as a result of the political negotiations during the transition phase of Franco's dictatorship in the late 1970s. The Constitution of 1978 had two main aims: freedom for the citizens and autonomy for the regions, especially for the historical regions Catalonia, Basque Land and Galicia. Although municipalities gained some political autonomy, the centre granted most of the power to the newly created Autonomous Communities (ACs). In other words, a regionalist strategy won over a “localist” one. As a consequence, favourable conditions were created for contractual arrangements between levels of governments: each participant is a principal capable of negotiating on his behalf without having to refer back to other sources of authority (Peters, 1998). As empirical data on the evolution of inter-governmental contractual arrangements in Spain¹ will show, the territorial restructuring of the State with the arrival of democracy established the grounds for horizontal co-operation and for vertical co-operation. The development of the welfare state and the ensuing efforts to reduce public expenditure have further contributed to the establishment of vertical and horizontal “partnerships” within the Spanish state.

The paper will mainly focus on *consortia* and *mancomunidades* as examples of vertical and horizontal inter-governmental “partnerships” on the local level. The aim of the paper is to analyse the differences between these two types of inter-governmental “partnerships” in terms of organisational and management structure and their implications for accountability management. Three case studies -- the *consortium* Greater Bilbao Water “Partnership”, the *mancomunidad* Uribe-Kosta Services “Partnership” and the Municipal Interadministrative Co-operation Programme of the Region of Cantabria -- will provide deeper insights in the difficulties and latest trends of accountability management in Spanish inter-governmental “partnerships”. The following chapter will briefly describe the main features of the unitarian Francoist state, the regional strategy adopted in the Constitution and the present distribution of functions and resources among the three levels of government in Spain.

A State In Transformation: Regionalisation Over “Localisation”

The political centralisation of the Spanish political and administrative system during Franco’s dictatorship reflects the tradition of the French Revolution and Napoleonic influence regarding the distribution of power in the territory. According to Baena (1994), all local authorities were ruled under the same regulation with exception of the Basque provinces and Navarra, which enjoyed a special historical status as did the metropolitan areas of Madrid, Barcelona, Bilbao and Valencia. Municipalities were subject to central power as the centre directly or indirectly appointed the political leaders of the provinces and municipalities and decided on all relevant local matters. Service delivery was mainly carried out through the peripheral administration of central ministries. Loughlin and Peters (1997: 46) describe the political system as being characterised by the Napoleonic tradition of antagonistic state-society relations, the Jacobean principle of “the one and indivisible state”, a low degree of administrative decentralisation for service delivery and lack of any local or regional autonomy.

This situation changed dramatically during the transition to democracy. In the period between Franco’s death (1975) and the approval of Constitution (1978), the dictatorial regime and the “Napoleonic state” were challenged: For the former, the demand was political freedom; for the latter, territorial autonomy. The idea of autonomy was thought of as inseparable from the idea of political decentralisation based on the principles of liberty and democracy. Two strategies were at hand for the founders of the Constitution regarding political decentralisation: devolving political power to local authorities and granting them local self-government or creating ex novo a regional autonomous level. The second strategy succeeded as a result of the pressure of nationalist political leaders from Basque Lands and Catalonia, creating thus the present Autonomous State (*Estado de las Autonomías*). The 17 Autonomous Communities were created with their own Parliament, government and administration. Besides, two tiers of local government were established: the provincial level (53 units including province and island authorities) and the municipal level, including 8 096 municipalities, 3 699 minor local entities, 3 metropolitan areas and 49 *comarcas* in Catalonia (see MEH, 1998a).

The features of the Spanish “federal” arrangements as proposed by Agranoff (1994) may be summarised as follows:

- a) The agreements to achieve autonomy were established from the very beginning on a bipartite regional-national basis among the regions that pressed the centre for more autonomy: Basques and Catalans on one side and central government, on the other side. These patterns laid the ground for future negotiations with other regions, who wished to achieve the same degree of autonomy. The bilateral agreements as opposed to multilateral arrangements brought about a competitive pattern among ACs as opposed to co-operative relationships among them.
- b) The distribution of autonomy on the level of the ACs should be considered as a “process” and not as a “system”. Instead of making a comprehensive agreement from the outset with a fixed number of central government functions being passed to the ACs, authority was transferred from the central government to the ACs in a continuous bargaining process. The establishment of the “Autonomous State” followed an evolutionary pattern where the transfer of functions is still being accomplished in response to problems as they emerge.
- c) The Constitution made it possible for the three historical territories Basque Country, Catalonia, and Galicia to reach autonomy by a faster route than other potential ACs. These three Acs -- besides Andalucía under special constitutional provision -- were granted an autonomous status before the other communities. The rest were granted more limited powers in the first place and were made subject to a set of uniform conditions (e.g. size of cabinet,

election dates, no-confidence votes). The pattern of bilateral negotiations and the different “speed” of the devolution process implies that the range of responsibilities of the ACs can be quite different. For instance, the Basques and the Catalonians have their own non-municipal police, whereas in the rest of the country two national police forces operate under the control of the Ministry of the Interior. Seven ACs have responsibility for health (Andalucía, Basque Country, Canary Islands, Catalonia, Galicia, Navarra and Valencia), but not the other Acs.

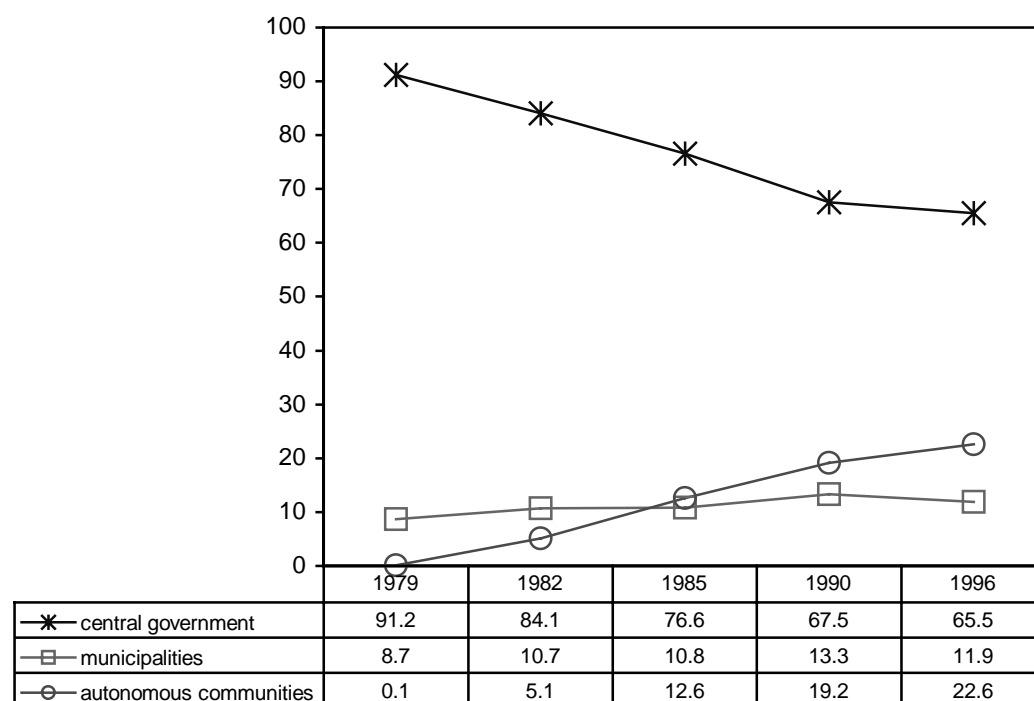
- d) The centre has tried to handle asymmetry by involving other region in the decentralisation process. If the devolution of authority favoured the Basques and the Catalans, measures were taken to grant the same authority to other regions as well. As a result of this equalisation strategy, the Basques and the Catalans are no longer the only ones to press the center for greater autonomy.
- e) The centre has tried to handle asymmetry by involving other regions in the decentralisation process. If the devolution of authority favoured the Basques and the Catalans, measures were taken to grant the same authority to other regions as well. As a result of this equalisation strategy, the Basques and the Catalans are no longer the only ones to press the centre for greater autonomy.
- f) In spite of the vast political decentralisation, the capacity to levy the most important taxes has remained mostly with the centre. These are income taxes, VAT, taxes on business and special product taxes (alcohol, tobacco, energy and the like). Central government has not decentralised taxing powers as much as it has handed functions to ACs.

The regional decentralisation strategy dominated clearly over a possible local decentralisation. Although local municipalities acquired the right to self-administration and political legitimacy through elections, the big share of welfare functions remained at AC level. It seems as if the paternalistic “Napoleonic State” has recreated himself in the ACs: They attempt to centralise government functions in their territory, denying devolution of tasks to local authorities. These features influence enormously the pattern of inter-governmental co-operation in Spain, as it discussed below.

Thus, not surprisingly, ACs have always received a bigger share of financial resources in comparison with municipalities (see Figure 1). The level of public expenditure of ACs increased from low levels in the pre-autonomous phase between 1979 and 1982 (0.1 and 5.1 per cent) to close to 25 per cent in 1996. Municipalities, however, have remained at almost the same level between 8.7 and 11.9 per cent during the all this period with a worrying peak for central government concern in public expenditure of about 13 in 1990. The figures confirm that the devolution process has not reached local authorities. The claim of municipalities to enjoy a bigger share of public resources (achieving 25 per cent of public sector expenditure) faces the strong opposition of regional authorities that do not want strong competing power structures in their territory.

The relative expenditure levels in Figure 1 do not however show the expansion of welfare state since the late 1970s and early 1980s. Overall public expenditure in Spain increased from around 20 per cent of GNP in the early 1970s to more than 40 per cent in early 1990s. This brought Spanish public expenditure to the level of other OECD Member countries such as France, Germany, the United Kingdom and the United States.

Figure 1: Distribution of Public Expenditure Among Different Levels of Government from 1979-1996 (in per cent)



Source: MEH, 1998b; Jáen-García and Molina-Morales, 1996.

⁽¹⁾ Pensions of the Social Security and passive classes are included.

⁽²⁾ Expenditure as a consequence of passive financial expenditures is not included.

Public employment is unequally distributed among levels of government in Spain (OECD, 1997:36). While the central government's share dropped from 58.8 per cent in 1985 to 47.1 per cent in 1994, ACs increased their share from 23.2 per cent (1985) to 31.4 per cent (1994). At the local level, the percentage of public employment increased only slightly (18.1 per cent in 1985 to 21.5 per cent in 1994). The increasing share of public employment of the ACs and the almost constant level of public employment at the local level reflects the evolution of the distribution of public expenditure among levels of government in Spain.

In relation to the distribution of functions among the central government and ACs, policy-making powers include a mixture of uniform national policies, shared policies with the ACs and exclusive regional policies. Whereas the central government retains policy-making and implementation in a few areas, the Constitution and the arrangements on bipartite basis have established a system of shared and exclusive regional powers. As a consequence, regional powers can have different degrees of intensity, depending on whether an AC assumes full legislative and executive powers, limited legislative powers or only executive functions. For around 80 per cent of policies, legislative power belongs exclusively to central government, or is shared with the ACs. If legislative powers are shared with ACs, the central government issues basic legislation which is then developed by the ACs into their own set of laws and regulations, going far beyond mere implementation of national mandates. This is the case for most welfare state policies, including social welfare, economic development, environmental protection and public health that are developed and implemented by the ACs.

Local government are responsible for the remaining functions, the “left-over”. Thus, most compulsory local tasks are basic service delivery functions (refuse collection, water supply, street cleaning, etc.). Municipalities with more than 20 000 inhabitants (12.7 per cent of municipalities with 64 per cent of the Spanish population) also have to deliver social services. However, a general clause allows municipalities to deliver any kind of service based on a local interest. Thus, any local authority may also administer welfare policies. The increasing demands of citizens on local municipalities gives them incentives to provide services that may overlap with the services provided by the ACs.

It is evident that the new distribution of functions, financial and human resources has changed the relationship within and between levels of government. The following section will analyse how the asymmetrical pattern of power devolution has influenced the establishment of inter-governmental arrangements.

EMERGENCE OF INTER-GOVERNMENTAL CO-OPERATION IN SPAIN

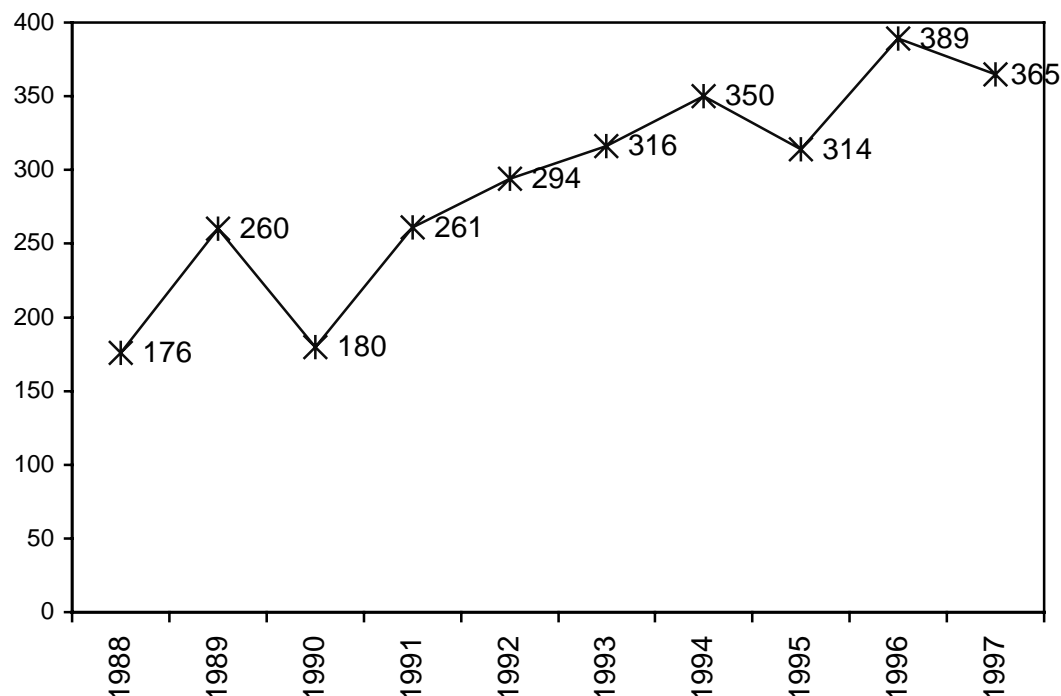
Bilateral Vertical Co-operation among Regional Authorities and the National Government

The national government and regional authorities established bilateral commissions on a temporary basis in order to guide and monitor the transfer of functions bargained in the devolution process. Once the transfer had been accomplished, however, commissions continued to operate. These bodies now supervise the new “Co-operation Agreements” (*Convenios de Colaboración*) that deal with welfare policies such as education, labour, culture, health and social services. The number of new Commissions being established every year and the continuation of others shows that the significance of this policy instrument goes well beyond the initial transfer of functions to ACs. The number of agreements between the national government and ACs has grown steadily between late 1980s and early 1990s. Since the mid-1990s the number of agreements has been stable (see Figure 2).

In many cases, the bilateral commission is institutionalised in the form of a “consortium”. A consortium is a legal framework which was predominantly used in the local sphere to build up “partnerships” with higher levels of government. Until 1992 the service had to be provided by a municipality and the participation of a municipality in the consortium was compulsory. In 1992 (Ley 30/1992), the law was adapted to the already well-established practice to use *consortia* also for agreements between the central government and ACs.

Although “Co-operation Agreements” may be signed among several ACs and the national government as well as among ACs alone, agreements are usually bilateral between one Ministry and a regional public body of one AC. For instance, 81 out of 389 “Co-operative Agreements” in 1996 are multi-lateral agreements that were signed on a bilateral basis between the national government and seven ACs. This means that “Co-operation Agreements” are not homogeneous in nature. As a matter-of-fact, there are many multilateral relationships that are formalised on a bilateral basis (Alberti, 1996). Aja (1998) complains that multilateral agreements are not the rule although they would be much easier to monitor for all parties. In 1997, for instance, only one multilateral agreement between the Ministry of Education and Science and the seven ACs was signed concerning the transfer of non-university education to the regional level.

Figure 2: “Co-operation Agreements” between the National Government and Autonomous Communities from 1988-1997 (in total numbers)



Source: MAP, 1988 -1994; AAVV, Informe Comunidades Autónomas, 1992-1998.

In 1996, for the first time, agreements among ACs were negotiated without the involvement of national government. From the four targeted agreements only one agreement entered into force: In the case of two other agreements, one AC withdrew and in the other, the national government finally became a member. There have been other horizontal agreements without central government intervention recently, which however still must pass the Senate and the Congress.

In addition to these bilateral commissions, there are also multilateral statutory inter-governmental commissions composed of the national government, ACs and local governments (for example, the Commission on Financial and Fiscal Policy and many other sector-specific bodies). These commissions meet regularly to discuss matters of mutual concern and programme implementation. Although these multilateral commissions are of great economic relevance there are concerns that the issue of accountability is not being carefully examined (Aja 1998). The perceived problem is that these bodies contribute enormously to the blurred relationships among different levels of government because of a lack of transparency and clear responsibilities.

Summing-up, the creation of a new regional level has nourished a great number of inter-governmental contractual relationships. Many have crystallised in the form of “partnerships” that cover the most important policy fields of the welfare state. They are usually established on a bilateral basis between the national government and one AC. Unlike in other federal systems, the horizontal co-operation among regional authorities is almost non-existent in Spain. The lack of horizontal co-operation has much to do with the asymmetrical way in which the regional state has been shaped. The AC of the “fast route” are pulling in one direction and trying to distance themselves from the ACs of the “slow route”. The highly

asymmetrical Spanish governmental structure that encourages competition between the ACs for financial transfers from the national government does not offer the grounds for horizontal “partnerships”. In a context of fiscal centralisation, all ACs seek to obtain the bigger share for their own benefit.

Furthermore, regional authorities are unwilling to continue the devolution process further down towards local authorities. Regional authorities fear that local authorities might gain too much power and they do not want to lose their recently acquired functions. The unwillingness of ACs to further decentralise functions to municipalities and their strong focus on the battle for the financial resources of the centre have limited the attention that ACs have paid to a global policy of co-operation with the municipalities of a region. One exception are the Cantabrian and Canary regional governments that have recently launched financial programmes of joint responsibility with local authorities. Other ACs are beginning to follow in this direction. In the Canary Islands, the regional government has gone even further by decentralising the delivery of many services to each island authority (which have become some sort of “quasi-provinces”). This is perhaps the movement of the next century for regional authorities: re-decentralisation and granting local authorities more power and resources to deliver services.

Mancomunidades: Horizontal “Partnerships” on the Local Level

The territorial distribution of local units lays the ground for co-operative intermunicipal arrangements. As Table 1 shows, Spain is characterised by a large number of small municipalities. Around 84.8 per cent of the towns in Spain have less than 5 000 inhabitants. Although only 15.5 per cent of the Spanish population lives in rural areas, the welfare state policies of the socialist governments that ruled the country from 1982 to 1996 aimed at reaching the citizens all over the country.

Furthermore, the distribution of municipalities is not homogeneous in all ACs. Generally speaking, the provinces that are located in the centre have more rather small municipalities while provinces situated on the coast are more urbanised. For instance, Castilla y León has 2 247 (27.7 per cent) cities and towns with 2 508 496 (6.3 per cent) inhabitants, while Andalucía has 772 (9.5 per cent) municipalities with a population of 7 363 245 (18.5 per cent). Thus, Castilla y León is made up mostly of rural towns (97.9 per cent) with less than 5 000 inhabitants while in Andalucía rural towns only make up 67.9 per cent of all towns in this region.

The large number of rural towns and the weakness of local finances makes it necessary that local authorities establish “partnerships” with either neighbouring municipalities or higher levels of government in order to deliver those services for which they are responsible. As Pierre (1994 quoted in Lundqvist 1998) points out, working in networks is a strategy that helps actors in the local government environment to alleviate the eternal problem of scarcity and resource dependence. Spanish municipalities may use two types of “partnerships” in order to deliver their services in a more efficient way: the *mancomunidad* and the *consortium*. The former is a typical case of public horizontal “partnerships” at the local level, while the latter refers to vertical “partnerships”.

Table 1: Distribution of Municipalities in Spain according to their Size of Population (1998)

Range of Population Size	Number of Municipalities		Total Population	
	n	%	N	%
0-2,000	5 931	72.2	3 036 454	7.6
2,001- 5,000	1 020	12.6	3 129 220	7.9
5,001 - 20,000	853	10.5	8 124 523	20.5
20,001 - 50,000	178	2.2	5 195 495	13.1
500,000 >	115	1.4	20 183 702	50.9
total = 100%	8 096		39 669 394	

Source: INE 1996; MEH, 1998c.

Since 1985, *consortia* are also open to the non-profit sector. Both kinds of “partnerships” comply with the features of a “partnership” as proposed by Guy Peters (1998: 12-14):

- *Mancomunidades* as well as *consortia* involve two or more actors;
- Each participant is a “principal” who theoretically bargains with partners of the same status and on its own behalf, without having to refer to other sources of authority;
- The “principals” enter into an enduring relationship;
- Each participant transfers some resources -- material or immaterial -- to the “partnership”;
- There is a joint responsibility for the outcome of the activities of the “partnership”.

The *mancomunidad* is basically a horizontal “partnership” which is only composed of municipalities. According to Martín Mateo (1987), its origin goes back to the medieval times. The oldest “*mancomunidad*” recorded in the database of MAP is from 1409: the *Mancomunidad de Enirio-Aralar*” in the Basque Country, comprising 13 municipalities to manage forest resources. Formal regulations of *mancomunidades* were established in the last two centuries (*Proyecto de Ley municipal de Posada Herrera, 1860* and *Estatuto municipal 1924*). During the dictatorship, *mancomunidades* were regulated by the “Local Regime Act” of 1955. At present, the legal provisions for *mancomunidades* are laid down in the “Basic Local Law” of 1985.

Another restriction regarding the members of the *mancomunidad* stipulates that they must not belong to different ACs. This implies that two neighbouring municipalities of the same valley cannot join a *mancomunidad* to fight fire in the vicinity if they belong to different ACs. The data shows however, that some municipalities originating from different ACs are still members of the same *mancomunidad* that they belonged to in the past. In contrast to this, interregional *consortia* are allowed. Surprisingly enough, there are not many cases of horizontal co-operation between municipalities belonging to different provinces.

According to statistical data from 1998, from the total of 8 096 municipalities in Spain 5 857 municipalities join at least one *mancomunidad*. Some of them join two or three *mancomunidades*. 87.3 per cent of these municipalities are towns of rural areas with less than 5 000 inhabitants. These small municipalities use *mancomunidades* to deliver what they cannot provide with their own resources. The average number of municipalities in a *mancomunidad* is eight, 50 per cent have six or less and the highest number is 94 rural towns of a Castillian *mancomunidad*.

The present Spanish legal provisions define *mancomunidad* as a multi-purpose organisation with the only limitation that *mancomunidades* cannot take over all functions of their “principal”: the *mancomunidad* cannot substitute the municipality. Nevertheless, there are many *mancomunidades* -- about 43.4 per cent or 383 in absolute numbers -- that have only one purpose. The rest of the *mancomunidades* deliver between two and thirty different services, five services being the average number.

As mentioned before, there are not clear regulations over the kind of services local authorities can provide. Nevertheless, there is a list of mandatory services, the number of which varies with the size of the municipal population. Thus, the list of mandatory services does not take into account when a tourist city has 5 000 inhabitants in the winter period and more than 50 000 during the summer holidays. The variety of services provided by local authorities through *mancomunidades* is quite large (57 different services). This number exceeds the 18 mandatory services found in the legislation. This implies that besides compulsory services, *mancomunidades* also deliver voluntary services related to welfare policies: 58.7 per cent of *mancomunidades* deliver at least one service of a voluntary nature and 14.6 per cent deliver more than half a dozen different voluntary services. Therefore, the decisions of local municipalities to join a “partnership” are not solely related to complying with legislation.

The most common services provided by *mancomunidades* are refuse collection and water treatment (51.4 per cent), followed by water supply (29.7 per cent), cultural activities (27.9 per cent), fire fighting (24.9 per cent), social services (24.8 per cent) tourism promotion (24.7 per cent) and economy promotion (22 per cent). Since municipalities are the closest administration to citizens, local politicians focus on activities that raise the quality of life of their electorate. With the constitution leaving few powers to local government, local authorities sometimes are going beyond these boundaries as far as the range of local services is concerned.

Although *mancomunidades* are a good way to overcome municipal fragmentation and to make use of economies of scale there is a problem of political and managerial accountability. The member municipalities appoint local politicians for the governing body of the *mancomunidades*, the number of which is proportional to the size of the population of the respective member municipalities (Martín-Mateo, 1987; Nieto-Garrido, 1997). This means that politicians and not professional managers are in charge of the delivery of the services. In many cases, the governing body of the *mancomunidades* is large. Usually, all matters are decided within the governing body without considering contracting out service delivery or to establishing a professional administration granted with certain autonomy. Thus, the working pattern is often slow and inefficient.

Summing-up, from a political accountability perspective, *mancomunidades* have the advantage that all “principals” have the same *status* (local authority) and all of them are represented in the governing body. At the same time, this structure has serious disadvantages: The financial weakness of the members of the *mancomunidad* will not improve unless financial support from other levels of government can be obtained. There is also the risk that the members will not pay their financial share on a regular basis. From the perspective of managerial accountability, the high number of “principals” as well as the multi-purpose character of the *mancomunidad* suggests that common delivery of the services may not be carried out in the most efficient way. Altogether, the *mancomunidad* seems to be a quite traditional bureaucracy that suffers from some severe deficits in political and managerial accountability. Improvements in

accountability management would require some fundamental changes such as the reduction of the number of functions performed, restriction of the number of committee members and contracting-out of services to the private or non-profit sector. A case study on the Uribe-Kosta Services Partnership in Metropolitan Bilbao discusses the challenges faced by *mancomunidades* in more detail.

Consortia: Vertical “Partnerships” on the Local Level

The *consortium* is a vertical “partnership” composed of public organisations from different levels of government (national, regional and local). Thus, the national government, ACs, provincial administration and municipalities may enter a *consortium*, but also *mancomunidades* can be members. All members of a consortium need to have an interest in local service delivery. As a consequence, the participation of a municipality is compulsory. The first legal provisions on *consortia* date back to 1955 (*Reglamento de Servicios de las Corporaciones Locales*). As mentioned before, legislation accepts also *consortia* between ACs and the central government since 1992. Finally, also non-profit organisations that share some municipal interests local service delivery may take part in *consortia*. According to Pierre (1998:1f.), two main factors contribute to the involvement of private organisations in local “partnerships”:

- The size of municipal institutions implies limited financial resources and a low degree of managerial professionalisation for delivering services;
- The physical distance between public and private actors is smaller at local level than at national level. In the Spanish case, almost one third (31.5 per cent) of all *consortia* have a private partner. This shows that involvement of private actors with public partners is becoming important in Spain.

As far as inter-governmental “partnerships” are concerned, the collaboration between provincial authorities and local authorities is the most popular one of all possible vertical combinations: This is the case for 38.7 per cent of the *consortia* in Spain. 37.1 per cent of the *consortia* are also joined by ACs (with the presence of provincial authorities in the majority of these cases). The national government also takes part in 6.8 per cent of the *consortia*. In some cases, *consortia* (8.4 per cent) are only composed of municipalities. This means that some municipalities prefer a *mancomunidad* for joint service delivery, while others prefer a *consortium*.

In contrast to the *mancomunidad*, the *consortium* is usually single-purpose organisation. This is the case for 78.1 per cent of all *consortia* focusing on services like refuse collection and treatment, theatre management and hospital management. Exceptionally, a *consortium* may deal with more than one service as this is the case for *consortia* that promote local development. This may include a variety of different activities such as public works, urbanisation and tourism promotion. A good example is the “partnership” between the province authority of Almería and four other municipalities, the *Consortium Levante Norte para el Desarrollo Local*, which was established in 1992 in the Andalusian region. Thus, although *consortia* are one-purpose associations and *mancomunidades* multi-purpose “partnerships”, there are many *mancomunidades* providing only one service and a few *consortia* that deal with more than one function.

Altogether, the *consortia* in Spain cover 36 different services. The most common service provided by *consortia* is economic promotion (16 per cent). *Consortia* for cultural promotion (12.3 per cent) and water supply (7.3 per cent) are also quite frequent. The Greater Bilbao Water Partnership (GBWP) which will be analysed in more detail in the Metropolitan Bilbao case study is a good example of the latter.

Consortia and *mancomunidades* also differ also in terms of their organisational structure and judicial regime. According to Nieto-Garrido (1997), there are three basic types of executive committees in *consortia*. In the least common type, the committee is composed of politicians as it is the case in the *mancomunidad*. The two other types of committees have a general manager that can be either recruited from the private sector or from the public service. In any case, the general manager is a professional with specific knowledge about the service provided by the *consortium*. Politicians of the general assembly can make the general manager accountable for his or her actions. Notwithstanding these differences, *consortia* and *mancomunidades* are similar in one respect: they reproduce the territorial competitive patterns of the regional level in the local arena.

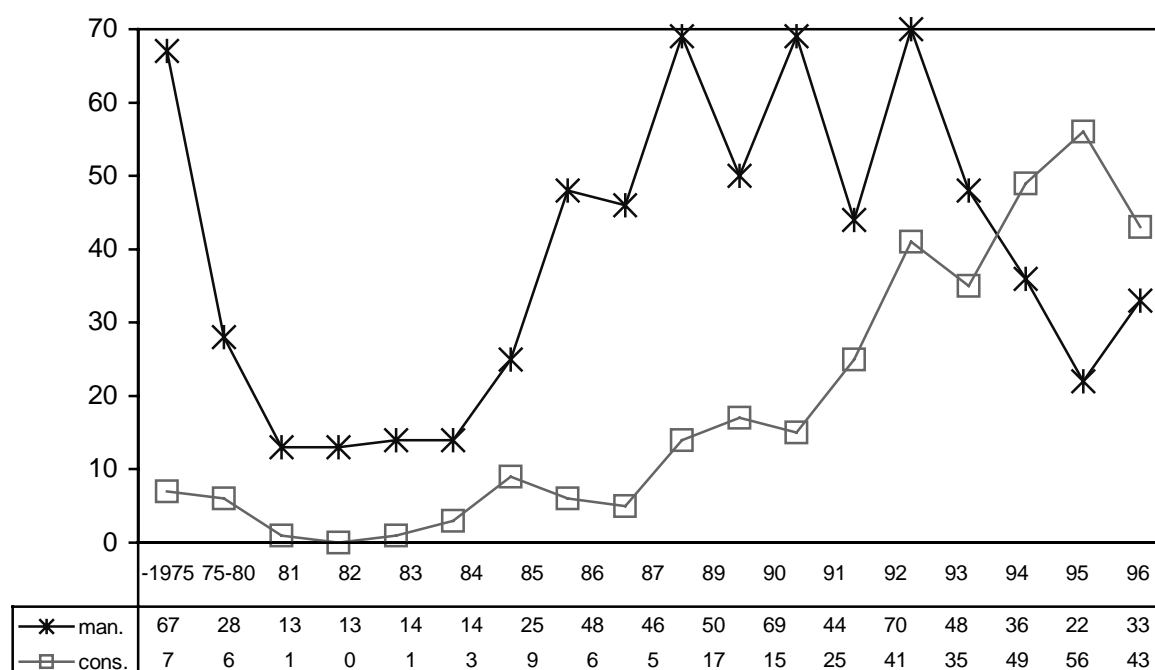
Towards a Consortialisation of Local Affairs?

Both *mancomunidades* and *consortia* are institutions in terms of institutional economics. Local actors have decided to create an organisation rather than engaging in series of (repetitive) bargaining processes among individuals in order to generate collective actions. *Mancomunidades* and *consortia* seem to minimise transaction costs that local actors would incur in the absence of these “partnerships”. In many cases, the established institution is able to deliver services that otherwise a single “principal” could have never provided on its own.

Another question relates to the choice between a *mancomunidad* or a consortium. From a governance point of view, the basic question is which type of “partnership” allows achievement of public policy goals in a more accountable way?

As described above, there are major differences between a *mancomunidad* and a *consortium*. In brief, a *mancomunidad* is a horizontal “partnership” exclusively among municipalities with multi-functional objectives and with political executives at the top. A *consortium* is a vertical “partnership” among public organisations of different levels of government with a mixture of political and professional executives. However, empirical data shows that in spite of differences among both types of “partnerships” both forms are used for similar purposes with a similar structure. The choice of a particular organisational form seems to be more determined by historical and geographical factors than by transaction costs theory:

- a) There are some *consortia* purely formed by municipalities. Many of these *consortia* focus on a single purpose that in other cases is provided by *mancomunidades*, as for instance, water supply or refuse collection, fire fighting and the like.
- b) The evolution of *mancomunidades* and *consortia* has been quite uneven over time and space as Figure 3 points out.

Figure 3: Evolution of *Mancomunidades* and *Consortia* from 1975-1996 (in total numbers)

Source: For *mancomunidades* (MAP, database) (147 missing cases) as well as statistical reports from MAP. For *consortia* (MEH, database) (80 missing cases) and (MEH, 1998c).

Whereas *mancomunidades* started to grow from the mid-1970s and exploded in numbers during the 1980s with a declining trend during the 1990s, *consortia* took off after 1985 and have steadily grown during the 1990s. Although the overall number of *mancomunidades* (882) doubled the total number of *consortia* (429) in 1997, it seems that the annual pattern of growth of *mancomunidades* is more erratic while the increase of *consortia* is steadier upwards.

Table 2 reveals another difference between *mancomunidades* and *consortia* regarding the territorial distribution. While the creation of *mancomunidades* is preferred in the most fragmented and rural ACs with rather small municipalities (Castilla y León with 27.7 per cent of the Spanish municipalities and 23.3 per cent *mancomunidades* but only 6.5 per cent *consortia*), *consortia* are more common in two less fragmented ACs with a high proportion of people living in municipalities with more than 50 000 inhabitants (Catalonia with 28.2 per cent *consortia* and 7.7 per cent *mancomunidades*; Andalucía 24.5 per cent and 9 per cent respectively). Is there any reason for this different distribution and the preference for *mancomunidades* or *consortia*?

Table 2: Geographical Distribution of *Mancomunidades* and *Consortia* (1998)

	Municipalities		<i>Mancomunidades</i>		<i>Consortia</i>	
	n	%	n	%	n	%
Andalucía	772	9.5	79	9.0	105	24.5
Aragón	729	9.0	84	9.5	10	2.3
Asturias	78	1.0	14	1.6	11	2.6
Baleares	67	0.8	7	0.8	26	6.1
Canarias	87	1.1	12	1.4	9	2.1
Cantabria	102	1.3	7	0.8	0	0.0
Castilla y León	2 247	27.7	209	23.7	28	6.5
Castilla-La M	915	11.3	112	12.7	19	4.4
Catalonia	944	11.7	68	7.7	121	28.2
Valencia	541	6.7	52	5.9	24	5.6
Extremadura	382	4.7	73	8.3	14	3.3
Galicia	314	3.9	36	4.1	7	1.6
Madrid	179	2.2	32	3.6	22	5.1
Murcia	45	0.6	9	1.0	2	0.5
Navarra	272	3.4	48	5.4	8	1.9
País Vasco	251	3.1	31	3.5	22	5.1
Rioja (La)	174	2.1	9	1.0	0	0.0
Total = 100%	8 097		882		!Synta x Error, (¹	

Source: For municipalities: (INE, 1996). For *mancomunidades*: Database from MAP and other statistical reports on *mancomunidades*. For *consortia*: Database from the MEH as well as (MEH, 1998c).

¹ One consortium is based in an African autonomous city and therefore not included in the table.

Does the data mean that a *consortialisation* of local services takes place in Spanish municipalities? If so, why? Before offering a plausible answer, it must be cautioned that the increasing trend of *consortia* and the declining or stable trend of *mancomunidades* could be misleading: In fact, there are other types of “partnerships” among municipalities (foundations, public enterprises) which have not entered into national statistics yet. However, local finance experts claim that that local authorities make intensive use of public enterprises to establish joint ventures with other municipalities. In these cases, each municipality owns a portion of the enterprise, which usually does not exceed 50 per cent of the total asset value. By doing so, municipalities also try to escape the controls of their municipal finance department. The Spanish Ministry of Finance is trying to investigate the scope of this particular “partnership” and a publication of statistical data is on its way. This means that a *consortialisation* of local affairs can be hypothesised if a broader definition of consortium is considered and these joint public enterprises are also included.

Concerning the reasons behind the uneven evolution of *mancomunidades* and *consortia*, one main explanatory factor has to do with the relevance of “partnerships” as instruments of governance (Peters, 1998). Peters claims that there are a number of characteristics that make “partnerships” interesting for local actors with regard to their policy goals: lack of visibility of “partnerships” with a corresponding decrease of political accountability and control, the assumption of more cost-effectiveness and the ability to evade government control. These features seem to be better represented by *consortia* than by *mancomunidades*:

- *consortia* only deal with one service;
- the judicial regime of *consortia* is less tight;
- finally, there is normally a rather professionalised governing body in charge of the organisation.

Thus, *consortia* increase the lack of visibility in comparison to *mancomunidades*, especially in those cases where a general manager is in charge of the service. Some regional authorities are taking sides in the debate. For instance, the regional government of Extremadura is promoting the establishment of *mancomunidades* by partly financing some infrastructure costs. The opposition of this regional government to *consortia* is expressed in the view that these “partnerships” with their less strict judicial regime and more managerial orientation erode the democratic control of municipalities. The regional government also argues that neighbours should solve jointly their problems without recurring to other institutions (national government, provincial or regional authorities) as the financial influence of higher levels of government in a consortium may endanger the autonomy of local authorities. Other regional governments, in contrast, like the Canary Islands are leaving the choice between consortium and *mancomunidades* to the market without interfering in the decisions of local authorities.

In addition, the economic crisis of the late 1980s and the early 1990s compelled local authorities to join “partnerships”. During this period of scarce financial resources, the number of services provided by local authorities has been growing steadily. Further, the need of the EU Member country Spain to meet the Maastricht criteria has undoubtedly pressed on municipalities to pool their resources, especially when most of their income used to come from other governmental sources.

In this environment of scarce financial resources, the nature of *consortia* is also changing. More and more the unconditional transfer of money is giving way to joint accountability arrangements. This trend is illustrated by the case study of Cantabria where the funding bodies -- national government, AC and provincial authorities -- deliver, together with municipalities, local services. These innovative *consortia* increase cost-effectiveness both for municipalities and for the donor organisations, thus increasing joint

accountability. Municipalities gain funds that could not have been obtained easily otherwise. Organisations from other levels of government ensure that the consortium will spend the money as they want it to be spent. In this sense, there is more visibility for higher levels of government than when they transfer funds without involvement in the delivery of the service.

Putting the picture together, both lines of arguments provide a somewhat contradictory explanation for the obvious popularity of *consortia* as compared to *mancomunidades*: According to the governance school, *consortia* are less visible and more flexible than *mancomunidades*. Especially to politicians, *consortia* may seem attractive because their political accountability is weak. From a principal-agent perspective, one may argue the opposite: *Consortia* as vertical “partnerships” offer better possibilities for “principals” of higher levels of government to make lower levels of government accountable for transfer payments. This means that they are the preferred form of inter-government “partnership” because politicians can assure a high degree of managerial as well as political accountability. The following case studies will shed more light on this issue. The first two case studies of local “partnerships” will juxtapose a “mancomunidad” with a consortium in metropolitan Bilbao. The third case study of the Programme COMUN in the Region of Cantabria will allow the comparison between the more managerial consortium Greater Bilbao Water Partnership and a more integrative managerial and political approach to *consortia* in Cantabria.

Accountability Management of *Consortia* and *Mancomunidades* in Metropolitan Bilbao

The Evolution of Inter-governmental Co-operation in Metropolitan Bilbao

Metropolitan Bilbao is the largest urban area of the Basque Country and Atlantic Spain. The population of 1 million spreads over 30 municipalities. The biggest municipality is the City of Bilbao with only 380 000 inhabitants, which is less than half of the metropolitan population. In spite of the urban character and common economic, social, and environmental challenges, Bilbao lacks a metropolitan layer of government.

Given that the population of Metropolitan Bilbao represents a major share of the Autonomous Community of the Basque Country (50 per cent) and the Province of Biscay (85 per cent), a strong metropolitan administration would deprive these two governments of substantial power and influence. Moreover, the distinctive administrative structure of the Basque Country leaves little room for a metropolitan government. The Basque provinces, including Biscay, enjoy substantially broader powers than the other Spanish provinces. Due to their political traditions, the Basque provinces levy mainly direct taxes on income, wealth, and corporate profits. They also collect VAT and deliver a wide range of services, such as welfare, public works and support for the arts.

Due to the strong provincial taxing power, the Basque provinces transfer a great deal of their financial resources to the Autonomous Community of the Basque Country as well as to the municipalities. The Autonomous Community of the Basque Community receives almost all the funding for its service provision in education, health and police services from the provinces. In addition to this, the Basque Country gets a specific transfer from the Spanish central government in exchange for national tasks which it carries out for the central government, namely defence and foreign affairs. Also, the larger part of the budget of Basque municipalities is granted by the provinces.

As a result of this political and administrative framework, there are relatively few metropolitan “partnerships” in the Bilbao area. The earliest major attempt to set up some kind of metropolitan government structure took place during General Franco’s dictatorship in the 1940s and 1950s. The Administrative Corporation of Greater Bilbao (ACGB) was chartered in 1947 when special legislation was

passed to establish metropolitan administrations in the four largest Spanish urban areas. The ACGB had the following main features:

- Consistent with an authoritarian regime that ignored regional or local autonomy, the central government enjoyed an overwhelming control of the ACGB (Barrero, 1993). In fact, the council of the ACGB was chaired by the civil governor, who was a senior representative of the central government in the Province of Biscay.
- The ACGB strengthened the role of the “central city” in the metropolitan area. Thus, the City of Bilbao almost monopolised municipal representation in the ACGB. Moreover, the ACGB bestowed strong annexation powers to the City of Bilbao, which were used to incorporate several neighbouring municipalities.
- The ACGB was part of the central government’s urban planning department. This fact hampered the capacity of the ACGB to deliver other services to the metropolitan area. The provincial and municipal governments were also somewhat reluctant to accept ACGB’s leadership in metropolitan service delivery because of its position in the central government’s administrative structure. The lack of representation of the provincial government in the ACGB until 1959 illustrates the difficult collaboration between both institutions (Ibarra, 1982).

Apart from the ACGB, a number of inter-governmental arrangements were set up during the dictatorship to deliver specific services:

- The Greater Bilbao Water Partnership managed the water supply and the sewage treatment in Metropolitan Bilbao.
- The Biscay Transportation Partnership was established to design and build an underground system in the Province of Biscay.
- Mercabilbao managed and secured wholesale distribution of fresh products in the metropolitan area.

When in 1979 the Autonomous Community of the Basque Country was chartered as a regional government, one of the first laws passed by its Parliament abolished the ACGB. This decision was mainly based on the hostility of the Basque Government, the provincial government and the municipalities to the ACGB’s strong dependence on the central government and its low degree of accountability to these institutions.

Once the ACGB was abolished, the provincial government encouraged the creation of *mancomunidades* to deliver public services. Most of the *mancomunidades* were set up to manage specific services such as solid waste management and welfare (Left Bank Waste Management Partnership). Others had broader goals and favoured co-operation for a great number of municipal services within a geographical section of the metropolitan area (Uribe-Kosta Services Partnership or Txorierra Services Partnership).

Most of these associations faced a major obstacle: the lack of financial commitment of some member municipalities. In order to solve this problem, the provincial Parliament passed legislation in 1995 which established a new legal framework for the *mancomunidades* and the *consortia*. The new law allowed the president of a *mancomunidad* to ask for the withdrawal of provincial grants from those member municipalities which did not fulfil their financial obligations with the “mancomunidad”. It also conferred to the president of the *mancomunidad* the power to proceed against any member municipality which would

not provide for the duties to the *mancomunidad* in its budget. The provincial government also used subsidies in order to foster *mancomunidades*. The problem is, however, that in some cases, subsidies might give incentives to establish forms of inter-municipal co-operation which are inefficient for municipal service delivery (see Boorsma and De Vries, 1998).

The economic decline of Metropolitan Bilbao gave birth to two new inter-governmental arrangements in the early 1990s. In 1991, the Basque government, the provincial council, the municipalities of the metropolitan area, the main business firms and third sector organisations set up “Bilbao Metropoli-30”, a public-private “partnership” devoted to strategic planning and policy entrepreneurship. In 1992, the Spanish central government, the Basque government, the provincial council, and the City of Bilbao founded “Bilbao Ría 2000”, a public-public “partnership” to carry out urban regeneration projects in Metropolitan Bilbao.

In order to analyse the accountability management of public-public “partnerships” operating in Metropolitan Bilbao, the focus will be on the Greater Bilbao Water Partnership (GBWP) and the Uribe-Kosta Services Partnership (UKSP). While the GBWP is a consortium, the UKSP is a “mancomunidad” made up of municipalities. The evolution of both “joint production partnerships” will give a good overview of the accountability problems of *mancomunidades* and *consortia*. They also illustrate some innovative attempts to foster their democratic legitimacy and to improve their managerial performance.

Accountability Problems of *Mancomunidades* and *Consortia* in Metropolitan Bilbao

The Case of the Consortium Greater Bilbao Water Partnership (GBWP)

During the boom of the steel, shipbuilding and equipment-goods sectors in the 1960s, Metropolitan Bilbao experienced strong economic and demographic growth. The outdated water supply system could not cope with the increasing demand from households and businesses. Some of the largest municipalities of the metropolitan area suffered severe restrictions in water supply. For instance, Barakaldo, Santurtzi or Sestao’s daily provision of water lasted for less than two hours. In spite of the intense pollution caused by industrial development, water treatment was hardly a priority for local political appointees.

The existing political and administrative framework hampered efforts to solve these problems. The responsibility for water management was greatly scattered among different layers of government. Moreover, the administrative fragmentation of the metropolitan area in small jurisdictions did not help to co-ordinate actions to improve water supply.

Facing these obstacles, Angel Galíndez, a councillor of the City of Bilbao and a senior executive of a private electricity utility, took the initiative to set up a consortium to manage water supply and treatment in Metropolitan Bilbao. The structure of this consortium was remarkably innovative and participatory, given the prevailing undemocratic political regime at this time. This partnership’s structure was based on the three following tenets:

- Municipal ownership of the “partnership”: All the 19 founding municipalities were represented in the governing bodies of the “partnership”. Each municipality’s number of votes in the general assembly correlated proportionately with the size of its population, although the maximum number of votes could never exceed five.

- Participation of the central government, the ACGB and the provincial government in the “partnership” without executive powers: When the ACGB was abolished in 1980, the regional government replaced the ACGB, keeping the same status within the “partnership”.
- The partnership’s staff was supposed to have highly managerial and technical skills. These skills would allow the “partnership” to operate like a private utility. All the government members of the “partnership” committed themselves to avoid any political interference with the technical decisions made by the staff.

The GBWP was set up in 1967 after Galíndez had succeeded in meeting two serious challenges:

- To involve the central government, the provincial government and the ACGB in funding the partnership’s operations, although relinquishing any executive powers.
- To convince the City of Bilbao not to take a dominant position in the “partnership”. If the City of Bilbao had held a dominant position, the other municipalities of the metropolitan area would not have actively engaged in the “partnership”.

Today the GBWP manages water supply and sewage treatment for a population of about one million. In order to deliver these services, the GBWP allocates an annual budget of \$65 million and employs a staff of 302 people (Consortio de Aguas del Gran Bilbao, 1997).

In terms of principal-agent theory, the GBWP presents a consortium with a highly decentralised structure of control. It is a clear example of an “agent” with multiple “principals”. The existence of these multiple “principals” with conflicting interests is likely to result in substantial agency costs. In a nutshell, agency costs are the sum of monitoring expenditures by the “principals” and the residual loss caused by the divergence between the GBWP’s decisions and those decisions which would maximise the principals’ utility (Jensen and Meckling, 1976). In more specific terms, the GBWP is an “agent” of four different kinds of “principals”, which delegated some authority to the “partnership”:

- The 19 founding municipalities and the other 24 municipalities which joined the “partnership” later. These “principal” have voting powers to make strategic decisions as well as executive powers to monitor the performance of the GBWP and to ensure that it follows their instructions.
- The central government, the provincial government, the ACGB, and more recently, the regional government. These “principals” fund the operations of the GBWP but they lack executive powers to control the partnership’s performance. They are only able to use their financial power to influence the performance of the GBWP. In order to address this mismatch between the degree of financial commitment and non-existent political rights the provincial government obtained voting powers in the GBWP in December 1997 (Consortio de Aguas Bilbao Bizkaia, 1998).
- In order to achieve its goals, the GBWP carries out costly infrastructure projects to improve water supply and treatment in Metropolitan Bilbao. The GBWP therefore needs external funding for these projects. If funds from the private sector are not sufficient, the “partnership” is forced to add a surcharge to the price of the water paid by the citizens. For the last decade the citizens have been paying a 100 per cent surcharge to fund the General Wastewater Treatment System, to be completed in 2004, with a US-\$700 million investment. The users are not members of the GBWP nor do they have any executive powers.

- Finally, the GBWP is also an agent of the European Union (EU), which provides the GBWP with additional funding to implement infrastructure projects such as water treatment plants. Since the EU is not a member of the GBWP, information and transaction costs seem to be greater in this case than in the accountability relationship between the GBWP and other layers of government which are members of the GBWP.

Summing-up, the complex accountability relationships of the GBWP include three kinds of “principals”: Municipalities that provide some minor funding to the GBWP are all represented on the governing boards of the “partnerships” and vested with voting powers dependent on the size of municipal population. Governments of the central, regional and provincial level provide the major funding to the water “partnership” but with the exception of the provincial government they have neither voting powers nor any executive powers as members of the “partnership”. And last but not least, the users and the EU also contribute to the financing of infrastructure projects but both are not even represented in the governing bodies of the GBWP.

The Case of the Uribe-Kosta Services Partnership (UKSP)

The UKSP was set up in 1992 out of six neighbouring municipalities (Barrika, Gorniz, Lemoiz, Plentzia, Sopelana and Urduliz) which are located in Metropolitan Bilbao and have a population of about 20 000 inhabitants altogether. This “mancomunidad” delivers a wide range of services, including the following ones (Mancomunidad de Servicios Uribe-Kosta, 1998):

- waste management;
- social services;
- consumer information;
- protection of the Basque language.

The choice of the “mancomunidad” for this kind of multi-purpose “partnership” is not obvious. In the Spanish legal tradition, the “mancomunidad” was originally designed to establish municipal associations for the delivery of one specific service although it evolved into a multi-purpose “partnership”. The Spanish administrative law offers another organisational framework to deliver several non-related services: the “comarca”, which is a co-operative arrangement of neighbouring municipalities with a strong territorial base. However, most municipalities tend to prefer the flexibility of the “mancomunidad” to the rigidities of the “comarca” (Barrero, 1994). While the chartering of a “mancomunidad” only requires the agreement of the participating municipalities, the establishment of a comarca also needs the approval of the AC through a parliamentary law. This approval is necessary since the establishment of a “comarca” involves a redistribution of power from the regional and provincial level to the “comarca”.

The decision of the six municipalities to set up this service “partnership” was based on these four key factors:

- a) The Uribe-Kosta area experienced fast demographic growth due to the suburbanization process in Metropolitan Bilbao. Uribe-Kosta offered low-density affordable housing and a good quality of life to young couples. The new residents demanded similar municipal services to the ones they enjoyed in the City of Bilbao and the other big municipalities of the metropolitan area. However, the budget of each Uribe-Kosta municipality was too small to allow it to deliver these services. Facing this financial constraint, the Uribe-Kosta municipalities had to pool their scarce financial resources to improve and expand their services.

- b) The provincial government encouraged and subsidised this kind of joint production arrangements among small municipalities. Therefore, the UKSP gained priority over single municipalities to obtain provincial funding for municipal service delivery. The 1995 provincial legislation on municipal “partnerships” helped to reinforce the financial commitment of the member municipalities.
- c) The six Uribe-Kosta municipalities shared many social, cultural, and environmental challenges that required a joint action. Recycling solid waste, preventing drug abuse or preserving the Basque language demanded a concerted effort of the six municipalities.
- d) In order to help the municipalities to deliver new services such as consumer protection the regional government heavily subsidised these services in the beginning. The regional government then gradually decreased its subsidies and transferred to the municipalities the financial burden of funding the new services. Given that the residents were already used to the new services, it was politically impossible to remove them. In practice, the provision of the new services became close to an “unfunded provincial mandate”. Thus, the Uribe-Kosta municipalities agreed to share this financial burden to continue providing these new services.

From a principal-agent perspective, the UKSP is an “agent” of two kinds of “principals”:

- The six member municipalities, which enjoy a high degree of control of this “partnership”. Given that an increasing assertive UKSP threatens to erode municipal powers, the political leaders of the member municipalities seem quite reluctant to give up micro-management and to delegate some of their control powers to the UKSP management staff. In contrast to the UKSP, the member municipalities seem not unwilling to share their control with the management team of the GBWP. The GBWP only provides a very specific and technical service, which elected political leaders tend to find less attractive than social or cultural services.
- The provincial and regional governments are also “principals” of the UKSP but they are not members of this “partnership”. Both governments, in particular the provincial government, decisively influenced the establishment of the “partnership” and regularly fund a substantial part of its activities.

On balance, the municipalities have a greater control of the UKSP than of the GBWP, since the former has a weaker professionalized managerial structure than the latter. The weaker professionalization of the UKSP stems from the lesser technical complexity and the great variety of services it provides.

Accountability Expectations in the Case of the Consortium GBWP and the “Mancomunidad” UKSP

Given its decentralised control structure, the GBWP and, to a lesser extent, the UKSP have to reconcile the different accountability expectations of their “principal” and related external stakeholders.

Table 3: Accountability Expectations for GBWP

	Legal - Financial	Managerial	Political
MUNICIPALITIES	xx	X	xxx
Provincial government	xx	Xx	xxx
Regional government	xx	Xxx	xx
Central government	xx	Xx	xx
European Commission	xx	Xxx	x
Audit Court	xxx		

The member municipalities require the GBWP to meet the citizens' needs for water supply and treatment at an affordable cost. Similarly, affordability of solid waste collection is a main concern of UKSP member municipalities. In fact, the municipalities also behave as agents of the electorate. Given that local government is closest to the citizen, the municipalities are very likely oppose big increases in water consumption charges. Therefore, the municipalities expect the GBWP to raise substantial external funding to carry out infrastructure projects. As a result, accountability expectations of municipalities are mostly political rather than managerial, and thus, fixing the price of water or solid waste collection becomes a key political decision for municipal leaders. To avoid any residual loss caused by a technical decision divergent from their political interests, the municipal representatives in the GBWP elect a senior politician as president of the consortium. This politician has traditionally been a councillor of the City of Bilbao and member of the ruling political party. The politically elected leaders of the member municipalities also control the UKSP governing bodies, which make politically sensitive decisions.

The provincial government also aims at expanding its political influence in the GBWP. Due to its financial power, the provincial government has managed to take over certain services previously delivered by the municipalities during the last two decades. In most cases, this has resulted in increased provincial funding and improved quality of the service. The water supply and water treatment services provided by municipalities which do not take part in the GBWP are usually of poor quality. Moreover, the price of water consumption greatly varies among the non-member municipalities in the Province of Biscay, raising equity concerns. Therefore, the provincial government encourages these municipalities to join the GBWP.

As the GBWP expands its jurisdiction to the whole province of Biscay, the provincial government strengthens its political leadership in the GBWP. At present, GBWP's by-laws have been reformed to grant executive and voting powers to the provincial government, and furthermore, a close aide to the president of the provincial government, who is a councillor of the City of Bilbao, has become president of the GBWP. Finally, the GBWP recently decided to change its name into "Bilbao -- Biscay Water Partnership". In summary, all these facts underline the growing importance of GBWP's political accountability to the provincial government.

In contrast, the other layers of government do not give so much priority to the affordability of water consumption or refuse collection charges. It seems that the larger the government's electorate is, the smaller concern for affordability it has. While the provincial government still shows substantial interest in affordability, the regional and the central governments tend to view it as an unfair transfer of financial burdens from the citizens of the metropolitan area to all Basque or Spanish taxpayers. However, this view

usually changes when these higher levels of governments are able to involve the EU in funding the activities of the GBWP or, more unlikely, of the UKSP.

In any case, the EU, the central government and the regional governments are more interested in legal/financial and managerial accountability than in political accountability. None of these three levels of government seems to be eager to play a more active political role in GBWP or in UKSP given that their electorates stretch far beyond the boundaries of Metropolitan Bilbao. Hence, they have rarely asked for executive powers or voting rights in the governing bodies of the “partnerships”.

Table 4: Accountability Expectations for the UKSP

	Legal - Financial	Managerial	Political
MUNICIPALITIES	xx	X	xxx
Provincial government	xx	Xx	xx
Regional government	xx	Xx	x
Audit Court	xxx		

Since the UKSP is a “mancomunidad” of six municipalities, it is much more difficult for the provincial government to hold it accountable, without endangering local autonomy rights, embodied in the Spanish constitution. These rights do not allow the provincial government to define performance measures for the UKSP. Furthermore, the UKSP delivers its services to less than 2 per cent of the provincial population, while the GBWP covers more than 85 per cent of the provincial population. This fact explains a decreased interest of the provincial government in the political and managerial accountability of UKSP.

As a result of the predominantly bureaucratic culture of Spanish public administration, most relevant external stakeholders place greater emphasis on legal than in managerial accountability (see Zapico Goñi, 1997). This is the case of the Audit Court, which only complains about the lack of performance data that prevents it from evaluating efficiency. Similarly, the Prices Supervisory Board, which must approve any increase in prices of basic goods, usually focuses on legal aspects, thus ignoring performance issues.

Information Management, Evaluation and Incentives in the case of the GBWP and the UKSP

Information Management

Given the dominant concern of the municipal and provincial governments with political and legal accountability, the GBWP tends to provide them with detailed legal and financial information. In the case of the UKSP, legal and financial information is only furnished to the member municipalities.

It would be relatively easy to design performance measures for the GBWP, particularly if based on outcomes such as water quality standards. However, water quality depends on a wide range of factors, including the performance of multiple players: individual citizens, manufacturing corporations, shipping cargo companies, etc. The improvement of water quality also requires joint action by different levels of government due to the dispersion of administrative powers in this field. As a result, the GBWP usually discloses performance information based on outputs rather than on outcomes. The production of these

outputs is almost entirely under GBWP's control and it does not need the joint action of so many different actors.

Similarly, the UKSP provides the six member municipalities with timely information on outputs such as the amount of solid waste collected, the number of information requests on consumer issues or the number of workshops arranged to prevent drug abuse among the young people.

Evaluation of Information

Apart from the external financial audit, the evaluation of information is basically an internal self-assessment process. Nevertheless, the active participation of the municipalities and the provincial government in the governing bodies of the GBWP assures co-operative feedback in the evaluation process. In the UKSP, there is also a joint performance evaluation between the management team of the "mancomunidad" and the member municipalities.

Eventually, specific external bodies such as the Audit Court assess the GWPA and the UKSP. This assessment focuses on legal and financial information rather than on performance data. An interesting exception is the Annual Report of Metropolitan Bilbao carried out by Bilbao Metropoli-30. This report analyses outcome and output data of the GWPA and the UKSP. However, the analysis is limited to those data which are most relevant to the overall revitalisation process of the metropolitan area. The experience of Bilbao Metropoli-30 illustrates the potential of "partnerships" to undertake external policy evaluation (Font, 1998).

Incentive Mechanisms

The "principals" of the GBWP use different types of incentives to minimise divergence between their desired and actual performance. In accordance with their strong political view of accountability, the municipalities and the provincial government are more likely to use political incentives to reward or sanction this "partnership". Positive political incentives include the expansion of GBWP's autonomy, functions and geographical boundaries. Negative political incentives usually consist in diminished autonomy and delegated authority as well as eventually open criticism in the media by local political leaders.

Higher levels of governments -- to a lesser extent also the provincial government -- often make more extensive use of financial incentives. Given the GBWP's strong dependence on external funding of infrastructure projects, they are quite successful in using financial incentives to guide its performance management.

The member municipalities of the UKSP tend to use mostly political incentives to reward or punish the management of this "partnership". Even if the UKSP enjoys less autonomy than the GBWP, the member municipalities are ready to grant additional powers to the UKSP as long as it complies with their instructions. Given that the provincial government funds a substantial part of the budget of the UKSP, this government is able to offer strong financial incentives to the "partnership". Among the member municipalities, only the Town of Sopelana, which hosts almost 50 per cent of the population of the Uribe-Kosta area, makes a big enough budgetary contribution to the UKSP to be able to use it as a financial incentive.

In a nutshell, incentive mechanisms for GBWP and UKSP are restricted to the two basic types of resources which determine inter-organisational interaction: money and authority (Benson, 1975, Leach, 1997).

Uncertainty and the Future of the GBWP and the UKSP Partnerships

The performance of the GBWP heavily depends on a highly uncertain factor: weather and rain patterns. For instance, the severe floods in 1983 seriously disturbed the GBWP's water supply and treatment operations. Similarly, a persistent drought in 1989-1990 forced the "partnership" to expand its reservoirs in order to ensure water supply.

Furthermore, the GBWP faces a quite uncertain environment. On the one hand, it has to meet increasing citizens' demands over water quality and to comply with the EU stringent environmental directives. To this end, the GBWP has managed to secure substantial external funding from the provincial, regional, central and European levels of government. On the other hand, the GBWP needs to adapt itself to the changing political environment. The GBWP has been remarkably successful in transforming its organisation structure to cope with the political challenges derived from the abolition of ACGB, the emergence of the regional government, and the increased power of the provincial government. Its openness to the political environment allowed the GBWP to replace the ACGB with the regional government being represented in the governing bodies.

For the UKSP, the most critical uncertainty is the demographic evolution of the area and the new needs that it will have to meet. Since the area enjoys a strong demographic growth the UKSP currently expands its services. If this demographic growth should come to a halt in the next decade, the UKSP will face serious financial hardship in delivering the services that citizens have become accustomed to. In order to cope effectively with this uncertainty, the Town of Sopelana initiated "Sopelana 2010", a community strategic planning project, which defines the long-term strategies for the town. This project was based on the broader framework provided by the Strategic Plan for the Revitalisation of Bilbao.

Uncertainty does not only derive from poor information about future trends and lack of timely communication among decision makers. It might also stem from strategic nondisclosure or distortion of information, resulting in substantial agency costs (Williamson, 1996). In the case of the GBWP, the City of Bilbao attempts to avoid such kind of distortion of information by ensuring the election of one of its councillors as a president of the "mancomunidad".

In spite of the uncertain environment it is possible to anticipate some future trends in the evolution of the GBWP:

- given its financial power the provincial government is likely to strengthen its role in the GBWP in the next few years;
- the public role of the provincial government will favour the extension of its jurisdiction to all municipalities in Biscay;
- the privatisation of water supply services around the world is likely to encourage the GBWP to bid for management of these services in other countries, particularly in Latin America;
- as a result of the internationalisation of its activities, the organisation structure of the GBWP will become closer to the organisation of a for-profit utility.

The future of the UKSP will be closely linked to the demographic evolution of the Uribe-Kosta area. If demographic growth continues the UKSP is likely to expand its services to meet the demands of new residents. This service expansion implies an increased need for financial and human resources as well as a higher degree of autonomy from its "principal". As long as the demographic growth mostly takes place in Sopelana, the biggest member municipality, the asymmetry among the member municipalities will

increase. This asymmetry will be a strong incentive for smaller municipalities to adopt a “free-rider” behaviour with a high potential for conflict among the “principals”. In this scenario, the Town of Sopelana would play an increasingly assertive role in UKSP.

If, however, the demographic growth slows or spreads more proportionally over the member towns, the structure of UKSP will probably remain stable.

General Lessons from the Accountability Management in the GBWP and the USKP

The foregoing analysis of both a consortium (GBWP) and a “mancomunidad” (UKSP) illustrates the serious challenges that accountability management poses to inter-governmental “partnerships” for the purpose of joint service production in Spain. The following three recommendations and conclusions are supposed to help the “principal” of inter-governmental “partnerships” in Spanish municipalities to improve accountability management:

- a) The “principals” should pay greater attention to managerial accountability. Political, legal, and financial accountability is not sufficient to secure quality improvement in service delivery. Improving service quality requires a continuous process of assessing performance and the ex-ante definition of appropriate performance indicators. The indicators should focus on outcomes rather than on outputs.
- b) The “principals” should foster the professionalisation of the management structure in “inter-governmental “partnerships”. On the one hand, this professionalisation is likely to foster managerial accountability, especially if the “partnerships” are increasingly forced to operate in a free market environment. On the other hand, professionalisation will probably diminish political accountability. The key issue is to what extent the “principals” are ready to accept this trade-off between political and managerial accountability.
- c) Vertical inter-governmental “partnerships” usually enjoy a larger degree of autonomy and professionalisation than horizontal “partnerships”. These two features will often make accountability management easier for “principals” in vertical than in horizontal “partnerships”.

This is confirmed by the government of Cantabria who launched a comprehensive Municipal Interadministrative Co-operation Programme in order to encourage *consortia*. The following chapter will provide more details of this innovative “local partnership” policy.

New Accountability Management of *Consortia* in the Region of Cantabria

The Starting Point

Cantabria is an uni-provincial region situated at the north coast of Spain, in the so-called Cantabrian cornice. The region of Cantabria enjoys a healthy economy as indicated by some key economic figures: for example, the regional unemployment rate that was recorded by the National Institute for Employment in September 1998 was only 10.69 per cent, which is less than the national mean value of 11.02 per cent. The regional consumer price index was 123.8 in September 1998 while the same consumer price index recorded a value of 124.4 for Spain. However, the growth rate of the regional GDP of 4.96 per cent still remains below the national growth rate of 5.46 per cent.

Recently, the government of Cantabria also became aware of new demands facing public administration at the regional and municipal level. Municipalities face the dilemma of ever increasing demand for municipal services by citizens and stringent budget restrictions. A survey that was carried out by the government of Cantabria on the situation of local public management yields the following results:

- There a number of local governments that have to deal with serious economic and financial imbalances but continue to be committed to a wide range of services. These municipalities are situated in metropolitan areas, including suburbs with a high density of population.
- Some other municipalities still have a sound economic situation at present even though there are already indications of a future economic downturn. The provision of services to these municipalities still is quite acceptable in volume and quality. Nevertheless, there is a desire to extend existent services to a larger part of the population and to introduce new services. This is the typical situation in medium-sized cities and tourist locations.
- In municipalities with a healthy economic and financial situation there are serious deficits regarding the extent and quality of overall local service provision, even of very basic services. These local authorities are mainly situated in rural areas. Their population is too small in order to achieve the economies of scale which is needed for efficient local service provision.

The region of Cantabria also suffers from a considerable dispersion in tax rates, which range from 18 500 Pts. per inhabitant/year up to 59 000 Pts. per inhabitant/year. The survey also revealed that human resource management was unable to effectively manage the present services provided by the municipalities, let alone new services in the future. The degree of vertical integration is low in Cantabria as there are relatively few *consortia* in this region. The only existing *consortia* were initiated and financed by the regional government as is the case for solid waste management.

In this context, the regional government has set up the Municipal Interadministrative Co-operation Programme (COMUN Programme) which is supposed to optimise the provision of municipal services within the region. The rationalisation of public service provisions and efficient budget management became key objectives for local governments in Cantabria. The COMUN Programme has to be seen as a tool to encourage joint efforts of different public administration in order to overcome the shortage of resources.

The Key Elements of the Municipal Interadministrative Co-operation Programme

According to the government of Cantabria, local authorities should not be put into “one bag” since each of them has their own characteristics and different preconditions for local service delivery. Therefore, the COMUN Programme is based on individual municipal performance plans that have to be integrated into strategic four year programmes and submitted to annual self-evaluations as well as to external surveys. The COMUN Programme includes the main building-blocs:

- The establishment of a Local Co-operation Fund which is intended to express the shared responsibility of the regional government with local development policies. In the case of municipalities with an unbalanced economic and financial situation the Fund shall be used for financial restructuring. As far as municipalities with a “healthy” economic situation are concerned, the Fund shall be used to improve the quality of local service provision.

- Objective external audits of the financial and budgetary management of the 102 municipalities of the region.
- Evaluation of the quality of present local service provision in the region.
- The definition of a set of criteria for “financial health”, which will include indicators and targets for budgetary balance as well as for sustainable growth.

Table 5: Indicators and Targets for “Financial Health” of Municipalities in the Region of Cantabria

	Indicators	Targets
Budgetary Balance	gross and net savings remnants of treasury short-term debts long-term debts financial charges level of liquidity	Remnants of treasury > 0 < 50 per cent of current income < 70 per cent of current income
Sustainable Growth	capacity to raise income investment capacity improvement in tax collection effectiveness	

The individual performance plans do not only include budgetary and financial indicators, each municipality is also supposed to design indicators to measure the quality of service provision in main local service areas. The government of Cantabria has proposed a “service basket” that defines four main local activities:

- a) Basic and compulsory services;
 - water and supply
 - sanitation system, including sewage depurating station
 - solid waste collection
 - lighting
 - public road maintenance
 - urbanism and promotion of urban and rural environment
- b) Quality of life;
 - sports
 - culture
 - social services and health care
- c) Strategic services;
 - economic promotion
 - tuition and employment
- d) Other services;
 - civil protection and firefighting
 - local police

These tools are supposed to be used as an instrument for self-evaluation by local management staff as well as an instrument for decision-making for local councils and the regional government. The objectives of the COMUN Programme are the following:

- to enhance local governance according to the principle of co-responsibility, which does not only imply increased financial responsibility at the local level in a narrow sense but also effective budgetary discipline as well as better prioritising of local investments;
- to retain and maintain a positive balance for the municipal budget according to the principle of long-term sustainability;
- improved co-ordination between regional and local authorities.

In 1999, the individual performance plans will be drafted for the first time under the heading of consensus and dialogue as governing principles for the whole action.

Improvement of Vertical Co-ordination through the Local Co-operation Fund.

The implementation of a partnership between Regional and Local Administrations in the A.C. of Cantabria, through a plan based on financial objectives and service provision, is expected to yield positive results in the design, and clarification of powers of each Administration. Furthermore, the rationalisation in service delivery is expected to enhance horizontal partnerships, scale economies and to introduce new management techniques to project development and services.

The Fund distribution criteria should be objective, based on population level and dispersion and per capita income of the towns, with continuing monitoring of compliance with each individual plan, undertaken and analysed by an independent professional. In addition, a Committee should be constituted from the Regional Administration and Local Councils at the highest level of political decisionmaking, to oversee the development of the Co-operation Plan.

Conclusion

Spanish public administration has made the transition from a unitarian state to a highly decentralised State with regional governments being more significant than local authorities. The plurality of new autonomous political institutions is the grounds for the emergence of inter-governmental agreements during the last 15 years. The formation of inter-government co-operation has demonstrated different patterns at regional and at local level as a direct consequence of the process of decentralisation: On the one hand, the asymmetrical devolution process has brought about competitive behaviour among regional authorities that prefer to deal directly with the national government without interference of others. The competition strategy may have prevented co-operation among some of the different ACs. Ultimately, the eagerness of regional authorities to gain a bigger share of resources from the centre has kept local authorities in a weak financial position in delivering a wide range of services to citizens. This has compelled municipalities to network with their neighbours or other institutions that are willing to offer financial support in order to deliver services jointly.

The creation of a new regional level has encouraged intensive vertical co-operation on a bilateral basis between ACs and the national government. This co-operation has produced in most cases a long-standing "partnership" to deliver many relevant welfare state services. However, horizontal and multilateral co-operation has not been encouraged at regional level. The competitive process of building-up the regional

State has prevented ACs from forming long standing “partnerships” with neighbouring regions. It may be a feature of a very young “quasi-federal” system. Horizontal co-operation may appear once the devolution process has reached maturity.

Both horizontal (*mancomunidades*) and vertical (*consortia*) “partnerships” have their roots on the local level since the arrival of democracy. Both kinds of “partnerships” have facilitated the service delivery of small municipalities in rural areas. Besides this, joint provision of services has also helped to extend the functions performed by local authorities. The same pattern of competitiveness seems to reproduce itself on the local level. Both vertical and horizontal “partnerships” seem to include only organisations of the same AC and of the same provincial area.

It seems that a *consortialisation* of services is taking place in the local area as *consortia* are growing in number and in relevance. The *consortia* offer a greater flexibility to deliver single services than *mancomunidades*, which are more politicised and less professionalised. Besides, *consortia* encourage the investment of higher levels of governments with a better tax-raising capacity. The process of *consortialisation* raises the question of ensuring the continuing democratic municipal control of services that were directly controlled by the municipality in the past. If *consortia*, joint public enterprises and foundations keep growing in the future many local politicians and administrators will be undertaking tasks of regulatory administration and will risk losing control of the service. There is, therefore, the danger that democratic control over public service provision will slowly degrade.

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THE NATIONAL ENVIRONMENTAL PERFORMANCE PARTNERSHIP SYSTEM (NEPPS) BETWEEN THE STATES AND THE US ENVIRONMENTAL AGENCY

by Elke Löffler and Christina Parker*

Accountability as a Central Concept in the American Public Sector

The American political system, with its fundamental cultural norm of distrust of concentrated governmental power, has made the accountability task of government extremely complex.

This stems from the recognition that the separation of powers and the liberalism upon which the Constitution rests is ambivalent about the public administration. Historically, different democratic models have given rise to three administrative models each of which is linked to one of the three specific constitutional functions: that is legislation, execution and adjudication (Ingraham and Rosenbloom, 1990:212). Historically, each of these models has worked successfully in its time (Stillman, 1988:269-284; Ingraham and Rosenbloom, 1990:212-214). The dilemma that the American public administration faces today is that there are no political forces that manage either to synthesize these disparate value traditions or to make one or the other dominant so that Americans continue to run their public administration with a confusing amalgam of all three value-orientations, which creates a situation of enormous complexity.

Adding to this value diversity is the historical pattern in the United States to layer one kind of accountability mechanism upon another. As one kind of accountability problem emerges, mechanisms are designed in an attempt to ensure that such an event cannot recur. These new mechanisms do not substitute earlier mechanisms, rather they are added to the mix as additional checks on behavior (Radin and Romzek, 1996: 59). The result is a pattern of multiple accountability relationships which vary in the degree, source and kind of control.

Thus, in practice, an agency is often confronted with the diverse and sometimes conflicting expectations of other agencies administrating related programmes or even of different political appointees within the same agency. Also in Congress, committees and subcommittees press different perspectives and priorities. As a result, duplication among federal agencies and state agencies - and the subsequent jockeying for funds and for the time and attention of the public, the media and of top elected officials - is built into the very structure of the American governmental system (see National Academy of Public Administration, 1998:39).

The need to design several programmes in one policy area that respond to different constituencies makes the federal and state government more responsive. At the same time, however, the inconsistencies among programmes and the fragmentation of programme administration results in high transaction costs. In some cases, transaction costs may become so high as to prevent action.

Nevertheless, the nature of the expectations is changing. Whereas in the past, there was an emphasis on input measures, such as dollars spent and staff-hours worked, and output measures, such as number of permits issued, there is more and more a focus on accountability for outcomes. This basically means to

move to outcome-based goals, performance indicators and evaluations. This new understanding of accountability is manifested through the establishment of the *National Performance Review* (NPR) on the part of the executive branch of government and through the *Government Performance and Results Act of 1993* on the part of the legislative branch of government, known as GPRA (Public Law 103-62 - 3 August, 1998).

Interestingly enough, in the first NPR report of 1993, *From Red Tape to Results: Creating a Government that Works Better and Costs Less*, Vice President Gore stressed the idea of government responsiveness by “putting customers first” (Gore, 1993: 43-64). In the second phase of the NPR the main focus has shifted to collaborative arrangements between different levels of governments that are based on improved accountability. Also GPRA stresses as one of the purposes of the act to “improve Federal programme effectiveness and public accountability by promoting a new focus on results, service quality, and customer satisfaction”(Public Law 103-62 - 3 August, 1993, SEC.2.b. (3).

The fact that both the President and the Congress have shifted in the direction of incorporating the notion of outcome-based performance into traditional control systems could be interpreted as a final integration of different value traditions in the American public administration. However, some commentators perceive this new concept of accountability as a new battleground between the President and Congress: whereas GPRA is seen as an initiative by Congress to strengthen congressional influence over federal administration, the NPR is interpreted as the latest move in the executive effort to dominate federal administration (Rosenbloom, 1997: 172, 175).

What does the engagement and commitment of the National Performance Review and the GPRA to results-based accountability imply in terms of accountability management? The Results Act requires all executive branch management and budget activity to be based on (a) *long-range strategic plans* for achieving the governments missions, goals and objectives (b) *annual performance plans* and budgets setting forth measurable performance targets, and (c) *annual performance reports* to track the achievement of established goals and objectives. Meanwhile all Departments and agencies have conveyed their Government Performance and Results Act strategic plans, and are conveying their annual performance plans to Congress. By March 2000, these agencies will submit clear, concise annual performance reports on their progress toward the goals they set (see OECD, 1998:4). It is important to note that the Act does not apply to the Central Intelligence Agency and the General Accounting Office, which raises the question who controls the controllers.

Although all these steps are designed to improve the government’s performance, they are not directly related to allocating funds in the budget. Pilot tests of actual performance budgeting are not required by GPRA until the fiscal year 1998 and 1999. So far only one agency has agreed to be a pilot. This is not surprising as it is not until the connection between inputs, outputs and outcomes can be made convincingly that budgeting can be connected to public policy outcome goals and used to pinpoint the governmental activities that should receive budget priority to increase the probability of achieving desired outcomes. Many managers understandingly resist having their budgets tied to outcome goals before it is clearly demonstrated that their funded activities are strongly enough related to the desired outcomes for their impact to be clearly measured (US Advisory Commission on Intergovernmental Relations, 1996:46.)

The National Performance Review (see <http://www.npr.gov>) was established in 1993 by Vice President Al Gore in order to transfer the reinvention movement and ideology from the local and state level to the Federal Government. As Vice President Gore noted in his first NPR report “From Red Tape to Results: Creating a Government that Works Better and Costs Less”, the main focus of the NPR was to “transform the habits, culture and performance of all federal organisations” (Gore, 1993: 9) in the long-term. In the first phase of the NPR focussed on cost savings and downsizing through re-engineering measures at an organisation-level, NPR has now increased its attention to the intergovernmental level. One indication of

this new orientation might be the fact that NPR changed its name into National Partnership for Reinventing Government in 1998.

The new label and work programme of the National Partnership for Reinventing Government may be interpreted to reflect two tendencies: First, the insight that it is necessary to introduce the reinvention ideology on an inter-organisational suggests that organisational micro-level management reforms may have reached their limits. For example, setting outcome-based performance goals at an organisational level does not make much sense if other organisations exert considerable influence on the degree to which the organisation can achieve the goal. Secondly, there is also a considerable amount of political restructuring occurring as the present distribution of responsibility at various political levels is found less and less suitable to provision of adequate responses to a number of external challenges, such as rising international competitiveness, increased capital mobility and globalisation of production.

The current governmental restructuring takes different forms, which do not necessarily all go in the same direction. The Republicans embraced the concept of devolution after the 1994 elections by which they referred to the transfer of responsibility from higher to lower levels of the federal hierarchy. Regardless how this transfer of responsibility takes place (for different concepts of devolution, see OECD, 1997:11), devolution is “an inherently spatial process of state change” (Kodras, 1997:81): First, the American federal structure is a hierarchical organisation of territorially demarcated governments, and secondly, because the uneven development of different states and local governments is not likely to generate a “one size fits all” response to devolution. In the American political reality, however, devolution has been to the states and not to the locals or regions.

This trend does not exclude that there are also many contradictory signs of behaviour in the federal government that do not support devolution. For example, there was a ruling in the Department of Agriculture that federal employees cannot participate in partnership organisations as formal members. Also the social conservatives in Congress have rarely hesitated to enforce their social agenda on states. In some cases, Congress sees performance partnerships as just another name for block grants and has thwarted them.

A much clearer trend than devolution is increasing assertiveness from the bottom-up. This phenomenon results from the professionalisation of the state governments in the 1960s and 1970s, which was driven partly by federal requirements on states as a condition of receiving federal grants. As the rhetoric about the recent elections show, the phenomenon of state assertiveness is still very much alive.

Summing-up, the current focus on partnerships in the American public sector is nourished from two sources - one being the performance-based management movement; the other being the assertiveness on the part of the states. Both trends of the American public sector seem to push towards the formation of so-called performance-based partnerships.

The Emergence of Performance Partnerships in the American Public Sector

A Popular but Unclear Term

If the language of politics and public administration is a barometer of actual changes in public management, then one should assume that partnerships have become a wide-spread phenomenon in the American public sector. Wherever one looks, whether in the federal government (see, e.g., the executive order 12875 ‘Enhancing the Intergovernmental Partnership’ accessible under <http://www.npr.gov/initiati/stateloc/index.htm> or in local government arrangements, the public sector is encouraged to reach beyond its traditional boundaries to strike new relationships with the for-profit sector

and the non-for-profit sector or to redesign relationships between multiple levels of government. Although one might argue that partnerships are not new in the American public sector (for example, the federal grants in aid process or programmes that required matching funds), the earlier arrangements were not defined as performance partnerships.

Given the popularity of the term *performance partnership* the question arises how this type of partnership can be defined. In what ways is it different from other partnerships in the American public sector? According to the definition of the Federalism Team of the NPR, “performance partnerships provide increased flexibility on how a programme is run in exchange for increased accountability for results”(http://www.npr.gov/library/fedstat/2572.htm). The NPR specifies increased flexibility as consolidated (not aggregated!) funding streams, the elimination of micro-management, managerial freedom to achieve national (!) goals and objectives and reduced paperwork. Increased accountability for results means using outcomes as well as outputs as measures of success and creating funding and other incentives to reward good performance towards these goals.

It is obvious that partnerships refer to the transactions between two or more autonomous organisations, which in the United States very often involves also the business sector or non-profit sector. However, strikingly enough, the performance partnership terminology is not so much used for private-public partnerships or public partnerships with the non-profit sector as is the case for Canada, for example (Zussman, 1998:1). The reason may be that civic and business involvement in the public sector has a long tradition in the American public administration so that partnership arrangements with private and non-profit parties are not perceived as a new accountability problem.

However, the focus on outcome-based performance is new for the American public sector. Given the centrality of the concept of accountability for the American public sector, the term performance partnership may be interpreted as the application of outcome-based indicators to measure the performance of inter-governmental transactions with the primary goal to improve accountability within the public sector and towards the citizens. Even though this definition sounds trivial, it shows two important features of performance partnerships in the United States. First, the focus of performance measurement is not so much on the three E's (Economy, Efficiency and Effectiveness) but it is rather the impact of programmes as such that is considered important. The cost at which a certain goal has been achieved (effectiveness) is only of secondary relevance or of no relevance at all and efficiency rates are seen as “bean counting”. Secondly, performance partnerships are primarily understood as a tool to improve accountability and less so as a management tool. As one chief budget official said “outcome measures are primarily used to fight for funds and presented differently according to the constituency”.

Depending on the policy area (and traditions of co-operation or conflict, available or unavailable data) performance partnerships may pursue different objectives. As a result, there is a wide spectrum of performance partnerships. Three categories of partnerships are suggested:

“Benchmarking performance partnerships”:

This basic idea is to agree on some joint set of outcome-based indicators that measure the same kind of programme performance in different administrative units. The aim is to have comparable benchmarks that allow various stakeholders to draw valid conclusions about the achieved levels of performance across jurisdictions and years. This is often not possible because different jurisdictions use different reporting formats or do not measure exactly the same kind of performance dimension. Therefore it is often necessary for higher levels of government to standardise planning and reporting requirements in order to obtain a consistent set of data. One example of such an initiative is the collaboration of the federal Maternal and Child Health Bureau with the National Center for Education in Maternal and Child Health to develop an

electronic reporting package for the states' block grant applications (the 18 national performance measures and 6 national outcome measures can be accessed under <http://www.ncemch.org>).

In many cases, the federal level is interested to assure that some minimum level of performance is achieved by all partners. For example, the U.S. Department of Education supports the adoption of national tests in fourth grade reading and eighth grade mathematics to enable states, districts, schools and parents to benchmark their students' performance against a common measure of achievement aligned with challenging standards (U.S. Department of Education, 1998:12). This allows the Department of Education to compare national performance rates against OECD national educational progress figures. The federal support to help states in the development of challenging performance standards also involved management reforms for the Department itself in terms of partnerships with other U.S. Departments and state and local institutions (compare, U.S. Department of Education, 1998: 7-9).

However, national measurement efforts may be perceived by lower levels of government as a first step towards national standard setting. In the United States, schools are managed at the local level with the states being responsible for most of the regulation in education. Also the Clinton administration proposal for national tests has been stopped by Congress.

“Co-management performance partnerships”

This kind of performance partnership mainly aims at making inter-governmental service delivery more responsive to the needs of customers by merging the tasks of multiple levels of government for services into one stop stores. The main idea is to deliver services in an integrated fashion that would appear seamless to the customer. While some of these facilities are financed by grants, others are co-financed and staffed by arrangements between all participating agencies (for an overview, see <http://www.npr.gov/library/fedexec/stores/index.htn>). The latest developments are so-called one stop capital shops that are primarily geared towards small business.

The complexities involved in having different levels of governments working together in a joint operation are enormous. When the rules differ from one government level to another they cannot be put aside. In other words, increased customer responsiveness must not be traded for less legal accountability. The existing legal framework may provide some of degrees of freedom to delegate authority to other levels of government. In other cases, it might be necessary to use waivers in order to allow for the necessary managerial flexibility needed.

“Devolution performance partnerships”

Performance partnerships may also be established in order to set a new regulatory and management framework for devolution. The basic idea is to grant units at lower levels of government more managerial flexibility for achieving certain levels of performance. This can take the form of transforming categorical grants into block grants and the granting temporary or permanent waivers of federal requirements.

Even though the executive branch of the government supports this kind of performance partnership strongly (see the executive order ‘Enhancing the Intergovernmental Partnership’ under <http://www.npr.gov/library/direct/orders257e.htn> and the Recommendations of the NPR “Strengthening the Partnership in Intergovernmental Service Delivery” under <http://www.npr.gov/library/reports/isd.htn>), it is important to acknowledge that at present, the majority of the grants are not block grants and that not all block grants are alike. In 1996, block grants only amounted to 10 percent of all the grant dollars (McDowell, 1996:54). With the welfare reform, the number of block grants has increased by now. However, blocks are not the most flexible of Federal grants, unlike revenue sharing, which usually go into

the general funds of the receiving State or local government, and are spent without Federal conditions (McDowell, 1996:57).

It is evident that the types of partnerships described above are not to be considered as alternatives. For example, almost everyone is experimenting with benchmarking these days. Again, it depends on the policy area whether players use one or more types of partnerships.

Examples of Performance Partnerships

At least two examples of recent federal efforts to establish new collaborative arrangements exist at the state level in the context of performance-based management: *the Oregon Options* (for a detailed description, see Jeffrey Tryens, 1997 under <http://www.oecd.org/puma/mgmtres/pac/account/doclist.htm>) and *the National Environmental Performance Partnerships (NEPPS)*. Whereas the former partnership is a spatial collaborative agreement that covers different policy fields, the latter partnership is an arrangement between the states and the Environmental Protection Agency for one specific policy field.

Regarding the Oregon Options, the immediate question arises: Why has this kind of geographic partnership developed in Oregon and not in other states? It is important to note that Oregon's political culture has long included a collaborative and innovative problem solving style and citizen oversight of government. Besides this, Oregon is a relatively small and homogeneous state. These two factors might explain why Oregon sought for and implemented a new style of governance in order to respond to its severe economic recession of the early 1980s.

Oregon's reinvention consisted of three innovative elements: First, the state government developed a comprehensive economic development strategy, called *Oregon Shines*, with the involvement of business and civic leaders which was adopted by the state Legislative Assembly as the official state strategy in 1989. This means that the strategic plan had high political leadership and broad political support. Secondly, the Legislative Assembly created an intermediary institution, called the *Oregon Progress Board*, in order to evaluate the implementation of the strategic plan on the basis of outcome-related indicators. The Progress Board makes sure that the policies of the state government are driven by the agreed set of benchmarks and also works with the Governor to stimulate cross agency planning. Thirdly, the new strategic planning and policy-making pushed for the redesign of inter-governmental relationships. In 1994, the federal government, the state of Oregon and local Oregon governments created the so-called *Oregon Options* which is a memorandum of understanding (MOU) between the three governmental levels to "to encourage and facilitate co-operation among federal, state and local units to redesign and test an outcome-oriented approach to intergovernmental service delivery".

The main purpose of the Oregon concept of performance partnership is to identify jointly how to achieve outcome-based performance goals that are set and agreed on by the Oregonians. This usually implies the need for the federal partners to remove legal barriers and to streamline administrative processes, often through giving waivers for burdensome administrative rules or seeking statutory change. So far, the Oregon Option convened task forces to work on Oregon's benchmarks for education, workforce development, reducing dependency and maternal and child health. The work of the task forces is facilitated by the National Partnership for Reinventing Government staff. This implies that many of the waivers that were originally only granted to the state of Oregon were subsequently adopted nationally. In one case, the work of some Oregon task force even resulted in legislation providing the Secretary of Labour with authority to waive several requirements for any state that adopt benchmarks and performance measures (National Academy of Public Administration, 1998:36).

Judging from the evolution and the functioning of the Oregon Option, it seems that this kind of partnership can be qualified more as a co-management arrangement than a devolution-driven partnership. Even though some managerial flexibility in the form of waivers may be the result of the Oregon partnership, the primary aim is to streamline and smoothen inter-governmental service delivery. The partnership was clearly the result of a bottom-up initiative with the primary aim to improve economic and social conditions as prioritised by the Oregon benchmarks. For the National Partnership for Reinventing Government, Oregon Options offers an experimental field to test waivers in different policy areas and to set the ground for systematic devolution across the nation. If this interpretation is adequate, there might be a potential conflict of interests involved in this partnership.

Contrasting the Oregon Option with the NEPPS, it is striking that the starting point of the national environmental partnership system is different. NEPPS started from a system of “accountable devolution”(National Academy of Public Administration, 1998:37). Federal laws provide that the Environmental Protection Agency (EPA) can delegate to states the responsibility to operate federal programmes if the states have legal authority and the technical ability to manage a programme.

Both the Oregon Options and the NEPPS are performance partnerships between the Federal and State level. They reflect the fact that the U.S. Federal Government has devolved significant authority to the States, but not to the regions and local governments. The vertical devolution of authority to the States further reduced the capacity of the Federal level to encourage and support more comprehensive performance partnerships reaching to the regional level. This has two implications: firstly, most of the few existing regional partnerships are based on bottom-up initiatives and local government/business funding.- and secondly, the success of any existing regional partnership in terms of goal attainment depends strongly on a set of personal, political and situational ad-hoc factors.

A point in case is the *Bay Area Partnership: Building Healthy and Self-Sufficient Communities for Economic Prosperity in the San Francisco Region*. The public private partnership is “not a top-down centralized government construct but rather is a strategic business alliance for enlightened economic self-interest” (National Academy of Public Administration, 1998:29). The partnership was created in 1994 at the instigation of a leading local federal official and the head of a regional business group. It developed through eight pilot efforts and now includes four federal regional office directors, ten country governments, fifteen non-profits, and another twenty affiliated nonprofits, state agencies, universities and school districts.

This means that the Bay Area Partnership came into being well before the welfare reform legislation made clear the needs of public, non-profit and neighbourhood organisations to change the way in which they work. Also the partnership adopted from the beginning an outcome-based approach for its own work and other community programmes (see, for example, the *Understanding Outcomes Handbook* as an output of this activity, Northern California Council for the Community, 1997a). The committees of the Bay Area Partnership for Goals and Indicators, Education, Waiver and Flexibility as well as Neighbourhood Capacity Building mirrors the aims of the work plan to meet the challenges of economic competitiveness and to react to growing public scepticism about the entitlement and categorical programmes that public and non-profit organisation have traditionally mounted to meet these challenges (Northern Californian Council for Community, 1997b).

Similar to the Oregon Options, the Bay Area Partnership suggests that for meshing all the multiple strands of federal, state and local programmes, a good start can be made from the bottom. However, in order to sustain this new way of civic collaboration, a more comprehensive vertical partnership contract between the Bay Area and the state and federal governments is now needed, “which removes all the strings and constraints currently attached to the welfare and human-services dollars coming into the region in return

for accountability on outcomes for the aid-dependent population”(McPeak, President of the Bay Area Council, in the San Francisco Business Times, October 17-23, 1997: 43).

Examples of Other Forms of Intergovernmental Partnerships

Apart from the above-mentioned performance partnerships, there are a number of other public-public-partnerships that focus primarily on processes rather than on outcomes. One very well documented example is the *National Rural Development Partnership (NRDP)* which is a network of about 35 state rural development councils linked to a federal council (for details, see Radin 1996). Unlike the Oregon Option, these partnerships started as a top-down initiative. In order to develop an adequate answer to the economic and social problems of rural areas in the late 1980s, the U.S. Department of Agriculture (USDA) under the Bush administration encouraged State level involvement with their Federal colleagues. USDA and several other agencies contribute to a pool that pays for the salary of an executive director for each state council as well as other administrative support services to the councils. This means that the network between federal and state officials does not receive programme funds.

In a relatively short time, the councils developed broader constituencies, including local governments, business, non-profit and community groups, and tribes (a list of typical participants is provided by Radin, 1996b:65). The state rural development councils also increased in numbers from initially eight to nearly 40 councils by 1997. Does the persistence and expansion of the state rural development councils imply that the NRDP has been successful in terms of achieving its goals? The records of the councils are rather mixed. The managerial strategy of the councils tends to the collaborative, including boundary-spanning and networking activities with a bottom-up approach to problem identification and rural development solutions. With this low-profile strategy, councils have decreased rural development programmes which are unrelated to one another, redundant or work at cross-purposes. However, the activities of most of the councils involved high investments in process management. Over time, some council members as well as other stakeholders oriented their focus more and more towards outcomes, looking to the process approach as a means to support substantive ends (Radin, 1996a:211). This new focus on outcomes was also catalysed by the existence of GPRA even though the NRDP is a federal programme that is not based on legislation and thus it is formally exempt from GRPA.

Yet, the programmes participating in the NRDP have to think about the performance measures. In the light of these developments, the pressure on councils has increased to work out *Co-operative Agreements* with the National Partnership Office in Washington, D.C. For this purpose, a so-called outcomes framework has been developed (National Rural Economic Development Institute, 1998) that is supposed to assist the state councils in defining outcome indicators and drafting and negotiating the “Co-operative Agreements”. This focus on outcomes is perceived by many state councils as an obstacle to their networking activities. The question is indeed whether the interventions of a flexible network that acts in a highly dynamic and complex environment can and should be captured in terms of outcomes.

History and Background of the National Environmental Performance Partnership System

The National Environmental Performance Partnership System (NEPPS) was formed in May 1995 by the States and the US Environmental Protection Agency (EPA). NEPPS created a new framework under which States and EPA could establish and work toward environmental goals under existing national and state environmental laws. The State-EPA agreement creating NEPPS said the system was “designed to strengthen our protection of public health and the environment by directing scarce public resources toward improving environmental results, allowing States greater flexibility to achieve those results, and enhancing our accountability to the public and taxpayers.” NEPPS was being negotiated at the same time States were

forming the Environmental Council of the States (ECOS), the national, non-partisan, non-profit organisation representing state environmental commissioners. ECOS has been responsible for coordinating state efforts to implement the new system.

States felt that NEPPS was needed to respond to three significant changes in the environmental protection landscape. First was the growing maturity of state programmes and concurrent shift of day-to-day programme management responsibilities to the States. Under most US environmental laws, EPA may delegate programme implementation responsibilities to state governments. States, therefore, are responsible for implementing such laws as the Clean Water Act, Clean Air Act, Resource Conservation and Recovery Act and Safe Drinking Water Act. States today contribute about 75 percent of the money spent on environmental problems, have three times as many environmental employees as the federal government, and conduct about 75 percent of the nation's environmental enforcement actions. NEPPS recognized that state programmes had matured and less federal oversight was needed. Mary Gade of Illinois, one of the original NEPPS signatories, described the change this way: "States can be powerful forces for change: aiding one another, confronting difficult issues and shaping the future of environmental protection. Is there a role for EPA? Of course, there is. The federal government can and should support state efforts through national standard-setting, strong science, technical assistance and an enforcement backstop. Put simply, we don't need a federal 'parent' anymore. We need a federal partner."

The second change prompting NEPPS was the emergence of such non-point source pollution problems as agricultural and stormwater runoff, automobile emissions, and other disperse pollution sources. Having successfully addressed the large, easy-to-regulate pollution sources, States and EPA were confronted with a variety of diverse, complex, local problems affecting specific industries, places and ecosystems. States had found these sources did not respond to the traditional command-and-control approach used so effectively to regulate industrial discharge pipes, landfills and smokestacks. States wanted the ability to use compliance assistance, education, pollution prevention and other non-regulatory tools. At the same time, States and EPA saw that many pollution problems resisted regulators' attempts to fit them into air, water and waste categories. Thus, States began looking at environmental problems across watersheds, entire communities, or industry sectors, and developing innovative approaches tailored specifically for these places or facilities. NEPPS allowed States, for the first time, to consolidate environmental planning and priority-setting across the traditional air, water, and waste programmes. States hoped the new system would free them to try innovative approaches where traditional methods had not been successful.

The third change was the desire by States, EPA, Congress and the public to manage and measure progress based on environmental results. Previously, environmental programmes were evaluated based on the government activities they produced, such as the numbers of permits, inspections and enforcement actions. NEPPS acknowledged that counting government activities was not a reliable indicator of environmental success. NEPPS committed States and EPA to developing environmental goals and measures that make them accountable for environmental results. As ECOS stated in a 1994 resolution: "Environmental protection efforts must focus on results, not process. The issue is not whether we have complied with the check list, but whether the environment has been well served."

Basic Elements of NEPPS

Originally, NEPPS was created with seven principal components:

- Increased use of environmental goals and indicators
- Self-assessments of environmental programmes by the States that run them

- Environmental performance agreements between individual States and EPA regional offices
- Differential oversight of state programmes
- Performance leadership programmes as a new incentive
- Public outreach and involvement
- Joint evaluation of the new system by States and EPA

The performance leadership programme, which was meant to offer additional incentives to high-performing States, has not yet been implemented. Some States were concerned that performance leadership would lead to inaccurate state rankings or comparisons. States also could not reach agreement among themselves on the criteria or benefits for performance leadership. In addition, the joint evaluation of the new system by States and EPA has not yet been formally done, although we are constantly evaluating and/or revising policies and elements within the NEPPS system.

In practice, therefore, NEPPS has involved five basic ideas: accountability for results through environmental goals and measures; a new approach to programme evaluations through state self-assessments; formal agreements between States and EPA; reductions in federal oversight; and greater public accountability through public outreach and involvement.

1. Accountability for results through environmental goals and measures: Two guiding principles in the May 1995 NEPPS agreement said: “National environmental progress should be reported using indicators that are reflective of environmental conditions, trends, and results. Joint USEPA/State planning should be based on environmental goals that are adaptable to local conditions while respecting the need for a ‘level playing field’ across the country.” NEPPS, for the first time, asked state programme managers to be accountable for the results their programmes achieved. Prior to NEPPS, EPA grant agreements established annual state commitments for permits, inspections, enforcement actions and other activities. State and EPA programme managers were rewarded for meeting their annual commitments, or “beans.” This process came to be known as “bean-counting,” that is, counting easily tabulated items rather than the most meaningful ones. State commissioners recognized that counting activities did not measure environmental progress or ensure environmental protection. Noted Kathy Prosser, then-commissioner of the Indiana Department of Environmental Management, “Obviously, the easiest way for a state to meet the requisite number and ensure continued funding is to pursue the fastest, simplest actions. While the EPA and the States realize that this may not be in the best interest of the States or the environment, the country is constrained by this antiquated system.” Under NEPPS, States agreed to establish environmental goals and objectives and to adopt indicators that would measure the state’s environmental progress.

To ensure accountability to Congress and the public, NEPPS called upon EPA’s national programme managers, working with the States, to designate a manageable set of core performance measures. Core performance measures have been described by some State and EPA staff as “the indispensable, necessary and fundamental yardsticks for measuring environmental and programmatic accomplishments at the national level.” These measures may include environmental indicators, which measure conditions in the ambient environment; core programme outcomes, which measure responses of pollution sources or changes in pollutant emissions; and core programme outputs, which measure actions by States or EPA. Over time, States and EPA intend to reduce reliance on output measures in favor of the more preferred environmental indicators and outcome measures. Implementation of the core performance measures has proven controversial, as described in more detail below.

2. New approach to programme evaluations through state self-assessments: In some respects, NEPPS attempted to turn an established, federally-controlled planning system upside down, so that States were equal partners in setting goals and priorities for protecting the environment. One element of the new upside-down system was the state self-assessment. Rather than submitting to annual reviews by EPA managers, State managers were asked for the first time to assess themselves. This forced many States into a critical self-analysis of their strengths, weaknesses and environmental needs. The self-assessment had other benefits, as well. The State of Delaware included not only EPA-delegated programmes in its self-assessment, but natural resource programmes such as fish and wildlife management, parks and other non-EPA programmes. According to Christophe Tulou, Delaware's environmental secretary, the self-assessment enabled his agency to examine individual programmes as components of the whole. Prior to NEPPS, each programme did its own planning and priority-setting with EPA, without regard to what other programmes were doing. Although EPA regional offices regularly review and comment on them, self-assessments signal the States' ability to identify and correct problems in their programmes.

3. Formal agreements between States and EPA: Following the state's self-assessment and the EPA Region's comments, the state and Region negotiate a Performance Partnership Agreement (PPA). The agreement establishes the goals and relationship between the two parties, their respective responsibilities, and how they will measure progress. It is signed by the state environmental commissioner and the EPA regional administrator. Under a separate Congressional authorization, EPA also gained the authority to offer Performance Partnership Grants (PPGs), which allow States to consolidate up to 13 categorical grants. The reason is that the funds for carrying out environmental programmes normally come from the federal government in media-specific allocations. That is, drinking water money can only be used for drinking water programmes and air money can only be used for clean air programmes, and so on. This assignment of funding does not necessarily match the needs of a particular location and, thus, a state might be short of "water money" and have surpluses in "air money," but be unable to transfer money from the air account to water programmes. PPGs allow States to move federal money across programme lines to areas where they are most needed. A state may enter into a PPA either with or without consolidating its grants into a PPG, or may enter into a PPG without negotiating a PPA. The Performance Partnership Agreements establish the specific environmental, programme and financial accountability the two partners have to each other and the public. They replaced traditional programme workplans, which typically outlined the state's annual activity commitments. Because there was no established format for the PPAs, they have taken many forms. Some have been less than 10 pages long, while others contain more than 100 pages. Most of the PPAs also are posted on the World Wide Web (links to State-EPA PPAs can be found on EPA's website at www.epa.gov/regional/pps/docs.htm).

4. Reductions in federal oversight: Once agreement is reached, EPA agrees to focus on programme-wide, limited, after-the-fact reviews rather than case-by-case intervention into delegated state programmes. The 1995 agreement pledged EPA to "work with States to identify other ways to reduce oversight. Using differential oversight will serve as an incentive for strong state performance and enable EPA to focus resources on state programmes that need more assistance to perform well." For many States accustomed to unnecessary federal review of day-to-day activities, this was the most attractive benefit of NEPPS. Although States acknowledged the need for federal oversight into States' use of taxpayer dollars, they could not support wasteful federal practices overseeing minute state expenditures or duplicating activities of state programme managers. For example, although Illinois had been issuing wastewater discharge permits for 18 years, EPA's Region V continued to perform concurrent reviews of all major discharge permits until 1995. Under Illinois' first PPA, the region agreed to only selected, after-the-fact permit reviews. The State of Colorado also used its PPA to reduce site-specific, day-to-day federal oversight that was unnecessary given the state's maturity and capabilities.

5. Greater public accountability through public outreach and involvement: The 1995 NEPPS agreement promised that "this system offers an unprecedented opportunity for constructive public

involvement in the management of environmental programmes and improved understanding of national environmental performance.” Traditionally, public involvement in developing State-EPA workplans was virtually non-existent. NEPPS acknowledged that the public has an important role to play in setting environmental goals, understanding environmental conditions and taking steps toward solutions. Most States have involved citizens and interest groups in the NEPPS process, either through an existing advisory board or risk-ranking project, or through special meetings, forums or review-and-comment periods. Many States have published “State of the Environment” reports, describing environmental problems and conditions in language understood by the average citizen. Others have brought stakeholders into the new priority-setting discussions. Thus, NEPPS creates a three-way accountability system among the State, EPA and the public.

Issues that Have Arisen During Implementation

As might be expected, a number of issues have arisen in implementing this new accountability system. In December 1997, about 125 representatives from 30 States, EPA regions and headquarters met in Providence, Rhode Island, to discuss the progress and future of NEPPS. Attendees included staff members who are charged with implementing NEPPS within the States and EPA. A number of issues were identified during the meeting, including the following:

1. **Measuring Performance Under NEPPS.** The use and definition of core performance measures (CPMs) under NEPPS has become one of the system’s most controversial issues. States and EPA disagree on the extent to which CPMs are mandatory for NEPPS and non-NEPPS States; the degree of flexibility allowed within each measure; and the ability to negotiate alternatives to national CPMs. EPA seems driven by new requirements under the Government Performance and Results Act (GPRA) to require CPMs from all States, even those who choose not to participate in NEPPS. GPRA, passed by Congress in 1993, required all federal government agencies to establish results-based goals and measures. Because implementation of NEPPS and GPRA have roughly coincided, it has been difficult to reconcile their differences. EPA says CPMs must be consistent, so they can be aggregated into national reports to Congress. States argue that the flexibility inherent within NEPPS is inconsistent with a rigid approach to measuring progress. States want the ability to align CPMs to their own information and reporting systems; EPA wants to align CPMs with GPRA. In addition, States want a greater EPA recognition of state environmental priorities and performance measures.

2. **Compliance Assurance and NEPPS:** States and EPA disagree on the appropriate role of enforcement in environmental protection. As Delaware Secretary Christophe Tulou noted in 1997, “EPA seems inclined to view enforcement as an end unto itself – largely because of its importance as a deterrent to harmful and illegal activities. Most States focus on enforcement as a tool – one of a panoply of devices to inspire compliance and improve the environment.” States place the highest priority on cleaner air, cleaner water and better compliance with environmental laws and a lesser priority on recording more enforcement actions and collecting more fines for the government treasury. In addition to traditional enforcement, States use workshops on regulations, on-site assistance, market incentives, inspections, and other tools to improve the environment and increase compliance with the law. Some states, for example, provide one-on-one assistance to small towns and small businesses to help them understand what is required and how to comply. At least one state has created a single point of contact for every regulated business, giving one state employee responsibility for coordinating the regulatory needs of that company. One state translated all dry cleaning requirements into Korean to better serve the Korean immigrants who operate many of the state’s dry cleaning operations. In each of these cases, the state could have taken traditional enforcement actions to improve compliance, but that was not the quickest way to environmental improvements.

These philosophical differences between States and EPA lead to disagreements in implementation. During the Providence workshop, States and Regions identified many problems integrating enforcement requirements from EPA's Office of Enforcement and Compliance Assurance (OECA) into the NEPPS framework and philosophy. OECA's continued expectation that Regions will project an annual number of inspections and enforcement actions leads Regions to ask States for similar projections. OECA's timing in issuing new industry enforcement strategies usually comes too late in the state-regional PPA negotiations. Workshop participants recommended that state/federal enforcement activities be coordinated within NEPPS agreements to avoid duplication; that States have more involvement in EPA compliance and enforcement planning; and that States and EPA pilot new approaches to environmental enforcement.

3. **Culture Change.** In 1996 testimony before a US Senate subcommittee, Gade said, "Make no mistake, altering the existing system will require a significant shift in organisational behavior and cultural change, both at the state and federal levels. States must assume real responsibility for planning and decision-making. We can't just point fingers at EPA anymore. Meanwhile, the EPA has to relinquish some of its long-standing authority and, equally important, redefine themselves and their mission." The change has been occurring within both organisations, although sometimes more slowly and less widely than States would like. To speed the culture change, the Providence workshop attendees recommended training and education on NEPPS and stakeholder involvement. The Workshop Planning Committee noted: "Successful implementation of NEPPS will require EPA and States to undertake major changes in the way we have always done business – with each other and with stakeholders. Some major changes include moving to a more holistic approach, adopting more creative approaches to solving problems, and moving from carrying out mandates to taking the lead at a more local level."

4. **Lack of Incentives.** Incentives for States to participate in NEPPS have not been as great as first envisioned. State reporting burdens have not been reduced significantly, many EPA regions still rely on bean-counting to measure state progress, and the concept of differential oversight for state leaders had to be set aside, at least temporarily. The lack of concrete progress in these areas has led some States to question their investment in NEPPS; however, most States have stayed within the system due to its greater flexibility in using federal resources and emphasis on environmental results. "NEPPS is a new management system that is slowly taking over for an old system," the workshop planning committee said. "The incentives for undertaking this change are not always evident to staff members given the nuts-and-bolts responsibilities of seeing each step through. In many cases, this lack of incentive leads to half-hearted efforts that do not provide the strength necessary to overcome the inherent hurdle in implementing a changing system."

5. **Inconsistency in Implementation.** Because of the decision to launch NEPPS without detailed guidance or regulations, States and regions have implemented the system with many different approaches. States have welcomed this flexibility to tailor the system to their own needs, but it has led to undesirable differences in system benefits, policy interpretation and implementation across regions. While States in one region may discover significant benefits in NEPPS, States in another region have found negotiating PPAs to be more contentious and more difficult than the old work plans. Regional offices often do not agree on interpretation of PPG regulations or PPA policy. The Providence workshop attendees identified a need for training and education on NEPPS and for improving the process for managing NEPPS. The workshop's planning committee also suggested there be one accountable leader and clearer communication to the States and regions on national policy toward NEPPS. "It is clear that regions differ in their relationships with and approaches to implementing NEPPS with their States," the planning committee said. "HQ offices also differ in their messages and approaches to NEPPS. EPA needs to address these inconsistencies."

6. **Continued Barrier to Innovation.** States had hoped that NEPPS would enable them to pursue innovative approaches to environmental problems that defy the one-size-fits-all solutions designed in

Washington. However, even under NEPPS States have experienced difficulty in getting EPA approval for non-traditional approaches to permitting, inspections, enforcement and other activities. In 1996, States and EPA launched a separate negotiation to reach agreement on a process for evaluating and approving innovative state ideas. The Joint EPA-State Agreement to Pursue Regulatory Innovation, signed in April 1998, noted that NEPPS had created “an environment in which state and local regulatory innovations can, and should, flourish.” The agreement established a set of regulatory innovation principles and a process States could follow to obtain EPA approval for innovative approaches. States hope this agreement will help remove some of the barriers to innovative programmes, although it is too early to assess its impact.

7. Future of NEPPS: This system was established under an agreement between the States and EPA. With one exception, there is no statutory or rule basis for its existence. Only the PPG system has a statutory basis, within the FY 1996 EPA appropriations bill, which must be renewed each year. It is possible that a new federal administration might abandon this system, though States believe such an action would seriously undermine State-EPA cooperation. It is also possible that the system might be managed in such a way at the federal level that States see no return on the investment necessary to participate in NEPPS. To a large degree, NEPPS will succeed if states realize good results and if EPA Regions better understand how NEPPS can help them achieve their objectives.

When EPA was established a quarter century ago, the United States had clear-cut, easily identified environmental requirements that were not, for a variety of reasons, being met. During that quarter century, EPA and the States have created programmes that addressed and, in many instances, solved the nation’s environmental problems. But the focus of environmental protection is shifting from end-of-the-pipe, end-of-the-smokestack problems to non-point source pollution, where pollutants come from hundreds or thousands of farmers, small businesses, or home owners rather than a few large sources.

At the same time, state capacity has grown enormously, both in terms of resources and technical and managerial capability. States have become the “majority stock holder” in the environmental enterprise and, while they do not seek a “senior partner” position, they do seek a true partnership, the kind of partnership envisioned in the American federal system of government.

NEPPS is an important way to adjust environmental protection programmes to these new realities. The old system worked, but the world has changed, and NEPPS is the mechanism through which we can adjust to those changes and continue the great progress that has been made.

Accountability Management in the NEPPS

The case study of the partnerships between the States and EPA mainly have features of the devolution-types of partnership. Since it is too early to make an assessment at this stage whether accountability as defined by the two contracting parties has improved or not the intermediate evaluation will focus on conceptual and implementation issues of the NEPPS System. The above definition of performance partnerships as provided by the NPR will be the point of reference in order to assess the consistency of the NEPPS concept. The seven basic principles of NEPPS will be used to assess the implementation of the partnership system.

Contrasting the two components of NEPPS - the PPA and the PPG - with the basic idea of performance partnerships to trade flexibility for increased accountability, it becomes evident that these two elements are not necessarily linked in the NEPPS. PPAs aim at accommodating the performance expectations of both levels of government and at making them explicit in a mutual agreement. However, they do not provide for more flexibility in the use of Federal grants. This is only the case for PPGs that allow States to move federal money across programme lines to other areas. Since it is possible for the States to enter PPGs

without a PPA, some limited budget flexibility may be available without going through the difficult exercise to negotiate and report on outcome indicators. According to the philosophy of performance partnerships, budget flexibility should always be linked to performance budgeting.

Regarding the implementation of the NEPPS , it becomes evident that seemingly technical performance measures can be very political in nature. The unresolved problem is how far is devolution supposed to go in performance measurement: Should it be limited to some managerial freedom how to achieve nationally fixed goals and standards or should it involve the freedom to define own performance indicators or should the States even be allowed to set their own standards? Looking at the experience with performance measurement in different OECD countries, it is fair to say that in countries where performance indicators and goals have been defined centrally, they have been mainly used for accountability purposes. In other countries where performance measurement in the public sector has rather evolved from the bottom without some co-ordination by the centre, performance measurement has become an important device for change management.

Thus, one may put forward the hypothesis that the greater the freedom of the States in measuring performance the more ownership they will take of the indicators and the higher the possibility that performance measurement will develop into performance management. However, it is important that the performance goals of the States are challenging if they are supposed to serve for continuous improvement. Vice versa, if the States perceive performance indicators and goals as imposed from above, performance measurement will be used for reporting purposes mainly. If mandatory core performance measures are linked to some form of material reward system, States could have an incentive to present the indicators in an overly positive fashion. Does this mean that there is a negative trade-off between accountability and managerial efficiency?

Another related issue is the question of whether devolution should lead towards 'a competition of different systems'. In order to create some form of competition regarding the management capacity of the States in environmental policies the States need a considerable degree of managerial freedom and comparable benchmarks. In the NEPPS context, this would imply a core set of performance measures. However, especially in environmental policies it is very difficult to agree on outcomes that are a sound measure of performance of the management capacity of one individual state and that can be measured in all states. Since one of the major reasons for devolution lies in the nature of environmental problems that have become more local in nature and scope it is inappropriate to use 'one size fits all' performance indicators for this kind of decentralised environmental problem-solving.

Is there any solution to this kind of dilemma? One solution could be to use performance goals and measures primarily for 'benchlearning' in order to build up trust between the States and the Federal level. This would mean some form of Federal involvement in the definition of performance indicators and goals (the experiences of the US Department of Education under Goal 1.1. to assist States to set challenging performance goals could be revealing for EPA) but no uniform nation-wide performance indicators or standards. This would ensure that performance measures are meaningful to the States, and, at the same time, the data would increase the accountability of the States to the Federal level.

Missing Performance Partnerships between the Federal and the Regional Level

At present, there are a number of factors supporting the formation of performance partnerships in the American public sector: the matured management capacity of lower levels of government, the changing nature of policies requiring more local and flexible approaches for problem-solving and the outcome measurement movement on the Federal and the State level. The latter factor especially makes performance

partnerships necessary as most outcomes cannot be controlled by one single agency or a single level of government.

However, there is also the American tradition of control and distrust between branches and levels of government. All the executive and legislative committees and sub-committees dealing with particular aspects of accountability are unlikely to “re-engineer” themselves. Furthermore, the fragmentation of programme management is often supported by interest groups. For example, in the field of environmental policies, interest groups perceive more flexible programme management as a weakening of their control capacity and thus often portray it to the public as a weakening of environmental policy itself.

The case study has made evident that performance partnerships are very demanding. So far, there are only scattered “pilot partnerships” between the Federal and the State level. Even more exceptional are partnerships between the Federal and the regional level. Yet, the breakdown of trade barriers places regions - areas that rarely correspond with a state or a municipal border - in direct global competition. There is an increasing awareness that neither integration by organisational hierarchy (metropolitan governments) nor reliance on technical expertise (functional agencies largely isolated from politics) were adequate strategies of meeting the challenges of improving local governance.

The problem is not only that federal grants are hardly co-ordinated at the regional level; also states programmes do not take into account that some 40 per cent of all metropolitan regions span state lines. A case in point is Southern California which faces enormous challenges in accommodating rapid demographic and economic growth while improving the environmental quality (see Kirlin, 1996:115-120). Southern California does not lack regional institutions but the allocation of resources was predominantly directed towards single purposes whereas the only broad-focus integrative institution in the region, the Southern Californian Association of Governments (SCAG) received only a minuscule proportion of resources (see the overview on the finances of Southern Californian functional entities in Kirlin, 1996:117f.). Since the financing pattern did not encourage joint action, integrative policies were weak. Moreover, none of the existing regional bodies was directly accountable to the citizens in this region. Similar to the San Francisco Bay Area Partnership, in the six-county Southern California area, a public-private-civic partnership developed that reformed the SCAG: The governing body of SCAG expanded, Memorandums of Understanding (MOUs) were signed with several other entities with regional roles to integrate their plans, a dozen subregions were formed from the bottom-up by local governments and funds available under the Intermodal Surface Transportation Efficiency Act (ISTEA) of the Federal level were allocated in large part to the new subregions to finance a new integrative regional planning.

Neal Peirce (1998) from the Washington Post Writers Group recommends to the “feds” along side with the a panel of the National Academy of Public Administration “Federalism Lite”. This means federal aid programmes for regions should be planned, co-ordinated and implemented by public-private-community partnerships. It also implies that Federal legislation should provide for incentives to encourage local participation for critical regional policy decisions. And finally, the federal level should make benchmarking data more accessible on a regional and local level so that subnational levels may assess their performance against others.

The achievements and shortcomings of performance partnerships that already exist between the Federal and the State level will be instructive for the formation of partnerships between the Federal and the regional level. This could become the “next steps” programme for the U.S. Federal Government.

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THE DEVOLUTION OF EDUCATION POLICIES FROM THE FEDERAL GOVERNMENT TO THE CANTONS IN SWITZERLAND

by Ernst Buschor, Albert Hofmeister and Raymond Junod

Federalism, Direct Democracy and New Public Management in Switzerland

Present Challenges to the “Outcome-oriented” Reforms of the Swiss Public Administration

In contrast to other OECD Member Countries, Switzerland has started relatively late with “New Public Management” (NPM) reforms. However, from the very beginning, the aims of the reforms were not limited to increasing the efficiency and effectiveness of the Swiss public administration (see, Hablützel, 1995). The Swiss version of NPM, “outcome-oriented public management” (see, Buschor, 1993) attempts to improve the problem-solving capacity of the state and to involve policy-makers in the reform process. The media as well as politicians have accepted NPM ideas very positively from the start. This may be due less to the conviction that the transition from input-oriented to results- and outcome-oriented public management responds to the present and future needs of the state than the lack of alternatives in an environment combined with a pressing need to act.

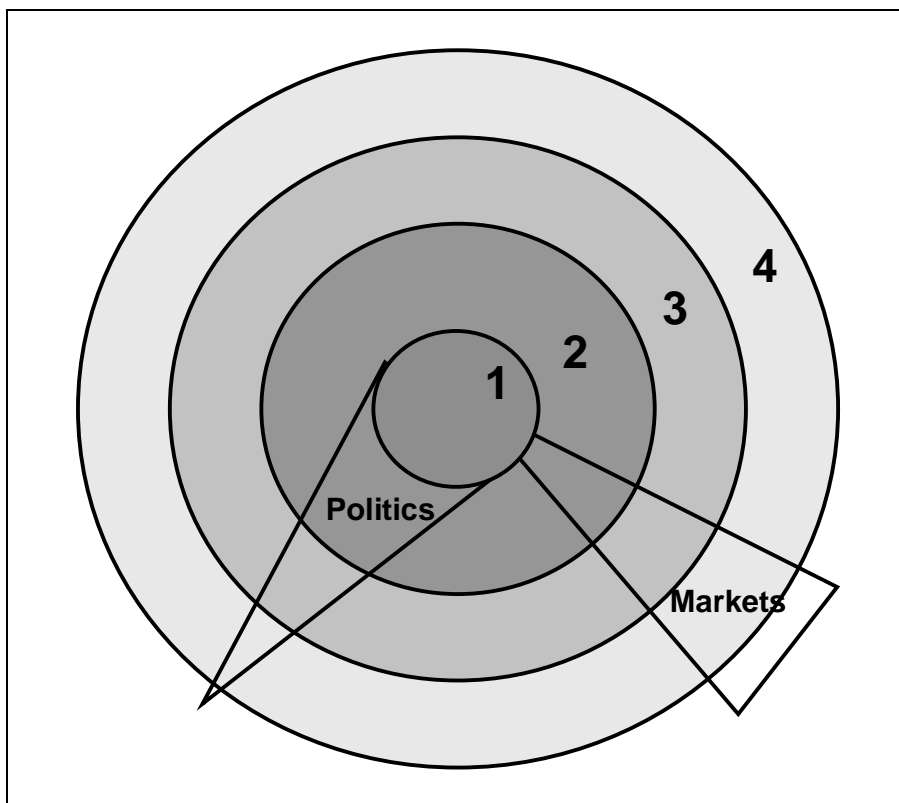
Interestingly enough, in the majority of cases, Cantons have taken the initiative with public management reforms. Switzerland has a total of 26 Cantons, the population of which may vary between 15 000 and 162 000 citizens. According to a survey among the Swiss Cantons, 24 Cantons currently are carrying out reforms, which may be subsumed under the heading NPM (Ladner, 1998:61). These efforts were also recognised on an international level. The Speyer Quality Award 1998 has awarded to four public organisations in Switzerland, which are all part of the Cantonal level (two for Zürich, Bern and Solothurn).

Similar to other federal countries, the reform process in Switzerland is least developed at the federal level. Nevertheless, a number of agencies are managed as so-called “FLAG-Agencies” (Fuehrung mit LeastungsAuftrag und Globalbudget meaning Strategic Management with Performance Goals and Flexible Budgets). Also the present legislative period of the Swiss Government forecasts two institutional goals, which are balanced budgets and the introduction of “outcome-oriented public management”. In order to better manage the diversified tasks of the federal administration, the so-called Four Circle Model has been established (see figure 1).

In the centre (circle 1) politics is dominant, whereas in the periphery (circle 4) it is the market. In between there are mixed forms, as the already mentioned “FLAG-Agencies” in circle 2. In circle 3, there are public enterprises or agencies that are 100 per cent owned by the Federal Government and generally have their own autonomous legal status. In addition to administrative reforms, there are many efforts to reform government and Parliament. The latter is proving to be a very difficult and time consuming reform process. The danger of reforms “à deux vitesses” becomes obvious. As a result of different management capacities of the political executive and legislative branch of government, the parliamentary and government reforms lag behind the administrative reforms on the Federal as well as on the Cantonal level.

Logically, the process should be vice versa, and as a result, problems are already being built into the reform process.

Figure 1: The “Four Circle Model” for the Federal Administration



Source: Schweizerische Bundeskanzlei (1998: 1)

It is striking that Swiss local structures have remained almost unchanged in the past 100 years even though the political and administrative reality has undergone remarkable change. “The Swiss municipal organisation has proved to be extremely stable in comparison to other countries. So far, there have been no significant attempts to make the municipalities more uniform through amalgamations. They strongly vary in size and the majority are very small. Between 1848 and 1998 the number of municipalities was reduced only from 3204 to 2914. Within the municipalities, the implementation of comprehensive management reforms has still not taken place” (Ladner, 1998:5-6). The average number of residents of the 2914 municipalities was 2423 inhabitants by the end of 1997. The City Canton of Basel had the highest number of inhabitants (64367) whereas the Canton of Jura had the smallest number (836). In spite of this unsatisfactory situation, the fusion of municipalities is not on the agenda.

Nevertheless, in the past years municipalities have come under pressure. Reform pressure does not only stem from the financial situation of the Swiss municipalities. According to the survey among the Cantons, 22 Cantons have had intensive debate about a new division of tasks between Cantons and municipalities (Ladner, 1998:54). Whereas Cantons partially try to transfer tasks to municipalities as part of their reform efforts, municipalities are much concerned to maintain their autonomy. The small size of municipalities implies that many municipalities cannot carry out their newly transferred tasks on their own. The devolution of tasks to the municipal level may revitalise the inter-municipal co-operation that already has a

long tradition in the areas of health, education, planning and sanitation. So far, there have been no studies that analyse whether inter-municipal co-operation influences managerial reforms within municipalities in a positive or negative way.

Administrative co-operation is not limited to the municipal level. Whenever Cantons realise that they cannot cope with certain problems individually, they establish forms of horizontal co-operation. There are many examples of co-operative arrangements for different kinds of public services (for example, the Concordat on the implementation of civil judgements). However, the small administrative structures set limits to any efficient implementation of laws at sub-national levels of government. This implies that a number of tasks would be better transferred to the next higher level of government. This kind of endeavour is strongly opposed by Cantons and the municipalities with their strong focus on autonomy. In other words, this is a sensitive policy area which does not make public management reforms impossible but sets limits to reforms in terms of speed and scope. As a result, there are high costs of co-ordination.

Direct democracy and federalism are based on the idea that every individual has to participate in public actions. Similar endeavours can be found in NPM reforms in various OECD Member Countries under the label "citizen empowerment". Direct democracy and federalism move in this direction and thus are a sound precondition for the introduction of "outcome-oriented public management". However, this is only one side of the medal. In a representative democracy it might be easier to implement NPM reforms "without disturbance". In the direct democracy, every citizen may interfere in management issues on the operational as well as on the strategic level independently of elections. "Direct democracy fulfils two important functions in the whole decision-making process, which are vital for the political system: political communication and political socialisation (Möckli, 1995: 6).

Summing-up, public management reforms in Switzerland are characterised by a varying speed and scope of reforms on different levels of government. In contrast to other OECD Member countries, "outcome-oriented public management reforms" do not only aim at the public administration but also at the political sphere of the state. However, the reform capacity and willingness of the ministerial and legislative branch of the state has lagged behind the management reforms within the public administration. This problem is aggravated by the fact that any legislative or even constitutional reform has to be subjected to popular vote.

However, it is not clear whether this means that there is a need for reforms for the state institutions. Even though direct democracy like all other institutions requires some specific changes from time to time it remains a valid political principle. Every reform and thus also "outcome-oriented public management reforms" has to take this principles into consideration. Although the problem-solving capacity of governmental institutions is not large, there is no alternative to the primacy of politics. On the one hand, every administrative reform has to focus on transparent structures, especially as far as the outputs and inputs are considered. On the other hand, one has to accept that politics can never be modelled completely in rational structures. Even if politics can make better decisions with the new instruments there will always be the need for some irrationality. In this regard, politics is not so much different from the individual, the "customer" or user. Of course, this imposes limits on "outcome-oriented public management reforms" but it does not make reform processes impossible. It only highlights that with or without NPM the national specificity of administrative culture remains.

In Switzerland, administrative reforms on the basis of NPM principles cannot be separated from broader reforms concerning the state and its institutions as well as society, globalisation and the integration of Switzerland into the international community. The dilemma is less the tension between globalisation and federalism than between globalisation and direct democracy.

The Swiss Debate on Devolution and Globalisation

Regarding the relationship between globalisation and federalism, it is evident that strong federalism has been a barrier for the introduction of a Swiss internal market since the foundation of the Federation in 1848. The will of the then Federal Government was to establish such an internal market through the abolition of customs and the introduction of the right of coinage on the Federal level. Also the constitutional right of the freedom of commerce and business could have worked towards the creation of an internal market if the Federal Court had not given priority the principles of federalism over the removal of trade barriers in cases to be ruled. The entering into law of the internal market law in 1997 was an important step in this direction (cartel law, technical norms, etc.).

With regard to external relations, the Federation has a monopoly in principle (Swiss Constitution, Art. 8) but it is not without loopholes: The Cantons - and thus also the municipalities - were always allowed to build up cross-frontier contacts in specific policies, even in institutionalised form. This is called "small foreign policies" (Swiss Constitution, Art. 9). Examples are the "Region Basiliensis" (the region surrounding the City of Basel) and the Conference of the Lake of Constance. It is important to note that these efforts have supported the integration of the political Switzerland in Europe and world wide.

The tension between globalisation and federalism is more prevalent at sub-national levels of government because Swiss politics is very much introverted on lower levels of government. This has its roots in the Swiss concept of the state and the focus on principles such as federalism, independence and neutrality. This political perception clearly contrasts with the highly open and internationally interdependent Swiss economy. Meanwhile, a part of the political actors is more conditioned by economic considerations, but this is rather a consequence of crisis than due to personal conviction. Nevertheless, there is still a temptation to continue policy-making disregarding the needs of globalisation in policies that are more or less protected from the global economic environment. The negative attitude of various stakeholders regarding the introduction of English as a first foreign language in primary schools or the controversial discussion about computer training in schools can be taken as an indicator.

Nevertheless, the regional and global integration of the political Switzerland is much more hampered by direct democracy than by federalism. Specific elements of the Swiss direct democracy slow down the process of globalisation or make it more difficult. As mentioned above, foreign policies and foreign economic relations are a Federal competence and especially a task of the government (Swiss Constitution, Art. 102 I 8,9). However, the government and Parliament are often not the final decision-makers in these important matters: A whole set of intergovernmental and especially multilateral agreements have to be subjected to popular vote (Swiss Constitution, Art. 89 III).

In order to become a member of supranational organisations or organisations for collective security it is not only necessary to have the majority of the people but in addition to this, also the majority of the Cantons (Swiss Constitution, Art. 89V). Experience suggests that this barrier is very difficult to overcome. Disregarding the political realities the assumption is that the maintenance of a formal and absolute sovereignty serves these values better than integration. The whole problem has become worse as Cantons started to demand participatory rights in foreign and foreign economic policies. In practice, the Cantons have obtained some participatory rights, which allow them to interfere in these policies in an early stage of the decision-making process.

The strongly democratic-federalist structure of the Swiss statesimplies that decision-making processes are slowed down and the flexibility of the political system is impacted in a negative fashion . From a view of systems theory and from the background of increasing globalisation this must be interpreted as a disadvantage. On the other hand, one may raise the question of whether this kind of environment requires structures which allow reflection and "distance". In summary, Swiss institutions have been able to

respond to globalisation when the government used a step-by-step approach, did not have far-reaching ambitions and where well-defined policies were concerned. The entry of Switzerland into the Bretton Woods institutions can be mentioned as an example as does the refusal to enter the European Economic Area. The proposal was defeated because the government had linked European Economic Area membership to an EU membership. Swiss sovereignty is sceptical towards institutions like the UNO or EU because they have comprehensive goals, concern all policies and thus are difficult to evaluate as a whole. The scepticism becomes even greater if membership of an international organisation entails the reduction of popular rights.

Summing-up, it is fair to state that the Swiss lag in the globalisation process is less rooted in institutional structures than in ideological positions. The present situation could be described as a kind of mystification of Swiss state principles. Especially in times of increasing economic pressure on individuals, these principles offer symbols and thus a feeling of security and certainty. In this context, the Federal authorities are often criticised for missing a number of opportunities in the last year to develop further and to update these principles. The concretisation and diffusion of answers to new political challenges takes time in a direct-democratic, federal system. The recognition that Switzerland may only retain the degree of independence and self-determination of a single small state in a globalised world still has to eventuate..

In the following, the focus will be on federalism and direct democracy in Switzerland, which strongly determine the Swiss form of devolution. Nevertheless, it is important to mention that local self-government and citizens' self-administration are the two other important pillars of the Swiss public administration.

Principles of Swiss Federalism

The Swiss Confederation can be located at some point of a continuum between a single political state on the one side and a loose multi-state-system on the other side. The Swiss version of federalism can be compared with an organisational principle which aims to optimise co-operation of the different governmental bodies of different levels by a complex system of division of powers. Several governmental tasks and responsibilities are shared by Cantonal and Federal authorities. The co-operation between governmental bodies can be horizontal (between bodies of the same level, e.g. Cantons) or vertical (between bodies of different levels such as between Cantons and Federal authorities). According to Linder and Wolf (1994:157), the structures and processes of the Swiss federal system are highly federalised in nature. The Swiss Confederation consists of the Federation, Cantons and Communes which share executive, legislative and judicial powers as outlined in the table 1 below.

Table 1: The Swiss Federal System and the Executive, Legislative and Judicial Powers at Each Level

	Executive Power	Legislative Power	Judicial Power
Federation	<p><i>Federal Council</i></p> <p>Seven federal councillors elected by the Federal Assembly. The councillors are the heads of the seven government departments</p>	<p><i>Federal Assembly</i></p> <p>National Council: 200 national councillors elected by the people directly using proportional rule. The number of cantonal representatives depends on population size.</p>	<p><i>Federal Supreme Court</i></p> <p>Council of State: 46 state councillors, two for each canton. Popular election according to cantonal rules</p> <p>39 full-time and 40 substitute federal judges elected by the Federal Assembly</p>
Canton	<p><i>Cantonal Council</i></p> <p>Election by the people every four to five years. The Council consists of five to seven members.</p>	<p><i>Cantonal Parliament</i></p> <p>Election by the people using proportional rule.</p>	<p><i>Cantonal Court</i></p> <p>Election by the cantonal council or cantonal parliament.</p>
Commune	<p><i>Communal Council</i></p> <p>Election by the people.</p>	<p><i>Communal assembly</i></p> <p>In small communes, usually formed of all citizens in the commune. In larger communes, there are properly elected communal parliaments elected by the people.</p>	<p><i>District Court</i></p> <p>Election by the people of a number of communes forming a district, or appointed by</p>

Source : Lindner and Wolf (1994), p. 9.

The cultural diversity of the Swiss Cantons, their political power and their claims for autonomy set narrow limits to central authority. In 1848 the powers of the Federation were limited to a few essential areas. Its most important powers were to maintain all foreign relations and protect Swiss independence by maintaining an army and to ensure peaceful relations among the Cantons. Following on from this, the responsibilities of the central Swiss Government have tremendously increased.

Table 2: Distribution of responsibilities between the federation and the cantons

<i>Issue</i>	<i>Exclusive legislative power by federation</i>	<i>Legislation by federation/ implementation by cantons</i>	<i>Legislation shared by federation/cantons</i>	<i>Exclusive legislative power by cantons</i>
Foreign relations	◆			
National defense	◆			
Tariff law, currency and monetary system	◆			
Postal services, telecommunications, mass media	◆			
Railways, aviation nuclear energy	◆			
Utilisation of water power			◆	
Roads			◆	
Trade, industry, labour legislation			◆	
Agriculture		◆		
Civil and criminal law	◆			
Police				◆
Churches				◆
Public Schools, education			◆	
Taxes			◆	
Social security, insurances	◆	◆		
Protection of environment		◆		
B. Responsibilities of the communes				
	<ul style="list-style-type: none"> • Building and surveillance of local roads • In urban communities: local public transport systems • Gas, electricity and water supply, removal services • Local Planning • Election of teachers/building of schools • Budget responsibility, imposition of taxes • Public welfare 			

Source : Linder and Wolf, 1994, p.41.

“In the nineteenth century, the principle of division of powers among the three political levels prevailed. Today we find some form of co-operation between the Federation, the Cantons and the communes for most responsibilities. The relations between the different levels of government are far more complex than in the last century. “Co-operative federalism” has sometimes become non-transparent.”(Gabriel, 1990:97). This implies that there is no clear distribution of powers and thus no clear accountability between levels of government. Therefore, the reform of the financial equalisation system between the Federation and the Cantons attempted to foster federal principles through a clear division of tasks besides pursuing fiscal goals (Villinger, 1998).

The non-centralised distribution of powers between the Federation, the Cantons and the communes is not the only characteristic of Swiss federalism. There are also important elements of Cantonal participation in the decision-making process of the Federation.

a) *Bicameral legislature*

Election: The Swiss Parliament consists of two chambers, the National Council and the Council of States. The National Council represents the people and its 200 members are elected on the democratic principle of one person one vote (proportionality rule). The seats are divided among the Cantons according to population (number of seats varies from 35 down to 1). The Council of States, following the federal role of equal representation of all cantons, is composed of two members from every Canton. The members of most Cantons are elected by majority rule. This means that a candidate must gain at least 50 per cent of the votes cast to be elected. Therefore it is hard for a candidate of a smaller party to win a seat in the Council of States. This chamber remains a mainly conservative dominated body with almost no representation of the left-wing parties.

Law-making: Both chambers may initiate constitutional amendments, new bills and regulations as well as propose the revision of existing laws and regulations. All bills must be passed by the committees and floors of both chambers. Every proposition or bill destined to become federal law has to be approved by a relative majority in both chambers. In case of differences between the two chambers a complex procedure is used to find a consensus. The procedure reflects the sacrosanct rule of absolute equality of the two chambers in all matters of legislation.

b) *The People and the Canton's Vote*

People's vote: All constitutional amendments as well as some international treaties that are proposed by the Federal Assembly and all popular initiatives proposing to change or amend the constitution have to be approved by popular vote. As in decisions taken by the Federal Assembly, there must be a double majority obtained: on the one hand a majority of all voters, on the other hand a majority of the cantons. As in the Federal Assembly, there can be a collision between the principles of democracy and the principles of federalism. A particular constitutional amendment may obtain a majority from the people, but a majority of the Cantons may reject it, and vice versa. The characteristics of the popular vote prohibit the application of a negotiation process; in the case of negative majority of one, the amendment fails.

Canton's vote: First, every Canton is entitled to submit proposals for a federal bill. This is called the right of Cantonal initiative. The proposal has to be approved by the Federal Assembly and if it is rejected by one of the chambers it fails. Secondly, the most usual and effective form of Cantonal influence lies in pre-parliamentary consultation rather than in later decisions of the Parliament or popular vote.

Principles of Swiss Direct Democracy

Even though the idea and concept of direct participation and collective decision-making has deep cultural roots in Swiss history it was Napoleon who imposed democracy. But unlike other foreign democracies, Switzerland uses a much wider variety of tools and possibilities to secure the ultimate power for any constitutional and law amendments with the people. The most important types of participation are the following:

Obligatory (constitutional) referenda: For certain decisions (constitutional amendments and important international issues) the constitution requires approval by the voters before they can take effect. The

government has a free hand when formulating the proposition, but is legally bound to a direct-democratic procedure. This type of referendum requires a double majority of the Swiss people and the Cantons and is relatively frequent.

Optional (legislative) referenda: This type of referendum can be initiated either by the government or the people. First the majority of parliament has to decide the subject matter to be voted upon. Second a certain number of voters are authorised to demand a popular vote to be held on specific government measures before or after these have taken effect. Normally a parliamentary decision becomes law unless 50 000 citizens, within 90 days, demand the holding of a popular vote. In such a case, a simple majority of the people decides whether the bill is approved or rejected. In contrast to the obligatory referendum, the political preferences of the Cantons not considered in this case.

Since the obligatory referendum refers to constitutional amendments and the optional referendum to ordinary legislation, the two instruments are often distinguished as the ‘constitutional’ referendum and the ‘legislative’ referendum. The same system as described above is not only effective at federal but also at Cantonal and local levels. Some Cantons hold an obligatory referendum for most laws and important acts, and referenda may be held for some financial decisions about investments for large-scale government projects.

The Popular Initiative: By signing a formal proposition, 100'000 citizens can demand a constitutional amendment as well as propose the alteration or removal of an existing provision. The proposition can be expressed in precise amendment, or in general terms upon which the Federal Assembly can make a formal proposition. The Federal Council and parliament can come up with an alternative proposition. Initiatives and their eventual counter-propositions are then presented simultaneously to the popular vote. As with all constitutional changes, acceptance requires majorities of both the individual voters and the Cantons.

In contrast to the federal approach where the popular initiative is restricted to constitutional matters, it can be used to propose ordinary laws and acts at the Cantonal or local level. One would imagine that the number of required signatures would impact on the use of the referendum and popular initiatives. However, this is not the case.

Statistics show a high rate of rejected federal proposals. This reflects the sceptical attitude of the Swiss people toward giving the federal government new responsibilities. On an average, one quarter of the initiative proposals are withdrawn, sometimes after successful negotiations with the authorities. Only 10 per cent of popular initiatives are successful proposing new laws. Counter proposals by the Federal Assembly, mostly voted upon in direct confrontation with the initiative, have a considerably higher success rate of about one third.

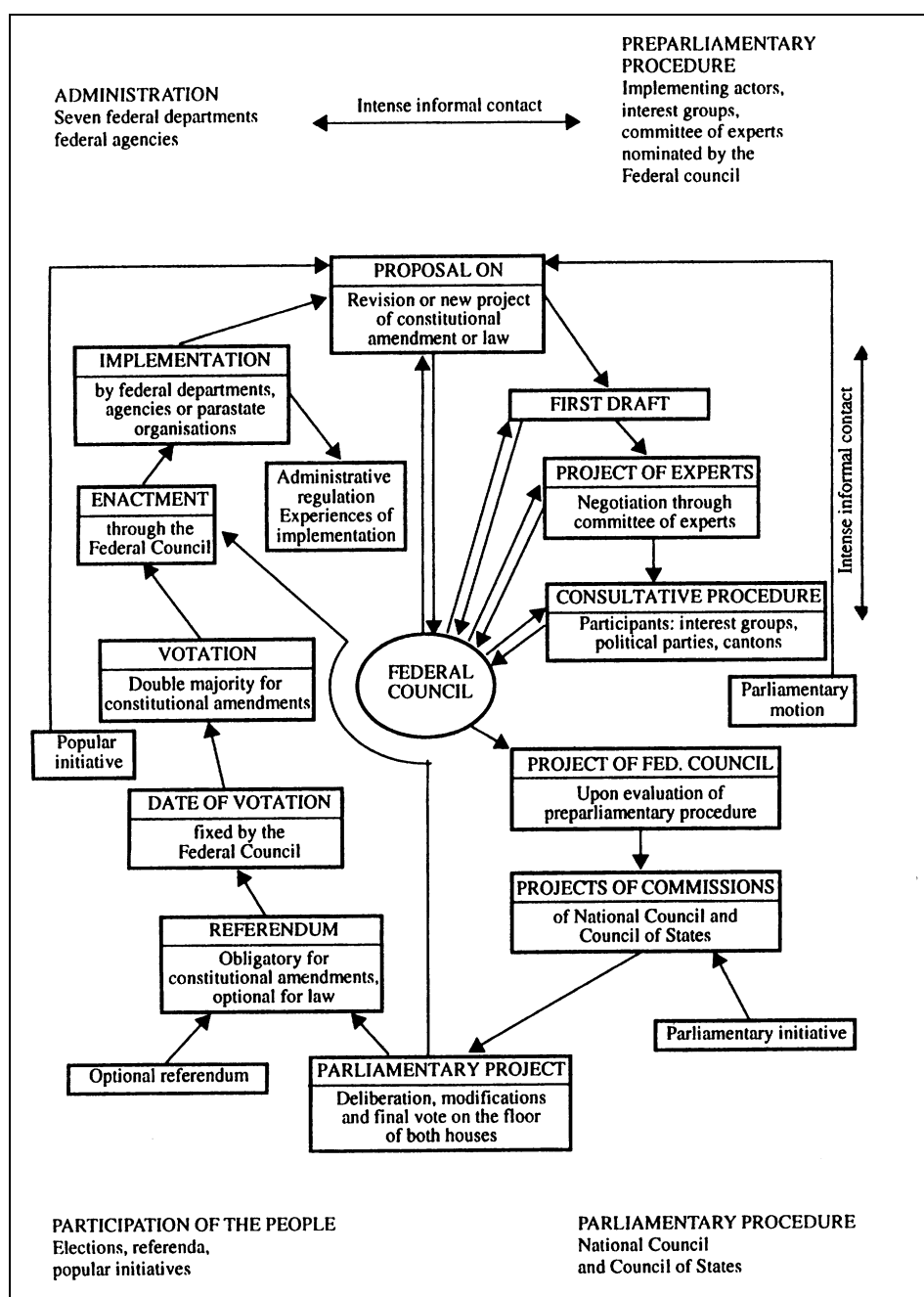
The optional referendum is an instrument challenging the ‘ordinary’ legislative activity of the Federal Assembly. From a statistical point of view, only about 7 per cent of all bills passed by the Assembly are challenged by a referendum. If, however, the referendum threat turns into a real challenge, opponents of the bill have an almost 60% chance of success.

It is possible to infer that the optional referendum is of comparatively low effect. In fact, the reverse is true for two reasons. First, the referenda cases typically represent important bills of a controversial nature and, if there is a vote, the success chances of the opponents of the bill are high. Therefore the risk of the referendum is seen as high by federal authorities. Second, the perceived omnipresent risk of a referendum being called leads the federal authorities to avoid the referendum trap by two means. An intensive pre-parliamentary consultation phase is undertaken to ascertain the degree of opposition by interest groups, and the legislative bill itself is considerably transformed by a compromise backed by a large coalition of interest groups and parties.

Looking more closely at the two main instruments of Swiss direct democracy, one perceives totally different functions. The referendum allows people to raise objections to proposals by the authorities. The popular initiative, however, is conceived as an active way of shaping constitutional legislation. From a citizen's point of view, one could argue that the referendum has a 'braking' effect and the popular initiative an innovative effect on legislation.

Both Government and Parliament will try to avoid the risk of a referendum being called, and look for a compromise that is supported by as many parties as possible. Therefore legislation has become a process of power-sharing. It is a co-operative process mainly involving economic interest groups in the pre-parliamentary phase, and political parties in the governmental and parliamentary arena. The idea of reaching consensus in the system of "concordance" is simple: no single winner takes it all, everybody wins something from the negotiation.

Figure 2: The Power-Sharing Legislative Process in Switzerland



Source: Linder and Wolf, 1994: 123.

In view of this well-balanced system one might conclude that almost no change is possible. The fundamental system cannot be abandoned without changing the institutions: as long as the referendum exists it will act as a constraint on all political actors. Swiss political parties and interest groups are bound to look for compromises, even in cases of major conflict. The Swiss system of direct democracy provides evidence that intensive political participation beyond the occasional election of a political elite is possible and can play an important role. It shows that a substantial proportion of the population are willing to discuss and express their preferences, even regarding the most complex political issues. Direct democracy

and the complexity of modern society are not mutually exclusive. On the contrary, direct democracy is an important device for social learning processes which make people politically aware and able to deal with political complexity.

The Strength and Weaknesses of Swiss Federalism

The Swiss system implies a conflict between two principles of decision-making. Democracy insists on the equal representation of every individual, that is, one person one vote, whereas federalism guarantees equal representation of the member-states in a federation, that is, an equal vote for every state. In the recent years, the differences in population size between Cantons have increased because of migration from rural to urban regions. This trend increases the importance of the federal principle, while the weight of the democratic principle is reduced. Today one citizen from Uri (smallest canton) outweighs 34 citizens from Zürich (biggest canton). This practical veto power of the small cantons became very important and is actively discussed these days. One of the important issues where small rural cantons vote differently from large urban cantons is foreign policy. Changing the rules of federalism is a game to be played under the existing rules of federalism, and there is no reason for minorities to renounce their long-held minority rights when asked to do so.

Perhaps it was the federal experience itself that shaped a strong preference for “small government” and the idea of subsidiarity: central government should not meddle in things that the cantons are capable of doing themselves and that cantons should not bother with problems that the municipalities can handle. This approach, however, can lead to solutions that are too small. If the lack of co-ordination, and the refusal of necessary centralisation is sometimes deplored, it offers opportunities for living ‘differently’, for having regional different solutions, different governmental regulations, services and facilities (see figure 3).

Figure 3: Characteristic Features of Swiss Federalism



On the other hand, this gives the opportunity to minorities of Cantons to introduce innovations within their boundaries for which majorities at the Federal level would not be found. Later, when the innovation proves

successful at Cantonal level, the innovation is accepted at central government level. Federalism is therefore a way of social learning.

Switzerland is - as mentioned above – is clearly dominated by a consensus oriented system which stands in contrast with the more common majority rules system. The latter model favours the logic of majority rule in all its elements. Unlike Switzerland, the winner-take-all rule is fully applied. Power is concentrated among the parliamentary majority and the cabinet. There are few constitutional or judicial constraints, minority vetoes or federalist rules of ‘compound majority’.

Table 3: Strength and Weaknesses of Swiss Federalism

Strengths	Weaknesses
government is very close to citizens	trade-off between costs and benefits
participation of citizens	overload of political institutions
stability	Neglect of large scale savings and potential for rationalisation
public services are adapted to the different local needs	cumbersome implementation of national tasks
strong democratic control	slows down decision-making process
emphasis on regional development	difficult to define national policy
multi-cultural and multi-lingual society living together without major conflicts	national identity may be weakened at the expense of a strong regional and local identity

The Current Reform of Federal Financial Adjustment System

The Swiss Federal Finance Department is working on a project which aims to redefine the financial adjustment system which is based on the existing system of division of powers. The former subsidy system based on specific grants will be replaced by a new system which is based on the idea of limited global budgets where the use of funds is not restricted to one particular use. “The project of a New System of Financial Equalisation is not a fiscal project, however. Of course, we hope for efficiency gains, which may be beneficial to the budget of the Federation and the Cantons. But the goal is much more ambitious. The New System of Financial Equalisation is supposed to bring in new contents into federalism. Thus, is it a highly political project”(Villiger, 1998:7).

So far, the Parliament has defined an adequate amount of resources to be redistributed from the fiscally strong to the fiscally weak Cantons. For this purpose, 2.4 billions of Swiss Francs can be used per year. The Federation also guarantees according to the principle of subsidiarity that the Cantons that still have an insufficient expenditure capacity after the horizontal equalisation, get some vertical transfer payments. Another billion of Swiss Francs is available for this purpose. Some 210 million Swiss Francs can be used to balance topographical and socio-demographic disadvantages. The compensation effect is supposed to be reinforced through strict separation between incentive and redistribution functions in the new system. By doing so, the system becomes more transparent and better manageable as a whole. The Parliament is supposed to decide to which degree financial disparities should be balanced off (Villiger, 1990:9).

The Governments of the Cantons have approved the new redistribution scheme unanimously. This means that the project is likely to be successful. As a result, the Cantons will have 2.4 billion of Swiss Francs at their disposal, which they can use where it brings the highest value in the sense of NPM. This gives them the opportunity to set priorities which is difficult in the present system of specific grants. In the future, the Cantons should receive lump-sum transfers for their free usage. The proposal about the new financial equalisation system (“Vernehmlassungsbericht neuer Finanzausgleich”) will be presented to the Federal Government (“Bundesrat”) in March 1999. Besides the fiscal goals outlined above, the main objective of the new financial equalisation model is to establish a clear segregation of tasks between the Federal and Cantonal governments. Where possible, the public services will be clearly assigned either to Federal or Cantonal authorities depending on their capacity and requirements. The present system is widely diversified with no clear assignment of tasks, competencies or responsibilities. In more than 50 areas, both levels - Federal and Cantonal government - are the responsible authorities. The obvious target is to clarify responsibilities, which means that responsibilities for planning, decision-making, execution and financing have to be unified. In at least 60 per cent of the 50 areas the Swiss Federal Finance Department intends to end up with a clear segregation.

This segregation should take place mainly from an analytical rather than from a political point of view. The proposed criteria for federal assignments are as follows:

- creation of a nation-wide benefit;
- reduction of any welfare spread within the country;
- necessity of nation-wide rules and standards;
- improvement of federal cohesion;
- fulfilment of international obligations.

On the basis of these criteria, the project team proposed the following eight areas as federal assignments (see figure 4):

Figure 4: Future Exclusive Federal Responsibilities

- | |
|--|
| <ol style="list-style-type: none"> 1. social security 2. disability insurance 3. financial support of the family 4. health insurance system 5. support of basic research, applied R&D, technology transfer 6. national defence 7. agriculture 8. national road work. |
|--|

For Cantonal assignments, the following criteria were used:

- the main benefit appears on Cantonal level;
- Cantons are closer to the problem and have all necessary tools to solve it independently;
- importance of familiarity with personal and spatial circumstances;
- the persons concerned can be made jointly responsible.

According to the project team, the Cantonal government should become responsible for 21 of the above mentioned 50 areas. This devolution of tasks to the Cantonal level is based on a complete suspension of any federal funding. The areas suggested as new Cantonal responsibilities are listed below (see figure 6):

Figure 6: Future Exclusive Cantonal Responsibilities

1. preservation of historic buildings and monuments
2. protection of small villages
3. footpath system
4. regional policy and planning
5. fishing and hunting
6. support of special schools (e.g. for the disabled)
7. support of old people
8. additional support to social security and disability insurance
9. sports
10. vocational education
11. scholarship
12. promotion of property and real estate
13. airports
14. Cantonal universities
15. colleges
16. special nursing home and high end medical support
17. cultural activities
18. regional transport and road system
19. prisons
20. waste disposal
21. sewage system

For eight areas, an institutionalised co-operation between the Cantons is inevitable. To make this approach feasible, a clear system of equalisation of burdens among the Cantons has to be developed and implemented. The Cantons would be responsible for output and results. No financial or any other direct support from the Federal level should be available (e.g. Cantonal universities, waste disposal, prisons).

The reform of the new financial equalisation system has been inspired by NPM ideas to some degree. There are a number of elements that clearly reflect NPM principles such as:

- service level agreements between Cantonal and Federal institutions instead of detailed Federal regulations;
- improved allocation of resources allowing for efficiency gains on the Cantonal and Federal level;
- more managerial freedom for both sides;
- clear definition of performance targets by the “paymaster”, which implies full accountability for the assigned task regarding the inputs, throughput and output level by the service provider;
- better transparency and therefore improved control;
- financial federal support for entire programmes instead of specific grants for single projects.

According to the principles of NPM, the new financial equalisation system is supposed to increase the efficiency of public services: A clear division of tasks will allow for more efficient resource allocation. The

responsibility for service provision and the financing power will be linked in order to give more recognition to the principle of equivalence.

The new system of financial equalisation thus creates an important framework for a more efficient use of resources. This presupposes that common tasks are reduced to a minimum. However, even here incentives can be improved with new instruments: The Federal level is supposed to focus on strategic management, which includes the definition of clear performance targets for the Cantons. The latter require more managerial freedom to manage Federal grants more efficiently. These considerations are reflected in a proposal for a new Article 3bis in the Swiss Constitution. It says that the assignment of competencies and public service provision have to be based on the principle of subsidiarity. This does not only refer to the relationship between the Federal and the Cantonal level but also to the relationship between Cantons and municipalities.

This does not mean, however, that the principle of subsidiarity is something new for the Swiss political system. It has always existed in education policies, which the constitution assigned to the Cantonal level from the very beginning. Therefore, a closer analysis of Swiss education policies can be a very instructive with regard to potential benefits and costs of the planned reform of the financial equalisation system. As the case studies of the Zürich and Geneva Cantons will show, the principle of subsidiarity allows for very different educational policies across Cantons. It depends very much on the political culture of the Cantons as to whether the high degree of autonomy is used to improve the efficiency and effectiveness of educational outputs and outcomes or whether other political goals prevail.

The Devolution of Accountability in Education Policy in Switzerland

As mentioned before, the Cantons are constitutionally responsible for education. The Swiss Federal government plays an important role in financing the universities and in planning, managing and financing vocational schools. As the Swiss constitution gives Cantons the responsibility for education, there is no national system of education. Nevertheless, all Cantons are characterised by the same basic educational structure and only differ with regard to higher levels of education that they offer.

Swiss education policy is primarily co-ordinated by the Swiss Conference of Cantonal Ministers of Education (Schweizerische Konferenz der kantonalen Erziehungsdirektoren, EDK) that meets every second month. Members of the EDK are the Cantonal ministers of education; its rotating chairmanship is in the hands of one of the education ministers. Federal regulation concerning education is based on a close working relationship between the Federal administration and the EDK.

In all Cantons, there is an obligatory school term of nine years. About 280 000 pupils are trained at the secondary school level I. There is a voluntary participation in education at the secondary school level II. About 93 % of all youth (data from 1994) started an education at this level and 85 % finished this 2-year-education term. 17 % of the youth graduate with a diploma that allows them to enter universities.

The legal basis for education at Swiss grammar schools is the Administrative Agreement between the Swiss Federal Government and the EDK of 1995, which stipulates the legal recognition of grammar school diplomas (Anerkennung von gymnasialen Maturitätsausweisen, MAR). This agreement is the basis for the high degree of freedom which characterises the Swiss educational structure at the grammar school level. The decree, consisting of 26 paragraphs, sets the following goals for grammar school education: "To provide students with basic skills with regard to lifelong learning and to promote mental awareness as well as independent judgement. Grammar schools pursue a general, balanced and coherent education, not a subject-specific or professional education".

Instruction at grammar schools is based on curricula which are issued or authorised by the Canton and follow the general Swiss-wide frame curricula of the EDK. The subjects that are required for graduation consist of seven basic subjects and two core subjects, which may be selected by the student. Education until graduation takes a minimum of 12 years.

Due to the extensive delegation of accountability by the Federal government to the Cantonal level, which includes a normative definition for the grammar school education, and, which is in a sense a close vertical partnership, the Cantonal Departments of Education have the freedom to delegate the accountability for education to the grammar schools. The Government of the Canton of Zürich made use of this (legal) opportunity by reforming their public administration and by restructuring their grammar school system.

Devolution of Accountability at Zürich Grammar Schools

Public Administration Reform in the Canton of Zürich and the Project “Semi-Autonomous Grammar Schools”

The Government of the Canton of Zürich initiated a comprehensive public management reform in 1995 along the lines of NPM. The main objective of the reforms was to improve “value for money” for educational services. In particular, four goals were pursued: increasing the goal-orientation of political and administrative activities, improving the performance management processes and instruments, improving efficiency, effectiveness and economy as well as a better focus on customers and citizens.

Two main elements are of high priority for the reform in Zürich: on the one hand, a systematic devolution to schools combined with new structures of accountability; on the other hand, the creation of mechanisms of competition to make the system more dynamic.

The basic principle for the creation of the new structures is to decentralise accountability and competence and to delegate them to the “front line”. The service provider will have more responsibility and also more freedom to react quickly to new developments. Based on performance objectives, performance agreements, output budgeting, contracts, a comprehensive reporting system and better management instruments, a results- and cost-oriented performance management system will be introduced.

As a part of these public management reforms, the Department of Education of the Canton of Zürich initiated the project “semi-autonomous grammar schools”. Step by step, grammar schools will develop a new organisation, a future-oriented school culture and new management principles. The main goals of the project are:

- the definition of a pedagogical performance agreement between school and the Department of Education which aims at the maintenance and improvement of school quality even under severe conditions,
- new visions based within uniform frameworks which allows for an independent school culture,
- increasing the autonomy and financial responsibility of the grammar schools by output budgeting, student lump-sums, regulatory reform and simplification of administrative processes with a clear delegation of responsibilities,
- performance rating of the teachers.

On the basis of these project goals, Zürich grammar schools developed a school programme in 1997 in accordance with the guidelines of the Council of Education. This is the pedagogical executive body for the Cantonal education policy the chairman of which is the Minister of Education. The school programme is the response of each semi-autonomous grammar school. In order to ensure quality, the school programme has to include a mission and the curricula. Furthermore, they have to include rules for school and class organisation as well as performance targets for performance management.

The second essential element of the partial autonomy is the output budget (an agreement between the Parliament and the Government on the level of the Canton) and the management contract (an agreement between the Department of Education and each grammar school.)

The Parliament sets the performance goals on the basis of the output budgets for the Department of Education, which in turn defines the performance goals for each grammar school on the basis of a management contract. A performance budget consists of four elements - financial resources, tasks, performance objectives and indicators.

¹ The data have been provided by the General Department of Territorial Co-operation (Ministry for Public Administrations, MAP), the National Institute of Statistics and the General Department for Co-ordination of Territorial Treasuries (Ministry of Economic Affairs and the Treasury, MET). Salvador Parrado- Díez would like to thank Juan Antonio Herranz, Manuel Lorenzo from MAP and Ana Arias from MET for all their assistance.

Figure 7: Output budgets in the Canton of Zürich - An Overview

Canton of Zürich	GLOBAL BUDGET GRAMMAR SCHOOLS	DEPT. OF EDUCATION
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E 5		Capital Account 99	Operating Account	1996	1997	1998*	1999**	Change 96-99 (%)
		expenditure		18,418,000	expenditure	262,844,999	261,739,704	
	revenue	574,000	revenue	4,855,999	5,346,704	4,998,800	8,601,000	77.1
	net	17,844,000	net	257,983,000	256,393,000	260,072,000	270,470,000	4.8
			coverage	1.88	2.01	1.92	3.18	69.1

previous years

E 1	Principal Output Group Grammar Schools
<ul style="list-style-type: none"> • Student education for classes up to 1997 according to grammar school graduation types and Cantonal grammar school graduation rule; student education for classes as of 1998 • student education at commercial grammar schools • student education at diploma grammar schools 	

Development of Students 1995 - 1999

E 2 Effectiveness			E 3 Efficiency		
University Graduation Rate of Grammar School Graduates	Objectives: <ul style="list-style-type: none"> • Good preparation for Entering professional Life / starting studies • Successful university Studies 	Indicators 1999: <ul style="list-style-type: none"> • percentage of graduates who qualify preparation "good" or "better" > 90% • university graduation rate > 60% 	Total Cost per Student	Objectives: <ul style="list-style-type: none"> • steady real cost per student • reduction of cost per lesson • steady teacher-student ratio 	Indicators 1999: <ul style="list-style-type: none"> • change of cost per student compared to previous year = plus 1.1% • change of cost per lesson compared to previous year = -0.88% • lesson factor 2.05

E 4 Economy of Grammar Schools (benchmarking)			
criteria of comparison	maximum value	minimum value	average
student lump sum	15069 Fr.	12165 Fr.	14080 Fr.
Comments			
<ul style="list-style-type: none"> • * expenditure as of 1998 inclusive social security payments (+ 35 Mio.) • ** expenditure as of 1999 inclusive previously budgeted items at the General Secretary's Office (+13 Mio.) 			

Empowered with extensive responsibilities, the management of the grammar school developed a new school programme as a first step. The programme is the planning instrument of the school that helps to transfer the above-mentioned legal and performance objectives into the class structure and organisation of the school. It is also a management instrument of the school director's office. The school programme consists of a mission (for the basic pedagogical orientation) and of a curriculum (for the presentation of the pedagogical profile). The school programme is not dictated by the school management, but it is developed together with the stakeholders.

The Zürich Unterland grammar school developed their mission in a two year process with the participation of all members of the school (students, teachers, staff). It was then successfully passed by the student's assembly, the teacher's convention, and the staff assembly. To bring it to life, each year action plans are realised which are consistent with the main statements of the mission; the action plans' impact is then assessed.

The curriculum of Zürich Unterland grammar School is also the result of intensive work by the stakeholders. Analogous to the development of the mission, the school management chose the way of stakeholder involvement to work out the curriculum. Steered and led by a reform committee (with a representative of the student assembly), a comprehensive curriculum was developed step by step, based on the Swiss frame curriculum as well as Federal and Cantonal legislation.

The school programme is the planning instrument and the "Director's book" of the school management. A self-evaluation process on the topic "giving oral and written grades" was carried out for quality assurance purposes in the school year 1997/98. The self-assessment was perceived as a means to make the mission become alive. On the basis of this first evaluation, further evaluations followed which primarily analysed the outcomes of interdisciplinary courses.

New School Management through Output Budgets, Benchmarks and Cost Accounting

The school management also started comprehensive reforms, using the new management instrument of output budgeting. In contrast to the original budget, which consisted of a large number of singular expenditure items, the output budget has only a few figures. These figures do not differentiate expenditure items, but they differentiate a few outputs. That has the advantage that both the Department of Education, and also the grammar school management can now work with these funds at their own discretion. The biggest part of the grammar school's budget is the student's lump-sum, a fixed price per student. By this method, there is a direct link between quantitative performance measures and funding. For expenditures without a direct link to the number of students (for example, further education or supporting steps concerning performance measurement of teachers), the funds are budgeted as a lump-sum.

The Government of the Canton of Zürich also encouraged a series of benchmarking projects as part of their public management reforms. One of these projects was the development of a benchmarking report, which compared the costs and performances of all the 21 grammar schools. The Department of Education developed a questionnaire which is expected to provide assistance for analysis of the most important reasons for the cost differences between the schools.

Four factors were identified as the main reasons for differences of costs-per-student between the schools:

- cost differences due to school level (7th/8th school year and 9th- 13th school year, respectively; difference per average 30 %)

- cost differences due to the grammar school type
- cost differences due to the composition and the age structure of the teacher's body
- differences in the administrative and personnel organisation (number of full time employees of similar schools differentiated heavily, in some cases by the factor 2).

As a result of the benchmarking, the costs per student of grammar schools could conceivably be reduced by about 10 per cent. Steps were taken by the Department of Education to give the schools new cost directives (number of lessons per student per year, administrative costs per student). Together with the funding of the budget, the benchmarking provided the basis of the contract. Every year, the agreement between the Department of Education and each grammar school sets the school's management and performance objectives.

Figure 8: Contract between Department of Education and Grammar School - An Overview

Tasks
<ul style="list-style-type: none"> • definition of core performance areas (e.g. type of education for the students)
Management Objectives
<ul style="list-style-type: none"> • output (e.g. development of a school programme) • finance (e.g. development of accrual accounting) • reporting (e.g. development of annual reports)
Performance Objectives
<ul style="list-style-type: none"> • output objectives (e.g. number of grammar school graduates who successfully finish their university studies 6 years after grammar school graduation) • output quantity (e.g. number of lessons per student)
Finance
<ul style="list-style-type: none"> • operating account of grammar school
Output Class School
<ul style="list-style-type: none"> • budget 7th/8th school year • budget 9th - 13th school year • budget diploma grammar school • budget total • number of lessons per student per year (adjustment to Cantonal average) • adjustment of administration costs per student to Cantonal average
Output Class Additional Outputs
<ul style="list-style-type: none"> • net costs music classes • net costs infrastructure improvement • net costs quality assurance
Output Class Special Compensations
<ul style="list-style-type: none"> • rent • pre-retirement-benefits • retirement funds
Remaining Revenue
<ul style="list-style-type: none"> • extra supplies • sales • rent
Coefficients
<ul style="list-style-type: none"> • percentage of posts available for teaching staff • percentage of posts available for administrative staff

The grammar schools were obliged to introduce cost accounting in addition to output budgets from the beginning of 1998. Another reform goal is to bring about simplifications in administrative work (for example, through software). The Department of Education is responsible for project management and supports the grammar schools during the introduction of the software system.

Reform Impediments

The vertical partnership between the Swiss Federation, the Canton of Zürich, the grammar schools and the systematic devolution of accountability to the grammar schools (service providers) did not pass without any opposition. Reform impediments were not found in the legal area because Federal and Cantonal legislation created more of freedom. The problems were rather caused by cultural differences and the lack of special know-how of the school management.

The introduction of performance objectives (and measurement) as well as indicators, which are parts of output budgets and benchmarks, created substantial opposition among teachers in the beginning. A majority of educationalists believed that benchmarks, new public management, cost-outcome-output-schemes were too economic an approach to be simply transferred into the pedagogical world. The understanding that schools are also ultimately “enterprises” which provide the “education service” and that pedagogical goals are not a contradiction to cost-efficiency, could only be developed through consistent persuasion by the leaders of change (representatives of the Department of Education). At the same time, the way the teachers saw themselves (“immune to reforms“) did not promote enthusiasm for changing the educational structures. From the beginning, it was important that the success of the partial autonomy project became visible very fast.

Another problem was caused by the lack of managerial and business skills among the school management. Exactly these skills are needed in order to successfully manage the new accountability at the school management level. Generally, the systematic devolution, caused by the partial autonomy, created additional administrative work for the school management which lead to extra work for school management and staff in the start-up phase of the reforms. It is the goal of the Education Department to eliminate these deficiencies through further education in the areas of business administration (especially cost accounting) for the members of the school management.

Nevertheless, the devolution of accountability to the service provider at the Zürich grammar schools has a mainly positive outcome so far. The legally-based structural freedom for the school service provider is the central factor of success. This supports the distinction between strategy (EDK and Department of Education) and operative management (school management) as it is demanded in the new public management theory.

In this context, it can be observed that a new thinking among the school management is developing. Instead of seeing themselves as recipients of orders of the Department of Education, school managers nowadays see themselves more and more as entrepreneurs who are willing to use the new freedom to develop innovative solutions to improve the quality of the school. Due to the order of the Education Department to develop a mission at the school themselves, the “entrepreneurial culture“ is mainly created within the school. This autonomy is also strongly supported by the new mechanism of output budgets so that the school management can use the funds at their discretion within a defined framework.

The new culture of (financial) management has also shown impacts on fulfilling the financial objectives of the Department of Education. The Zürich Unterland grammar school reached the Department’s objective to reduce their administrative costs per student by 600 Swiss Francs in relation to the benchmark report (which means about 20 percent or a total 500 000 Swiss Francs). The school reached this objective on

their own - without any interference or coercive measures by the Department. Such a cost reduction cannot be realised successfully without a fundamental, internal reorganisation of the school structures (combined with tough decisions by the school management).

All in all, the systematic devolution has proven positive. The experiences are not only satisfactory at the level of the Department of Education, but also from the view of the schools, the new freedom has an increasingly positive impact in providing pedagogical services.

The Example of Grammar School Reform in Geneva

The application of the Federal Order on Maturity, which sets the conditions for obtaining the Certificate and also stipulates what subjects should be taught and at what level, and which refers to framework plans in respect of the corresponding curricula, has given rise to strategies in each Canton—strategies which, once again, are heavily influenced by the underlying traditions and cultural diversity. The Canton of Zürich is but one example amongst the 26 that would be needed to fully understand and interpret federal regulations. In order to illustrate the diversity of educational policies and management on the Cantonal level the educational policies of the Canton of Zürich will be contrasted with the French-speaking Canton Geneva.

The Canton of Geneva features two traditions that are in practice contradictory: a highly centralised system of administrative management and a strong desire for participation—in short, and to employ a slight metaphorical exaggeration, one might call it a cross between “Napoleon” and “May 1968”. When the Certificate of Maturity was being reformed, Geneva’s Department of Public Education set up a technical advisory board made up of representatives of:

- secondary-school administrators from post-compulsory schools (in effect, from all schools for students aged 16 to 20 in all courses of study);
- administrators of the schools concerned (*Gymnasiums*): directors, assistant directors, deans;
- teachers.

The Board’s mandate was therefore to formulate the “Geneva model” for application of the Order. Without relating the various stages and their defects, proposals, disputes and negotiations (especially as concerns scheduling and the time allotted to the various subjects), the following points should be mentioned:

- The task took much longer than it did in most of the other Cantons. This was due to an extensive consultation process with every constituent.
- Budget imperatives meant that the cost of reform could not exceed that of the current Maturity arrangements.
- The project went much further than the reforms of the other Cantons by choosing all new options available under the new Order. The new Order proposes a wide range of options of languages, sciences and social studies. The Cantons are free to choose some of these options, but not necessarily all. The selection of this set will usually be guided by financial considerations.

One might say that this is a good example of delegation and participation: despite the complexity of the resulting model, the Board can pride itself on having focused on one of the project’s primary objectives—

quality, which nobody wished to confuse with efficiency. Clearly, one of the difficulties that most school systems encounter is the inevitable comparison with a business enterprise; indeed, the entire vocabulary of reform has been taken from the realm of economics. In the Canton of Geneva quality is defined both in objective and subjective terms. A research institute undertakes quality measurement on indicators such as the number of pupils finishing high-school with Maturity and their success in the first exams of any University faculties. Surveys among pupils and parents also measure satisfaction levels with the education provided. Two long-term parameters have been found out to determine the perceived quality of a given school: its reputation among the students just before entering school and after leaving it. This may be explained by the close relation between schools and other institutions such as the university.

The Geneva project has yet another strange particularity. In order to offer each student the full range of options for the new Certificate of Maturity, the territory of the city (a mere 25 km²!) was divided into five districts, each of which has at least two establishments offering all options. Cynics would say that this solves some tricky employment problems and balances class sizes through overcrowding. Paradoxically, then, districts are carved out of a minuscule territory with a relatively homogeneous population. This would be more readily understandable in large Cantons such as Bern and Zürich, which admittedly have other conceptions of efficiency and rationalisation for their school systems.

In the end, what Geneva will have done is to erect so many Great Walls of China, with each district and each establishment defending its territory for reasons in which educational concerns are not always paramount, but in many cases overshadowed by budgetary considerations (appropriations being based, as one might expect on the number of students). So the question can be raised as to whether competition between schools is a reality as the budget lines are the same for all schools. Differences result eventually from the managerial style of the head of a school and from the diversity of the social background of the students.

Diversity, Contrasts and Paradoxes in Swiss Education Policies

While the democratic principle of delegating authority obeys strict but common rules, in practice it can take an wide variety of forms. This is particularly true of Swiss education, where it is all the more marked because the Cantons have very strong local traditions and broad cultural and ideological diversity.

The Order on the Recognition of Certificates of Maturity, dating back to the turn of the century, placed full responsibility on the Confederation: any holder of the Certificate was allowed to enrol in any of Switzerland's universities (which are actually run by the Cantons!) or Federal polytechnical schools. Since early 1995, however, there has been an Administrative Agreement between the Federal Department of the Interior and the Swiss Conference of Cantonal Ministers of Education (EDK). This agreement deals mainly with harmonised regulations between the Federal Council and the EDK concerning the recognition of Cantonal Certificates as well as Certificates for Free Maturity Examinations. The Swiss Maturity Board submits proposals concerning recognition of maturity certificates to these two bodies. It may also be requested by these bodies to verify the Cantonal compliance.

Administrative Agreement Between the Swiss Federal Council And the Swiss Conference of Cantonal Ministers of Education (EDK) concerning the Recognition of Certificates of Maturity
(16 January-15 February 1995)

For the purpose of instituting a coherent solution for the recognition of Certificates of Maturity in Switzerland,

Whereas each of the two parties can make commitments solely in its area of jurisdiction,

It is hereby agreed as follows:

I. Regulation of recognition of Certificates of Maturity

Section 1 Principle

¹ The Federal Council and the EDK shall co-ordinate recognition of Certificates of Maturity. To this end, both parties, acting separately, shall adopt harmonised regulations. Recognition shall be in respect of cantonal certificates as well as certificates for free maturity examinations.

² The two parties shall institute a joint body to deal with recognition issues.

³ They shall co-ordinate publication of regulations concerning recognition.

II. Joint body

Sec. 2 Swiss Maturity Board

The Federal Council and the EDK shall jointly maintain a “Swiss Maturity Board” (hereinafter, “the Board”).

Sec. 3 Tasks

¹ The Board shall submit proposals concerning recognition of Certificates of Maturity to the Federal Department of the Interior and the EDK.

² It shall ensure that recognised schools comply with established conditions for recognition. The canton in which a school is located, the EDK or the Federal Council may request that the Board verify compliance.

³ It shall organise free maturity examinations pursuant to the regulations.

The delegation agreement is in fact based on shared responsibility but also on two key policy principles which have long governed Switzerland’s history and are particularly relevant to this case study, namely federalism and centralisation. While the delegation of authority can take various forms depending on its objectives, it will almost always involve:

- a) administration/management (some degree of autonomy)
- b) ideology (in this case the concept and principles of education)
- c) distance (between the “delegator” and the “delegatee”).

These elements may be illustrated by the following quotation:

“To give an example, there is no possible comparison between the French and Swiss education systems: few countries have such a fragmented education system as Switzerland. In Switzerland, particularity and diversity are assumed. The assumption is tacit and undisputed — each Canton differs from the next, yet this is never questioned and seldom justified. Diversity and particularity have been, as it were, institutionalised. Not only are some Cantonal education systems highly centralised (in Geneva, for instance), they might also be termed pre-Weberian or pre-bureaucratic: the education authorities are very close to head-teachers, who feel that they are under scrutiny and thus enjoy very little autonomy. Head-teachers are in turn close to their teaching staff, because the schools are so small. Such proximity is not conducive to autonomy for individual schools or for the teaching staff within those schools.”(Fonds National Suisse, p. 199)

Comparisons between Cantons may offend Cantonal susceptibilities, and the differences they reveal, can always be viewed as local particularities, rather than disparities between schools in terms of performance or between pupils in terms of skills.

In such a diverse situation, it is very hard to identify the advantages and disadvantages of having a single or several centralised or decentralised systems. As Claude Thélot wrote in “*L'évaluation du système éducatif*” (*Evaluating Education Systems*):

“In actual fact, countries where the intermediate level is given a great deal of latitude are often those where individual schools have very little freedom: decentralised decision-making ‘prevents’ schools from being highly autonomous. Conversely, when central government does most of the decision-making, i.e. in a centralised system, individual schools often enjoy more autonomy. Decentralisation is not a linear process: delegating more powers to intermediate levels, be they governmental or not, may lessen a school’s autonomy (Thélot, 1994:16)”.

This diversity has yet to undergo evaluation, since the cantons do not all have their own research bodies, but there are plenty of benchmarking systems that can be used to produce a serious study. Opportunities such as the establishment of new federal qualifications (Federal Certificate of Vocational Studies), new schools (such as the *Hautes Ecoles Spécialisées*, or specialised colleges), even the reform of the Federal Certificate of Maturity, could all be used to promote the idea that our education system could, and ought to, be evaluated, and along with it the way in which *authority is delegated* between partners.

By the same token it has not been traditional, until now to evaluate individual schools in Switzerland. Yet, the very idea of a “school development plan” implies an assessment of each school’s strengths and weaknesses: if individual schools are not the focus of study and evaluation, there is no reason for them to be the focus of remedial action. Surely, the first question a school should be asked is how it moves from the general to the specific, that is to what degree does it respect both general rules and specific social and political conditions? Is that not the very essence of devolution?

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ADMINISTRATIVE CO-OPERATION IN THE EUROREGION NEISSE-NISA-NYSA

by Milan Jerábek, Tomasz Sliwa, Olga Vidláková and Gerhard Watterott

Introduction

Euroregions are important inter-governmental partnerships in two respects - on the one hand for the European Union and on the other hand for the border regions themselves. The primary significance of this kind of “international” partnership and ensuing joint cross-border projects is based on the characteristics and specific problems of border areas. With the European integration process which will undoubtedly intensify at the beginning of the third millennium, the significance of the Euroregions will also increase. In contrast to many other forms of transfrontier co-operation between neighbouring regions (for an overview, see Weyand, 1997:170-173), Euroregion is a form of co-operation between associations of local governments. Thus, they conform also with the principle of *subsidiarity*, which is one of the cornerstones of European institution-building.

The Neisse - Nisa - Nysa Euroregion (ERN) is a *municipal partnership of three border territories at the outer border of the EU*. It involves the Czech Republic and Republic of Poland, which are associated with the EU, as well as the EU Member country, the Federal Republic of Germany. This fact is important to the comparison of this Euroregion with other Euroregions formed along the internal boundaries of the EU, such as that at the German-Dutch border. Until 1989 the whole area, including its German part, formed part of the territory under the direct control of Moscow and the Council for Mutual Economic Assistance (CMEA), which was closed to the West and lived in isolation from the rest of the world. Moreover, this region is burdened with considerable economic and, especially, ecological problems. As a matter of fact, the “black triangle” is considered to be the most heavily polluted region in Central Europe. The Commission of the European Union (EU) is engaged in this area with a regional environmental programme, which is financed out of the EU PHARE Programme for Central and Eastern European Countries.

In the beginning of the 1990s, political changes which had taken place in individual ERN countries allied with a stronger impetus towards co-operation in the ERN region created new opportunities for cross-border co-operation. However, it is necessary to note that the situation in the German part of the region has been different from the beginning, particularly with regard to national law and public administration. The law of the Federal Republic of German as an EU Member State was compatible with EU law, which was not the case either in the Czech or in the Polish parts of the region.

The ERN covers the border area between Germany, Poland and the Czech Republic with the partial territories of Horní Lužice/Dolní Slezsko, Northern Bohemia and approximately the region of Jelenia Góra in Western Poland. In all, the ERN represents an area of about 12.000 square kilometers with approximately 1.6 Mio. Inhabitants (Communal Association of the Euroregion Neisse (1998). The biggest city is Liberec with about 102,000 inhabitants. Institutionally the ERN has to be conceived as a cross-border interest association. This means that the ERN is not a legal entity. As will be explained in more

detail, the ERN offers the political and administrative framework for all kinds of horizontal, vertical and mixed (hybrid) partnerships with a cross-border scope.

The aim of the case study is to analyse the accountability problems with different kinds of cross-border partnerships. Accountability and efficiency considerations may point out two re-engineering strategies: As far as regional development projects with a transfrontier character are concerned, the recommendation is to transfer ERN projects to a regional level; with regard to voluntary municipal tasks with a strong cross-border element, it is necessary to foster the accountability of local councils for the results of ERN projects.

The Evolution of the ERN from Different National Perspectives

Legal Barriers to Cross-Border Co-operation in the Czech Republic

Legal and institutional prerequisites are highly significant with reference to accountability and partnership relations of the individual Euroregions. This is especially the case in the Czech Republic, where a system of a *centralised state administration* created barriers to fully effective cross-border co-operation at the local/regional level. On the one hand, it was evident that the new Euroregion should not form another administrative tier but would still need some administrative organisation as well as competent officials (managers) for the solution of the numerous cross-border problems and tasks. On the other hand, the assumption was that the member countries would have adequate administrative tiers, especially at the local level. In the Czech Republic, however, the regional self-governing tier has not been established yet. There are only self-governing local authorities the majority of which are very small both in geographical terms and in respect of the population they represent. As a result, Czech municipalities all have insufficient tax incomes. The districts, however, have only state administration authorities.

The first agreement on the establishment of the Euroregion Nisa of December 1991, which foresaw the foundation of the *Regional Association of Northern Bohemian Cities and Municipalities*, is a testimony of the confusion about such fundamental matters as the *legal status of its members*. Some names of the founding members were correct - this is the case of the member cities and towns. Nevertheless, there were also cases where municipal offices were nominated as a member. Such title is at variance with past and present legislation. Under the Constitution of the Czech Republic the municipality and not the municipal office is the legal subject of local self-government.

The Procedural Rules of the Czech part of ERN contained some rules that were opposed to the Czech Communal Law of 1991. For instance, the provisions of the Procedural Rules stated that the elections of the Council of the Czech Regional Association of the Euroregion Nisa had to be co-ordinated by the respective district offices which were supposed to submit proposals for candidates. This contravened the Commune Act (Act No. 367/1990 CoL) according to which associations of local authorities were the expression of local self-governing competence. This excludes any use of district offices as state administration authorities.

The greatest problem from the foundation of the ERN has been the status and participation of district offices at the Czech part of the ERN. In contrast to the German and the Polish parts of the ERN, which have self-governing bodies at the supra-communal level, the Czech Republic has no such tier of self-government yet. This means that there is no adequate partner on the Czech side for the German Landrat or the Polish Voivode.

The Constitution of the Czech Republic forecasts self-governing bodies at the regional level. The regional self-governments are to be established in the year 2000 on the basis of the Constitutional Act No. 347/1997 CoL of 3 December 1997. When the regions will have been established as higher territorial self-governing

units, the provisions of the Constitution of the Czech Republic concerning territorial self-government will be complied with and a two-tier self-government system at the municipal and regional level will be implemented. However, the Constitution does not foresee self-government at the district level. The districts are administrative territories under the exclusive control of the state administration. The respective state administration bodies are the district offices, which are state-run all-purpose agencies, which also include some special decentralised state administration authorities.

When the ERN was founded, the district offices in this area showed some interest in cross-border co-operation but the Czech law did not enable them to engage in such activities. This shortcoming was partly remedied by the amendment of the Act on district offices (Act. No. 321/1992 CoL) which entered into force on 1 July 1992. Due to this amendment, the district offices can enter regional cross-border associations with the consent of the District Assembly and the Ministry of the Interior. However, they may not enter interest associations of legal entities. As a result of this new law, an Association Agreement was concluded between the ERN Regional Association of Northern Bohemian Cities and Municipalities and five district offices in December 1992.

According to the statutes of the Czech part of the ERN of April 1997, *the district offices are not direct members* of this Czech municipal-district-association but they may nevertheless participate in the Czech and the international parts of the ERN. This means that on the one hand, the 5 district offices engage financially in the Czech activities of the ERN; on the other hand, they are only indirect members of the various bodies of the Czech Regional Association and the ERN. This is due to the fact that the Association Agreement was concluded under Sec. 829 of the Czech Civil Code, under which such associations have no legal capacity to rights and obligations. The ERN Regional Association, in the bodies of which the district offices participate through their representatives, is a legal entity, as it was established as an interest association of legal entities under Sec. 20f of the Civil Code. On the basis of the above-mentioned 1992 Amendment of the Act on district offices, the Ministry of the Interior approved the accession of the district offices to the Czech Regional Association of the ERN. However, the Ministry did not give consent to a membership in the ERN Regional Association North Bohemia, which is a legal entity.

Nevertheless, the district offices have 5 seats in the Czech General Meeting (in the meantime converted into the General Assembly) and 4 seats in the ERN Council. In 1994 the Czech Secretary of the ERN Regional Association informed the Deputy Minister of the Interior that “the members of the bodies of the Association are elected from the *members of the Association*”. This statement, which undoubtedly reflects the present situation, is opposed to the explicit provisions of the Statutes of the Czech part of the ERN providing that the district offices are not direct members of the Association. This would imply the existence of “direct” and “indirect” members of the Czech ERN Association. Moreover, the above-mentioned information of the Secretary states that the representatives of district offices have the possibility of *supervision* and participation in the ERN activities as assured by an agreement.

This detailed explanation of the legal situation attempts to illustrate the non-transparency of various legal provisions of the ERN, which give rise to confusion regarding the management of cross-border partnerships and accountability.

Cross-Border Co-operation in the Polish Part of the ERN

Like other Polish municipalities, the Voivode of Jelenia Góra made several co-operation agreements with foreign regions, provinces and cities on the basis of international agreements such as the European Framework Convention on Transfrontier Co-operation between Territorial Communities or Authorities. On the basis of bilateral agreements between Poland and Germany as well as between Poland and the Czech Republic, the Voivode of Jelenia Góra established co-operation with Aachen and Saxony in Germany,

Ringjobing in Denmark and Apulia in Italy. At present, two other co-operation agreements are prepared with Altenburg and Greitz in Germany. The declared objective of this kind of cross-border co-operation is to foster the cultural, economic and social development of the jurisdictions involved. The joint projects mainly focus on the development of local administration, culture, economic development, environment protection, health services and tourism.

The various forms of cross-border co-operation between regional and local authorities have given rise to partnerships between local organisations and citizens. Today, there is direct contact between the schools, theatres, culture clubs, kindergartens, libraries, civic associations and institutions on both sides of the Polish, Czech and German frontier. This is an important achievement of cross-border co-operation. Due to historical events, language problems and prejudices the outer EU border still suffers from a deficit of contacts among citizens (Kowalke, 1995:78). But the spill-over may also be the other way round: There are many examples of institutional co-operation that started out of private initiatives.

Since 1991, the Neisse - Nisa - Nysa Euroregion plays a vital role in cross-border co-operation in the area of Jelenia Góra. Meanwhile, the Polish municipalities in the ERN established more than 65 partnerships. In most cases, these take the form of twin-towns. However, inter-municipal co-operation also involves informal types of co-operation such as joint meetings and mutual visits of local representatives. As will be discussed later, different degrees of formalisation of partnerships involve different accountability problems.

The Special Problems of the German Part of the ERN

From a German point of view it is important to consider the special problems of East Germany at the time when the ERN was founded. Apart from the task of building cross-border co-operation "from scratch", there were also many pressing problems from socialist times that had to be dealt with. Particularly in 1990, the political situation in East Germany was very unclear, which also impacted on the management of cross-border problems. One example: In May 1990, a new municipal administration was set up in the then still existent German Democratic Republic (GDR) as a result of the first free local elections. However, the tasks and competencies of the local authorities were quite unclear as the state was already in the stage of dissolution. The former district administration structures were politically reorganised in a rush and turned out to be second- or third best solutions. However, this situation of change also created new opportunities for co-operation, which could be used for the establishment of cross-border co-operation.

In this period also the establishment of the Euroregion Neisse-Nisa-Nysa took place. A trilateral conference of local politicians from the Higher Lausitz region, Northern Bohemia and Lower Silesia resulted in agreements on cross-border co-operation. In May 1991, the constitutional assembly of the ERN celebrated the foundation of the first Euroregion at the border between Saxony, Poland and the Czech Republic (Euroregion Neisse, 1998). The ERN encouraged the foundation of other Euroregions in the border area of Saxony in 1992: Elbe/Labe, Erzgebirge and Egrensis.

Before the establishment of the ERN it was necessary to set up some institutional structure for the German part of the ERN. The organisational framework on the German side is not as complex as on the Czech part and also different from the Polish part: the German Section of the Local Association of the Euroregion Neisse (Kommunalgemeinschaft Euroregion Neisse e.V.) is an association of districts (Kreise) and district-free cities on the basis of private law. This means that membership requires the decision of the respective District Parliament (Kreistag) or city council. The District Parliaments and Councils of district-free cities elect the delegates for the General Meeting. The General Meeting elects the President, the Committees/Working Groups and the Secretariat out of its members.

The Structure of ERN

According to the General Co-operation Agreement of the Euroregion Neisse-Nisa-Nysa of 1994 (amended in 1995), the ERN consists of the following members: the Polish Municipal Association of the Euroregion Nysa, the German Section of the Local Association of Euroregion Neisse and the Regional Association of Northern Bohemian Cities and Municipalities in the Euroregion Nisa and five district offices on the Czech side. It becomes evident that with the exception of the Czech members, the German and Polish members are municipal associations. As will be explained later, the special composition of the Czech ERN membership is a challenge of its own for accountability management in the ERN.

The co-operation within ERN is based on parity, rotation and consensus. As Figure 1 shows, the ERN is composed of four common trilateral governing bodies:

Council: The ERN Council consists of representatives of regional municipal associations, each of which delegates 10 members. The main tasks of the Council are to define the priorities of the ERN and to determine the guidelines for common activities.

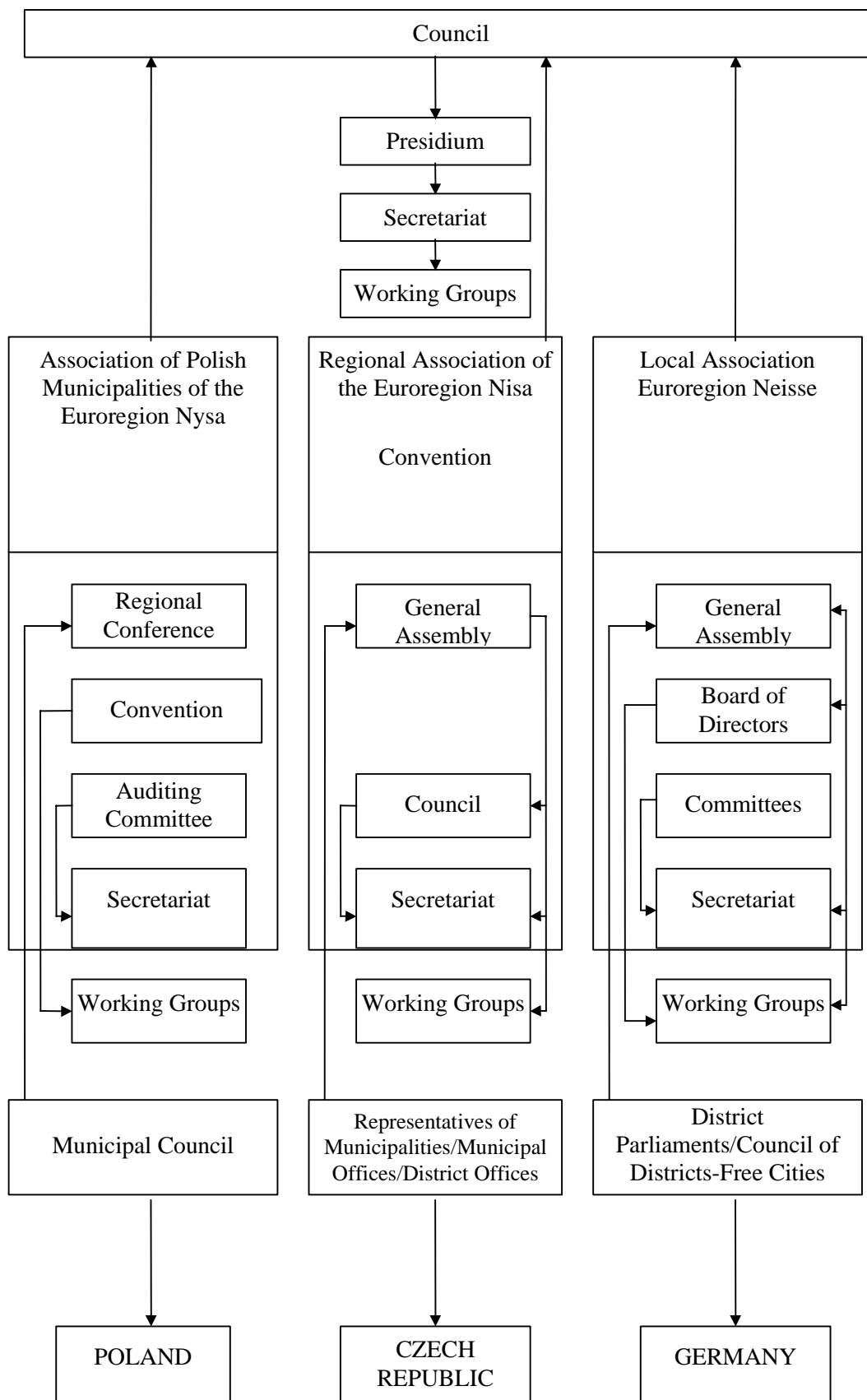
Presidium : The Presidium consists of the chairmen of the three municipal associations. It represents the ERN and acts on behalf of the ERN between the sessions of the Council. The Presidium is authorised to take resolutions and to discuss important issues. In practice, the Presidium convenes in the form of the Extended Presidium, which is the Presidium plus three country co-ordinators.

Secretariat: The Secretariat co-ordinates the flow of information and executes the daily work of the ERN, including the organisation of the meetings of all statutory bodies of the ERN. In addition to the ERN Secretariat there are Country Secretariats which work as a kind of consultation and co-ordination body.

Working Groups: The Working Groups prepare recommendations and proposals to the statutory bodies of the ERN. They operate on a voluntary basis and have a couple of unilateral and trilateral meetings a year.

The organisational chart illustrates the complex structures of the ERN: First of all, the institutional framework consists of three parts, which are Polish, Czech and German. Each of these parts is organised differently: On the Polish side, the municipalities are the core elements of the Polish ERN institutional structure. The German co-operation in the ERN is based on districts and district-free cities. As mentioned above, the institutional structure of the Czech part is extremely complex as the ERN co-operation is based on municipalities, municipal offices as well as district offices. This implies that the persons representing each regional part of the ERN are very different as well: On the Polish side, it is a Parliamentary Deputy (from the Sjem), on the German side it is the district head (Landrat) and on the Polish side it is a mayor. Although each of these representatives has a different status in their national administrative system this does not cause any problems in an ERN context. Lastly, the ERN has its own governing bodies such as the Council, Presidium, Secretariat and the Working Groups.

Figure 1: Organisational Chart of the Euroregion Neisse-Nisa-Nysa (as of Dec. 1997)



A more recent body that does not figure in the above graph is the *Evaluation Committee* of the ERN that has an important role in the ex-ante evaluation of project proposals. It is composed of a German, Polish and Czech representative of the ERN. If the Evaluation Committee has a dissenting opinion, the project proposal is passed to the Presidium for further consultation. The final decision, however, is made by the Council.

The financial resources are different for each party of the ERN. The nature of the project defines whether it is more financed externally or through ERN memberships fees. External funds are provided from the EU, special bilateral institutions such as the Polish-German Youth Exchange as well as national and subnational levels of government. In relation to financial support from the EU, funding to the ERN is provided through the PHARE Programme and the INTERREG Programme. The former is an European Community initiative which provides grant finance to support Central and Eastern European countries (CEEC) through the process of economic transformation and strengthening of democracy to the stage where they are ready to assume the obligations of membership of the European Union. Since 1994 the PHARE Programme has a separate budget line for cross-border co-operation at the Western borders of these countries (see regulation No. 1628/94 of the EU Commission from 4 July 1994 on the Implementation of a Programme on Cross-Border Co-operation between CEECs and EU Member Countries within PHARE).

The INTERREG Programme is an EU initiative that mainly supports small-scale projects in infrastructure, environmental protection and co-operation between firms and public utilities in border regions whose economic activity have been affected by the single market (see Beck, 1999). Since 1995, the EU also funds regional and local cross-border co-operation on the outer borders of the EU within the framework of the INTERREG II Programme. This development has strengthened the institutionalisation of existing cross-border partnerships in this area and also encouraged the creation of new cross-border partnerships with CEEC countries. The INTERREG projects in the target No.1 area (economically underdeveloped regions with per capita GNP below 75 per cent of the EU average) are co-financed by the European Commission up to 75 per cent, the other 25 per cent are shared between the respective co-operation partners. However, the INTERREG II Programme will end by the year 1999. The INTERREG III Programme that will start in the year 2000 is likely to emphasise inter-regional and inter-municipal co-operation.

The priorities of the PHARE programme include transportation, environmental protection and local infrastructure. Most of the PHARE projects are large infrastructure projects. For example, the Polish side of the ERN carried out 21 mega projects between 1995 – 1997 with a total value of 52 Mio. ECU. The PHARE contribution of these projects was over 25 Mio. ECU. This shows that the financial support of the PHARE is vital for the Polish members of the ERN.

Since 1996, a fund for small projects was established within ERN. The fund supports small-scale projects aimed at the improvement of integration, cultural and professional exchange and mutual understanding. The yearly budget for the Polish part of the ERN is about 0.5 Mio ECU. Since the beginning of the programme over 150 small projects were completed and another 70 are already approved. The cross-border cultural events, performances, concerts, workshops, sport tournaments, competitions, multilingual publications help to establish contacts between the citizens of the ERN and are an important tool to initiate more substantial projects.

Different Types of Inter-governmental Partnerships Under the Roof of the ERN

Areas of Cross-Border Co-operation

The specific institutional structure of the ERN, the legal status of the three respective regional ERN associations, the financing structure and the political interests involved in the partnership give rise to many different kinds of co-operations. Before analysing the accountability management of specific types of partnerships, it is necessary to put them into context.

It is plausible to expect intense co-operation in areas where jurisdictions of the same administrative level have to deal with similar problems. This means that horizontal co-operation between municipalities is likely in the areas such as sewage and waste disposal, sports and cultural exchange. In these cases, the ERN acts as a service provider that becomes active if desired by the stakeholders. Cross-border co-operation is much more difficult if there is not an adequate co-operation partner on the other side of the border. For example, a problem from a German perspective that strongly focuses on local self-government is the non-existence of a district level on the other side of the border. This implies that a German *Landrat* (the politically elected head of a district) may co-operate with a municipality in one case and with the state administration in the other case. Similar problems may also arise on the level of inter-municipal associations and NGOs. In order to quote another example from a German point of view, municipal single or multi-purpose associations, the chamber of commerce and industry or even the employment office may not find compatible institutions in Poland and the Czech Republic. This is when the ERN Working Groups become important to fill these “institutional gaps”.

The Working Groups have to be understood as kind of auxiliary structure, which are supposed to compensate for missing administrative levels. This means that on the one hand, institution-building is encouraged in the country where these have been deficient. On the other hand, the actors gain some legitimacy, especially since the members and the heads of the national Working Groups are selected on the basis of a political decision of the respective governing body of each regional ERN association. The Working Group system of the ERN has been developed further to use it in areas where cross-border co-operation is to be encouraged, like, for example, in the area of health and history. Nevertheless, the Working Group system also needs some evaluation regarding the effectiveness and efficiency of its operations.

It may be taken as a sign of the effectiveness of the ERN that over time it also developed various vertical partnerships with higher levels of government. The legal status of these forms of co-operation may be very different, reaching from forms of formal co-operation where the ERN has voting power to informal co-operation where the ERN is only vested with “voice”. For example, the vertical co-operation of the German part of the ERN involves a whole range of memberships in different governmental or intergovernmental institutions such as:

- Steering Committee of the EU Programme INTERREG II (under the direction of the Ministry of Economic Affairs of the *Land* Saxony);
- Co-Working Groups of the PHARE Programme (under the direction of the Cabinet Ministry of the *Land* Saxony);
- German-Polish Government Commission.

A similar list of vertical forms of co-operation could be produced for the Czech and Polish part of the ERN. Given the multitude of ERN-related cross-border partnerships, it is necessary to limit the analysis of

accountability problems on specific partnerships. The following partnerships were all chosen from the Polish part of the ERN.

Horizontal Partnerships

The main actors of the horizontal partnerships within the ERN are the ERN municipal associations of each member country. These actors are independent and their control system is decentralised. All ERN municipal associations are supervised by their respective national or regional Audit Court.

The horizontal co-operation is based on common goals as defined and described in the ERN Framework Agreement. These include the elimination of the negative impact of the borders, improvement of living standards, natural and cultural conditions, development of the regional economy as well as the integration of the inhabitants of the border region. Another less explicit objective is the building of trust on both sides of the borders. In practice, this means to support events that help inhabitants to get to know each other. By doing so, meetings of the youth, students, librarians, administrative staff, policemen, scientists, firemen, historians, environmentalists and many other social circles and professionals are organised and supported by PHARE Cross Border Co-operation Programme (CBC) and Polish-German Youth Exchange programmes.

Horizontal cross-border projects also involve joint decision-making regarding the priorities of ERN. The Council and the Presidium are in charge of developing the strategic framework for long-term co-operation. The selection of projects is made in the meetings of the Committees, Evaluation Committee, Presidium and Council. By the same token, horizontal projects require co-operation on the operational level, which is mainly done in the Working Groups and the Secretariat.

Last but not least, co-operation between the ERN municipal associations requires joint investment of resources. As any funding from the Phare CBC Programme and from the German Regional Fund is based on the principle of co-financing, the municipal associations have to agree on some financial scheme as far as their own contributions are concerned.

Sources of uncertainty and conflicts have their roots in the different level of economic development as well as differences in administrative structures in the three countries. Also different national priorities impact the cross-border co-operation within ERN. Consensus is not easy to find if the subjects of cross-border negotiation are of vital interest to the parties. A good example of divergent national interests is the airport project in Rothenburg. The airport is of high priority for the German side and would also benefit the northern part of ERN. The Polish Government, however, perceives the location of the planned airport as disadvantageous as an airport in Rothenburg would bring about competition for the Polish Southwestern airports. Divergent national and ERN priorities may also distort the objectives of cross-border projects. Since the investment needs of Polish municipalities are huge, PHARE CBC-funded projects are sometimes rather perceived as a local investment resource than as a tool of cross-border co-operation.

However, lobbying activities at the ERN level may also influence national priorities to the benefit of the ERN region. The Polish - Czech mountain crossings are an example of successful joint priority setting: the Polish and Czech local governments, tourist organisations as well as individuals constantly proposed the establishment of new crossings without standard customs for tourists in the Karkonosze Mountains. Thus, this project became one of the priorities of ERN and was constantly presented to the national governments until in 1996 five new crossings were opened finally.

Besides lacking the support of higher levels of government, the improper functioning of the Working Groups may also impact horizontal partnerships projects in the ERN. The problem is that the Working Groups do not have a strong resource base, which makes them very weak. Often, the members of the

Working Groups also lack the adequate competencies. As a consequence, the Working Groups rather resemble an informal social circle of enthusiasts than a team of experts in many cases.

The information management within the ERN is also deficient. The broad range of ERN activities causes a wide stream of information in relation to cross-border co-operation. In particular, the co-ordination of information is not well-managed as some basic data (for example, resolutions of Working Groups, implemented projects under PHARE Cross Border Co-operation Programme or INTERREG II Programmes) are not transferred in time to the appropriate bodies of the ERN. In spite of some achievements (for example, common publications of Statistical Offices, librarians and historians), there is still a lack of information concerning the institutions and data bases of the member countries. Lack of information and clear rules of information flow makes the co-operation vulnerable to mistaken or belated decisions.

Vertical Partnerships

This type of ERN partnerships involves co-operation with higher levels of government. For the Polish part of the ERN, the Implementing Authority of Cross- Border Co-operation (CBC PMU) is an important co-operation partner, especially as far as small-scale projects are concerned. The CBC PMU delegates authority to the ERN to manage the programmes related to the small-scale projects (1 - 50 thousand ECU). In order to assure accountability, CBC PMU determines the guidelines for project implementation and informs the ERN about the evaluation criteria. The final acceptance of the projects as well as all payments relating to the projects depends on the approval of CBC PMU. The ERN is responsible for the selection of the projects, monitoring progress and controlling financial management. Beneficiaries of CBC funding are responsible for the project implementation in accordance with the established conditions. Since the CBC Programme mainly promotes Polish - German co-operation projects, co-operation between Poland and Germany is more intense than between Poland and the Czech Republic. Thus, the vertical funding stream brings about an imbalance in the horizontal partnerships within the ERN. The unbalanced horizontal relations are reinforced by legal problems of the Czech side.

The accountability management of vertical co-operation projects of the ERN has its own specific difficulties. The sources of conflicts are manifold:

- Diverse evaluation of the cross-border impact of a given project by the beneficiary, the ERN and CBC PMU: The problem is that the definition of cross-border impact is not very operational (“positive impact on both sides of the border”) and difficult to evaluate. As a result, potential beneficiaries have incentives to seek the financial support for predominantly domestic events with rather minor international participation (for example, projects like “xth Anniversary of Town x”). There are many examples of these kinds of simulated cross-border partnerships - often cross-border projects only serve to support local budgets.
- Declared participation of the Czech and German side is not always reliable as on the Polish side some relations with foreign partners are not consolidated. It often happens that an event is planned with international participation but is carried out as a domestic happening. The cross border effect is none.
- Unclear accountability expectations: The instructions for project management from CBC PMU are rather vague and changeable over time. The CBC PMU may also change the terms of payment unilaterally which leads to dissatisfaction with the financial management of the project on the part of the beneficiaries. A further problem is the absence of transparency for the procedures of project selection, which is not able to be understood by the beneficiaries.

Compared to the horizontal projects of ERN, the information management of vertical partnerships projects are even more demanding. The Secretariat of the ERN, the CBC PMU and special project managers of the organisation running the cross-border project are responsible for co-ordinating the streams of information. Most beneficiaries prepare the project proposals on the basis of incomplete data and unrealistic budget expectations that go far beyond available funds. ERN is not always informed about important changes relating to the projects in time. The large number of chosen projects make it difficult for ERN to carry out interim project evaluations and regular supervising visits. At present, the ERN and CBC PMU only evaluate cross-border projects on the basis of the application form (ex ante) and the final report (ex post).

Nevertheless, there is a positive incentive mechanism in the accountability management of vertical ERN partnerships: The ERN receives a “financial reward” of 5 per cent of the PHARE CBC project funding from CBC PMU for properly completed projects. The other factor that contributes to project completion is the development of a sustainable co-operation among the individuals involved in the project work. Last but not least, an increasing number of project proposals and an awareness of improved co-operation also works towards quality improvement of project management.

Hybrid Partnerships

The cross-border nature of ERN projects involves horizontal and vertical networking with many actors and institutions from different levels of government. The role of ERN consists in establishing the necessary contacts and subsequent co-ordination. Many external actors also perceive the ERN as an organisation with a wide network of international relations and seek the assistance of the ERN for specific cross-border problems.

The accountability relationships in these hybrid partnerships are extremely problematic as the tasks and accountability of the ERN no longer correspond to each other: ERN is regarded as the accountable institution with relation to matters which are not under the competence and control of the ERN. Examples are the co-ordination of spatial planning, communication systems, aid in emergency situations and the permission of green cards for inhabitants of border municipalities.

The co-operation of the ERN with external actors is not sustainable and not systematic. Often there are no formal arrangements and schemes describing the status of the parties involved as well as a lack of written procedures. For example, the Polish President of the ERN was a member of one of the regional committees in Poland, which also included the political, Government appointed head (*Voivode*) of the Province of Jelenia Góra, the Chairman of the Provincial Self-Government and the Chairman of the Mayors' Convent in this region. This very committee applied for carrying out an evaluation of a “big” PHARE CBC project. This clearly implied a conflict of interest for the Polish President of the ERN. The other problem is that the regional committee did not have any detailed principles of work, and, in the case of controversies, the *Voivode* of the Province had the final say in spite of equal voting power of the members.

Since the co-operation with external actors depends often on the good will of the co-operation partners on and personal relations, the flow of information is to a large degree informal. Important data and messages concerning cross-border projects are often not communicated to the ERN. Passing information by the ERN to external institutions is difficult because of insufficient staff resources. The hybrid partnerships especially show that the resourcing of the ERN is insufficient in relation to the scale of tasks it has to deal with.

Accountability Problems of the ERN from a Czech Perspective

Limited Scope for Co-operation at the Local Level

The interest in membership of the ERN Regional Association in North Bohemia is considerable. From the initial 22 founding members, which were only local authorities and towns of the region at this time, the membership of the Association increased to presently 140 members, including 136 local authorities, 5 district offices and one District Economic Chamber in Liberec, which is so far the only member established on the basis of private law. In comparison to the membership of the German part of the ERN, which numbers 3 districts and 3 towns, and the Polish part, which numbers 41 towns and “gminy”, the membership of the Czech part of the ERN is considerably different. This is due to the fragmentation of local authorities in the Czech Republic, which has 6 234 local authorities altogether. The fragmentation of the local authorities and the non-existence of a second tier of local self-government, characterise the administrative framework in the Czech Republic. Needless to say that such institutional conditions are not very favourable the regional cross-border co-operation.

On the local level, good will and endeavour have been very strong from the very beginning so that various *cross-border partnerships*, particularly on the *horizontal level*, could be established. This kind of partnership is also supported legally. According to the Commune Act, local authorities may form voluntary associations of local authorities for the purpose of municipal co-operation. The same Act also allows the co-operation of local authorities and their associations with local authorities of other countries and allows the membership of international associations of municipalities and legal entities with an international element. However, since the administrative level of regional self-government is still absent, there is no legal support for international co-operation on the regional level.

As described earlier, *vertical partnerships* are confronted with legal barriers, and the incomplete structure of territorial public administration proves to be a major barrier. The district offices may act only to a limited extent as a real partner of local authorities, as it is simultaneously their supervisory authority as far as the legality of municipal activities is concerned. Vertical partnerships developed more or less spontaneously among the respective administrative units of the three countries and were confirmed by mutual agreements. However, it is questionable whether they are also sufficiently covered by the respective international treaties that were decided on national level (by the Government, the Parliament and possibly the President).

However, *most partnerships are hybrid in nature* as most ERN activities fall within the competence of local authorities, district offices and often also Ministries or other central government authorities. For this reason, the programme of ERN activities for 1997 - 2001 was drafted by a number of central state administration authorities with the participation of other public and private law organisations (foundations, civic initiatives, economic chambers, various associations, etc.). In other words, the ERN 1997-2001 programme is itself a *partnership* in the most varied forms and extent.

Insufficient Governance Structures for Regional Policies

Given that the ERN mainly deals with problems of a regional scale it seems legitimate to raise the question whether the local level is the appropriate level for ERN co-operation projects. Especially from a Czech perspective, the fragmentation of the municipalities as well the legal barriers of vertical partnerships seem to suggest that the regional level might be the better co-operation partner for ERN activities, especially as far as regional development projects are concerned.

This would imply the desirability of further development and resourcing of *Regional Development Agencies* (RDA) as they have proved to be an efficient instrument of institutional support for regional economic development in countries with established market economies. In the Czech Republic, seven Regional Development Agencies are established so far and six others are in the planning stage. In five cases, regional associations of local authorities were involved in the foundation of RDAs, in two cases Euroregions, including the ERN, had an important role as a catalyst. The role of the state was rather marginal. However, big enterprises were very much in favour of the RDAs.

The present situation of these agencies is characterised by a lack of co-ordination. This is mainly due to the as yet missing regional public policy of the central government and to the non-existence of regional self-government bodies, whose responsibilities should include the co-ordination of regional development. Voluntary associations of local authorities have difficulties in carrying out these co-ordination functions under the existing legislation as the present Municipal Act does not provide for co-ordination of regional development. Therefore, all associations of local authorities must act on the principle of general consensus.

As far as the legal form of the RDAs is concerned, some of them were established under the Civil Code as associations of legal entities, others under the Commercial Code as joint-stock companies or companies with limited liability, yet others as non-for-profit third sector associations under a specific Act. A major problem is the lack of financial independence of most RDAs. For instance, the RDA NISA Ltd. has only a capital of 100 000 Czech Crowns and thus has to apply for central government support. In the 1999 state budget, the Ministry for Local Development proposed some 40 million Czech Crowns for the support of RDAs. Given that the present Czech government might change in the 1999 elections, it is impossible to foresee whether this proposal can be complied with.

Nevertheless, regional policy is also closely associated with regional self-government. Therefore, regional policy cannot be carried out by the central government but the task must be transferred to a regional body with a much better knowledge of regional problems than has the central government. The long delay in establishing a level of regional self-government is one of the weak points of the political transformation of the Czech Republic. In July 1997, the European Commission criticised the Czech Republic for unsatisfactory progress in public administration reform. In this criticism it pointed out especially the shortcomings of regional policy. The priority of the preceding Governments was economic reform, while the public administration reform, although prioritised in then Government declarations, remained secondary in their practical policy. It was impossible to attain consensus in Parliament or in the coalition government of that time. Strictly speaking, the political will in this field was missing. The new government put public administration reform into its political programme, which it submitted to the Parliament in the middle of August 1998 as one of its fundamental priorities.

Even if the present minority Government devotes sufficient attention to this problem and obtains support in Parliament, outcomes of actual regional policies "from below" are unlikely to manifest themselves earlier than 3 - 4 years. Effective regional policies will require the adoption of a number of Acts of Parliament, the establishment of a number of new institutions, the transfer of power from the centre to the regions, the establishment of new responsibilities for the implementation of the new laws and - last but not least - qualified staff. As ever, the transformation process will depend on the state of the State budget.

The integration of the Czech Republic into the *EU Structural Funds* will also be a challenge because it will require the generation of the necessary legislative, institutional, organisational and personnel prerequisites, and also because it will require considerable financial resources. The idea that the Czech Republic will receive money from the EU Structural Funds and will be "in clover" is greatly simplified and naive because the implementation of the individual programmes also require the financial participation of the Czech Republic.

In the present situation of a missing level of regional self-government, the funds intended for regional public policy are administered by the *Ministry for Regional Development*. This Ministry also administers the EU Structural Funds whenever they concern programmes intended for the support of specified regions. As far as the management of regional public policies is concerned, the Ministry does not interfere with the responsibilities of other line ministries and central agencies. In particular, it does not participate in the decisions on the allocation of funds in a given sector but merely co-ordinates the activities related to regional public policies. For the period of 1998 - 1999 the Ministry has to draft and submit to the Government:

- a) a strategy of regional development with an adequate treatment of *public-public partnerships* as well as *public-private partnerships* in regional development;
- b) regional development programmes for specific regions (Northwest Bohemia, etc.);
- c) a draft of the intentions of the law on the support of regional development.

There have been intentions in the Czech Republic since 1998 to change the definitions of Czech regions which are eligible for State support by applying the definitions of the targets No. 2 and No. 5b of the EU Structural Funds. Similarly to the EU target No. 2, one type would include structurally affected regions (i.e. areas with a high proportion of industry in economic decline and a high rate of urbanisation, the industrial base of which is undergoing fundamental restructuring and downsizing in connection with above-average employment). In analogy to the EU target No. 5b, another type of region would refer to economically weak regions with a low standard of living, above-average employment in the primary sector, low density of population and above-average unemployment (generally rural areas with a lower rate of urbanisation and economic development but high environmental quality). Apart from that, there are proposals to define regions with specific needs such as the borderline regions.

In July 1998, the Ministry for Regional Development organised several workshops on regional cross-border co-operation in connection with the new objectives of the PHARE CBC 1998 programme. In view of the future establishment of regional self-government, the fund scheme of the individual programmes was approved with the provision that the decisions about specific projects will be taken by *Regional Management Committees*. The PHARE CBC programme will also support the establishment and activities of RDAs as well as municipal co-operation projects of the INTERREG II programmes. These measures can be taken as a first step towards the development of some governance structure for regional policies in the Czech Republic.

Perceptions of the ERN from Internal and External Stakeholders

In the framework of the existing CBC PHARE Multi-Year Programme a survey was carried out in order to specify working priorities for the period of 1998-1999. The results of the structured interviews with the senior management level of the ERN also reveals internal perceptions of the ERN and related partnership projects.

Cross-border co-operation is to be based on close and multi-level networks among local self-government institutions, NGOs and State administration authorities. The following factors were indicated as principal obstacles complicating cross-border co-operation:

- language barriers;
- different legislation;

- incongruity of the three national parts of the ERN;
- different priorities and degree of interest in cross-border co-operation; and
- inadequate professional institutional capacity for cross-border co-operation (at both communal and regional levels).

The respondents were convinced that the programmes should be of a regional character, i.e. that allocation of funds for the region, decisionmaking and management should take place at the regional level. They appreciated the managerial flexibility and the possibility of deciding on fund spending directly within the region. In this context, the activities of RDAs were positively evaluated.

When dealing with the subjects concerning the development of the programme for 1999, the following problems of project co-financing appeared:

- limited municipal and district budgets;
- difficult search for adequate funds in State transfer programmes;
- difficulties of local authorities with co-financing of projects, the subsidy of which exceeds 300 000 ECU;
- special difficulties of co-financing of projects on human resources development and the support to development of small and medium-sized enterprises.

It was also confirmed that the financial costs of project preparation and subsequent costs of drafting the required project documents appeared to discourage potentially interested parties due to the increased costs which must be borne by the prospective beneficiary. These costs represent an excessive financial burden.

These results indicate that the ERN project work may not be carried out at the appropriate level of government. In addition to this, the democratic accountability of ERN municipal project work also rates rather low as indicated by two other surveys on ERN activities.

The Czech Institute of Sociology in Ústí carried out a public opinion survey on the role of various Euroregions in cross-border co-operation between the Czech Republic and Germany in April 1997. The sample consisted of 333 adults above 15 years, which represent about 3 per cent of the population in North Bohemia. The survey revealed that the Euroregion Labe-Elbe is best known among the five Euroregions in this area. More than 50 per cent of the respondents know about its existence. However, the other four Euroregions Nisa-Neiße-Nysa, Labe-Elbe, Krušnohorí-Erzgebirge, Sumava-Bayrischer Wald-Mühlviertel and Egrensis are not very well known in North Bohemia. The same is very much true of the North Bohemian Municipal Association and the EU Programme PHARE, which more than two thirds of the respondents are unfamiliar with. In the case of the EU Programme INTERREG II, 95 per cent of the respondents never heard of it. This may be taken as an indicator of lacking democratic accountability of cross-border intergovernmental partnerships.

Another set of items investigated into the effectiveness of Euroregions as perceived by the population concerned by cross-border activities. As table 1 shows, a quarter of the respondents considered Euroregions as an instrument to solve periphery problems which are characteristic of border areas. On a more personal level, Euroregions are also seen as an adequate tool to improve contacts and relations with the population on the other side of the border. Another 17 per cent of the Czech sample consider Euroregions to be an outcome of the necessity for the Czech local and regional public administration to co-

operate in order to manage with scarce resources. To some degree, Euroregions are also seen as a substitute for the missing regional level in the Czech Republic (11 per cent of the respondents). Nevertheless, the view of Euroregions is not always positive: 16 per cent of the respondents take the cross-border activities of Euroregions as an indicator of foreign political and economic expansion in the Czech Republic. 10 per cent criticise the Euroregions for offering an artificial institutional framework for the pursuit of particular interests of some powerful stakeholders. The results show that the activities of Euroregions are not very well known to the population. One possible explanation is that the activities of Euroregions have not yielded visible outcomes.

Table 1: The Role of Euroregions as Perceived by the Czech Population in the District of Teplice

Functions of Euroregions	Popular Perceptions (in percentage)
<i>Would you perceive Euroregions as an instrument</i>	
• to overcome the peripheral situation of border regions?	25
• to strengthen personal contacts with people living on the other side of the border?	21
• to mobilise resources for the local and district level of government?	17
• for the economic and political expansion of foreigners in the Czech Republic?	16
• to substitute the missing level of self-government on the regional level in the Czech Republic?	11
• for individuals to realise their particular interests?	10

Source: Jeřábek, Milan (1997), Results of the First Round of the Public Opinion Survey in the District of Teplice, published in the Regional Development Programme of the District Teplice, District of Teplice and Mise GmbH (in Czech language).

The above hypothesis is very much confirmed by a survey among the mayors of Czech and German municipalities that are situated in the border area. More than half of the 255 municipalities that took part in the survey are members of the ERN.

Table 2: Effectiveness of the Euroregions for Local and Regional Development

<i>To what extent are Euroregions influential in supporting the local and regional development in the border area between Bohemia and Saxony?</i>				
In percentage	Very strong	Strong	Less strong	Not at all
All interviewed municipalities	15	25	32	10
• in Saxony	0	16	43	13
• in Bohemia	31	35	21	7
• in the ERN	21	18	28	13

<i>To what extent do the activities of the Euroregions influence the decision-making process in local councils in Bohemia and Saxony?</i>				
In percentage	Very strong	Strong	Less strong	Not at all
All interviewed municipalities	4	9	35	40
• in Saxony	0	4	33	42
• in Bohemia	7	13	38	37
• in the ERN	4	10	34	38

Source: Jerábek, Milan (1998), Survey within the Project "Communicating in Border Areas", unpublished.

As table 2 points out, the overwhelming majority of the mayors of German municipalities does not consider Euroregions to be a very effective instrument for regional development whereas the Czech mayors are much more positive about the usefulness of Euroregions. The comparison of the total sample with the sample of the mayors being member of the ERN also reveals that the establishment of some institutionalised form of cross-border co-operation does not influence the overall rather negative perception of Euroregions. The results are even more pronounced when it comes to the influence of Euroregions on municipal decision-making processes. Both the majority of the German and the Czech mayors thinks that Euroregions have a very low impact or no impact at all on the decisions of local councils. Again the pattern in the ERN is not different from the overall low impact of Euroregions in the total sample. The survey results suggest that the activities of the ERN are neither very effective nor is local accountability of the ERN very high. Altogether, the accountability management of the ERN seems to be very deficient.

Conclusions

It seems legitimate to answer the question what is the new and additional institutional structure of the ERN about, given that the ERN does not deal with sovereign tasks. The fact that the ERN is not a unique or singular punctual institutional form but exists in various forms all over the EU may give one hint of a possible explanation. The existence of many other Euroregions on German borders may be indicative of objective necessities or gaps. It is obvious that border areas are particularly concerned about the negative impacts of different national regulations or the problems arising from the physical border itself. What intellectual circles may debate as European theory is daily practical experience for the citizens who live in border areas. Those citizens experience the effects of border directly which is why they are interested to solve these problems. Euroregions may be an instrument to solve the specific problems of border areas.

The problem is that the nature and significance of cross-border problems may be very different. For example, if there is a bike path that has to be extended beyond the border because there is a tourist target this will be conceived by the citizens as a foregone opportunity but not as a major problem. If, however, municipalities that are separated by the frontier could achieve economies of scale by running a sewage system together citizens will see more of a need for cross-border co-operation, especially when the efficiency rent reduces their water bill. To quote another example, if unpaid bills for rescue operations in foreign territory that is not covered by national assurances keep accumulating at the local first-aid station, then cross-border co-operation is considered to be crucial.

In the case of the Euroregion Neisse-Nisa-Nysa the initiatives for the establishment of the organisation and the launching of cross-border projects came from the municipal level. This raises immediately the question

of *local accountability* for transborder co-operation: What are the tasks, competencies and legitimisation of local authorities in the context of the ERN? The local authorities deal with ERN issues within their self-governing competence. However, the co-operation may also include issues which are part of the tasks that the state administration transferred to local authorities and for the execution of which the State makes transfer payments to the local authorities from the State budget. In this area, the municipality is subject to the supervision of the respective State administration body, which is, in the Czech case the district offices, some decentralised State administration body or, if provided by the law, the ministry or some other central State administration authority. The authority of the State does not only cover supervision of the legality of local “contract management”, but also the right to determine the performance of the municipal execution of state tasks. Therefore, the question of accountability of the local authorities in transborder co-operation is complex and difficult to answer.

This may be a reason for sceptics to start a long-term fundamental debate. The citizens living in this area perceive firstly the need to overcome language and communication barriers between the three countries with appropriate instruments. They also see the need to remove hostile images and cliches and to build trust and mutual acceptance. At the municipal level, there is the necessity to be informed about the land use planning and certain infrastructures of the “other side”, which function as common resources. Lastly, there are many so-called voluntary tasks of local authorities - starting from economic promotion to tourism, culture and sports. In the end, local authorities are accountable firstly for all of their activities to their constituents. Therefore, it is important that the decisions on principal issues of transborder co-operation are taken by municipal councils.

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